SENATE—*Wednesday, January 31, 1996*

The Senate met at 11 a.m. 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, source of all that we have and are, we are here by Your planning and for Your purposes. You have made possible any success we have had. Any recognition we have received is a reflection of abilities You have given us. You have blessed us with loved ones, friends, and fellow workers who have made possible any accomplishments. All our opportunities are a result of Your careful arrangement of circumstances. Nothing happens without Your permission.

So we commit this day to be one of special gratitude for all Your blessings. May our gratitude spill over with words of affirmation and encouragement to others. Help us make this a just-because-day in which we do special acts of kindness just because of Your love for us and our delight in others. So if there are any good words we've been thinking about saying or any acts of caring we've put off doing, may we say and do them today, just because of You, Lord, and all You have done for us. In Jesus' name. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

SCHEDULE

Mr. LOTT. Mr. President, today, there will be a period of morning business until 1 p.m. with the time equally divided between the two parties. Following this morning business period, the Senate will begin consideration of S. 1541, the farm bill. Under the agreement reached during yesterday's session, Senator DORGAN will offer an amendment on which a cloture motion will be filed today. Also under an agreement, a cloture motion will be filed on the underlying bill. Those cloture votes will occur tomorrow beginning at 1:30 p.m.

I now ask unanimous consent that notwithstanding the provisions of rule XXII, Members have until close of business today in order to file first-degree amendments.

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

Mr. LOTT. Senators should also be aware that there will be a joint meeting of Congress on Thursday at 11:45 a.m. to hear the address by the President of France, President Chirac. Members should be in the Senate Chamber at 11:25 in order to proceed to the House of Representatives for the address.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mrs. HUTCHISON). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. GREGG. What is the regular order?

The PRESIDING OFFICER. The Senate is in morning business.

Mr. GREGG. Madam President, I ask unanimous consent to speak for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered

THE SUGAR PROGRAM

Mr. GREGG. Madam President, tomorrow, or possibly Friday, we will be voting on cloture motions dealing with the Farm Program and a variety of bills dealing with the Farm Program.

Within the context of the entire Farm Program, there are a lot of subprograms, and one that I wish to talk about is the Sugar Program. The Sugar Program in this country has proceeded since the early 1980's to be a program of inordinate subsidy for a few small farmers—for a few farmers; they are not small farmers—at the expense of the consumers of this country.

Last year, it was estimated that the Sugar Program cost the consumers of this country approximately $1.4 billion. It has cost the consumers of this country approximately $10 billion over the last decade. That is because we have in this country a system in the Sugar Program where we artificially inflate the cost of sugar to benefit a few growers of sugarcane and some sugar beets, but primarily in this instance it is benefiting sugarcane growers.

This makes no sense. This program is appropriately tied to sugar, I guess, because the last vestiges of Marxism in the world of any significance is the nation of Cuba, which always had a sugar-based economy.

Now, you might argue, well, China is still a Marxist nation. Actually, China has become quite capitalistic. Cuba is the only country, certainly in the Western Hemisphere, it is the only dictatorship in the Western Hemisphere, in the world that still practices theoretically pure Marxism, Marxism being a system where essentially the State sets the price and the production of all commodities within the community. And, of course, the Cuban economy is always based on sugar. So maybe that is why we as a nation have for some reason decided in our sugar industry we are going to emulate Cuba because that is essentially what we do. We have in the Farm Program which we have designed in this country essentially a system of top-down market controls, production controls which create, at best, an economic structure which emulates what used to be the East European countries and at worst an economic structure which basically tracks the philosophy of social economics as designed by Karl Marx, because essentially what it does is say that the Government will set the price, the Government will set the production levels, not necessarily for the purposes of benefiting the consumer but for the purposes of benefiting the producer.

We set up a structure here where the fact that sugar on the open market can be bought for 10 cents a pound has no impact on the price of sugar in the United States. Can you imagine that? The United States, the center of capitalism in the world, a market that all of the rest of the world looked to when other nations were trying to design their economies, has put in place in our Sugar Program a structure which is essentially a carbon copy of what they did in Eastern Europe, what they now do in Cuba, or still do in Cuba, in what we basically call a Socialist form of economics.

Why do we do this? Why do we have a system which penalizes our consumers to the tune of $1.4 billion, which does not allow any competition for the price of sugar in the marketplace, which arbitrarily sets the cost of sugar, and which rewards a few growers of sugarcane specifically? Seventeen growers get 42 percent of the benefit in the sugarcane industry—17 growers get 42 percent of the benefit. In fact, one grower gets a benefit that is estimated to be almost $68 million a year. Why do we structure a system like this? Well, at the risk of using a pun, it is raw power, raw political power.

The fact that the sugarcane, sugar producers lobby is so strong in the Congress of the United States, it has been able to maintain this totally unjustifiable system. How ironic it is that when the Republican Party, after 40 years, finally gets control over the Congress of the United States, we continue to allow this sort of antimarket system to

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

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flourish, to grow, and to abuse the consumers of this country.

How ironic it is that this President—and I cannot fault him individually because the fault lies on both sides of the aisle on this one—but this President who has made such a large issue of protecting consumers in many other areas of his administration and has made this his cause celebre, allows a program which every year takes $1.4 billion out of the pockets of consumers and artificially transfers it to a nonproductive sector of our economy—I am not sure it is unproductive—but a sector of our economy that does not want to compete. Why should not we have a sugar program which is willing to compete?

There are some other side effects that also we ought to be concerned about besides the fact that we are basically taking the consumers of this country for a ride for the benefit of a few individual growers. There are some other issues we ought to be concerned about.

There is the issue of environmental protection, the fact that as a result of having this artificially high-priced sugar, we have seen a huge amount of land in southern Florida converted to cane growing which land was the original watershed of the Everglades. It is not clear really what would be a better use of this land. I have to admit that the jury may still be out on that.

But before the facts are known, the Everglades are under a tremendous effect, and the fact, first, that the water is not flowing in its original form—and there is the belief that the sugarcane activity is part of it—and, second, sugarcane activity is expanded artificially as a result of this.

Another concern we should have is the effect it is having on our neighbors in the Caribbean. We just invaded Haiti because we felt that it was in economic and political chaos. One of the reasons that our neighbors in the Caribbean are in economic chaos is because we do not allow them to participate in competition with us. We have closed our markets to one of their primary goods—sugar. We live in fear, I guess, as a nation, that we cannot compete with Haiti.

My goodness, how absurd. Obviously, with the technologies we have and the ability we have of growing products in this country, we can compete with our Caribbean neighbors. We would find, I suspect, that if we were to open our markets that sugar beets in many parts of this country would remain very viable and very competitive, sugarcane in parts of this country would remain very viable and very competitive, and we would have also the added benefit of allowing some of our Caribbean neighbors to maybe increase their standard of living a little bit by being able to sell us a little bit of their primary product.

Maybe we would not have to go around invading them. We could save the dollars we spend on national defense in places like Haiti, and the dollars we spend on economic and political development in other regions of the Caribbean because we would have to help them out through what is known as the old-fashioned way, by letting them compete in the marketplace with us.

So tomorrow we take up these farm bills, and there will be an attempt to shut off debate. One of the outcomes of shutting off debate and passage of these farm bills, or at least down the line in the farm bill would be a 7-year extension of the outrage called the Sugar Program. That would be a rather bitter pill for the American consumers. That is not a sweet deal for American consumers. It may be a sweet deal to get a 7-year extension of this program for some of the growers, but it certainly would mean that under the present calculations that would be about another $10 billion of tax, because that is essentially what it is to American consumers.

So I strongly oppose the attempt to do this. And along with the Senator from Nevada, who has joined me on this, Senator REID, we will do all we can, I believe, to try to avoid allowing the consumers of this country to be once again pilfered by this program. As a result, I will attempt to oppose cloture. I hope that others who are concerned about the consumers of this country, about the environment of this country, and about our neighbors in Central and Latin America, would also join me in opposing cloture.

Because it is not right. It is not right that a few folks because of their political influence and strength should be able to keep in place a program which should have died when the Berlin Wall fell. The fact is, it is very ironic and unfortunate that as a nation we continue to promote this concept that competition should not be allowed in the production of sugar.

It is antithetical to all the Republican Party stands for. It is time to put an end to it.

Madam President, I thank the Chair for the time to speak. I yield back such time as I may not have used, and I make the point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. CRAIG. Madam President, I assume that we are in morning business.

The PRESIDING OFFICER. We are.

UNPRECEDENTED FLOOD OF SUBSIDIZED CANADIAN LUMBER

Mr. CRAIG. Madam President, in morning business today, let me make several comments on an issue that is very important to this country. It is kind of a quiet issue that has not been prominent in the headlines of the Washington Post or the Washington Times; but certainly in my State and every timber-producing State of the Nation, it has made a good many headlines over the course of the last year or 16 months. And that is the unprecedented flood of subsidized Canadian lumber flowing into the continental United States and into the markets of the 48 lower States.

Normally, Canada is a supplier to our market, and we need their timber to round out the needs of the housing industry of our country and the home building industry. But to meet that need and still keep America's work force in the forest products industry employed, Canada's percentage participation in our market normally is somewhere in the high 20's or low 30's.

In January, this month that is now today concluding, they reached an all-time high of about 37 percent of total market share. As a result of that, we now see in this country about 29,000 men and women who are unemployed as a direct result of a major dumping effort—let me repeat, as a direct result of a major dumping effort—on the part of the Canadian forest products industry into our market.

In my State of Idaho, just in the last few days, we have had announcements of another 200 men and women laid off simply because the price of lumber, as a result of this huge volume of subsidized lumber pouring in from Canada, is so low that mills cannot operate.

Ceda-Pine Veneer north of Sandpoint, ID; Crown Pacific in Bonners Ferry, ID; and two Louisiana Pacific plants in Chilco and Sandpoint have just announced layoffs or have shut down, and the story goes on and on, as is true across Oregon, Washington, Idaho, and the Southeast, as a result of what has happened with Canadian lumber imports.

This administration, to their credit a good many months ago became aggressively engaged with the forest products industry in negotiating with Canada in an effort to resolve this issue.

When I say that, it is about the only good thing I am going to say, because as we entered into those negotiations the forest products industry was told by our United States Trade Representative nearly 10 months ago that within 6 months, if the Canadians did not negotiate in good faith successfully, this administration would take action, and that action would be a temporary duty imposed until such time as a countervailing duty suit would be charged or the Canadians would come to the table

with some form of a legitimate agreement to negotiate the differences between the two countries.

That did not occur from the Canadians, and, as a result, finally this administration did say, "We will have to bring a countervailing duty suit, and move toward a temporary duty."

In late November of this year, the Canadians finally did bring some proposed agreements for us—the industry and our United States Trade Representative—to look at to see whether they would meet the criteria that we were trying to advance, which was a level playing field, recognizing the legitimate share of the market that the Canadians could have without destroying our industry.

From that point, myself, Senator BAUCUS, and a good many others have asked the United States Trade Representative to become much more aggressive in insisting that this problem be solved now. It was in December, just before we recessed for Christmas, that Mickey Kantor did come to the Hill and sat down with myself, Senator BAUCUS, five or six other Senators from timber-producing States, and a good many Representatives from the House to talk about where we were in this negotiation.

At that time, Mickey Kantor said to us, and it was conveyed to the Canadians, that if no agreements were reached through the current negotiation, that on January 31, 1996, he would impose a temporary duty against the Canadians, and we would then move to do a variety of other things, including reform NAFTA's chapter 19, to consider what is called suspension of liquidation on Canadian imports into this country, and do a variety of other things that would bring about some permanency and stability to this problem.

Madam President, today is January 31. Canadians are now still negotiating with our trade ambassador, and I do not want to say nothing will be resolved, but I do want to say to our trade ambassador: If nothing is resolved by the end of the day, it is absolutely imperative for this country's credibility and for this administration's credibility with Canada and with the industries and the work forces involved that we move. And that tomorrow I would expect to hear from our United States Trade Representative an announcement of an imposed temporary duty against the subsidized lumber coming out of Canada while these other measures are forthcoming; that the United States lumber industry would probably move to file a countervailing duty case, and that case would go forward, but would literally take months and potentially a year.

But what is important here and what this administration must face is that it is now time to make a decision, and they must make that decision. If they fail to, if they bend in any form to the Canadians, they will send the kind of message that I believe has been sent for the last 6 months: We just keep on talking.

As we keep on talking, mills are closing down in my State. As I mentioned, 29,000 jobs in this country are now in suspension, and men and women are not working as a direct result of this phenomenal flood of Canadian lumber coming into the market.

It is important that this administration recognizes the high level of importance of the decision that they are about to make today, which is if the Canadians still are only talking—and, oh, are they good at talking—that the talking is over; that it is time for the temporary duty to level this playing field to send a very clear message to the Canadians that we mean business; that while they have a right based on need and supply, on the Canadian Free-Trade Agreement, and on the North American Free-Trade Agreement to have access to our market, they absolutely do not have the right to intentionally dump, and we know that is what they are doing at this time. They have reached out to grab a very large share of the U.S. market, as much as 10 percent more than they have ever held.

Stocks of Canadian lumber are sitting in lumberyards across this country, and they are even financing it to sit there and saying, "You keep it until you sell it and then you pay us."

I call that an aggressive antitrade effort. It is a dumping process and the Canadians know it. It is time they stop it, and the only way they will is when we speak directly and act decisively to solve this problem.

Back in the early eighties, they played this game on us, and it was at that time in the Reagan administration that a duty was imposed and thousands of people went back to work in my State almost overnight as the markets rapidly improved. Of course, that also happened in other timber-producing States across the Nation.

(Mr. ASHCROFT assumed the chair.)

Mr. CRAIG. Mr. President, the same thing can happen in the next month if this administration will act. If it does not act, I say to our trade ambassador today, "What are you going to say to the nearly 30,000 men and women that are without a job today in the timber industry simply because of the aggressive dumping action on the part of the Canadians?" "What are you going to say, Mr. Ambassador, and, more important, what are you going to say, Mr. President, about the fairness and equity you talk about, about the jobs you talk about creating, while you, by your failure to act, may well be destroying jobs?"

In the end, when you destroy the jobs, you destroy the mills and the infrastructure that has been an extremely important part of the forest products industry of our country. As those people stand in unemployment lines, many of the mills are near bankruptcy today because most of them have operated in the red for well over a year now. It is time that stopped and that we bring fairness back to the marketplace. That can be done by a single act by a trade ambassador and a President. They know they can do it. We asked them to do it, and we hope it will be done tomorrow if the Canadians fail to come to an agreement today.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas [Mrs. HUTCHISON] is recognized.

TRIBUTE TO RALPH YARBOROUGH

Mrs. HUTCHISON. Mr. President, I rise today to pay tribute to one of my predecessors, Ralph W. Yarborough of Austin, who died last weekend.

Ralph Yarborough was reared in Chandler, TX, attended West Point and what we know as Sam Houston State University. He worked as a teacher, a trade emissary, a National Guardsman, a lawyer, an Assistant Attorney General, a judge, an Army officer in World War II, a writer, and a U.S. Senator. In the Army, he served on the staff of Gen. George Patton. He was among only three southern Senators to support the 1965 Voting Rights Act and was a key supporter of the National Cancer Act.

Senator Yarborough and I share a common background. We have deep east Texas roots. We attended the University of Texas law school. We both held this seat in the U.S. Senate, which both of us reached through a special election in the spring after the resignation of a Senator in January. Like me, he reached this Chamber less than 2 years before the term was up, and probably felt, as I did, envy for Members of the other body, who have a full 2 years between campaigns.

Mr. President, on behalf of all the citizens of Texas, I offer to Mrs. Yarborough, his widow, the rest of the Yarborough family, and his many friends, our deepest condolences. May he rest in peace.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

The Senator from Wyoming is recognized.

CONSISTENCY IN LEADERSHIP

Mr. THOMAS. Mr. President, from time to time, in the mail we get a letter, an observation, or a communication from a constituent that we think is particularly on target. I would like to share that a little bit this morning. It has to do with consistency in leadership and with where we are going in this country. The President has talked in the last couple of days about the consistency of his administration. Of course, I think there is great question about that. If we are to move forward to make the changes that most of us want to make, that I think most Americans want to make, we have to have some consistency in policy.

The President came to Washington based on a campaign of change, based on a promise of change, based on a promise of a new Democrat. He said more recently that the era of big government is over. The fact is that there has not been much consistency. The fact is that there was a great deal of talk about reforming of welfare which is certainly high on the agenda of most people. Most people want to continue to be able to help people who need help, but in a program that helps people back into a position to help themselves. Yet this Senate passed a bill on welfare, I think 85 positive votes, that was vetoed by the President who says he wanted to change welfare as we know it.

The balanced budget—I suspect the prime issue of this entire congressional session—it took four budgets to come up with a balanced budget, despite the President saying he was for a balanced budget when he ran, and would do it in 5 years. It took four budgets to do it in 7 years, and then, frankly, not a real budget.

Most everyone who studies the issue knows that if you are going to change the financial direction that this country has taken, if you want to be responsible for finances, that there has to be a significant change in the budget, that you cannot tinker around the edges.

The President and his staff, and Mr. Panetta, whom I worked with in the House, and I always thought was responsible—almost as if you push a button, we protect Medicaid, protect the environment, have an investment in education. The fact is that over a period of several years you cannot do that; there is no money to do that unless you do something about entitlements. That is a fact.

So to say we are going to balance the budget and we are going to protect Medicare, Medicaid, the environment, invest in education, it is impossible to do, unless, of course, you raise taxes considerably.

Mr. President, these are the things raised about consistency. I want to read the letter from Linda Russell of Rawlins, WY.

President BILL CLINTON,
White House,
Washington, DC.

DEAR MR. PRESIDENT: I sent you a wire to just get the budget balanced and quit "posturing" and playing politics.

You wrote a very nice letter back—but I am very concerned that you don't understand what the people of this USA want and need. You say we must "maintain our values—protecting Medicare, Medicaid, and the environment". Certainly no one would disagree that these are excellent GOALS—but they are NOT our base VALUES. Our base values would be fiscal responsibility, keeping a military strength sufficient to protect us, and staying out of the faces of people who are perfectly capable of handling the GOALS you mention far better than the Washington DC political establishment.

I attended the White House Conference on Small Business and heard you address the group on how you felt regulations should be reduced and the budget balanced and the tax burden lessened. WHAT HAPPENED TO YOUR SUPPORT OF THOSE IDEAS since that meeting??

May I respectfully suggest that you let the power revert to the people by going with the block grants so that we can take care of our neighbors with our tax money and not waste 90% of it paying a huge bureaucracy in "DC" to tell us how to do it. TRUST US—we are neither stupid nor insensitive. If you have any wish at all to be reelected, it would be well to give us the respect we are due—and stop taking more and more money via taxes to support some liberal agenda.

Mr. President—listen again to your own inaugural address to the nation, which I thought very impressive—and WALK YOUR TALK??

Sincerely,

LINDA RUSSELL,
Rawlins, WY.

Mr. President, I think her expression "and walk your talk" is an expression from someone who represents a good deal of the thought in my State in Wyoming. I think many of us believe that this is the direction we should take, make the changes that we came here to make—less government, less cost, less regulation, move the responsibilities to communities, to States, and frankly to individuals.

I had the opportunity last evening to meet with a group of students from Washington and Lee High School in Arlington, VA, who were inducted into the Honor Society. We talked to some of them about the concepts of freedom and about the responsibility in leadership that goes with freedom. I was really pleased at the receptiveness they had to the notion that if you are going to be free and responsible and have a Government where we participate and we govern ourselves, then you have to be responsible and take some leadership positions to do that.

Mr. President, that is sort of what it is all about and what this letter is about.

Mr. President, I ask unanimous consent that the President's response to Linda Russell's wire be printed in the RECORD.

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

THE WHITE HOUSE,
Washington, DC, December 6, 1995.

Ms. LINDA RUSSELL,
Rawlins, WY.

DEAR LINDA: Thank you for sharing your views. It's important for me to know how you feel about the challenges facing our nation.

I believe that we must balance the budget, but we must do it in a way that is good for our economy and that maintains our values—protecting Medicare, Medicaid, and the environment, and continuing our investment in education. And we have to do it without raising taxes on working families.

In the weeks ahead we will continue our bipartisan efforts to find common ground on balancing the budget, and I hope you will stay involved.

Sincerely,

BILL CLINTON.

Mr. THOMAS. I yield the floor. 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. AKAKA. 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. AKAKA. Mr. President, are we in morning business?

The PRESIDING OFFICER. The Senator is correct.

Mr. AKAKA. Mr. President, I will take the floor in morning business to speak about a concern that has been global.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

FRANCE'S CESSATION OF NUCLEAR TESTING IN THE SOUTH PACIFIC

Mr. AKAKA. Mr. President, it is with a great sense of relief and hope that I rise today to comment on the announcement by French President Jacques Chirac that France has concluded its nuclear weapons testing program for good and will close its nuclear testing center in French Polynesia.

Like most people throughout the Pacific islands and Asia, the citizens of Hawaii were angered by the six underground nuclear explosions at Mururoa and Fangataufa atolls conducted by France. The threat to the environment and public health posed by the numerous blasts over the years is real and ongoing. This week, an article in the Washington Post documented French acknowledgement that radioactive materials have leaked into the sea surrounding the atolls. These reports confirm claims made by international organizations that French nuclear testing has weakened the coral atolls and vented radioactive materials into the Pacific. Regrettably, France has not allowed independent inquiry and verification at the test sites.

The global outcry against the resumption of French nuclear testing has

given renewed vigor to the drive for an international moratorium on nuclear testing and the completion of a comprehensive test ban treaty. International protests extended well beyond the nations of the Pacific; the French action drew criticism in the United States and objections from most members of the European Union. The Senate and the Congress joined the international chorus of concern following President Chirac's announcement last summer that France would end its testing moratorium. Last session, the Congress adopted a sense of the Senate resolution I authored calling on France and China to abide by the international moratorium on nuclear test explosions and refrain from conducting underground nuclear tests in advance of a comprehensive test ban treaty.

Mr. President, the definitive end to nuclear testing by France is welcome news. It comes after six unnecessary and ill-advised nuclear explosions. However, France's rejoining the global moratorium, pledge to sign the Treaty of Rarotonga, and commitment to pursue a zero-option test ban treaty presents an opportunity to conclude a permanent nuclear test ban treaty and advance nuclear nonproliferation. The challenge we face is to reach agreement among the nations participating in the United Nations Conference on Disarmament. In his State of the Union message, President Clinton called for the signing of a truly comprehensive nuclear test ban treaty this year. This ambitious timetable underlines the President's strong leadership in the effort to halt the nuclear arms race, advance nuclear disarmament, and ensure peace and security for all people.

President Chirac's intention to play an active role in concluding an international nuclear testing ban should add momentum to efforts now underway in Geneva, Switzerland aimed at resolving remaining disagreements over the text of the treaty. We should encourage all positive contributions toward nuclear disarmament, even those that come from recent converts to the cause.

Mr. President, the state visit and address to Congress by the President of the Republic of France has prompted denunciations and calls for action by many citizens and elected officials. This understandable reaction reflects the anger, pain, and offense felt by the people of the Pacific islands over the arrogance and insensitivity with which their objections have been dismissed. This singular opportunity offers President Chirac a forum to embark on a new course to advance nuclear nonproliferation. I encourage President Chirac to pursue reconciliation with the Pacific island peoples and nations. France should not delay its pledge to sign the protocols of the Treaty of Rarotonga, which declare and establish the South Pacific as a nuclear-free zone. I also call on President Chirac to permit independent inspection and evaluation of the test sites and the lagoon and sea surrounding the atolls for environmental damage and radiation leakage.

The political and environmental damage wrought by the recently concluded tests cannot be undone. However, the end of the final series of underground nuclear testing by France offers an opportunity and challenge for our countries to cooperate on the successful conclusion and approval of a comprehensive test ban treaty this year. It is with this spirit of hope that I greet the state visit by the President of the Republic of France.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AGRICULTURAL MARKET TRANSITION ACT OF 1996

Mr. CRAIG. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of calendar No. 330, S. 1541, the farm bill.

The PRESIDING OFFICER. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1541) to extend, reform, and improve agricultural commodity, trade, conservation, and other programs, 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.

CLOTURE MOTION

Mr. CRAIG. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on S. 1541, the farm bill:

Bob Dole, Strom Thurmond, Dirk Kempthorne, James M. Jeffords, John H. Chafee, Thad Cochran, Ted Stevens, Trent Lott, Richard G. Lugar, Craig Thomas, Don Nickles, Bob Bennett, Alan K. Simpson, John Warner, Larry Pressler, Dan Coats, Larry E. Craig.

Mr. CRAIG. Mr. President, for now nearly 10 months, the U.S. Senate and the Senate Agriculture Committee have been working diligently to craft a new farm bill for our country. We all know that on September 30 of this immediate past year, the old farm bill expired. We also recognize that under the necessary budget changes and spending procedures and priorities that we were establishing, a large portion of the farm bill appeared and was a part of the Balanced Budget Act that we sent to the President, and the President vetoed it.

That has placed American agriculture, in my opinion, in a very precarious situation. While they have worked with us through the year of 1995 in numerous hearings that the Senate Agriculture Committee, on which I serve, participated in, we began to hear a very clear message from American agriculture that current policy was not serving it as well as it should, that there was a great desire on the part of production agriculture to progressively move to the market and produce to market trends and market ideas instead of to the perpetuation of farm programs.

Now, recognizing that, we also saw the clear importance that that transition American agriculture was talking about come in a way that all could live with. None of us wanted to shock the market. None of us, more importantly, wanted to create any kind of economic catastrophe in agriculture across this country. As a result, the Senate, in a very bipartisan way, worked diligently.

We also have the mandate of the Senate Budget Committee to meet the criteria of the budget. That was to find additional savings for the year and then to spread those savings out over the 7-year period of the Balanced Budget Act to arrive at some 40 billion-plus dollars' worth of savings. All of that was accomplished. Of course, all of that was for naught when the President decided to veto that most important piece of legislation.

Recognizing that that did not happen and that clearly American agriculture now has been asking us on a very regular basis over the last month, "What are you going to do?" it became important here in the Senate and in the House—the House acting yesterday—to mark up their version of the farm bill, and the Senate in the past week attempting to bring procedure forward, and on Friday last introducing S. 1541, the bill that I have just called up, to address the question being asked us. Most important, to craft critical policy that is time certain, that works in the marketplace of agriculture, that says to the farmer, "Here is something you can now plan as you sit down with your banker and your financial advisers to plan for the coming year," so that we are timely. That is why we have the debate today and, hopefully, votes tomorrow on this and possibly other critical pieces of legislation.

I believe that the Balanced Budget Act represented probably the most far-reaching, positive reform for U.S. farm policy in a generation, certainly in the time I have served in the U.S. Senate and in the U.S. House of Representatives. While we work to change and cooperate with agriculture and move into the marketplace, clearly, the product of effort that we presented in the last several months is as much or more reform than I think we have seen in farm policy here in the U.S. Congress in the last 60 years.

The amendments allow farmers to sign a 7-year income support contract with the Federal Government. That contract takes the place of the old market-distorted target pricing system. As a result of that and the flexibility that we have offered in this program, clearly the farmers today who wish to stay in the program have by far the greater opportunity to look to the matter, as they should, in deciding what they will plant and not have to worry about the loss of their base in that kind of flexibility and also have the income support program that we have talked about, at a minimal level, but an important level, so that we do not create the type of downturns that we have seen.

A declining series of payments through the year 2002 would provide the kind of genuine flexibility and smooth transition, as I have just explained, toward the marketplace and allow agriculture then to be responsive to the market moving into the next century. No longer will Government tell the farmer which crops to plant. In other words, no longer will farmers have to farm the Government program to stay in the program or to realize some benefit from it. No longer will that occur. It leaves the farmer free to decide what is the most productive effort for his or her land.

I think this is the way it ought to be. Of course, the marketplace, then, largely becomes the determinator of value and that, of course is the way any business and industry really ought to operate.

The balanced budget amendments that we have brought into S. 1541 have been endorsed by the American Farm Bureau Federation.

Mr. President, I have a letter here from the President of the National Farm Bureau, Dean Kleckner. This letter was sent to me just the day before yesterday with a full endorsement of S. 1541. I ask unanimous consent that it be printed in the RECORD.

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

JANUARY 29, 1996.

Hon. LARRY CRAIG,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR CRAIG: Congress must pass farm program legislation quickly. Failure to reach agreement on multi-year farm legislation is delaying planting decisions for farmers. Widespread planting will begin soon in the south. Yet farmers still do not know the farm program rules. Lending institutions are withholding production loans based wholly on the uncertainty being created in Washington, D.C. Our competitors in world markets are surely amused at this policy disarray.

Farmers and consumers in the greatest agricultural nation in the world need a workable farm program. We urge you to act now, in the bipartisan spirit that has been the norm in the Senate Agriculture Committee, and approve workable policy for all titles of the farm bill including those previously scheduled for later consideration.

The American Farm Bureau Federation Board of Directors unanimously voiced its support for the Freedom to Farm Act, S. 1544 either as freestanding legislation or if added to another legislative vehicle. The Board voiced strong opposition to a short-term extension of existing programs or reverting to the Act of 1949.

A short-term extension of existing farm programs straps agriculture to a steadily declining budget baseline, provides no help to farmers in repaying advance deficiency payments and allows significantly less planting flexibility than is needed in today's world market. Reverting to the Act of 1949 is acknowledged by policy experts to be counter productive. Under the Act of 1949, the federal budget exposure would be enormous, domestic production would be reduced at a time when world stocks are very low and foreign competitors would expand exports at our expense.

The Freedom to Farm Act, S. 1544, embodies the core components of farm policy previously included in the vetoed Budget Reconciliation Act. The combination of market transition payments and marketing loans contained in S. 1544 forms a compromise which significantly restructures the income support mechanism for farmers to maximize the available federal support for agriculture and provides significant planting flexibility to meet world competition.

Throughout the discussions leading up to the adoption of the conference report on Budget Reconciliation, including farm programs, the Farm Bureau identified several policy areas which we believed were key to crafting effective and equitable farm programs for producers of all commodities. Those key concepts include:

Adequate protections for producers of non-program commodities.

Maintenance of existing landlord/tenant relationships.

Adequate spending levels for MPP and EEP.

Maintenance of current payment limits rules.

Dropping the requirement for crop insurance to participate in commodity programs.

Maintenance of the CRP program.

We believe that S. 1544 embodies many of these concepts and we urge you to protect them during subsequent floor action and through conference.

Significant contributions to balancing the federal budget are achieved as a result of changes made to the commodity programs including those for sugar and peanuts. The sugar and peanut programs have contributed to both stability within those production sectors and an abundant supply of quality products for consumers. The changes to these titles in S. 1544 ensure workable programs for both producers and consumers and they deserve your support.

The American Farm Bureau Federation supports the inclusion in S. 1544 of the compromise dairy proposal. Our members supported purely administrative changes to marketing orders. However, we will actively participate in the rulemaking process to ensure that the final changes in market orders will be equitable to all regions and all producers. We support the Livestock Environmental Assistance Program (LEAP) but encourage a modification of the eligibility of dairy herds to expand potential participation beyond smaller producers.

Due to low price levels for rice in recent years rice producers are disadvantaged in the early years of market transition contracts. We urge the committee to take steps to adjust rice payments and rectify this situation.

Consideration of the credit, trade conservation, research and other titles of the farm bill were postponed and until after the commodity titles and budget provisions were completed. We can no longer afford to wait for consideration and debate of those titles. We urge you to include those titles in the final package sent to the House. Much of the preliminary work on these titles is complete. Failure to act now will almost guarantee they are not reauthorized in 1996.

The American Farm Bureau Federation supports the expedited consideration of S. 1544 with the addition of the dairy, research, credit, conservation and trade titles.

We look forward to working with you in a bipartisan effort to pass multi-year farm legislation.

DEAN KLECKNER,
President.

Mr. CRAIG. There is no question this very vital farm organization, representing more people in production agriculture today than any other farm organization, recognizes the importance of this legislation and, most important, the importance of what it does; that it again moves the farmer toward the marketplace as all of us are concerned happens.

Mr. President, I ask unanimous consent that a letter from Bill Northey, the president of the National Corn Growers Association, be printed in the RECORD along with a letter from Robert Petersen, coalition coordinator for the Coalition for a Competitive Food and Agricultural System.

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

NATIONAL CORN GROWERS ASSOCIATION,
Washington, DC, January 30, 1996.

Hon. LARRY E. CRAIG,
U.S. Senate,
Washington, DC.

DEAR SENATOR CRAIG: The National Corn Growers Association (NCGA) urges you to vote for cloture on S. 1541, the Agricultural Market Transition Act. It is important that farm legislation receive the consideration it deserves, and, that a logical, responsible conclusion follow. With planting fast approaching, the nation's farmers must know what to expect from federal farm policy. Timing is critical.

S. 1541 is the clear choice for the nation's farmers. Throughout the entire farm bill debate, the NCGA supported key provisions contained in this legislation. Farmers have long suggested a simpler farm policy. The Agricultural Market Transition Act allows farmers to make the production decisions that will offer the best opportunity for profitability. Guaranteed, fixed payments provide certainty and aid in long-range planning. Finally, farmers can and will make the

transition to greater market reliance and less dependence on federal programs.

Some opponents of this legislation favor a simple extension of current law. A continuation of farm policy passed six years ago will discourage corn producers from participating in the farm program that will in turn jeopardize conservation compliance. Real reform is necessary to maintain agriculture as one of the strongest sectors of the nation's economy.

The NCGA strongly urges you to vote to invoke cloture later this week. Further, your support of the Agricultural Market Transition Act is needed to ensure that agriculture continues to thrive into the next century. Thank you for your attention to our concerns.

Sincerely,

BILL NORTHEY,
President.

COALITION FOR A COMPETITIVE
FOOD AGRICULTURAL SYSTEM,
Washington, DC, January 30, 1996.

Hon. LARRY E. CRAIG,
U.S. Senate,
Washington, DC.

DEAR SENATOR CRAIG: As the Senate prepares to take up the farm bill, the Coalition for a Competitive Food and Agricultural System urges you to support S. 1541, the Agricultural Market Transition Act, as introduced, to reform U.S. agricultural policies.

U.S. agriculture needs to have a new farm program in place quickly. Major provisions of the 1990 farm bill expired on December 31, 1995. As a result, the only farm program authorities now available to the Secretary of Agriculture for many crops are the 1938 and 1949 Agricultural Adjustment Acts. There is broad agreement that those authorities are no longer workable. And, resuscitating the 1990 farm bill provisions is not acceptable to most of U.S. agriculture.

The Coalition, on behalf of its 127 member companies and associations, believes S. 1541, as introduced, represents the best policy alternative for agriculture. The bill would: (1) reform and modernize farm programs; (2) provide a more certain income safety net for farmers through direct payments; (3) eliminate annual acreage reduction programs; and (4) provide broad planting flexibility for farmers. These proposals enjoy broad and growing support in the agricultural community.

Enclosed is a list of key points. Also enclosed is a Coalition Backgrounder.

Respectfully,

ROBERT R. PETERSEN,
Coalition Coordinator.

Mr. CRAIG. Mr. President, S. 1541 brings savings to the program. All of us want to accomplish that. It was the farmer that stood forth as soon as anyone else to say that a balanced budget is critical to our country and that a balanced budget is critical to the vitality of American agriculture; that American agriculture stands a lot better chance of surviving in an economy that is vibrant, in an economy where the consumers have access to and opportunity to purchase, with greater purchasing power that we believe the balanced budget would ultimately bring.

Export subsidies would be curtailed, and of course peanut and sugar programs have gone through major reform. While those programs still have their critics here on the floor of the Senate, all of us can stand forward—those of us who work to produce these reforms—and demonstrate that clearly all of the commodity interests of our country have been sensitive to the kind of reform that moves us to the marketplace.

I do not think the argument today that the consumer is paying the bill fits anymore. What does fit is the sensitivity to a fair playing field, especially in those industries that have to compete and must compete in worldwide economies.

I do not think anyone in this country wants to see the destruction of a vibrant industry, or opening the borders in a way that allows dumping from Third World countries, as we have seen in the past, especially if the production in the Third World country is well below the marketplace and if it is subsidized by the sponsoring governments. That is what we can avoid, and that is what we have avoided here while complying with GATT, while in recognition of NAFTA. Markets must be balanced and they must be fair.

I have never yet heard of a farmer or rancher in my State who would not say, "Give me a level playing field and I will compete with the best in the world because I am the best in the world but I cannot compete against open subsidies or in a situation that allows those subsidized crops to be dumped in my domestic market." That is, of course, what we try to accomplish here in the type of balance and the kind of reform that we have brought to these programs.

Conservation programs remain a critical part of any good farm bill. American agriculture has led the way in water quality, in saving our soil, and recognizing the vital interests of that industry by a sound environment and responding to that environment. Conservation programs will be a critical part of the bill. While we will continue to work this summer to finalize greater portions of the conservation title that meet the kind of critical environmental needs that is important out there in farmland America, what we are doing here is a major step in the right direction. I think it offers the opportunity to forestall any intrusive kind of regulation that could occur because it demonstrates that American agriculture was not only responsive to its own needs but sensitive to the criticisms of others where they were appropriately placed.

Mr. President, S. 1541 is identical to the original balanced budget amendment with two exceptions: First, there is an increase in the size of dairy operations that could qualify for livestock environmental assistance; and another portion that is critical to my State and critical to a good many others, as we create flexibility in program crop areas that allow farmers to move toward the market, we do not want that farmer who is currently receiving Government support to be openly competing against a farmer who does not or has never received that. In simple terms, Mr. President, that simply would not be fair. Everybody in agriculture understands that.

As a result of that, in the area of fruits and vegetables, they would qualify for current law, meaning that farmers who farm to the program and are in it with the flexibility and get the benefit of the 7-year payment program would not be allowed to use their flex acres in those productions.

My State of Idaho raises potatoes. It is critical to the State and, I like to think, important to the Nation. But it is a very sensitive matter as it relates to availability and supply. A rush to plant potatoes in a relatively strong market could ultimately destroy that market or cause tremendous dislocation by some projection of unusual increases in planting. We are recognizing the need for transition. Potato farmers are not saying they should not compete, but why should they or any fruit or vegetable farmer compete against somebody who is receiving direct Government program benefits, as they would through the transition period? The answer, we think, and the fair answer is, they should not. That is why those areas have been left as current law provides.

Mr. President, that is a brief summary of what we are attempting to accomplish in S. 1541. I certainly hope other colleagues would come to the floor to debate this issue today. We think it is important that we resolve it through this month, hopefully by early next month, or no later than the 1st of March we could go to conference between the House and the Senate, work out our differences, and in late winter or early spring let American agriculture know what farm policy is going to look like for the next good number of years. That keeps us in cycle with the normal planting cycles of our country and something we need to be responsive to.

I understand there will be other legislation proposed later on in the afternoon. Senator LEAHY is working on a proposed offering that will take a serious look at because all of us recognize that farm legislation, when it is good legislation, has always demonstrated the bipartisan approach that every good farm bill has ever been crafted on. Certainly this side wants to work with the other side in dealing with that issue, in solving the problems that we currently have.

More important than that, though, is the timely message. I hope today and tomorrow we can debate this issue and vote on these issues. Clearly, that will send a signal—the House having brought a bill out of their committee yesterday, and hoping to be able to

move on that within the next few weeks—that comes a long way toward resolving the problems we want to resolve.

With the flexibility and, I think, the simplicity, the certainty we are offering, the opportunity for transition in the markets and hopefully the profitability that I think can be produced by this type of program with farmers, we not only offer them up a good piece of work that I think we in the Senate can be proud of, but we say to American agriculture: We will partner with you, but we expect you to farm to the market and to be sensitive to market trends and to farm to the world consuming public. We will help you get there in the best ways Government can facilitate, and that is really all that any industry in this country should be able to ask for. It is a partnership that has long existed, and it is one that I think brings a kind of ability to American agriculture that they expect.

Mr. President, I have no further comments at this time. We have the legislation now before us, and with recognition that no one is here on the floor, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. 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, my colleague from Idaho, Senator CRAIG, was on the floor visiting about the farm bill. I wanted to discuss just briefly where we are and where we are headed on that issue. That is a very important issue to a lot of farm States. Tomorrow we will, I understand, be voting on a series of alternatives dealing with farm legislation.

It is long past the time when Congress should have passed a farm bill. Last year was the year in which Congress was required to enact a 5-year farm program. The Congress did in fact put a 5-year farm program in the reconciliation bill, but, of course, everyone knew that the President was going to veto that bill. The budget reconciliation bill had a whole series of other things in it, and the farm program was actually a very small part of it.

The result of the President's veto of the reconciliation bill was that we are left without a farm program. Farmers are thinking about going into the field in the spring—some down South will be going into their fields in a matter of weeks—and there is no farm program. In North Dakota, they are not preparing to go into the field today, I guarantee you. It is a little too cold out there. But they are talking to their bankers and their farm equipment dealers. They are getting ready for the spring's work, and there is no farm program. They want to know what will the farm program be.

It is a waste of time to be pointing fingers about who is at fault as to why we are so late and what has happened. What is most important, at this point, is for us to try to understand how can we construct a farm program that works for the benefit of family farmers and how can we do it soon.

My hope is that by the end of the day tomorrow we will have passed from the Senate a proposal that we can put into conference with the House. Then we could in the next week get a conference committee and have a farm program passed and signed into law. We owe that to family farmers in this country.

My understanding is that Senator DOLE, the majority leader, will offer the freedom to farm bill. That bill has some provisions that I support. It does some things I cannot support. I have proposed an alternative that we will likely offer tomorrow called the Farm Security Act.

I think common to both proposals would be the notion that the Government ought not to be telling the farmers how to plant, nor telling them when to plant, nor telling them where to plant. That is the straitjacket that we have in the current farm law. That, in my judgment, ought to be changed. We do not need the Government hip deep in planting decisions. Let farmers determine what they plant on base acres. The freedom to farm bill would do that. The Farm Security Act would do that. It seems to me that is a common objective that we could agree on.

Most of us believe that we ought to forgive advance deficiency payments for farmers who suffered a crop loss last year. These farmers are now threatened with having to repay those amounts. If they did not have a crop, there is no money with which to pay. We should forgive that. The freedom to farm proposal would provide some relief for farmers on that score. So would the Farm Security Act.

There are sufficient common elements, it seems to me, so that we should be able to reach agreement at the end of the day tomorrow on something that we could put into conference.

The one major difference I would have with the freedom to farm bill is that it presupposes, with some up front attractive transitional payments, that we would then get rid of the farm program. In exchange for giving transitional payments to farmers now, it would repeal permanent farm law, the 1949 act. The purpose of all that is to provide some payment up front. You take the payment in exchange for getting out of the business of providing any kind of price supports at all in the future.

I understand the short-term attractiveness of that. Yet, we know farm prices are going to go down. Grain prices go up, and they go down. The problem is they never go up on the upside grid aggressively. Every time grain prices start to go up—and they are up some now—what happens is the grain trade starts floating rumors about embargoes, or somebody else starts doing something saying this is going to hurt consumers. They try to dampen prices. The farmers then never get the uplifting side of higher prices for any length of time. They should, but they do not because the larger economic interests are always in there trying to mess with grain prices. And they do it in a way that tends to collapse prices that family farmers need to make a living.

Grain prices are up some points now. They are stronger, and they are higher. But they will go down, and they will collapse because we have these cycles of ups and downs of grain prices. When these prices collapse, family farmers will not make it unless there is a safety net with some kind of loan rate or deficiency payment.

Unless there is some safety net, these family farmers will get washed away, and they will be bankrupt. They do not have big enough financial strength to sustain a number of years of low prices, and these family farmers will be washed away.

The freedom to farm bill would take away the safety net. It would give you some attractive payments up front. But, there will no longer be a farm program down the road. I can understand why that is attractive to some. However, it seems to me this is not a good trade. We ought to have a farm program in the long term. We ought to provide a basic safety net for family-size farmers.

Tomorrow some of us will offer a Farm Security Act which provides some attractiveness on the front end as well. We would provide that we would not only forgive the advanced deficiency payments of last year for those who suffered a crop loss, but also that we would provide what would normally be a 50-percent advance deficiency payment this spring. This would not have to be repaid. This would be done in order to help family farms recapitalize their farms. Its a repayment of sorts for some difficult situations, acknowledging that Congress did not do its job and did not provide a farm bill when it should have done it last year.

I do not mind providing some upfront attractive features. I am just as happy to do that in the Farm Security Act as they might be in the Freedom to Farm bill. But I will not do it under the condition that it is in exchange for pulling the rug out from under farmers later. I am not willing to say to farmers that when prices collapse you will not have a safety net. That is not a good trade.

I think we have to decide in the Senate and in the Congress whether we

care a rip whether there are family farmers in this country? Do we care at all? Some people may say it does not matter. Some say let corporations farm from California to Maine. And they will.

Food prices will be higher when the large corporate interests capture most of the enterprises in family farming and they become part of large agrifactories. We will certainly have much higher food prices. But it will mean more than that, more than food price economics.

Go to a small town. I come from a small town of 300 people. Go to a small town and look around that town. We need to understand what is it that feeds the economic life of that small community. All across this country the blood vessels of our small towns are those yard lights out on the family farms. If you turn off those yard lights and turn those family farms into corporate agrifactories, all of those small towns die quickly.

The question before us is both social and economic. Is there an interest in maintaining a network of family farms in this country's future? I think the answer is yes. If the answer is yes, then we ought to put together something with price supports that make sense for family farmers.

When prices drop and stay down, we ought to put something together to put some payment in place which we will provide in the same basic level of a safety net in the long term.

If we fail to provide some long-term safety net it means that we do not care whether our young farmers get started. It means we do not care whether there is renewal on family farms, and we do not care whether there are family farms and small towns in the future.

I hope we can find a way by tomorrow evening to reach agreement on a bipartisan basis to pass a farm bill out of this Senate and put it into conference. We need a farm bill that provides some attractive features on the front end and one that provides much greater flexibility of planting for farmers, forgiveness of advance deficiency payments, and certainly the retention in the long term of a network of price supports for family farms.

If we can do that, we will have done something significant. There is no reason, if we work together, that we cannot have finished a farm bill by the end of next week, one which the President could sign and one which will provide family farmers some certainty about their future.

MERCHANDISE TRADE DEFICIT

Mr. DORGAN. Mr. President, none of my colleagues is here. We are not in business with votes today. We are in business today for the purpose of introduction of legislation, and we will have votes tomorrow. I would like to turn to one additional topic.

I am going to bring to the floor of the Senate some information about our merchandise trade deficit in the next couple of days. It is interesting to me that we have an enormous amount of debate in this country about the budget deficit. It is appropriate because our budget deficit is a serious problem for this country. We are spending money which we do not have. We are borrowing it. When we do that, we run into trouble if we keep doing it. We need to have a budget that is in balance. We need to do it the right way with the right priorities. No one disputes that.

Yet, the interesting thing is that there is a conspiracy of silence it seems to me. Its almost a complete conspiracy of silence about another deficit that is even larger than the budget deficit in this country. That is this country's trade deficit. Our merchandise trade deficit in America last year was higher than the Federal budget deficit. I will bet hardly anybody knows that.

We had over a $60 billion trade deficit with Japan, over a $30 billion deficit with China, and nearly a $40 billion deficit with Canada and Mexico combined.

What does all of that mean? It means fewer American jobs, lower American wages, less American growth, and less opportunity for the people who live in this country.

I am not suggesting we ought to construct a trade strategy that says, "Let us put walls around our country and keep out the exports from other countries in order to reduce our trade deficit." That is not the point I am making.

The point I am making is that China says to us, "We are going to ship you all of our goods, all of our trinkets. We will ship you all of our manufactured products, all of our textiles. And, we are going to do it in sufficient quantities so that we will run up a $30 billion trade surplus with you." That is real trouble because what that means is we have transferred jobs that used to be good-paying manufacturing jobs in the United States to China. They are now lower paid manufacturing jobs in China. It is also true with Mexico. It is true with Japan.

Did you know that every single day there are two to three permits approved down on the Mexican-United States border from the maquiladora plants, the plants by which companies transfer their production from America to just outside of our country. They move just across that invisible line, the international border, so that they do not have to comply with the pollution laws of America, so they can pay lower wages for someone living outside of our country, and then manufacture goods there and ship them back to us here?

Do you know Hershey kisses used to be American? Not any longer. They are now made in Mexico. Hanes underwear closed six plants in America. Guess where most of that underwear is going to come from in the future?

Moving jobs from America to other countries means less opportunity here. It means slower economic growth. It means trouble for American workers and for American young people who want to go to school to learn and to get a good job. Nobody seems to care much about it. Trade deficits, that does not matter. Nobody talks about that.

NAFTA is a good example of what I am concerned about. When NAFTA was proposed to the U.S. Congress, there was one major study called the Hufbauer-Schott study. One of the fellows was Gary Hufbauer, an economist. He predicted an enormous number of new jobs in America if we would pass NAFTA, the trade agreement with Mexico and Canada.

Well, I did not support NAFTA for a lot of reasons. I felt that we would have a wholesale loss of American jobs. The year before the United States-Mexican trade agreement was approved by the Congress, we had a $2 billion trade surplus with Mexico. Two years later, we now have in this last year nearly an $18 billion trade deficit with Mexico. We went from a $2 billion surplus to an $18 billion deficit.

Mr. Hufbauer in that study had predicted I think 130,000 new American jobs if we would pass NAFTA. He now says maybe he ought to be in a different business. He says, "I am not much of an estimator." He now says he thinks we lost 220,000 American jobs as a result of NAFTA.

That is just one example of a trade circumstance that has gone awry. I suppose in theory it does not matter much. I have never found a journalist who has lost a job because of imports or exports. So, you are not going to read a lot in the Washington Post about our merchandise trade deficit.

In fact, when we debated NAFTA in the Congress, I counted the column inches devoted, pro and con, to the trade agreement in the Washington Post, New York Times, Wall Street Journal, and Los Angeles Times, four major papers. Do you know what these citadels of free speech and free expression gave? It was a 6 to 1 ratio, 6 column inches for NAFTA on their editorial and op-ed pages, and 1 column inch against. They gave a 6-to-1 advantage for those who were proposing this trade agreement versus those who were opposed to it. That is what we faced in dealing with this topic.

What I wish to do is to call this deficit to the attention of the Congress and the American people. We need to understand the trade deficit, especially the merchandise trade deficit.

You do not in this country move America ahead by measuring our progress by what we consume. You measure it by what we produce. Economic progress is what we produce. And yet every single month you will

hear on the news the economy is rolling along because we consumed more of this or we bought more cars or bought more of that, or that retail sales were up.

That is not a barometer of economic progress. The barometer of progress is what has happened to production in this country. Are we producing more or less? And the second barometer, equally as important as it relates to production, is what has happened to wages.

It has hurt over 60 percent of American families. When they sit down for dinner tonight at their dinner table—actually, in my hometown they sit down for supper; we still call it supper, but out East they call it dinner. But, when they sit down at the dinner table and they talk about their situation, 60 percent of American workers, are making less money now than they did 20 years ago when you adjust their income for inflation. They are making less money now than 20 years ago. They have made no progress in 20 years. In fact, they have lost ground.

Now, why would people lose ground in 20 years with respect to their personal income? Because we have constructed a trade circumstance where we say to them, you American workers, especially you lower skilled American workers, we are going to ask you to compete with 2 or 3 billion other people and those people are willing to work for 12 cents an hour, 40 cents an hour or a dollar an hour. And they work for people who put up factories where they do not have to worry about pollution. They can pump the waste in the water. They can pump the pollution straight up in the air.

So, the result is we get somebody working an hour and a quarter of direct labor to make a pair of tennis shoes in Malaysia, making 14 cents an hour. Thus there is roughly 20 cents or slightly less in direct labor costs in a pair of tennis shoes from a plant in Malaysia. The labor comes from a woman, often under age, who works 12 hours a day at 14 cents an hour. Then that tennis shoe made there is shipped to Pittsburgh or Fargo or Denver and sold for $80 a pair. It comes with a 20-cent direct labor cost from a foreign country. It is under these kind of circumstances that we have told American workers: "You compete with someone making 14 cents an hour."

We cannot do that. You cannot compete with that. You lose. What do you lose? You lose the jobs. You lose the plants and the jobs, and you lose economic opportunity and economic vitality in our country.

As perverse as it may sound, we not only have this problem in merchandise trade deficits, but we also have a provision in our tax law that says we are going to make it easier for companies to do that. Our tax laws say, "We will provide a tax incentive in America's tax code if you will please shut the doors to your plant in America and move your jobs overseas."

We have a tax incentive that says, "Shut your plant down here and move your jobs overseas. We will give you a tax cut."

Interestingly enough, in the bill that went to the President for a veto during this budget battle there was another provision that made it even a sweeter deal to close a plant here and move jobs overseas.

When that bill was in this Chamber, I offered an amendment which would shut down this perverse incentive that says, "If you move your jobs overseas, we will give you a tax break." I said. "Let us shut that down."

If we can agree on anything, it ought to be on this. We ought not give a tax break for moving jobs out of America."

Do you know the vote was a partisan vote, essentially a partisan vote? Everybody on one side voted for my amendment, everybody on the other side voted against it, and we lost. It makes no sense at all. We need to come together and decide as a matter of economic strategy what we want for this country.

Part of it is a more sensible tax law. Part of it is a more sensible trade strategy that provides fairness and opportunity for American workers and provides for the resurgence of an American manufacturing sector. We need to do that soon.

The reason I mention it today is it in some respects fits with what we are talking about with respect to agriculture. I do not want to build walls. I wish to build bridges. As a fellow who represents a State that needs to find a foreign home for a fair amount of grain, I understand the need for international trade. I want to expand trade, not restrict it.

I wish to make darned sure that the circumstances of trade are represented by fair rules. I do not mind that Americans should have to compete. They must compete and must win in competition, but the competition must be fair. We should not say to an American worker and his family, "You compete against someone overseas making 14 cents an hour employed by someone who does not have to follow any laws with respect to pollution." I say that is not fair. We need to dig into this and be concerned about it and respond to it. It relates to the issue that I described about where we are going with respect to wages and opportunity and where we are going with respect to jobs in this country's future.

Mr. President, I will be in the Chamber tomorrow to offer some amendments and discuss in some detail the alternatives that we will be discussing when we talk about the farm program. There will be some differences, and as I said the major difference between us is that many of us feel we should not withdraw a long-term safety net from family farmers. Notwithstanding those differences, I hope there will be significant agreement as well because I want by the end of the day tomorrow to have this Senate pass out into a conference committee some kind of basic farm legislation. This Senate owes that to American farmers.

Mr. President, I yield the floor, and I make a point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. SMITH). Without objection, it is so ordered. The Senator from South Dakota.

Mr. PRESSLER. I thank the Chair.

AGRICULTURAL MARKET TRANSITION ACT OF 1996

The Senate continued with the consideration of the bill.

Mr. PRESSLER. Mr. President, I hope that we can enact farm legislation quickly. I just met with a group of farmers in my State. They expressed to me the need to work with their bankers to make their spring plans for planting. They expressed to me the need to have a farm bill passed for purposes of their planning, so that they could have certainty of their investment.

There has been much debate in this Chamber over the years on farm policy. I know that there are currently several approaches that are floating around the Chamber. One is, more or less, some modification of the Freedom to Farm Act, as suggested by Congressman ROBERTS and others, there is another plan to have a new farm bill and another to continue the present farm bill for a year.

I suspect that in this Senate with the need for cloture, it will be hard to get a cleancut decision on any one of those bills. I suspect that we will have to have a compromise of one of those approaches.

Let me say that in talking to the farmers from my State—these particular farmers were grain farmers, corn and wheat farmers—they thought the Freedom to Farm Act would be most advantageous to them from what they had heard and from what they knew about it. They felt strongly that they might even like to try some new crops, crops that they do not presently grow now, or do some experimenting with new crops. Under the traditional farm programs where we have commodity programs for this crop and that crop, as defined in legislation, producers are locked in to growing corn or wheat or whatever. They expressed to me support for planting flexibility under the concept of freedom to farm.

I am concerned about having a cap on who receives benefits. If we had freedom to farm, a cap on the income levels of farmers who might receive benefits or possibly the size of farm or something other test might be needed. There also has been a debate over the budgetary numbers, and we always have different budgetary numbers. Congressman ROBERTS argues that his plan would actually save the taxpayers money and lead us into the time when commodity prices might be much higher.

The advantage to extending the current farm bill would be that we are in the midst of a planting season, that this is a program that our people have become accustomed to and that they can farm and prosper, to some extent.

Underlying all of this is the fact that commodity prices have gone above what the target price trigger is; that is wheat and corn prices are above the level that they receive a subsidy. So farmers are paying back the so-called deficiency payments, and this has caused some hardship because people have used those deficiency payments in their operations. But there is provision for the Secretary of Agriculture to make adjustments where there is hardship.

Mr. President, I know that tomorrow we will have a cloture vote—we may have more than one cloture vote—and then we will have some amendments. It might well be that we have an experimental 2-year freedom to farm with some continuation of the deficiency payments program. But above all, we should act, because on too many issues, for one reason or another, Washington has not produced either a budget or a farm bill or, indeed, a telecommunications bill, which I hope we will produce soon also.

We have the people's work to do, and I hope we are here and doing it. But I urge that this Chamber come to a conclusion on the farm bill tomorrow or, hopefully, within a week. I will be here to assist in that process, as will my colleagues.

Mr. President, I yield the floor.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, the farm bill has become a focal point now for legislation in Washington and not too soon. I think it is the first time in 40 or 50 years we have failed to enact a farm bill in the year that the farm program expired. So we are a year late, and this is what my distinguished friend from South Dakota is saying.

I worry about the Freedom to Farm Act because that is a check that goes to the farmer, and, basically, some farmers are referring to it as welfare. You can lock your door, go to Florida, and still get your check and not raise any grain, not raise any crop. Therefore, your local fertilizer dealer, local equipment dealer, local feed and seed people no longer will be selling. So, therefore, it worries a lot of folks that the so-called payment, regardless of whether you have a high price or a low price, will be received.

That does not seem quite fair to me, where under the present program you stabilize the market. If you go under, the prices are lower than the set price, then you get some help. If it goes above that, then you make a profit and you do not need the money. So somehow or another, it has stabilized, in my mind, the market.

What is so frustrating now to the farmers is it appears that it is this or nothing. In the beginning, the Freedom to Farm Act was opposed by the American Farm Bureau late last November. We have copies of the letter where they oppose the Freedom to Farm Act.

Now, as we fail to enact a farm bill and we get closer to the time where southern States are beginning to plant, or within the next few weeks, they are very concerned. The farmers in my State who are preparing for the spring are very concerned about their financial situation.

I think we have to be very careful that we do not allow the last-minute gasp here to remove the safety net for the farmers in the future, because under the Freedom to Farm Act, the farm program in 7 years is gone, or sooner than that when the general public finds that if you do not farm, you get a check every year, and it could be up to as high as $120,000 a year. The general public is not going to like that.

You can cut all the deals you want to for milk and nutrition and all those sort of things and pass the Freedom to Farm Act, or at least send it to conference. I think that it is incumbent upon all of us to be sure that the future of farming stays around.

In my State, the average farm is 157 acres. So farming is a very narrow operation as to the products, as to the income and for stability in our farm program.

Mr. President, I have real concerns. The Senator from South Dakota talks about flexibility. You have a quota, you have an allotment, whatever it might be, as to acres. We propose that you have flexibility, that you do not lose—say you have 100 acres and you want to take 30 acres to try something else. If something else does not work, then you can revert back to your 100 acres. So it gives flexibility.

You can give to farmers a good, well-thought-out, debated farm bill to give them a future and a safety net that I think will be more in keeping with our, or at least, what my idea is of a farm bill for agriculture's future.

So, Mr. President, I hope that when tomorrow comes and we try to push a farm bill through quickly—and maybe a telecommunications bill, whatever it might be here—that we do not rush through without giving as much thought to the future of farming in this great country as we should.

I think you will find some offers tomorrow, ways that can be, I feel, a good future for agriculture, rather than saying, "Here is a check every year for the next 7 years, and at the end of that time, you are out on your own."

My small farmer will not be able to accommodate that. I think we ought to pass a farm bill that gives hope to the farmer and encouragement to young farmers to stay on the farm and not move so quickly on the basis of being under the gun.

We have delayed in this Congress, more than any time during my 21 years, right up to the hilt. It is the first time I have not been able to see a farm bill until this late—yesterday afternoon—which we are going to be called upon to vote on tomorrow. Just highlights of the farm bill were in the RECORD, but I would like an opportunity to read the fine print. I was brought up that "the devil is in the fine print." I want to read the fine print and see what this bill and piece of legislation says.

Mr. President, I hope that eventually we have a farm bill that we all can be proud of, which the farming community can rally around, and that we do not leave any particular field—if that is a good word for farming—out hanging by itself, not protected and cared for as we would like it to be for the future.

So I am very concerned about the farm bill. I am concerned that we will just get rid of it or push it so we can go out and have Presidential politics in the next few weeks. I think that happens to be very important to several of our colleagues. But I do not believe that the farm States are interested in us doing something hastily, which would not bring them a future as it relates to the community.

Farm products and prices are good. So, as I understand it, we have saved about $5 billion that was set aside for the farmers if the prices were projected, as CBO said they were going to be, downward. Instead of that, CBO was wrong on this one. The prices have gone up. There is about $5 billion not expended that was based on the projection of CBO about this time last year.

So it just proves that CBO is not right all the time and that we have the ability to make the farm bill substantial and stabilize the market through some of the procedures we have held onto in the past. Second, we can give flexibility to the farmer to try new products, without losing their total allotment or set-aside.

So, Mr. President, I urge my colleagues to be very careful in their deliberation of the farm bill tomorrow. If it takes another day, so be it. We have waited now a year. We are about a year

late in passing the farm bill. Usually, we have a 5-year farm bill. At least, in 1985 and 1990 we did. Most of the farmers were able to operate under that because we gave them some long-term stability.

My colleague from South Dakota indicated there might be just an extension with a few changes in the present farm bill in order to give us more time to be sure that our farm bill for the future is correct. That may be something we want to give serious consideration to—a year or two extension of the present farm bill, with some modification as it relates to the deficiency payments.

I understand the dilemma. You have a deficiency payment, you are not entitled to it, and you are supposed to pay it back. Now the farmers have used it and do not want to pay it back or cannot pay it back. I understand that. But there was an understanding in the beginning.

So my point here—and it may not be very cogent—is that I hope my colleagues will be very careful before they rush pell-mell into trying to get a farm bill out of here tomorrow so we can go home tomorrow night. We ought to stay here and develop a good farm bill that would be in the interest of the future of the farmers.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KYL. 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. KYL. I ask unanimous consent that I be able to speak for up to 20 minutes as in morning business.

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

BALANCING THE BUDGET

Mr. KYL. Mr. President, the reason I wanted to address the Senate at this time is that having spent a few days in Arizona recently visiting with constituents, I think that I have learned something that is important for us to share as we continue this debate about the budget impasse and whether we are going to be able to reach an agreement on a balanced budget.

What I have heard from my constituents is, they are as concerned about the other side of the equation, namely, the income side of the equation, as they are about the balancing of the budget by the saving money side of the equation. Specifically, in the context of the new report issued a couple of weeks ago by the so-called Kemp Commission, they are suggesting that we should turn more of our attention to how we raise our revenue as much as we do to how we save our revenue. The report, entitled "Unleashing America's Potential," is the official name of the National Commission on Economic Growth and Tax Reform Report, the so-called Kemp Commission Report that was issued about 2 weeks ago of this past month.

Jack Kemp, who is the chairman of that commission, traveled to Phoenix and gave a couple presentations to constituents of mine talking about this, and combined with other meetings I have attended, as I have said, the conclusion I have come to is that while my constituents are very interested in balancing the budget—and they have encouraged me to stay the course and continue to try to press the President to reach a meaningful balanced budget over 7 years—they have also concluded, as I have, that that may not be practicable right now, the President just may not be ready to make a budget deal, that the incentives are not there for him to reach an agreement.

If that is so, what they are saying is, look at the other side of the equation, because there is another debate that is starting in this country about how to raise tax revenues, and that debate could have as much to do not only with how we balance the budget but also how we promote economic growth in this country.

Today, very briefly, I want to talk about those two subjects. When a family sits down at the table and figures up how they can do better economically to send their child to college or to buy the new car they have to buy because the old one is pretty much on its last legs, or any other way try to figure how they will do better economically, they generally look at both sides of the equation.

They say, "Well, first of all, are we spending too much money? Can we save money? Are we going out to dinner too much? Are we going out to the movies too much? We can save some money. We can pinch some pennies." And they figure out how much they can save.

That is what we are trying to do with our balanced budget. We are trying to say the Government can save a lot of money. Republicans are talking about saving hundreds of billions of dollars over a 7-year period, thus being able to balance our budget. The President would like to spend about $400 to $500 billion more than we would. That is why we have not been able to reach agreement with him on a balanced budget. Clearly, we ought to be looking at the side of the equation that tells us whether we are spending too much money.

But the other side of the equation is how can we cause the economy to grow so that not only will families be better off, so that they will not have to rely upon the Government so much, but that they will actually be producing more in terms of productivity and therefore more revenue to the Federal Government with existing tax policy? We can actually talk just like a family talks about getting a raise or doing something in business so they can make more money, which is the other half of their fiscal health, I guess you can call it.

The Federal Government can be doing the same thing. There are two ways to do that. There is a wrong way and a right way. The wrong way says let us raise tax rates. That will bring in more money to the Federal Treasury. We know the last tax increase, the biggest in this country's history, promoted by the President, did not raise income nearly as much as the administration projected because, of course, people changed their behavior. The most graphic example of that was the 1990 tax increase which included a much higher tax on luxury items, such as expensive cars and yachts and furs. And what happened to the people that were building the yachts? They went out of business, because people could not afford to pay the high tax so they stopped buying the yachts, as a result of which not only did the Federal Government not get the revenue but it actually had to pay money in terms of unemployment compensation because a lot of people lost their jobs because the yachts were not being made. Of course those people did not pay income taxes.

So the bottom line was that even though the income tax rate was increased, the revenues did not increase at all. That is what we found in this last tax increase. Revenues to the Treasury have not increased nearly as much as the administration predicted. So we know that raising tax rates does not necessarily mean an increase in income.

We also know that lowering tax rates can sometimes mean an increase in revenues to the Treasury. It is a little bit like the person who puts goods on sale about Christmastime. He does not do that to lose money. The retailer knows you can more than make up in volume what you lose in terms of the price cut. The same thing in taxes. You can reduce taxes and make more revenue for the Treasury because you have promoted commercial activity.

As a matter of fact, in the preamble to this report, "Unleashing America's Potential," former HUD Secretary and Representative, Jack Kemp, quotes John F. Kennedy who gave a speech before the Economic Club of New York in December 1962 and said this:

> In short, it is a paradoxical truth that tax rates are too high today and tax revenues are too low, and the soundest way to raise the revenues in the long run is to cut the rates now. . . . The purpose of cutting taxes now is not to incur a budget deficit, but to achieve the more prosperous, expanding economy which can bring a budget surplus.

That is John F. Kennedy in 1962, who also said "A rising tide lifts all boats," meaning if we can get the economy

growing again everyone will benefit, the entrepreneur who has had his tax rates cut as well as the person looking for a job who finds that there are jobs available because there is increased economic activity. It all has to do with injecting more capital into the private sector. John F. Kennedy made the point.

Ronald Reagan made the point 20 years later. When tax rates were reduced in the Reagan administration, tax revenues for the Treasury were increased. That is what we are talking about here in the Kemp economic report, a fairer, simpler, single-rate tax that would promote economic growth and opportunity and job creation because it would provide the incentive for investment and savings rather than the incentive which we have today which is get as many deductions as you can by borrowing, because that is how you can, in effect, work the Tax Code.

Some of our friends on the other side of the aisle say, "A tax cut for the rich is what you are talking about. Capital gains are enjoyed by rich people, so if you cut the capital gains tax that helps them."

You know, nothing can be further from the truth. As Jack Kemp has pointed out, a capital gains tax cut benefits the poor more than the rich. The rich people do not have to sell their assets. What they can do is use their assets as collateral to borrow money and take an income tax deduction on the interest costs of borrowing and they still have their capital assets. So the rich people do not have to have a capital gains tax cut. They can use the capital as the equity to borrow money and then write off the interest on their income taxes.

It is the poorer people in our society, who are looking for a job, or a better job, who can benefit by a capital gains tax cut. Not only do many families have small assets tied up that they would like to sell so they could utilize that money to send a child to school or invest or for whatever purpose—on rates now they are paying 28-percent if they sell that asset—but it is also the entrepreneurs who can free those assets up, take the money and invest it in something more productive, thus creating jobs, thus providing more opportunities for people at all levels of the economic spectrum in our society. So a tax cut can be beneficial, and it can benefit everybody in society, not simply those who are more well off.

We are going to be introducing a constitutional amendment in the next day or two, a resolution which would provide that a two-thirds vote in each House of the Congress would be required to approve a tax rate increase. Representatives BARTON and SHADEGG are introducing a similar initiative on the House side. This is similar to constitutional amendments that have been proposed and sometimes passed in States around the country. As a matter of fact, my own State of Arizona has had such a proposition.

The idea here is that tax increases have almost always been antithetical to growth, both in the private sector and to revenues of the Government. At least they have not been helpful. What the Kemp Commission suggested is that if we are going to have a single-rate, simple-income Tax Code—scrapping all of the existing code and going to a new, simpler, fairer single-rate code—we also need to have a mechanism in there to prevent the Congress from raising the rates after we get it into effect. I do not know whether the rate will be 17 or 19 percent or if it has to be 20 percent. But wherever that rate is set, it ought to stay there and it should not be going up over time. Of course that is the experience with Congress, because there are some, and some Presidents, who thought they could raise revenues by raising tax rates.

I think I have demonstrated that is not true, but it has not stopped them from trying. So we would like to build in a two-thirds requirement to approve any tax rate increase. I think that resolution should be debated and considered, along with the recommendations of the Kemp Commission, as they are introduced as legislation in force over the next several months. So we are going to be introducing that legislation and I will be looking for support to get that moving.

Mr. President, in the time I have remaining let me just note a couple of statistical things of interest, I think. I made the point that the tax cuts of the early 1980's demonstrated that we can increase revenues by cutting rates. The figures are as follows. Revenues increased from $599 billion in fiscal year 1981 to over $990 billion in fiscal year 1989, an increase of about 65 percent. High tax rates, on the other hand, of course we know discourage work, discourage production, savings and investment, so there is ultimately less economic activity to tax. Revenues amounted to about 19 percent of the gross national product when the top marginal income tax rate was in the 90 percent range in the 1950's. They amounted to just about the same 19 percent of GNP when the top marginal rate was in the 28-percent range in the 1980's, and again we are at about 19 percent of GNP in the 1970's, one of the longest postwar economic contractions in our history, and also at about 19 percent during the longest peacetime expansion, the 1980's.

The point is, as a percentage of GNP, the tax revenues have been almost constant at 19 percent. You cannot increase revenues as a percent of GNP by increasing tax rates.

But what you can do is decrease tax rates, increase the size of the GNP, and still be at 19 percent of GNP in terms of Federal revenues. But the total dollar amount, of course, is much higher because you have increased the size of the GNP.

So the question is not just the percentage but a percentage of what? And a percentage of a much more vibrant and larger GNP at 19 percent obviously represents more tax dollars than 19 percent of a contracting and lower gross national product.

So that is why we need to focus not just on the question of how much taxes are raised, or cut, but how they are raised. Of course, that is why we think it is important to have a very firm consensus in the Congress. In this case, we would like to have a two-thirds vote to approve any kind of tax increase. But more importantly, as the Kemp Commission recommends, we would like to have a reduction in tax rates, which we think will then produce a higher GNP and at least the same percent of revenues to the Federal Treasury.

Let me just read one quotation. Then I will conclude this point from the Kemp Commission report.

> The roller coaster ride of tax policy in the past few decades has spent citizens' cynicism about the possibility of real long-term reform while fueling frustration with Washington. The initial optimism inspired by the low tax rate of the 1986 Tax Reform Act soured into disillusionment and anger when taxes subsequently were hiked two times in less than 7 years. The commission concludes that a two-thirds supermajority vote of Congress will earn American's confidence in the longevity, predictability, and stability of any new tax system.

That is why, Mr. President, we think it is important to introduce this constitutional amendment to require two-thirds of Congress to support a tax increase for stability and for predictability so the American people have confidence that, if we go to a single rate, a simpler and fairer tax system, as the Kemp Commission recommends and we set a rate to produce the revenues that we are gathering today to the Federal Treasury, that Congress is not going to come along later and begin increasing that rate, because clearly, once most of the deductions and exemptions are eliminated, then taxpayers will no longer have those areas in which to retreat when rates are raised, which has been historically what has happened. Americans adjust their behavior in order not to pay taxes. They will buy municipal bonds so they do not have to pay taxes, for example.

What we are saying, if we eliminate most of, or many of, those reductions, or exemptions, or credits, we do not want Congress and the President then to come along and raise the rates of income tax. That is why we think it is important to have a two-thirds majority. The Kemp Commission made the recommendations to eliminate the estate tax, to provide full deductibility of payroll taxes so that working Americans are not taxed on a tax. I think

that would be a good idea. They encourage us to consider deductibility of charitable contributions and mortgage interest deductions. I think that debate needs to occur because that will affect the rate at which we end up having to set income tax, if we are going to have a single rate. The higher the deduction for mortgage interest, for example, the higher the single rate will have to be. We will have to consider what that tradeoff tells us in terms of actual tax policy.

I am hopeful during this Presidential campaign that, armed with the Kemp Commission report, the candidates will get out there and debate this concept thoroughly, and that the American people will evaluate the different proposals. I am not an advocate of any specific proposal, but I think each of them has some merit. What we ought to be focusing on is the end result here of a simpler, fairer, predictable tax structure. If we can do that, then I am sure the specific decisions we make will fall into line. But the American people need to focus on that during the campaign, need to question the candidates, and need to come to some kind of conclusion as to what they want us to do.

I am hoping that the next election will result in a mandate of sorts that in 1997 will cause us to come together and conclude that the American people have spoken in the election, they have supported candidates who generally believe in a certain approach to income tax reform, and then in 1997 we will begin the legislative process of fundamentally reforming our Tax Code.

What I would like to do beginning this week is to begin the debate on the two-thirds supermajority because it would be the only constitutional amendment that would accompany the Kemp Commission recommendations. It is going to take longer to put into effect. We know by historical reference that constitutional amendments do not pass very quickly around here, and they should not. That is why we want to begin the debate now so that by the time we debate legislative changes in the Tax Code we will have been able to thoroughly air this constitutional proposal as well as perhaps pass the bill at the same time because clearly we would want to be able to restrict future Congress' ability to raise taxes.

Mr. President, the bottom line here is, yes, we need to focus on balancing the budget, on pinching pennies, and on saving in every way we can so we are not spending taxpayer dollars unwisely. That has been our focus all this year. We came close to getting a balanced budget agreement, but we did not quite do it. It would still be nice if we could. Since we have not been able to, I think we have to focus equally on the other side. How do we get the economy growing again, moving forward, providing opportunity for growth, for job creation, for entrepreneurship, and for capital infusion for the economy. And the best way to do that is to follow the recommendations of the Kemp Commission—to give everybody a better opportunity by having a simpler, fairer, single-rate Tax Code.

I look forward to this debate in the ensuing weeks and months. I hope many of my colleagues will join me in sponsorship of the constitutional amendment to require a two-thirds vote to approve any income tax rate increases.

Mr. INHOFE addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. I ask unanimous consent to be recognized to speak as if in morning business.

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

THE TAX CODE

Mr. INHOFE. Mr. President, first of all, let me stand up and be the first one to officially accept the challenge made by the distinguished Senator from Arizona. He is absolutely correct in his analysis as to what is happening in the country right now. It is refreshing to listen to someone who can look at historical data and come to a decision that is really incontrovertible.

The Senator from Arizona quoted the Kemp report as to what can happen in order to stimulate the economy and actually result in increasing revenues by reducing marginal tax rates. If we think back and look at what happened in 1980, the total revenues derived from our marginal tax rates was $244 billion. In 1990, it was $466 billion. And during that 10-year period, we had a greater reduction in marginal rates, including capital gains. Obviously, what happened is exactly what the Senator is suggesting would happen in the future if we would we do this now.

I have heard so many times on this floor people say, "look what happened in the 1980's when we had a President who was reducing tax rates and the deficit went up." The deficit went up not because revenues were not coming in. Clearly they were coming in at a much more rapid rate as a result of giving the free enterprise system a chance to breathe by reducing marginal rates.

THE MISSILE THREAT

Mr. INHOFE. I wanted to take just a moment, Mr. President, to mention something else that will be very dear to the heart of our previous speaker, Senator JOHN KYL, from Arizona. I am sure, since he was quoted in the article that I am about to quote, that he shares my concern over an article that appeared in the Washington Times yesterday entitled "Missile Threat Report Politicized, GOP Says."

I will just read the first paragraph of this article. It says:

> A new intelligence estimate by the Clinton administration which foresees no ballistic missile threat to the United States for at least 15 years enraged GOP lawmakers who want to deploy a defense against a limited missile attack.

This is factual. I am one of those who was enraged because there is a lot of redundancy here. We have stood on this floor. We have tried through talk radio, through every other means possible, to convince the American people that we really do have a very serious threat out there. This estimate was made by the national intelligence estimate which only a year ago stated, as was pointed out by Senator KYL, that there is a risk out there. And it specifically talked about North Korea and the Taepo Dong II missile that would have the capability—this was a year ago—of reaching Hawaii and Alaska by the year 2000 and the Continental United States by the year 2002.

We just had a defense authorization bill that was vetoed by President Clinton. In his veto message he said we did not want to spend that money on a missile defense system to defend Americans against a missile attack. This is something that came not too long after the statement made by James Woolsey, who was the CIA Director appointed by President Clinton, that between 20 and 25 nations either have, or are developing, weapons of mass destruction, either chemical, biological or nuclear, and the missile means to deliver them. We also know that there are countries, as he pointed out, that now have this technology, and what they have they will sell.

This article goes on to report that the new national intelligence estimate indicates that it is very unlikely that any of the countries with this missile technology would sell it. I find that very difficult to believe when you look at such countries as China and North Korea. Then you look at countries in the Middle East that have an abundance of wealth due to their oil holdings—Iraq, Iran, Libya, Syria, any number of countries—and you begin to realize that they could be willing buyers, not to mention in potential nations which could be inclined to fire a missile at the United States.

I have to say this. I hesitate to stand on the floor of the Senate and make this statement, but I tend to think that this national intelligence estimate was dramatically influenced by the White House.

It was just a week ago that we heard the State of the Union Message when the President of the United States made a statement that seemingly went unnoticed when he said that we are changing the role of our military from defense to peacemaking. Earlier, in vetoing the defense authorization bill, he talked about the fact that there is a linkage between the START II arms

limitation agreement that was supported and ratified by this body a couple of days ago and the 1972 ABM Treaty.

Well, I have questioned that linkage, but since the President believes it is there, I have to go back and talk about it and see how that relates to this article that came out just yesterday. The ABM Treaty was put together, it was a philosophy that was articulated for national defense to defend our strategic interests by the Nixon administration, by Dr. Henry Kissinger.

Back at that time, they formulated a plan that was called MAD, mutually assured destruction, and what we were talking about at that time was we only had two superpowers in the world. We had the U.S.S.R. and the United States of America. They said, "Well, I tell you what. You don't defend yourselves; we won't defend ourselves. If somebody shoots at us, we'll shoot back and we all die." That was fine. That was the policy. I did not agree with it at that time, but at least it was predicated on the assumption there were two superpowers in the world, and at that time it was true, the U.S.S.R. and the United States of America.

Now, in light of the statement of James Woolsey and of what our intelligence has reported to us, there are probably 25 countries now that have this power. So we are not talking about just two.

In a way, I think things were more secure back during the cold war; at least then we could identify a singular enemy. Now we do not know where it is coming from. So if the President has his way and we are to accept his idea of continuing a policy that was articulated and established back in 1972 of mutually assured destruction—assuming, of course, that Russia, which is the other party of this policy, this being the START II Treaty, if they do what they say they will do—and their performance is not very good in the past in their arms reduction commitment—but assuming that they do, then you have Russia and the United States reducing our nuclear capability at the same time there are 24 other nations out there that are not reducing theirs; they are raising theirs.

That is the situation, the environment that we find ourselves in today. I felt we could win this argument on the debate because the American people are intelligent people. There are a lot of ways of getting to the American people and getting the truth that is not filtered through the Washington, DC, media, and that is going straight on talk radio and other means.

Now, all of a sudden, as reported in yesterday's paper, we are confronted with this dramatic conversion in the national intelligence estimate from one that only a year ago said we were under a threat of nuclear attack within 5 years to one that now says there is no problem for the next 15 years. This is very disturbing because to most people, it is surely an implausible conclusion.

If you look at the hits that have been taken on the budget that Senator KYL was talking about, the only real reduction that we have had during this administration is in our military capability. We have consistently, time and time again each year for 10 consecutive years, reduced our military spending while all other spending has gone up.

The Senator from Arizona quoted President Kennedy. The more I hear quotes of President Kennedy, the more he sounds like a present-day Republican. He did make the statements that Senator KYL mentioned. But he also recognized back in 1961, when he developed his first budget, that we had to have a strong national defense. And the first budget under President Kennedy had 50 percent for military and 30 percent for human resources. Today, in the budget we have, only 17 percent is for military and defense and 60 percent is for human resources. So it is just reversed, and yet we are saying this at a time when some would like to lull the American people into believing that there is no threat out there when, in fact, we know that there is. So it may be only a handful of us in the Senate who are going to do our very best to keep America strong. And, again, I would reiterate my concern about what was reported in the article that just came out in yesterday's paper. I am personally outraged that this critically important estimate of the threat to our national security has been totally reversed from previous estimates seemingly just to support a position that the President is holding.

I yield the floor.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I ask unanimous consent to speak as if in morning business.

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

POTENTIAL THREAT OF NUCLEAR MISSILES

Mr. KYL. Mr. President, I compliment the Senator from Oklahoma for his remarks on the report in the Washington Times concerning the potential threat of ballistic missiles from not only North Korea but other nations around the world, and the apparent modification of the threat estimate from our security agencies.

Both of us sit on the Intelligence Committee and are well aware of the work that goes into our national intelligence estimates, well aware of the difficulty in gathering information and analyzing it, and the difficulty really of discussing the analysis in a way that does not compromise our ability to gather that information.

The public does need to know that the factual information acquired over the years about the potential threat specifically from North Korea led to some conclusions in 1995 that were very disturbing. The Senator from Oklahoma just reiterated several of them.

I would add that Admiral Studeman, then the acting Director, testified publicly a year ago that the North Koreans could be expected to deploy a missile within 3 to 5 years and that that missile could reach the United States of America. Why this is important is that some Members of the Congress have used a revision in the intelligence estimate to say there is no problem and therefore we do not need to fund ballistic missile defense.

A year ago, the national intelligence estimate clearly would have led anybody to the conclusion that we needed to move forward with ballistic missile defense. Now, a year later, the estimate is that that is not necessarily required because countries like North Korea may not be in a position to deploy a missile that could harm the United States as early as we thought. But the facts have not changed, and that is what disturbs Senator INHOFE; it is what disturbs me. If the facts have not changed, what has changed? Has there been a change in the methodology of the assessment? If so, I am not aware of it. I intend to find out. Might there be other considerations for reaching a different conclusion based on the same information?

I know the newspaper article speculated that politics could be involved. I would find it very hard to believe that the Central Intelligence Agency would permit that to happen. But something happened. And I think we have to find out because in this matter we are talking about the most serious possible consequences. It is literally a potential life and death situation.

If, in fact, according to our intelligence estimates, countries that are unfriendly to the United States are going to develop capabilities that they could use against us in the very near future, we have to be prepared to deal with that, period. If, on the other hand, that threat is further away than we originally thought, we have a little bit more flexibility in determining when and how to respond. But it is important that the information be real and that it not be subjected to rose-colored filters of some kind either based upon hope or based upon politics.

As I said, I cannot believe that anybody in the administration would skew the analysis of such an important matter just in order to cause the Congress not to move forward robustly with the ballistic missile defense system. That is why Senator INHOFE and I and others are going to get to the bottom of this and determine whether or not there is a reason for the change in the estimate.

But the interesting part of this, Mr. President, is that it probably does not matter one way or the other in the sense that, if we began today to get on with the job of developing and deploying an effective ballistic missile defense system, it still would not be ready by the time the threat is said to exist.

Mr. INHOFE. Would the Senator yield?

Mr. KYL. We need to move forward as robustly as we can.

I would be glad to.

Mr. INHOFE. I was hoping it would come out that the Defense authorization bill would have put us in the position to deploy a system, a very crude system, a very basic system, by the year 2003. The estimates are that this would actually be 2 years beyond the time when the threat would exist, so we would still have 2 years of vulnerability. I believe I am correct when I say that.

Mr. KYL. The Senator is absolutely correct, which is why it makes it so important for the Senator from Oklahoma to have brought this to the Senate floor today. Even if you assume the most conservative estimate—or I should say the most liberal estimate—of the time that the threat will be there, we are still not moving forward to meet that threat.

Mr. INHOFE. If the Senator would yield further, it is also very important, any time a discussion or debate takes place like this, to remind the American people and ourselves in this body that we have a system that is about 80 to 85 percent paid for right now. We have approximately $40 billion already invested in the Navy's Aegis system that we are merely trying to upgrade to reach into the upper tier.

I would have to say that what offends me more than anything else, because I watch it at work, are the liberals who do not want to invest any money at all in a national defense system, referring to it as star wars because what you get in your head when you hear "star wars" is that it is some kind of an image of something from Buck Rogers—some of you may not remember that—or science fiction, when in fact anyone who was watching CNN during the Persian Gulf war knows the technology is there. This is something for which the technology is here.

We are almost there. It is a matter of spending a little more, about 10 percent more than what we have already spent to be able to defend ourselves against missile attack.

I did not really become wrapped up in this issue, Mr. President, until the bombing took place in my State of Oklahoma. I saw all the disaster surrounding that. I watched and heard the stories, and I knew people who were in there, people later found to be dead. I looked at that and I thought, that bomb was equal to 1 ton of TNT. The smallest nuclear warhead that we know of today is 1,000 times that size.

If you multiply the disaster that the whole world grieved over in Oklahoma City, multiply that by 1,000, it gives you some idea. Maybe it is the fact that this magnitude is more than we can comprehend. I do not know.

Mr. KYL. If I could make another comment. Perhaps the Senator from Oklahoma would want to add to this, too.

Let us go back a little bit and put this in perspective. The weapon that killed 28 Americans in Saudi Arabia during the gulf war was a conventional explosive organ, just high explosives they call it, and yet the single largest number of American casualties occurred in that one instant. And 28 Americans died when that 1 Scud missile hit the barracks in Saudi Arabia. That was a relatively crude Scud missile with a range of maybe 300 miles or thereabouts.

The point is that every year countries learn how to cause their missiles to go farther and farther and farther, and they put heavier payloads on them, and they make them more accurate in terms of where they will fall.

What our intelligence has been telling us about the North Korean missile is that they are on a subsequent generation now. They have already developed missiles that will go these intermediate distances. They are working on missiles that will go farther and farther and farther. So what we are trying to do is estimate just when will it be that they will have advanced to the point that they can deliver that warhead all the way to the United States? We cannot tell that with precision. We do not know when that will happen. But the information we had suggested they were now getting along to the point where it would be perhaps within 3 to 5 years that they had that capability. That is what we are talking about here.

Mr. INHOFE. Would the Senator yield on that point?

Mr. KYL. Yes.

Mr. INHOFE. I think that is interesting because it was a week ago today in the New York Times that a story came out about China, making reference to the fact that they were talking about possible missile attacks against Taiwan. But do not worry, they said, because the Americans are not going to go to Taiwan's defense because they are more concerned about Los Angeles than they are about Taipei.

What does that tell you? Certainly there is an interpretation on that that could be very close to a warning to us. It just bothers me that we in this country have adopted a policy, just during this administration and specifically this year, that we are going to be downgrading our nuclear capability, our missile technology, our capability when, as the Senator from Arizona states, the rest of the countries are raising theirs up.

If there is one lesson from the Persian Gulf war that the American people learned, it is that the leader of that country is capable of doing anything. If he had a missile, I do not doubt that most people in America believe he would use it.

Mr. KYL. If the Senator from Oklahoma would like to respond to this: Is it not a fact that Saddam Hussein said that if he had had the bomb, he would have used it? I know Muammar Qadhafi said that, the leader of Libya.

Mr. INHOFE. Yes.

Mr. KYL. It seems to me Saddam Hussein said the same thing.

May I ask the Senator another question?

Mr. INHOFE. He went on to say, "If we waited, if the war was 2 years from now, we would have the capability."

Mr. KYL. The nuclear capability.

Mr. INHOFE. Yes.

Mr. KYL. Suppose it is 3 or 4 years from now and the North Koreans have a missile which has enough range now to finally hit the continental United States or even, Mr. President, Alaska or Hawaii—maybe even just Japan, although presumably they are already there. North Korea clearly could get into Japan at this point.

But suppose they had a missile that could get to Hawaii or Alaska, and they decide that they have had it with Taiwan, that they have threatened Taiwan long enough and it is time for them to incorporate Taiwan into China, not only in a rhetorical and political sense, but in an actual and military sense; therefore, they are going to threaten Taiwan with obliteration if it does not agree to become an effective part of the Chinese Government—they call themselves a state now, but they are not subject to the government in Beijing—suppose that China begins rattling its sword and says, "We are now going to do this," and Taiwan has to go along. And the United States says, "No. We have a treaty obligation, or we have obligations, in any event, if not rising to the level of a treaty, which have commitments to Taiwan to protect them in the event you attack." And the North Koreans say, or the Chinese, either one, says, "Well, we have weapons that we know can reach Alaska and Hawaii, and you know that, too. So we would suggest that you not step in the way of China taking over Taiwan or step in the way of North Korea taking over South Korea," whatever the target between China and North Korea would be.

What do you think the United States would do in that event, if we knew that if the Chinese taking over Taiwan or the North Koreans taking over South Korea could launch a missile against the United States and we could not stop them? Would we intervene militarily to protect South Korea against North Korea or Taiwan against China?

Mr. INHOFE. I will respond to the Senator from Arizona. It is even more complicated than that, assuming we continue our present course of blindly adhering this to the provisions of the ABM Treaty. Taking the same scenario, if we have an Aegis ship in Sea of Japan, and two missiles are launched from, say, China or North Korea—one bound for Taiwan and one bound for Los Angeles, we could very well be in the adsurd position of being fully able to intercept the one bound for Taiwan, but not the one bound for Los Angeles, because that would be a violation of the ABM Treaty.

We have debated this before as to the fact that the ABM Treaty does not have valid application today. In fact, it was Henry Kissinger, the architect of the treaty, who said to me—and you can quote me, he said, "It's nuts to make a virtue out of our vulnerability."

So this is the environment that we are dealing with. I am very thankful to the leadership of the Senator from Arizona and a few others who share our concern over the vulnerability of the United States.

Mr. KYL. I appreciate the Senator from Oklahoma bringing this issue up. I also know that the Senator in the chair, the Senator from New Hampshire, has a very strong voice speaking in favor of the development and deployment of the U.S. ballistic missile defense system, and I thank him.

AGRICULTURAL MARKET TRANSITION ACT OF 1996

The Senate continued with the consideration of the bill.

Mr. CRAIG. May I inquire of the Chair what is the current order?

The PRESIDING OFFICER. The pending business is S. 1541, the farm bill.

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

The PRESIDING OFFICER (Mr. KYL). The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, earlier this afternoon, I spoke on the floor of the importance of this Senate dealing with farm policy in a timely manner that sends the appropriate signals to American agriculture of what they can expect in the reform policy that the 104th Congress is proposing.

This afternoon, I earlier spoke of the commodity programs and how they would be affected as we move with production agriculture much closer to the market and away from a Government program with which to farm.

There is a good deal more that Government can do for agriculture and still stay out of the business of telling them what to grow and how to grow it, because I think that is the responsibility of the family farmer, and I think that family farmer, or anybody in agriculture today, ought to be attuned to the market and ought to be farming to the market and deciding what his or her business may be, to what the world needs and what our consuming public needs than what a Government program will provide them or not provide them in telling them what to do.

In other words, what I am saying, Mr. President, is there are legitimate roles for the Federal Government in its association with agriculture. I think some of those obvious areas are in the area of research, trade and conservation. I say that because where Government should involve itself is where the individual farmer or family farmer really cannot help themselves or cannot help themselves in an individual way.

American farmers, without question, lead the world in productivity. One American farmer today, and we have all heard it said, produces enough for himself or herself and 120 other citizens. It was not very long ago, at least it was not very long ago in this Senator's mind, when I was traveling as a national officer for the Future Farmers of America in the 1960's, the midsixties.

I remember well giving speech after speech where I spoke of the productivity of the American farmer. I oftentimes said that the American farmer produces enough for himself and 52 other Americans or 52 other citizens of the world. I just got through saying in 1996 that the American farmer produces enough for himself or herself and 120 other Americans or world citizens. Is it possible that productivity has more than doubled in 30-plus years? That is absolutely right, Mr. President, and the reason it has is because of research, the kind of research long term that has been done in direct association with the Federal Government where we, as taxpayers and as policymakers, can recognize the importance of long-term investment in the research area and that is, of course, where our land grant colleges and universities and our ag research stations have worked so very well over the years.

That is a legitimate role. That is the right kind of role that Government can play an important part in doing and, of course, that is where we ought to continue to work so closely together.

The different varieties, the E. coli bacteria problem that has cost lives in this country, can be dealt with and solved by the simple application of some research and by the proper education that can be a part and should be a part of a Government's role in participating with production agriculture.

In my State of Idaho, there are some extraordinary things being done. Just recently, I was part of an announcement between USDA and the Department of Energy working cooperatively in a new research program. You scratch your head and say, "Well, what is the Department of Energy doing in agriculture?" Because of the kind of technology that has been developed in DOE, in sensors, in the ability to use satellite and satellite technology, USDA and DOE are coming together in a project out in Idaho that literally links the farmer and his or her tractor and applicator on the ground with a satellite back to a computer to tell them exactly where they are in the field, how much fertilizer to apply or not to apply. Phenomenal efficiencies come from the application, a greater sense of environmental control comes from the application and, as a result, cost savings and extremely high levels of productivity.

Could that be done by the individual farmer? No, it certainly cannot be done. Can it be done by industry? Not very well. When the kind of research and turnaround time is measured in decades, that is where Government can play a role, and that is where this Congress recognizes Government should play a role. It is a much better place for Government to be associated with agriculture than telling the farmer what to farm, telling them how to farm it, and oftentimes then saying, "And we'll provide you a safety net at the end."

While we recognize the importance of those kinds of commodity programs, what our bill says and what we are clearly saying in the 104th Congress, as we have said over the last decade to production agriculture, learn to farm to the market and not to the program.

The other area that I mention this afternoon is in the area of trade. Obviously, if we are as highly productive as I mentioned we are, then we have to have a market for our crops. That kind of productivity, absent the market, says that we are not going to get the kind of price for the product that deserves to be had and certainly provide that kind of profitability. Therefore, it is important that we have a strong domestic trade policy and, as we know, trade means you have to involve governments, you have to cross political boundaries, and that cannot be accomplished very well oftentimes by the individual farmer unless it is the Government working with their farmers to accomplish that.

In my State of Idaho, almost three-fourths of our annual wheat crop is exported. It has to move in world markets to maintain levels of profitability. In addition, we send large amounts of meat, peas, lentils, dairy products, and potato products to other countries around the world. Since the passage of NAFTA, we have seen some positive and some negative results. Cattle producers in my State are increasingly worried about the slaughter cattle moving in across the boundary, both from Mexico and from Canada.

Now and in the future, we must be assured that our trade negotiations and our trade policy fairly represents

American agriculture, and if we are to walk away from and work with agriculture to move away from the kind of direct Federal payment and safety net to productivity in the marketplace, we have to make sure that they have full access to foreign markets. That is a legitimate role of Government associated with agriculture.

We also must continue our effort to develop and maintain the foreign market by investing in those markets, by working with production agriculture to teach foreign consumers how to consume the agricultural products of this country. That is an important and successful partnership that has worked time and time again over the years, whether it is actually the development of wheat products in China that my State has been involved in with the Federal Government and our wheat growers, to the marketing of lentils somewhere in the Middle East and to a market use and expanded diversity in their use in the recipes of the Mideasterners. That is all a role, once again, that Government plays very successfully.

So let me urge my colleagues to support all of these approaches. It is one thing to say we are going to simply provide for agriculture, and historically that is some of what we did to what we have been saying for the last decade: American agriculture, farm to the market, be productive, do what you know how to do and do it well, and then we will help you break down the foreign barriers which will access you to the world so that you can be productive.

The third area that I believe Government can play a cooperative partnership role in is in the area of conservation. For example, the CRP program, while originally quite controversial in its introduction, has proved to be a highly successful program in the saving of topsoil and the improving of water quality and wildlife habitat.

In my State of Idaho, almost 850,000 acres went into CRP. The record is now very, very clear of the tremendously positive effect, converting those acreages into sod bases, and what allowing them to rest undisturbed has done for all of the areas I have mentioned, including wildlife habitat. Upland game bird population increases in my State have been very dramatic as a result of these programs.

So that, again, is the kind of partnership that the Government can associate itself with, and I think oftentimes should. Targeting truly erodible lands, we can continue a successful program under a voluntary participation. I believe, Mr. President, voluntary is the key when we discuss agricultural conservation. We have made some changes over the years that I have not liked and that American agriculture has not liked.

We, historically, did allow Government to work in a voluntary, cooperative way with production agriculture, except in the mid 1980's, when we started making some changes and making conservation policy mandatory, and dictating. We started saying to the USDA, "You are going to be the cop out in the field saying, 'You are doing it wrong, and you have to do it differently or suffer the consequences.'" When that kind of news hit the ground—and we saw it in the late 1980's—relationships and partnerships began to change. There was no longer the voluntary aspect that had caused the conservation program to be as successful as it was. And we heard about it, very loudly and clearly, this year as we held hearings on this issue in the subcommittee, which I chair.

Conservation, partnership, cooperation, and voluntary relationships have proven very successful over the years. Any other form and our resource base suffers, and it should not have to suffer. Farmers and ranchers, in my opinion, always have been, and must always be, the original environmentalists. We are the groundskeepers, the stewards of the private land, and the private land is the largest base in this country. If we are going to have a positive environment, that private property base must recognize the responsibility it has, and it has successfully done so over the years, whether it is erodible lands or whether it is the wetlands that we dealt with in the sod buster provisions of the farm bill of a few years ago and now, working with that again, to not make it so punitive, to make it cooperative, to include wetlands in the CRP base, so that you reward the farmer for moving that land out of production and into a protected type of classification, is what we ought to be doing, because we all recognize the value of wetlands to our Nation as a habitat and as a filtering system to the aquifers and to the productive sector of our country. That is cooperation, partnership, and that is the way it ought to be.

I am certainly pleased that the kind of legislation that I have helped craft this year in revamping and bringing forth the new farm bill fits these criteria and moves us in a direction that I think most of production agriculture wants to move in. It puts Government in a relationship that it ought to be in.

Mr. SMITH addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH. Mr. President, I ask unanimous consent to speak as in morning business.

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

BALLISTIC MISSILE DEFENSE

Mr. SMITH. Mr. President, just a few minutes ago, I was occupying the chair, as the Senator from Arizona is now, and I witnessed, first, a few remarks by the Senator from Arizona regarding the two-thirds supermajority vote for a tax increase, legislation that he is planning to introduce. And later, hearing the distinguished Senator from Oklahoma, Senator INHOFE, come down and engage in a debate on both that issue with the Senator from Arizona and the issue of ballistic missile defense, I was very much taken by the debate.

First of all, I want to compliment both the Senator from Arizona and the Senator from Oklahoma for the distinguished service they have given their country just in allowing this dialog to come to the forefront. In the case of the Senator from Arizona and the Senator from Oklahoma, I have worked very closely with both of them on this ballistic missile defense matter, taking that issue first, knowing that here we have a situation where the entire defense authorization bill was held hostage by the President of the United States because he did not want national missile defense. Not only did he not want national missile defense, he did not even want language talking about national missile defense. So in order to get a pay raise for our military, whom the President of the United States sent to Bosnia, we had to agree to take missile defense language out of the bill.

What came to my mind as I listened to the debate between my two colleagues was one simple line: Elections have consequences. I found myself saying that if a President sat down at the White House who shared the philosophy of the Senators from Arizona and Oklahoma, sticking to missile defense, we would have had a Defense authorization bill not only with language, but with a real direction to move toward building a defense against incoming ballistic missiles against the people of the United States of America. We now do not have that.

As the Senator knows, there have been a number of focus groups where people throughout America have been asked one very basic question: If the United States were fired on by a ballistic missile from another country, what would the United States do? Overwhelmingly, the response is, "Shoot it down." In fact, we know we cannot shoot it down.

It is shocking to me that a President, and many of the colleagues in his party, would hold a Defense authorization bill hostage to simply get that language out. I am outraged by it, to be candid about it. I think that what the Senator from Oklahoma brought to the floor with this intelligence information is shocking. I said to him, privately, as he was leaving the floor, "I hope that both of you Senators, who are members of the Intelligence Committee, pursue this diligently because it goes really to the heart of our democracy here." If, in fact, those

charges are true, or even remotely true, as they appeared in the Washington Times, that somehow this was falsified, this is a very, very serious matter because the defense of the United States of America is at stake.

I just cannot understand why anyone would not want to do what needs to be done to defend American cities and American people. That is our obligation. That is one of the primary obligations of the U.S. Congress, certainly, as outlined in the Constitution. Yet, we have this situation where a report—and the Senator well knows we heard reports to the contrary. I am also on the Armed Services Committee. We heard reports to the contrary that this could be a problem within 2, 3, 4, 5 years. Now we are hearing maybe it is 15 years, or even further down the road.

Something is wrong, Mr. President, because you and I both know of the technology that is out there. We know it is being shipped all around the world. The Chinese have this missile technology, the Iraqis have it, the Iranians have it, the North Koreans have it, and Qadhafi would like to have it, and he may have it soon. It goes on and on and on.

The Senator from Arizona, the occupant of the chair, made an excellent point, which reminded me—and I want to accent it, comment on it a little further, expand on it a little further—that when those 28 brave men and women were killed in the Persian Gulf by that missile, that is the first time in the history of America that a missile—in this case a theater missile, but a missile—attacked, hit, and killed American service men and women.

I find myself thinking, what if we had not had Jack Kennedy, to his credit, as you mentioned, and Ronald Reagan in the positions they were in at the time to see to it that we had even just the remotest possibility of defending against that missile. As the Senator knows, the missile that was used to shoot that missile down was not designed for that purpose, it was not designed to do that. So this is a very, very serious matter. We investigate a lot of things in the Congress, but if the intelligence community truly has information that says that the threat of attack from an incoming ballistic missile from one of those countries I mentioned, or another one, is possibly 15 years down the road, then I think they need to prove that to the Intelligence Committee.

I do not believe that is going to be the case. I do not think they can prove it. We know the range of these missiles. We know how this technology is being exported. We know our own technology has in some cases been bought and in some cases stolen and has been shipped around the world and in some cases encouraged to be sold by the current administration—certain types of technology which may or may not be used in building these missiles.

It is a perfect example, again, of one of the basic differences between the two political parties. So much focus has gone on the budget debate, and rightfully so, that we are trying to turn around 4 years of big government spending. That is a huge issue in and of itself, but also this issue of defending America, the basic responsibility that we have as Government servants of the people of the United States to preserve, protect, and defend our country is at stake here.

I am certainly going to be pursuing this, as well, on my own and in conjunction with my colleagues on the Intelligence Committee to find out the facts. I hope that we are not going to find that somehow this thing was inflated to be something that it is not, and that some pressure was put on to play this down, because I have been in some meetings over the past several months and years that I have been on the Armed Services Committee where I have heard the contrary from very high-ranking administration and military officials, as I am sure the Senator from Arizona has. I am looking forward to hearing the results of this investigation. I think it should be on the front burner.

TAX INITIATIVE

Mr. SMITH. Let me also say in regard to the tax initiative that the Senator brought up a few moments ago, this again goes to the heart and soul of the differences between our two parties.

George Bush said recently on national television that it might be nice if the American people just gave—it has not happened since 1952—one party, in this case the Republican Party, the opportunity to govern. The Democrats have had that opportunity once under Clinton, under Carter, to do it, and we did not see the debt go down. We did not see deficits diminish. On the contrary, we saw the opposite. Give us a shot at it. If we do not do well, throw us out. That is fair. Give us a shot. That is what President Bush said.

There is such a dramatic difference. How many times have we heard the debate from our friends on the other side that somehow growth is bad, making a profit is evil, that there is something wrong with that; and yet at the same time this debate occurs we see dollars being taken away, almost stolen, from the families of America. So we promote big government with the dollars taken from our families and at the same time denying them the opportunity to do the things that they would like to do for themselves, including education, getting a job, and being able to be productive in society.

There are no jobs, as the Senator pointed out, if there is no growth in America and if there is no opportunity for businesses to create those jobs. Government should not be in the business of creating jobs. The economy—business—should be creating jobs. That is what we are all about.

Somehow we have gotten into this debate that it is evil for anybody to make any money. I am pleased to hear when people make money. It delights me because I know somebody is getting dollars when somebody is making money.

The Senator brought up the point about the luxury tax, which I am proud to say I opposed and voted against, where all the people who built boats and luxury cars lost their jobs because of the tax increase, and people did not buy then.

When are we going to get the message that the greatness of America—we grew more at any time in the history when we did not have an income tax. Again, it is taking dollars. If all of the dollars that have been taken away from the American families throughout especially the last 40 or 50 years—if it worked, welfare would have been a success. We would not have all the crime we have today. We would not have to be spending money on crime or on welfare and other things that we find we are not satisfied with in America. The truth is, it has not worked. Since it has not worked, we should try something new.

What we have—and you hear the American people say they are tired of the gridlock, the deadlock, tired of you fighting with each other. Again, the issue here is standing for principle, standing up for principle, because we believe deep in our hearts that these principles we espouse are right, they are correct, and we need to move this President. He is not moving. We understand that. If he is not moving, and we go as far as we go, we go to the American people, and essentially the decision is, very simply, we either move on with more debt and more deficits, or we move toward more growth, more economic prosperity, and more revenues to the Treasury, as the Senator pointed out.

Again, going back to the issue of missile defense, same thing—two very, very, important issues, if not the two most important issues that we face today in America, and a President with a distinctly different position than the House and the Senate.

I really want to compliment the Senator from Arizona, who is now in the chair, and the Senator from Oklahoma for two very, very worthwhile points in bringing to the attention of the Senate —although it is in the middle of the debate on a farm bill. Sometimes when other Senators are not here to participate in that debate, we have the opportunity, under Senate rules, to make these points. They are excellent points. I want to compliment both Senators.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AGRICULTURAL MARKET TRANSITION ACT OF 1996

The Senate continued with the consideration of the bill.

Mr. CRAIG. Mr. President, may I inquire, what is the pending business?

The PRESIDING OFFICER. The pending business is S. 1541.

AMENDMENT NO. 3184

(Purpose: To provide a substitute amendment)

Mr. CRAIG. Mr. President, I send an amendment to S. 1541 to the desk. In doing so, let me say this amendment is in behalf of myself, Senator LEAHY, Senator LUGAR, Senator BREAUX, Senator DOLE, Senator JOHNSTON, Senator COCHRAN, Senator GRAHAM of Florida, Senator GRASSLEY, Senator JEFFORDS and Senator MCCONNELL.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Idaho [Mr. CRAIG], for Mr. LEAHY, for himself, Mr. CRAIG, Mr. LUGAR, Mr. BREAUX, Mr. DOLE, Mr. JOHNSTON, Mr. COCHRAN, Mr. GRAHAM, Mr. GRASSLEY, Mr. JEFFORDS and Mr. MCCONNELL, proposes an amendment numbered 3184.

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

CLOTURE MOTION

Mr. LOTT. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the substitute amendment to S. 1541, the farm bill.

Larry E. Craig, James M. Jeffords, Don Nickles, John H. Chafee, Robert F. Bennett, Thad Cochran, Ted Stevens, Trent Lott, Richard G. Lugar, Craig Thomas, Alan Simpson, John Warner, Larry Pressler, Dan Coats, Connie Mack, Kay Bailey Hutchison.

Mr. CRAIG. Mr. President, for the information of all Senators, this cloture and another one I filed earlier will occur back-to-back beginning at 1:30 on Thursday.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, the amendment that has just been filed for Senator LEAHY and myself and others is a substitute to S. 1541 as I earlier introduced this afternoon. This substitute is an effort to put together a bipartisan coalition of Senators with all of us very intent on producing farm legislation as soon as possible to do exactly what I talked about doing earlier today; that is, sending a clear message to the agricultural community of this country as to the certainty and the timing of key farm bill legislation. There are a variety of adjustments in the substitute—the language which deals with $100 million per year in additional mandatory funding for crop-oriented conservation cost-sharing programs similar to S. 854 that was introduced by Senators LUGAR and LEAHY earlier this year.

There is a grazing lands conservation initiative program which will encourage innovative rangeland management techniques across the country. Certainly in my State of Idaho and other States, this can be a valuable resource in improving livestock grazing lands. State technical commitments would make it possible for farmers to serve on these committees where they now do not have standing.

There are some nutritional reauthorizations that would reauthorize food stamps and other nutritional programs for the period of time of this legislation. Much of this will be corrected and adjusted when the House, the Senate, and the President agree on welfare legislation.

There is a Northeast dairy compact provision in there to allow New England States to implement a price enhancement compact. We wish we could have gone further. The House acted yesterday on dairy legislation. Certainly in conference, it is my hope that we can refine and clarify dairy policy inside the farm bill for the coming year. The dairy industry of our country has worked now for the last 6 months with the House and the Senate Agriculture Committees to arrive at a compromise that reduces the overall budget profile for dairy programs and creates greater flexibility in the program. We hope that can get accomplished. Certainly there is a conservation foundation in this program that creates a nonprofit foundation to promote conservation. I know this has been something Senator LEAHY has worked at for a good number of years.

There is legislation in here also to deal with wetlands and the Florida Everglades issue. There is a concern that I will express for the RECORD that deals with this section as it applies to the program and the restoration of these vital wetlands in Florida. There is a provision for eminent domain. I think it is very important that the RECORD show that this Senator and many others recognize that authority of the Government, but also recognize under a former Executive order on March 15, 1988, signed by President Reagan, that Federal departments and agencies must consider the takings implication and deal with willing seller-willing buyer. I certainly, through the balance of this legislation, activities, debate, and in the conference, will work with the Senators from Florida to assure that in all instances we have a willing seller-willing buyer relationship as the State of Florida and the Senators from that State work to maintain the Florida Everglades and any consideration there with private property acquisition for the purpose of enhancement of the Everglades. All of us want to see that valuable natural resource protected. But at the same time, it is very important that the right of the private property owner be maintained.

Mr. President, I chair the Private Property Rights Caucus here on the Hill. We just brought out of the Judiciary Committee the private property rights bill that I think is sweeping in its protection of private property rights. It sets the Government on notice. Certainly this legislation, if that act would become law, would fall subject to that new law. That would be important.

MORNING BUSINESS

Mr. CRAIG. Mr. President, I ask unanimous consent that there now 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.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, before discussing today's bad news about the Federal debt, how about "another go," as the British put it, with our pop quiz. Remember—one question, one answer.

The question: How many millions of dollars in a trillion? While you are thinking about it, bear in mind that it was the U.S. Congress that ran up the enormous Federal debt that is now about $13 billion shy of $5 trillion.

To be exact, as of the close of business Tuesday, January 30, the total Federal debt—down to the penny—stood at $4,987,589,544,052.52. Another depressing figure means that on a per capita basis, every man, woman and child in America owes $18,931.32.

Mr. President, back to our quiz (how many million in a trillion?): There are a million million in a trillion, which means that the Federal Government will shortly owe five million million dollars.

Now who's not in favor of balancing the Federal budget?

TIME TO PRIVATIZE THE WILLIAM LANGER PLANT

Mr. DORGAN. Mr. President, late Friday evening the Senate passed by

voice vote S. 1544, a bill of mine to permit the conveyance of the William Langer Plant to the Job Development Authority of the city of Rolla, ND. The bill is crucial to the immediate economic future of the plant, which is why I sought its expedited approval. I am glad to say that my good friend and senior colleague from North Dakota, Senator CONRAD, cosponsored S. 1544, which now goes over to the House.

Most of my colleagues have probably never been to Rolla, and do not know what the Langer Plant is, or what it has been doing over the past several decades. So let me describe the background and purpose of my bill.

The Langer Plant has roots in the cold war. Back in the 1950's, our defense leadership realized that we lacked the ability to produce jewel bearings, which are finely machined bits of carborundum and were crucial components in military avionics systems. So the Congress located a jewel bearing plant in our State, because of our strategic location in the middle of the country. The Langer Plant has been making jewel bearings as a government-owned, contractor-operated facility since the 1950's.

My colleagues should also know that the plant is a few miles from the Turtle Mountain Indian Reservation. Of the plant's 100 or so employees remaining after a downsizing, about 60 percent are Native American. The Langer Plant brings crucial skilled jobs to an economically depressed area.

However, changing technology means that the National Defense Stockpile no longer needs to buy jewel bearings. The Defense Department has now reported the plant to the General Services Administration as surplus property. Those of my colleagues who are dealing with base closures and defense downsizing know that this situation presents Rolla with a crisis and an opportunity.

The future of this factory depends on its ability to become a commercial manufacturer. Normal surplus property rules would require the GSA to sell the plant for fair market value. The problem is that no local entity can afford the plant, which had an original cost of $4.2 million. The plant itself is not now healthy enough in a business sense to finance its own acquisition by a new management team.

In fact, the plant's economic position is so tenuous that the plant will likely run out of money in March, because it has not had a chance to build a strong commercial customer base. The plant has worked hard to cut costs, and it has already had to cut its workforce by 30 percent. I am deeply concerned that the plant may fold before it can be auctioned.

My colleagues will understand that as a government-owned facility, the plant is not able to compete freely, nor is it eligible for the kind of small business or economic development assistance that is available to private sector firms. However, once conveyed, the plant will be in a position to aggressively seek commercial contracts and assistance from the State and other agencies.

I would like to stress to the Senate that the Rolla community, the State of North Dakota, the Turtle Mountain Band of Chippewa, and the local business community have been working hard to ensure that the plant makes a successful transition to the private sector. The local community is united behind the plan to transfer the Plant to the Job Development Authority of the city of Rolla. Of course, the conveyance is conditional on the community and the General Services Administration reaching a mutually acceptable legal agreement on the conveyance. But I am confident that the GSA and the community can reach that agreement swiftly.

Let me also remind my colleagues that in September the Senate approved by voice vote an amendment of mine to the defense authorization bill that was exactly identical to the bill that we passed on Friday. So this is the second time that the Senate has approved this legislation.

Let me thank the Chair and ranking member of the Governmental Affairs Committee, Senators STEVENS and GLENN, for their support of this bill. And the Chair and ranking member of the Armed Services Committee, Senators THURMOND and NUNN, have been helpful to me for almost half a year now. Senator MCCAIN has also assisted in expediting this conveyance. I am deeply grateful to all five Senators and their staffs for the support and assistance they have given me on this matter.

Mr. President, to sum up, I would simply say that S. 1544 tries to give a helping hand to the Langer Plant and the city of Rolla. It also will relieve the Federal Government of a facility that the Defense Department no longer needs. I am grateful to the Senate for its approval of S. 1544 on Friday, and I look forward to its swift passage by the House.

Thank you, Mr. President. I yield the floor.

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 11:20 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 1868. An act making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1996, and for other purposes.

H.R. 2029. An act to amend the Farm Credit Act of 1971 to provide regulatory relief.

H.R. 2111. An act to designate the Federal Building located at 1221 Nevin Avenue, Richmond, California, as the "Francis J. Hagel Building".

H.R. 2726. An act to make certain technical corrections in laws relating to Native Americans, and for other purposes.

The enrolled bills were signed subsequently by the President pro tempore [Mr. THURMOND].

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–1838. A communication from the Chief of Legislative Affairs, Department of the Navy, transmitting, pursuant to law, notice of the intention to offer transfer by sale of one vessel; to the Committee on Armed Services.

EC–1839. A communication from the Chief of Legislative Affairs, Department of the Navy, transmitting, pursuant to law, notice of the intention to offer transfer by sale of one vessel; to the Committee on Armed Services.

EC–1840. A communication from the Chief of Legislative Affairs, Department of the Navy, transmitting, pursuant to law, notice of the intention to offer transfer by sale of two vessels; to the Committee on Armed Services.

EC–1841. A communication from the Chief of Legislative Affairs, Department of the Navy, transmitting, pursuant to law, notice of the intention to offer transfer by sale of three vessels; to the Committee on Armed Services.

EC–1842. A communication from the Deputy Assistant Secretary of Defense, transmitting, pursuant to law, the report on strategic and critical materials during the period October 1, 1994 through September 30, 1995; to the Committee on Armed Services.

EC–1843. A communication from the Director of the Office of Management and Budget, the Executive Office of the President, transmitting, pursuant to law, the report on appropriations legislation within five days of enactment; to the Committee on the Budget.

EC–1844. A communication from the Director of the Office of Management and Budget, the Executive Office of the President, transmitting, pursuant to law, the report on appropriations legislation within five days of enactment; to the Committee on the Budget.

EC–1845. A communication from the Secretary of Agriculture and the Secretary of the Army, transmitting jointly, a notice to interchange jurisdiction relative to civil works and national forest lands; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1846. A communication from the President of the United States, transmitting, pursuant to law, a notice concerning the continuation of the emergency regarding terrorists who threaten to disrupt the Middle East peace process; to the Committee on Banking, Housing, and Urban Affairs.

EC–1847. A communication from the Secretary of Commerce, transmitting, pursuant to law, the 1996 annual report on Foreign Policy Export Controls; to the Committee on Banking, Housing, and Urban Affairs.

EC–1848. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the report on credit availability for

small business and small farms in calendar year 1995; to the Committee on Banking, Housing, and Urbans.

EC–1849. A communication from the Chairman of the Board of the Panama Canal Commission, transmitting, pursuant to law, the annual report of the Commission relative to unaudited financial statements for fiscal year 1995; to the Committee on Armed Services.

EC–1850. A communication from the President and Chairman of the Export-Import Bank, transmitting, pursuant to law, the semiannual report on tied aid credits; to the Committee on Banking, Housing, and Urban Affairs.

EC–1851. A communication from the Secretary of Energy, transmitting, pursuant to law, the report on Coal Research, Development, and Commercial Application Programs; to the Committee on Energy and Natural Resources.

EC–1852. A communication from the Secretary of Energy, transmitting, pursuant to law, the report on Federal Government energy management and conservation programs for fiscal year 1994; to the Committee on Energy and Natural Resources.

EC–1853. A communication from the Secretary of Energy, transmitting, pursuant to law, the annual report on the automotive technology development program for fiscal year 1994; to the Committee on Energy and Natural Resources.

EC–1854. A communication from the Secretary of Energy, transmitting, pursuant to law, the report on the Coke Oven Emission Control Program for fiscal year 1995; to the Committee on Energy and Natural Resources.

EC–1855. A communication from the Deputy Associate Director for Compliance, Royalty Management Program, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, notice of the intention to make refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

ADDITIONAL COSPONSORS

S. 704

At the request of Mr. SIMON, the names of the Senator from Maine [Mr. COHEN] and the Senator from Arkansas [Mr. BUMPERS] were added as cosponsors of S. 704, a bill to establish the Gambling Impact Study Commission.

S. 1028

At the request of Mrs. KASSEBAUM, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of S. 1028, a bill to provide increased access to health care benefits, to provide increased portability of health care benefits, to provide increased security of health care benefits, to increase the purchasing power of individuals and small employers, and for other purposes.

S. 1039

At the request of Mr. ABRAHAM, the name of the Senator from North Carolina [Mr. FAIRCLOTH] was added as a cosponsor of S. 1039, a bill to require Congress to specify the source of authority under the United States Constitution for the enactment of laws, and for other purposes.

S. 1183

At the request of Mr. HATFIELD, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 1183, a bill to amend the Act of March 3, 1931 (known as the Davis-Bacon Act), to revise the standards for coverage under the Act, and for other purposes.

S. 1247

At the request of Mr. GRASSLEY, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 1247, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for contributions to a medical savings account by any individual who is covered under a catastrophic coverage health plan.

S. 1469

At the request of Mr. BROWN, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 1469, a bill to extend the United States-Israel free trade agreement to the West Bank and Gaza Strip.

S. 1491

At the request of Mr. GRAMS, the names of the Senator from Louisiana [Mr. JOHNSTON], the Senator from Virginia [Mr. WARNER], and the Senator from Idaho [Mr. CRAIG] were added as cosponsors of S. 1491, a bill to reform antimicrobial pesticide registration, and for other purposes.

SENATE RESOLUTION 152

At the request of Mr. ABRAHAM, the name of the Senator from North Carolina [Mr. FAIRCLOTH] was added as a cosponsor of Senate Resolution 152, a resolution to amend the Standing Rules of the Senate to require a clause in each bill and resolution to specify the constitutional authority of the Congress for enactment, and for other purposes.

AMENDMENTS SUBMITTED

THE AGRICULTURAL MARKET TRANSITION ACT OF 1996

GREGG (AND REID) AMENDMENTS NOS. 3123–3124

(Ordered to lie on the table.)

Mr. GREGG (for himself and Mr. REID) submitted two amendments intended to be proposed by them to the bill (S. 1541) to extend, reform, and improve agricultural commodity, trade, conservation, and other programs, and for other purposes; as follows:

AMENDMENT NO. 3123

Strike section 17 relating to the sugar program.

AMENDMENT NO. 3124

On page 43, strike lines 10 through 19.

Strike section 17 relating to the sugar program and insert the following:

SEC. 17. ELIMINATION OF SUGAR PRICE SUPPORT AND PRODUCTION ADJUSTMENT PROGRAMS.

(a) ACREAGE ALLOTMENTS AND MARKETING QUOTAS.—Part VII of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359aa et seq.) is repealed.

(b) SUGAR LOAN FORFEITURES.—Section 902 of the Food Security Act of 1985 (7 U.S.C. 1446 note) is amended—

(1) by striking subsection (a); and

(2) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively.

(c) COMMODITY CREDIT CORPORATION.—Section 5(a) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c(a)) is amended by inserting after "agricultural commodities" the following: "(other than sugar)".

(d) SECTION 32.—The second sentence of the first paragraph of section 32 of the Act entitled "An Act to amend the Agricultural Adjustment Act, and for other purposes", approved August 24, 1935 (7 U.S.C. 612c), is amended—

(1) by inserting "(other than sugar)" after "commodities" each place it appears; and

(2) by inserting "(other than sugar)" after "commodities" each place it appears.

(e) TRANSITION PROVISIONS.—The amendments made by this section shall not affect the liability of any person under any provision of law as in effect before the application of the amendments in accordance with subsection (f).

(f) APPLICATION OF SECTION.—This section and the amendments made by this section shall apply beginning with the 1996 crop of sugar beets and sugarcane.

DORGAN AMENDMENT NO. 3125

(Ordered to lie on the table.)

Mr. DORGAN submitted an amendment intended to be proposed by him to the bill S. 1541, supra; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Farm Security 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—COMMODITY PROGRAMS

Sec. 101. Wheat, feed grain, and oilseed program.
Sec. 102. Upland cotton program.
Sec. 103. Rice program.
Sec. 104. Peanut program.
Sec. 105. Dairy program.
Sec. 106. Sugar program.
Sec. 107. Sheep industry transition program.
Sec. 108. Suspension of permanent price support authority.
Sec. 109. Extension of related price support provisions.
Sec. 110. Crop insurance administrative fee.
Sec. 111. Effective date.

TITLE II—CONSERVATION

Sec. 201. Conservation reserve program.
Sec. 202. Environmental quality incentives program.

TITLE III—NUTRITION ASSISTANCE

Sec. 301. Food stamp program.
Sec. 302. Commodity distribution program; commodity supplemental food program.
Sec. 303. Emergency food assistance program.
Sec. 304. Soup kitchens program.
Sec. 305. National commodity processing.

TITLE I—COMMODITY PROGRAMS

SEC. 101. WHEAT, FEED GRAIN, AND OILSEED PROGRAM.

(a) IN GENERAL.—Title I of the Agricultural Act of 1949 (7 U.S.C. 1441 et seq.) is amended by adding at the end the following:

"SEC. 116. MARKETING LOANS AND LOAN DEFICIENCY PAYMENTS FOR 1996 THROUGH 2002 CROPS OF WHEAT, FEED GRAINS, AND OILSEEDS.

"(a) DEFINITIONS.—In this section:

"(1) COVERED COMMODITIES.—The term 'covered commodities' means wheat, feed grains, and oilseeds.

"(2) FEED GRAINS.—The term 'feed grains' means corn, grain sorghum, barley, oats, millet, rye, or as designated by the Secretary, other feed grains.

"(3) OILSEEDS.—The term 'oilseeds' means soybeans, sunflower seed, rapeseed, canola, safflower, flaxseed, mustard seed, or as designated by the Secretary, other oilseeds.

"(b) ADJUSTMENT ACCOUNT.—

"(1) DEFINITION OF PAYMENT BUSHEL OF PRODUCTION.—In this subsection, the term 'payment bushel of production' means—

"(A) in the case of wheat, 7/10 of a bushel;

"(B) in the case of corn, a bushel; and

"(C) in the case of other feed grains, a quantity determined by the Secretary.

"(2) ESTABLISHMENT.—The Secretary shall establish an Adjustment Account (referred to in this subsection as the 'Account') for making—

"(A) payments to producers of the 1996 through 2002 crops of covered commodities who participate in the marketing loan program established under subsection (c); and

"(B) payments to producers of the 1994 and 1995 crops of covered commodities that are authorized, but not paid, under sections 105B and 107B prior to the date of enactment of this section.

"(3) AMOUNT IN ACCOUNT.—The Secretary shall transfer from funds of the Commodity Credit Corporation into the Account—

"(A) $3,000,000,000 for fiscal year 1996; and

"(B) $3,900,000,000 for each of fiscal years 1997 through 2002;

to remain available until expended.

"(4) PAYMENTS.—The Secretary shall use funds in the Account to make payments to producers of wheat and feed grains in accordance with this subsection.

"(5) TIER 1 SUPPORT.—

"(A) IN GENERAL.—The producers on a farm referred to in paragraph (2) shall be entitled to a payment computed by multiplying—

"(i) the payment quantity determined under subparagraph (B); by

"(ii) the payment factor determined under subparagraph (C).

"(B) PAYMENT QUANTITY.—

"(i) IN GENERAL.—Subject to clause (ii), the payment quantity for payments under subparagraph (A) shall be determined by the Secretary based on—

"(I) 90 percent of the 5-year average of the quantity of wheat and feed grains produced on the farm;

"(II) an adjustment to reflect any disaster or other circumstance beyond the control of the producers that adversely affected production of wheat or feed grains, as determined by the Secretary; and

"(III) an adjustment for planting resource conservation crops on the crop acreage base for covered commodities, and adopting conserving uses, on the base not enrolled in the environmental reserve program provided in paragraph (6).

"(ii) LIMITATIONS.—The quantity determined under clause (i) for an individual, directly or indirectly, shall not exceed 30,000 payment bushels of wheat or feed grains and may be adjusted by the Secretary to reflect the availability of funds.

"(C) PAYMENT FACTOR.—

"(i) WHEAT.—The payment factor for wheat under subparagraph (A) shall be equal to the difference between a price established by the Secretary, of not to exceed $4.00 per bushel, and the greater of—

"(I) the marketing loan rate for the crop of wheat; or

"(II) the average domestic price for wheat for the crop for the calendar year in which the crop is normally harvested.

"(ii) CORN.—The payment factor for corn under subparagraph (A) shall be equal to the difference between a price established by the Secretary, of not to exceed $2.75 per bushel, and the greater of—

"(I) the marketing loan rate for the crop of corn; or

"(II) the average domestic price for corn for the crop for the calendar year in which the crop is normally harvested;

"(iii) OTHER FEED GRAINS.—The payment factor for other feed grains under subparagraph (A) shall be established by the Secretary at such level as the Secretary determines is fair and reasonable in relation to the payment factor for corn.

"(D) ADVANCE PAYMENT.—

"(i) IN GENERAL.—Except as provided in clauses (ii) and (iii), the Secretary shall make available to producers on a farm 50 percent of the projected payment under this subsection at the time the producers agree to participate in the program.

"(ii) 1995 PAYMENTS.—In the case of producers on a farm who were prevented from planting, or incurred a reduced yield of 20 percent or more of, the 1995 crop due to weather or related condition, the Secretary may settle claims for the repayment by the producers on terms determined by the Secretary to be fair and equitable, except that no claim shall be reduced by more than $3,500.

"(iii) 1996 PAYMENTS.—

"(I) IN GENERAL.—In the case of 1996 crops, advanced payments shall be made in accordance with the formula under subclause (II).

"(II) FORMULA.—Payments authorized under this clause shall be based on a rate equal to 50 percent of the average deficiency payment rate for the 1990 through 1994 crops.

"(III) NONREFUNDABLE.—Payments authorized under this clause shall not be refundable.

"(6) ENVIRONMENTAL RESERVE PROGRAM.—

"(A) IN GENERAL.—The Secretary may enter into 1 to 5 year contracts with producers on a farm referred to in paragraph (2) for the purposes of enrolling flexible acreage base for conserving use purposes.

"(B) LIMITATION.—Flexible acreage base enrolled in the environmental reserve program shall not be eligible for benefits provided in paragraph (5)(B).

"(c) MARKETING LOANS.—

"(1) IN GENERAL.—The Secretary shall make available to producers on a farm marketing loans for each of the 1996 through 2002 crops of covered commodities produced on the farm.

"(2) ELIGIBILITY.—

"(A) IN GENERAL.—To be eligible for a loan under this subsection, the producers on a farm may not plant covered commodities on the farm in excess of the flexible acreage base of the farm determined under section 502.

"(B) AMOUNT.—The Secretary shall provide marketing loans for their normal production of covered commodities produced on a farm.

"(3) LOAN RATE.—

"(A) IN GENERAL.—Loans made under this subsection shall be made at the rate of 90 percent of the average price for the commodity for the previous 5 crop years, as determined by the Secretary.

"(B) ADJUSTMENTS.—For each of the 1996 through 2002 crops of covered commodities, the Secretary may not adjust local loan rates by a factor greater than 3 percent of the national loan rate.

"(4) REPAYMENT.—

"(A) CALCULATION.—Producers on a farm may repay loans made under this subsection for a crop at a level that is the lesser of—

"(i) the loan level determined for the crop; or

"(ii) the prevailing domestic market price for the commodity (adjusted to location and quality), as determined by the Secretary.

"(B) PREVAILING DOMESTIC MARKET PRICE.—The Secretary shall prescribe by regulation—

"(i) a formula to determine the prevailing domestic market price for each covered commodity; and

"(ii) a mechanism by which the Secretary shall announce periodically the prevailing domestic market prices established under this subsection.

"(d) LOAN DEFICIENCY PAYMENTS.—

"(1) IN GENERAL.—The Secretary may, for each of the 1996 through 2002 crops of covered commodities, make payments (referred to in this subsection as 'loan deficiency payments') available to producers who, although eligible to obtain a marketing loan under subsection (c), agree to forgo obtaining the loan in return for payments under this subsection.

"(2) COMPUTATION.—A payment under this subsection shall be computed by multiplying—

"(A) the loan payment rate; by

"(B) the quantity of a covered commodity the producer is eligible to place under loan but for which the producer forgoes obtaining the loan in return for payments under this subsection.

"(3) LOAN PAYMENT RATE.—

"(A) IN GENERAL.—For the purposes of this subsection, the loan payment rate shall be the amount by which—

"(i) the marketing loan rate determined for the crop under subsection (c)(3); exceeds

"(ii) the level at which a loan may be repaid under subsection (c)(4).

"(B) DATE.—The date on which the calculation required under subparagraph (A) for the producers on a farm shall be determined by the producers, except that the date may not be later than the earlier of—

"(i) the date the producers lost beneficial interest in the crop; or

"(ii) the end of the marketing year for the crop.

"(4) APPLICATION.—Producers on a farm may apply for a payment for a covered commodity under this subsection at any time prior to the end of the marketing year for the commodity.

"(e) EQUITABLE RELIEF.—If the failure of a producer to comply fully with the terms and conditions of programs conducted under this section precludes the making of loans and payments, the Secretary may, nevertheless, make the loans and payments in such amounts as the Secretary determines are equitable in relation to the seriousness of the failure.

"(f) COMMODITY CREDIT CORPORATION.—The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

"(g) ASSIGNMENT OF PAYMENTS.—The provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(g)) (relating to assignment of payments) shall apply to payments under this section.

"(h) TENANTS AND SHARECROPPERS.—In carrying out this section, the Secretary shall provide adequate safeguards to protect the interest of tenants and sharecroppers.

"(i) CROPS.—This section shall be effective only for the 1996 through 2002 crops of a covered commodity.".

(b) FLEXIBLE ACREAGE BASE.—

(1) DEFINITIONS.—Section 502 of the Agricultural Act of 1949 (7 U.S.C. 1462) is amended by striking paragraphs (2) and (3) and inserting the following:

"(2) FEED GRAINS.—The term 'feed grains' means corn, grain sorghum, barley, oats, millet, rye, or as designated by the Secretary, other feed grains.

"(3) GO CROPS.—The term 'GO crops' means wheat, feed grains, and oilseeds.

"(4) OILSEEDS.—The term 'oilseed' means a crop of soybeans, sunflower seed, rapeseed, canola, safflower, flaxseed, mustard seed, or, if designated by the Secretary, other oilseeds.

"(5) PROGRAM CROP.—The term 'program crop' means a GO crop and a crop of upland cotton or rice.".

(2) CROP ACREAGE BASES.—Section 503(a) of the Act (7 U.S.C. 1463(a)) is amended by striking paragraph (1) and inserting the following:

"(1) IN GENERAL.—

"(A) GO CROPS.—The Secretary shall provide for the establishment and maintenance of a single crop acreage base for GO crops, including any GO crops produced under an established practice of double cropping.

"(B) COTTON AND RICE.—The Secretary shall provide for the establishment and maintenance of crop acreage bases for cotton and rice crops, including any program crop produced under an established practice of double cropping.".

SEC. 102. UPLAND COTTON PROGRAM.

(a) EXTENSION.—Section 103B of the Agricultural Act of 1949 (7 U.S.C. 1444-2) is amended—

(1) in the section heading, by striking "**1997**" and inserting "**2002**";

(2) in subsections (a)(1), (b)(1), (c)(1), and (o), by striking "1997" each place it appears and inserting "2002";

(3) in subsection (a)(5), by striking "1998" each place it appears and inserting "2002";

(4) in the heading of subsection (c)(1)(D)(v)(II), by striking "1997" and inserting "2002";

(5) in subsection (e)(1)(D), by striking "the 1997 crop" and inserting "each of the 1997 through 2002 crops"; and

(6) in subsections (e)(3)(A) and (f)(1), by striking "1995" each place it appears and inserting "2002".

(b) INCREASE IN NONPAYMENT ACRES.—Section 103B(c)(1)(C) of the Act is amended by striking "85 percent" and inserting "80 percent for each of the 1996 through 2002 crops".

(c) ADVANCE PAYMENT.—Section 103B(c)(1) of the Act is amended by adding at the end the following:

"(F) ADVANCE PAYMENT.—

"(i) IN GENERAL.—Except as provided in clauses (ii) and (iii), the Secretary shall make available to producers on a farm 50 percent of the projected payment under this subsection at the time the producers agree to participate in the program.

"(ii) 1995 PAYMENTS.—In the case of producers on a farm who were prevented from planting, or incurred a reduced yield of 20 percent or more of, the 1995 crop due to weather or related condition, the Secretary may settle claims for the repayment by the producers on terms determined by the Secretary to be fair and equitable, except that no claim shall be reduced by more than $3,500.

"(iii) 1996 PAYMENTS.—

"(I) IN GENERAL.—In the case of 1996 crops, advanced payments shall be made in accordance with the formula under subclause (II).

"(II) FORMULA.—Payments authorized under this clause shall be based on a rate equal to 50 percent of the average deficiency payment rate for the 1990 through 1994 crops.

"(III) NONREFUNDABLE.—Payments authorized under this clause shall not be refundable.".

SEC. 103. RICE PROGRAM.

(a) EXTENSION.—Section 101B of the Agricultural Act of 1949 (7 U.S.C. 1441-2) is amended—

(1) in the section heading, by striking "**1995**" and inserting "**2002**";

(2) in subsections (a)(1), (a)(3), (b)(1), (c)(1)(A), (c)(1)(B)(iii), (e)(3)(A), (f)(1), and (n), by striking "1995" each place it appears and inserting "2002";

(3) in subsection (a)(5)(D)(i), by striking "1996" and inserting "2003"; and

(4) in subsection (c)(1)—

(A) in subparagraph (B)(ii)—

(i) by striking "AND 1995" and inserting "THROUGH 2002"; and

(ii) by striking "and 1995" and inserting "through 2002"; and

(B) in subparagraph (D)—

(i) in clauses (i) and (v)(II), by striking "1997" each place it appears and inserting "2002"; and

(ii) in the heading of clause (v)(II), by striking "1997" and inserting "2002".

(b) INCREASE IN NONPAYMENT ACRES.—Section 101B(c)(1)(C)(ii) of the Act is amended by striking "85 percent" and inserting "80 percent for each of the 1998 through 2002 crops".

(c) ADVANCE PAYMENT.—Section 101B(c)(1) of the Act is amended by adding at the end the following:

"(F) ADVANCE PAYMENT.—

"(i) IN GENERAL.—Except as provided in clauses (ii) and (iii), the Secretary shall make available to producers on a farm 50 percent of the projected payment under this subsection at the time the producers agree to participate in the program.

"(ii) 1995 PAYMENTS.—In the case of producers on a farm who were prevented from planting, or incurred a reduced yield of 20 percent or more of, the 1995 crop due to weather or related condition, the Secretary may settle claims for the repayment by the producers on terms determined by the Secretary to be fair and equitable, except that no claim shall be reduced by more than $3,500.

"(iii) 1996 PAYMENTS.—

"(I) IN GENERAL.—In the case of 1996 crops, advanced payments shall be made in accordance with the formula under subclause (II).

"(II) FORMULA.—Payments authorized under this clause shall be based on a rate equal to 50 percent of the average deficiency payment rate for the 1990 through 1994 crops.

"(III) NONREFUNDABLE.—Payments authorized under this clause shall not be refundable.".

SEC. 104. PEANUT PROGRAM.

(a) EXTENSION.—

(1) AGRICULTURAL ACT OF 1949.—Section 108B of the Agricultural Act of 1949 (7 U.S.C. 1445c-3) is amended—

(A) in the section heading, by striking "**1997**" and inserting "**2002**";

(B) in subsection (a)(1), (b)(1), and (h), by striking "1997" each place it appears and inserting "2002"; and

(C) in subsection (g)—

(i) by striking "1997" in paragraphs (1) and (2)(A)(ii)(II) and inserting "2002"; and

(ii) by striking "the 1997 crop" each place it appears and inserting "each of the 1997 through 2002 crops".

(2) AGRICULTURAL ADJUSTMENT ACT OF 1938.—Part VI of subtitle B of title III of the Agricultural Adjustment Act of 1938 is amended—

(A) in section 358-1 (7 U.S.C. 1358-1)—

(i) in the section heading, by striking "**1997**" and inserting "**2002**"; and

(ii) in subsections (a)(1), (b), and (f), by striking "1997" each place it appears and inserting "2002";

(B) in section 358b (7 U.S.C. 1358b)—

(i) in the section heading, by striking "**1995**" and inserting "**2002**"; and

(ii) in subsection (c), by striking "1995" and inserting "2002";

(C) in section 358c(d) (7 U.S.C. 1358c(d)), by striking "1995" and inserting "2002"; and

(D) in section 358e (7 U.S.C. 1359a)—

(i) in the section heading, by striking "**1997**" and inserting "**2002**"; and

(ii) in subsection (i), by striking "1997" and inserting "2002".

(b) SUPPORT RATES FOR PEANUTS.—Section 108B(a)(2) of the Agricultural Act of 1949 (7 U.S.C. 1445c-3(a)(2)) is amended—

(1) by striking "(2) SUPPORT RATES.—The" and inserting the following:

"(2) SUPPORT RATES.—

"(A) 1991-1995 CROPS.—The"; and

(2) by adding at the end the following:

"(B) 1996-2002 CROPS.—The national average quota support rate for each of the 1996 through 2002 crops of quota peanuts shall be $678 per ton.".

(c) UNDERMARKETINGS.—

(1) IN GENERAL.—Section 358-1(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358-1(b)) is amended—

(A) in paragraph (7), by adding at the end the following::

"(C) TRANSFER OF ADDITIONAL PEANUTS.—Additional peanuts on a farm from which the quota poundage was not harvested or marketed may be transferred to the quota loan pool for pricing purposes at the quota price on such basis as the Secretary shall by regulation provide, except that the poundage of the peanuts so transferred shall not exceed the difference in the total quantity of peanuts meeting quality requirements for domestic edible use, as determined by the Secretary, marketed from the farm and the total farm poundage quota."; and

(B) by striking paragraphs (8) and (9).

(2) CONFORMING AMENDMENTS.—Section 358b(a) of the Act (7 U.S.C. 1358b(a)) is amended—

(A) in paragraph (1)(A), by striking "undermarketings and"; and

(B) in paragraph (3), by striking "(including any applicable undermarketings)".

SEC. 105. DAIRY PROGRAM.

(a) PRICE SUPPORT.—Section 204 of the Agricultural Act of 1949 (7 U.S.C. 1446e) is amended—

(1) in the section heading, by striking "**1996**" and inserting "**2002**";

(2) in subsections (a), (b), (f), (g), and (k), by striking "1996" each place it appears and inserting "2002";

(3) in subsection (h)(2)(C), by striking "and 1997" and inserting "through 2002".

(b) SUPPORT PRICE FOR BUTTER AND POWDERED MILK.—Section 204(c)(3) of the Act is amended—

(1) in subparagraph (A), by striking "Subject to subparagraph (B), the" and inserting "The";

(2) by striking subparagraph (B); and

(3) by redesignating subparagraph (C) as subparagraph (B).

(c) SUPPORT RATE.—Section 204(d) of the Act is amended—

(1) by striking paragraphs (1) through (3);

(2) by redesignating paragraphs (4) and (5) as paragraphs (1) and (2) respectively; and

(3) in paragraph (1) (as so redesignated), by striking "$10.10" and inserting "$10.35".

SEC. 106. SUGAR PROGRAM.

(a) IN GENERAL.—Section 206 of the Agricultural Act of 1949 (7 U.S.C. 1446g) is amended to read as follows:

"SEC. 206. SUGAR SUPPORT FOR 1996 THROUGH 2002 CROPS.

"(a) DEFINITIONS.—In this section:

"(1) AGREEMENT ON AGRICULTURE.—The term 'Agreement on Agriculture' means the Agreement on Agriculture resulting from the Uruguay Round of Multilateral Trade Negotiations.

"(2) MAJOR COUNTRY.—The term 'major country' includes—

"(A) a country that is allocated a share of the tariff rate quota for imported sugars and syrups by the United States Trade Representative pursuant to additional U.S. note 5 to chapter 17 of the Harmonized Tariff Schedule;

"(B) a country of the European Union; and

"(C) the People's Republic of China.

"(3) MARKET.—The term 'market' means to sell or otherwise dispose of in commerce in the United States (including, with respect to any integrated processor and refiner, the movement of raw cane sugar into the refining process) and delivery to a buyer.

"(4) TOTAL ESTIMATED DISAPPEARANCE.—The term 'total estimated disappearance' means the quantity of sugar, as estimated by the Secretary, that will be consumed in the United States during a fiscal year (other than sugar imported for the production of polyhydric alcohol or to be refined and reexported in refined form or in a sugar-containing product), plus the quantity of sugar that would provide for adequate carryover stocks.

"(b) PRICE SUPPORT.—The price of each of the 1996 through 2002 crops of sugar beets and sugarcane shall be supported in accordance with this section.

"(c) SUGARCANE.—Subject to subsection (e), the Secretary shall support the price of domestically grown sugarcane through loans at a support level of 18 cents per pound for raw cane sugar.

"(d) SUGAR BEETS.—Subject to subsection (e), the Secretary shall support the price of each crop of domestically grown sugar beets through loans at the level provided for refined beet sugar produced from the 1995 crop of domestically grown sugar beets.

"(e) ADJUSTMENT IN SUPPORT LEVEL.—

"(1) DOWNWARD ADJUSTMENT IN SUPPORT LEVEL.—

"(A) IN GENERAL.—The Secretary shall decrease the support price of domestically grown sugarcane and sugar beets from the level determined for the preceding crop, as determined under this section, if the quantity of negotiated reductions in export and domestic subsidies of sugar that apply to the European Union and other major countries in the aggregate exceed the quantity of the reductions in the subsidies agreed to under the Agreement of Agriculture.

"(B) EXTENT OF REDUCTION.—The Secretary shall not reduce the level of price support under subparagraph (A) below a level that provides an equal measure of support to the level provided by the European Union or any other major country through domestic and export subsidies that are subject to reduction under the Agreement on Agriculture.

"(2) INCREASES IN SUPPORT LEVEL.—The Secretary may increase the support level for each crop of domestically grown sugarcane and sugar beets from the level determined for the preceding crop based on such factors as the Secretary determines appropriate, including changes (during the 2 crop years immediately preceding the crop year for which the determination is made) in the cost of sugar products, the cost of domestic sugar production, the amount of any applicable assessments, and other factors or circumstances that may adversely affect domestic sugar production.

"(f) LOAN TYPE; PROCESSOR ASSURANCES.—

"(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall carry out this section by making recourse loans to sugar producers.

"(2) MODIFICATION.—During any fiscal year in which the tariff rate quota for imports of sugar into the United States is established at, or is increased to, a level that exceeds the minimum level for the imports committed to by the United States under the Agreement on Agriculture, the Secretary shall carry out this section by making nonrecourse loans available to sugar producers. Any recourse loan previously made available by the Secretary and not repaid under this section during the fiscal year shall be converted into a nonrecourse loan.

"(3) PROCESSOR ASSURANCES.—To effectively support the prices of sugar beets and sugarcane received by a producer, the Secretary shall obtain from each processor that receives a loan under this section such assurances as the Secretary considers adequate that, if the Secretary is required under paragraph (2) to make nonrecourse loans available, or convert recourse loans into nonrecourse loans, each producer served by the processor will receive the appropriate minimum payment for sugar beets and sugarcane delivered by the producer, as determined by the Secretary.

"(g) ANNOUNCEMENTS.—The Secretary shall announce the type of loans available and the loan rates for beet and cane sugar for any fiscal year under this section as far in advance as is practicable.

"(h) LOAN TERM.—

"(1) IN GENERAL.—Except as provided in paragraph (2) and subsection (i), a loan under this section during any fiscal year shall be made available not earlier than the beginning of the fiscal year and shall mature at the end of 3 months.

"(2) EXTENSION.—The maturity of a loan under this section may be extended for up to 2 additional 3-month periods, at the option of the borrower, except that the maturity of a loan may not be extended under this paragraph beyond the end of the fiscal year.

"(i) SUPPLEMENTARY LOANS.—Subject to subsection (e), the Secretary shall make available to eligible processors price support loans with respect to sugar processed from sugar beets and sugarcane harvested in the last 3 months of a fiscal year. The loans shall mature at the end of the fiscal year. The processor may repledge the sugar as collateral for a price support loan in the subsequent fiscal year, except that the second loan shall—

"(1) be made at the loan rate in effect at the time the second loan is made; and

"(2) mature in not more than 9 months, less the quantity of time that the first loan was in effect.

"(j) USE OF COMMODITY CREDIT CORPORATION.—The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this section.

"(k) MARKETING ASSESSMENTS.—

"(1) IN GENERAL.—Assessments shall be collected in accordance with this subsection with respect to all sugar marketed within the United States during the 1996 through 2002 fiscal years.

"(2) BEET SUGAR.—The first seller of beet sugar produced from domestic sugar beets or domestic sugar beet molasses shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to 1.1894 percent of the loan level established under subsection (d) per pound of sugar marketed.

"(3) CANE SUGAR.—The first seller of raw cane sugar produced from domestic sugarcane or domestic sugarcane molasses shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to 1.11 percent of the loan level established under subsection (c) per pound of sugar marketed (including the transfer or delivery of the sugar to a refinery for further processing or marketing).

"(4) COLLECTION.—

"(A) TIMING.—Marketing assessments required under this subsection shall be collected and remitted to the Commodity Credit Corporation not later than 30 days after the date that the sugar is marketed.

"(B) MANNER.—Subject to subparagraph (A), marketing assessments shall be collected under this subsection in the manner prescribed by the Secretary and shall be nonrefundable.

"(5) PENALTIES.—If any person fails to remit an assessment required by this subsection or fails to comply with such requirements for recordkeeping or otherwise fails to comply with this subsection, the person shall be liable to the Secretary for a civil penalty of not more than an amount determined by multiplying—

"(A) the quantity of sugar involved in the violation; by

"(B) the loan level for the applicable crop of sugarcane or sugar beets from which the sugar is produced.

For the purposes of this paragraph, refined sugar shall be treated as produced from sugar beets.

"(6) ENFORCEMENT.—The Secretary may enforce this subsection in the courts of the United States.

"(l) INFORMATION REPORTING.—

"(1) DUTY OF PROCESSORS AND REFINERS TO REPORT.—A sugarcane processor, cane sugar refiner, and sugar beet processor shall furnish the Secretary, on a monthly basis, such information as the Secretary may require to administer sugar programs, including the quantity of purchases of sugarcane, sugar beets, and sugar, and production, importation, distribution, and stock levels of sugar.

"(2) DUTY OF PRODUCERS TO REPORT.—To efficiently and effectively carry out the program under this section, the Secretary may require a producer of sugarcane or sugar beets to report, in the manner prescribed by the Secretary, the producer's sugarcane or sugar beet yields and acres planted to sugarcane or sugar beets, respectively.

"(3) PENALTY.—Any person willfully failing or refusing to furnish the information, or furnishing willfully any false information, required under this subsection shall be subject to a civil penalty of not more than $10,000 for each such violation.

"(4) MONTHLY REPORTS.—Taking into consideration the information received under paragraph (1), the Secretary shall publish on a monthly basis composite data on production, imports, distribution, and stock levels of sugar.

"(m) SUGAR ESTIMATES.—

"(1) DOMESTIC REQUIREMENT.—Before the beginning of each fiscal year, the Secretary shall estimate the domestic sugar requirement of the United States in an amount that

is equal to the total estimated disappearance, minus the quantity of sugar that will be available from carry-in stocks.

"(2) QUARTERLY REESTIMATES.—The Secretary shall make quarterly reestimates of sugar consumption, stocks, production, and imports for a fiscal year not later than the beginning of each of the second through fourth quarters of the fiscal year.

"(n) CROPS.—This section shall be effective only for the 1996 through 2002 crops of sugar beets and sugarcane.".

(b) MARKETING QUOTAS.—Part VII of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359aa et seq.) is repealed.

SEC. 107. SHEEP INDUSTRY TRANSITION PROGRAM.

Title II of the Agricultural Act of 1949 (7 U.S.C. 1446 et seq.) is amended by adding at the end the following:

"SEC. 208. SHEEP INDUSTRY TRANSITION PROGRAM.

"(a) LOSS.—

"(1) IN GENERAL.—The Secretary shall, on presentation of warehouse receipts or other acceptable evidence of title as determined by the Secretary, make available for each of the 1996 through 1999 marketing years recourse loans for wool at a loan level, per pound, that is not less than the smaller of—

"(A) the average price (weighted by market and month) of the base quality of wool at average location in the United States as quoted during the 5-marketing year period preceding the year in which the loan level is announced, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; or

"(B) 90 percent of the average price for wool projected for the marketing year in which the loan level is announced, as determined by the Secretary.

"(2) ADJUSTMENTS TO LOAN LEVEL.—

"(A) LIMITATION ON DECREASE IN LOAN LEVEL.—The loan level for any marketing year determined under paragraph (1) may not be reduced by more than 5 percent from the level determined for the preceding marketing year, and may not be reduced below 50 cents per pound.

"(B) LIMITATION ON INCREASE IN LOAN LEVEL.—If for any marketing year the average projected price determined under paragraph (1)(B) is less than the average United States market price determined under paragraph (1)(A), the Secretary may increase the loan level to such level as the Secretary may consider appropriate, not in excess of the average United States market price determined under paragraph (1)(A).

"(C) ADJUSTMENT FOR QUALITY.—

"(i) IN GENERAL.—Notwithstanding subparagraphs (A) and (B), the Secretary may adjust the loan level of a loan made under this section with respect to a quantity of wool to more accurately reflect the quality of the wool, as determined by the Secretary.

"(ii) ESTABLISHMENT OF GRADING SYSTEM.—To allow producers to establish the quality of wool produced on a farm, the Secretary shall establish a grading system for wool, based on micron diameter of the fibers in the wool.

"(iii) FEES.—The Secretary may charge each person that requests a grade for a quantity of wool a fee to offset the costs of testing and establishing a grade for the wool.

"(iv) TESTING FACILITIES.—To the extent practicable, the Secretary may certify State, local, or private facilities to carry out the grading of wool for the purpose of carrying out this subparagraph.

"(3) ANNOUNCEMENT OF LOAN LEVEL.—The loan level for any marketing year of wool shall be determined and announced by the Secretary not later than December 1 of the calendar year preceding the marketing year for which the loan is to be effective or, in the case of the 1996 marketing year, as soon as is practicable after December 1, 1995.

"(4) TERM OF LOAN.—

"(A) IN GENERAL.—Recourse loans provided for in this section may be made for an initial term of 9 months from the first day of the month in which the loan is made.

"(B) EXTENSIONS.—Except as provided in subparagraph (C), recourse loans provided for in this section shall, on request of the producer during the 9th month of the loan period for the wool, be made available for an additional term of 8 months.

"(C) LIMITATION.—A request to extend the loan period shall not be approved in any month in which the average price of the base quality of wool, as determined by the Secretary, in the designated markets for the preceding month exceeded 130 percent of the average price of the base quality of wool in the designated United States markets for the preceding 36-month period.

"(5) MARKETING LOAN PROVISIONS.—If the Secretary determines that the prevailing world market price for wool (adjusted to United States quality and location) is below the loan level determined under paragraphs (1) through (4), to make United States wool competitive, the Secretary shall permit a producer to repay a loan made for any marketing year at the lesser of—

"(A) the loan level determined for the marketing year; or

"(B) the higher of—

"(i) the loan level determined for the marketing year multiplied by 70 percent; or

"(ii) the prevailing world market price for wool (adjusted to United States quality and location), as determined by the Secretary.

"(6) PREVAILING WORLD MARKET PRICE.—

"(A) IN GENERAL.—The Secretary shall prescribe by regulation—

"(i) a formula to define the prevailing world market price for wool (adjusted to United States quality and location); and

"(ii) a mechanism by which the Secretary shall announce periodically the prevailing world market price for wool (adjusted to United States quality and location).

"(B) USE.—The prevailing world market price for wool (adjusted to United States quality and location) established under this paragraph shall be used to carry out paragraph (5).

"(C) ADJUSTMENT OF PREVAILING WORLD MARKET PRICE.—

"(i) IN GENERAL.—The prevailing world market price for wool (adjusted to United States quality and location) established under this paragraph shall be further adjusted if the adjusted prevailing world market price is less than 115 percent of the current marketing year loan level for the base quality of wool, as determined by the Secretary.

"(ii) FURTHER ADJUSTMENT.—The adjusted prevailing world market price shall be further adjusted on the basis of some or all of the following data, as available:

"(I) The United States share of world exports.

"(II) The current level of wool export sales and wool export shipments.

"(III) Other data determined by the Secretary to be relevant in establishing an accurate prevailing world market price for wool (adjusted to United States quality and location).

"(D) MARKET PRICE QUOTATION.—The Secretary may establish a system to monitor and make available on a weekly basis information with respect to the most recent average domestic and world market prices for wool.

"(7) PARTICIPATION.—The Secretary may make loans available under this subsection to producers, cooperatives, or marketing pools.

"(b) LOAN DEFICIENCY PAYMENTS.—

"(1) IN GENERAL.—The Secretary shall, for each of the 1996 through 1999 marketing years of wool, make payments available to producers who, although eligible to obtain a loan under subsection (a), agree to forgo obtaining the loan in return for payments under this subsection.

"(2) COMPUTATION.—A payment under this subsection shall be computed by multiplying—

"(A) the loan payment rate; by

"(B) the quantity of wool the producer is eligible to place under loan but for which the producer forgoes obtaining the loan in return for payments under this subsection.

"(3) LOAN PAYMENT RATE.—For purposes of this subsection, the loan payment rate shall be the amount by which—

"(A) the loan level determined for the marketing year under subsection (a); exceeds

"(B) the level at which a loan may be repaid under subsection (a).

"(c) DEFICIENCY PAYMENTS.—

"(1) IN GENERAL.—The Secretary shall make available to producers deficiency payments for each of the 1996 through 1999 marketing years of wool in an amount computed by multiplying—

"(A) the payment rate; by

"(B) the payment quantity of wool for the marketing year.

"(2) PAYMENT RATE.—

"(A) IN GENERAL.—The payment rate for wool shall be the amount by which the established price for the marketing year of wool exceeds the higher of—

"(i) the national average market price received by producers during the marketing year, as determined by the Secretary; or

"(ii) the loan level determined for the marketing year.

"(B) MINIMUM ESTABLISHED PRICE.—The established price for wool shall not be less than $2.12 per pound on a grease wool basis for each of the 1996 through 1999 marketing years.

"(3) PAYMENT QUANTITY.—Payment quantity of wool for a marketing year shall be the number of pounds of wool produced during the marketing year.

"(d) EQUITABLE RELIEF.—

"(1) LOANS AND PAYMENTS.—If the failure of a producer to comply fully with the terms and conditions of the program conducted under this section precludes the making of loans and payments, the Secretary may, nevertheless, make the loans and payments in such amounts as the Secretary determines are equitable in relation to the seriousness of the failure. The Secretary may consider whether the producer made a good faith effort to comply fully with the terms and conditions of the program in determining whether equitable relief is warranted under this paragraph.

"(2) DEADLINES AND PROGRAM REQUIREMENTS.—The Secretary may authorize the county and State committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) to waive or modify deadlines and other program requirements in cases in which lateness or failure to meet such other

requirements does not affect adversely the operation of the program.

"(e) REGULATIONS.—The Secretary may issue such regulations as the Secretary determines necessary to carry out this section.

"(f) COMMODITY CREDIT CORPORATION.—The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

"(g) ASSIGNMENT OF PAYMENTS.—The provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(g)) (relating to assignment of payments) shall apply to payments under this section.

"(h) SHARING OF PAYMENTS.—The Secretary shall provide for the sharing of payments made under this section for any farm among the producers on the farm on a fair and equitable basis.

"(i) TENANTS AND SHARECROPPERS.—The Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

"(j) CROSS-COMPLIANCE.—

"(1) IN GENERAL.—Compliance on a farm with the terms and conditions of any other commodity program, or compliance with marketing year acreage base requirements for any other commodity, may not be required as a condition of eligibility for loans or payments under this section.

"(2) COMPLIANCE ON OTHER FARMS.—The Secretary may not require producers on a farm, as a condition of eligibility for loans or payments under this section for the farm, to comply with the terms and conditions of the wool program with respect to any other farm operated by the producers.

"(k) LIMITATION ON OUTLAYS.—

"(1) IN GENERAL.—The total amount of payments that may be made available to all producers under this section may not exceed—

"(A) $75,000,000, during any single marketing year; or

"(B) $200,000,000 in the aggregate for marketing years 1996 through 1999.

"(2) PRORATION OF BENEFITS.—To the extent that the total amount of benefits for which producers are eligible under this section exceeds the limitations in paragraph (1), funds made available under this section shall be prorated among all eligible producers.

"(3) PERSON LIMITATION.—

"(A) LOANS.—No person may realize gains or receive payments under subsection (a) or (b) that exceed $75,000 during any marketing year.

"(B) DEFICIENCY PAYMENTS.—No person may receive payments under subsection (c) that exceed $50,000 during any marketing year.

"(l) MARKETING YEARS.—Notwithstanding any other provision of law, this section shall be effective only for the 1996 through 1999 marketing years for wool.".

SEC. 108. SUSPENSION OF PERMANENT PRICE SUPPORT AUTHORITY.

(a) WHEAT.—

(1) NONAPPLICABILITY OF CERTIFICATE REQUIREMENTS.—Sections 379d through 379j of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1379d–1379j) shall not be applicable to wheat processors or exporters during the period June 1, 1995, through May 31, 2003.

(2) SUSPENSION OF LAND USE, WHEAT MARKETING ALLOCATION, AND PRODUCER CERTIFICATE PROVISIONS.—Sections 331 through 339, 379b, and 379c of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1331 through 1339, 1379b, and 1379c) shall not be applicable to the 1996 through 2002 crops of wheat.

(3) SUSPENSION OF CERTAIN QUOTA PROVISIONS.—The joint resolution entitled "A joint resolution relating to corn and wheat marketing quotas under the Agricultural Adjustment Act of 1938, as amended", approved May 26, 1941 (7 U.S.C. 1330 and 1340), shall not be applicable to the crops of wheat planted for harvest in the calendar years 1996 through 2002.

(4) NONAPPLICABILITY OF SECTION 107 OF THE AGRICULTURAL ACT OF 1949.—Section 107 of the Agricultural Act of 1949 (7 U.S.C. 1445a) shall not be applicable to the 1996 through 2002 crops of wheat.

(b) FEED GRAINS.—

(1) NONAPPLICABILITY OF SECTION 105 OF THE AGRICULTURAL ACT OF 1949.—Section 105 of the Agricultural Act of 1949 (7 U.S.C. 1444b) shall not be applicable to the 1996 through 2002 crops of feed grains.

(2) RECOURSE LOAN PROGRAM FOR SILAGE.—Section 403 of the Food Security Act of 1985 (7 U.S.C. 1444e–1) is amended by striking "1996" and inserting "2002".

(c) OILSEEDS.—Section 201(a) of the Agricultural Act of 1949 (7 U.S.C. 1446(a)) is amended by striking "oilseeds" and all that follows through "determine),".

(d) UPLAND COTTON.—

(1) SUSPENSION OF BASE ACREAGE ALLOTMENTS, MARKETING QUOTAS, AND RELATED PROVISIONS.—Sections 342, 343, 344, 345, 346, and 377 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1342–1346 and 1377) shall not be applicable to any of the 1996 through 2002 crops of upland cotton.

(2) MISCELLANEOUS COTTON PROVISIONS.—Section 103(a) of the Agricultural Act of 1949 (7 U.S.C. 1444(a)) shall not be applicable to the 1996 through 2002 crops.

(e) PEANUTS.—

(1) SUSPENSION OF MARKETING QUOTAS AND ACREAGE ALLOTMENTS.—The following provisions of the Agricultural Adjustment Act of 1938 shall not be applicable to the 1996 through 2002 crops of peanuts:

(A) Subsections (a) through (j) of section 358 (7 U.S.C. 1358).

(B) Subsections (a) through (h) of section 358a (7 U.S.C. 1358a).

(C) Subsections (a), (b), (d), and (e) of section 358d (7 U.S.C. 1359).

(D) Part I of subtitle C of title III (7 U.S.C. 1361 et seq.).

(E) Section 371 (7 U.S.C. 1371).

(2) REPORTS AND RECORDS.—Effective only for the 1996 through 2002 crops of peanuts, the first sentence of section 373(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1373(a)) is amended by inserting before "all brokers and dealers in peanuts" the following: "all producers engaged in the production of peanuts,".

(3) SUSPENSION OF CERTAIN PRICE SUPPORT PROVISIONS.—Section 101 of the Agricultural Act of 1949 (7 U.S.C. 1441) shall not be applicable to the 1996 through 2002 crops of peanuts.

SEC. 109. EXTENSION OF RELATED PRICE SUPPORT PROVISIONS.

(a) DEFICIENCY AND LAND DIVERSION PAYMENTS.—Section 114 of the Agricultural Act of 1949 (7 U.S.C. 1445j) is amended—

(1) in subsections (a)(1) and (c), by striking "1997" each place it appears and inserting "2002"; and

(2) in subsection (b), by striking "1995" and inserting "2002".

(b) ADJUSTMENT OF ESTABLISHED PRICES.—Section 402(b) of the Agricultural Act of 1949 (7 U.S.C. 1422(b)) is amended by striking "1995" and inserting "2002".

(c) ADJUSTMENT OF SUPPORT PRICES.—Section 403(c) of the Agricultural Act of 1949 (7 U.S.C. 1423(c)) is amended by striking "1995" and inserting "2002".

(d) APPLICATION OF TERMS IN THE AGRICULTURAL ACT OF 1949.—Section 408(k)(3) of the Agricultural Act of 1949 (7 U.S.C. 1428(k)(3)) is amended by striking "1995" and inserting "2002".

(e) ACREAGE BASE AND YIELD SYSTEM.—Title V of the Agricultural Act of 1949 (7 U.S.C. 1461 et seq.) is amended—

(1) in subsections (c)(3) and (h)(2)(A) of section 503 (7 U.S.C. 1463), by striking "1997" each place it appears and inserting "2002";

(2) in paragraphs (1) and (2) of section 505(b) (7 U.S.C. 1465(b)), by striking "1997" each place it appears and inserting "2002"; and

(3) in section 509 (7 U.S.C. 1469), by striking "1997" and inserting "2002".

(f) PAYMENT LIMITATIONS.—Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended by striking "1997" each place it appears and inserting "2002".

(g) NORMALLY PLANTED ACREAGE.—Section 1001 of the Food and Agriculture Act of 1977 (7 U.S.C. 1309) is amended by striking "1995" each place it appears in subsections (a), (b)(1), and (c) and inserting "2002".

(h) OPTIONS PILOT PROGRAM.—The Options Pilot Program Act of 1990 (subtitle E of title XI of Public Law 101–624; 104 Stat. 3518; 7 U.S.C. 1421 note) is amended—

(1) in subsections (a) and (b) of section 1153, by striking "1995" each place it appears and inserting "2002"; and

(2) in section 1154(b)(1)(A), by striking "1995" each place it appears and inserting "2002".

(i) FOOD SECURITY WHEAT RESERVE.—Section 302(i) of the Food Security Wheat Reserve Act of 1980 (7 U.S.C. 1736f–1(i)) is amended by striking "1995" each place it appears and inserting "2002".

SEC. 110. CROP INSURANCE ADMINISTRATIVE FEE.

Section 508(b) of the Federal Crop Insurance Act (7 U.S.C. 1508) is amended—

(1) by striking paragraph (5); and

(2) by redesignating paragraphs (6) through (10) as paragraphs (5) through (9), respectively.

SEC. 111. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise specifically provided in this title, this title and the amendments made by this title shall apply beginning with the 1996 crop of an agricultural commodity.

(b) PRIOR CROPS.—Except as otherwise specifically provided and notwithstanding any other provision of law, this title and the amendments made by this title shall not affect the authority of the Secretary of Agriculture to carry out a price support, production adjustment, or payment program for—

(1) any of the 1991 through 1995 crops of an agricultural commodity established under a provision of law as in effect immediately before the enactment of this Act; or

(2) the 1996 crop of an agricultural commodity established under section 406(b) of the Agricultural Act of 1949 (7 U.S.C. 1426(b)).

TITLE II—CONSERVATION

SEC. 201. CONSERVATION RESERVE PROGRAM.

Section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) is amended by striking "1995" each place it appears in subsections (a) and (d) and inserting "2002".

SEC. 202. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

Chapter 2 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3838 et seq.) is amended to read as follows:

"CHAPTER 2—ENVIRONMENTAL QUALITY INCENTIVES PROGRAM

"SEC. 1238. DEFINITIONS.

"In this chapter:

"(1) LAND MANAGEMENT PRACTICE.—The term 'land management practice' means nutrient or manure management, integrated

pest management, irrigation management, tillage or residue management, grazing management, or another land management practice the Secretary determines is needed to protect soil, water, or related resources in the most cost efficient manner.

"(2) LARGE CONFINED LIVESTOCK OPERATION.—The term 'large confined livestock operation' means a farm or ranch that—

"(A) is a confined animal feeding operation; and

"(B) has more than—

"(i) 700 mature dairy cattle;

"(ii) 1,000 beef cattle;

"(iii) 100,000 laying hens or broilers;

"(iv) 55,000 turkeys;

"(v) 2,500 swine; or

"(vi) 10,000 sheep or lambs.

"(3) LIVESTOCK.—The term 'livestock' means mature dairy cows, beef cattle, laying hens, broilers, turkeys, swine, sheep, or lambs.

"(4) OPERATOR.—The term 'operator' means a person who is engaged in crop or livestock production (as defined by the Secretary).

"(5) STRUCTURAL PRACTICE.—The term 'structural practice' means the establishment of an animal waste management facility, terrace, grassed waterway, contour grass strip, filterstrip, permanent wildlife habitat, or another structural practice that the Secretary determines is needed to protect soil, water, or related resources in the most cost effective manner.

"SEC. 1238A. ESTABLISHMENT AND ADMINISTRATION OF ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—During the 1996 through 2006 fiscal years, the Secretary shall enter into contracts with operators to provide technical assistance, cost-sharing payments, and incentive payments to operators, who enter into contracts with the Secretary, through an environmental quality incentives program in accordance with this chapter.

"(2) CONSOLIDATION OF EXISTING PROGRAMS.—In establishing the environmental quality incentives program authorized under this chapter, the Secretary shall combine into a single program the functions of—

"(A) the agricultural conservation program authorized by sections 7 and 8 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590g and 590h);

"(B) the Great Plains conservation program established under section 16(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590p(b));

"(C) the water quality incentives program established under this chapter; and

"(D) the Colorado River Basin salinity control program established under section 202(c) of the Colorado River Basin Salinity Control Act (43 U.S.C. 1592(c)).

"(b) APPLICATION AND TERM.—

"(1) IN GENERAL.—A contract between an operator and the Secretary under this chapter may—

"(A) apply to 1 or more structural practices or 1 or more land management practices, or both; and

"(B) have a term of not less than 5, nor more than 10, years, as determined appropriate by the Secretary, depending on the practice or practices that are the basis of the contract.

"(2) CONTRACT EFFECTIVE DATE.—A contract between an operator and the Secretary under this chapter shall become effective on October 1st following the date the contract is fully entered into.

"(c) COST-SHARING AND INCENTIVE PAYMENTS.—

"(1) COST-SHARING PAYMENTS.—

"(A) IN GENERAL.—The Federal share of cost-sharing payments to an operator proposing to implement 1 or more structural practices shall not be more than 75 percent of the projected cost of the practice, as determined by the Secretary, taking into consideration any payment received by the operator from a State or local government.

"(B) LIMITATION.—An operator of a large confined livestock operation shall not be eligible for cost-sharing payments to construct an animal waste management facility.

"(C) OTHER PAYMENTS.—An operator shall not be eligible for cost-sharing payments for structural practices on eligible land under this chapter if the operator receives cost-sharing payments or other benefits for the same land under chapter 1 or 3.

"(2) INCENTIVE PAYMENTS.—The Secretary shall make incentive payments in an amount and at a rate determined by the Secretary to be necessary to encourage an operator to perform 1 or more land management practices.

"(d) TECHNICAL ASSISTANCE.—

"(1) FUNDING.—The Secretary shall allocate funding under this chapter for the provision of technical assistance according to the purpose and projected cost for which the technical assistance is provided in a fiscal year. The allocated amount may vary according to the type of expertise required quantity of time involved, and other factors as determined appropriate by the Secretary. Funding shall not exceed the projected cost to the Secretary of the technical assistance provided in a fiscal year.

"(2) OTHER AUTHORITIES.—The receipt of technical assistance under this chapter shall not affect the eligibility of the operator to receive technical assistance under other authorities of law available to the Secretary.

"(e) FUNDING.—The Secretary shall use to carry out this chapter not less than—

"(1) $200,000,000 for fiscal year 1997; and

"(2) $250,000,000 for each of fiscal years 1998 through 2002.

"(f) COMMODITY CREDIT CORPORATION.—The Secretary may use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this subchapter.

"SEC. 1238B. CONSERVATION PRIORITY AREAS.

"(a) IN GENERAL.—The Secretary shall designate watersheds or regions of special environmental sensitivity, including the Chesapeake Bay region (located in Pennsylvania, Maryland, and Virginia), the Great Lakes region, the Long Island Sound region, prairie pothole region (located in North Dakota, South Dakota, and Minnesota), Rainwater Basin (located in Nebraska), and other areas the Secretary considers appropriate, as conservation priority areas that are eligible for enhanced assistance through the programs established under this chapter and chapter 1.

"(b) APPLICABILITY.—A designation shall be made under this section if an application is made by a State agency and agricultural practices within the watershed or region pose a significant threat to soil, water, and related natural resources, as determined by the Secretary.

"SEC. 1238C. EVALUATION OF OFFERS AND PAYMENTS.

"(a) REGIONAL PRIORITIES.—The Secretary shall provide technical assistance, cost-sharing payments, and incentive payments to operators in a region, watershed, or conservation priority area under this chapter based on the significance of soil, water, and related natural resources problems in the region, watershed, or area, and the structural practices or land management practices that best address the problems, as determined by the Secretary.

"(b) MAXIMIZATION OF ENVIRONMENTAL BENEFITS.—

"(1) IN GENERAL.—In providing technical assistance, cost-sharing payments, and incentive payments to operators in regions, watersheds, or conservation priority areas under this chapter, the Secretary shall accord a higher priority to assistance and payments that maximize environmental benefits per dollar expended.

"(2) STATE OR LOCAL CONTRIBUTIONS.—The Secretary shall accord a higher priority to operators whose agricultural operations are located within watersheds, regions, or conservation priority areas in which State or local governments have provided, or will provide, financial or technical assistance to the operators for the same conservation or environmental purposes.

"SEC. 1238D. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM PLAN.

"(a) IN GENERAL.—Prior to approving cost-share or incentive payments authorized under this chapter, the Secretary shall require the preparation and evaluation of an environmental quality incentives program plan described in subsection (b), unless the Secretary determines that such a plan is not necessary to evaluate the application for the payments.

"(b) TERMS.—An environmental quality incentives program plan shall include (as determined by the Secretary) a description of relevant—

"(1) farming or ranching practices on the farm;

"(2) characteristics of natural resources on the farm;

"(3) specific conservation and environmental objectives to be achieved including those that will assist the operator in complying with Federal and State environmental laws;

"(4) dates for, and sequences of, events for implementing the practices for which payments will be received under this chapter; and

"(5) information that will enable evaluation of the effectiveness of the plan in achieving the conservation and environmental objectives, and that will enable evaluation of the degree to which the plan has been implemented.

"SEC. 1238E. LIMITATION ON PAYMENTS.

"(a) PAYMENTS.—The total amount of cost-share and incentive payments paid to a person under this chapter may not exceed—

"(1) $10,000 for any fiscal year; or

"(2) $50,000 for any multiyear contract.

"(b) REGULATIONS.—The Secretary shall issue regulations that are consistent with section 1001 for the purpose of—

"(1) defining the term 'person' as used in subsection (a); and

"(2) prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitations contained in subsection (a).".

TITLE III—NUTRITION ASSISTANCE

SEC. 301. FOOD STAMP PROGRAM.

(a) EMPLOYMENT AND TRAINING.—Section 16(h)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2025(h)(1)) is amended by striking "1995" each place it appears and inserting "2002".

(b) AUTHORIZATION OF PILOT PROJECTS.—The last sentence of section 17(b)(1)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2026(b)(1)(A)) is amended by striking "1995" and inserting "2002".

(c) AUTHORIZATION FOR APPROPRIATIONS.—The first sentence of section 18(a)(1) of the

Food Stamp Act of 1977 (7 U.S.C. 2027(a)(1)) is amended by striking "1995" and inserting "2002".

(d) REAUTHORIZATION OF PUERTO RICO NUTRITION ASSISTANCE PROGRAM.—The first sentence of section 19(a)(1)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2028(a)(1)(A)) is amended by striking "$974,000,000" and all that follows through "fiscal year 1995" and inserting "$1,143,000,000 for each of fiscal years 1995 and 1996, $1,182,000,000 for fiscal year 1997, $1,223,000,000 for fiscal year 1998, $1,266,000,000 for fiscal year 1999, $1,310,000,000 for fiscal year 2000, $1,357,000,000 for fiscal year 2001, and $1,404,000,000 for fiscal year 2002".

SEC. 302. COMMODITY DISTRIBUTION PROGRAM; COMMODITY SUPPLEMENTAL FOOD PROGRAM.

(a) REAUTHORIZATION.—The first sentence of section 4(a) of the Agriculture and Consumer Protection Act of 1973 (Public Law 93–86; 7 U.S.C. 612c note) is amended by striking "1995" and inserting "2002".

(b) FUNDING.—Section 5 of the Agriculture and Consumer Protection Act of 1973 (Public Law 93–86; 7 U.S.C. 612c note) is amended—

(1) in subsection (a)(2), by striking "1995" and inserting "2002"; and

(2) in subsection (d)(2), by striking "1995" and inserting "2002".

SEC. 303. EMERGENCY FOOD ASSISTANCE PROGRAM.

(a) REAUTHORIZATION.—The first sentence of section 204(a)(1) of the Emergency Food Assistance Act of 1983 (Public Law 98–8; 7 U.S.C. 612c note) is amended by striking "1995" and inserting "2002".

(b) PROGRAM TERMINATION.—Section 212 of the Emergency Food Assistance Act of 1983 (Public Law 98–8; 7 U.S.C. 612c note) is amended by striking "1995" and inserting "2002".

(c) REQUIRED PURCHASES OF COMMODITIES.—Section 214 of the Emergency Food Assistance Act of 1983 (Public Law 98–8; 7 U.S.C. 612c note) is amended—

(1) in the first sentence of subsection (a), by striking "1995" and inserting "2002"; and

(2) in subsection (e), by striking "1995" each place it appears and inserting "2002".

SEC. 304. SOUP KITCHENS PROGRAM.

Section 110 of the Hunger Prevention Act of 1988 (Public Law 100–435; 7 U.S.C. 612c note) is amended—

(1) in the first sentence of subsection (a), by striking "1995" and inserting "2002"; and

(2) in subsection (c)(2)—

(A) in the paragraph heading, by striking "1995" and inserting "2002"; and

(B) by striking "1995" each place it appears and inserting "2002".

SEC. 305. NATIONAL COMMODITY PROCESSING.

The first sentence of section 1114(a)(2)(A) of the Agriculture and Food Act of 1981 (7 U.S.C. 1431e(2)(A)) is amended by striking "1995" and inserting "2002".

MIKULSKI AMENDMENTS NOS. 3126–3127

(Ordered to lie on the table.)

Ms. MIKULSKI submitted two amendments intended to be proposed by her to the bill S. 1541, supra; as follows:

AMENDMENT NO. 3126

At the appropriate place insert: "Whenever the domestic price of raw sugar exceeds 120% of the loan rate, then the Secretary of Agriculture shall permit the importation of additional raw cane sugar from exiting quota holders until he determines that such conditions no longer prevail in the market."

AMENDMENT NO. 3127

At the appropriate place insert: "Whenever the domestic price of raw sugar exceeds 120% of the loan rate, then the Secretary of Agriculture shall permit the importation of additional raw cane sugar from existing quota holders until he determines that such conditions no longer prevail in the market."

BUMPERS (AND PRYOR) AMENDMENT NO. 3128

(Ordered to lie on the table.)

Mr. BUMPERS (for himself and Mr. PRYOR) submitted an amendment intended to be proposed by them to the bill S. 1541, supra; as follows:

At the appropriate place add the following: "Any program authorized to be administered by the Secretary of Agriculture on January 1, 1995, shall be deemed authorized under the same terms and conditions until December 31, 1996, unless other terms and conditions are established by law."

PRYOR (AND BUMPERS) AMENDMENT NO. 3129

(Ordered to lie on the table.)

Mr. PRYOR (for himself and Mr. BUMPERS) submitted an amendment intended to be proposed by them to the bill S. 2541 supra; as follows:

Strike all after the first word and insert in lieu thereof:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Agricultural Competitiveness Act of 1995".

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

Sec. 1. Short title; table of contents.
Sec. 2. Findings, policy, and purpose.
Sec. 3. Sense of Congress on ending the Federal deficit.

TITLE I—WHEAT

Sec. 101. Loans, payments, and acreage reduction programs for the 1996 through 2002 crops of wheat.
Sec. 102. Nonapplicability of certificate requirements.
Sec. 103. Suspension of land use, wheat marketing allocation, and producer certificate provisions.
Sec. 104. Suspension of certain quota provisions.
Sec. 105. Nonapplicability of section 107 of the Agricultural Act of 1949.

TITLE II—FEED GRAINS

Sec. 201. Loans, payments, and acreage reduction programs for the 1996 through 2002 crops of feed grains.
Sec. 202. Nonapplicability of section 105 of the Agricultural Act of 1949.
Sec. 203. Recourse loan program for silage.

TITLE III—COTTON

Sec. 301. Loans, payments, and acreage reduction programs for the 1996 through 2002 crops of upland cotton.
Sec. 302. Extra long staple cotton program.
Sec. 303. Suspension of base acreage allotments, marketing quotas, and related provisions.
Sec. 304. Miscellaneous cotton provisions.
Sec. 305. Skiprow practices.
Sec. 306. Preliminary allotments for 2003 crop of upland cotton.
Sec. 307. Cottonseed and cottonseed oil.
Sec. 308. Cotton classification services.

TITLE IV—RICE

Sec. 401. Loans, payments, and acreage reduction programs for the 1996 through 2002 crops of rice.

TITLE V—OILSEEDS

Sec. 501. Loans and payments for oilseeds for 1996 through 2002 marketing years.

TITLE VI—PEANUTS

Sec. 601. Suspension of marketing quotas and acreage allotments.
Sec. 602. National poundage quotas and acreage allotments.
Sec. 603. Sale, lease, or transfer of farm poundage quota.
Sec. 604. Marketing penalties; disposition of additional peanuts.
Sec. 605. Experimental and research programs for peanuts.
Sec. 606. Price support program.
Sec. 607. Reports and records.
Sec. 608. Suspension of certain price support provisions.
Sec. 609. Regulations.

TITLE VII—SUGAR

Sec. 701. Sugar price support.
Sec. 702. Marketing assessment bases for processors and refiners.
Sec. 703. Prevention of sugar loan forfeitures.

TITLE VIII—GENERAL COMMODITY PROVISIONS

Subtitle A—Amendments to Agricultural Act of 1949

Sec. 801. Deficiency and land diversion payments.
Sec. 802. Adjustment of established prices.
Sec. 803. Adjustment of support prices.
Sec. 804. Program option for 2003 and subsequent crops.
Sec. 805. Application of terms in the Agricultural Act of 1949.
Sec. 806. Double cropping.
Sec. 807. Acreage base and yield system.

Subtitle B—Miscellaneous Commodity Provisions

Sec. 811. Payment limitations.
Sec. 812. Normally planted acreage.
Sec. 813. Normal supply.
Sec. 814. Determinations of the Secretary.
Sec. 815. Options pilot program.
Sec. 816. National Agricultural Cost of Production Standards Review Board.

Subtitle C—Conforming Amendments

Sec. 821. Conforming amendments.

Subtitle D—Application

Sec. 831. Application.

SEC. 2. FINDINGS, POLICY, AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1)(A) a sound and prosperous economy in the United States is dependent on American agriculture and related industries, including producers, processors, handlers, manufacturers, marketers, transporters, and the banking and credit industry;

(B) American agriculture and related industries account for over 21,000,000 jobs and approximately 16 percent, or over $1,000,000,000,000, of the gross domestic product; and

(C) because of the combined effort of American agriculture and related industries, consumers in the United States enjoy a dependable supply of food and fiber at fair prices;

(2)(A) the future of American agriculture is dependent on the continued viability of the American agricultural producer, the underpinning of the agricultural economy; and

(B) agricultural producers must receive a fair return on their productivity and investment in an industry characterized by continued subsidized foreign competition and wide

fluctuations in production and prices due to weather and related factors;

(3)(A) one of the essential elements of a sound agricultural economy is the ability of the United States to compete in the world market;

(B) agricultural exports are expected to reach nearly $50,000,000,000 in 1995 and contribute about $20,000,000,000 to the United States balance of trade; and

(C) agricultural exports alone account for over 1,000,000 American jobs; and

(4)(A) Commodity Credit Corporation outlays for farm programs have declined from a high of approximately $26,000,000,000 for fiscal year 1986 to less than $9,000,000,000 for fiscal year 1995, a reduction of over 65 percent that is unique among the many mandatory spending programs of the Federal Government; and

(B) according to the Congressional Budget Office, farm program outlays are projected to remain below the outlay level for fiscal year 1995 for the next 5 years and continue to decline by nearly 8 percent, even if no changes are made in current law for existing farm programs.

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

(1) continued Federal Government support is necessary to provide stability for American agricultural producers to—

(A) enable the producers to continue to provide consumers with a steady and dependable supply of food and fiber at fair prices;

(B) maintain the competitiveness of the United States in the world market; and

(C) otherwise preserve the underpinnings of a sound agricultural economy; and

(2) to meet the objective of achieving a balanced budget for the Federal Government in a manner consistent with paragraph (1), reductions in farm program spending should be made in a fair and equitable manner.

(c) PURPOSE.—The purpose of this Act is to establish agricultural price support and production adjustment programs for the 1996 through 2002 crop years that provide a structure for a sound agricultural economy in a manner consistent with subsection (b).

SEC. 3. SENSE OF CONGRESS ON ENDING THE FEDERAL DEFICIT.

It is the sense of Congress that—

(1) the continuation of significant Federal budgetary deficits harms the economic well-being of the United States and is detrimental to the development of sound, long-term agricultural policy;

(2) agricultural price support and production adjustment programs are necessary for the continued economic health of United States agriculture, which must compete in international markets against subsidized foreign competition; and

(3) agricultural price support and production adjustment programs should be—

(A) implemented, to the maximum extent practicable, in a manner that is consistent with the primary goal of the concurrent resolution on the budget for fiscal year 1996 (H.Con.Res. 67, agreed to June 29, 1995) to end Federal budget deficits; and

(B) modified, as necessary, to ensure that the programs comply with applicable budget reconciliation instructions in the concurrent resolution that are designed to end Federal budget deficits, in a manner consistent with section 306 of the concurrent resolution.

TITLE I—WHEAT

SEC. 101. LOANS, PAYMENTS, AND ACREAGE REDUCTION PROGRAMS FOR THE 1996 THROUGH 2002 CROPS OF WHEAT.

Section 107B of the Agricultural Act of 1949 (7 U.S.C. 1445b–3a) is amended to read as follows:

"SEC. 107B. LOANS, PAYMENTS, AND ACREAGE REDUCTION PROGRAMS FOR THE 1996 THROUGH 2002 CROPS OF WHEAT.

"(a) LOANS AND PURCHASES.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the Secretary shall make available to producers on a farm loans and purchases for each of the 1996 through 2002 crops of wheat produced on the farm at such level as the Secretary determines will maintain the competitive relationship of wheat to other grains in domestic and export markets after taking into consideration the cost of producing wheat, supply and demand conditions, and world prices for wheat.

"(2) MINIMUM LOAN AND PURCHASE LEVEL.—Except as provided in paragraph (3), the loan and purchase level determined under paragraph (1) shall be not less than 85 percent of the simple average price received by producers of wheat, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of wheat, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period, except that the loan and purchase level for a crop determined under this paragraph may not be reduced by more than 5 percent from the level determined for the preceding crop.

"(3) MARKETING LOANS.—

"(A) IN GENERAL.—The Secretary shall permit the producers on a farm to repay a loan made under this subsection for a crop at a level (except as provided in subparagraph (C)) that is the lesser of—

"(i) the loan level determined for the crop; and

"(ii) the prevailing world market price for wheat (adjusted to United States quality and location), as determined by the Secretary.

"(B) PREVAILING WORLD MARKET PRICE.—The Secretary shall prescribe by regulation—

"(i) a formula to determine the prevailing world market price for wheat, adjusted to United States quality and location; and

"(ii) a mechanism by which the Secretary shall announce periodically the prevailing world market price for wheat.

"(C) ALTERNATIVE REPAYMENT RATES.—For each of the 1996 through 2002 crops of wheat, if the world market price for wheat (adjusted to United States quality and location), as determined by the Secretary, is less than the loan level determined for the crop, the Secretary may permit the producers on a farm to repay a loan made under this subsection for a crop at such level (not in excess of the loan level determined for the crop) as the Secretary determines will—

"(i) minimize potential loan forfeitures;

"(ii) minimize the accumulation of wheat stocks by the Federal Government;

"(iii) minimize the cost incurred by the Federal Government in storing wheat; and

"(iv) allow wheat produced in the United States to be marketed freely and competitively, both domestically and internationally.

"(4) SIMPLE AVERAGE PRICE.—For purposes of this section, the simple average price received by producers for the immediately preceding marketing year shall be based on the latest information available to the Secretary at the time of the determination.

"(b) LOAN DEFICIENCY PAYMENTS.—

"(1) IN GENERAL.—For each of the 1996 through 2002 crops of wheat, the Secretary may make payments (referred to in this section as 'loan deficiency payments') available to producers who, although eligible to obtain a loan or an agreement for purchase under subsection (a), agree to forgo obtaining the loan or agreement in return for payments under this subsection.

"(2) COMPUTATION.—A payment under this subsection shall be computed by multiplying—

"(A) the loan payment rate; and

"(B) the quantity of wheat the producers on a farm are eligible to place under loan (or obtain a purchase agreement) but for which the producers forgo obtaining the loan or agreement in return for payments under this subsection.

"(3) LOAN PAYMENT RATE.—For purposes of this subsection, the loan payment rate shall be the amount by which—

"(A) the loan level determined for the crop under subsection (a); exceeds

"(B) the level at which a loan may be repaid under subsection (a).

"(c) PAYMENTS.—

"(1) DEFICIENCY PAYMENTS.—

"(A) IN GENERAL.—The Secretary shall make available to producers payments (referred to in this section as 'deficiency payments') for each of the 1996 through 2002 crops of wheat in an amount computed by multiplying—

"(i) the payment rate;

"(ii) the payment acres for the crop; and

"(iii) the farm program payment yield established for the crop for the farm.

"(B) PAYMENT RATE.—

"(i) IN GENERAL.—The payment rate for each of the 1996 through 2002 crops of wheat shall be the amount by which the established price for the crop of wheat exceeds the higher of—

"(I) the lesser of—

"(aa) the national weighted average market price received by producers during the marketing year for the crop, as determined by the Secretary; and

"(bb) the national weighted average market price received by producers during the first 5 months of the marketing year for the crop, as determined by the Secretary, plus 10 cents per bushel; and

"(II) the loan level determined for the crop.

"(ii) MINIMUM ESTABLISHED PRICE.—The established price for wheat shall not be less than $4.00 per bushel for each of the 1996 through 2002 crops.

"(C) PAYMENT ACRES.—Payment acres for a crop shall be the lesser of—

"(i) the number of acres planted to the crop for harvest within the permitted acreage (as defined in subsection (e)(2)(D)(ii)); or

"(ii) 75 percent of the crop acreage base for the crop for the farm less the quantity of reduced acreage (as defined in subsection (e)(2)(D)(ii)).

"(D) 0/85 PROGRAM.—

"(i) IN GENERAL.—If an acreage limitation program under subsection (e)(2) is in effect for a crop of wheat and the producers on a farm devote a portion of the maximum payment acres of the farm for wheat as calculated under subparagraph (C)(ii) equal to more than 15 percent (except as provided in clause (vii)) of the wheat acreage of the farm for the crop to conservation uses (except as provided in subparagraph (E))—

"(I) the portion of the maximum payment acres of the farm in excess of 15 percent (except as provided in clause (vii)) of the acreage devoted to conservation uses (except as provided in subparagraph (E)) shall be considered to be planted to wheat for the purpose of determining the acreage on the farm required to be devoted to conservation uses in accordance with subsection (e)(2)(D); and

"(II) the producers shall be eligible for payments under this paragraph with respect to the acreage.

"(ii) DEFICIENCY PAYMENTS.—Notwithstanding any other provision of this section, any producers on a farm who devote a portion of the maximum payment acres of the farm for wheat to conservation uses (or other uses as provided in subparagraph (E)) under this subparagraph shall receive deficiency payments on the acreage that is considered to be planted to wheat and eligible for payments under this subparagraph for the crop at a per-bushel rate established by the Secretary, except that the rate may not be established at less than the projected deficiency payment rate for the crop, as determined by the Secretary. The projected payment rate for the crop shall be announced by the Secretary prior to the period during which wheat producers may agree to participate in the program for the crop.

"(iii) ADVERSE EFFECT ON AGRIBUSINESS AND OTHER INTERESTS.—The Secretary shall carry out this subparagraph in such a manner as to minimize the adverse effect on agribusiness and other agriculturally related economic interests within any county, State, or region. In carrying out this subparagraph, the Secretary may restrict the total quantity of wheat acreage that may be taken out of production under this subparagraph, taking into consideration the total quantity of acreage that has or will be removed from production under other price support, production adjustment, or conservation program activities. No restrictions on the quantity of acreage that may be taken out of production in accordance with this subparagraph in a crop year shall be imposed in the case of a county in which producers were eligible to receive disaster emergency loans under section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961) as a result of a disaster that occurred during the crop year.

"(iv) CROP ACREAGE AND PAYMENT YIELD.—The wheat crop acreage base and wheat farm program payment yield of the farm shall not be reduced because of the fact that a portion of the permitted acreage for wheat for the farm was devoted to conserving uses (except as provided in subparagraph (E)) under this subparagraph.

"(v) LIMITATION.—Other than as provided in clauses (i) through (iv), payments may not be made under this paragraph for any crop on a greater acreage than the acreage actually planted to wheat.

"(vi) CONSERVATION USE ACREAGE UNDER OTHER PROGRAMS.—Any acreage considered to be planted to wheat in accordance with clauses (i) and (iv) may not also be designated as conservation use acreage for the purpose of fulfilling any provision under any acreage limitation or land diversion program requiring that the producers devote a specified quantity of acreage to conservation uses.

"(vii) EXCEPTIONS TO 0/85.—In the case of each of the 1996 through 2002 crops of wheat, producers on a farm shall be eligible to receive deficiency payments as provided in clause (ii) if an acreage limitation program under subsection (e) is in effect for the crop and the producers—

"(I)(aa) have been determined by the Secretary (in accordance with section 503(c)) to be prevented from planting the crop, or to have incurred a reduced yield for the crop, because of a natural disaster; and

"(bb) elect to devote a portion of the maximum payment acres for wheat (as calculated under subparagraph (C)(ii)) equal to more than 8 percent of the wheat acreage to conservation uses; or

"(II) elect to devote a portion of the maximum payment acres for wheat (as calculated under subparagraph (C)(ii)) equal to more than 8 percent of the wheat acreage, to alternative crops as provided in subparagraph (E).

"(E) ALTERNATIVE CROPS.—

"(i) INDUSTRIAL AND OTHER CROPS.—The Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (D) to be devoted to sweet sorghum, guar, castor beans, plantago ovato, triticale, rye, millet, mung beans, commodities for which no substantial domestic production or market exists but that could lead to industrial raw material being imported, or likely to be imported, into the United States, or commodities grown for experimental purposes (including kenaf and milkweed), subject to the following sentence. The Secretary may permit the acreage to be devoted to the production only if the Secretary determines that the production is—

"(I) not likely to increase the cost of the price support program; and

"(II) needed to provide an adequate supply of the commodity, or, in the case of a commodity for which no substantial domestic production or market exists but that could yield industrial raw materials, the production is needed to encourage domestic manufacture of the raw material and could lead to increased industrial use of the raw material to the long-term benefit of United States industry.

"(ii) OILSEEDS.—The Secretary shall permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (D) to be devoted to sunflowers, rapeseed, canola, safflower, flaxseed, mustard seed, sesame, crambe, or other minor oilseeds designated by the Secretary (excluding soybeans). In carrying out this clause, the Secretary shall provide that, to receive payments under subparagraph (D), the producers shall agree to forgo eligibility to receive a loan under section 205 for the crop of any such oilseed produced on the farm.

"(iii) DOUBLE CROPPING.—The Secretary shall permit, subject to such terms and conditions as the Secretary may prescribe, all or any portion of the acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (D) that is devoted to an industrial, oilseed, or other crop pursuant to clause (i) or (ii) to be subsequently planted during the same crop year to any crop described in subparagraph (B), (C), or (D) of section 504(b)(1). The planting of soybeans as the subsequently planted crop shall be limited to farms determined by the Secretary to have an established history of double cropping soybeans during at least 3 of the preceding 5 years. In carrying out this clause, the Secretary shall require producers to agree to forego eligibility to receive loans under this Act for the crop of the subsequently planted crop that is produced on a farm under this clause.

"(2) CROP INSURANCE REQUIREMENT.—As a condition of eligibility for wheat loans, purchases, and payments, the producers on a farm shall obtain catastrophic risk protection insurance coverage in accordance with section 427.

"(d) PAYMENT YIELDS.—The farm program payment yields for farms for each crop of wheat under this section shall be determined under title V.

"(e) ACREAGE REDUCTION PROGRAMS.—

"(1) IN GENERAL.—

"(A) ESTABLISHMENT.—Notwithstanding any other provision of this Act, if the Secretary determines that the total supply of wheat, in the absence of an acreage limitation program, will be excessive taking into account the need for an adequate carry-over to maintain reasonable and stable supplies and prices and to meet a national emergency, the Secretary may provide for any crop of wheat an acreage limitation program as described in paragraph (2).

"(B) AGRICULTURAL RESOURCES CONSERVATION PROGRAM.—In making a determination under subparagraph (A), the Secretary shall take into consideration the number of acres placed in the agricultural resources conservation program established under subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3830 et seq.).

"(C) ANNOUNCEMENTS.—If the Secretary elects to implement an acreage limitation program for any crop year, the Secretary shall announce the program not later than the June 1 preceding the calendar year in which the crop is harvested, except that in the case of the 1996 crop, the Secretary shall announce the program as soon as practicable after the date of enactment of the Agricultural Competitiveness Act of 1995.

"(D) ADJUSTMENTS.—Not later than July 31 of the year preceding the year in which the crop is harvested, the Secretary may make adjustments in the program announced under subparagraph (C) if the Secretary determines that there has been a significant change in the total supply of wheat since the program was first announced.

"(E) COMPLIANCE.—As a condition of eligibility for loans, purchases, and payments for any such crop of wheat, except as provided in subsections (f) and (g) and section 504, the producers on a farm shall comply with the terms and conditions of the acreage limitation program and, if applicable, a land diversion program as provided in paragraph (5).

"(F) ACREAGE LIMITATION PROGRAMS.—If the Secretary estimates for a marketing year for the crop that the ratio of ending stocks of wheat to total disappearance of wheat for the preceding marketing year will be—

"(i) more than 40 percent, the Secretary shall provide for an acreage limitation program (as described in paragraph (2)) under which the acreage planted to wheat for harvest on a farm is limited to the wheat crop acreage base for the farm for the crop reduced by not less than 10 percent nor more than 20 percent; or

"(ii) equal to or less than 40 percent, the Secretary may provide for such an acreage limitation program under which the acreage planted to wheat for harvest on a farm is limited to the wheat crop acreage base for the farm for the crop reduced by not more than 15 percent.

"(G) DEFINITION OF TOTAL DISAPPEARANCE.—In this paragraph, the term 'total disappearance' means all wheat utilization, including total domestic, total export, and total residual disappearance.

"(2) ACREAGE LIMITATION PROGRAM.—

"(A) PERCENTAGE REDUCTIONS.—Except as provided in paragraph (3), if a wheat acreage limitation program is announced under paragraph (1), the limitation shall be achieved by applying a uniform percentage reduction (from 0 to 20 percent) to the wheat crop acreage base for the crop for each wheat-producing farm.

"(B) COMPLIANCE.—Except as provided in subsection (g) and section 504, producers who knowingly produce wheat in excess of the

permitted acreage for wheat for the farm shall be ineligible for wheat loans, purchases, and payments with respect to the farm.

"(C) CROP ACREAGE BASES.—Wheat crop acreage bases for each crop of wheat shall be determined under title V.

"(D) ACREAGE DEVOTED TO CONSERVATION USES.—

"(i) IN GENERAL.—A number of acres on the farm shall be devoted to conservation uses, in accordance with regulations issued by the Secretary.

"(ii) NUMBER.—The number shall be determined by multiplying the wheat crop acreage base by the percentage reduction required by the Secretary. The number of acres so determined is referred to in this section as 'reduced acreage'. The remaining acreage is referred to in this section as 'permitted acreage'.

"(iii) ADJUSTMENT.—Permitted acreage may be adjusted by the Secretary as provided in paragraph (3) and in section 504.

"(E) INDIVIDUAL FARM PROGRAM ACREAGE.—Except as otherwise provided in subsection (c), the individual farm program acreage shall be the acreage planted on the farm to wheat for harvest within the permitted acreage for wheat for the farm as established under this paragraph.

"(F) PLANTING DESIGNATED CROPS ON REDUCED ACREAGE.—

"(i) DEFINITION OF DESIGNATED CROP.—In this subparagraph, the term 'designated crop' means a crop specified in section 504(b)(1), excluding any program crop as defined in section 502(3).

"(ii) PLANTING DESIGNATED CROPS.—Subject to clause (iii), the Secretary may permit producers on a farm to plant a designated crop on not more than ½ of the reduced acreage on the farm.

"(iii) LIMITATIONS.—If the producers on a farm elect to plant a designated crop on reduced acreage under this subparagraph—

"(I) the amount of the deficiency payment that the producers are otherwise eligible to receive under subsection (c) shall be reduced, for each acre (or portion of an acre) that is planted to the designated crop, by an amount equal to the deficiency payment that would be made with respect to a number of acres of the crop that the Secretary considers appropriate, except that if the producers on the farm are participating in a program established for more than 1 program crop, the amount of the reduction shall be determined by prorating the reduction based on the acreage planted or considered planted on the farm to all of the program crops; and

"(II) the Secretary shall ensure that reductions in deficiency payments under subclause (I) are sufficient to ensure that this subparagraph will result in no additional cost to the Commodity Credit Corporation.

"(3) TARGETED OPTION PAYMENTS.—

"(A) IN GENERAL.—Notwithstanding any other provision of this section, if the Secretary implements an acreage limitation program with respect to any of the 1996 through 2002 crops of wheat, the Secretary may make available to producers on a farm adjustments in the level of deficiency payments that would otherwise be made available to the producers if the producers exercise the payment options provided in this paragraph.

"(B) PAYMENT OPTIONS.—If the Secretary elects to carry out this paragraph, the Secretary shall make the payment options specified in subparagraphs (C) and (D) available to producers who agree to make adjustments in the quantity of acreage diverted from the production of wheat under an acreage limitation program in accordance with this paragraph.

"(C) INCREASED ACREAGE LIMITATION OPTION.—

"(i) INCREASE IN ESTABLISHED PRICE.—If the Secretary elects to carry out this paragraph, the producers on a farm shall be eligible to receive an increase in the established price for wheat in accordance with clause (ii) if the producers agree to an increase in the acreage limitation percentage to be applied to the wheat acreage base of the producers above the acreage limitation percentage announced by the Secretary.

"(ii) METHOD OF CALCULATION.—For the purposes of calculating deficiency payments to be made available to producers who participate in the program under this paragraph, the Secretary shall increase the established price for wheat by an amount determined by the Secretary of not less than 0.5 percent, nor more than 1 percent, for each 1 percentage point increase in the acreage limitation percentage applied to the wheat acreage base of the producers.

"(iii) LIMITATION.—The acreage limitation percentage to be applied to the wheat acreage base of the producers shall not be increased by more than 15 percentage points above the acreage limitation percentage announced by the Secretary for the crop or above 25 percent total for the crop.

"(D) DECREASED ACREAGE LIMITATION OPTION.—

"(i) DECREASE IN ACREAGE LIMITATION REQUIREMENT.—If the Secretary elects to carry out this paragraph, the producers on a farm shall be eligible to decrease the acreage limitation percentage applicable to the wheat acreage base of the producers (as announced by the Secretary) if the producers agree to a decrease in the established price for wheat in accordance with clause (ii) for the purpose of calculating deficiency payments to be made available to the producers.

"(ii) METHOD OF CALCULATION.—For the purposes of calculating deficiency payments to be made available to producers who choose the option established under this subparagraph, the Secretary shall decrease the established price for wheat by an amount to be determined by the Secretary of not less than 0.5 percent, nor more than 1 percent, for each 1 percentage point decrease in the acreage limitation percentage applied to the wheat acreage base of the producers.

"(iii) LIMITATION.—The producers on a farm may not choose to decrease the acreage limitation percentage applicable to the wheat acreage base of the producers under this paragraph by more than ½ of the announced acreage limitation percentage.

"(E) PARTICIPATION AND PRODUCTION EFFECTS.—Notwithstanding any other provision of this paragraph, the Secretary shall, to the extent practicable, ensure that the program provided for in this paragraph does not have a significant effect on participation in the program established by this section or total production and is offered in such a manner that the Secretary determines will result in no additional budget outlays. The Secretary shall provide an analysis of the determination of the Secretary to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

"(4) ADMINISTRATION.—

"(A) PROTECTION FROM WEEDS AND EROSION.—The regulations issued by the Secretary under paragraph (2) with respect to acreage required to be devoted to conservation uses shall ensure protection of the acreage from weeds and wind and water erosion.

"(B) CONSERVING CROPS.—The Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of the acreage to be devoted to sweet sorghum, guar, sesame, castor beans, crambe, plantago ovato, triticale, rye, mung beans, milkweed, or other commodity, if the Secretary determines that the production is needed to provide an adequate supply of the commodity, is not likely to increase the cost of the price support program, and will not affect farm income adversely.

"(C) HAYING AND GRAZING.—

"(i) IN GENERAL.—Except as provided in clause (ii), haying and grazing of reduced acreage and acreage diverted from production under a land diversion program established under this subsection shall be permitted, except during any consecutive 5-month period that is established by the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) for a State. The 5-month period shall be established during the period beginning April 1, and ending October 31, of a year.

"(ii) NATURAL DISASTERS.—In the case of a natural disaster, the Secretary may permit unlimited haying and grazing on the acreage. The Secretary may not exclude irrigated or irrigable acreage not planted to alfalfa when exercising the authority under this clause.

"(D) WATER STORAGE USES.—

"(i) IN GENERAL.—The regulations issued by the Secretary under paragraph (2) with respect to acreage required to be devoted to conservation uses shall provide that land that has been converted to water storage uses shall be considered to be devoted to conservation uses if the land was devoted to wheat, feed grains, cotton, rice, or oilseeds in at least 3 of the immediately preceding 5 crop years. The land shall be considered to be devoted to conservation uses for the period that the land remains in water storage uses, but not to exceed 5 crop years subsequent to the conversion of the land to water storage uses.

"(ii) LIMITATIONS.—Land converted to water storage uses for the purposes of this subparagraph may not be devoted to any commercial use, including commercial fish production. The water stored on the land may not be ground water. The farm on which the land is located must have been irrigated with ground water during at least 1 of the preceding 5 crop years.

"(E) SUMMER FALLOW.—In determining the quantity of land to be devoted to conservation uses under an acreage limitation program with respect to land that has been farmed under summer fallow practices, as defined by the Secretary, the Secretary shall consider the effects of soil erosion and such other factors as the Secretary considers appropriate.

"(5) LAND DIVERSION PAYMENTS.—

"(A) IN GENERAL.—The Secretary may make land diversion payments to producers of wheat, whether or not an acreage limitation program for wheat is in effect, if the Secretary determines that the land diversion payments are necessary to assist in adjusting the total national acreage of wheat to desirable goals. The land diversion payments shall be made to producers who, to the extent prescribed by the Secretary, devote to approved conservation uses an acreage of cropland on the farm in accordance with land diversion contracts entered into by the Secretary with the producers.

"(B) AMOUNTS.—The amounts payable to producers under land diversion contracts may be determined through the submission

of bids for the contracts by producers in such manner as the Secretary may prescribe or through such other means as the Secretary determines appropriate. In determining the acceptability of contract offers, the Secretary shall take into consideration the extent of the diversion to be undertaken by the producers and the productivity of the acreage diverted.

"(C) LIMITATION ON DIVERTED ACREAGE.—The Secretary shall limit the total acreage to be diverted under agreements in any county or local community so as not to affect adversely the economy of the county or local community.

"(6) CONSERVATION PRACTICES.—

"(A) WILDLIFE FOOD PLOTS OR HABITAT.—The reduced acreage and additional diverted acreage may be devoted to wildlife food plots or wildlife habitat in conformity with standards established by the Secretary in consultation with wildlife agencies. The Secretary may pay an appropriate share of the cost of practices designed to carry out this subparagraph.

"(B) SOIL AND WATER CONSERVATION PRACTICES.—The Secretary may pay an appropriate share of the cost of approved soil and water conservation practices (including practices that may be effective for a number of years) established by the producers on a farm on acreage required to be devoted to conservation uses or on additional diverted acreage.

"(C) PUBLIC ACCESSIBILITY.—The Secretary may provide for an additional payment on the acreage in an amount determined by the Secretary to be appropriate in relation to the benefit to the general public if the producers on a farm agree to permit, without other compensation, access to all or such portion of the farm as the Secretary may prescribe by the general public, for hunting, trapping, fishing, and hiking, subject to applicable Federal and State regulations.

"(7) PARTICIPATION AGREEMENTS.—

"(A) IN GENERAL.—Producers on a farm desiring to participate in the program conducted under this subsection shall execute an agreement with the Secretary providing for the participation with respect to a crop year not later than such date as the Secretary may prescribe.

"(B) MODIFICATION OR TERMINATION.—The Secretary may, by mutual agreement with producers on a farm, modify or terminate any such agreement if the Secretary determines the action necessary because of an emergency created by drought or other disaster or to prevent or alleviate a shortage in the supply of agricultural commodities. The Secretary may modify the agreement under this subparagraph for the purpose of alleviating a shortage in the supply of agricultural commodities only if there has been a significant change in the estimated stocks of the commodity since the Secretary announced the final terms and conditions of the program for the crop of wheat.

"(8) SPECIAL OATS PLANTINGS.—In the case of a crop year for which the Secretary determines that projected domestic production of oats will not fulfill the projected domestic demand for oats, notwithstanding paragraphs (1) through (7), the Secretary—

"(A) may provide that any reduced acreage may be planted to oats for harvest;

"(B) may make program benefits (including loans, purchases, and payments) available under the annual program for oats under section 105B available to producers with respect to acreage planted to oats under this paragraph; and

"(C) shall not make program benefits other than the benefits specified in subparagraph (B) available to producers with respect to acreage planted to oats under this paragraph.

"(f) INVENTORY REDUCTION PAYMENTS.—

"(1) IN GENERAL.—The Secretary may make payments available to producers on a farm who meet the requirements of this subsection.

"(2) FORM.—The payments may be made in the form of marketing certificates.

"(3) PAYMENTS.—Payments under this subsection shall be determined in the manner provided in subsection (b).

"(4) ELIGIBILITY.—The producers on a farm shall be eligible to receive a payment under this subsection for a crop if the producers—

"(A) agree to forgo obtaining a loan or purchase agreement under subsection (a);

"(B) agree to forgo receiving payments under subsection (c);

"(C) do not plant wheat for harvest in excess of the crop acreage base reduced by ½ of any acreage required to be diverted from production under subsection (e); and

"(D) otherwise comply with this section.

"(g) PILOT VOLUNTARY PRODUCTION LIMITATION PROGRAM.—

"(1) IN GENERAL.—Effective for each of the 1996 through 2002 crops, if a wheat acreage limitation program or a land diversion program is announced under subsection (e) for a crop, the Secretary may carry out a pilot program in at least 15 counties in at least 2 States where producers express an interest in participating in the pilot program. Under the pilot program, the producers on a farm shall be considered to have met the requirements of the acreage limitation or land diversion program if the producers meet the requirements of the voluntary production limitation program established under this subsection.

"(2) LIMITATION ON MARKETING.—To comply with the voluntary production limitation program, the producers on a farm must agree not to market, barter, donate, or use on the farm (including use as feed for livestock) in a marketing year a quantity of wheat in excess of the wheat production limitation quantity for the farm for the marketing year.

"(3) PRODUCTION LIMITATION QUANTITY.—For purposes of this subsection, the wheat production limitation quantity for a farm for a marketing year for a crop shall equal the product obtained by multiplying—

"(A) the acreage permitted to be planted to wheat under the acreage reduction program or land diversion program in effect for the crop for the farm; and

"(B) the greater of—

"(i) the farm program payment yield for the farm; and

"(ii) the average of the yield per harvested acre for wheat for the farm for each of the 5 crop years immediately preceding the crop year during which the producers first participate in the program established under this subsection, excluding the crop years with the highest and lowest yield per harvested acre and any crop year in which the commodity was not planted on the farm.

"(4) TERMS AND CONDITIONS.—Producers on a farm who elect to participate in the program established under this subsection for a crop of wheat shall—

"(A) enter into an agreement with the Secretary providing that the producers shall comply with the program for the crop;

"(B) not plant program commodities for harvest in a quantity in excess of the sum of the crop acreage bases for the farm; and

"(C) be considered to have complied with the terms and conditions of the wheat acreage reduction program or land diversion program for the crop, even though the acreage planted to wheat on the farm exceeds the permitted acreage provided under the acreage reduction or land diversion program.

"(5) EXCESS PRODUCTION.—

"(A) IN GENERAL.—Any quantity of wheat produced in a crop year on a farm in excess of the production limitation quantity for the farm may be stored by the producers for a period of not to exceed 5 marketing years and may be used only in accordance with this paragraph.

"(B) MARKETING IN SUBSEQUENT YEAR.—

"(i) PARTICIPANTS IN PROGRAM.—Producers on a farm who are participating in the program established under this subsection may market, barter, or use a quantity of the excess wheat referred to in subparagraph (A) equal to the difference between the production limitation quantity for the farm for the crop year subsequent to the crop year in which the excess wheat is produced less the quantity of wheat produced on the farm during the crop year.

"(ii) PARTICIPANTS IN ACREAGE REDUCTION PROGRAM.—Producers on a farm who are participating in the program established under this subsection may market, barter, or use a quantity of the excess wheat referred to in subparagraph (A) in an amount that reflects the quantity of wheat that would be expected to be produced on acreage that the producers agree to devote to approved conservation uses (in excess of any acreage reduction or land diversion requirements) during a crop year, as determined by the Secretary.

"(6) DUTIES OF SECRETARY.—In carrying out the pilot program established under this subsection, the Secretary—

"(A) shall issue such regulations as are necessary to carry out the program;

"(B) may establish increased acreage reduction or land diversion requirements with respect to producers who have had excess wheat production in order to allow the producers to market, barter, or use the production in subsequent years;

"(C) shall take appropriate measures designed to prevent the circumvention of the program established under this subsection, including the imposition of penalties;

"(D) may require producers who participate in the program for a crop, but who fail to comply with the terms and conditions of the program, to refund all or a part of any deficiency payments received with respect to the crop;

"(E) may require the forfeiture to the Commodity Credit Corporation of any wheat that is produced in excess of the production limitation quantity and that is not marketed, bartered, or used within 5 marketing years; and

"(F) shall ensure equitable treatment for producers who participate in the pilot program if the Secretary allows increases (based on actual production levels) in the determination of farm program payment yields for wheat for the farm.

"(7) REPORT.—

"(A) IN GENERAL.—The Comptroller General shall prepare a report that evaluates the pilot program carried out under this subsection.

"(B) SUBMISSION.—The Comptroller General shall submit a copy of the report required by subparagraph (A) to the Committee on Agriculture of the House of Representatives, the Committee on Agriculture, Nutrition, and Forestry of the Senate, and the Secretary.

"(h) EQUITABLE RELIEF.—

"(1) LOANS, PURCHASES, AND PAYMENTS.—If the failure of a producer to comply fully with the terms and conditions of the program conducted under this section precludes the making of loans, purchases, and payments, the Secretary may, notwithstanding the failure, make the loans, purchases, and payments in such amounts as the Secretary determines are equitable in relation to the seriousness of the failure. The Secretary may consider whether the producer made a good faith effort to comply fully with the terms and conditions of the program in determining whether equitable relief is warranted under this paragraph.

"(2) DEADLINES AND PROGRAM REQUIREMENTS.—The Secretary may authorize the county and State committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) to waive or modify deadlines and other program requirements in cases in which lateness or failure to meet the other requirements does not affect adversely the operation of the program.

"(i) REGULATIONS.—The Secretary may issue such regulations as the Secretary determines necessary to carry out this section.

"(j) COMMODITY CREDIT CORPORATION.—The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

"(k) ASSIGNMENT OF PAYMENTS.—Section 8(g) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(g)) shall apply to payments made under this section.

"(l) SHARING OF PAYMENTS.—The Secretary shall provide for the sharing of payments made under this section for any farm among the producers on the farm on a fair and equitable basis.

"(m) TENANTS AND SHARECROPPERS.—In carrying out this section, the Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

"(n) CROSS-COMPLIANCE.—

"(1) IN GENERAL.—Compliance on a farm with the terms and conditions of any other commodity program, or compliance with crop acreage base requirements for any other commodity, may not be required as a condition of eligibility for loans, purchases, or payments under this section.

"(2) COMPLIANCE ON OTHER FARMS.—The Secretary may not require producers on a farm, as a condition of eligibility for loans, purchases, or payments under this section for the farm, to comply with the terms and conditions of the wheat program with respect to any other farm operated by the producers.

"(o) PUBLIC COMMENT ON WHEAT PROGRAM.—

"(1) IN GENERAL.—To ensure that producers and consumers of wheat are provided with reasonable opportunity to comment on the annual program determinations concerning the price support and acreage reduction program for each of the 1997 through 2002 crops of wheat, the Secretary shall request public comment regarding the wheat program in accordance with this subsection.

"(2) OPTIONS.—Not less than 60 days before the program is announced for a crop of wheat under this section, the Secretary shall propose for public comment various program options for the crop of wheat.

"(3) ANALYSES.—Each option proposed by the Secretary shall be accompanied by an analysis that includes the estimated planted acreage, production, domestic and export use, ending stocks, season average producer price, program participation rate, and cost to the Federal Government that would likely result from the option.

"(4) ESTIMATES.—In announcing the program for a crop of wheat under this section, the Secretary shall include an estimate of the planted acreage, production, domestic and export use, ending stocks, season average producer price, program participation rate, and cost to the Federal Government that is expected to result from the program as announced.

"(p) CROPS.—Notwithstanding any other provision of law, this section shall be effective only for the 1996 through 2002 crops of wheat.".

SEC. 102. NONAPPLICABILITY OF CERTIFICATE REQUIREMENTS.

Sections 379d through 379j of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1379d–1379j) shall not be applicable to wheat processors or exporters during the period June 1, 1996, through May 31, 2003.

SEC. 103. SUSPENSION OF LAND USE, WHEAT MARKETING ALLOCATION, AND PRODUCER CERTIFICATE PROVISIONS.

Sections 331 through 339, 379b, and 379c of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1331 through 1339, 1379b, and 1379c) shall not be applicable to the 1996 through 2002 crops of wheat.

SEC. 104. SUSPENSION OF CERTAIN QUOTA PROVISIONS.

The joint resolution entitled "A joint resolution relating to corn and wheat marketing quotas under the Agricultural Adjustment Act of 1938, as amended", approved May 26, 1941 (7 U.S.C. 1330 and 1340), shall not be applicable to the crops of wheat planted for harvest in the calendar years 1996 through 2002.

SEC. 105. NONAPPLICABILITY OF SECTION 107 OF THE AGRICULTURAL ACT OF 1949.

Section 107 of the Agricultural Act of 1949 (7 U.S.C. 1445a) shall not be applicable to the 1996 through 2002 crops of wheat.

TITLE II—FEED GRAINS

SEC. 201. LOANS, PAYMENTS, AND ACREAGE REDUCTION PROGRAMS FOR THE 1996 THROUGH 2002 CROPS OF FEED GRAINS.

Section 105B of the Agricultural Act of 1949 (7 U.S.C. 1444f) is amended to read as follows:

"SEC. 105B. LOANS, PAYMENTS, AND ACREAGE REDUCTION PROGRAMS FOR THE 1996 THROUGH 2002 CROPS OF FEED GRAINS.

"(a) LOANS AND PURCHASES.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the Secretary shall make available to producers on a farm loans and purchases for each of the 1996 through 2002 crops of corn produced on the farm at such level as the Secretary determines will encourage the exportation of feed grains and not result in excessive total stocks of feed grains after taking into consideration the cost of producing corn, supply and demand conditions, and world prices for corn.

"(2) MINIMUM LOAN AND PURCHASE LEVEL.—Except as provided in paragraphs (3) and (4), the loan and purchase level determined under paragraph (1) shall be not less than 85 percent of the simple average price received by producers of corn, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of corn, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period, except that the loan and purchase level for a crop determined under this paragraph may not be reduced by more than 5 percent from the level determined for the preceding crop.

"(3) ADJUSTMENTS TO SUPPORT LEVEL.—

"(A) STOCKS TO USE RATIO.— If the Secretary estimates for any marketing year that the ratio of ending stocks of corn to total use for the marketing year will be—

"(i) equal to or greater than 25 percent, the Secretary may reduce the loan and purchase level for corn for the crop corresponding to the marketing year by an amount not to exceed 10 percent in any year;

"(ii) less than 25 percent but not less than 12.5 percent, the Secretary may reduce the loan and purchase level for corn for the crop corresponding to the marketing year by an amount not to exceed 5 percent in any year; or

"(iii) less than 12.5 percent the Secretary may not reduce the loan and purchase level for corn for the crop corresponding to the marketing year.

"(B) REPORT TO CONGRESS.—

"(i) IN GENERAL.—If the Secretary adjusts the level of loans and purchases for corn under subparagraph (A), the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report—

"(I) certifying the adjustment as necessary to prevent the accumulation of stocks and to retain market share; and

"(II) containing a description of the need for the adjustment.

"(ii) EFFECTIVE DATE OF ADJUSTMENT.—The adjustment shall become effective not earlier than 60 calendar days after the date of submission of the report to the Committees, except that in the case of the 1996 crop of feed grains, the adjustment shall become effective on the date of submission of the report.

"(C) COMPETITIVE POSITION.—Notwithstanding subparagraph (A), if the Secretary determines, not later than 60 days prior to the beginning of a marketing year for a crop, that the effective loan rate established for the crop will not maintain a competitive market position for corn, the Secretary may reduce the loan and purchase level for corn for the marketing year by an amount, in addition to any reduction under subparagraph (A), not to exceed 10 percent in any year.

"(D) NO EFFECT ON FUTURE YEARS.—Any reduction in the loan and purchase level for corn under this paragraph shall not be considered in determining the loan and purchase level for corn for subsequent years.

"(E) MINIMUM LOAN RATE.—Notwithstanding subparagraph (A), the loan rate for corn shall not be less than $1.76 per bushel, unless the rate would exceed 80 percent of the 5-year average market price determined under paragraph (2).

"(4) MARKETING LOANS.—

"(A) IN GENERAL.—The Secretary shall permit the producers on a farm to repay a loan made under this subsection for a crop at a level (except as provided in subparagraph (C)) that is the lesser of—

"(i) the loan level determined for the crop;

"(ii) the higher of—

"(I) 70 percent of the level; and

"(II) if the loan level for a crop was reduced under paragraph (3), 70 percent of the loan level that would have been in effect but for the reduction under paragraph (3); and

"(iii) the prevailing world market price for feed grains (adjusted to United States quality and location), as determined by the Secretary.

"(B) PREVAILING WORLD MARKET PRICE.—The Secretary shall prescribe by regulation—

"(i) a formula to determine the prevailing world market price for feed grains, adjusted to United States quality and location; and

"(ii) a mechanism by which the Secretary shall announce periodically the prevailing world market price for feed grains.

"(C) ALTERNATIVE REPAYMENT RATES.—For each of the 1996 through 2002 crops of feed grains, if the world market price for feed grains (adjusted to United States quality and location), as determined by the Secretary, is less than the loan level determined for the crop, the Secretary may permit the producers on a farm to repay a loan made under this subsection for a crop at such level (not in excess of the loan level determined for the crop) as the Secretary determines will—

"(i) minimize potential loan forfeitures;

"(ii) minimize the accumulation of feed grain stocks by the Federal Government;

"(iii) minimize the cost incurred by the Federal Government in storing feed grains; and

"(iv) allow feed grains produced in the United States to be marketed freely and competitively, both domestically and internationally.

"(5) SIMPLE AVERAGE PRICE.—For purposes of this section, the simple average price received by producers for the immediately preceding marketing year shall be based on the latest information available to the Secretary at the time of the determination.

"(6) OTHER FEED GRAINS.—The Secretary shall make available to producers loans and purchases for each of the 1996 through 2002 crops of grain sorghums, barley, oats, and rye, respectively, produced on the farm at such level as the Secretary determines is fair and reasonable in relation to the level that loans and purchases are made available for corn, taking into consideration the feeding value of the commodity in relation to corn and other factors specified in section 401(b).

"(b) LOAN DEFICIENCY PAYMENTS.—

"(1) IN GENERAL.—For each of the 1996 through 2002 crops of feed grains, the Secretary may make payments (referred to in this section as 'loan deficiency payments') available to producers who, although eligible to obtain a loan or an agreement for purchase under subsection (a), agree to forgo obtaining the loan or agreement in return for payments under this subsection.

"(2) COMPUTATION.—A payment under this subsection shall be computed by multiplying—

"(A) the loan payment rate; and

"(B) the quantity of feed grains the producers on a farm are eligible to place under loan (or obtain a purchase agreement) but for which the producers forgo obtaining the loan or agreement in return for payments under this subsection.

"(3) LOAN PAYMENT RATE.—For purposes of this subsection, the loan payment rate shall be the amount by which—

"(A) the loan level determined for the crop under subsection (a); exceeds

"(B) the level at which a loan may be repaid under subsection (a).

"(c) PAYMENTS.—

"(1) DEFICIENCY PAYMENTS.—

"(A) IN GENERAL.—The Secretary shall make available to producers payments (referred to in this section as 'deficiency payments') for each of the 1996 through 2002 crops of corn, grain sorghums, oats, and barley, in an amount computed by multiplying—

"(i) the payment rate;

"(ii) the payment acres for the crop; and

"(iii) the farm program payment yield established for the crop for the farm.

"(B) PAYMENT RATE.—

"(i) IN GENERAL.—The payment rate for each of the 1996 through 2002 crops of corn, grain sorghums, oats, and barley shall be the amount by which the established price for the respective crop of feed grains exceeds the higher of—

"(I) the lesser of—

"(aa) the national weighted average market price received by producers during the marketing year for the crop, as determined by the Secretary; and

"(bb) the national weighted average market price received by producers during the first 5 months of the marketing year for the crop, as determined by the Secretary, plus 7 cents per bushel; and

"(II) the loan level determined for the crop, prior to any adjustment made under subsection (a)(3) for the marketing year for the respective crop of feed grains.

"(ii) MINIMUM ESTABLISHED PRICES.—

"(I) CORN.—The established price for corn shall not be less than $2.75 per bushel for each of the 1996 through 2002 crops of corn.

"(II) OATS.—The established price for oats shall be such price as the Secretary determines is fair and reasonable in relation to the established price for corn, but not less than $1.45 per bushel.

"(III) GRAIN SORGHUMS.—The established price for each of the 1996 through 2002 crops of grain sorghums shall not be less than $2.61 per bushel.

"(IV) BARLEY.—

"(aa) IN GENERAL.—The established price for barley shall be such price as the Secretary determines is fair and reasonable in relation to the established price for corn, taking into consideration the various feed and food uses for barley. The established price for barley shall not be less than 85.8 percent of the established price for corn.

"(bb) BARLEY CALCULATIONS.—The Secretary shall, for purposes of determining the payment rate for barley under clauses (i) and (ii) and subparagraph (D)(ii), use the national weighted average market price received by producers of barley sold primarily for feed purposes.

"(cc) ADVANCE PAYMENTS.—In the case of the 1996 crop of barley, the Secretary shall, for purposes of determining any advance deficiency payment made to the producers of barley under section 114, use the national weighted average market price received by producers for all barley, as determined by the Secretary.

"(dd) EQUITY.—In carrying out this subsection, the Secretary shall make available to producers of the 1996 crop of barley, notwithstanding the method of calculation or the amount of the advance deficiency payment, the total amount of payments as calculated under item (bb).

"(C) PAYMENT ACRES.—Payment acres for a crop shall be the lesser of—

"(i) the number of acres planted to the crop for harvest within the permitted acreage (as defined in subsection (e)(2)(D)(ii)); or

"(ii) 75 percent of the crop acreage base for the crop for the farm less the quantity of reduced acreage (as defined in subsection (e)(2)(D)(ii)).

"(D) EMERGENCY COMPENSATION.—

"(i) IN GENERAL.—Notwithstanding subparagraphs (A) through (C), if the Secretary adjusts the level of loans and purchases for feed grains under subsection (a)(3), the Secretary shall provide emergency compensation to producers by increasing the deficiency payments for feed grains by such amount as the Secretary determines is necessary to provide the same total return to producers as if the adjustment in the level of loans and purchases had not been made.

"(ii) CALCULATION.—In determining the payment rate, per bushel, for emergency compensation payments for a crop of feed grains under this subparagraph, the Secretary shall use the national weighted average market price, per bushel of feed grains, received by producers during the marketing year for the crop, as determined by the Secretary.

"(E) 0/85 PROGRAM.—

"(i) IN GENERAL.—If an acreage limitation program under subsection (e)(2) is in effect for a crop of feed grains and the producers on a farm devote a portion of the maximum payment acres of the farm for feed grains as calculated under subparagraph (C)(ii) equal to 15 percent (except as provided in clause (vii)) of the feed grain acreage of the farm for the crop to conservation uses (except as provided in subparagraph (F))—

"(I) the portion of the maximum payment acres of the farm in excess of 15 percent (except as provided in clause (vii)) of the acreage devoted to conservation uses (except as provided in subparagraph (F)) shall be considered to be planted to feed grains for the purpose of determining the acreage on the farm required to be devoted to conservation uses in accordance with subsection (e)(2)(D); and

"(II) the producers shall be eligible for payments under this paragraph with respect to the acreage.

"(ii) DEFICIENCY PAYMENTS.—Notwithstanding any other provision of this section, any producers on a farm who devote a portion of the maximum payment acres of the farm for feed grains to conservation uses (or other uses as provided in subparagraph (F)) under this subparagraph shall receive deficiency payments on the acreage that is considered to be planted to feed grains and eligible for payments under this subparagraph for the crop at a per-bushel rate established by the Secretary, except that the rate may not be established at less than the projected deficiency payment rate for the crop, as determined by the Secretary. The projected payment rate for the crop shall be announced by the Secretary prior to the period during which feed grain producers may agree to participate in the program for the crop.

"(iii) ADVERSE EFFECT ON AGRIBUSINESS AND OTHER INTERESTS.—The Secretary shall carry out this subparagraph in such a manner as to minimize the adverse effect on agribusiness and other agriculturally related economic interests within any county, State, or region. In carrying out this subparagraph, the Secretary may restrict the total quantity of feed grain acreage that may be taken out of production under this subparagraph, taking into consideration the total quantity of acreage that has or will be removed from production under other price support, production adjustment, or conservation program activities. No restrictions on the quantity of acreage that may be taken out of production in accordance with this subparagraph in a crop year shall be imposed in the case of a county in which producers were eligible to receive disaster emergency loans under section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961) as a result of a disaster that occurred during the crop year.

"(iv) CROP ACREAGE AND PAYMENT YIELD.—The feed grain crop acreage base and feed grain farm program payment yield of the farm shall not be reduced because of the fact that a portion of the permitted acreage for feed grains for the farm was devoted to conserving uses (except as provided in subparagraph (F)) under this subparagraph.

"(v) LIMITATION.—Other than as provided in clauses (i) through (iv), payments may not be made under this paragraph for any crop

on a greater acreage than the acreage actually planted to feed grains.

"(vi) CONSERVATION USE ACREAGE UNDER OTHER PROGRAMS.—Any acreage considered to be planted to feed grains in accordance with clauses (i) and (iv) may not also be designated as conservation use acreage for the purpose of fulfilling any provision under any acreage limitation or land diversion program requiring that the producers devote a specified quantity of acreage to conservation uses.

"(vii) EXCEPTIONS TO 0/85.—In the case of each of the 1996 through 2002 crops of feed grains, producers on a farm shall be eligible to receive deficiency payments as provided in clause (ii) if an acreage limitation program under subsection (e) is in effect for the crop and the producers—

"(I)(aa) have been determined by the Secretary (in accordance with section 503(c)) to be prevented from planting the crop, or have incurred a reduced yield for the crop because of a natural disaster; and

"(bb) elect to devote a portion of the maximum payment acres for feed grains (as calculated under subparagraph (C)(ii)) equal to more than 8 percent of the feed grain acreage, to conservation uses; or

"(II) elect to devote a portion of the maximum payment acres for feed grains (as calculated under subparagraph (C)(ii)) equal to more than 8 percent of the feed grain acreage, to alternative crops as provided in subparagraph (F).

"(F) ALTERNATIVE CROPS.—

"(i) INDUSTRIAL AND OTHER CROPS.—The Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (E) to be devoted to sweet sorghum, guar, castor beans, plantago ovato, triticale, rye, millet, mung beans, commodities for which no substantial domestic production or market exists but that could lead to industrial raw material being imported, or likely to be imported, into the United States, or commodities grown for experimental purposes (including kenaf and milkweed), subject to the following sentence. The Secretary may permit the acreage to be devoted to the production only if the Secretary determines that the production is—

"(I) not likely to increase the cost of the price support program; and

"(II) needed to provide an adequate supply of the commodity, or, in the case of a commodity for which no substantial domestic production or market exists but that could yield industrial raw materials, the production is needed to encourage domestic manufacture of the raw material and could lead to increased industrial use of the raw material to the long-term benefit of United States industry.

"(ii) OILSEEDS.—The Secretary shall permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (E) to be devoted to sunflowers, rapeseed, canola, safflower, flaxseed, mustard seed, sesame, crambe, or other minor oilseeds designated by the Secretary (excluding soybeans). In carrying out this clause, the Secretary shall provide that, to receive payments under subparagraph (E), the producers shall agree to forgo eligibility to receive a loan under section 205 for the crop of any such oilseed produced on the farm.

"(iii) DOUBLE CROPPING.—The Secretary shall permit, subject to such terms and conditions as the Secretary may prescribe, all or any portion of the acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (E) that is devoted to an industrial, oilseed, or other crop pursuant to clause (i) or (ii) to be subsequently planted during the same crop year to any crop described in subparagraph (B), (C), or (D) of section 504(b)(1). The planting of soybeans as the subsequently planted crop shall be limited to farms determined by the Secretary to have an established history of double cropping soybeans during at least 3 of the preceding 5 years. In carrying out this clause, the Secretary shall require producers to agree to forego eligibility to receive loans under this Act for the crop of the subsequently planted crop that is produced on a farm under this clause.

"(2) CROP INSURANCE REQUIREMENT.—As a condition of eligibility for feed grain loans, purchases, and payments, the producers on a farm shall obtain catastrophic risk protection insurance coverage in accordance with section 427.

"(d) PAYMENT YIELDS.—The farm program payment yields for farms for each crop of feed grains under this section shall be determined under title V.

"(e) ACREAGE REDUCTION PROGRAMS.—

"(1) IN GENERAL.—

"(A) ESTABLISHMENT.—Notwithstanding any other provision of this Act, if the Secretary determines that the total supply of corn, grain sorghum, barley, or oats, in the absence of an acreage limitation program, will be excessive taking into account the need for an adequate carry-over to maintain reasonable and stable supplies and prices and to meet a national emergency, the Secretary may provide for any crop of corn, grain sorghum, barley, or oats an acreage limitation program as described in paragraph (2).

"(B) AGRICULTURAL RESOURCES CONSERVATION PROGRAM.—In making a determination under subparagraph (A), the Secretary shall take into consideration the number of acres placed in the agricultural resources conservation program established under subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3830 et seq.).

"(C) ANNOUNCEMENTS.—If the Secretary elects to implement an acreage limitation program for any crop year, the Secretary shall announce the program not later than the September 30 preceding the calendar year in which the crop is harvested, except that in the case of the 1996 crop, the Secretary shall announce the program as soon as practicable after the date of enactment of the Food, Agriculture, Conservation, and Trade Act of 1995.

"(D) ADJUSTMENTS.—Not later than November 15 of the year preceding the year in which the crop is harvested, the Secretary may make adjustments in the program announced under subparagraph (C) if the Secretary determines that there has been a significant change in the total supply of feed grains since the program was first announced.

"(E) COMPLIANCE.—As a condition of eligibility for loans, purchases, and payments for any such crop of feed grains, except as provided in subsections (f) and (g) and section 504, the producers on a farm shall comply with the terms and conditions of the acreage limitation program and, if applicable, a land diversion program as provided in paragraph (5).

"(F) ACREAGE LIMITATION PROGRAMS.—If the Secretary estimates for a marketing year for the crop that the ratio of ending stocks of corn to total disappearance of corn for the preceding marketing year will be—

"(i) more than 25 percent, the Secretary shall provide for an acreage limitation program (as described in paragraph (2)) under which the acreage planted to corn for harvest on a farm is limited to the corn crop acreage base for the farm for the crop reduced by not less than 10 percent nor more than 20 percent; or

"(ii) equal to or less than 25 percent, the Secretary may provide for such an acreage limitation program under which the acreage planted to corn for harvest on a farm is limited to the corn crop acreage base for the farm for the crop reduced by not more than 12.5 percent.

"(G) DEFINITION OF TOTAL DISAPPEARANCE.—In this paragraph, the term 'total disappearance' means all corn utilization, including total domestic, total export, and total residual disappearance.

"(H) ACREAGE LIMITATION PROGRAM FOR 1996 THROUGH 2002 CROPS OF OATS.—In the case of each of the 1996 through 2002 crops of oats, the Secretary shall provide for an acreage limitation program (as described in paragraph (2)) under which the acreage planted to oats for harvest on a farm would be limited to the oat crop acreage base for the farm for the crop reduced by not more than 0 percent.

"(2) ACREAGE LIMITATION PROGRAM.—

"(A) PERCENTAGE REDUCTIONS.—Except as provided in paragraph (3), if a feed grain acreage limitation program is announced under paragraph (1), the limitation shall be achieved by applying a uniform percentage reduction (from 0 to 20 percent) to the crop acreage base for corn, grain sorghum, barley, or oats, respectively, for each feed grain-producing farm.

"(B) COMPLIANCE.—Except as provided in subsection (g) and section 504, producers who knowingly produce a feed grain in excess of the respective permitted acreage for feed grains for the farm shall be ineligible for feed grain loans, purchases, and payments with respect to the farm.

"(C) CROP ACREAGE BASES.—Feed grain crop acreage bases for each crop of feed grains shall be determined under title V.

"(D) ACREAGE DEVOTED TO CONSERVATION USES.—

"(i) IN GENERAL.—A number of acres on the farm shall be devoted to conservation uses, in accordance with regulations issued by the Secretary.

"(ii) NUMBER.—The number shall be determined by multiplying the respective feed grain crop acreage base by the percentage reduction required by the Secretary. The number of acres so determined is referred to in this section as 'reduced acreage'. The remaining acreage is referred to in this section as 'permitted acreage'.

"(iii) ADJUSTMENT.—Permitted acreage may be adjusted by the Secretary as provided in paragraph (3) and in section 504.

"(E) INDIVIDUAL FARM PROGRAM ACREAGE.—Except as otherwise provided in subsection (c), the individual farm program acreage shall be the acreage planted on the farm to feed grains for harvest within the permitted acreage for feed grains for the farm as established under this paragraph.

"(F) PLANTING DESIGNATED CROPS ON REDUCED ACREAGE.—

"(i) DEFINITION OF DESIGNATED CROP.—In this subparagraph, the term 'designated crop' means a crop specified in section 504(b)(1), excluding any program crop as defined in section 502(3).

"(ii) PLANTING DESIGNATED CROPS.—Subject to clause (iii), the Secretary may permit producers on a farm to plant a designated crop

on not more than ½ of the reduced acreage on the farm.

"(iii) LIMITATIONS.—If the producers on a farm elect to plant a designated crop on reduced acreage under this subparagraph—

"(I) the amount of the deficiency payment that the producers are otherwise eligible to receive under subsection (c) shall be reduced, for each acre (or portion of an acre) that is planted to the designated crop, by an amount equal to the deficiency payment that would be made with respect to a number of acres of the crop that the Secretary considers appropriate, except that if the producers on the farm are participating in a program established for more than 1 program crop, the amount of the reduction shall be determined by prorating the reduction based on the acreage planted or considered planted on the farm to all of the program crops; and

"(II) the Secretary shall ensure that reductions in deficiency payments under subclause (I) are sufficient to ensure that this subparagraph will result in no additional cost to the Commodity Credit Corporation.

"(G) EXCEPTION FOR MALTING BARLEY.—The Secretary may provide that no producer of malting barley shall be required as a condition of eligibility for feed grain loans, purchases, and payments to comply with any acreage limitation under this paragraph if the producer has previously produced a malting variety of barley for harvest, plants barley only of an acceptable malting variety for harvest, and meets such other conditions as the Secretary may prescribe. The Secretary shall make an annual determination of whether to exempt the producers from compliance with any acreage limitation under this paragraph and shall announce the determination in the Federal Register.

"(H) CORN AND SORGHUM BASES.—Notwithstanding any other provision of this Act, with respect to each of the 1996 through 2002 crops of corn and grain sorghums—

"(i) the Secretary shall combine the permitted acreages established under subparagraph (D) for a farm for a crop year for corn and grain sorghums;

"(ii) for each crop year, the sum of the acreage planted and considered planted to corn and grain sorghum, as determined by the Secretary under this section and title V, shall be prorated to corn and grain sorghum based on the ratio of the crop acreage base for the individual crop of corn or grain sorghum, as applicable, to the sum of the crop acreage bases for corn and grain sorghum established for each crop year; and

"(iii) for each crop year, the sum of the corn and grain sorghum payment acres, as determined under subsection (c), shall be prorated to corn and grain sorghum based on the ratio of the maximum payment acres for the individual crop of corn or grain sorghum, as applicable, to the sum of the maximum payment acres for corn and grain sorghum established for each crop year.

"(3) TARGETED OPTION PAYMENTS.—

"(A) IN GENERAL.—Notwithstanding any other provision of this section, if the Secretary implements an acreage limitation program with respect to any of the 1996 through 2002 crops of feed grains, the Secretary may make available to producers on a farm who do not receive payments under subsection (c)(1)(E) for the crop on the farm, adjustments in the level of deficiency payments that would otherwise be made available to the producers if the producers exercise the payment options provided in this paragraph.

"(B) PAYMENT OPTIONS.—If the Secretary elects to carry out this paragraph, the Secretary shall make the payment options specified in subparagraphs (C) and (D) available to producers who agree to make adjustments in the quantity of acreage diverted from the production of feed grains under an acreage limitation program in accordance with this paragraph.

"(C) INCREASED ACREAGE LIMITATION OPTION.—

"(i) INCREASE IN ESTABLISHED PRICE.—If the Secretary elects to carry out this paragraph, the producers on a farm shall be eligible to receive an increase in the established price for corn in accordance with clause (ii) if the producers agree to an increase in the acreage limitation percentage to be applied to the corn acreage base of the producers above the acreage limitation percentage announced by the Secretary.

"(ii) METHOD OF CALCULATION.—For the purposes of calculating deficiency payments to be made available to producers who participate in the program under this paragraph, the Secretary shall increase the established price for corn by an amount determined by the Secretary of not less than 0.5 percent, nor more than 1 percent, for each 1 percentage point increase in the acreage limitation percentage applied to the corn acreage base of the producers.

"(iii) LIMITATION.—The acreage limitation percentage to be applied to the corn acreage base of the producers shall not be increased by more than 10 percentage points above the acreage limitation percentage announced by the Secretary for the crop or above 20 percent total for the crop.

"(D) DECREASED ACREAGE LIMITATION OPTION.—

"(i) DECREASE IN ACREAGE LIMITATION REQUIREMENT.—If the Secretary elects to carry out this paragraph, the producers on a farm shall be eligible to decrease the acreage limitation percentage applicable to the corn acreage base of the producers (as announced by the Secretary) if the producers agree to a decrease in the established price for corn in accordance with clause (ii) for the purpose of calculating deficiency payments to be made available to the producers.

"(ii) METHOD OF CALCULATION.—For the purposes of calculating deficiency payments to be made available to producers who choose the option established under this subparagraph, the Secretary shall decrease the established price for corn by an amount to be determined by the Secretary of not less than 0.5 percent, nor more than 1 percent, for each 1 percentage point decrease in the acreage limitation percentage applied to the corn acreage base of the producers.

"(iii) LIMITATION.—The producers on a farm may not choose to decrease the acreage limitation percentage applicable to the corn acreage base of the producers under this paragraph by more than ½ of the announced acreage limitation percentage.

"(E) OTHER FEED GRAINS.—The Secretary shall carry out the program provided for by this paragraph for other feed grains similar to the manner in which the program is implemented for corn.

"(F) PARTICIPATION AND PRODUCTION EFFECTS.—Notwithstanding any other provision of this paragraph, the Secretary shall, to the extent practicable, ensure that the program provided for in this paragraph does not have a significant effect on participation in the program established by this section or total production and is offered in such a manner that the Secretary determines will result in no additional budget outlays. The Secretary shall provide an analysis of the determination of the Secretary to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

"(4) ADMINISTRATION.—

"(A) PROTECTION FROM WEEDS AND EROSION.—The regulations issued by the Secretary under paragraph (2) with respect to acreage required to be devoted to conservation uses shall ensure protection of the acreage from weeds and wind and water erosion.

"(B) CONSERVING CROPS.—The Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of the acreage to be devoted to sweet sorghum, guar, sesame, castor beans, crambe, plantago ovato, triticale, rye, mung beans, milkweed, or other commodity, if the Secretary determines that the production is needed to provide an adequate supply of the commodity, is not likely to increase the cost of the price support program, and will not affect farm income adversely.

"(C) HAYING AND GRAZING.—

"(i) IN GENERAL.—Except as provided in clause (ii), haying and grazing of reduced acreage, acreage devoted to a conservation use under subsection (c)(1)(E), and acreage diverted from production under a land diversion program established under this subsection shall be permitted, except during any consecutive 5-month period that is established by the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) for a State. The 5-month period shall be established during the period beginning April 1, and ending October 31, of a year.

"(ii) NATURAL DISASTERS.—In the case of a natural disaster, the Secretary may permit unlimited haying and grazing on the acreage. The Secretary may not exclude irrigated or irrigable acreage not planted to alfalfa when exercising the authority under this clause.

"(D) WATER STORAGE USES.—

"(i) IN GENERAL.—The regulations issued by the Secretary under paragraph (2) with respect to acreage required to be devoted to conservation uses shall provide that land that has been converted to water storage uses shall be considered to be devoted to conservation uses if the land was devoted to wheat, feed grains, cotton, rice, or oilseeds in at least 3 of the immediately preceding 5 crop years. The land shall be considered to be devoted to conservation uses for the period that the land remains in water storage uses, but not to exceed 5 crop years subsequent to the conversion of the land to water storage uses.

"(ii) LIMITATIONS.—Land converted to water storage uses for the purposes of this subparagraph may not be devoted to any commercial use, including commercial fish production. The water stored on the land may not be ground water. The farm on which the land is located must have been irrigated with ground water during at least 1 of the preceding 5 crop years.

"(E) SUMMER FALLOW.—In determining the quantity of land to be devoted to conservation uses under an acreage limitation program with respect to land that has been farmed under summer fallow practices, as defined by the Secretary, the Secretary shall consider the effects of soil erosion and such other factors as the Secretary considers appropriate.

"(5) LAND DIVERSION PAYMENTS.—

"(A) IN GENERAL.—The Secretary may make land diversion payments to producers of feed grains, whether or not an acreage limitation program for feed grains is in effect, if the Secretary determines that the land diversion payments are necessary to assist in adjusting the total national acreage

of feed grains to desirable goals. The land diversion payments shall be made to producers who, to the extent prescribed by the Secretary, devote to approved conservation uses an acreage of cropland on the farm in accordance with land diversion contracts entered into by the Secretary with the producers.

"(B) AMOUNTS.—The amounts payable to producers under land diversion contracts may be determined through the submission of bids for the contracts by producers in such manner as the Secretary may prescribe or through such other means as the Secretary determines appropriate. In determining the acceptability of contract offers, the Secretary shall take into consideration the extent of the diversion to be undertaken by the producers and the productivity of the acreage diverted.

"(C) LIMITATION ON DIVERTED ACREAGE.—The Secretary shall limit the total acreage to be diverted under agreements in any county or local community so as not to affect adversely the economy of the county or local community.

"(6) CONSERVATION PRACTICES.—

"(A) WILDLIFE FOOD PLOTS OR HABITAT.—The reduced acreage and additional diverted acreage may be devoted to wildlife food plots or wildlife habitat in conformity with standards established by the Secretary in consultation with wildlife agencies. The Secretary may pay an appropriate share of the cost of practices designed to carry out this subparagraph.

"(B) SOIL AND WATER CONSERVATION PRACTICES.—The Secretary may pay an appropriate share of the cost of approved soil and water conservation practices (including practices that may be effective for a number of years) established by the producers on a farm on acreage required to be devoted to conservation uses or on additional diverted acreage.

"(C) PUBLIC ACCESSIBILITY.—The Secretary may provide for an additional payment on the acreage in an amount determined by the Secretary to be appropriate in relation to the benefit to the general public if the producers on a farm agree to permit, without other compensation, access to all or such portion of the farm, as the Secretary may prescribe by the general public, for hunting, trapping, fishing, and hiking, subject to applicable Federal and State regulations.

"(7) PARTICIPATION AGREEMENTS.—

"(A) IN GENERAL.—Producers on a farm desiring to participate in the program conducted under this subsection shall execute an agreement with the Secretary providing for the participation with respect to a crop year not later than such date as the Secretary may prescribe.

"(B) MODIFICATION OR TERMINATION.—The Secretary may, by mutual agreement with producers on a farm, modify or terminate any such agreement if the Secretary determines the action necessary because of an emergency created by drought or other disaster or to prevent or alleviate a shortage in the supply of agricultural commodities. The Secretary may modify the agreement under this subparagraph for the purpose of alleviating a shortage in the supply of agricultural commodities only if there has been a significant change in the estimated stocks of the commodity since the Secretary announced the final terms and conditions of the program for the crop of feed grains.

"(8) SPECIAL OATS PLANTINGS.—In the case of a crop year for which the Secretary determines that projected domestic production of oats will not fulfill the projected domestic demand for oats, notwithstanding paragraphs (1) through (7), the Secretary—

"(A) may provide that any reduced acreage may be planted to oats for harvest;

"(B) may make program benefits (including loans, purchases, and payments) available under the annual program for oats under this section available to producers with respect to acreage planted to oats under this paragraph; and

"(C) shall not make program benefits other than the benefits specified in subparagraph (B) available to producers with respect to acreage planted to oats under this paragraph.

"(f) INVENTORY REDUCTION PAYMENTS.—

"(1) IN GENERAL.—The Secretary may make payments available to producers on a farm who meet the requirements of this subsection.

"(2) FORM.—The payments may be made in the form of marketing certificates.

"(3) PAYMENTS.—Payments under this subsection shall be determined in the same manner as provided in subsection (b).

"(4) ELIGIBILITY.—The producers on a farm shall be eligible to receive a payment under this subsection for a crop if the producers—

"(A) agree to forgo obtaining a loan or purchase agreement under subsection (a);

"(B) agree to forgo receiving payments under subsection (c);

"(C) do not plant feed grains for harvest in excess of the crop acreage base reduced by ½ of any acreage required to be diverted from production under subsection (e); and

"(D) otherwise comply with this section.

"(g) PILOT VOLUNTARY PRODUCTION LIMITATION PROGRAM.—

"(1) IN GENERAL.—Effective for each of the 1996 through 2002 crops, if a feed grain acreage limitation program or a land diversion program is announced under subsection (e) for a crop, the Secretary may carry out a pilot program in at least 15 counties in at least 2 States where producers express an interest in participating in the pilot program. Under the pilot program, the producers on a farm shall be considered to have met the requirements of the acreage limitation or land diversion program if the producers meet the requirements of the voluntary production limitation program established under this subsection.

"(2) LIMITATION ON MARKETING.—To comply with the voluntary production limitation program, the producers on a farm must agree not to market, barter, donate, or use on the farm (including use as feed for livestock) in a marketing year a quantity of feed grains in excess of the feed grain production limitation quantity for the farm for the marketing year.

"(3) PRODUCTION LIMITATION QUANTITY.—For purposes of this subsection, the production limitation quantity for a farm for a marketing year for a crop shall equal the product obtained by multiplying—

"(A) the acreage permitted to be planted to feed grains under the acreage reduction program or land diversion program in effect for the crop for the farm; and

"(B) the greater of—

"(i) the farm program payment yield for the farm; and

"(ii) the average of the yield per harvested acre for feed grains for the farm for each of the 5 crop years immediately preceding the crop year during which the producers first participate in the program established under this subsection, excluding the crop years with the highest and lowest yield per harvested acre and any crop year in which the commodity was not planted on the farm.

"(4) TERMS AND CONDITIONS.—Producers on a farm who elect to participate in the program established under this subsection for a crop of feed grains shall—

"(A) enter into an agreement with the Secretary providing that the producers shall comply with the program for the crop;

"(B) not plant program commodities for harvest in a quantity in excess of the sum of the crop acreage bases for the farm; and

"(C) be considered to have complied with the terms and conditions of the feed grain acreage reduction program or land diversion program for the crop, even though the acreage planted to feed grains on the farm exceeds the permitted acreage provided under the acreage reduction or land diversion program.

"(5) EXCESS PRODUCTION.—

"(A) IN GENERAL.—Any quantity of feed grains produced in a crop year on a farm in excess of the production limitation quantity for the farm may be stored by the producers for a period of not to exceed 5 marketing years and may be used only in accordance with this paragraph.

"(B) MARKETING IN SUBSEQUENT YEAR.—

"(i) PARTICIPANTS IN PROGRAM.—Producers on a farm who are participating in the program established under this subsection may market, barter, or use a quantity of the excess feed grains referred to in subparagraph (A) equal to the difference between the production limitation quantity for the farm for the crop year subsequent to the crop year in which the excess feed grains are produced less the quantity of feed grains produced on the farm during the crop year.

"(ii) PARTICIPANTS IN ACREAGE REDUCTION PROGRAM.—Producers on a farm who are participating in the program established under this subsection may market, barter, or use a quantity of the excess feed grains referred to in subparagraph (A) in an amount that reflects the quantity of feed grains that would be expected to be produced on acreage that the producers agree to devote to approved conservation uses (in excess of any acreage reduction or land diversion requirements) during a crop year, as determined by the Secretary.

"(6) DUTIES OF SECRETARY.—In carrying out the pilot program established under this subsection, the Secretary—

"(A) shall issue such regulations as are necessary to carry out the program;

"(B) may establish increased acreage reduction or land diversion requirements with respect to producers who have had excess feed grain production in order to allow the producers to market, barter, or use the production in subsequent years;

"(C) shall take appropriate measures designed to prevent the circumvention of the program established under this subsection, including the imposition of penalties;

"(D) may require producers who participate in the program for a crop, but who fail to comply with the terms and conditions of the program, to refund all or a part of any deficiency payments received with respect to the crop;

"(E) may require the forfeiture to the Commodity Credit Corporation of any feed grains that are produced in excess of the production limitation quantity and that are not marketed, bartered, or used within 5 marketing years; and

"(F) shall ensure equitable treatment for producers who participate in the pilot program if the Secretary allows increases (based on actual production levels) in the determination of farm program payment yields for feed grains for the farm.

"(7) REPORT.—

"(A) IN GENERAL.—The Comptroller General shall prepare a report that evaluates the

pilot program carried out under this subsection.

"(B) SUBMISSION.—The Comptroller General shall submit a copy of the report required by subparagraph (A) to the Committee on Agriculture of the House of Representatives, the Committee on Agriculture, Nutrition, and Forestry of the Senate, and the Secretary.

"(h) EQUITABLE RELIEF.—

"(1) LOANS, PURCHASES, AND PAYMENTS.—If the failure of a producer to comply fully with the terms and conditions of the program conducted under this section precludes the making of loans, purchases, and payments, the Secretary may, notwithstanding the failure, make the loans, purchases, and payments in such amounts as the Secretary determines are equitable in relation to the seriousness of the failure. The Secretary may consider whether the producer made a good faith effort to comply fully with the terms and conditions of the program in determining whether equitable relief is warranted under this paragraph.

"(2) DEADLINES AND PROGRAM REQUIREMENTS.—The Secretary may authorize the county and State committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) to waive or modify deadlines and other program requirements in cases in which lateness or failure to meet the other requirements does not affect adversely the operation of the program.

"(i) REGULATIONS.—The Secretary may issue such regulations as the Secretary determines necessary to carry out this section.

"(j) COMMODITY CREDIT CORPORATION.—The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

"(k) ASSIGNMENT OF PAYMENTS.—Section 8(g) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(g)) shall apply to payments made under this section.

"(l) SHARING OF PAYMENTS.—The Secretary shall provide for the sharing of payments made under this section for any farm among the producers on the farm on a fair and equitable basis.

"(m) TENANTS AND SHARECROPPERS.—In carrying out this section, the Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

"(n) CROSS-COMPLIANCE.—

"(1) IN GENERAL.—Compliance on a farm with the terms and conditions of any other commodity program, or compliance with crop acreage base requirements for any other commodity, may not be required as a condition of eligibility for loans, purchases, or payments under this section.

"(2) COMPLIANCE ON OTHER FARMS.—The Secretary may not require producers on a farm, as a condition of eligibility for loans, purchases, or payments under this section for the farm, to comply with the terms and conditions of the feed grains program with respect to any other farm operated by the producers.

"(o) PUBLIC COMMENT ON FEED GRAINS PROGRAM.—

"(1) IN GENERAL.—To ensure that producers and consumers of feed grains are provided with reasonable opportunity to comment on the annual program determinations concerning the price support and acreage reduction program for each of the 1997 through 2002 crops of feed grains, the Secretary shall request public comment regarding the feed grains program in accordance with this subsection.

"(2) OPTIONS.—Not less than 60 days before the program is announced for a crop of feed grains under this section, the Secretary shall propose for public comment various program options for the crop of feed grains.

"(3) ANALYSES.—Each option proposed by the Secretary shall be accompanied by an analysis that includes the estimated planted acreage, production, domestic and export use, ending stocks, season average producer price, program participation rate, and cost to the Federal Government that would likely result from the option.

"(4) ESTIMATES.—In announcing the program for a crop of feed grains under this section, the Secretary shall include an estimate of the planted acreage, production, domestic and export use, ending stocks, season average producer price, program participation rate, and cost to the Federal Government that is expected to result from the program as announced.

"(p) MALTING BARLEY.—

"(1) ASSESSMENT REQUIRED.—To help offset costs associated with deficiency payments made available under this section to producers of barley, the Secretary shall provide for an assessment for each of the 1996 through 2002 crop years to be levied on any producer of malting barley produced on a farm that is enrolled for the crop year in the production adjustment program under this section. The Secretary shall establish the assessment at not more than 5 percent of the value of the malting barley produced on program payment acres on the farm during each of the 1996 through 2002 crop years. The production per acre on which the assessment is based shall not be greater than the farm program payment yield.

"(2) VALUE OF MALTING BARLEY.—The Secretary may establish the value of the malting barley at the lesser of the State or national weighted average market price received by producers of malting barley for the first 5 months of the marketing year. In calculating the State or national weighted average market price, the Secretary may exclude the value of malting barley that is contracted for sale by producers prior to planting.

"(3) EXCEPTION TO ASSESSMENT.—In a county where malting barley is produced, participating barley producers may certify to the Secretary prior to computation of final deficiency payments that part or all of the production of the producer was (or will be) sold or used for nonmalting purposes. The portion certified as sold or used for nonmalting purposes shall not be subject to the assessment. The Secretary may require producers to provide to the Secretary such documentation as the Secretary considers appropriate to carry out this paragraph.

"(q) PRICE SUPPORT FOR HIGH-MOISTURE FEED GRAINS.—

"(1) RECOURSE LOANS.—Notwithstanding any other provision of law, effective for each of the 1996 through 2002 crops of feed grains, the Secretary (through the Commodity Credit Corporation) shall make available recourse loans, as determined by the Secretary, to producers on a farm who—

"(A) normally harvest all or a portion of the crop of feed grains of the producers with a moisture content in excess of Commodity Credit Corporation standards for loans made by the Secretary under paragraphs (1) and (6) of subsection (a) (referred to in this section as 'high-moisture');

"(B)(i) present certified scale tickets from an inspected, certified commercial scale, including licensed warehouses, feedlots, feed mills, distilleries, or other similar entities approved by the Secretary, pursuant to regulations issued by the Secretary; or

"(ii) present field or other physical measurements of the standing or stored feed grain crop in regions of the country, as determined by the Secretary, that do not have certified commercial scales from which certified scale tickets may be obtained within reasonable proximity of harvest operation;

"(C) certify that the producers were the owners of the feed grain at the time of delivery to, and that the quantity to be placed under loan was harvested on the farm and delivered to, a feedlot, feed mill, or commercial or on-farm high-moisture storage facility, or to the facilities maintained by the users of the high-moisture feed grain;

"(D) comply with deadlines established by the Secretary for harvesting the feed grain and submit applications for loans within deadlines established by the Secretary; and

"(E) participate in an acreage limitation program for the crop of feed grains established by the Secretary.

"(2) ELIGIBILITY OF ACQUIRED FEED GRAINS.—The loans shall be made on a quantity of feed grains of the same crop acquired by the producers on a farm equivalent to a quantity determined by multiplying—

"(A) the acreage of the feed grain in a high-moisture state harvested on the farm of the producer; and

"(B) the lower of the farm program payment yield or the actual yield on a field, as determined by the Secretary, that is similar to the field from which the high-moisture feed grain was obtained.

"(r) CROPS.—Notwithstanding any other provision of law, this section shall be effective only for the 1996 through 2002 crops of feed grains.".

SEC. 202. NONAPPLICABILITY OF SECTION 105 OF THE AGRICULTURAL ACT OF 1949.

Section 105 of the Agricultural Act of 1949 (7 U.S.C. 1444b) shall not be applicable to the 1996 through 2002 crops of feed grains.

SEC. 203. RECOURSE LOAN PROGRAM FOR SILAGE.

Section 403 of the Food Security Act of 1985 (7 U.S.C. 1444e-1) is amended by striking "1996" and inserting "2002".

TITLE III—COTTON

SEC. 301. LOANS, PAYMENTS, AND ACREAGE REDUCTION PROGRAMS FOR THE 1996 THROUGH 2002 CROPS OF UPLAND COTTON.

Section 103B of the Agricultural Act of 1949 (7 U.S.C. 1444-2) is amended to read as follows:

"SEC. 103B. LOANS, PAYMENTS, AND ACREAGE REDUCTION PROGRAMS FOR THE 1996 THROUGH 2002 CROPS OF UPLAND COTTON.

"(a) LOANS.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the Secretary shall, on presentation of warehouse receipts or other acceptable evidence of title, as determined by the Secretary, reflecting accrued storage charges of not more than 60 days, make available for each of the 1996 through 2002 crops of upland cotton to producers on a farm nonrecourse loans for upland cotton produced on the farm for a term of 10 months from the first day of the month in which the loan is made at such loan level, per pound, as will reflect for the base quality of upland cotton, as determined by the Secretary, at an average location in the United States a level that is not less than the lesser of—

"(A) 85 percent of the average price (weighted by market and month) of the base quality of cotton as quoted in the designated United States spot markets during 3 years of the 5-year period ending July 31 of the year in which the loan level is announced, excluding the year in which the average price was

the highest and the year in which the average price was the lowest in the period; or

"(B) 90 percent of the average price, for the 15-week period beginning July 1 of the year in which the loan level is announced, of the 5 lowest-priced growths of the growths quoted for Middling 1 3/32-inch cotton C.I.F. Northern Europe (adjusted downward by the average difference during the period April 15 through October 15 of the year in which the loan is announced between the average Northern European price quotation of the quality of cotton and the market quotations in the designated United States spot markets for the base quality of upland cotton), as determined by the Secretary.

"(2) ADJUSTMENTS TO LOAN LEVEL.—

"(A) LIMITATION ON DECREASE IN LOAN LEVEL.—The loan level for any crop determined under paragraph (1) may not be reduced by more than 5 percent from the level determined for the preceding crop, and may not be reduced below 50 cents per pound.

"(B) LIMITATION ON INCREASE IN LOAN LEVEL.—If for any crop the average Northern European price determined under paragraph (1)(B) is less than the average United States spot market price determined under paragraph (1)(A), the Secretary may increase the loan level to such level as the Secretary may consider appropriate, not in excess of the average United States spot market price determined under paragraph (1)(A).

"(3) ANNOUNCEMENT OF LOAN LEVEL.—The loan level for any crop of upland cotton shall be determined and announced by the Secretary not later than November 1 of the calendar year preceding the marketing year for which the loan is to be effective or, in the case of the 1996 crop, as soon as practicable after the date of enactment of the Agricultural Competitiveness Act of 1995. The loan level for a crop shall not be changed after announcement.

"(4) EXTENSION OF LOAN PERIOD.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), nonrecourse loans provided for in this section shall, on request of the producers on a farm during the 10th month of the loan period for the cotton, be made available for an additional term of 8 months.

"(B) LIMITATION.—A request to extend the loan period shall not be approved in any month in which the average price of the base quality of upland cotton, as determined by the Secretary, in the designated spot markets for the preceding month exceeds 130 percent of the average price of the base quality of cotton in the designated United States spot markets for the preceding 36-month period.

"(5) MARKETING LOANS.—

"(A) IN GENERAL.—If the Secretary determines that the prevailing world market price for upland cotton (adjusted to United States quality and location) is below the loan level determined under paragraphs (1) through (4), to make United States upland cotton competitive in world markets, the Secretary shall permit the producers on a farm to repay a loan made for any crop at—

"(i) a level that is the lesser of—

"(I) the loan level determined for the crop; and

"(II) the greater of—

"(aa) 70 percent of the loan level determined for the crop; and

"(bb) the prevailing world market price for upland cotton (adjusted to United States quality and location), as determined by the Secretary; or

"(ii) such other level (not in excess of the loan level determined for the crop nor less than 70 percent of the loan level) that the Secretary determines will—

"(I) minimize potential loan forfeitures;

"(II) minimize the accumulation of upland cotton stocks by the Federal Government;

"(III) minimize the cost incurred by the Federal Government in storing upland cotton; and

"(IV) allow upland cotton produced in the United States to be marketed freely and competitively, both domestically and internationally.

"(B) FIRST HANDLER MARKETING CERTIFICATES.—

"(i) IN GENERAL.—During the period beginning August 1, 1996, and ending July 31, 2003, if a program carried out under subparagraph (A) or subsection (b) fails to make United States upland cotton fully competitive in world markets and the prevailing world market price of upland cotton (adjusted to United States quality and location), as determined by the Secretary, is below the current loan repayment rate for upland cotton determined under subparagraph (A), to make United States upland cotton competitive in world markets and to maintain and expand domestic consumption and exports of upland cotton produced in the United States, the Secretary shall provide for the issuance of marketing certificates or cash payments in accordance with this subparagraph.

"(ii) PAYMENTS.—The Commodity Credit Corporation, under such regulations as the Secretary may prescribe, shall make payments, through the issuance of marketing certificates or cash payments, to first handlers of cotton (who shall be persons regularly engaged in buying or selling upland cotton) who have entered into an agreement with the Commodity Credit Corporation to participate in the program established under this subparagraph. The payments shall be made in such monetary amounts and subject to such terms and conditions as the Secretary determines will make upland cotton produced in the United States available at competitive prices, consistent with the purposes of this subparagraph.

"(iii) VALUE.—The value of each certificate or cash payment issued under clause (ii) shall be based on the difference between—

"(I) the loan repayment rate for upland cotton; and

"(II) the prevailing world market price of upland cotton (adjusted to United States quality and location), as determined by the Secretary.

"(iv) REDEMPTION, MARKETING, OR EXCHANGE.—The Commodity Credit Corporation, under regulations prescribed by the Secretary, may assist any person receiving marketing certificates under this subparagraph in the redemption of the certificates for cash, or marketing or exchange of the certificates for agricultural commodities or products owned by the Commodity Credit Corporation, at such times, in such manner, and at such price levels as the Secretary determines will best effectuate the purposes of the program established under this subparagraph. Any price restrictions that may otherwise apply to the disposition of agricultural commodities by the Commodity Credit Corporation shall not apply to the redemption of certificates under this subparagraph.

"(v) DESIGNATION OF COMMODITIES AND PRODUCTS; CHARGES.—Insofar as practicable, the Secretary shall permit owners of certificates to designate the commodities and the products of the commodities, including storage sites of the commodities and products, that the owners would prefer to receive in exchange for certificates. If any certificate is not presented for redemption, marketing, or exchange within a reasonable number of days after the issuance of the certificate (as determined by the Secretary), the reasonable costs of storage and other carrying charges, as determined by the Secretary, shall be deducted from the value of the certificate for the period beginning after the reasonable number of days and ending on the date of the presentation of the certificate to the Commodity Credit Corporation.

"(vi) DISPLACEMENT.—The Secretary shall take such measures as may be necessary to prevent the marketing or exchange of agricultural commodities and products for certificates under this subsection from adversely affecting the income of producers of the commodities or products.

"(vii) TRANSFERS.—Under regulations prescribed by the Secretary, certificates issued to cotton handlers under this subparagraph may be transferred to other handlers and persons approved by the Secretary.

"(C) PREVAILING WORLD MARKET PRICE.—

"(i) IN GENERAL.—The Secretary shall prescribe by regulation—

"(I) a formula to determine the prevailing world market price for upland cotton (adjusted to United States quality and location); and

"(II) a mechanism by which the Secretary shall announce periodically the prevailing world market price for upland cotton (adjusted to United States quality and location).

"(ii) USE.—The prevailing world market price for upland cotton (adjusted to United States quality and location) established under this subparagraph shall be used under subparagraphs (A), (B), and (E).

"(D) ADJUSTMENT OF PREVAILING WORLD MARKET PRICE.—

"(i) IN GENERAL.—During the period beginning August 1, 1996, and ending July 31, 2003, the prevailing world market price for upland cotton (adjusted to United States quality and location) established under subparagraph (C) shall be further adjusted if—

"(I) the adjusted prevailing world market price is less than 115 percent of the current crop year loan level for the base quality of upland cotton, as determined by the Secretary; and

"(II) the Friday through Thursday average price for the lowest-priced United States growth as quoted for Middling 1 3/32-inch cotton delivered C.I.F. Northern Europe is greater than the Friday through Thursday average price of the 5 lowest-priced growths of upland cotton, as quoted for Middling 1 3/32-inch cotton, delivered C.I.F. Northern Europe (referred to in this subsection as the 'Northern Europe price').

"(ii) FURTHER ADJUSTMENT.—Except as provided in clause (iii), the adjusted prevailing world market price shall be further adjusted on the basis of some or all of the following data, as available:

"(I) The United States share of world exports.

"(II) The current level of cotton export sales and cotton export shipments.

"(III) Other data determined by the Secretary to be relevant in establishing an accurate prevailing world market price for upland cotton (adjusted to United States quality and location).

"(iii) LIMITATION ON FURTHER ADJUSTMENT.—The adjustment under clause (ii) may not exceed the difference between—

"(I) the Friday through Thursday average price for the lowest-priced United States growth as quoted for Middling 1 3/32-inch cotton delivered C.I.F. Northern Europe; and

"(II) the Northern Europe price.

"(E) COTTON USER MARKETING CERTIFICATES.—

"(i) ISSUANCE.—Subject to clause (iv), during the period beginning August 1, 1996, and ending July 31, 2003, the Secretary shall issue marketing certificates or cash payments to domestic users and exporters for documented purchases by domestic users and sales for export by exporters made in the week following a consecutive 4-week period in which—

"(I) the Friday through Thursday average price for the lowest-priced United States growth, as quoted for Middling 1 3/32-inch cotton delivered C.I.F. Northern Europe exceeds the Northern Europe price by more than 1.25 cents per pound; and

"(II) the prevailing world market price for upland cotton (adjusted to United States quality and location), established under subparagraph (C), does not exceed 130 percent of the current crop year loan level for the base quality of upland cotton, as determined by the Secretary.

"(ii) VALUE.—The value of the marketing certificates or cash payments shall be based on the amount of the difference (reduced by 1.25 cents per pound) in the prices during the 4th week of the consecutive 4-week period multiplied by the quantity of upland cotton included in the documented sales.

"(iii) ADMINISTRATION.—Clauses (iv) through (vii) of subparagraph (B) shall apply to marketing certificates issued under this subparagraph. Any such certificates may be transferred to other persons in accordance with regulations issued by the Secretary.

"(iv) EXCEPTION.—The Secretary shall not issue marketing certificates or cash payments under clause (i) if, for the immediately preceding consecutive 10-week period, the Friday through Thursday average price for the lowest priced United States growth, as quoted for Middling 1 3/32-inch cotton, delivered C.I.F. Northern Europe, adjusted for the value of any certificate issued under this subparagraph, exceeds the Northern Europe price by more than 1.25 cents per pound.

"(F) SPECIAL IMPORT QUOTA.—

"(i) IN GENERAL.—The President shall carry out an import quota program that shall provide that, during the period beginning August 1996 and ending July 31, 2003, whenever the Secretary determines and announces that for any consecutive 10-week period, the Friday through Thursday average price for the lowest-priced United States growth, as quoted for Middling 1 3/32-inch cotton, delivered C.I.F. Northern Europe, adjusted for the value of any certificates issued under subparagraph (E), exceeds the Northern Europe price by more than 1.25 cents per pound, there shall immediately be in effect a special import quota.

"(ii) QUANTITY.—The quota shall be equal to the consumption of upland cotton for 1 week by domestic mills at the seasonally adjusted average rate of the most recent 3 months for which data are available.

"(iii) APPLICATION.—The quota shall apply to upland cotton purchased not later than 90 days after the date of the announcement of the Secretary under clause (i) and entered into the United States not later than 180 days after the date.

"(iv) OVERLAP.—A special quota period may be established that overlaps any existing quota period if required by clause (i), except that a special quota period may not be established under this paragraph if a quota period has been established under subsection (n).

"(v) PREFERENTIAL TARIFF TREATMENT.—The quantity under a special import quota shall be considered to be an in-quota quantity for purposes of—

"(I) section 213(d) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(d));

"(II) section 204 of the Andean Trade Preference Act (19 U.S.C. 3203);

"(III) section 503(d) of the Trade Act of 1974 (19 U.S.C. 2463(d)); and

"(IV) General Note 3(a)(iv) to the Harmonized Tariff Schedule of the United States (19 U.S.C. 1202 note).

"(vi) DEFINITION.—In this subparagraph, the term 'special import quota' means a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota.

"(6) RECOURSE LOANS FOR SEED COTTON.—To encourage and assist producers in the orderly ginning and marketing of production of upland cotton by the producers, the Secretary shall make recourse loans available to the producers on seed cotton in accordance with authority vested in the Secretary under the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.).

"(b) LOAN DEFICIENCY PAYMENTS.—

"(1) IN GENERAL.—For each of the 1996 through 2002 crops of upland cotton, the Secretary shall make payments (referred to in this section as 'loan deficiency payments') available to producers who, although eligible to obtain a loan under subsection (a), agree to forgo obtaining the loan in return for payments under this subsection.

"(2) COMPUTATION.—A payment under this subsection shall be computed by multiplying—

"(A) the loan payment rate; and

"(B) the quantity of upland cotton the producers on a farm are eligible to place under loan but for which the producers forgo obtaining the loan in return for payments under this subsection.

"(3) LOAN PAYMENT RATE.—For purposes of this subsection, the loan payment rate shall be the amount by which—

"(A) the loan level determined for the crop under subsection (a); exceeds

"(B) the level at which a loan may be repaid under subsection (a).

"(4) MARKETING CERTIFICATES.—The Secretary may make up to ½ the amount of a payment under this subsection available in the form of marketing certificates, subject to the terms and conditions provided in subsection (a)(5)(B).

"(c) PAYMENTS.—

"(1) DEFICIENCY PAYMENTS.—

"(A) IN GENERAL.—The Secretary shall make available to producers payments (referred to in this section as 'deficiency payments') for each of the 1996 through 2002 crops of upland cotton in an amount computed by multiplying—

"(i) the payment rate;

"(ii) the payment acres for the crop; and

"(iii) the farm program payment yield established for the crop for the farm.

"(B) PAYMENT RATE.—

"(i) IN GENERAL.—The payment rate for upland cotton shall be the amount by which the established price for the crop of upland cotton exceeds the greater of—

"(I) the national average market price received by producers during the calendar year that includes the first 5 months of the marketing year for the crop, as determined by the Secretary; and

"(II) the loan level determined for the crop.

"(ii) MINIMUM ESTABLISHED PRICE.—The established price for upland cotton shall be not less than $0.729 per pound for each of the 1996 through 2002 crops.

"(C) PAYMENT ACRES.—Payment acres for a crop shall be the lesser of—

"(i) the number of acres planted to the crop for harvest within the permitted acreage (as defined in subsection (e)(2)(D)(ii)); or

"(ii) 75 percent of the crop acreage base for the crop for the farm less the quantity of reduced acreage (as defined in subsection (e)(2)(D)(ii)).

"(D) 50/85 PROGRAM.—

"(i) IN GENERAL.—If an acreage limitation program under subsection (e)(2) is in effect for a crop of upland cotton and the producers on a farm devote a portion of the maximum payment acres of the farm for upland cotton as calculated under subparagraph (C)(ii) equal to more than 15 percent (except as provided in clause (v)) of the upland cotton acreage of the farm for the crop to conservation uses (except as provided in subparagraph (E))—

"(I) the portion of the maximum payment acres in excess of 15 percent (except as provided in clause (v)) of the acreage devoted to conservation uses (except as provided in subparagraph (E)) shall be considered to be planted to upland cotton for the purpose of determining the acreage on the farm required to be devoted to conservation uses in accordance with subsection (e)(2)(D); and

"(II) the producers shall be eligible for payments under this paragraph with respect to the acreage, subject to the compliance of the producers with clause (ii).

"(ii) MINIMUM PLANTING REQUIREMENT.—To be eligible for payments under clause (i), except as provided in clauses (iv) and (v), the producers on a farm must actually plant upland cotton for harvest on at least 50 percent of the maximum payment acres for cotton for the farm.

"(iii) DEFICIENCY PAYMENTS.—Notwithstanding any other provision of this section, any producers on a farm who devote a portion of the maximum payment acres of the farm for upland cotton to conservation uses (or other uses as provided in subparagraph (E)) under this subparagraph shall receive deficiency payments on the acreage that is considered to be planted to upland cotton and eligible for payments under this subparagraph for the crop at a per-pound rate established by the Secretary, except that the rate may not be established at less than the projected deficiency payment rate for the crop, as determined by the Secretary. The projected payment rate for the crop shall be announced by the Secretary prior to the period during which upland cotton producers may agree to participate in the program for the crop.

"(iv) QUARANTINES.—If a State or local agency has imposed in an area of a State or county a quarantine on the planting of upland cotton for harvest on farms in the area, the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) may recommend to the Secretary that payments be made under this paragraph, without regard to the requirement imposed under clause (ii), to producers in the area who were required to forgo the planting of upland cotton for harvest on acreage to alleviate or eliminate the condition requiring the quarantine. If the Secretary determines that the condition exists, the Secretary may make payments under this paragraph to the producers. To be eligible for payments under this clause, the producers must devote the acreage to conservation uses (except as provided in subparagraph (E)).

"(v) PREVENTED PLANTING AND REDUCED YIELDS.—In the case of each of the 1996

through 2002 crops of upland cotton, producers on a farm shall be eligible to receive deficiency payments as provided in clause (iii) without regard to clause (ii) if an acreage limitation program under subsection (e) is in effect for the crop and the producers—

"(I)(aa) have been determined by the Secretary (in accordance with section 503(c)) to be prevented from planting the crop, or have incurred a reduced yield for the crop because of a natural disaster; and

"(bb) elect to devote a portion of the maximum payment acres for upland cotton (as calculated under subparagraph (C)(ii)) equal to more than 8 percent of the upland cotton acreage, to conservation uses; or

"(II) elect to devote a portion of the maximum payment acres for upland cotton (as calculated under subparagraph (C)(ii)) equal to more than 8 percent of the upland cotton acreage, to alternative crops as provided in subparagraph (E).

"(vi) CROP ACREAGE AND PAYMENT YIELD.—The upland cotton crop acreage base and upland cotton farm program payment yield of the farm shall not be reduced because of the fact that a portion of the permitted acreage for upland cotton for the farm was devoted to conserving uses (except as provided in subparagraph (E)) under this subparagraph.

"(vii) LIMITATION.—Other than as provided in clauses (i) through (vi), payments may not be made under this paragraph for any crop on a greater acreage than the acreage actually planted to upland cotton.

"(viii) CONSERVATION USE ACREAGE UNDER OTHER PROGRAMS.—Any acreage considered to be planted to upland cotton in accordance with clauses (i) and (vi) may not also be designated as conservation use acreage for the purpose of fulfilling any provisions under any acreage limitation or land diversion program requiring that the producers devote a specified quantity of acreage to conservation uses.

"(ix) BLACK-EYED PEAS FOR DONATION.—The Secretary may permit, under such terms and conditions as will ensure optimum producer participation, all or any part of the acreage required to be devoted to conservation uses as a condition for qualifying for payments under this subparagraph to be devoted to the production of black-eyed peas if—

"(I) the producers on a farm agree to donate the harvested peas from the acreage to a food bank, food pantry, or soup kitchen (as defined in paragraphs (3), (4), and (7) of section 110(b) of the Hunger Prevention Act of 1988 (Public Law 100-435; 7 U.S.C. 612c note)) that is approved by the Secretary; and

"(II) the Secretary finds that the action will not result in the disruption of normal channels of trade.

"(E) ALTERNATIVE CROPS.—

"(i) INDUSTRIAL AND OTHER CROPS.—The Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (D) to be devoted to sweet sorghum, guar, castor beans, plantago ovato, triticale, rye, millet, mung beans, commodities for which no substantial domestic production or market exists but that could yield industrial raw material being imported, or likely to be imported, into the United States, or commodities grown for experimental purposes (including kenaf and milkweed), subject to the following sentence. The Secretary may permit the acreage to be devoted to the production only if the Secretary determines that the production is—

"(I) not likely to increase the cost of the price support program; and

"(II) needed to provide an adequate supply of the commodity, or, in the case of a commodity for which no substantial domestic production or market exists but that could yield industrial raw materials, the production is needed to encourage domestic manufacture of the raw material and could lead to increased industrial use of the raw material to the long-term benefit of United States industry.

"(ii) SESAME AND CRAMBE.—The Secretary shall permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (D) to be devoted to sesame or crambe. In carrying out this clause, if the Secretary determines that sesame or crambe are considered oilseeds under section 205, the Secretary shall provide that, to receive payments under subparagraph (D), the producers shall agree to forgo eligibility to receive a loan under section 205 for the crop of sesame or crambe produced on the farm.

"(2) CROP INSURANCE REQUIREMENT.—As a condition of eligibility for upland cotton loans, purchases, and payments, the producers on a farm shall obtain catastrophic risk protection insurance coverage in accordance with section 427.

"(d) PAYMENT YIELDS.—The farm program payment yields for farms for each crop of upland cotton under this section shall be determined under title V.

"(e) ACREAGE REDUCTION PROGRAMS.—

"(1) IN GENERAL.—

"(A) ESTABLISHMENT.—Notwithstanding any other provision of this Act, if the Secretary determines that the total supply of upland cotton, in the absence of an acreage limitation program, will be excessive taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency, the Secretary may provide for any crop of upland cotton an acreage limitation program as described in paragraph (2).

"(B) AGRICULTURAL RESOURCES CONSERVATION PROGRAM.—In making a determination under subparagraph (A), the Secretary shall take into consideration the number of acres placed in the agricultural resources conservation program established under subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3830 et seq.).

"(C) ANNOUNCEMENTS.—

"(i) PRELIMINARY ANNOUNCEMENT.—If the Secretary elects to implement an acreage limitation program for any crop year, the Secretary shall make a preliminary announcement of any such program not later than November 1 of the calendar year preceding the year in which the crop is harvested, except that in the case of the 1996 crop, the Secretary shall announce the program as soon as practicable after the date of enactment of the Agricultural Competitiveness Act of 1995. The announcement shall include, among other information determined necessary by the Secretary, an announcement of the uniform percentage reduction in the upland cotton crop acreage base described in paragraph (2)(A).

"(ii) FINAL ANNOUNCEMENT.—Not later than January 1 of the calendar year in which the crop is harvested, the Secretary shall make a final announcement of the program. The announcement shall include, among other information determined necessary by the Secretary, an announcement of the uniform percentage reduction in the upland cotton crop described in paragraph (2)(A).

"(iii) OPTIONAL PROGRAMS IN EARLY PLANTING AREAS.—The Secretary shall allow producers in early planting areas to elect to participate in the program on the terms of the acreage limitation program—

"(I) first announced for the crop under clause (i); or

"(II) as subsequently revised under clause (ii);

if the Secretary determines that the producers may be unfairly disadvantaged by the revision.

"(D) DESIRED CARRY-OVER.—The Secretary shall carry out an acreage limitation program described in paragraph (2) for a crop of upland cotton in a manner that will result in a ratio of carry-over to total disappearance of 29½ percent for the 1996 crop and 29 percent for each of the 1997 through 2002 crops, based on the most recent projection of the Secretary of carry-over and total disappearance at the time of announcement of the acreage limitation program. In this subparagraph, the term 'total disappearance' means all upland cotton utilization, including total domestic, total export, and total residual disappearance.

"(2) ACREAGE LIMITATION PROGRAM.—

"(A) UNIFORM PERCENTAGE REDUCTION.—Except as provided in paragraph (3), if an upland cotton acreage limitation program is announced under paragraph (1), the limitation shall be achieved by applying a uniform percentage reduction (from 0 to 25 percent) to the upland cotton crop acreage base for the crop for each upland cotton-producing farm.

"(B) COMPLIANCE.—Except as provided in section 504, producers who knowingly produce upland cotton in excess of the permitted acreage for upland cotton for the farm, as established in accordance with subparagraph (A), shall be ineligible for upland cotton loans and payments with respect to the farm.

"(C) CROP ACREAGE BASES.—Upland cotton crop acreage bases for each crop of upland cotton shall be determined under title V.

"(D) ACREAGE DEVOTED TO CONSERVATION USES.—

"(i) IN GENERAL.—A number of acres on the farm shall be devoted to conservation uses, in accordance with regulations issued by the Secretary.

"(ii) NUMBER.—The number shall be determined by multiplying the upland cotton crop acreage base by the percentage reduction required by the Secretary. The number of acres so determined is referred to in this section as 'reduced acreage'. The remaining acreage is referred to in this section as 'permitted acreage'.

"(iii) ADJUSTMENT.—Permitted acreage may be adjusted by the Secretary as provided in paragraph (3) and in section 504.

"(E) INDIVIDUAL FARM PROGRAM ACREAGE.—Except as otherwise provided in subsection (c), the individual farm program acreage shall be the acreage planted on the farm to upland cotton for harvest within the permitted acreage for upland cotton for the farm as established under this paragraph.

"(F) PLANTING DESIGNATED CROPS ON REDUCED ACREAGE.—

"(i) DEFINITION OF DESIGNATED CROP.—In this subparagraph, the term 'designated crop' means a crop described in section 504(b)(1), excluding any program crop as defined in section 502(3).

"(ii) PLANTING DESIGNATED CROPS.—Subject to clause (iii), the Secretary may permit producers on a farm to plant a designated crop on not more than ½ of the reduced acreage on the farm.

"(iii) LIMITATIONS.—If the producers on a farm elect to plant a designated crop on reduced acreage under this subparagraph—

"(I) the amount of the deficiency payment that the producers are otherwise eligible to receive under subsection (c) shall be reduced, for each acre (or portion of an acre) that is planted to the designated crop, by an amount equal to the deficiency payment that would be made with respect to a number of acres of the crop that the Secretary considers appropriate, except that if the producers on the farm are participating in a program established for more than 1 program crop, the amount of the reduction shall be determined by prorating the reduction based on the acreage planted or considered planted on the farm to all of the program crops; and

"(II) the Secretary shall ensure that reductions in deficiency payments under subclause (I) are sufficient to ensure that this subparagraph will result in no additional cost to the Commodity Credit Corporation.

"(G) BLACK-EYED PEAS FOR DONATION.—The Secretary may permit, under such terms and conditions as will ensure optimum producer participation, producers on a farm to plant black-eyed peas on not more than ½ of the reduced acreage on the farm if—

"(i) the producers agree to donate the harvested peas from the acreage to a food bank, food pantry, or soup kitchen (as defined in paragraphs (3), (4), and (7) of section 110(b) of the Hunger Prevention Act of 1988 (Public Law 100-435; 7 U.S.C. 612c note)) that is approved by the Secretary; and

"(ii) the Secretary finds that the action will not result in the disruption of normal channels of trade.

"(3) TARGETED OPTION PAYMENTS.—

"(A) IN GENERAL.—Notwithstanding any other provision of this section, if the Secretary implements an acreage limitation program with respect to any of the 1996 through 2002 crops of upland cotton, the Secretary may make available to producers on a farm who do not receive payments under subsection (c)(1)(D) for the crop on the farm, adjustments in the level of deficiency payments that would otherwise be made available to the producers if the producers exercise the payment options provided in this paragraph.

"(B) PAYMENT OPTIONS.—If the Secretary elects to carry out this paragraph, the Secretary shall make the payment options specified in subparagraphs (C) and (D) available to producers who agree to make adjustments in the quantity of acreage diverted from the production of upland cotton under an acreage limitation program in accordance with this paragraph.

"(C) INCREASED ACREAGE LIMITATION OPTION.—

"(i) INCREASE IN ESTABLISHED PRICE.—If the Secretary elects to carry out this paragraph, the producers on a farm shall be eligible to receive an increase in the established price for upland cotton in accordance with clause (ii) if the producers agree to an increase in the acreage limitation percentage to be applied to the upland cotton acreage base of the producers above the acreage limitation percentage announced by the Secretary.

"(ii) METHOD OF CALCULATION.—For the purposes of calculating deficiency payments to be made available to producers who participate in the program under this paragraph, the Secretary shall increase the established price for upland cotton by an amount determined by the Secretary of not less than 0.5 percent, nor more than 1 percent, for each 1 percentage point increase in the acreage limitation percentage applied to the upland cotton acreage base of the producers.

"(iii) LIMITATION.—The acreage limitation percentage to be applied to the upland cotton acreage base of the producers shall be increased by not more than 10 percentage points above the acreage limitation percentage announced by the Secretary for the crop or above 25 percent total for the crop.

"(iv) ADJUSTMENT FOR UNDERPLANTINGS.—In determining the increased acreage limitation percentage that is applied to the upland cotton base of the producers on a farm under this paragraph, the Secretary shall exclude an amount of acreage equal to the average difference between the permitted acreage for upland cotton for the farm of the producers and the acreage actually planted (including acreage devoted to conserving uses under subsection (c)(1)(D)) to upland cotton for harvest during the previous 2 years.

"(D) DECREASED ACREAGE LIMITATION OPTION.—

"(i) DECREASE IN ACREAGE LIMITATION REQUIREMENT.—If the Secretary elects to carry out this paragraph, the producers on a farm shall be eligible to decrease the acreage limitation percentage applicable to the upland cotton acreage base of the producers (as announced by the Secretary) if the producers agree to a decrease in the established price for upland cotton in accordance with clause (ii) for the purpose of calculating deficiency payments to be made available to the producers.

"(ii) METHOD OF CALCULATION.—For the purposes of calculating deficiency payments to be made available to producers who choose the option established under this subparagraph, the Secretary shall decrease the established price for upland cotton by an amount to be determined by the Secretary of not less than 0.5 percent, nor more than 1 percent, for each 1 percentage point decrease in the acreage limitation percentage applied to the upland cotton acreage base of the producers.

"(iii) LIMITATION.—The producers on a farm may not choose to decrease the acreage limitation percentage applicable to the upland cotton acreage base of the producers under this paragraph by more than ½ of the announced acreage limitation percentage.

"(E) PARTICIPATION AND PRODUCTION EFFECTS.—Notwithstanding any other provision of this paragraph, the Secretary shall, to the extent practicable, ensure that the program provided for in this paragraph does not have a significant effect on participation in the program established by this section or total production and shall be offered in such a manner that the Secretary determines will result in no additional budget outlays. The Secretary shall provide an analysis of the determination of the Secretary to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

"(4) ADMINISTRATION.—

"(A) PROTECTION FROM WEEDS AND EROSION.—The regulations issued by the Secretary under paragraph (2) with respect to acreage required to be devoted to conservation uses shall ensure protection of the acreage from weeds and wind and water erosion.

"(B) CONSERVING CROPS.—The Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of the acreage to be devoted to sweet sorghum, guar, sesame, castor beans, crambe, plantago ovato, triticale, rye, mung beans, milkweed, or other commodity, if the Secretary determines that the production is needed to provide an adequate supply of the commodities, is not likely to increase the cost of the price support program, and will not affect farm income adversely.

"(C) HAYING AND GRAZING.—

"(i) IN GENERAL.—Except as provided in clause (ii), haying and grazing of reduced acreage, acreage devoted to a conservation use under subsection (c)(1)(D), and acreage diverted from production under a land diversion program established under this subsection shall be permitted, except during any consecutive 5-month period that is established by the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) for a State. The 5-month period shall be established during the period beginning April 1, and ending October 31, of a year.

"(ii) NATURAL DISASTERS.—In the case of a natural disaster, the Secretary may permit unlimited haying and grazing on the acreage. The Secretary may not exclude irrigated or irrigable acreage not planted to alfalfa when exercising the authority under this clause.

"(D) WATER STORAGE USES.—

"(i) IN GENERAL.—The regulations issued by the Secretary under paragraph (2) with respect to acreage required to be devoted to conservation uses shall provide that land that has been converted to water storage uses shall be considered to be devoted to conservation uses if the land was devoted to wheat, feed grains, cotton, rice, or oilseeds in at least 3 of the immediately preceding 5 crop years. The land shall be considered to be devoted to conservation uses for the period that the land remains in water storage uses, but not to exceed 5 crop years subsequent to the conversion of the land to water storage uses.

"(ii) LIMITATIONS.—Land converted to water storage uses for the purposes of this subparagraph may not be devoted to any commercial use, including commercial fish production. The water stored on the land may not be ground water. The farm on which the land is located must have been irrigated with ground water during at least 1 of the preceding 5 crop years.

"(5) LAND DIVERSION PROGRAM.—

"(A) PAYMENTS.—

"(i) IN GENERAL.—The Secretary may make land diversion payments to producers of upland cotton, whether or not an acreage limitation program for upland cotton is in effect, if the Secretary determines that the land diversion payments are necessary to assist in adjusting the total national acreage of upland cotton to desirable goals. The land diversion payments shall be made to producers who, to the extent prescribed by the Secretary, devote to approved conservation uses an acreage of cropland on the farm in accordance with land diversion contracts entered into by the Secretary with the producers.

"(ii) EXCESS CARRY-OVER.—If, at the time of final announcement of the acreage limitation program established under this subsection, the Secretary projects that the ratio of carry-over to total disappearance of upland cotton for the crop year is equal to or greater than 40 percent, the Secretary shall offer a paid land diversion program to producers of upland cotton. Payments to producers under the program shall be determined by multiplying—

"(I) the payment rate, of not less than 35 cents per pound of cotton, established by the Secretary;

"(II) the program payment yield established for the crop for the farm; and

"(III) the number of permitted acreage for upland cotton for the farm diverted on the farm.

"(B) BIDS FOR CONTRACTS.—The amounts payable to producers under land diversion contracts may be determined through the submission of bids for the contracts by producers in such manner as the Secretary may prescribe or through such other means as the Secretary determines appropriate. In determining the acceptability of contract offers, the Secretary shall take into consideration the extent of the diversion to be undertaken by the producers and the productivity of the acreage diverted.

"(C) LIMITATIONS ON DIVERTED ACREAGE.—

"(i) MAXIMUM ACREAGE PER FARM, COUNTY, OR COMMUNITY.—The Secretary shall limit the total acreage to be diverted under this paragraph—

"(I) to not more than 15 percent of the upland cotton crop acreage base for a farm; and

"(II) under agreements in any county or local community so as not to affect adversely the economy of the county or local community.

"(ii) LOWER PARTICIPATION LEVELS.—The Secretary may allow producers to participate in a land diversion program under this paragraph at a level lower than the maximum level announced by the Secretary, at the option of the producer, if the Secretary determines that the lower level will increase participation in the program.

"(6) CONSERVATION PRACTICES.—

"(A) WILDLIFE FOOD PLOTS OR HABITAT.—The reduced acreage and additional diverted acreage may be devoted to wildlife food plots or wildlife habitat in conformity with standards established by the Secretary in consultation with wildlife agencies. The Secretary may pay an appropriate share of the cost of practices designed to carry out this subparagraph.

"(B) PUBLIC ACCESS.—The Secretary may provide for an additional payment on the acreage in an amount determined by the Secretary to be appropriate in relation to the benefit to the general public if the producers on a farm agree to permit, without other compensation, access to all or such portion of the farm, as the Secretary may prescribe, by the general public, for hunting, trapping, fishing, and hiking, subject to applicable Federal and State regulations.

"(7) PARTICIPATION AGREEMENTS.—

"(A) IN GENERAL.—Producers on a farm desiring to participate in the program conducted under this subsection shall execute an agreement with the Secretary providing for the participation not later than such date as the Secretary may prescribe.

"(B) MODIFICATION OR TERMINATION.—The Secretary may, by mutual agreement with producers on a farm, modify or terminate any such agreement if the Secretary determines the action necessary because of an emergency created by drought or other disaster or to prevent or alleviate a shortage in the supply of agricultural commodities. The Secretary may modify the agreement under this subparagraph for the purpose of alleviating a shortage in the supply of agricultural commodities only if there has been a significant change in the estimated stocks of the commodity since the Secretary announced the final terms and conditions of the program for the crop of upland cotton.

"(f) INVENTORY REDUCTION PAYMENTS.—

"(1) IN GENERAL.—For each of the 1996 through 2002 crops of upland cotton, the Secretary may make payments available to producers on a farm who meet the requirements of this subsection.

"(2) FORM.—The payments may be made in the form of marketing certificates.

"(3) PAYMENTS.—

"(A) IN GENERAL.—Payments under this subsection shall be determined in the same manner as provided in subsection (b).

"(B) QUANTITY OF COTTON MADE AVAILABLE.—The quantity of upland cotton to be made available to the producers on a farm under this subsection shall be equal in value to the payments so determined under this subsection.

"(4) ELIGIBILITY.—The producers on a farm shall be eligible to receive a payment under this subsection for a crop if the producers—

"(A) agree to forgo obtaining a loan under subsection (a);

"(B) agree to forgo receiving payments under subsection (c);

"(C) do not plant upland cotton for harvest in excess of the crop acreage base reduced by ½ of any acreage required to be diverted from production under subsection (e); and

"(D) otherwise comply with this section.

"(g) EQUITABLE RELIEF.—

"(1) LOANS AND PAYMENTS.—If the failure of a producer to comply fully with the terms and conditions of the program conducted under this section precludes the making of loans and payments, the Secretary may, notwithstanding the failure, make the loans and payments in such amounts as the Secretary determines are equitable in relation to the seriousness of the failure. The Secretary may consider whether the producer made a good faith effort to comply fully with the terms and conditions of the program in determining whether equitable relief is warranted under this paragraph.

"(2) DEADLINES AND PROGRAM REQUIREMENTS.—The Secretary may authorize the county and State committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) to waive or modify deadlines and other program requirements in cases in which lateness or failure to meet the other requirements does not affect adversely the operation of the program.

"(h) REGULATIONS.—The Secretary may issue such regulations as the Secretary determines necessary to carry out this section.

"(i) COMMODITY CREDIT CORPORATION.—The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

"(j) ASSIGNMENT OF PAYMENTS.—Section 8(g) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(g)) shall apply to payments made under this section.

"(k) SHARING OF PAYMENTS.—The Secretary shall provide for the sharing of payments made under this section for any farm among the producers on the farm on a fair and equitable basis.

"(l) TENANTS AND SHARECROPPERS.—In carrying out this section, the Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

"(m) CROSS-COMPLIANCE.—

"(1) IN GENERAL.—Compliance on a farm with the terms and conditions of any other commodity program, or compliance with crop acreage base requirements for any other commodity, may not be required as a condition of eligibility for loans or payments under this section.

"(2) COMPLIANCE ON OTHER FARMS.—The Secretary may not require producers on a farm, as a condition of eligibility for loans or payments under this section for the farm, to comply with the terms and conditions of the upland cotton program with respect to any other farm operated by the producers.

"(n) LIMITED GLOBAL IMPORT QUOTA.—

"(1) DEFINITIONS.—In this subsection:

"(A) DEMAND.—The term 'demand' means—

"(i) the average seasonally adjusted annual rate of domestic mill consumption in the most recent 3 months for which data are available; plus

"(ii) the larger of—

"(I) average exports of upland cotton during the preceding 6 marketing years; or

"(II) cumulative exports of upland cotton plus outstanding export sales for the marketing year in which the quota is established.

"(B) LIMITED GLOBAL IMPORT QUOTA.—The term 'limited global import quota' means a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota.

"(C) SUPPLY.—The term 'supply' means, using the latest official data of the Bureau of the Census, the Department of Agriculture, and the Department of the Treasury—

"(i) the carry-over of upland cotton at the beginning of the marketing year (adjusted to 480-pound bales) in which the quota is established;

"(ii) production of the current crop; and

"(iii) imports to the latest date available during the marketing year.

"(2) QUOTA.—The President shall carry out an import quota program that shall provide that whenever the Secretary determines and announces that the average price of the base quality of upland cotton, as determined by the Secretary, in the designated spot markets for a month exceeded 130 percent of the average price of the quality of cotton in the markets for the preceding 36 months, notwithstanding any other provision of law, there shall immediately be in effect a limited global import quota subject to the following conditions:

"(A) QUANTITY.—The quantity of the quota shall be equal to 21 days of domestic mill consumption of upland cotton at the seasonally adjusted average rate of the most recent 3 months for which data are available.

"(B) QUANTITY IF PRIOR QUOTA.—If a quota has been established under this subsection during the preceding 12 months, the quantity of the quota next established under this subsection shall be the smaller of 21 days of domestic mill consumption calculated as set forth in subparagraph (A) or the quantity required to increase the supply to 130 percent of the demand.

"(C) PREFERENTIAL TARIFF TREATMENT.—The quantity under a limited global import quota shall be considered to be an in-quota quantity for purposes of—

"(i) section 213(d) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(d));

"(ii) section 204 of the Andean Trade Preference Act (19 U.S.C. 3203);

"(iii) section 503(d) of the Trade Act of 1974 (19 U.S.C. 2463(d)); and

"(iv) General Note 3(a)(iv) to the Harmonized Tariff Schedule of the United States (19 U.S.C. 1202 note).

"(3) QUOTA ENTRY PERIOD.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), when a quota is established under this subsection, cotton may be entered under the quota during the 90-day period beginning on the date the quota is established by the Secretary.

"(B) NO OVERLAP.—Notwithstanding paragraphs (1) and (2), a quota period may not be established that overlaps an existing quota period or a special quota period established under subsection (a)(5)(F).

"(o) CROPS.—Notwithstanding any other provision of law, this section shall be effective only for the 1996 through 2002 crops of upland cotton.".

SEC. 302. EXTRA LONG STAPLE COTTON PROGRAM.

Section 103(h)(16) of the Agricultural Act of 1949 (7 U.S.C. 1444(h)(16)) is amended by striking "1996" and inserting "2003".

SEC. 303. SUSPENSION OF BASE ACREAGE ALLOTMENTS, MARKETING QUOTAS, AND RELATED PROVISIONS.

Sections 342, 343, 344, 345, 346, and 377 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1342–1346 and 1377) shall not be applicable to any of the 1996 through 2002 crops of upland cotton.

SEC. 304. MISCELLANEOUS COTTON PROVISIONS.

Section 103(a) of the Agricultural Act of 1949 (7 U.S.C. 1444(a)) shall not be applicable to the 1996 through 2002 crops.

SEC. 305. SKIPROW PRACTICES.

The third sentence of section 374(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1374(a)) is amended—

(1) by striking "1995" each place it appears and inserting "2002"; and

(2) by striking "1991" each place it appears and inserting "1996".

SEC. 306. PRELIMINARY ALLOTMENTS FOR 2003 CROP OF UPLAND COTTON.

Notwithstanding any other provision of law, the permanent State, county, and farm base acreage allotments for the 1977 crop of upland cotton, adjusted for any underplantings in 1977 and reconstituted as provided in section 379 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1379), shall be the preliminary allotments for the 2003 crop.

SEC. 307. COTTONSEED AND COTTONSEED OIL.

Section 203(b) of the Agricultural Act of 1949 (7 U.S.C. 1446d(b)) is amended by striking "1995" and inserting "2002".

SEC. 308. COTTON CLASSIFICATION SERVICES.

The first sentence of section 3a of the Act of March 3, 1927 (commonly known as the "Cotton Statistics and Estimates Act") (chapter 337; 7 U.S.C. 473a), is amended by striking "1996" and inserting "2002".

TITLE IV—RICE

SEC. 401. LOANS, PAYMENTS, AND ACREAGE REDUCTION PROGRAMS FOR THE 1996 THROUGH 2002 CROPS OF RICE.

Section 101B of the Agricultural Act of 1949 (7 U.S.C. 1441–2) is amended to read as follows:

"SEC. 101B. LOANS, PAYMENTS, AND ACREAGE REDUCTION PROGRAMS FOR THE 1996 THROUGH 2002 CROPS OF RICE.

"(a) LOANS AND PURCHASES.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the Secretary shall make available to producers on a farm nonrecourse loans and purchases for each of the 1996 through 2002 crops of rice produced on the farm at a level that is not less than the greater of—

"(A) 85 percent of the simple average price received by producers, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of rice, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; or

"(B) $6.50 per hundredweight.

"(2) MAXIMUM REDUCTION.—The loan level for any crop of rice determined under paragraph (1) may not be reduced by more than 5 percent from the level determined for the preceding crop.

"(3) ANNOUNCEMENT OF LOAN LEVEL AND ESTABLISHED PRICE.—The loan and purchase level and the established price for each of the 1996 through 2002 crops of rice shall be announced not later than January 31 of each calendar year for the crop harvested in the calendar year or, in the case of the 1996 crop, as soon as practicable after the date of enactment of the Farm Commodities Act of 1995.

"(4) TERM.—A loan made under this subsection shall have a term of not more than 9 months beginning after the month in which the application for the loan is made.

"(5) MARKETING LOANS.—

"(A) IN GENERAL.—To ensure that a competitive market position is maintained for rice, the Secretary shall permit the producers on a farm to repay a loan made under paragraph (1) for a crop at a level that is the lesser of—

"(i) the loan level determined for the crop; or

"(ii) the greater of—

"(I) 70 percent of the loan level determined for the crop; or

"(II) the prevailing world market price for rice, as determined by the Secretary.

"(B) PREVAILING WORLD MARKET PRICE.—The Secretary shall prescribe by regulation—

"(i) a formula to determine the prevailing world market price for rice that does not take into account any price for the sale of rice produced in the United States; and

"(ii) a mechanism by which the Secretary shall announce periodically the prevailing world market price for rice.

"(C) PRODUCER PURCHASE OF MARKETING CERTIFICATES.—

"(i) IN GENERAL.—As a condition of permitting the producers on a farm to repay a loan as provided in subparagraph (A), the Secretary may require the producers to purchase marketing certificates equal in value to an amount that does not exceed ½ the difference, as determined by the Secretary, between the amount of the loan obtained by the producers and the amount of the loan repayment.

"(ii) REDEMPTION FOR RICE OR CASH.—The certificates shall be redeemable for agricultural commodities owned by the Commodity Credit Corporation valued at the prevailing market price, as determined by the Secretary, or for cash, under such terms and conditions as the Secretary may prescribe.

"(iii) REDEMPTION, MARKETING, OR EXCHANGE.—The Commodity Credit Corporation, under regulations prescribed by the Secretary, shall assist any person receiving marketing certificates under this subparagraph in the redemption or marketing or exchange of the certificates at such times, in such manner, and at such price levels as the Secretary determines will best effectuate the purposes of the program established under this section.

"(iv) CHARGES.—If any such certificate is not presented for redemption or marketing within a reasonable number of days after issuance, as determined by the Secretary, reasonable costs of storage and other carrying charges, as determined by the Secretary, shall be deducted from the value of the certificate for the period beginning after the reasonable number of days and ending on the date of the presentation of the certificate to the Commodity Credit Corporation.

"(v) DESIGNATION OF COMMODITIES AND PRODUCTS.—Insofar as practicable, the Secretary shall permit owners of certificates to designate the commodities and the products of commodities, including storage sites of the commodities and products, that the owners would prefer to receive in exchange for certificates.

"(vi) SALES PRICE RESTRICTIONS.—Notwithstanding any other provision of law, any price restrictions that may otherwise apply to the disposition of agricultural commodities by the Commodity Credit Corporation shall not apply to the redemption of certificates under this subparagraph.

"(vii) DISPLACEMENT.—The Secretary shall take such measures as may be necessary to prevent the marketing or exchange of agricultural commodities and the products of the commodities for certificates under this subparagraph from adversely affecting the income of producers of the commodities or products.

"(viii) TRANSFERS.—Under regulations prescribed by the Secretary, certificates issued under this subparagraph may be transferred to other persons approved by the Secretary.

"(D) CERTIFICATES TO MAINTAIN COMPETITIVENESS.—

"(i) IN GENERAL.—Notwithstanding any other provision of law, whenever, during the period beginning August 1, 1996, and ending July 31, 2003, the prevailing world market price for a class of rice (adjusted to United States quality and location), as determined by the Secretary, is below the current loan repayment rate for that class of rice, to make United States rice competitive in world markets and to maintain and expand exports of rice produced in the United States, the Commodity Credit Corporation shall make payments, through the issuance of marketing certificates, to persons who have entered into an agreement with the Commodity Credit Corporation to participate in the program established under this subparagraph. The payments shall be made in such monetary amounts and subject to such terms and conditions as the Secretary determines will make rice produced in the United States available at competitive prices consistent with the purposes of this subparagraph.

"(ii) VALUE.—The value of each certificate issued under this subparagraph shall be based on the difference between—

"(I) the loan repayment rate for the class of rice; and

"(II) the prevailing world market price for the class of rice, as determined by the Secretary.

"(iii) TERMS AND CONDITIONS OF CERTIFICATES.—Marketing certificates issued under this subparagraph shall be subject to the same terms and conditions as certificates issued under subparagraph (C).

"(6) SIMPLE AVERAGE PRICE.—For purposes of this section, the simple average price received by producers for the immediately preceding marketing year shall be based on the latest information available to the Secretary at the time of the determination.

"(b) LOAN DEFICIENCY PAYMENTS.—

"(1) IN GENERAL.—The Secretary shall, for each of the 1996 through 2002 crops of rice, make payments (referred to in this section as 'loan deficiency payments') available to producers who, although eligible to obtain a loan or an agreement for purchase under subsection (a), agree to forgo obtaining the loan or agreement in return for payments under this subsection.

"(2) COMPUTATION.—A payment under this subsection shall be computed by multiplying—

"(A) the loan payment rate; and

"(B) the quantity of rice that the producers are eligible to place under loan (or obtain a purchase agreement) but for which the producers forgo obtaining the loan or agreement in return for payments under this subsection.

"(3) LOAN PAYMENT RATE.—For purposes of this subsection, the loan payment rate shall be the amount by which—

"(A) the loan level determined for the crop under subsection (a); exceeds

"(B) the level at which a loan may be repaid under subsection (a).

"(4) MARKETING CERTIFICATES.—The Secretary may make up to ½ the amount of a payment under this subsection available in the form of marketing certificates, subject to the terms and conditions provided in subsection (a)(5)(C).

"(c) PAYMENTS.—

"(1) DEFICIENCY PAYMENTS.—

"(A) IN GENERAL.—The Secretary shall make available to producers payments (referred to in this section as 'deficiency payments') for each of the 1996 through 2002 crops of rice in an amount computed by multiplying—

"(i) the payment rate;

"(ii) the payment acres for the crop; and

"(iii) the farm program payment yield established for the crop for the farm.

"(B) PAYMENT RATE.—

"(i) IN GENERAL.—The payment rate for each of the 1996 through 2002 crops of rice shall be the amount by which the established price for the crop of rice exceeds the greater of—

"(I) the lesser of—

"(aa) the national average market price received by producers during the calendar year that contains the first 5 months of the marketing year for the crop, as determined by the Secretary; or

"(bb) the national average market price received by producers during the first 5 months of the marketing year for the crop, as determined by the Secretary, plus an appropriate amount that is fair and equitable in relation to wheat and feed grains (as determined by the Secretary); or

"(II) the loan level determined for the crop.

"(ii) MINIMUM ESTABLISHED PRICE.—The established price for rice shall not be less than $10.71 per hundredweight for each of the 1996 through 2002 crops.

"(C) PAYMENT ACRES.—Payment acres for a crop shall be the lesser of—

"(i) the number of acres planted to the crop for harvest within the permitted acreage (as defined in subsection (e)(2)(D)(ii)); or

"(ii) 75 percent of the crop acreage base for the crop for the farm less the quantity of reduced acreage (as defined in subsection (e)(2)(D)(ii)).

"(D) 50/85 PROGRAM.—

"(i) IN GENERAL.—If an acreage limitation program under subsection (e)(2) is in effect for a crop of rice and the producers on a farm devote a portion of the maximum payment acres of the farm for rice as calculated under subparagraph (C)(ii) equal to more than 15 percent (except as provided in clause (v)(II)) of the rice acreage of the farm for the crop to conservation uses (except as provided in subparagraph (E))—

"(I) the portion of the maximum payment acres of the farm in excess of 15 percent (except as provided in clause (v)(II)) of the acreage devoted to conservation uses (except as provided in subparagraph (E)) shall be considered to be planted to rice for the purpose of determining the acreage on the farm required to be devoted to conservation uses in accordance with subsection (e)(2)(D); and

"(II) the producers shall be eligible for payments under this paragraph with respect to the acreage, subject to the compliance of the producers with clause (ii).

"(ii) MINIMUM PLANTING REQUIREMENT.—To be eligible for payments under clause (i), except as provided in clauses (iv) and (v), the producers on a farm shall actually plant rice for harvest on at least 50 percent of the maximum payment acres for rice for the farm.

"(iii) DEFICIENCY PAYMENTS.—Notwithstanding any other provision of this section, any producers on a farm who devote a portion of the maximum payment acres of the farm for rice to conservation uses (or other uses as provided in subparagraph (E)) under this subparagraph shall receive deficiency payments on the acreage that is considered to be planted to rice and eligible for payments under this subparagraph for the crop at a per-hundredweight rate established by the Secretary, except that the rate may not be established at less than the projected deficiency payment rate for the crop, as determined by the Secretary. The projected deficiency payment rate for the crop shall be announced by the Secretary prior to the period during which rice producers may agree to participate in the program for the crop.

"(iv) QUARANTINES.—If a State or local agency has imposed in an area of a State or county a quarantine on the planting of rice for harvest on farms in the area, the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) may recommend to the Secretary that payments be made under this paragraph, without regard to the requirement imposed under clause (ii), to producers in the area who were required to forgo the planting of rice for harvest on acreage to alleviate or eliminate the condition requiring the quarantine. If the Secretary determines that the condition exists, the Secretary may make payments under this paragraph to the producers. To be eligible for payments under this clause, the producers must devote the acreage to conservation uses (except as provided in subparagraph (E)).

"(v) PREVENTED PLANTING AND REDUCED YIELDS.—In the case of each of the 1996 through 2002 crops of rice, producers on a farm shall be eligible to receive deficiency payments as provided in clause (iii) without regard to clause (ii) if an acreage limitation program under subsection (e) is in effect for the crop and the producers—

"(I)(aa) have been determined by the Secretary (in accordance with section 503(c)) to be prevented from planting the crop, or have incurred a reduced yield for the crop because of a natural disaster; and

"(bb) elect to devote a portion of the maximum payment acres for rice (as calculated under subparagraph (C)(ii)) equal to more than 8 percent of the rice acreage, to conservation uses; or

"(II) elect to devote a portion of the maximum payment acres for rice (as calculated under subparagraph (C)(ii)) equal to more than 8 percent of the rice acreage, to alternative crops as provided in subparagraph (E).

"(vi) CROP ACREAGE AND PAYMENT YIELD.—The rice crop acreage base and rice farm program payment yield of the farm shall not be reduced because of the fact that a portion of the permitted acreage for rice for the farm was devoted to conserving uses (except as provided in subparagraph (E)) under this subparagraph.

"(vii) LIMITATION.—Other than as provided in clauses (i) through (vi), payments may not be made under this paragraph for any crop on a greater acreage than the acreage actually planted to rice.

"(viii) CONSERVATION USE ACREAGE UNDER OTHER PROGRAMS.—Any acreage considered to be planted to rice in accordance with clauses (i) and (vi) may not also be designated as conservation use acreage for the purpose of fulfilling any provision under any acreage limitation or land diversion program requiring that the producers devote a specified quantity of acreage to conservation uses.

"(E) ALTERNATIVE CROPS.—

"(i) INDUSTRIAL AND OTHER CROPS.—The Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (D) to be devoted to sweet sorghum, guar, castor beans, plantago ovato, triticale, rye, millet, mung beans, commodities for which no substantial domestic production or market exists but that could yield industrial raw material being imported, or likely to be imported, into the United States, or commodities grown for experimental purposes (including kenaf and milkweed), subject to the following sentence. The Secretary may permit the acreage to be devoted to the production only if the Secretary determines that the production is—

"(I) not likely to increase the cost of the price support program; and

"(II) needed to provide an adequate supply of the commodity, or, in the case of a commodity for which no substantial domestic production or market exists but that could yield industrial raw materials, the production is needed to encourage domestic manufacture of the raw material and could lead to increased industrial use of the raw material to the long-term benefit of United States industry.

"(ii) SESAME AND CRAMBE.—The Secretary shall permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (D) to be devoted to sesame or crambe. In carrying out this clause, if the Secretary determines that sesame or crambe are considered oilseeds under section 205, the Secretary shall provide that, in order to receive payments under subparagraph (D), the producers shall agree to forgo eligibility to receive a loan under section 205 for the crop of sesame or crambe produced on the farm.

"(2) CROP INSURANCE REQUIREMENT.—As a condition of eligibility for rice loans, purchases, and payments, the producers on a farm shall obtain catastrophic risk protection insurance coverage in accordance with section 427.

"(d) PAYMENT YIELDS.—The farm program payment yields for farms for each crop of rice under this section shall be determined under title V.

"(e) ACREAGE REDUCTION PROGRAMS.—

"(1) IN GENERAL.—

"(A) ESTABLISHMENT.—Notwithstanding any other provision of this Act, if the Secretary determines that the total supply of rice, in the absence of an acreage limitation program, will be excessive taking into account the need for an adequate carry-over to maintain reasonable and stable supplies and prices and to meet a national emergency, the Secretary may provide for any crop of rice an acreage limitation program as described in paragraph (2).

"(B) AGRICULTURAL RESOURCES CONSERVATION PROGRAM.—In making a determination under subparagraph (A), the Secretary shall take into consideration the number of acres placed in the agricultural resources conservation program established under subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3830 et seq.).

"(C) ANNOUNCEMENTS.—

"(i) PRELIMINARY ANNOUNCEMENT.—If the Secretary elects to implement an acreage

limitation program for any crop year, the Secretary shall make a preliminary announcement of any such program not later than December 1 of the calendar year preceding the year in which the crop is harvested (or, for the 1996 crop, as soon as practicable after the date of enactment of the Farm Commodities Act of 1995). The preliminary announcement shall include, among other information determined necessary by the Secretary, an announcement of the uniform percentage reduction in the rice crop acreage base described in paragraph (2)(A).

"(ii) FINAL ANNOUNCEMENT.—Not later than January 31 of the calendar year in which the crop is harvested, the Secretary shall make a final announcement of the program. The announcement shall include, among other information determined necessary by the Secretary, an announcement of the uniform percentage reduction in the rice crop acreage base described in paragraph (2)(A).

"(D) CARRY-OVER.—The Secretary shall carry out an acreage limitation program described in paragraph (2) for a crop of rice in a manner that will result in carry-over stocks equal to 16.5 to 20 percent of the simple average of the total disappearance of rice for each of the 3 marketing years preceding the year for which the announcement is made. In this subparagraph, the term 'total disappearance' means all rice utilization, including total domestic, total export, and total residual disappearance.

"(2) ACREAGE LIMITATION PROGRAM.—

"(A) PERCENTAGE REDUCTIONS.—Except as provided in paragraph (3), if a rice acreage limitation program is announced under paragraph (1), the limitation shall be achieved by applying a uniform percentage reduction (from 0 to 35 percent) to the rice crop acreage base for the crop for each rice-producing farm.

"(B) COMPLIANCE.—Except as provided in section 504, producers on a farm who knowingly produce rice in excess of the permitted acreage for rice for the farm, as established in accordance with subparagraph (A), shall be ineligible for rice loans, purchases, and payments with respect to the farm.

"(C) CROP ACREAGE BASES.—Rice crop acreage bases for each crop of rice shall be determined under title V.

"(D) ACREAGE DEVOTED TO CONSERVATION USES.—

"(i) IN GENERAL.—A number of acres on the farm shall be devoted to conservation uses, in accordance with regulations issued by the Secretary.

"(ii) NUMBER.—The number shall be determined by multiplying the rice crop acreage base by the percentage reduction required by the Secretary. The number of acres so determined is referred to in this section as 'reduced acreage'. The remaining acreage is referred to in this section as 'permitted acreage'.

"(iii) ADJUSTMENT.—Permitted acreage may be adjusted by the Secretary as provided in paragraph (3) and in section 504.

"(E) INDIVIDUAL FARM PROGRAM ACREAGE.—Except as otherwise provided in subsection (c), the individual farm program acreage shall be the acreage planted on the farm to rice for harvest within the permitted acreage for rice for the farm as established under this paragraph.

"(F) PLANTING DESIGNATED CROPS ON REDUCED ACREAGE.—

"(i) DEFINITION OF DESIGNATED CROP.—In this subparagraph, the term 'designated crop' means a crop described in section 504(b)(1), excluding any program crop as defined in section 502(3).

"(ii) PLANTING DESIGNATED CROPS.—Subject to clause (iii), the Secretary may permit producers on a farm to plant a designated crop on not more than ½ of the reduced acreage on the farm.

"(iii) LIMITATIONS.—If the producers on a farm elect to plant a designated crop on reduced acreage under this subparagraph—

"(I) the amount of the deficiency payment that the producers are otherwise eligible to receive under subsection (c) shall be reduced, for each acre (or portion of an acre) that is planted to the designated crop, by an amount equal to the deficiency payment that would be made with respect to a number of acres of the crop that the Secretary considers appropriate, except that if the producers on the farm are participating in a program established for more than 1 program crop, the amount of the reduction shall be determined by prorating the reduction based on the acreage planted or considered planted on the farm to all of the program crops; and

"(II) the Secretary shall ensure that reductions in deficiency payments under subclause (I) are sufficient to ensure that this subparagraph will result in no additional cost to the Commodity Credit Corporation.

"(3) TARGETED OPTION PAYMENTS.—

"(A) IN GENERAL.—Notwithstanding any other provision of this section, if the Secretary implements an acreage limitation program with respect to any of the 1996 through 2002 crops of rice and announces an acreage limitation percentage of 20 percent or less, the Secretary may make available to producers on a farm who do not receive payments under subsection (c)(1)(D) for the crop on the farm, adjustments in the level of deficiency payments that would otherwise be made available to the producers if the producers exercise the payment options provided in this paragraph.

"(B) PAYMENT OPTIONS.—If the Secretary elects to carry out this paragraph, the Secretary shall make the payment options specified in subparagraphs (C) and (D) available to producers who agree to make adjustments in the quantity of acreage diverted from the production of rice under an acreage limitation program in accordance with this paragraph.

"(C) INCREASED ACREAGE LIMITATION OPTION.—

"(i) INCREASE IN ESTABLISHED PRICE.—If the Secretary elects to carry out this paragraph, the producers on a farm shall be eligible to receive an increase in the established price for rice in accordance with clause (ii) if the producers agree to an increase in the acreage limitation percentage to be applied to the rice acreage base of the producers above the acreage limitation percentage announced by the Secretary.

"(ii) METHOD OF CALCULATION.—For the purposes of calculating deficiency payments to be made available to producers who participate in the program under this paragraph, the Secretary shall increase the established price for rice by an amount determined by the Secretary of not less than 0.5 percent, nor more than 1 percent, for each 1 percentage point increase in the acreage limitation percentage applied to the rice acreage base of the producers.

"(iii) LIMITATION.—The acreage limitation percentage to be applied to the rice acreage base of the producers shall be increased by not more than 5 percentage points above the acreage limitation percentage announced by the Secretary.

"(iv) ADJUSTMENT FOR UNDER- PLANTINGS.—In determining the increased acreage limitation percentage that is applied to the rice acreage base of the producers under this paragraph, the Secretary shall exclude an amount of acreage equal to the average difference between the permitted acreage for rice for the farm of the producers and the acreage actually planted (including acreage devoted to conserving uses under subsection (c)(1)(D)) to rice for harvest during the previous 2 years.

"(D) DECREASED ACREAGE LIMITATION OPTION.—

"(i) DECREASE IN ACREAGE LIMITATION REQUIREMENT.—If the Secretary elects to carry out this paragraph, the producers on a farm shall be eligible to decrease the acreage limitation percentage applicable to the rice acreage base of the producers (as announced by the Secretary) if the producers agree to a decrease in the established price for rice in accordance with clause (ii) for the purpose of calculating deficiency payments to be made available to the producers.

"(ii) METHOD OF CALCULATION.—For the purposes of calculating deficiency payments to be made available to producers who choose the option established under this subparagraph, the Secretary shall decrease the established price for rice by an amount to be determined by the Secretary of not less than 0.5 percent, nor more than 1 percent, for each 1 percentage point decrease in the acreage limitation percentage applied to the rice acreage base of the producers.

"(iii) LIMITATION.—The producers on a farm may not choose to decrease the acreage limitation percentage applicable to the rice acreage base of the producers under this paragraph by more than ½ of the announced acreage limitation percentage.

"(E) PARTICIPATION AND PRODUCTION EFFECTS.—Notwithstanding any other provision of this paragraph, the Secretary shall, to the extent practicable, ensure that the program provided for in this paragraph does not have a significant effect on participation on the program established under this section or total production and shall be offered in such a manner that the Secretary determines will result in no additional budget outlays. The Secretary shall provide an analysis of the determination of the Secretary to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

"(4) ADMINISTRATION.—

"(A) PROTECTION FROM WEEDS AND EROSION.—The regulations issued by the Secretary under paragraph (2) with respect to acreage required to be devoted to conservation uses shall ensure protection of the acreage from weeds and wind and water erosion.

"(B) CONSERVING CROPS.—The Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of the acreage to be devoted to sweet sorghum, guar, sesame, castor beans, crambe, plantago ovato, triticale, rye, mung beans, milkweed, or other commodity, if the Secretary determines that the production is needed to provide an adequate supply of the commodities, is not likely to increase the cost of the price support program, and will not affect farm income adversely.

"(C) HAYING AND GRAZING.—

"(i) IN GENERAL.—Except as provided in clause (ii), haying and grazing of reduced acreage, acreage devoted to a conservation use under subsection (c)(1)(D), and acreage diverted from production under a land diversion program established under this subsection shall be permitted, except during any consecutive 5-month period that is established by the State committee established

under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) for a State. The 5-month period shall be established during the period beginning April 1, and ending October 31, of a year.

"(ii) NATURAL DISASTERS.—In the case of a natural disaster, the Secretary may permit unlimited haying and grazing on the acreage. The Secretary may not exclude irrigated or irrigable acreage not planted to alfalfa when exercising the authority under this clause.

"(D) WATER STORAGE USES.—

"(i) IN GENERAL.—The regulations issued by the Secretary under paragraph (2) with respect to acreage required to be devoted to conservation uses shall provide that land that has been converted to water storage uses shall be considered to be devoted to conservation uses if the land was devoted to wheat, feed grains, cotton, rice, or oilseeds in at least 3 of the immediately preceding 5 crop years. The land shall be considered to be devoted to conservation uses for the period that the land remains in water storage uses, but not to exceed 5 crop years subsequent to the conversion of the land to water storage uses.

"(ii) LIMITATIONS.—Land converted to water storage uses for the purposes of this subparagraph may not be devoted to any commercial use, including commercial fish production. The water stored on the land may not be ground water. The farm on which the land is located must have been irrigated with ground water during at least 1 of the preceding 5 crop years.

"(5) LAND DIVERSION PROGRAM.—

"(A) IN GENERAL.—The Secretary may make land diversion payments to producers of rice, whether or not an acreage limitation program for rice is in effect, if the Secretary determines that the land diversion payments are necessary to assist in adjusting the total national acreage of rice to desirable goals. The land diversion payments shall be made to producers who, to the extent prescribed by the Secretary, devote to approved conservation uses an acreage of cropland on the farm in accordance with land diversion contracts entered into by the Secretary with the producers.

"(B) AMOUNTS.—The amounts payable to producers under land diversion contracts may be determined through the submission of bids for the contracts by producers in such manner as the Secretary may prescribe or through such other means as the Secretary determines appropriate. In determining the acceptability of contract offers, the Secretary shall take into consideration the extent of the diversion to be undertaken by the producers and the productivity of the acreage diverted.

"(C) LIMITATION ON DIVERTED ACREAGE.—The Secretary shall limit the total acreage to be diverted under agreements in any county or local community so as not to affect adversely the economy of the county or local community.

"(6) CONSERVATION PRACTICES.—

"(A) WILDLIFE FOOD PLOTS OR HABITAT.—The reduced acreage and additional diverted acreage may be devoted to wildlife food plots or wildlife habitat in conformity with standards established by the Secretary in consultation with wildlife agencies. The Secretary may pay an appropriate share of the cost of practices designed to carry out this subparagraph.

"(B) PUBLIC ACCESS.—The Secretary may provide for an additional payment on the acreage in an amount determined by the Secretary to be appropriate in relation to the benefit to the general public if the producers on a farm agree to permit, without other compensation, access to all or such portion of the farm as the Secretary may prescribe by the general public, for hunting, trapping, fishing, and hiking, subject to applicable Federal and State regulations.

"(7) PARTICIPATION AGREEMENTS.—

"(A) IN GENERAL.—Producers on a farm desiring to participate in the program conducted under this subsection shall execute an agreement with the Secretary providing for the participation not later than such date as the Secretary may prescribe.

"(B) MODIFICATION OR TERMINATION.—The Secretary may, by mutual agreement with producers on a farm, modify or terminate any such agreement if the Secretary determines the action necessary because of an emergency created by drought or other disaster or to prevent or alleviate a shortage in the supply of agricultural commodities. The Secretary may modify the agreement under this subparagraph for the purpose of alleviating a shortage in the supply of agricultural commodities only if there has been a significant change in the estimated stocks of the commodity since the Secretary announced the final terms and conditions of the program for the crop of rice.

"(f) INVENTORY REDUCTION PAYMENTS.—

"(1) IN GENERAL.—For each of the 1996 through 2002 crops of rice, the Secretary may make payments available to producers on a farm who meet the requirements of this subsection.

"(2) FORM.—The payments may be made in the form of marketing certificates.

"(3) PAYMENTS.—

"(A) IN GENERAL.—Payments under this subsection shall be determined in the same manner as provided in subsection (b).

"(B) QUANTITY OF RICE MADE AVAILABLE.—The quantity of rice to be made available to the producers on a farm under this subsection shall be equal in value to the payments so determined under this subsection.

"(4) ELIGIBILITY.—The producers on a farm shall be eligible to receive a payment under this subsection for a crop if the producers—

"(A) agree to forgo obtaining a loan or purchase agreement under subsection (a);

"(B) agree to forgo receiving payments under subsection (c);

"(C) do not plant rice for harvest in excess of the crop acreage base reduced by ½ of any acreage required to be diverted from production under subsection (e); and

"(D) otherwise comply with this section.

"(g) EQUITABLE RELIEF.—

"(1) LOANS, PURCHASES, AND PAYMENTS.—If the failure of a producer to comply fully with the terms and conditions of the program conducted under this section precludes the making of loans, purchases, and payments, the Secretary may, notwithstanding the failure, make the loans, purchases, and payments in such amounts as the Secretary determines are equitable in relation to the seriousness of the failure. The Secretary may consider whether the producer made a good faith effort to comply fully with the terms and conditions of the program in determining whether equitable relief is warranted under this paragraph.

"(2) DEADLINES AND PROGRAM REQUIREMENTS.—The Secretary may authorize the county and State committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) to waive or modify deadlines and other program requirements in cases in which lateness or failure to meet the other requirements does not affect adversely the operation of the program.

"(h) REGULATIONS.—The Secretary may issue such regulations as the Secretary determines necessary to carry out this section.

"(i) COMMODITY CREDIT CORPORATION.—The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

"(j) ASSIGNMENT OF PAYMENTS.—Section 8(g) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(g)) shall apply to payments made under this section.

"(k) SHARING OF PAYMENTS.—The Secretary shall provide for the sharing of payments made under this section for any farm among the producers on the farm on a fair and equitable basis.

"(l) TENANTS AND SHARECROPPERS.—In carrying out this section, the Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

"(m) CROSS-COMPLIANCE.—

"(1) IN GENERAL.—Compliance on a farm with the terms and conditions of any other commodity program, or compliance with crop acreage base requirements for any other commodity, may not be required as a condition of eligibility for loans, purchases, or payments under this section.

"(2) COMPLIANCE ON OTHER FARMS.—The Secretary may not require producers on a farm, as a condition of eligibility for loans, purchases, or payments under this section for the farm, to comply with the terms and conditions of the rice program with respect to any other farm operated by the producers.

"(n) CROPS.—Notwithstanding any other provision of law, this section shall be effective only for the 1996 through 2002 crops of rice.".

TITLE V—OILSEEDS

SEC. 501. LOANS AND PAYMENTS FOR OILSEEDS FOR 1996 THROUGH 2002 MARKETING YEARS.

Section 205 of the Agricultural Act of 1949 (7 U.S.C. 1446f) is amended to read as follows:

"SEC. 205. LOANS AND PAYMENTS FOR OILSEEDS FOR 1996 THROUGH 2002 MARKETING YEARS.

"(a) DEFINITION OF OILSEEDS.—In this section, the term 'oilseeds' means soybeans, sunflower seed, canola, rapeseed, safflower, flaxseed, mustard seed, and such other oilseeds as the Secretary may determine.

"(b) LOANS AND PURCHASES.—The Secretary shall make available to producers on a farm loans and purchases for each of the 1996 through 2002 crops of oilseeds produced on the farm at such level as the Secretary determines will maintain the competitiveness of oilseeds with other crops and will not result in excessive total stocks of oilseeds, taking into consideration the cost of producing oilseeds, supply and demand conditions, and world prices for oilseeds.

"(c) LOAN AND PURCHASE LEVEL.—

"(1) SOYBEANS.—Except as provided in paragraph (4), the loan and purchase level for each of the 1996 through 2002 crops of soybeans shall be not less than the greater of—

"(A) 85 percent of the simple average price received by producers, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of soybeans, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; or

"(B) $5.50 per bushel.

"(2) SUNFLOWER SEED, CANOLA, RAPESEED, AND FLAXSEED.—Except as provided in paragraph (4), the loan and purchase level for each of the 1996 through 2002 crops of sunflower seed, canola, rapeseed, and flaxseed shall be not less than the greater of—

"(A) 85 percent of the simple average price received by producers, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of sunflower seed, canola, rapeseed, and flaxseed, respectively, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; or

"(B) $9.75 per hundredweight.

"(3) OTHER OILSEEDS.—Except as provided in paragraph (4), the loan and purchase level for each of the 1996 through 2002 crops of oilseeds not covered by paragraph (1) or (2) shall be established at such level as the Secretary determines is fair and reasonable in relation to the loan and purchase level available for soybeans, except that the loan and purchase level for cottonseed may not be established at a level that is less than the level established for soybeans on a per-pound basis for the same crop year.

"(4) ADJUSTMENT.—If the Secretary determines for any marketing year that the loan and purchase level established under this subsection will result in outlays in the form of loan deficiency payments to producers of an oilseed, the Secretary shall reduce the loan and purchase level for a crop of the oilseed for the marketing year to a level at which, as determined by the Secretary, payments will not be made, except that the level may not be less than—

"(A) in the case of soybeans, $5.00 per bushel; and

"(B) in the case of sunflower seed, canola, rapeseed, and flaxseed, $8.90 per hundredweight.

"(5) REPORT.—If the Secretary adjusts the level of loans and purchases for an oilseed under paragraph (4), the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report—

"(A) certifying that the adjustment is necessary to reduce outlays in the form of loan deficiency payments; and

"(B) containing a description of the production, stocks, and price circumstances under which the adjustment is needed.

"(6) FUTURE CROP YEARS.—Any reduction in the loan and purchase level for a crop of an oilseed under paragraph (4) shall not be considered in determining the loan and purchase level for a future crop of the oilseed.

"(d) MARKETING LOANS.—

"(1) IN GENERAL.—The Secretary shall permit a producer to repay a loan made under this section for a crop—

"(A) at a level that is the lesser of—

"(i) the loan and purchase level determined for the crop; and

"(ii) the prevailing world market price for the applicable oilseed (adjusted to United States quality and location), as determined by the Secretary; or

"(B) such other level (not in excess of the loan and purchase level determined for the crop) that the Secretary determines will—

"(i) minimize potential loan forfeitures;

"(ii) minimize the accumulation of oilseed stocks by the Federal Government;

"(iii) minimize the cost incurred by the Federal Government in storing oilseeds; and

"(iv) allow oilseeds produced in the United States to be marketed freely and competitively, both domestically and internationally.

"(2) PREVAILING WORLD MARKET PRICE.—The Secretary shall prescribe by regulation—

"(A) a formula for determining the prevailing world market price for oilseeds (adjusted to United States quality and location); and

"(B) a mechanism by which the Secretary shall announce periodically the prevailing world market price for oilseeds (adjusted to United States quality and location).

"(e) LOAN DEFICIENCY PAYMENT.—

"(1) IN GENERAL.—For each of the 1996 through 2002 crops of oilseeds, the Secretary shall make payments available to producers who, although eligible to obtain a loan or purchase under subsection (b), agree to forgo obtaining the loan and purchase in return for payments under this subsection.

"(2) COMPUTATION.—A payment under this subsection shall be computed by multiplying—

"(A) the loan and purchase payment rate; by

"(B) the quantity of oilseeds the producer is eligible to place under loan but for which the producer forgoes obtaining the loan and purchase in return for payments under this subsection.

"(3) LOAN AND PURCHASE PAYMENT RATE.—For purposes of this subsection, the loan and purchase payment rate shall be the amount by which—

"(A) the loan and purchase level determined for the crop under subsection (c); exceeds

"(B) the level at which a loan may be repaid under subsection (d).

"(4) MARKETING CERTIFICATES.—

"(A) IN GENERAL.—The Secretary may make payments under this section available in the form of certificates redeemable for any agricultural commodity owned by the Commodity Credit Corporation.

"(B) MINIMAL OILSEED STOCKS.—The Secretary shall make certificates available under subparagraph (A) in such a manner as to minimize the accumulation of oilseed stocks.

"(f) MARKETING YEAR.—For purposes of this section, the marketing year for—

"(1) soybeans shall be the 1-year period beginning on September 1 and ending on August 31; and

"(2) other oilseeds shall be prescribed by the Secretary by regulation.

"(g) ANNOUNCEMENTS.—The Secretary shall make an announcement of the loan and purchase level for the crop not later than 15 days prior to the beginning of the marketing year for the crop.

"(h) LOAN MATURITY.—A loan made for a crop of oilseeds under this section shall mature on the last day of the 9th month following the month in which the application for the loan is made, except that the loan may not mature later than the last day of the fiscal year in which the application is made.

"(i) OTHER TERMS AND CONDITIONS.—Notwithstanding any other provision of law—

"(1) the Secretary shall not require participation in any production adjustment program for oilseeds or any other commodity as a condition of eligibility for price support for oilseeds;

"(2) the Secretary may not authorize payments to producers to cover the cost of storing oilseeds; and

"(3) oilseeds may not be considered an eligible commodity for any reserve program.

"(j) REGULATIONS.—The Secretary may issue such regulations as the Secretary determines necessary to carry out this section.

"(k) COMMODITY CREDIT CORPORATION.—The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

"(l) ASSIGNMENT OF PAYMENTS.—Section 8(g) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(g)) shall apply to payments under this section.

"(m) CROPS.—Notwithstanding any other provision of law, this section shall be effective only for the 1996 through 2002 crops of oilseeds.".

TITLE VI—PEANUTS

SEC. 601. SUSPENSION OF MARKETING QUOTAS AND ACREAGE ALLOTMENTS.

The following provisions of the Agricultural Adjustment Act of 1938 shall not be applicable to the 1996 through 2002 crops of peanuts:

(1) Subsections (a) through (j) of section 358 (7 U.S.C. 1358).

(2) Subsections (a) through (h) of section 358a (7 U.S.C. 1358a).

(3) Subsections (a), (b), (d), and (e) of section 358d (7 U.S.C. 1359).

(4) Part I of subtitle C of title III (7 U.S.C. 1361 et seq.).

(5) Section 371 (7 U.S.C. 1371).

SEC. 602. NATIONAL POUNDAGE QUOTAS AND ACREAGE ALLOTMENTS.

Section 358–1 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358–1) is amended to read as follows:

"SEC. 358–1. NATIONAL POUNDAGE QUOTAS AND ACREAGE ALLOTMENTS FOR 1996 THROUGH 2002 CROPS OF PEANUTS.

"(a) NATIONAL POUNDAGE QUOTAS.—

"(1) ESTABLISHMENT.—The national poundage quota for peanuts for each of the 1996 through 2002 marketing years shall be established by the Secretary at a level that is equal to the quantity of peanuts (in tons) that the Secretary estimates will be devoted in each such marketing year to domestic edible and related uses, excluding seed. The Secretary shall include in the annual estimate of domestic edible and related uses, the estimated quantity of peanuts and peanut products to be imported into the United States for the marketing year for which the quota is being established.

"(2) ANNOUNCEMENT.—The national poundage quota for a marketing year shall be announced by the Secretary not later than the December 15 preceding the marketing year.

"(3) APPORTIONMENT AMONG STATES.—The national poundage quota established under paragraph (1) shall be apportioned among the States so that the poundage quota allocated to each State is equal to the percentage of the national poundage quota allocated to farms in the State for 1995.

"(b) FARM POUNDAGE QUOTAS.—

"(1) IN GENERAL.—

"(A) ESTABLISHMENT.—A farm poundage quota for each of the 1996 through 2002 marketing years shall be established—

"(i) for each farm that had a farm poundage quota for peanuts for the 1995 marketing year;

"(ii) if the poundage quota apportioned to a State under subsection (a)(3) for any such marketing year is larger than the quota for the immediately preceding marketing year, for each other farm on which peanuts were produced for marketing in at least 2 of the 3 immediately preceding crop years, as determined by the Secretary; and

"(iii) as approved and determined by the Secretary under section 358c, for each farm on which peanuts are produced in connection with experimental and research programs.

"(B) QUANTITY.—

"(i) IN GENERAL.—The farm poundage quota for each of the 1996 through 2002 marketing years for each farm described in subparagraph (A)(i) shall be the same as the farm poundage quota for the farm for the immediately preceding marketing year, as adjusted under paragraph (2), but not including any increases resulting from the allocation of quotas voluntarily released for 1 year under paragraph (7).

"(ii) INCREASED QUOTA.—The farm poundage quota, if any, for each of the 1996 through 2002 marketing years for each farm described in subparagraph (A)(ii) shall be equal to the quantity of peanuts allocated to the farm for the year under paragraph (2).

"(C) TRANSFERS.—For purposes of this subsection, if the farm poundage quota, or any part of the quota, is permanently transferred in accordance with section 358a or 358b, the receiving farm shall be considered as possessing the farm poundage quota (or portion of the quota) of the transferring farm for all subsequent marketing years.

"(2) ADJUSTMENTS.—

"(A) ALLOCATION OF INCREASED QUOTA GENERALLY.—Subject to subparagraphs (B) and (D), if the poundage quota apportioned to a State under subsection (a)(3) for any of the 1996 through 2002 marketing years is increased over the poundage quota apportioned to farms in the State for the immediately preceding marketing year, the increase shall be allocated proportionately, based on farm production history for peanuts for the 3 immediately preceding years, among—

"(i) all farms in the State for which a farm poundage quota was established for the marketing year immediately preceding the marketing year for which the allocation is being made; and

"(ii) all other farms in the State on which peanuts were produced in at least 2 of the 3 immediately preceding crop years, as determined by the Secretary.

"(B) TEMPORARY QUOTA ALLOCATION.—

"(i) IN GENERAL.—Subject to clause (iv), temporary allocation of a poundage quota for the marketing year in which a crop of peanuts is planted shall be made to producers for each of the 1996 through 2002 marketing years in accordance with this subparagraph.

"(ii) QUANTITY.—The temporary quota allocation shall be equal to the quantity of seed peanuts (in pounds) planted on a farm, as determined in accordance with regulations issued by the Secretary.

"(iii) ALLOCATION.—The allocation of quota pounds to producers under this subparagraph shall be performed in such a manner as will not result in a net decrease in quota pounds on a farm in excess of 3 percent, after the temporary seed quota is added, from the basic farm quota for the 1995 marketing year. A decrease shall occur only once, shall be applicable only to the 1996 marketing year.

"(iv) NO INCREASED COSTS.—The Secretary may carry out this subparagraph only if this subparagraph does not result in—

"(I) an increased cost to the Commodity Credit Corporation through displacement of quota peanuts by additional peanuts in the domestic market;

"(II) an increased loss in a loan pool of an area marketing association designated pursuant to section 108B(c)(1) of the Agricultural Act of 1949 (7 U.S.C. 1445c-3(c)(1)); or

"(III) other increased costs.

"(v) USE OF QUOTA AND ADDITIONAL PEANUTS.—Nothing in this subparagraph affects the requirements of section 358b(b).

"(vi) ADDITIONAL ALLOCATION.—The temporary allocation of quota pounds under this subparagraph shall be in addition to the farm poundage quota established under this subsection and shall be credited to the producers of the peanuts on the farm in accordance with regulations issued by the Secretary.

"(C) DECREASE.—If the poundage quota apportioned to a State under subsection (a)(3) for any of the 1996 through 2002 marketing years is decreased from the poundage quota apportioned to farms in the State under subsection (a)(3) for the immediately preceding marketing year, the decrease shall be allocated among all the farms in the State for which a farm poundage quota was established for the marketing year immediately preceding the marketing year for which the allocation is being made.

"(D) SPECIAL RULE ON TENANT'S SHARE OF INCREASED QUOTA.—Subject to terms and conditions prescribed by the Secretary, on farms that were leased to a tenant for peanut production, the tenant shall share equally with the owner of the farm in the percentage of the quota made available under subparagraph (A) and otherwise allocated to the farm as the result of the production of the tenant on the farm of additional peanuts. Not later than April 1 of each year or as soon as practicable during the year, the share of the tenant of any such quota shall be allocated to a farm within the county owned by the tenant or sold by the tenant to the owner of any farm within the county and permanently transferred to the farm. Any quota not so disposed of as provided in this subparagraph shall be allocated to other quota farms in the State under paragraph (6) as part of the quota reduced from farms in the State due to the failure to produce the quota.

"(3) QUOTA NOT PRODUCED.—

"(A) IN GENERAL.—Insofar as practicable and on such fair and equitable basis as the Secretary may by regulation prescribe, the farm poundage quota established for a farm for any of the 1996 through 2002 marketing years shall be reduced to the extent that the Secretary determines that the farm poundage quota established for the farm for any 2 of the 3 marketing years preceding the marketing year for which the determination is being made was not produced, or considered produced, on the farm.

"(B) EXCLUSIONS.—For the purposes of this paragraph, the farm poundage quota for any such preceding marketing year shall not include any increase resulting from the allocation of quotas voluntarily released for 1 year under paragraph (7).

"(4) QUOTA CONSIDERED PRODUCED.—

"(A) IN GENERAL.—For purposes of this subsection, subject to subparagraph (B), the farm poundage quota shall be considered produced on a farm if—

"(i) the farm poundage quota was not produced on the farm because of drought, flood, or any other natural disaster, or any other condition beyond the control of the producer, as determined by the Secretary;

"(ii) the farm poundage quota for the farm was released voluntarily under paragraph (7) for only 1 of the 3 marketing years immediately preceding the marketing year for which the determination is being made; or

"(iii) the farm poundage quota was leased to another owner or operator of a farm within the same county for transfer to the farm for only 1 of the 3 marketing years immediately preceding the marketing year for which the determination is being made.

"(B) MARKETING YEARS.—For purposes of clauses (ii) and (iii) of subparagraph (A)—

"(i) the farm poundage quota leased or transferred shall be considered produced for only 1 of the 3 marketing years immediately preceding the marketing year for which the determination is being made; and

"(ii) the farm shall not be considered to have produced for more than 1 marketing year out of the 3 immediately preceding marketing years.

"(5) QUOTA PERMANENTLY RELEASED.—Notwithstanding any other provision of law—

"(A) the farm poundage quota established for a farm under this subsection, or any part of the quota, may be permanently released by the owner of the farm, or the operator with the permission of the owner; and

"(B) the poundage quota for the farm for which the quota is released shall be adjusted downward to reflect the quota that is released.

"(6) ALLOCATION OF QUOTAS REDUCED OR RELEASED.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the total quantity of the farm poundage quotas reduced or voluntarily released from farms in a State for any marketing year under paragraphs (3) and (5) shall be allocated, as the Secretary may by regulation prescribe, to other farms in the State on which peanuts were produced in at least 2 of the 3 crop years immediately preceding the year for which the allocation is being made.

"(B) SET-ASIDE FOR FARMS WITH NO QUOTA.—The total amount of farm poundage quota to be allocated in the State under subparagraph (A) shall be allocated to farms in the State for which no farm poundage quota was established for the crop of the immediately preceding year. The allocation to any such farm shall not exceed the average farm production of peanuts for the 3 immediately preceding years during which peanuts were produced on the farm. Any farm poundage quota remaining after allocation to farms under this subparagraph shall be allocated to farms in the State on which poundage quotas were established for the crop of the immediately preceding year.

"(7) QUOTA TEMPORARILY RELEASED.—

"(A) IN GENERAL.—The farm poundage quota, or any portion of the quota, established for a farm for a marketing year may be voluntarily released to the Secretary to the extent that the quota, or any part of the quota, will not be produced on the farm for the marketing year. Any farm poundage quota so released in a State shall be allocated to other farms in the State on such basis as the Secretary may by regulation prescribe.

"(B) EFFECTIVE PERIOD.—Except as otherwise provided in this section, any adjustment in the farm poundage quota for a farm under subparagraph (A) shall be effective only for the marketing year for which the adjustment is made and shall not be taken into consideration in establishing a farm poundage quota for the farm from which the quota was released for any subsequent marketing year.

"(c) FARM YIELDS.—

"(1) IN GENERAL.—For each farm for which a farm poundage quota is established under subsection (b), and when necessary for purposes of this Act, a farm yield of peanuts shall be determined for each such farm.

"(2) QUANTITY.—The yield shall be equal to the average of the actual yield per acre on the farm for each of the 3 crop years in which yields were highest on the farm during the 5-year period consisting of the 1973 through 1977 crop years.

"(3) APPRAISED YIELDS.—If peanuts were not produced on the farm in at least 3 years during the 5-year period or there was a substantial change in the operation of the farm during the period (including a change in operator, lessee who is an operator, or irrigation practices), the Secretary shall have a yield appraised for the farm. The appraised yield shall be that quantity determined to be fair and reasonable on the basis of yields established for similar farms that are located in the area of the farm and on which peanuts

were produced, taking into consideration land, labor, and equipment available for the production of peanuts, crop rotation practices, soil and water, and other relevant factors.

"(d) REFERENDUM RESPECTING POUNDAGE QUOTAS.—

"(1) IN GENERAL.—Not later than December 15 of each calendar year, the Secretary shall conduct a referendum of producers engaged in the production of quota peanuts in the calendar year in which the referendum is held to determine whether the producers are in favor of or opposed to poundage quotas with respect to the crops of peanuts produced in the 5 calendar years immediately following the year in which the referendum is held, except that, if at least ⅔ of the producers voting in any referendum vote in favor of poundage quotas, no referendum shall be held with respect to quotas for the remaining years of the 5-calendar year period.

"(2) PROCLAMATION.—The Secretary shall proclaim the result of the referendum within 30 days after the date on which the referendum is held.

"(3) VOTE AGAINST QUOTAS.—If more than ⅓ of the producers voting in the referendum vote against poundage quotas, the Secretary shall proclaim that poundage quotas will not be in effect with respect to the crop of peanuts produced in the calendar year immediately following the calendar year in which the referendum is held.

"(e) DEFINITIONS.—In this part and title I of the Agricultural Act of 1949 (7 U.S.C. 1441 et seq.):

"(1) ADDITIONAL PEANUTS.—The term 'additional peanuts' means, for any marketing year—

"(A) any peanuts that are marketed from a farm for which a farm poundage quota has been established and that are in excess of the marketings of quota peanuts from the farm for the year; and

"(B) all peanuts marketed from a farm for which no farm poundage quota has been established in accordance with subsection (b).

"(2) CRUSH.—The term 'crush' means the processing of peanuts to extract oil for food uses and meal for feed uses, or the processing of peanuts by crushing or otherwise when authorized by the Secretary.

"(3) DOMESTIC EDIBLE USE.—The term 'domestic edible use' means use for milling to produce domestic food peanuts (other than a use described in paragraph (2)) and seed and use on a farm, except that the Secretary may exempt from this paragraph seeds of peanuts that are used to produce peanuts excluded under section 358d(c), are unique strains, and are not commercially available.

"(4) QUOTA PEANUTS.—The term 'quota peanuts' means, for any marketing year, any peanuts produced on a farm having a farm poundage quota, as determined under subsection (b), that—

"(A) are eligible for domestic edible use as determined by the Secretary;

"(B) are marketed or considered marketed from a farm; and

"(C) do not exceed the farm poundage quota of the farm for the year.

"(f) CROPS.—Notwithstanding any other provision of law, this section shall be effective only for the 1996 through 2002 crops of peanuts.".

SEC. 603. SALE, LEASE, OR TRANSFER OF FARM POUNDAGE QUOTA.

Section 358b of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358b) is amended to read as follows:

"SEC. 358b. SALE, LEASE, OR TRANSFER OF FARM POUNDAGE QUOTA FOR 1996 THROUGH 2000 CROPS OF PEANUTS.

"(a) IN GENERAL.—

"(1) AUTHORITY.—

"(A) IN GENERAL.—Subject to such terms, conditions, or limitations as the Secretary may prescribe, the owner, or operator with the permission of the owner, of any farm for which a farm poundage quota has been established under this Act may sell or lease all or any part of the poundage quota to any other owner or operator of a farm within the same county for transfer to the farm, except that any such lease of poundage quota may be entered into in the fall or after the normal planting season—

"(i) if not less than 90 percent of the basic quota (consisting of the farm quota and temporary quota transfers), plus any poundage quota transferred to the farm under this subsection, has been planted or considered planted on the farm from which the quota is to be leased; and

"(ii) under such terms and conditions as the Secretary may by regulation prescribe.

"(B) FALL TRANSFERS.—

"(i) NO TRANSFER AUTHORIZATION.—In the case of a fall transfer or a transfer after the normal planting season by a cash lessee, the landowner shall not be required to sign the transfer authorization.

"(ii) TIME LIMITATION.—A fall transfer or a transfer after the normal planting season may be made not later than 72 hours after the peanuts that are the subject of the transfer are inspected and graded.

"(iii) LESSEES.—In the case of a fall transfer, poundage quota from a farm may be leased to an owner or operator of another farm within the same county or to an owner or operator of another farm in any other county within the State.

"(iv) EFFECT OF TRANSFER.—A fall transfer of poundage quota shall not affect the farm quota history for the transferring or receiving farm and shall not result in the reduction of the farm poundage quota on the transferring farm.

"(2) TRANSFERS TO OTHER SELF-OWNED FARMS.—The owner or operator of a farm may transfer all or any part of the farm poundage quota for the farm to any other farm owned or controlled by the owner or operator that is in the same State and that had a farm poundage quota for the crop of the preceding year, if both the transferring and receiving farms were under the control of the owner or operator for at least 3 crop years prior to the crop year in which the farm poundage quota is to be transferred. Any farm poundage quota transferred under this paragraph shall not result in any reduction in the farm poundage quota for the transferring farm if sufficient acreage is planted on the receiving farm to produce the quota pounds transferred.

"(3) TRANSFERS IN STATES WITH SMALL QUOTAS.—In the case of any State for which the poundage quota allocated to the State was less than 10,000 tons for the crop of the preceding year, all or any part of a farm poundage quota may be transferred by sale or lease or otherwise from a farm in 1 county to a farm in another county in the same State.

"(4) TRANSFERS BY SALE IN STATES HAVING QUOTAS OF 10,000 TONS OR MORE.—

"(A) IN GENERAL.—Subject to the other provisions of this paragraph and such terms and conditions as the Secretary may prescribe, the owner, or operator with the permission of the owner, of any farm for which a farm quota has been established under this Act in a State having a poundage quota of 10,000 tons or more may sell poundage quota to any other eligible owner or operator of a farm within the same State.

"(B) LIMITATIONS BASED ON TOTAL POUNDAGE QUOTA.—

"(i) 1996 MARKETING YEAR.—Not more than 15 percent of the total poundage quota within a county as of January 1, 1996, may be sold and transferred under this paragraph during the 1996 marketing year.

"(ii) 1997–2002 MARKETING YEARS.—

"(I) IN GENERAL.—Except as provided in subclause (II), not more than 5 percent of the quota pounds remaining in a county as of January 1, 1997, and each January 1 thereafter through January 1, 2002, may be sold and transferred under this paragraph during the applicable marketing year.

"(II) CARRYOVER.—Any eligible quota that is not sold or transferred under clause (i) shall be eligible for sale or transfer under subclause (I).

"(C) COUNTY LIMITATION.—Not more than 40 percent of the total poundage quota within a county may be sold and transferred under this paragraph.

"(D) SUBSEQUENT LEASES OR SALES.—Quota pounds sold and transferred to a farm under this paragraph may not be leased or sold by the farm to another owner or operator of a farm within the same State for a period of 5 years following the date of the original transfer to the farm.

"(E) APPLICATION.—This paragraph shall not apply to a sale within the same county or to any sale, lease, or transfer described in paragraph (1).

"(b) CONDITIONS.—Transfers (including transfer by sale or lease) of farm poundage quotas under this section shall be subject to all of the following conditions:

"(1) LIENHOLDERS.—No transfer of the farm poundage quota from a farm subject to a mortgage or other lien shall be permitted unless the transfer is agreed to by the lienholders.

"(2) TILLABLE CROPLAND.—No transfer of the farm poundage quota shall be permitted if the county committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) determines that the receiving farm does not have adequate tillable cropland to produce the farm poundage quota.

"(3) RECORD.—No transfer of the farm poundage quota shall be effective until a record of the transfer is filed with the county committee of each county to, and from, which the transfer is made and each committee determines that the transfer complies with this section.

"(4) OTHER TERMS.—The Secretary may establish by regulation other terms and conditions.

"(c) CROPS.—Notwithstanding any other provision of law, this section shall be effective only for the 1996 through 2000 crops of peanuts.".

SEC. 604. MARKETING PENALTIES; DISPOSITION OF ADDITIONAL PEANUTS.

Section 358e of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359a) is amended to read as follows:

"SEC. 358e. MARKETING PENALTIES AND DISPOSITION OF ADDITIONAL PEANUTS FOR 1996 THROUGH 2002 CROPS OF PEANUTS.

"(a) MARKETING PENALTIES.—

"(1) IN GENERAL.—

"(A) MARKETING PEANUTS IN EXCESS OF QUOTA.—The marketing of any peanuts for domestic edible use in excess of the farm poundage quota for the farm on which the peanuts are produced shall be subject to a

penalty at a rate equal to 140 percent of the support price for quota peanuts for the marketing year in which the marketing occurs. The penalty shall not apply to the marketing of breeder or Foundation seed peanuts grown and marketed by a publicly owned agricultural experiment station (including a State operated seed organization) under such regulations as the Secretary may prescribe.

"(B) MARKETING YEAR.—For purposes of this section, the marketing year for peanuts shall be the 12-month period beginning August 1 and ending July 31.

"(C) MARKETING ADDITIONAL PEANUTS.—The marketing of any additional peanuts from a farm shall be subject to the same penalty as the penalty prescribed in subparagraph (A) unless the peanuts, in accordance with regulations established by the Secretary, are—

"(i) placed under loan at the additional loan rate in effect for the peanuts under section 108B of the Agricultural Act of 1949 (7 U.S.C. 1445c-3) and not redeemed by the producers;

"(ii) marketed through an area marketing association designated pursuant to section 108B(c)(1) of the Agricultural Act of 1949; or

"(iii) marketed under contracts between handlers and producers pursuant to subsection (f).

"(2) PAYER.—The penalty shall be paid by the person who buys or otherwise acquires the peanuts from the producer or, if the peanuts are marketed by the producer through an agent, the penalty shall be paid by the agent. The person or agent may deduct an amount equivalent to the penalty from the price paid to the producer.

"(3) FAILURE TO COLLECT.—If the person required to collect the penalty fails to collect the penalty, the person and all persons entitled to share in the peanuts marketed from the farm or the proceeds of the marketing shall be jointly and severally liable with the persons who failed to collect the penalty for the amount of the penalty.

"(4) APPLICATION OF QUOTA.—Peanuts produced in a calendar year in which farm poundage quotas are in effect for the marketing year beginning in the calendar year shall be subject to the quotas even though the peanuts are marketed prior to the date on which the marketing year begins.

"(5) FALSE INFORMATION.—If any producer falsely identifies, fails to accurately certify planted acres, or fails to account for the disposition of any peanuts produced on the planted acres, a quantity of peanuts equal to the greater of the average or actual yield of the farm, as determined by the Secretary, multiplied by the number of planted acres, shall be deemed to have been marketed in violation of permissible uses of quota and additional peanuts. Any penalty payable under this paragraph shall be paid and remitted by the producer.

"(6) UNINTENTIONAL VIOLATIONS.—The Secretary shall authorize, under such regulations as the Secretary shall issue, the county committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) to waive or reduce marketing penalties provided for under this subsection in cases with respect to which the committees determine that the violations that were the basis of the penalties were unintentional or without knowledge on the part of the parties concerned.

"(7) DE MINIMIS VIOLATIONS.—An error in weight that does not exceed 1/10 of 1 percent in the case of any 1 marketing document shall not be considered to be a marketing violation except in a case of fraud or conspiracy.

"(b) USE OF QUOTA AND ADDITIONAL PEANUTS.—

"(1) QUOTA PEANUTS.—Only quota peanuts may be retained for use as seed or for other uses on a farm. When peanuts are so retained, the retention shall be considered as marketings of quota peanuts, except that the Secretary may exempt from consideration as marketings of quota peanuts seeds of peanuts for the quantity involved that are used to produce peanuts excluded under section 358d(c), are unique strains, and are not commercially available.

"(2) ADDITIONAL PEANUTS.—Additional peanuts shall not be retained for use on a farm and shall not be marketed for domestic edible use, except as provided in subsection (g).

"(3) SEED.—Except as provided in paragraph (1), seed for planting of any peanut acreage in the United States shall be obtained solely from quota peanuts marketed or considered marketed for domestic edible use.

"(c) MARKETING PEANUTS WITH EXCESS QUANTITY, GRADE, OR QUALITY.—On a finding by the Secretary that the peanuts marketed from any crop for domestic edible use by a handler are larger in quantity or higher in grade or quality than the peanuts that could reasonably be produced from the quantity of peanuts having the grade, kernel content, and quality of the quota peanuts acquired by the handler from the crop for the marketing year, the handler shall be subject to a penalty equal to 140 percent of the loan level for quota peanuts on the quantity of peanuts that the Secretary determines are in excess of the quantity, grade, or quality of the peanuts that could reasonably have been produced from the peanuts so acquired.

"(d) HANDLING AND DISPOSAL OF ADDITIONAL PEANUTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall require that the handling and disposal of additional peanuts be supervised by agents of the Secretary or by area marketing associations designated pursuant to section 108B(c)(1) of the Agricultural Act of 1949 (7 U.S.C. 1445c-3(c)(1)).

"(2) NONSUPERVISION OF HANDLERS.—

"(A) IN GENERAL.—Supervision of the handling and disposal of additional peanuts by a handler shall not be required under paragraph (1) if the handler agrees in writing, prior to any handling or disposal of the peanuts, to comply with regulations that the Secretary shall issue.

"(B) REGULATIONS.—The regulations issued by the Secretary under subparagraph (A) shall include the following provisions:

"(i) TYPES OF EXPORTED OR CRUSHED PEANUTS.—Handlers of shelled or milled peanuts may export or crush peanuts classified by type in each of the following quantities:

"(I) SOUND SPLIT KERNEL PEANUTS.—Sound split kernel peanuts purchased by the handler as additional peanuts to which, under price support loan schedules, a mandated deduction with respect to the price paid to the producer of the peanuts would be applied due to the percentage of the sound splits.

"(II) SOUND MATURE KERNEL PEANUTS.—Sound mature kernel peanuts (which term includes sound split kernel peanuts and sound whole kernel peanuts) in an amount equal to the poundage of the peanuts purchased by the handler as additional peanuts, less the total poundage of sound split kernel peanuts described in subclause (I).

"(III) REMAINDER.—The remaining quantity of total kernel content of peanuts purchased by the handler as additional peanuts.

"(ii) DOCUMENTATION.—Handlers shall ensure that any additional peanuts exported or crushed are evidenced by onboard bills of lading or other appropriate documentation as may be required by the Secretary, or both.

"(iii) LOSS OF PEANUTS.—If a handler suffers a loss of peanuts as a result of fire, flood, or any other condition beyond the control of the handler, the portion of the loss allocated to contracted additional peanuts shall not be greater than the portion of the total peanut purchases of the handler for the year attributable to contracted additional peanuts purchased for export or crushing by the handler during the year.

"(iv) SHRINKAGE ALLOWANCE.—

"(I) IN GENERAL.—The obligation of a handler to export or crush peanuts in quantities described in this subparagraph shall be reduced by a shrinkage allowance, to be determined by the Secretary, to reflect actual dollar value shrinkage experienced by handlers in commercial operations, except that the allowance shall not be less than 4 percent, except as provided in subclause (II).

"(II) COMMON INDUSTRY PRACTICES.—The Secretary may provide a lower shrinkage allowance for a handler who fails to comply with restrictions on the use of peanuts, as may be specified by the Commodity Credit Corporation, to take into account common industry practices.

"(3) ADEQUATE FINANCES AND FACILITIES.—A handler shall submit to the Secretary adequate financial guarantees, as well as evidence of adequate facilities and assets, with respect to the facilities under the control and operation of the handler, to ensure the compliance of the handler with the obligation to export peanuts.

"(4) COMMINGLING OF LIKE PEANUTS.—Quota and additional peanuts of like type and segregation or quality may, under regulations issued by the Secretary, be commingled and exchanged on a dollar value basis to facilitate warehousing, handling, and marketing.

"(5) PENALTY.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the failure by a handler to comply with regulations issued by the Secretary governing the disposition and handling of additional peanuts shall subject the handler to a penalty at a rate equal to 140 percent of the loan level for quota peanuts on the quantity of peanuts involved in the violation.

"(B) NONDELIVERY.—A handler shall not be subject to a penalty for failure to export additional peanuts if the peanuts were not delivered to the handler.

"(6) REENTRY OF EXPORTED PEANUTS.—

"(A) PENALTY.—If any additional peanuts or peanut products exported by a handler are reentered into the United States in commercial quantities as determined by the Secretary, the importer of the peanuts and peanut products shall be subject to a penalty at a rate equal to 140 percent of the loan level for quota peanuts on the quantity of peanuts reentered.

"(B) RECORDS.—Each person, firm, or handler who imports peanuts into the United States shall maintain such records and documents as are required by the Secretary to ensure compliance with this subsection.

"(e) SPECIAL EXPORT CREDITS.—

"(1) IN GENERAL.—The Secretary shall, with due regard for the integrity of the peanut program, promulgate regulations that will permit any handler of peanuts who manufactures peanut products from domestic edible peanuts to export the products and receive credit for the fulfillment of export obligations for the peanut content of the products against which export credit the handler

may subsequently apply, up to the amount of the credit, equivalent quantities of additional peanuts of the same type acquired by the handler and used in the domestic edible market. The peanuts so acquired for the domestic edible market as provided in this subsection shall be of the same crop year as the peanuts used in the manufacture of the products so exported.

"(2) CERTIFICATION.—Under the regulations, the Secretary shall require all handlers who are peanut product manufacturers to submit annual certifications of peanut product content on a product-by-product basis. Any changes in peanut product formulas as affecting peanut content shall be recorded within 90 days after the changes. The Secretary shall conduct an annual review of the certifications. The Secretary shall pursue all available remedies with respect to persons who fail to comply with this paragraph.

"(3) RECORDS.—The Secretary shall require handlers who are peanut product manufacturers to maintain and provide such documents as are necessary to ensure compliance with this subsection and to maintain the integrity of the peanut program.

"(f) CONTRACTS FOR PURCHASE OF ADDITIONAL PEANUTS.—

"(1) IN GENERAL.—A handler may, under such regulations as the Secretary may issue, contract with a producer for the purchase of additional peanuts for crushing or export, or both.

"(2) SUBMISSION TO SECRETARY.—

"(A) CONTRACT DEADLINE.—Any such contract shall be completed and submitted to the Secretary (or if designated by the Secretary, the area marketing association) for approval not later than September 15 of the year in which the crop is produced.

"(B) EXTENSION OF DEADLINE.—The Secretary may extend the deadline under subparagraph (A) by up to 15 days in response to damaging weather or related condition (as defined in section 112 of the Disaster Assistance Act of 1989 (Public Law 101-82; 7 U.S.C. 1421 note)). The Secretary shall announce the extension not later than September 5 of the year in which the crop is produced.

"(3) FORM.—The contract shall be executed on a form prescribed by the Secretary. The form shall require such information as the Secretary determines appropriate to ensure the proper handling of the additional peanuts, including the identity of the contracting parties, poundage and category of the peanuts, the disclosure of any liens, and the intended disposition of the peanuts.

"(4) INFORMATION FOR HANDLING AND PROCESSING ADDITIONAL PEANUTS.—Notwithstanding any other provision of this section, any person wishing to handle and process additional peanuts as a handler shall submit to the Secretary (or if designated by the Secretary, the area marketing association), such information as may be required under subsection (d) by such date as is prescribed by the Secretary so as to permit final action to be taken on the application by July 1 of each marketing year.

"(5) TERMS.—Each such contract shall contain the final price to be paid by the handler for the peanuts involved and a specific prohibition against the disposition of the peanuts for domestic edible or seed use.

"(6) SUSPENSION OF RESTRICTIONS ON IMPORTED PEANUTS.—Notwithstanding any other provision of this Act, if the President issues a proclamation under section 404(b) of the Uruguay Round Agreements Act (19 U.S.C. 3601(b)) expanding the quantity of peanuts subject to the in-quota rate of duty under a tariff-rate quota, or under section 22 of the Agricultural Adjustment Act (7 U.S.C. 624), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, temporarily suspending restrictions on the importation of peanuts, the Secretary shall, subject to such terms and conditions as the Secretary may prescribe, permit a handler, with the written consent of the producer, to purchase additional peanuts from any producer who contracted with the handler and to offer the peanuts for sale for domestic edible use.

"(g) MARKETING OF PEANUTS OWNED OR CONTROLLED BY THE COMMODITY CREDIT CORPORATION.—

"(1) IN GENERAL.—Subject to section 407 of the Agricultural Act of 1949 (7 U.S.C. 1427), any peanuts owned or controlled by the Commodity Credit Corporation may be made available for domestic edible use, in accordance with regulations issued by the Secretary, so long as doing so does not result in substantially increased cost to the Commodity Credit Corporation. Additional peanuts received under loan shall be offered for sale for domestic edible use at prices that are not less than the prices that are required to cover all costs incurred with respect to the peanuts for such items as inspection, warehousing, shrinkage, and other expenses, plus—

"(A) not less than 100 percent of the loan value of quota peanuts if the additional peanuts are sold and paid for during the harvest season on delivery by and with the written consent of the producer;

"(B) not less than 105 percent of the loan value of quota peanuts if the additional peanuts are sold after delivery by the producer but not later than December 31 of the marketing year; or

"(C) not less than 107 percent of the loan value of quota peanuts if the additional peanuts are sold later than December 31 of the marketing year.

"(2) ACCEPTANCE OF BIDS BY AREA MARKETING ASSOCIATIONS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), for the period from the date additional peanuts are delivered for loan to March 1 of the calendar year following the year in which the additional peanuts were harvested, the area marketing association designated pursuant to section 108B(c)(1) of the Agricultural Act of 1949 (7 U.S.C. 1445c-3(c)(1)) shall have sole authority to accept or reject lot list bids when the sales price, as determined under this subsection, equals or exceeds the minimum price at which the Commodity Credit Corporation may sell the stocks of additional peanuts of the Corporation.

"(B) MODIFICATION.—The area marketing association and the Commodity Credit Corporation may agree to modify the authority granted by subparagraph (A) to facilitate the orderly marketing of additional peanuts.

"(3) PRODUCER MARKETING AND EXPENSES.—Notwithstanding any other provision of this Act, the Secretary shall, in any determination required under subsections (a)(2) and (b)(1) of section 108B of the Agricultural Act of 1949 (7 U.S.C. 1445c-3), include any additional marketing expenses required by law, excluding the amount of any assessment required under section 108B(g) of the Agricultural Act of 1949 (7 U.S.C. 1445c-3(g)).

"(h) ADMINISTRATION.—

"(1) INTEREST.—The person liable for payment or collection of any penalty provided for in this section shall be liable also for interest on the penalty at a rate per annum equal to the rate per annum of interest that was charged the Commodity Credit Corporation by the Treasury of the United States on the date the penalty became due.

"(2) DE MINIMIS QUANTITY.—This section shall not apply to peanuts produced on any farm on which the acreage harvested for peanuts is 1 acre or less if the producers who share in the peanuts produced on the farm do not share in the peanuts produced on any other farm.

"(3) LIENS.—Until the amount of the penalty provided by this section is paid, a lien on the crop of peanuts with respect to which the penalty is incurred, and on any subsequent crop of peanuts subject to farm poundage quotas in which the person liable for payment of the penalty has an interest, shall be in effect in favor of the United States.

"(4) PENALTIES.—

"(A) PROCEDURES.—Notwithstanding any other provision of law, the liability for and the amount of any penalty assessed under this section shall be determined in accordance with such procedures as the Secretary may by regulation prescribe. The facts constituting the basis for determining the liability for or amount of any penalty assessed under this section, when officially determined in conformity with the applicable regulations prescribed by the Secretary, shall be final and conclusive and shall not be reviewable by any other officer or agency of the Federal Government.

"(B) JUDICIAL REVIEW.—Nothing in this section prohibits any court of competent jurisdiction from reviewing any determination made by the Secretary with respect to whether the determination was made in conformity with applicable law.

"(C) CIVIL PENALTIES.—All penalties imposed under this section shall for all purposes be considered civil penalties.

"(5) REDUCTION OF PENALTIES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B) and notwithstanding any other provision of law, the Secretary may reduce the amount of any penalty assessed against handlers under this section by any appropriate amount, including, in an appropriate case, eliminating the penalty entirely, if the Secretary finds that the violation on which the penalty is based was minor or inadvertent, and that the reduction of the penalty will not impair the operation of the peanut program.

"(B) FAILURE TO EXPORT CONTRACTED ADDITIONAL PEANUTS.—The amount of any penalty imposed on a handler under this section that resulted from the failure to export or crush contracted additional peanuts shall not be reduced by the Secretary.

"(i) CROPS.—Notwithstanding any other provision of law, this section shall be effective only for the 1996 through 2002 crops of peanuts.".

SEC. 605. EXPERIMENTAL AND RESEARCH PROGRAMS FOR PEANUTS.

Section 358c of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358c) is amended to read as follows:

"SEC. 358c. EXPERIMENTAL AND RESEARCH PROGRAMS FOR PEANUTS.

"(a) IN GENERAL.—Notwithstanding any other provision of this Act, the Secretary may permit a portion of the poundage quota for peanuts apportioned to any State to be allocated from the quota reserve of the State to land-grant institutions identified in the Act of May 8, 1914 (38 Stat. 372, chapter 79; 7 U.S.C. 341 et seq.), and colleges eligible to receive funds under the Act of August 30, 1890 (26 Stat. 419, chapter 841; 7 U.S.C. 321 et seq.), including Tuskegee Institute and, as appropriate, the Agricultural Research Service of

the Department of Agriculture to be used for experimental and research purposes.

"(b) QUANTITY.—The quantity of the quota allocated to an institution under this section shall not exceed the quantity of the quota held by each such institution during the 1985 crop year, except that the total quantity allocated to all institutions in a State shall not exceed 1/10 of 1 percent of the basic quota of the State.

"(c) LIMITATION.—The director of the agricultural experiment station for a State shall be required to ensure, to the extent practicable, that farm operators in the State do not produce quota peanuts under subsection (a) in excess of the quantity needed for experimental and research purposes.

"(d) CROPS.—Notwithstanding any other provision of law, this section shall be effective only for the 1996 through 2002 crops of peanuts.".

SEC. 606. PRICE SUPPORT PROGRAM.

Section 108B of the Agricultural Act of 1949 (7 U.S.C. 1445c-3) is amended to read as follows:

"SEC. 108B. PRICE SUPPORT PROGRAM FOR 1996 THROUGH 2002 CROPS OF PEANUTS.

"(a) QUOTA PEANUTS.—

"(1) IN GENERAL.—The Secretary shall make price support available to producers through loans, purchases, and other operations on quota peanuts for each of the 1996 through 2002 crops.

"(2) SUPPORT RATES.—

"(A) IN GENERAL.—Subject to subparagraph (B), the national average quota support rate for each of the 1996 through 2002 crops of quota peanuts shall be the national average quota support rate for the immediately preceding crop, adjusted to reflect any increase or decrease, during the calendar year immediately preceding the marketing year for the crop for which a level of support is being determined, in the national average cost of peanut production, excluding any change in the cost of land and the cost of any assessments required under subsection (g).

"(B) MAXIMUM RATE.—In no event shall the national average quota support rate for any such crop be increased or decreased by more than 5 percent of the national average quota support rate for the preceding crop.

"(3) INSPECTION, HANDLING, OR STORAGE.—The level of support determined under paragraph (2) shall not be reduced by any deduction for inspection, handling, or storage.

"(4) LOCATION AND OTHER FACTORS.—The Secretary may make adjustments for location of peanuts and such other factors as are authorized by section 403.

"(5) ANNOUNCEMENT.—The Secretary shall announce the level of support for quota peanuts of each crop not later than the February 15 preceding the marketing year for the crop for which the level of support is being determined.

"(b) ADDITIONAL PEANUTS.—

"(1) IN GENERAL.—The Secretary shall make price support available to producers through loans, purchases, or other operations on additional peanuts for each of the 1996 through 2002 crops at such levels as the Secretary considers appropriate, taking into consideration the demand for peanut oil and peanut meal, expected prices of other vegetable oils and protein meals, and the demand for peanuts in foreign markets, except that the Secretary shall set the support rate on additional peanuts at a level estimated by the Secretary to ensure that there are no losses to the Commodity Credit Corporation on the sale or disposal of the peanuts.

"(2) ANNOUNCEMENT.—The Secretary shall announce the level of support for additional peanuts of each crop not later than the February 15 preceding the marketing year for the crop for which the level of support is being determined.

"(c) AREA MARKETING ASSOCIATIONS.—

"(1) WAREHOUSE STORAGE LOANS.—

"(A) IN GENERAL.—In carrying out subsections (a) and (b), the Secretary shall make warehouse storage loans available in each of the 3 producing areas described in section 1446.95 of title 7, Code of Federal Regulations (as of January 1, 1989), to a designated area marketing association of peanut producers that is selected and approved by the Secretary and that is operated primarily for the purpose of conducting the loan activities. The Secretary may not make warehouse storage loans available to any cooperative that is engaged in operations or activities concerning peanuts other than those operations and activities specified in this section and sections 358d and 358e of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359 and 1359a).

"(B) ADMINISTRATIVE AND SUPERVISORY ACTIVITIES.—The area marketing associations shall be used in administrative and supervisory activities relating to price support and marketing activities under this section and sections 358d and 358e of the Agricultural Adjustment Act of 1938.

"(C) ASSOCIATION COSTS.—Loans made to an area marketing association under this paragraph shall include, in addition to the price support value of the peanuts, such costs as the association reasonably may incur in carrying out the responsibilities, operations, and activities of the association under this section and sections 358d and 358e of the Agricultural Adjustment Act of 1938.

"(2) POOLS FOR QUOTA AND ADDITIONAL PEANUTS.—

"(A) IN GENERAL.—The Secretary shall require that each area marketing association establish pools and maintain complete and accurate records by area and segregation for quota peanuts handled under loan and for additional peanuts placed under loan, except that separate pools shall be established for Valencia peanuts produced in New Mexico. Peanuts produced outside New Mexico shall not be eligible for entry into or participation in the separate pools established for Valencia peanuts produced in New Mexico. Bright hull and dark hull Valencia peanuts shall be considered as separate types for the purpose of establishing the pools.

"(B) NET GAINS.—Net gains on peanuts in each pool, unless otherwise approved by the Secretary, shall be distributed only to producers who placed peanuts in the pool and shall be distributed in proportion to the value of the peanuts placed in the pool by each producer. Net gains for peanuts in each pool shall consist of the following:

"(i) QUOTA PEANUTS.—For quota peanuts, the net gains over and above the loan indebtedness and other costs or losses incurred on peanuts placed in the pool plus an amount from all additional pool gains equal to any loss on disposition of all peanuts in the pool for quota peanuts.

"(ii) ADDITIONAL PEANUTS.—For additional peanuts, the net gains over and above the loan indebtedness and other costs or losses incurred on peanuts placed in the pool for additional peanuts less any amount allocated to offset any loss on the pool for quota peanuts as provided in clause (i).

"(d) LOSSES.—Notwithstanding any other provision of this section:

"(1) QUOTA PEANUTS PLACED UNDER LOAN.—Any distribution of net gains on additional peanuts (other than net gains on additional peanuts in separate type pools established under subsection (c)(2)(A) for Valencia peanuts produced in New Mexico) shall be first reduced to the extent of any loss by the Commodity Credit Corporation on quota peanuts placed under loan.

"(2) QUOTA LOAN POOLS.—

"(A) TRANSFERS FROM ADDITIONAL LOAN POOLS.—The proceeds due any producer from any pool shall be reduced by the amount of any loss that is incurred with respect to peanuts transferred from an additional loan pool to a quota loan pool by the producer under section 358-1(b)(8) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358-1(b)(8)).

"(B) OTHER LOSSES.—Losses in area quota pools shall be offset by reducing the gain of any producer in the pool by the amount of pool gains attributed to the producer from the sale of additional peanuts for domestic and export edible use.

"(e) DISAPPROVAL OF QUOTAS.—Notwithstanding any other provision of law, no price support may be made available by the Secretary for any crop of peanuts with respect to which poundage quotas have been disapproved by producers, as provided for in section 358-1(d) of the Agricultural Adjustment Act of 1938.

"(f) QUALITY IMPROVEMENT.—

"(1) PRICE SUPPORT PEANUTS.—With respect to peanuts under price support loan, the Secretary shall—

"(A) promote the crushing of peanuts at a greater risk of deterioration before peanuts at a lesser risk of deterioration;

"(B) ensure that all Commodity Credit Corporation loan stocks of peanuts sold for domestic edible use are shown to have been officially inspected by licensed Department of Agriculture inspectors both as farmer stock and shelled or cleaned in-shell peanuts;

"(C) continue to endeavor to operate the peanut price support program so as to improve the quality of domestic peanuts and ensure the coordination of activities under the Peanut Administrative Committee established under Marketing Agreement No. 146, regulating the quality of domestically produced peanuts (under the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937); and

"(D) ensure that any changes made in the price support program as a result of this subsection requiring additional production or handling at the farm level are reflected as an upward adjustment in the Department of Agriculture loan schedule.

"(2) EXPORTS AND OTHER PEANUTS.—The Secretary shall require that all peanuts, including peanuts imported into the United States, meet all United States quality standards under Marketing Agreement No. 146 and that importers of the peanuts fully comply with inspection, handling, storage, and processing requirements implemented under Marketing Agreement No. 146. The Secretary shall ensure that peanuts produced for the export market meet quality, inspection, handling, storage, and processing requirements under Marketing Agreement No. 146.

"(g) MARKETING ASSESSMENT.—

"(1) IN GENERAL.—The Secretary shall provide, by regulation, for a nonrefundable marketing assessment applicable to each of the 1996 through 2002 crops of peanuts. The assessment shall be made in accordance with this subsection and shall be on a per pound basis in an amount equal to 1.2 percent of the national average quota or additional peanut support rate per pound, as applicable, for

the applicable crop. No peanuts shall be assessed more than 1.2 percent of the applicable support rate under this subsection.

"(2) FIRST PURCHASERS.—

"(A) IN GENERAL.—Except as provided under paragraphs (3) and (4), the first purchaser of peanuts shall—

"(i) collect from the producer a marketing assessment equal to the quantity of peanuts acquired multiplied by .65 percent of the applicable national average support rate;

"(ii) pay, in addition to the amount collected under clause (i), a marketing assessment in an amount equal to the quantity of peanuts acquired multiplied by .55 percent of the applicable national average support rate; and

"(iii) remit the amounts required under clauses (i) and (ii) to the Commodity Credit Corporation in a manner specified by the Secretary.

"(B) DEFINITION.—In this subsection, the term 'first purchaser' means a person acquiring peanuts from a producer, except that in the case of peanuts forfeited by a producer to the Commodity Credit Corporation, the term means the person acquiring the peanuts from the Commodity Credit Corporation.

"(3) OTHER PRIVATE MARKETINGS.—In the case of a private marketing by a producer directly to a consumer through a retail or wholesale outlet or in the case of a marketing by the producer outside of the continental United States, the producer shall be responsible for the full amount of the assessment and shall remit the assessment by such time as is specified by the Secretary.

"(4) LOAN PEANUTS.—In the case of peanuts that are pledged as collateral for a price support loan made under this section, ½ of the assessment shall be deducted from the proceeds of the loan. The remainder of the assessment shall be paid by the first purchaser of the peanuts. For the purposes of computing net gains on peanuts under this section, the reduction in loan proceeds shall be treated as having been paid to the producer.

"(5) PENALTIES.—If any person fails to collect or remit the reduction required by this subsection or fails to comply with such requirements for recordkeeping or otherwise as are required by the Secretary to carry out this subsection, the person shall be liable to the Secretary for a civil penalty up to an amount determined by multiplying—

"(A) the quantity of peanuts involved in the violation; by

"(B) the national average quota peanut price support level for the applicable crop year.

"(6) ENFORCEMENT.—The Secretary may enforce this subsection in the courts of the United States.

"(h) CROPS.—Notwithstanding any other provision of law, this section shall be effective only for the 1996 through 2002 crops of peanuts.".

SEC. 607. REPORTS AND RECORDS.

Effective only for the 1996 through 2002 crops of peanuts, the first sentence of section 373(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1373(a)) is amended by inserting before "all brokers and dealers in peanuts" the following: "all producers engaged in the production of peanuts,".

SEC. 608. SUSPENSION OF CERTAIN PRICE SUPPORT PROVISIONS.

Section 101 of the Agricultural Act of 1949 (7 U.S.C. 1441) shall not be applicable to the 1996 through 2002 crops of peanuts.

SEC. 609. REGULATIONS.

The Secretary of Agriculture shall issue such regulations as are necessary to carry out this title and the amendments made by this title. In issuing the regulations, the Secretary shall—

(1) comply with subchapter II of chapter 5 of title 5, United States Code;

(2) provide public notice through the Federal Register of any such proposed regulations; and

(3) allow adequate time for written public comment prior to the formulation and issuance of any final regulations.

TITLE VII—SUGAR

SEC. 701. SUGAR PRICE SUPPORT.

Section 206 of the Agricultural Act of 1949 (7 U.S.C. 1446g) is amended to read as follows:

"SEC. 206. SUGAR PRICE SUPPORT FOR 1996 THROUGH 2002 CROPS.

"(a) IN GENERAL.—The price of each of the 1996 through 2002 crops of sugar beets and sugarcane, respectively, shall be supported in accordance with this section.

"(b) SUGARCANE.—The Secretary shall support the price of domestically grown sugarcane through nonrecourse loans at 18 cents per pound for raw cane sugar.

"(c) SUGAR BEETS.—The Secretary shall support the price of domestically grown sugar beets through nonrecourse loans at the basic loan rate level established by the Secretary for the 1994 crop of sugar beets.

"(d) ADJUSTMENT IN SUPPORT PRICE.—The Secretary may increase the support price for each of the 1997 through 2002 crops of domestically grown sugarcane and sugar beets from the price determined for the preceding crop based on such factors as the Secretary determines appropriate, including changes (during the 2 crop years immediately preceding the crop year for which the determination is made) in the cost of sugar products, the cost of domestic sugar production, and other circumstances that may adversely affect domestic sugar production.

"(e) ANNOUNCEMENTS.—The Secretary shall announce the basic loan rates for cane sugar and beet sugar to be applicable during any fiscal year under this section as far in advance of the beginning of the fiscal year as is practicable consistent with this section.

"(f) TERM.—

"(1) IN GENERAL.—Except as provided in paragraph (2) and subsection (g), loans under this section during any fiscal year shall be made available not earlier than the beginning of the fiscal year and shall mature at the end of 3 months.

"(2) EXTENSION.—At the option of the borrower, on furnishing written notice to the Commodity Credit Corporation, the maturity of a loan may be extended for 2 additional 3-month periods, except that the maturity may not be extended beyond the end of the fiscal year subsequent to the fiscal year in which the loan is made.

"(g) SUPPLEMENTARY NONRECOURSE LOANS.—

"(1) IN GENERAL.—The Secretary shall make available to eligible processors price support loans with respect to sugar processed from sugarcane and sugar beets harvested in the last 3 months of a fiscal year.

"(2) TERM.—Except as provided in paragraph (4), a loan made under paragraph (1) shall mature at the end of the fiscal year.

"(3) REPLEDGING SUGAR.—The processor may repledge the sugar as collateral for a price support loan in the subsequent fiscal year, except that the second loan shall—

"(A) be made at the loan rate in effect at the time the second loan is made; and

"(B) mature in 3 months.

"(4) EXTENSION.—At the option of the borrower, on furnishing written notice to the Commodity Credit Corporation, the maturity of a loan may be extended for 2 additional 3-month periods, except that the total term of the loan may not be greater than 9 months.

"(h) USE OF COMMODITY CREDIT CORPORATION.—The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this section.

"(i) MARKETING ASSESSMENT.—

"(1) TIER 1 ASSESSMENT.—

"(A) SUGARCANE.—Effective only for marketings of raw cane sugar during fiscal years 1997 through 2003, the first processor of sugarcane shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to 1.1 percent of the loan level established under subsection (b) per pound of raw cane sugar (but not more than .198 cents per pound of raw cane sugar) processed by the processor from domestically produced sugarcane or sugarcane molasses that has been marketed (including the transfer or delivery of the sugar to a refinery for further processing or marketing). The assessment shall be payable on marketings within the base of the processor, as established by the Secretary under section 359b of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359bb).

"(B) SUGAR BEETS.—

"(i) IN GENERAL.—Effective only for marketings of beet sugar during fiscal years 1997 through 2003, the first processor of sugar beets shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to 1.1794 percent of the loan level established under subsection (b) per pound of beet sugar (but not more than .2123 cents per pound of beet sugar), processed by the processor from domestically produced sugar beets or sugar beet molasses, that has been marketed.

"(ii) BASE.—The assessment shall be payable on marketings within the base of the processor, as established by the Secretary under section 359b of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359bb).

"(C) IMPORTED SUGAR.—Effective only for fiscal years 1997 through 2003—

"(i) each holder of a certificate of quota eligibility for raw cane sugar imported into the United States shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in the amount specified in subparagraph (A) per pound of raw cane sugar; and

"(ii) each holder of a certificate of quota eligibility for refined sugar (beet or cane) imported into the United States shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in the amount specified in subparagraph (B) per pound of refined sugar.

"(D) EXEMPT MARKETINGS.—No marketing assessment shall be required to be paid under this paragraph with respect to marketings of sugar to enable another processor or refiner to fill the marketing assessment base of the processor or refiner or to facilitate the exportation of the sugar.

"(2) TIER 2 ASSESSMENT.—

"(A) IN GENERAL.—Effective for marketings of raw cane sugar or beet sugar during fiscal year 1997, the first processor of sugarcane or sugar beets, or the refiner of cane sugar, shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to 100 percent of the loan level established under subsection (b) or (c) per pound of raw cane sugar or beet sugar, respectively, marketed in excess of the base of the processor or refiner, as established by the Secretary under section 359b of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359bb).

"(B) REDUCTION.—The assessment rate shall be reduced to 97 percent of the loan level for marketings for fiscal year 1998, 94 percent for fiscal year 1999, 91 percent for fiscal year 2000, and 88 percent for each of fiscal years 2001, 2002, and 2003.

"(3) COLLECTION.—

"(A) TIMING.—Marketing assessments required under this subsection shall be collected on a monthly basis and shall be remitted to the Commodity Credit Corporation not later than 30 days after the end of the month in which the sugar is marketed or imported.

"(B) MANNER.—Subject to subparagraph (A), marketing assessments shall be collected under this subsection in the manner prescribed by the Secretary and shall be nonrefundable.

"(4) PENALTIES.—If any person fails to remit the assessment required by this subsection or fails to comply with such requirements for recordkeeping or such other requirements as are specified by the Secretary to carry out this subsection, the person shall be liable to the Secretary for a civil penalty up to an amount determined by multiplying—

"(A) the quantity of cane sugar or beet sugar involved in the violation; by

"(B) the support level for the applicable crop of sugarcane or sugar beets.

"(5) ENFORCEMENT.—The Secretary may enforce this subsection in the courts of the United States.

"(j) ASSURANCE OF SUPPLY OF RAW CANE SUGAR.—

"(1) IN GENERAL.—Subject to paragraphs (2) and (3), if, during a period of 7 consecutive market days, the price for raw cane sugar for the nearest future contract month, as reported by the New York Coffee, Sugar, and Cocoa Exchange, the No. 14 price, averages more than 128 percent of the loan rate established under subsection (b) for raw cane sugar, within 3 market days, the Secretary shall take all actions authorized by law to increase the supply of raw cane sugar, in increments of not less than 50,000 tons, to a level that is sufficient to reduce the average price for raw cane sugar to not more than 128 percent of the loan rate.

"(2) ACTIONS.—

"(A) MARKETING ASSESSMENT BASES.—In carrying out paragraph (1), before taking any other action, the Secretary shall increase the marketing assessment bases for processors of raw cane sugar established under sections 359c and 359d of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359cc and 1359dd) to the extent necessary to increase the supply of domestically-produced raw cane sugar to the maximum extent available.

"(B) OTHER ACTIONS.—If the Secretary determines that further action is necessary to increase the supply of raw cane sugar under this subsection, the Secretary shall take the action.

"(3) BEET SUGAR.—The Secretary shall not take an action under this subsection if, during the 7-day period referred to in paragraph (1), the average bulk, FOB factory net price for refined beet sugar reported by all sellers is more than 128 percent of the average price for raw cane sugar for the nearest future contract month.

"(4) REFINER BASE.—Any action taken under this subsection shall not affect the base for any refiner established by the Secretary under sections 359c and 359d of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359cc and 1359dd).

"(k) CROPS.—Except as provided in subsection (i), this section shall be effective only for the 1996 through 2002 crops of sugar beets and sugarcane.".

SEC. 702. MARKETING ASSESSMENT BASES FOR PROCESSORS AND REFINERS.

Effective October 1, 1996, part VII of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359aa et seq.) is amended to read as follows:

"PART VII—MARKETING ASSESSMENT BASES FOR PROCESSORS AND REFINERS

"SEC. 359a. INFORMATION REPORTING.

"(a) DUTY OF PROCESSORS, REFINERS, AND MANUFACTURERS TO REPORT.—

"(1) PROCESSORS AND REFINERS.—All sugarcane processors, cane sugar refiners, and sugar beet processors shall provide the Secretary such information as the Secretary may require to administer sugar programs, including the quantity of purchases of sugarcane, sugar beets, and sugar and production, importation, distribution, and stock levels of sugar.

"(2) MANUFACTURERS OF CRYSTALLINE FRUCTOSE.—All manufacturers of crystalline fructose from corn (referred to in this part as 'crystalline fructose') shall provide the Secretary such information as the Secretary may require with respect to the distribution of crystalline fructose by the manufacturer.

"(b) DUTY OF PRODUCERS TO REPORT.—The Secretary may require a producer of sugarcane or sugar beets to report, in the manner prescribed by the Secretary, the sugarcane or sugar beet yields of the producer and acres planted to sugarcane or sugar beets, respectively.

"(c) PENALTY.—Any person willfully failing or refusing to provide the information required under this section, or providing willfully any false information, shall be subject to a civil penalty of not more than $10,000 for each such violation.

"(d) MONTHLY REPORTS.—Taking into consideration the information received under subsection (a), the Secretary shall publish on a monthly basis composite data on production, imports, distribution, and stock levels of sugar and composite data on distributions of crystalline fructose.

"SEC. 359b. ESTABLISHMENT OF MARKETING ASSESSMENT BASES.

"(a) IN GENERAL.—Before the beginning of each of fiscal years 1997 through 2003, the Secretary shall establish, for the fiscal year, marketing assessment bases for processors of sugar processed from domestically produced sugarcane and sugar beets and for cane sugar refiners, based on the estimate of the Secretary of sugar consumption in the United States for the fiscal year.

"(b) PRODUCTS.—The Secretary may include in the marketing assessment bases established under subsection (a) only sugar products that contain at least 50 percent sucrose or crystalline fructose for human consumption, derived from sugarcane, sugar beets, molasses, or sugar.

"SEC. 359c. CALCULATION OF MARKETING ASSESSMENT BASES.

"(a) IN GENERAL.—The Secretary shall establish marketing assessment bases for sugar for each of fiscal years 1997 through 2003 in accordance with this section.

"(b) OVERALL BASE.—

"(1) IN GENERAL.—The Secretary shall establish the overall base to be distributed for a fiscal year (referred to in this part as the 'overall base') on the basis of the estimate of the Secretary of sugar consumption for the fiscal year.

"(2) ADJUSTMENT.—The Secretary shall adjust the overall base, to the maximum extent practicable, to prevent the accumulation of sugar acquired by the Commodity Credit Corporation.

"(c) ESTABLISHMENT OF BASE.—The overall base for each fiscal year shall be distributed among sugar derived from sugar beets and sugar derived from sugarcane in the following proportions:

"(1) Sugar derived from sugar beets—47 percent.

"(2) Sugar derived from sugarcane, including raw cane sugar imported from foreign countries for consumption in the United States—53 percent.

"(d) DISTRIBUTION OF BASE.—

"(1) SUGAR BEETS.—The base for sugar derived from sugar beets for a fiscal year shall be a quantity equal to the product obtained by multiplying—

"(A) the overall base quantity for the fiscal year; by

"(B) the percentage referred to in subsection (c)(1).

"(2) SUGARCANE.—The base for raw sugar derived from sugarcane for a fiscal year shall be the quantity obtained by subtracting—

"(A) 1,257,000 short tons, raw value; from

"(B) the quantity equal to the product obtained by multiplying—

"(i) the overall base quantity for the fiscal year; by

"(ii) the percentage referred to in subsection (c)(2).

"(3) REFINED CANE SUGAR.—The base for refined cane sugar shall be a quantity equal to the product obtained by multiplying—

"(A) the overall base quantity for the fiscal year; by

"(B) the percentage referred to in subsection (c)(2).

"(e) STATE SUGARCANE BASE.—The base for sugar derived from sugarcane shall be further distributed, among the 5 States in the United States in which sugarcane is produced, in a fair and equitable manner on the basis of past marketings of sugar (considering the average marketings of sugar processed from sugarcane in the 2 highest years of production from each State from the 1990 through 1994 crops), processing capacity, and the ability of processors to market the sugar covered under the bases.

"(f) ADJUSTMENT OF MARKETING ASSESSMENT BASES.—

"(1) IN GENERAL.—The Secretary shall adjust marketing assessment bases established under subsections (a) through (d) in accordance with this subsection.

"(2) ADJUSTMENT BASED ON PRICE.—If the weighted average bulk, FOB factory or refinery net price (including the price of representative consumer and industrial products, adjusted to a bulk basis) reported by all sellers of refined sugar for any week is—

"(A) more than 111 percent of the average bulk, FOB factory price for refined beet sugar during fiscal years 1990 through 1994 (as reported in Appendix Table 11 of Agricultural Economic Report No. 711 of the Economic Research Service), the Secretary may increase the marketing assessment bases of cane sugar refiners and sugar beet processors established under subsections (a) through (d); or

"(B) less than 104 percent of the price referred to in subparagraph (A), the Secretary shall decrease—

"(i) the marketing assessment bases of cane sugar refiners and sugar beet processors established under subsections (a) through (d); and

"(ii) the marketing assessment bases of cane sugar processors established under this section;

to the extent necessary to maintain the minimum access level for imports of sugar set

forth in Additional Note 5 to Chapter 17 of the Harmonized Tariff Schedule of the United States.

"(3) DISTRIBUTION TO PROCESSORS.—In the case of any increase or decrease in assessment bases, the share of each processor of an assessment base under section 359d, and each proportionate share established under section 359f(b), shall be increased or decreased by the same percentage that the assessment base is increased or decreased.

"(4) REDUCTIONS.—If an assessment base for a fiscal year is required to be reduced during the fiscal year under this subsection and the quantity of sugar marketed, including sugar pledged as collateral for a price support loan under section 206 of the Agricultural Act of 1949 (7 U.S.C. 1446g) and acquired by the Commodity Credit Corporation, for the fiscal year at the time of the reduction by any individual processor covered by the assessment base exceeds the reduced assessment base of the processor, the assessment base next established for the processor shall be reduced by the quantity of the excess sugar marketed.

"(g) FILLING SUGARCANE AND SUGAR BEET ASSESSMENT BASES.—

"(1) CANE SUGAR.—Each marketing assessment base for cane sugar established under this section may be filled only with sugar processed from domestically grown sugarcane or imported raw cane sugar.

"(2) BEET SUGAR.—Each marketing assessment base for beet sugar established under this section may be filled only with sugar processed from domestically grown sugar beets.

"SEC. 359d. DISTRIBUTION OF MARKETING ASSESSMENT BASES.

"(a) DISTRIBUTION TO PROCESSORS AND REFINERS.—

"(1) IN GENERAL.—Subject to the other provisions of this subsection, during each of fiscal years 1997 through 2003, the Secretary shall distribute each assessment base among the processors or cane sugar refiners covered by the base in a fair, efficient, and equitable manner, as determined by the Secretary.

"(2) AFTER FISCAL YEAR 1997.—Except as necessary to provide for new beet sugar processors or refiners of cane sugar under paragraph (5), the Secretary shall distribute any increase or decrease in the assessment bases for processors of beet sugar or refiners of cane sugar for fiscal years after fiscal year 1997 in proportion to the shares of the beet sugar processors or refiners of cane sugar for fiscal year 1997.

"(3) CANE SUGAR ASSESSMENT BASE.—In distributing the cane sugar assessment base among processors, the Secretary shall take into consideration processing capacity, past marketings of sugar, and the ability of each processor to market sugar covered by the portion of the base distributed.

"(4) SUGAR BEET ASSESSMENT BASE.—In distributing the sugar beet assessment base among processors of sugar beets, the Secretary shall assign processor bases in accordance with the highest quantity of each processor of sugar produced in any year from sugar beets produced from the 1990 through 1994 crops.

"(5) NEW PROCESSORS AND REFINERS.—In making distributions under this subsection, the Secretary shall make reasonable provision for new processors and refiners.

"(b) FILLING CANE SUGAR ASSESSMENT BASES.—Except as otherwise provided in section 359e, a State cane sugar assessment base established under section 359c(e) for a fiscal year may be filled only with sugar processed from sugarcane grown in the State covered by the assessment base.

"SEC. 359e. REASSIGNMENT OF DEFICITS.

"(a) ESTIMATES OF DEFICITS.—The Secretary shall, in a timely manner, determine whether, in view of then current inventories of sugar, the estimated production of sugar and expected marketings, and other pertinent factors—

"(1) any processor of sugarcane will be unable to market the sugar covered by the portion of the State cane sugar assessment base distributed to the processor;

"(2) any processor of sugar beets will be unable to market sugar covered by the portion of the beet sugar assessment base distributed to the processor; and

"(3) any cane sugar refiner will be unable to market sugar covered by the portion of the refined cane sugar assessment base distributed to the refiner.

"(b) REASSIGNMENT OF DEFICITS.—

"(1) CANE SUGAR.—If the Secretary determines that any sugarcane processor who has received a share of a State cane sugar base will be unable to market the share of the processor of the allotment of the State for the fiscal year—

"(A) the Secretary first shall reassign the estimated quantity of the deficit to the bases of other processors within the State, depending on the capacity of each other processor to fill the portion of the deficit to be assigned to the processor and taking into account the interests of producers served by the processors;

"(B) if after the reassignments the deficit cannot be completely eliminated, the Secretary shall reassign the estimated quantity of the deficit proportionately to the bases for other cane sugar States, depending on the capacity of each other State to fill the portion of the deficit to be assigned to the State, with the reassigned quantity to each State to be distributed among processors in the State in proportion to the bases of the processors; and

"(C) if after the reassignments, the deficit cannot be completely eliminated, the Secretary shall reassign the remainder to imports.

"(2) BEET SUGAR.—If the Secretary determines that a sugar beet processor who has received a share of the beet sugar assessment base will be unable to market the share—

"(A) the Secretary first shall reassign the estimated quantity of the deficit to the bases for other sugar beet processors, depending on the capacity of each other processor to fill the portion of the deficit to be assigned to the processor and taking into account the interests of producers served by the processors; and

"(B) if after the reassignments, the deficit cannot be completely eliminated, the Secretary shall reassign the remainder to imports.

"(3) REFINED CANE SUGAR.—If the Secretary determines that a cane sugar refiner who has received a share of the refined cane sugar assessment base will be unable to market the share, the Secretary shall promptly reassign the estimated quantity of the deficit to the bases of other refiners, as the Secretary considers appropriate.

"(4) CORRESPONDING INCREASE.—The base of each processor or refiner receiving a reassigned quantity of an assessment base under this subsection for a fiscal year shall be increased to reflect the reassignment. The Secretary shall, subject to conditions specified by regulation, provide that marketings in the next fiscal year of deficits reassigned in the last quarter of any fiscal year shall not count against the base of the processor or refiner for the next fiscal year.

"SEC. 359f. PROVISIONS APPLICABLE TO PRODUCERS.

"(a) PROCESSOR ASSURANCES.—During each of fiscal years 1997 through 2003, the Secretary shall obtain from the processors such assurances as the Secretary considers adequate that the assessment base will be shared among producers served by the processor in a fair and equitable manner that adequately reflects the production histories of producers. Any dispute between a processor and a producer, or group of producers, with respect to the sharing of the base of the processor shall be resolved through arbitration by the Secretary on the request of either party.

"(b) PROPORTIONATE SHARES OF CERTAIN STATE BASES.—

"(1) IN GENERAL.—

"(A) STATES AFFECTED.—In any case in which a State share of an assessment base is established under section 359c(e) and there are in excess of 250 producers in the State (other than Puerto Rico), the Secretary shall make a determination under subparagraph (B).

"(B) DETERMINATION.—The Secretary shall determine, for each State base described in subparagraph (A), whether the production of sugarcane, in the absence of proportionate shares, will be greater than the quantity needed to enable processors to fill the assessment base and provide a normal carryover inventory.

"(2) ESTABLISHMENT OF PROPORTIONATE SHARES.—If the Secretary determines under paragraph (1) that the quantity of sugar processed from all crops by all processors covered by a State base for a fiscal year will be in excess of the quantity needed to enable processors to fill the base for the fiscal year and provide a normal carryover inventory of sugar, the Secretary shall establish a proportionate share for each sugarcane producing farm that limits the acreage of sugarcane that may be harvested on the farm for sugar or seed during the fiscal year the base is in effect as provided in this subsection. Each such proportionate share shall be subject to adjustment under paragraph (7) and section 359g(c).

"(3) METHOD OF DETERMINING PROPORTIONATE SHARES.—For purposes of determining proportionate shares for any crop of sugarcane:

"(A) ESTABLISHMENT OF STATE'S PER-ACRE YIELD.—The Secretary shall establish the State's per-acre yield goal for a crop at a level (not less than the average per-acre yield in the State for the preceding 5 years, as determined by the Secretary) that will ensure an adequate net return per pound to sugarcane produced in the State, taking into consideration any available production research data that the Secretary considers relevant.

"(B) ADJUSTMENT OF PER-ACRE YIELD GOAL.—The Secretary shall adjust the per-acre yield goal by the average recovery rate of sugar produced from sugarcane by processors in the State.

"(C) STATE ACREAGE BASE.—The Secretary shall convert the State base for the fiscal year involved into a State acreage base for the crop by dividing the State base by the per-acre yield goal for the State, as established under subparagraph (A) and as further adjusted under subparagraph (B).

"(D) UNIFORM REDUCTION PERCENTAGE.—The Secretary shall establish a uniform reduction percentage for the crop by dividing the State acreage base, as determined for the crop under subparagraph (C), by the sum of all adjusted acreage bases in the State, as determined by the Secretary.

"(E) PROPORTIONATE SHARE OF FARM OF SUGARCANE ACREAGE.—The uniform reduction percentage for the crop, as determined under subparagraph (D), shall be applied to the acreage base for each sugarcane-producing farm in the State to determine the proportionate share of the farm of sugarcane acreage that may be harvested for sugar or seed.

"(4) ACREAGE BASE.—For purposes of this subsection, the acreage base for each sugarcane-producing farm shall be determined by the Secretary, as follows:

"(A) IN GENERAL.—The acreage base for any farm shall be the number of acres that is equal to the average of the acreage planted and considered planted for harvest for sugar or seed on the farm in each of the 5 crop years preceding the fiscal year the proportionate share will be in effect.

"(B) DISASTERS.—Acreage planted to sugarcane that producers on a farm were unable to harvest to sugarcane for sugar or seed because of drought, flood, other natural disaster, or other condition beyond the control of the producers may be considered as harvested for the production of sugar or seed for purposes of this paragraph.

"(5) VIOLATION.—

"(A) IN GENERAL.—If proportionate shares are in effect in a State for a crop of sugarcane, producers on a farm shall not knowingly harvest, or allow to be harvested, for sugar or seed an acreage of sugarcane in excess of the proportionate share of the farm for the fiscal year, or otherwise violate proportionate share regulations issued by the Secretary under section 359h(a).

"(B) DETERMINATION OF VIOLATION.—No producer shall be considered to have violated subparagraph (A) unless the processor of the sugarcane harvested by the producer from acreage in excess of the proportionate share of the farm markets a quantity of sugar that exceeds the allocation of the processor for a fiscal year.

"(C) CIVIL PENALTY.—Any producer on a farm who violates subparagraph (A) by knowingly harvesting, or allowing to be harvested, an acreage of sugarcane in excess of the proportionate share of the farm shall be liable to the Commodity Credit Corporation for a civil penalty equal to 1½ times the United States market value of the quantity of sugar that is marketed by the processor of the sugarcane in excess of the allocation of the processor for the fiscal year. The Secretary shall prorate penalties imposed under this subparagraph in a fair and equitable manner among all the producers of sugarcane harvested from excess acreage that is acquired by the processor.

"(6) WAIVER.—Notwithstanding paragraph (5), the Secretary may authorize the county and State committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) to waive or modify deadlines and other proportionate share requirements in cases in which lateness or failure to meet the other requirements does not affect adversely the operation of proportionate shares.

"(7) ADJUSTMENTS.—If the Secretary determines that, because of a natural disaster or other condition beyond the control of producers that adversely affects a crop of sugarcane subject to proportionate shares, the quantity of sugarcane produced by producers subject to the proportionate shares will not be sufficient to enable processors in the State to meet the cane sugar base of the State and provide a normal carryover inventory of sugar, the Secretary may uniformly allow producers to harvest a quantity of sugarcane in excess of the proportionate share of the producers, or suspend proportionate shares entirely, as necessary to enable processors to meet the State base and provide a normal carryover inventory of sugar.

"SEC. 359g. SPECIAL RULES.

"(a) TRANSFER OF ACREAGE BASE HISTORY.—For the purpose of establishing proportionate shares for sugarcane farms under section 359f, the Secretary, on application of any producer, with the written consent of all owners of a farm, may transfer the acreage base history of the farm to any other parcels of land of the applicant.

"(b) PRESERVATION OF ACREAGE BASE HISTORY.—If for reasons beyond the control of a producer on a farm, the producer is unable to harvest an acreage of sugarcane for sugar or seed with respect to all or a portion of the proportionate share established for the farm under section 359f, the Secretary, on the application of the producer and with the written consent of all owners of the farm, may preserve for a period of not more than 3 consecutive years the acreage base history of the farm to the extent of the proportionate share involved. The Secretary may permit the proportionate share to be redistributed to other farms, except that no acreage base history for purposes of establishing acreage bases shall accrue to the other farms by virtue of the redistribution of the proportionate share.

"(c) REVISIONS OF DISTRIBUTIONS AND PROPORTIONATE SHARES.—The Secretary, after such notice as the Secretary by regulation may prescribe, may revise or amend any distribution of a marketing assessment base under section 359d, or any proportionate share established for a farm under section 359f, on the same basis as the initial distribution or proportionate share was required to be established.

"SEC. 359h. REGULATIONS; VIOLATIONS; PUBLICATION OF SECRETARY'S DETERMINATIONS; JURISDICTION OF THE COURTS; UNITED STATES ATTORNEYS.

"(a) REGULATIONS.—The Secretary or the Commodity Credit Corporation, as appropriate, shall issue such regulations as are necessary to carry out this part.

"(b) PUBLICATION IN FEDERAL REGISTER.—Each determination issued by the Secretary to establish or adjust a marketing assessment base under this part shall be promptly published in the Federal Register and shall be accompanied by a statement of the reasons for the determination.

"(c) VIOLATION.—Any person knowingly violating any regulation of the Secretary issued under subsection (a) shall be subject to a civil penalty of not more than $5,000 for each violation.

"(d) JURISDICTION OF COURTS; UNITED STATES ATTORNEYS.—

"(1) JURISDICTION OF COURTS.—A district court of the United States shall have jurisdiction specifically to enforce, and to prevent and restrain any person from violating, this part or any regulation issued under this part.

"(2) UNITED STATES ATTORNEYS.—On request of the Secretary, a United States attorney, in the district of the attorney, shall institute a proceeding to enforce the remedies and to collect the penalties provided for in this part. The Secretary may elect not to refer to a United States attorney any violation of this part or a regulation if the Secretary determines that the administration and enforcement of this part would be adequately served by written notice or warning to any person committing the violation.

"(e) NONEXCLUSIVITY OF REMEDIES.—The remedies and penalties provided for in this part shall be in addition to, and not exclusive of, any remedies or penalties existing at law or in equity.

"SEC 359i. APPEALS.

"(a) IN GENERAL.—An appeal may be taken to the Secretary from any decision under section 359d establishing allocations of marketing assessment bases, or under section 359f, by any person adversely affected by reason of any such decision.

"(b) PROCEDURE.—

"(1) NOTICE OF APPEAL.—Any appeal from such a decision shall be taken by filing with the Secretary, not later than 20 days after the decision is effective, notice in writing of the appeal and a statement of the reasons for the appeal. Unless a later date is specified by the Secretary as part of the decision of the Secretary, the decision shall be considered to be effective as of the date on which announcement of the decision is made. The Secretary shall deliver a copy of any notice of appeal to each person shown by the records of the Secretary to be adversely affected by reason of the decision appealed. After delivery of notice, the Secretary shall at all times permit any such person to inspect and make copies of the statement of the reasons of the appellant for the appeal and shall on application permit the person to intervene in the appeal.

"(2) HEARING.—The Secretary shall provide each appellant an opportunity for a hearing before an administrative law judge in accordance with sections 554 and 556 of title 5, United States Code. The expenses for conducting the hearing shall be reimbursed by the Commodity Credit Corporation.

"SEC. 359j. ADMINISTRATION.

"(a) USE OF CERTAIN AGENCIES.—In carrying out this part, the Secretary may use the services of local committees of sugarcane or sugar beet producers or sugarcane or sugar beet processors, State and county committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)), and departments and agencies of the United States Government.

"(b) USE OF COMMODITY CREDIT CORPORATION.—The Secretary shall use the services, facilities, funds, and authorities of the Commodity Credit Corporation to carry out sections 359a through 359i.

"(c) DEFINITIONS OF UNITED STATES AND STATE.—Notwithstanding section 301, for purposes of this part, the terms 'United States' and 'State' mean the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.".

SEC. 703. PREVENTION OF SUGAR LOAN FORFEITURES.

Section 902(c)(2)(A) of the Food Security Act of 1985 (Public Law 99–198; 7 U.S.C. 1446g note) is amended by striking "1995" and inserting "2002".

TITLE VIII—GENERAL COMMODITY PROVISIONS

Subtitle A—Amendments to Agricultural Act of 1949

SEC. 801. DEFICIENCY AND LAND DIVERSION PAYMENTS.

Section 114 of the Agricultural Act of 1949 (7 U.S.C. 1445j) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "1997" and inserting "2002"; and

(B) in paragraph (2)(F), by striking clause (iii) and inserting the following:

"(iii) 50 percent of the projected payment rate;";

(2) in subsection (b), by striking "1995" and inserting "2002"; and

(3) in subsection (c), by striking "1997" and inserting "2002".

SEC. 802. ADJUSTMENT OF ESTABLISHED PRICES.

Section 402(b) of the Agricultural Act of 1949 (7 U.S.C. 1422(b)) is amended by striking "1995" and inserting "2002".

SEC. 803. ADJUSTMENT OF SUPPORT PRICES.

Section 403(c) of the Agricultural Act of 1949 (7 U.S.C. 1423(c)) is amended by striking "1995" and inserting "2002".

SEC. 804. PROGRAM OPTION FOR 2003 AND SUBSEQUENT CROPS.

Section 406 of the Agricultural Act of 1949 (7 U.S.C. 1426) is amended by striking subsection (b) and inserting the following:

"(b) PROGRAM OPTION FOR 2003 AND SUBSEQUENT CROPS.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may offer an option to producers of each of the 2003 and subsequent crops of wheat, feed grains, upland cotton, extra long staple cotton, rice, sugar, peanuts, and oilseeds to participate in commodity price support, production adjustment, and payment programs as provided in this subsection.

"(2) TERMS AND CONDITIONS.—The Secretary may offer the programs based on such terms and conditions as are provided producers of the commodities for the 2002 crop year in accordance with this Act, as determined by the Secretary. Any established price or loan and purchase level made available in accordance with this subsection shall be established at the same level as the level established for the 2002 crop year or using the same terms and conditions as are provided for the commodity for the 2002 crop year.

"(3) FINAL ANNOUNCEMENTS.—The Secretary may offer each of the programs provided for by this subsection if the Secretary has not made final announcement of the terms of the commodity price support, production adjustment, or payment programs for the 2003 crops of the commodities referred to in paragraph (1) on or before November 1, 2002.

"(4) COMMODITY CREDIT CORPORATION.—The Secretary may use the funds, facilities and authorities of the Commodity Credit Corporation to carry out this subsection.".

SEC. 805. APPLICATION OF TERMS IN THE AGRICULTURAL ACT OF 1949.

Section 408(k)(3) of the Agricultural Act of 1949 (7 U.S.C. 1428(k)(3)) is amended by striking "1995" and inserting "2002".

SEC. 806. DOUBLE CROPPING.

Title IV of the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) is amended by adding at the end the following:

"SEC. 428. DOUBLE CROPPING.

"(a) WAIVER OF CONSERVATION USE REQUIREMENTS.—Effective for each of the 1996 through 2002 crops of wheat, feed grains, cotton, and rice, the requirements of sections 107B(e), 105B(e), 103B(e), 103(h)(5), and 101B(e) concerning acreage that must be devoted to conservation uses and administration of the conserving use acres shall not be applicable to the producers of a program crop (as defined in section 502(3)) on a farm as of the normal harvest date for the program crop, as determined by the Secretary, if, under an established practice of double cropping, the producers of the program crop on the farm plant for harvest in the same calendar year in which the program crop is harvested a crop that is not a program crop.

"(b) REGULATIONS.—The Secretary shall issue such regulations as are necessary to carry out this section.".

SEC. 807. ACREAGE BASE AND YIELD SYSTEM.

(a) CROP ACREAGE BASES.—Section 503 of the Agricultural Act of 1949 (7 U.S.C. 1463) is amended—

(1) in subsection (a)—

(A) by striking paragraph (2) and inserting the following:

"(2) LIMITATION.—The sum of the crop acreage bases and historical soybean acreage on the farm may not exceed the cropland on the farm, except to the extent there is an established practice of double cropping on the farm."; and

(B) by adding at the end the following:

"(4) HISTORICAL SOYBEAN ACREAGE.—

"(A) IN GENERAL.—The Secretary shall provide for the establishment and maintenance of a historical soybean acreage for each farm.

"(B) QUANTITY.—

"(i) IN GENERAL.—Except as provided in clause (ii), the historical soybean acreage for a farm for a crop year shall be equal to the average of the acreage planted to soybeans for harvest on the farm in each of the previous 5 crop years.

"(ii) EXCEPTION.—In determining the historical soybean acreage for a farm for a crop year, the Secretary shall exclude from the acreage any soybean plantings that were considered planted to a program crop or are planted for harvest on a crop acreage base in accordance with section 504.";

(2) in subsection (b), by striking paragraph (2) and inserting the following:

"(2) COTTON AND RICE.—In the case of upland cotton and rice, the crop acreage base for a crop for a crop year shall be equal to the average of the acreage planted and considered planted to the crop for harvest on the farm in each of the 3 crop years preceding the crop year.";

(3) in subsection (c)—

(A) in paragraph (3), by striking "1997" and inserting "2002";

(B) in paragraph (7), by striking "and" at the end;

(C) in paragraph (8), by striking the period at the end and inserting "; and"; and

(D) by adding at the end the following:

"(9) any acreage on the farm that is planted in accordance with subsection (i)."; and

(4) by striking subsection (h) and inserting the following:

"(h) ADJUSTMENT OF BASES.—The county committee, in accordance with regulations prescribed by the Secretary, may adjust any crop acreage base for any program crop for any farm if the crop acreage base for the crop on the farm would otherwise be adversely affected by a condition or occurrence beyond the control of the producer.

"(i) SPECIAL EXEMPTION FOR CROP MANAGEMENT PURPOSES.—

"(1) PLANTING NOT-FOR-HARVEST IN EXCESS OF PERMITTED ACREAGE.—Notwithstanding any other provision of this Act, the Secretary may provide that producers of a program crop on a farm who are participating in the production adjustment program for the program crop under this Act may plant the program crop in a quantity that exceeds the permitted acreage for the crop without losing the eligibility of the producers for loans, purchases, or payments with respect to the crop under this Act if the acreage planted to the program crop on the farm in excess of the permitted acreage—

"(A) is planted as part of a crop management plan that is designed to maintain the important role of plant varieties that possess genetic qualities aimed at reducing the dependence of agriculture on crop protection materials to suppress weeds, diseases, and insects;

"(B) does not exceed 10 percent of the crop acreage base of the farm for the program crop;

"(C) is not planted to a crop that is harvested; and

"(D) is not planted to a variety of the program crop that possesses transgenic characteristics.

"(2) OPTIONAL MINIMUM ACREAGE FOR GENETICALLY IMPROVED TRANSGENIC VARIETY.—The Secretary may require producers on a farm, to be eligible to plant in excess of the permitted acreage of the producers under this subsection, to plant not less than 90 percent of the permitted acreage of the producers on the farm to a genetically improved transgenic variety of the program crop.

"(3) ADDITIONAL AUTHORITY.—Any authority to plant a program crop in excess of the permitted acreage for the crop under this subsection shall be in addition to the authority provided under subsection (d), (e), and (f).".

(b) PLANTING FLEXIBILITY.—Section 504 of the Act (7 U.S.C. 1464) is amended—

(1) by striking subsection (c) and inserting the following:

"(c) LIMITATION ON ACREAGE.—The quantity of the crop acreage base that may be planted to a commodity, other than the specific program crop, under this section may not exceed 100 percent of the crop acreage base.";

(2) in subsection (d)—

(A) by striking "Notwithstanding" and inserting "Except as provided in subsection (f) and notwithstanding"; and

(B) in paragraph (1), by striking "25 percent" and inserting "100 percent";

(3) in subsection (e)(2)(A), by striking "25 percent" and inserting "100 percent"; and

(4) by adding at the end the following:

"(f) TWO-WAY FLEXIBILITY.—

"(1) PLANTING ON HISTORICAL SOYBEAN ACREAGE.—Notwithstanding any other provision of this Act, producers of a program crop on a farm who are participating in the production adjustment program for the program crop under this Act shall be allowed to plant the program crop in a quantity that exceeds the permitted acreage for the crop without losing the eligibility of the producers for loans, purchases, or payments with respect to the crop under this Act if the acreage planted to the program crop on the farm in excess of the permitted acreage does not exceed 25 percent of the historical soybean acreage on the farm for the crop.

"(2) ADDITIONAL FLEXIBILITY.—Any authority to plant a program crop in excess of the permitted acreage for the crop under this subsection shall be in addition to authority provided under subsection (d).

"(3) LIMITATION.—The Secretary may limit the application of this subsection with respect to a program crop if the Secretary determines the limitation to be necessary to prevent an increase in the acreage limitation program that would otherwise be implemented in accordance with sections 101B, 103B, 105B, and 107B during a crop year for the crop.".

(c) FARM PROGRAM PAYMENT YIELDS.—Section 505(b) of the Act (7 U.S.C. 1465(b)) is amended—

(1) in subsection (b)—

(A) in paragraphs (1) and (2), by striking "1997" each place it appears and inserting "2002"; and

(B) in paragraph (3), by striking "1981 through 1985 crop years (or, as appropriate, the 1986 through 1990 crop years)" and inserting "applicable crop years, as determined by the Secretary"; and

(2) in subsection (c)(2)—

(A) by inserting "(if applicable)" after the "1986 crop year"; and

(B) by inserting "(as applicable)" after "subsequent crop years".

(d) CROPS.—Section 509 of the Act (7 U.S.C. 1469) is amended by striking "1997" and inserting "2002".

Subtitle B—Miscellaneous Commodity Provisions

SEC. 811. PAYMENT LIMITATIONS.

Title X of the Food Security Act of 1985 (Public Law 99-198; 99 Stat. 1444) is amended—

(1) in paragraphs (1)(A), (1)(B), and (2)(A) of section 1001 (7 U.S.C. 1308), by striking "1997" each place it appears and inserting "2002"; and

(2) in section 1001C(a) (7 U.S.C. 1308-3(a)), by striking "1997" each place it appears and inserting "2002".

SEC. 812. NORMALLY PLANTED ACREAGE.

Section 1001 of the Food and Agriculture Act of 1977 (7 U.S.C. 1309) is amended by striking "1995" each place it appears in subsections (a), (b)(1), and (c) and inserting "2002".

SEC. 813. NORMAL SUPPLY.

Section 1019 of the Food Security Act of 1985 (7 U.S.C. 1310a) is amended by striking "1995" and inserting "2002".

SEC. 814. DETERMINATIONS OF THE SECRETARY.

Section 1017(b) of the Food Security Act of 1985 (Public Law 99-198; 7 U.S.C. 1385 note) is amended by striking "1995" and inserting "2002".

SEC. 815. OPTIONS PILOT PROGRAM.

The Options Pilot Program Act of 1990 (subtitle E of title XI of Public Law 101-624; 104 Stat. 3518; 7 U.S.C. 1421 note) is amended—

(1) in subsections (a) and (b) of section 1153, by striking "1995" each place it appears and inserting "2002"; and

(2) in section 1154(b)(1)(A), by striking "1995" each place it appears and inserting "2002".

SEC. 816. NATIONAL AGRICULTURAL COST OF PRODUCTION STANDARDS REVIEW BOARD.

Section 1014 of the Agriculture and Food Act of 1981 (7 U.S.C. 4110) is amended by striking "1995" and inserting "2002".

Subtitle C—Conforming Amendments

SEC. 821. CONFORMING AMENDMENTS.

(a) Section 1001(2)(B) of the Food Security Act of 1985 (7 U.S.C. 1308(2)(B)) is amended by striking clause (iv) and inserting the following:

"(iv) any deficiency payment received for a crop of feed grains under section 105B(c)(1) of the Agricultural Act of 1949 as the result of a reduction of the loan level for the crop under section 105B(a)(3) of the Act;".

(b) Section 1001(c) of the Food and Agriculture Act of 1977 (7 U.S.C. 1309(c)) is amended by striking paragraph (2) and inserting the following:

"(2) the crop acreage base for the farm established under section 503 of the Agricultural Act of 1949 (7 U.S.C. 1463).".

(c) Section 114(c) of the Agricultural Act of 1949 (7 U.S.C. 1445j(c)) is amended by striking "section 107B(c)(1)(B)(ii), 107B(p), or 105B(c)(1)(B)(ii)" and inserting "section 107B(c)(1)(B) or 105B(c)(1)(B)".

Subtitle D—Application

SEC. 831. APPLICATION.

(a) CROPS.—Except as otherwise specifically provided this Act, this Act and the amendments made by this Act shall apply beginning with the 1996 crop of an agricultural commodity.

(b) PRIOR CROPS.—Except as otherwise specifically provided and notwithstanding any other provision of law, this Act and the amendments made by this Act shall not affect the authority of the Secretary of Agriculture to carry out a price support, production adjustment, or payment program for—

(1) any of the 1991 through 1995 crops of an agricultural commodity established under a provision of law as in effect immediately before the enactment of this Act; or

(2) the 1996 crop of an agricultural commodity established under section 406(b) of the Agricultural Act of 1949 (as in effect immediately before the effective date of the amendment made by section 804).

KOHL AMENDMENTS NOS. 3130-3133

(Ordered to lie on the table.)

Mr. KOHL submitted four amendments intended to be proposed by him to the bill S. 1541, supra; as follows:

AMENDMENT NO. 3130

At the appropriate place, insert the following new section:

SEC. . NATIONAL MILK MARKETING ORDER.

(a) IN GENERAL.—Paragraphs (A) and (B) of section 8c(5) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, are amended to read as follows:

"(A) DEFINITIONS.—In this subsection:

"(i) CLASS I MILK.—The term 'class I milk' means grade A milk that is used to produce a fluid milk product.

"(ii) CLASS II MILK.—The term 'class II milk' means grade A milk that is used to produce a milk product other than a product produced from class I milk or class III milk.

"(iii) CLASS III MILK.—The term 'class III milk' means grade A milk that is used to produce butter, nonfat dry milk, or hard cheese.

"(iv) NATIONAL ORDER.—The term 'national order' means the order described in paragraph (B).

"(B) CLASSIFICATION AND MINIMUM PRICES FOR MILK.—

"(i) IN GENERAL.—Classifying, and establishing minimum prices, for class I milk, class II milk, and class III milk in accordance with a national order issued under this section that applies to all handlers of the milk produced in the 48 contiguous States and the products of the milk.

"(ii) UNIFORM PRICE DIFFERENTIAL.—The Secretary shall establish 1 uniform price differential for milk of the highest use classification. The price shall be equal to $1.60 per hundredweight.

"(iii) PHASE OUT OF MINIMUM PRICE FOR CLASS III MILK.—Not later than December 31, 1995, the Secretary shall phase out the minimum price for class IIIA milk. Until the Secretary phases out the minimum price for class IIIA milk, the Secretary shall require reclassification of class IIIA milk as class III milk if the fat and powder used in the milk is used in higher value dairy products.".

(b) CONFORMING AMENDMENTS.—Section 8c(5) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(1) in paragraph (C)—

(A) by striking "paragraphs (A) and (B) of this subsection (5)" and inserting "Paragraph (B)"; and

(B) by striking "paragraph (A) hereof" and inserting "paragraph (B)";

(2) in the proviso of paragraph (F), by striking "paragraph (A) of this subsection (5)" and inserting "paragraph (B)";

(3) in paragraph (J), by striking "paragraph (A)" and inserting "paragraph (B)"; and

(4) by striking paragraph (L).

AMENDMENT NO. 3131

On page 72, between lines 8 and 9, insert the following:

SEC. . NATIONAL MILK MARKETING ORDER.

(a) IN GENERAL.—Paragraphs (A) and (B) of section 8c(5) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, are amended to read as follows:

"(A) DEFINITIONS.—In this subsection:

"(i) CLASS I MILK.—The term 'class I milk' means grade A milk that is used to produce a fluid milk product.

"(ii) CLASS II MILK.—The term 'class II milk' means grade. A milk that is used to produce a milk product other than a product produced from class I milk or class III milk.

"(iii) CLASS III MILK.—The term 'class III milk' means grade A milk that is used to produce butter, nonfat dry milk, or hard cheese.

"(iv) NATIONAL ORDER.—The term 'national order' means the order described in paragraph (B).

"(B) CLASSIFICATION AND MINIMUM PRICES FOR MILK.—

"(i) IN GENERAL.—Classifying and establishing minimum prices, for class I milk, class II milk, and class III milk in accordance with a national order issued under this section that applies to all handlers of the milk produced in the 48 contiguous States and the products of the milk.

"(ii) UNIFORM PRICE DIFFERENTIAL.—The Secretary shall establish 1 uniform price differential for milk of the highest use classification. The price shall be equal to $1.60 per hundredweight.

"(iii) PHASE OUT OF MINIMUM PRICE FOR CLASS III MILK.—Not later than December 31, 1995, the Secretary shall phase out the minimum price for class IIIA milk. Until the Secretary phases out the minimum price for class IIIA milk, the Secretary shall require reclassification of class IIIA milk as class III milk if the fat and powder used in the milk is used in higher value dairy products.".

(b) CONFORMING AMENDMENTS.—Section 8c(5) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(1) in paragraph (C)—

(A) by striking "paragraphs (A) and (B) of this subsection (5)" and inserting "paragraph (B)"; and

(B) by striking "paragraph (A) hereof" and inserting "paragraph (B)";

(2) in the proviso of paragraph (F), by striking "paragraph (A) of this subsection (5)" and inserting "paragraph (B)";

(3) in paragraph (J), by striking "paragraph (A)" and inserting "paragraph (B)"; and

(4) by striking paragraph (L).

AMENDMENT NO. 3132

At the appropriate place, add the following new section:

SEC. . UPGRADE PAYMENT.

Section 8c(5) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by adding at the end the following:

"(M) UPGRADE PAYMENT.—A handler that uses a product of Class IV milk to manufacture a product of Class II milk or a product

of class III milk shall be responsible to pay into the Class IV milk national equalization pool an upgrade payment equal to the product of—

"(i) the difference between—

"(I) the milk reference price for the class of milk of final use; and

"(II) the Class IV milk reference price during the month in which the final manufactured product is produced; and

"(ii) the quantity of milk equivalent (measured in hundredweights) contained in the product of Class IV milk used to produce the Class II milk product or the Class III milk product.".

AMENDMENT NO. 3133

On page 72, between lines 8 and 9, insert the following:

SEC. . UPGRADE PAYMENT.

Section 8c(5) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by adding at the end the following:

"(M) UPGRADE PAYMENT.—A handler that uses a product of Class IV milk to manufacture a product of Class II milk or a product of Class III milk shall be responsible to pay into the Class IV milk national equalization pool an upgrade payment equal to the product of—

"(i) the difference between—

"(I) the milk reference price for the class of milk of final use; and

"(II) the Class IV milk reference price during the month in which the final manufactured product is produced; and

"(ii) the quantity of milk equivalent (measured in hundredweights) contained in the product of Class IV milk used to produce the Class II milk product or the Class III milk product.".

KOHL (AND FEINGOLD) AMENDMENT NO. 3134

(Ordered to lie on the table.)

Mr. KOHL (for himself and Mr. FEINGOLD) submitted an amendment intended to be proposed by them to the bill, S. 1541, supra; as follows:

At the appropriate place insert the following:

TITLE ___—DAIRY

Subtitle A—Milk Price Support and Other Activities

SEC. ___01. MILK PRICE SUPPORT PROGRAM.

(a) SUPPORT ACTIVITIES.—To replace the milk price support program established under section 204 of the Agricultural Act of 1949 (7 U.S.C. 1446e), which is repealed by section 19(b)(2)), the Secretary of Agriculture shall use the authority provided in this section to support the price of milk produced in the 48 contiguous States through the purchase of cheddar cheese produced from such milk. Until the first day of the first month beginning not less than 30 days after the date of the enactment of this Act, the Secretary also may support the price of milk under this section through the purchase of butter and nonfat dry milk produced from milk produced in the 48 contiguous States.

(b) RATE.—The price of milk shall be supported at the following rates per hundredweight for milk containing 3.67 percent butterfat:

(1) During calendar year 1996, not less than $10.35.

(2) During calendar year 1997, not less than $10.25.

(3) During calendar year 1998, not less than $10.15.

(4) During calendar year 1999, not less than $10.05.

(5) During calendar year 2000, not less than $9.95.

(6) During calendar years 2001 and 2002, not less than $9.85.

(c) BID PRICES.—The Commodity Credit Corporation support purchase prices under this section for cheddar cheese (and for butter and nonfat dry milk subject to subsection (a)) announced by the Corporation shall be the same for all of that milk product sold by persons offering to sell the product to the Corporation. The purchase prices shall be sufficient to enable plants of average efficiency to pay producers, on average, a price not less than the rate of price support for milk in effect during a 12-month period under this section.

(d) USE OF COMMODITY CREDIT CORPORATION.—The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this section.

(e) RESIDUAL AUTHORITY FOR REFUND OF BUDGET DEFICIT ASSESSMENTS.—

(1) APPLICATION OF SUBSECTION.—This subsection shall apply with respect to the reductions made under subsection (h)(2) of section 204 of the Agricultural Act of 1949, as in effect on the day before the date of the enactment of this Act, in the price of milk received by producers during calendar years 1995 and 1996.

(2) REFUND REQUIRED.—The Secretary shall provide a refund of the entire reduction made under such subsection (h)(2) in the price of milk received by a producer during a calendar year referred to in paragraph (1) if the producer provides evidence that the producer did not increase marketings in that calendar year when compared to the preceding calendar year.

(3) TREATMENT OF REFUNDS.—A refund under this subsection shall not be considered as any type of price support or payment for purposes of sections 1211 and 1221 of the Food Security Act of 1985 (16 U.S.C. 3811, 3821).

(g) TRANSFER OF MILK PRODUCTS TO MILITARY AND VETERANS HOSPITALS.—

(1) TRANSFER AUTHORIZED.—As a means of increasing the utilization of milk and milk products, upon the certification by the Secretary of Veterans Affairs or by the Secretary of the Army, acting for the military departments under the Single Service Purchase Assignment for Subsistence of the Department of Defense, that the usual quantities of milk products have been purchased in the normal channels of trade, the Commodity Credit Corporation shall make available—

(A) to the Secretary of Veterans Affairs at warehouses where milk products are stored, such milk products acquired under this section as the Secretary of Veterans Affairs certifies are required in order to provide milk products as a part of the ration in hospitals under the jurisdiction of the Secretary of Veterans Affairs; and

(B) to the Secretary of the Army, at warehouses where milk products are stored, such milk products acquired under this section as the Secretary of the Army certifies can be utilized in order to provide additional milk products as a part of the ration—

(i) of the Army, Navy, Air Force, or Coast Guard;

(ii) in hospitals under the jurisdiction of the Department of Defense; and

(iii) of cadets and midshipmen at, and other personnel assigned to, the United States Merchant Marine Academy.

(2) REPORTS.—The Secretary of Veterans Affairs and the Secretary of the Army shall report every six months to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives and the Secretary of Agriculture the amount of milk products used under this subsection.

(3) PROCESS.—The Secretary of Veterans Affairs and the Secretary of the Army shall reimburse the Commodity Credit Corporation for all costs associated in making milk products available under this subsection.

(4) LIMITATION.—The obligation of the Commodity Credit Corporation to make milk products available pursuant to this subsection shall be limited to milk products acquired by the Corporation under this section and not disposed of under provisions (1) and (2) of section 390B(a) of the Agricultural Adjustment Act of 1938.

(h) PERIOD OF EFFECTIVENESS.—Notwithstanding any other provision of law, this section shall be effective only during the period

(1) beginning on the date of the enactment of this Act; and

(2) ending on December 31, 2002.

SEC. ___02. RECOURSE LOANS FOR COMMERCIAL PROCESSORS OF DAIRY PRODUCTS.

(a) RECOURSE LOANS AVAILABLE.—The Secretary of Agriculture shall make recourse loans available to commercial processors of eligible dairy products to assist such processors to manage inventories of eligible dairy products to assure a greater degree of price stability for the dairy industry during the year. Recourse loans may be made available under such reasonable terms and conditions as the Secretary may prescribe. The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this section.

(b) AMOUNT OF LOAN.—The Secretary shall establish the amount of a loan for eligible dairy products, which shall reflect 90 percent of the reference price for that product. The rate of interest charged participants in this program shall not be less than the rate of interest charged the Commodity Credit Corporation by the United States Treasury.

(c) PERIOD OF LOANS.—A recourse loan made under this section may not extend beyond the end of the fiscal year during which the loan is made, except that the Secretary may extend the loan for an additional period not to exceed the end of the next fiscal year.

(d) DEFINITIONS.—In this section:

(1) The term "eligible dairy products" means cheddar cheese, butter, and nonfat dry milk.

(2) The term "reference price" means—

(A) for cheddar cheese, the average National (Green Bay) Cheese Exchange price for 40 pound blocks of cheddar cheese for the previous three months;

(B) for butter, the average Chicago Mercantile Exchange price for Grade AA butter for the previous three months; and

(C) for nonfat dry milk, the average Western States Extra Grade and Grade A price for nonfat dry milk for the previous three months.

SEC. ___03. DAIRY EXPORT INCENTIVE PROGRAM.

(a) DURATION.—Subsection (a) of section 153 of the Food Security Act of 1985 (15 U.S.C. 713a-14) is amended by striking "2001" and inserting "2002".

(b) ELEMENTS OF PROGRAM.—Subsection (c) of such section is amended—

(1) by striking "and" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting "; and"; and

(3) by adding at the end the following new paragraphs:

"(3) the maximum volume of dairy product exports allowable consistent with the obligations of the United States as a member of the World Trade Organization are exported under the program each year (minus the volume sold under section 1163 of this Act (7 U.S.C. 1731 note) during that year), except to the extent that the export of such a volume under the program would, in the judgment of the Secretary, exceed the limitations on the value set forth in subsection (f); and

"(4) payments may be made under the program for exports to any destination in the world for the purpose of market development, except a destination in a country with respect to which shipments from the United States are otherwise restricted by law.".

(c) SOLE DISCRETION.—Subsection (b) of such section is amended by inserting "sole" before "discretion".

(d) MARKET DEVELOPMENT.—Subsection (e)(1) of such section is amended—

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

(2) by inserting before the period the following: ", and any additional amount that may be required to assist in the development of world markets for United States dairy products".

(e) MAXIMUM ALLOWABLE AMOUNTS.—Such section is further amended by adding at the end the following:

"(f) REQUIRED FUNDING.—The Commodity Credit Corporation shall in each year use money and commodities for the program under this section in the maximum amount consistent with the obligations of the United States as a member of the World Trade Organization, minus the amount expended under section 1163 of this Act (7 U.S.C. 1731 note) during that year. However, the Commodity Credit Corporation may not exceed the limitations specified in subsection (c)(3) on the volume of allowable dairy product exports.".

SEC. ___04. DAIRY PROMOTION PROGRAM.

(a) EXPANSION TO COVER DAIRY PRODUCTS IMPORTED INTO THE UNITED STATES.—Section 110(b) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4501(b)) is amended by inserting after "commercial use" the following: "and dairy products imported into the United States".

(b) DEFINITIONS.—

(1) MILK.—Subsection (d) of section 111 of such Act (7 U.S.C. 4502) is amended by inserting before the semicolon the following: "or cow's milk imported into the United States in the form of dairy products intended for consumption in the United States".

(2) DAIRY PRODUCTS.—Subsection (e) of such section is amended by inserting before the semicolon the following: "and casein (except casein imported under sections 3501.90.20 (casein glue) and 3501.90.50 (other) of the Harmonized Tariff Schedule)".

(3) RESEARCH.—Subsection (j) of such section is amended by inserting before the semicolon the following: "or to reduce the costs associated with processing or marketing those products".

(4) UNITED STATES.—Subsection (l) of such section is amended to read as follows:

"(l) the term 'United States' means the several States and the District of Columbia;".

(5) IMPORTERS AND EXPORTERS.—Such section is further amended—

(A) in subsection (k), by striking "and" at the end of such subsection; and

(B) by adding at the end the following new subsections:

"(m) the term 'importer' means the first person to take title to dairy products imported into the United States for domestic consumption; and

"(n) the term 'exporter' means any person who exports dairy products from the United States.".

(c) MEMBERSHIP OF BOARD.—Section 113(b) of such Act (7 U.S.C. 4504(b)) is amended—

(1) in the first sentence, by striking "thirty-six members" and inserting "38 members, including one representative of importers and one representative of exporters to be appointed by the Secretary";

(2) in the second sentence, by striking "Members" and inserting "The remaining members"; and

(3) in the third sentence, by striking "United States" and inserting "United States, including Alaska and Hawaii".

(d) ASSESSMENT.—Section 113(g) of such Act (7 U.S.C. 4504(g)) is amended—

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

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

"(2) The order shall provide that each importer of dairy products intended for consumption in the United States shall remit to the Board, in the manner prescribed by the order, an assessment equal to 1.2 cents per pound of total milk solids contained in the imported dairy products, or 15 cents per hundredweight of milk contained in the imported dairy products, whichever is less. If an importer can establish that it is participating in active, ongoing qualified State or regional dairy product promotion or nutrition programs intended to increase the consumption of milk and dairy products, the importer shall receive credit in determining the assessment due from that importer for contributions to such programs of up to .8 cents per pound of total milk solids contained in the imported dairy products, or 10 cents per hundredweight of milk contained in the imported dairy products, whichever is less. The assessment collected under this paragraph shall be used for the purpose specified in paragraph (1).".

(e) RECORDS.—Section 113(k) of such Act (7 U.S.C. 4504(k)) is amended in the first sentence by inserting after "commercial use," the following: "each importer of dairy products,".

(f) TERMINATION OR SUSPENSION OF ORDER.—Section 116(b) of such Act (7 U.S.C. 4507(b)) is amended—

(1) by inserting "and importers" after "producers" each place it appears;

(2) by striking "who, during a representative period (as determined by the Secretary), have been engaged in the production of milk for commercial use"; and

(3) by adding at the end the following new sentences: "A producer shall be eligible to vote in the referendum if the producer, during a representative period (as determined by the Secretary), has been engaged in the production of milk for commercial use. An importer shall be eligible to vote in the referendum if the importer, during a representative period (as determined by the Secretary), has been engaged in the importation of dairy products into the United States intended for consumption in the United States.".

(g) PROMOTION IN INTERNATIONAL MARKETS.—Section 113(e) of such Act (7 U.S.C. 4504(e)) is amended by adding at the end the following new sentence: "For each of the fiscal years 1996 through 2000, the Board's budget shall provide for the expenditure of not less than 10 percent of the anticipated revenues available to the Board to develop international markets for, and to promote within such markets, the consumption of dairy products produced in the United States from milk produced in the United States.".

(h) IMPLEMENTATION OF AMENDMENTS.—

(1) IMPLEMENTATION PROCESS.—To implement the amendments made by this section, the Secretary of Agriculture shall issue an amended dairy products promotion and research order under section 112 of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4503) reflecting such amendments, and no other changes, in the order in existence on the date of the enactment of this Act.

(2) PROPOSAL OF AMENDED ORDER.—Not later than 60 days after the date of the enactment of this Act, the Secretary shall publish a proposed dairy products promotion and research order reflecting the amendments made by this section. The Secretary shall provide notice and an opportunity for public comment on the proposed order.

(3) ISSUANCE OF AMENDED ORDER.—After notice and opportunity for public comment are provided in accordance with paragraph (2), the Secretary shall issue a final dairy products promotion and research order, taking into consideration the comments received and including in the order such provisions as are necessary to ensure that the order is in conformity with the amendments made by this section.

(4) EFFECTIVE DATE.—The final dairy products promotion and research order shall be issued and become effective not later than 120 days after publication of the proposed order.

(i) REFERENDUM ON AMENDMENTS.—Not later than 36 months after the issuance of the dairy products promotion and research order reflecting the amendments made by this section, the Secretary of Agriculture shall conduct a referendum under section 115 of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4506) for the sole purpose of determining whether the requirements of such amendments shall be continued. The Secretary shall conduct the referendum among persons who have been producers or importers (as defined in section 111 of such Act (7 U.S.C. 4502)) during a representative period as determined by the Secretary. The requirements of such amendments shall be continued only if the Secretary determines that such requirements have been approved by not less than a majority of the persons voting in the referendum. If continuation of the amendments is not approved, the Secretary shall issue a new order, within six months after the announcement of the results of the referendum, that is identical to the order in effect on the date of the enactment of this Act. The new order shall become effective upon issuance and shall not be subject to referendum for approval.

SEC. ___05. FLUID MILK STANDARDS UNDER MILK MARKETING ORDERS.

(a) NATURE OF STANDARDS.—Each marketing order issued with respect to milk and its products under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, shall contain terms and conditions to provide that all dispositions of fluid milk products containing milk of the highest use classification covered by such orders shall comply with the following requirements:

(1) In the case of milk marketed as whole milk, not less than 12.05 percent total milk solids consisting of not less than 8.8 percent milk solids not fat and not less than 3.25 percent milk fat.

(2) In the case of milk marketed as 2 percent (or lowfat) milk, not less than 12 percent total milk solids consisting of not less

than 10 percent milk solids not fat and not less than 2 percent milk fat.

(3) In the case of milk marketed as 1 percent (or light) milk, not less than 12 percent total milk solids consisting of not less than 11 percent milk solids not fat and not less than 1 percent milk fat.

(4) In the case of milk marketed as skim (or nonfat) milk, not less than 9 percent total milk solids consisting of not less than 9 percent milk solids not fat and not more than .25 percent milk fat.

(b) VIOLATIONS.—A violation of the requirements specified in subsection (a) shall be subject to the penalties provided in section 8c(14) of the Agricultural Adjustment Act (7 U.S.C. 608c(14)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.

(c) EFFECTIVE DATE.—The requirements imposed by this section shall apply to fluid milk marketed on and after the first day of the first month beginning not less than 30 days after the date of the enactment of this Act.

(d) EFFECT OF ENACTMENT.—The requirements imposed by this section shall supersede any conflicting requirements regarding fluid milk imposed pursuant to the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

SEC. ___06. MANUFACTURING ALLOWANCE.

(a) MAXIMUM ALLOWANCES ESTABLISHED.—No State shall provide for a manufacturing allowance for the processing of milk in excess of—

(1) in the case of milk manufactured into butter, butter oil, nonfat dry milk, or whole dry milk—

(A) $1.65 per hundredweight of milk, for milk marketed during the 2-year period beginning on the effective date of this section; and

(B) such allowance per hundredweight of milk as the Secretary of Agriculture may establish under section ___21(b)(3), for milk marketed after the end of such period; and

(2) in the case of milk manufactured into cheese and whey—

(A) $1.80 per hundredweight of milk, for milk marketed during the 2-year period beginning on the effective date of this section; and

(B) such allowance per hundredweight of milk as the Secretary may establish under section ___21(b)(3), for milk marketed after the end of such period.

(b) YIELDS.—In converting the weight of milk to dairy products during the two-year period beginning on the effective date of this section, the Secretary shall use the following yields with respect to a hundred pounds of milk:

(1) Butter: 4.2 pounds.

(2) Nonfat dry milk: 8.613 pounds.

(3) 40-pound block cheddar cheese: 10.169 pounds.

(4) Whey cream butter: .27 pounds.

(c) SOURCES OF PRODUCT PRICE VALUES.—In determining the manufacturing allowance applicable in a State during the 2-year period beginning on the effective date of this section, the Secretary shall use the following sources for product price values:

(1) For butter, Chicago Mercantile Exchange Grade AA butter.

(2) For nonfat dry milk, California Manufacturing Plants Extra Grade and Grade A nonfat dry milk.

(3) For cheese, National (Green Bay) Cheese Exchange 40 pound block cheddar cheese.

(4) For whey cream butter, Chicago Mercantile Exchange Grade B butter.

(d) MANUFACTURING ALLOWANCE DEFINED.—In this section, the term "manufacturing allowance" means—

(1) the amount by which the product price value of butter and nonfat dry milk manufactured from a hundred pounds of milk containing 3.5 pounds of milk fat and 8.7 pounds of milk solids not fat exceeds the class price for the milk used to produce those products; or

(2) an amount by which the product price value of cheese and whey manufactured from a hundred pounds of milk containing 3.6 pounds of milk fat and 8.7 pounds of milk solids not fat exceeds the class price for the milk used to produce those products.

(e) EFFECT OF VIOLATION.—If the Secretary determines that a State has in effect a manufacturing allowance that exceeds the manufacturing allowance authorized in subsection (a), the Secretary shall suspend, until such time as the State complies with such subsection—

(1) purchases under section ___01 of cheddar cheese produced in that State; and

(2) disbursements from the Class IV equalization pool under section ___08 to milk marketing orders operating in that State with respect to milk produced in that State.

(f) CONFORMING SUSPENSION AND REPEAL.—

(1) SUSPENSION AND REPEAL.—During the 2-year period beginning on the effective date of this section, the requirements of section 102 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1446e-1) shall not apply. Effective on the first day after the end of such period, such section is repealed.

(2) EXCEPTION.—Notwithstanding paragraph (1), in the event that an injunction or other order of a court prohibits or impairs the implementation of this section or the activities of the Secretary under this section, the Secretary shall use the authorities provided by section 102 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1446e-1) until such time as the injunction or other court order is lifted.

(g) EFFECTIVE DATE; IMPLEMENTATION.—This section shall take effect on the first day of the first month beginning not less than 30 days after the date of the enactment of this Act. After such effective date, the Secretary may exercise the authority provided to the Secretary under this section without regard to the issuance of regulations intended to carry out this section.

SEC. ___07. ESTABLISHMENT OF TEMPORARY CLASS I PRICE AND TEMPORARY CLASS I EQUALIZATION POOLS.

(a) TEMPORARY PRICING FOR MILK OF THE HIGHEST USE CLASSIFICATION (CLASS I MILK).—

(1) ESTABLISHMENT OF MINIMUM PRICE.—During the 2-year period beginning on the effective date of this section, the minimum price for milk of the highest use classification marketed under a marketing order issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, shall not be less than the sum of—

(A) $12.87 per hundredweight; and

(B) the aggregate adjustment in effect under clauses (1) and (2) of the second sentence of paragraph (5)(A) of such section on December 31, 1995, for milk of the highest use classification in that order.

(2) ADDITION TO MINIMUM PRICE.—If the basic formula price for milk exceeds $12.87 per hundredweight in any month during the 2-year period beginning on the effective date of this section, the positive difference between the basic formula price and $12.87 shall be added to the price for milk of the highest use classification marketed under a marketing order issued under such section 8c in the second month following the month in which the difference occurred.

(3) EFFECT ON OTHER USE CLASSIFICATIONS.—This subsection shall not affect the calculation of the basic formula price used to determine the price for milk of use classifications other than the highest use classification.

(b) CLASS I EQUALIZATION POOLS.—

(1) COLLECTIONS.—During the 2-year period beginning on the effective date of this section, the Secretary of Agriculture shall collect, on a monthly basis, from each marketing order issued with respect to milk and its products under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, and from the comparable milk marketing order issued by the State of California, an amount equal to the product of—

(A) $0.80 per hundredweight; and

(B) the total hundredweights of all milk of the highest use classification marketed under the order for the month.

(2) DISBURSEMENTS.—The Secretary shall pay, on a monthly basis, to each marketing order referred to in paragraph (1) an amount equal to the product of—

(A) the total collection under paragraph (1) for the month; and

(B) the ratio of the total hundredweights of all milk marketed for the month under that order to all milk marketed for the month under all such orders.

(3) EFFECT ON BLEND PRICES.—Producer blend prices under a milk marketing order shall be adjusted to account for collections made under paragraph (1) and disbursements made under paragraph (2).

(c) ENFORCEMENT.—

(1) IN GENERAL.—Amounts for which a milk marketing order are responsible under subsection (b) shall be determined on a monthly basis and shall be collected and remitted to the Secretary in the manner prescribed by the Secretary.

(2) PENALTIES.—If any person fails to remit the amount required in subsection (b) or fails to comply with such requirements for recordkeeping or otherwise as are required by the Secretary to carry out this section, the person shall be liable to the Secretary for a civil penalty up to an amount determined by multiplying—

(A) the quantity of milk involved in the violation; by

(B) the support rate for milk in effect at the time of the violation under section ___01.

(3) ENFORCEMENT.—The Secretary may enforce this section in the courts of the United States.

(d) CONFORMING REPEAL.—Section 8c(5)(A) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)(A)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by striking out the sentence beginning "Throughout the 2-year period" and all that follows through the end of the subparagraph.

(e) EFFECTIVE DATE.—Except as provided in subsection (f), this section shall take effect on the first day of the first month beginning not less than 30 days after the date of the enactment of this Act.

(f) IMPLEMENTATION.—Not later than the effective date of this section, the Secretary shall amend Federal milk marketing orders issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, to effectuate

the requirements of this section. The amendments shall not be—

(1) subject to a referendum under subsection (17) or (19) of such section among milk producers to determine whether issuance of such order is approved or favored by milk producers;

(2) preconditioned on the existence of a marketing agreement among handlers under subsection (8) of such section and section 8b of such Act (7 U.S.C. 608b);

(3) subject to rulemaking under title 5, United States Code; or

(4) subject to review or approval by other executive agencies.

SEC. ___08. ESTABLISHMENT OF TEMPORARY CLASS IV PRICE AND TEMPORARY CLASS IV EQUALIZATION POOL.

(a) TEMPORARY CLASSIFICATION OF CLASS IV MILK.—

(1) CLASSIFICATION.—For purposes of classifying milk in accordance with the form in which or the purpose for which it is used, the Secretary of Agriculture shall designate all milk marketed in the 48 contiguous States of the United States and used to produce butter, butter oil, nonfat dry milk, or dry whole milk as Class IV milk. The Secretary may include other products of milk, except cheese, within the Class IV classification if the Secretary determines that inclusion of the product would be fair and equitable.

(2) USE OF CLASSIFICATION.—Each marketing order issued with respect to milk and its products under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, and each comparable State milk marketing order, shall use the classification required by paragraph (1) in lieu of any other classification, such as Class III-A milk, to properly classify milk used to produce butter, butter oil, nonfat dry milk, or dry whole milk.

(b) ESTABLISHMENT OF CLASS IV POOL.—The Secretary shall establish a Class IV pool for the purpose of making collections and disbursements related to milk classified as Class IV milk under subsection (a). The Class IV pool shall apply to milk covered by a milk marketing order referred to in subsection (a) and unregulated milk.

(c) ESTABLISHMENT OF MONTHLY CLASS IV PRICE.—For the purpose of determining whether the Secretary will make collections and disbursements under the Class IV equalization pool, the Secretary shall establish, on a monthly basis, a price for dairy products manufactured from Class IV milk on a 3.5 percent butterfat basis. In determining that price, the Secretary shall calculate the amount equal to—

(1) the sum of—

(A) the product of the Western States Extra Grade and Grade A price per pound for nonfat dry milk and 8.613; and

(B) the product of the Chicago Mercantile Exchange Grade AA price per pound for butter and 4.2; less

(2) a manufacturing allowance equal to $1.65 per hundredweight of milk.

(d) OPERATION OF CLASS IV EQUALIZATION POOL.—

(1) APPLICATION OF SUBSECTION.—This subsection shall apply in any month in which the support price for milk under section ___01, adjusted to 3.5 percent butterfat, exceeds the Class IV price established under subsection (c).

(2) COLLECTION.—In any month in which the Class IV equalization pool is in operation under paragraph (1), each milk marketing order referred to in subsection (a) and each handler of unregulated milk shall pay into the Class IV equalization pool an amount equal to the product of—

(A) the total hundredweights of Class IV milk used to manufacture dairy products during that month under all such orders and by all such handlers;

(B) 50 percent of the amount by which the support price for milk under section ___01, adjusted to 3.5 percent butterfat, exceeded the Class IV price determined under subsection (c) for that month; and

(C) the ratio of the total hundredweights of all milk marketed during that month under that order or by that handler to the total hundredweights of all milk marketed for that month under all such orders and by all such handlers.

(3) DISBURSEMENTS.—In any month in which the Class IV equalization pool is in operation under paragraph (1), each milk marketing order referred to in subsection (a) in which products were manufactured from Class IV milk during that month and each handler of unregulated milk that manufactured products from Class IV milk during that month shall receive from the Class IV equalization pool an amount equal to the product of—

(A) the total collection under paragraph (2) for the month; and

(B) the ratio of the total hundredweights of Class IV milk manufactured into dairy products during that month under that order or by that handler to the total hundredweights of Class IV milk manufactured into dairy products during that month under all such orders and by all such handlers.

(4) EFFECT ON BLEND PRICES.—Producer blend prices under a milk marketing order referred to in subsection (a) shall be adjusted to account for collections under paragraph (2) and disbursements under paragraph (3).

(e) ENFORCEMENT.—

(1) IN GENERAL.—Amounts for which a milk marketing order or handler are responsible under subsection (b) shall be determined on a monthly basis and shall be collected and remitted to the Secretary in the manner prescribed by the Secretary.

(2) PENALTIES.—If any person fails to remit the amount required in subsection (c) or fails to comply with such requirements for recordkeeping or otherwise as are required by the Secretary to carry out this section, the person shall be liable to the Secretary for a civil penalty up to an amount determined by multiplying—

(A) the quantity of milk involved in the violation; by

(B) the support rate for milk in effect at the time of the violation under section ___01.

(3) ENFORCEMENT.—The Secretary may enforce this section in the courts of the United States.

(f) EFFECTIVE DATE.—Except as provided in subsection (g), this section shall—

(1) take effect on the first day of the first month beginning not less than 30 days after the date of the enactment of this Act; and

(2) apply during the 2-year period beginning on such effective date.

(g) IMPLEMENTATION.—Not later than the start of the effective date of this section, the Secretary shall amend Federal milk marketing orders issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, to effectuate the requirements of this section. The amendments shall not be—

(1) subject a referendum under subsection (17) or (19) of such section among milk producers to determine whether issuance of such order is approved or favored by milk producers;

(2) preconditioned on the existence of a marketing agreement among handlers under subsection (8) of such section and section 8b of such Act (7 U.S.C. 608b);

(3) subject to rulemaking under title 5, United States Code; or

(4) subject to review or approval by other executive agencies.

SEC. ___09. AUTHORITY FOR ESTABLISHMENT OF STANDBY POOLS.

(a) AUTHORITY TO ESTABLISH.—As soon as possible after the effective date of this section, the Secretary of Agriculture shall publish in the Federal Register an invitation for interested persons to submit proposals for the establishment within Federal milk marketing orders issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, of standby pools to facilitate the movement of milk over long distances during periods of shortage through the sharing of proceeds from sales of milk of the highest use classification due to producers under the order with producers shipping to plants regulated by another order to provide a reserve supply of milk in the other market.

(b) APPROVAL OR TERMINATION OF PARTICIPATION IN STANDBY POOL.—Order provisions under this section shall not become effective in any marketing order unless such provisions are approved by producers in the manner provided for the approval of marketing orders under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, but separately from other order provisions. Standby pool provisions approved under this section in an order may be disapproved separately by producers or terminated separately by the Secretary under section 8c(16)(B) of such Act. Such disapproval or termination shall not be considered to be a disapproval or termination of the other terms of that order.

(c) EFFECTIVE DATE.—This section shall take effect on the first day of the first month beginning not less than 30 days after the date of the enactment of this Act.

Subtitle B—Reform of Federal Milk Marketing Orders

SEC. ___21. ISSUANCE OR AMENDMENT OF FEDERAL MILK MARKETING ORDERS TO IMPLEMENT CERTAIN REFORMS.

(a) ISSUANCE OF AMENDED ORDERS.—Subject to the time limits specified in section ___22, the Secretary of Agriculture shall issue new or amended marketing orders with respect to milk and its products under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, to effectuate the requirements of subsection (b). The orders shall take effect on the date the orders are issued and shall supersede all other marketing orders and any other statutes, rules, and regulations that are applicable to the pricing and marketing of milk and its products in effect immediately before that date, whether under the authority of section 8c of such Act or a State or local law.

(b) REFORM REQUIREMENTS.—The Secretary shall reform the Federal milk marketing order system under subsection (a) to accomplish the following purposes:

(1) Consolidation of Federal milk marketing orders into not less than 8 nor more than 13 orders, which shall also include those areas of the 48 contiguous States not covered

by a Federal milk marketing order on the date of the enactment of this Act. One of the new Federal milk marketing orders shall only cover the State of California. A new or amended order shall have the right to blend order receipts to address unique issues to that order such as a preexisting State quota system.

(2) Implementation of uniform multiple component pricing for milk used in manufactured dairy products.

(3) Establishment of class prices for milk used to produce cheese, nonfat dry milk, and butter based on national product prices, less a manufacturing allowance. The resulting prices shall not vary regionally, except to reflect variances in transportation and reasonable operating costs, if any, of efficient processing plants in different geographical areas.

(c) STATUS OF PRODUCER HANDLERS.—In amending Federal milk marketing orders under this section, the Secretary shall ensure that the legal status of producer handlers of milk under the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, shall be the same after the amendments made by this section take effect as it was before the effective date of the amendments.

SEC. ___22. REFORM PROCESS.

(a) PROCESS.—In preparation for the issuance of the new or amended Federal milk marketing orders required under section ___21, the Secretary of Agriculture shall comply with the following expedited procedural requirements:

(1) Not later than 165 days after the date of the enactment of this Act, the Secretary shall issue proposed amendments or new milk marketing orders to effectuate the reform requirements specified in such section .

(2) The Secretary shall provide for a 75-day comment period on the proposed amendments or orders issued under paragraph (1).

(3) Not later than 120 days after the end of the comment period provided under paragraph (2), the Secretary shall publish in the Federal Register a final administrative decision regarding the issuance or amendment of Federal milk marketing orders to effectuate the reform requirements specified in such section.

(b) REFERENDUM AND MARKETING AGREEMENT.—After the issuance of the new or amended Federal milk marketing orders under section ___21, the Secretary may conduct a referendum in the manner provided in section 8c(16)(B) of the Agricultural Adjustment Act (7 U.S.C. 608c(16)(B)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, with respect to each order to determine whether milk producers subject to the order favor the termination of the order.

(c) APPLICATION OF ADMINISTRATIVE PROCEDURES ACT.—The issuance of the new or amended Federal milk marketing orders required under section ___21 shall not be subject to rulemaking under title 5, United States Code.

(d) REVIEW AND APPROVAL.—The action of the Secretary under section ___21 shall not be subject to review or approval by any other executive agency.

SEC. ___23. EFFECT OF FAILURE TO COMPLY WITH REFORM PROCESS REQUIREMENTS.

(a) FAILURE TO TIMELY ISSUE OR AMEND ORDERS.—If, before the end of the 1-year period beginning on the date of the enactment of this Act, the Secretary of Agriculture does not issue new or amended Federal milk marketing orders under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, to effectuate the requirements of section ___21(b), then the Secretary may not assess or collect assessments from milk producers or handlers under such section 8c for marketing order administration and services provided under such section after the end of that period. The Secretary may not reduce the level of services provided under such section on account of the prohibition against assessments, but shall rather cover the cost of marketing order administration and services through funds available for the Agricultural Marketing Service of the Department of Agriculture.

(b) FAILURE TO TIMELY IMPLEMENT ORDERS.—Unless the Secretary certifies to Congress before the end of the 2-year period beginning on the date of the enactment of this Act that all of the Federal marketing order reforms required by section ___21(b) have been fully implemented, then, effective at the end of that period—

(1) the Secretary shall immediately cease all price support activities under section ___01;

(2) the Secretary shall immediately terminate all Federal milk marketing orders under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, and may not issue any further order under such Act with respect to milk;

(3) the Commodity Credit Corporation shall immediately cease to operate the dairy export incentive program under section 153 of the Food Security Act of 1985 (15 U.S.C. 713a-14);

(4) the Secretary and the National Processor Advertising and Promotion Board shall immediately cease all activities under the Fluid Milk Promotion Act of 1990 (7 U.S.C. 6401 et seq.); and

(5) the Secretary and the National Dairy Promotion and Research Board shall immediately cease all activities under the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4501 et seq.).

CONRAD AMENDMENTS NOS. 3135–3144

(Ordered to lie on the table.)

Mr. CONRAD submitted 10 amendments intended to be proposed by him to the bill S. 1541, supra; as follows:

AMENDMENT NO. 3135

At the appropriate place in the title relating to conservation, insert the following:

SEC. . WATER BANK PROGRAM.

Section 1230 of the Food Security Act of 1985 (16 U.S.C. 3830) is amended by adding at the end the following:

"(d) WATER BANK PROGRAM.—For purposes of this Act, acreage enrolled, prior to the date of enactment of this subsection, in the water bank program authorized by the Water Bank Act (16 U.S.C. 1301 et seq.) shall be considered to have been enrolled in the conservation reserve program on the date the acreage was enrolled in the water bank program.".

AMENDMENT NO. 3136

At the end of the title relating to conservation, add the following:

SEC. . FLOOD WATER RETENTION PILOT PROJECTS.

Section 16 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590p) is amended by adding at the end the following:

"(1) FLOOD WATER RETENTION PILOT PROJECTS.—

"(1) IN GENERAL.—In cooperation with States, the Secretary shall carry out at least 1 but not more than 2 pilot projects to create and restore natural water retention areas to control storm water and snow melt runoff within closed drainage systems.

"(2) PRACTICES.—To carry out paragraph (1), the Secretary shall provide cost-sharing and technical assistance for the establishment of nonstructural landscape management practices, including agricultural tillage practices and restoration, enhancement, and creation of wetland characteristics.

"(3) FUNDING.—

"(A) LIMITATION.—The funding used by the Secretary to carry out this subsection shall not exceed $10,000,000 per project.

"(B) USE OF THE COMMODITY CREDIT CORPORATION.—The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this subsection.

"(4) ADDITIONAL PILOT PROJECTS.—

"(A) EVALUATION.—Not later than 2 years after a pilot project is implemented, the Secretary shall evaluate the extent to which the project has reduced or may reduce Federal outlays for emergency spending and unplanned infrastructure maintenance by an amount that exceeds the Federal cost of the project.

"(B) ADDITIONAL PROJECTS.—If the Secretary determines that pilot projects carried out under this subsection have reduced or may reduce Federal outlays as described in subparagraph (A), the Secretary may carry out, in accordance with this subsection, pilot projects in addition to the projects authorized under paragraph (1).".

AMENDMENT NO. 3137

At the appropriate place in the title relating to conservation, insert the following:

SEC. . ELIGIBLE LANDS UNDER CONSERVATION RESERVE PROGRAM.

Section 1231(b)(4) of the Food Security Act of 1985 (16 U.S.C. 3831(b)(4)) is amended—

(1) in subparagraph (C), by striking "or" at the end;

(2) in subparagraph (D), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(E) if the Secretary determines that the lands will be used to store water for flood control in a closed basin.".

AMENDMENT NO. 3138

At the appropriate place in the title relating to conservation, insert the following:

SEC. . ABANDONMENT OF CONVERTED WETLANDS.

Section 1222 of the Food Security Act of 1985 (16 U.S.C. 3822) is amended by adding at the end the following:

"(k) ABANDONMENT OF CONVERTED WETLANDS.—The Secretary shall not determine that a prior converted or cropped wetland is abandoned, and therefore that the wetland is subject to section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344) or this subtitle, on the basis that a producer has not planted an agricultural crop on the prior converted or cropped wetland after the date of enactment of this subsection.".

AMENDMENT NO. 3139

At the appropriate place in the title relating to conservation, insert the following:

SEC. . EASEMENT PRIORITY.

Section 1237C of the Food Security Act of 1985 (16 U.S.C. 3837c) is amended by striking subsection (d) and inserting the following:

"(d) EASEMENT PRIORITY.—In carrying out this subchapter, the Secretary shall—

"(1) take into consideration costs and future agricultural and food needs; and

"(2) give priority to—

"(A) restoration on acres that will provide the greatest wetlands functions and values and cost effectiveness for the wetlands functions and values achieved; and

"(B) in consultation with the Secretary of the Interior, restoring wetlands based on the value of the acres for protecting and enhancing habitat for migratory birds and other wildlife.".

AMENDMENT NO. 3140

At the appropriate place in the title relating to conservation, insert the following:

SEC. . WETLANDS RESERVE PROGRAM RESTORATION COST-SHARE.

Section 1237 of the Food Security Act of 1985 (16 U.S.C. 3837) is amended by adding at the end the following:

"(h) RESTORATION COST-SHARE.—

"(1) IN GENERAL.—The Secretary may use up to 20 percent of the funds made available under this subchapter to carry out projects through cooperative agreements with landowners, in lieu of the purchase of an easement.

"(2) TERMS.—An agreement under paragraph (1) shall—

"(A) be for a term of not less than 10 years and not more than 30 years;

"(B) make available at no cost to the Secretary the land on which restoration is to occur; and

"(C) provide for a restoration cost-share payment to the landowner in an amount that does not exceed 75 percent of the eligible costs.

"(3) PARTNERSHIP ARRANGEMENTS.—The Secretary may enter into a partnership arrangement with a public or private entity to carry out a project under this subsection, including an agreement to share financial, technical, management, or other resources.".

AMENDMENT NO. 3141

On page 85, strike lines 19 through 24 and insert the following:

(A) IN GENERAL.—Section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) is amended—

(i) in subsection (a), by striking "1995" and inserting "2002"; and

(ii) by striking subsection (d) and inserting the following:

"(d) MAXIMUM ENROLLMENT.—

"(1) IN GENERAL.—Not more than 36,520,000 acres (including acreage subject to contracts extended by the Secretary pursuant to section 1437 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 16 U.S.C. 3831 note) and the Water Bank Act (16 U.S.C. 1301 et seq.)) may be enrolled in the conservation reserve during the 1996 through 2002 calendar years.

"(2) FUNDING.—Funding for the conservation reserve program shall be sufficient to enroll the maximum number of acres specified in paragraph (1) during the 1996 through 2002 calendar years.

"(3) EXCEPTION.—Notwithstanding paragraphs (1) and (2), the Secretary may enroll fewer than the maximum number of acres specified in paragraph (1) if the Secretary makes a formal determination that the national environmental and conservation objectives of the conservation reserve program can be achieved by enrolling fewer acres.".

AMENDMENT NO. 3142

On page 87, strike lines 19 through 25.

AMENDMENT NO. 3143

SEC. 101. SHORT TITLE.

This Act may be cited as the "Agricultural Extension Act of 1995".

SEC. 102. AUTHORITY FOR 1996 AND 1997 AGRICULTURAL PROGRAMS.

(a) IN GENERAL.—Notwithstanding any other provision of law except as provided in this Act and the amendments made by this Act, the provisions of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.), the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.), the Food Security Act of 1985 (Public Law 99-198), and the Food, Agriculture, Conservation and Trade Act of 1990 (Public Law 101-624) and each program that was authorized or reauthorized by any of the Acts, that were applicable on September 30, 1995, shall be applicable for 1996 and 1997.

(b) FLEXIBILITY.—Amend section 504 of the Agricultural Act of 1949 (7 U.S.C. 1464) by striking subsections (c), (d), and (e) and inserting the following:

"(c) NON-PAYMENT ACRES.—In the case of the 1996 and 1997 crops, any crop or conserving crop listed in subsection (b)(1) may be planted on the acres of a crop acreage base not eligible for payment under this Act.

"(d) LOAN ELIGIBILITY.—In the case of the 1996 and 1997 crops, producers on a farm with crop acreage base may plant any program crop on the crop acreage base and shall be eligible to receive purchases, loans, and loan deficiency payments for the program crop.".

(c) FINDLEY ADJUSTMENT.—Amend the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.)—

(1) in section 105B(a)(3)—

(A) by striking subparagraph (C); and

(B) by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D).

(2) in section 107B(a)(3)—

(A) by striking subparagraph (C); and

(B) by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D).

(d) 1997 CROP PAYMENTS—

(1) REVENUE PAYMENTS.—

(A) IN GENERAL.—In the case of the 1997 crops of wheat, feed grain, upland cotton, and rice in addition to payments authorized in subsection (a), the Secretary shall issue payments to producers who participate in price support programs authorized by subsection (a) in accordance with the formula described in subparagraph (B).

(B) FORMULA.—In accordance with subparagraph (A), the Secretary shall provide a payment per acre equal to the amount in which the Average Revenue for the producer's farm, described in clause (i) exceeds the Producers' Revenue described in clause (ii) for each of the producer's payment acres.

(i) AVERAGE REVENUE.—For the purposes of this subparagraph, "average revenue" means the five year Olympic average price for the county for the program multiplied by the producer's program payment yield for the farm.

(ii) PRODUCER'S REVENUE.—For the purposes of this paragraph, the term "producer's revenue" means the per acre revenue received for production from:

(I) Commodity Credit Corporation (CCC) deficiency payments;

(II) revenue from sales of the program crop in excess of any CCC price support loans received;

(III) crop insurance indemnity payments;

(IV) CCC price support loans; and

(V) CCC loan deficiency payments.

(2) GUARANTEED ADVANCED PAYMENTS FOR THE 1997 CROPS.—In the case of 1997 crops of wheat, feed grains, upland cotton, and rice, the Secretary shall provide to producers who participate in programs authorized by subsection (a) a nonrefundable advanced deficiency payment subject to paragraph (3) which shall equal the greater of—

(A) the advanced deficiency payment authorized by subsection (a); or

(B) the payment authorized in section 103(c)(1).

(3) LIMITATION.—In calculating deficiency payments in accordance with programs authorized in subsection (a), the Secretary shall deduct any payments received by the producer under paragraph (2) from the producer's deficiency payments.

(e) ACREAGE REDUCTION PROGRAMS.—In the case of price support programs authorized by subsection (a) for the 1996 and 1997 crops of wheat, feed grains, upland cotton, and rice, the Secretary shall set the acreage reduction level to be zero.

SEC. 103. SPECIAL FUNDS FOR DEFICIENCY PAYMENTS, AND CONSERVATION AND RURAL AMERICA.

(a) ACCOUNT.—Notwithstanding any other provision of law, the Commodity Credit Corporation shall transfer $ into a Deficiency Payment, Account (hereafter referred as "Deficiency Account") which shall remain available until expended for the purposes specified in this subsection and $ into a Conservation and Fund for Rural America Account (hereafter referred as "Conservation and Rural America Account") which shall remain available until expended.

(b) DEFICIENCY ACCOUNT.—

(1) Funds from the Deficiency Account shall be used for the following purposes:

(A) Advanced deficiency payments for 1996 crops of wheat, feed grain, upland cotton, and rice authorized by paragraph (2); and

(B) Any deficiency payments authorized by the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) for 1995 crops of wheat, feed grains, upland cotton, and rice issued after date of enactment of this Act.

(1) PAYMENTS.—

(A) 1996—CROP ADVANCED DEFICIENCY PAYMENTS.—

(i) IN GENERAL.—The Secretary shall issue nonfundable advanced deficiency payments for the 1996 crops of wheat, feed grains, upland cotton, and rice to producers who participate in price support programs authorized in section 102 from the Account in accordance with the formula specified in clause (ii).

(ii) FORMULA.—The advanced deficiency payment rate for wheat, feed grains, upland cotton, and rice shall be the greater of—

(I) the 1995 advanced payment rate for the crop; or

(II) the 1996 advanced payment rate for the crop determined in accordance with section 102.

(c) CONSERVATION AND RURAL AMERICA ACCOUNT.—

(1) IN GENERAL.—Funds the Conservation and Rural America Account may be used to conduct programs as follows:

(A) CONSERVATION PROGRAMS.—The Secretary may conduct the Environmental Quality Incentive Program described in section 1201 of S. 1357 (as passed by the Senate on October 27, 1995); and

(B) FUND FOR RURAL AMERICA.—Notwithstanding any other provision of law, the Secretary may transfer funds from the Fund for Rural America to—

(i) rural development programs authorized by the Consolidated Farm and Rural Development Act; and

(ii) research programs authorized or reauthorized by Title XVI of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624) or by section 102 of this Act.

AMENDMENT NO. 3144

Strike all after the first word and insert:

SEC. 101 SHORT TITLE.

This Act may be cited as the "Agricultural Extension Act of 1995".

SEC. 102. AUTHORITY FOR 1996 AND 1997 AGRICULTURAL PROGRAMS.

(a) IN GENERAL.—Notwithstanding any other provision of law except as provided in this Act and the amendments made by this Act, the provisions of the Agricultural Adjustment of 1938 (7 U.S.C. 1281 et seq.), the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.), the Food Security Act of 1985 (Public Law 99–198), and the Food, Agriculture, Conservation and Trade Act of 1990 (Public Law 101–624) and each program that was authorized or reauthorized by any of the Acts, that were applicable on September 30, 1995, shall be applicable for 1996 and 1997.

(b) FLEXIBILITY.—Amend section 504 of the Agricultural Act of 1949 (7 U.S.C. 1464) by striking subsections (c), (d), and (e) and inserting the following:

"(c) NON-PAYMENT ACRES.—In the case of the 1996 and 1997 crops, any crop or conserving crop listed in subsection (b)(1) may be planted on the acres of a crop acreage base not eligible for payment under this Act.

"(d) LOAN ELIGIBILITY.—In the case of the 1996 and 1997 crops, producers on a farm with crop acreage base may plant any program crop on the crop acreage base and shall be eligible to receive purchases, loans, and loan deficiency payments for the program crop.".

(c) FINDLEY ADJUSTMENT.—Amend the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.)—

(1) in section 105B(a)(3)—

(A) by striking subparagraph (C); and

(B) by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D).

(2) in section 107B(a)(3)—

(A) by striking subparagraph (C); and

(B) by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D).

(d) 1997 CROP PAYMENTS.—

(1) REVENUE PAYMENTS.—

(A) IN GENERAL.—In the case of the 1997 crops of wheat, feed grain, upland cotton, and rice in addition to payments authorized in subsection (a), the Secretary shall issue payments to producers who participate in price support programs authorized by subsection (a) in accordance with the formula described in subparagraph (B).

(B) FORMULA.—In accordance with subparagraph (A), the Secretary shall provide a payment per acre equal to the amount in which the Average Revenue for the producer's farm, described in clause (i) exceeds the Producers' Revenue described in clause (ii) for each of the producer's payment acres.

(i) AVERAGE REVENUE.—For the purposes of this subparagraph, "average revenue" means the five year Olympic average price for the county for the program multiplied by the producer's program payment yield for the farm.

(ii) PRODUCER'S REVENUE.—For the purposes of this paragraph, the term "producer's revenue" means the per acre revenue received for production from:

(I) Commodity Credit Corporation (CCC) deficiency payments;

(II) revenue from sales of the program crop in excess of any CCC price support loans received;

(III) crop insurance indemnity payments;

(IV) CCC price support loans; and

(V) CCC loan deficiency payments.

(2) GUARANTEED ADVANCED PAYMENTS FOR THE 1997 CROPS.—In the case of 1997 crops of wheat, feed grains, upland cotton, and rice, the Secretary shall provide to producers who participate in programs authorized by subsection (a) a nonrefundable advanced deficiency payment subject to paragraph (3) which shall equal the greater of—

(A) the advanced deficiency payment authorized by subsection (a); or

(B) the payment authorized in section 103(c)(1).

(3) LIMITATION.—In calculating deficiency payments in accordance with programs authorized in subsection (a), the Secretary shall deduct any payments received by the producer under paragraph (2) from the producer's deficiency payments.

(e) ACREAGE REDUCTION PROGRAMS.—In the case of price support programs authorized by subsection (a) for the 1996 and 1997 crops of wheat, feed grains, upland cotton, and rice, the Secretary shall set the acreage reduction level to be zero.

SEC. 103. SPECIAL FUNDS FOR DEFICIENCY PAYMENTS, AND CONSERVATION AND RURAL AMERICA.

(a) ACCOUNT.—Notwithstanding any other provision of law, the Commodity Credit Corp shall transfer $ into a Deficiency Payment Account (hereafter referred to as "Deficiency Account") which shall remain available until expended for the purposes specified in this subsection and $ into a Conservation and Fund for Rural America Account (hereafter referred to as "Conservation and Rural America Account") which shall remain available until expended.

(b) DEFICIENCY ACCOUNT.—

(1) Funds from the Deficiency Account shall be used for the following purposes:

(A) Advanced deficiency payments for 1996 crops of wheat, feed grain, upland cotton, and rice authorized by paragraph (2); and

(B) Any deficiency payments authorized by the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) for 1995 crops of wheat, feed grains, upland cotton, and rice issued after date of enactment of this Act.

(2) PAYMENTS.—

(A) 1996 CROP ADVANCED DEFICIENCY PAYMENTS.—

(i) IN GENERAL.—The Secretary shall issue nonfundable advanced deficiency payments for the 1996 crops of wheat, feed grains, upland cotton, and rice to producers who participate in price support programs authorized in section 102 from the Account in accordance with the formula specified in clause (ii).

(ii) FORMULA.—The advanced deficiency payment rate for wheat, feed grains, upland cotton, and rice shall be the greater of—

(I) the 1995 advanced payment rate for the crop; or

(II) the 1996 advanced payment rate for the crop determined in accordance with section 102.

(c) CONSERVATION AND RURAL AMERICA ACCOUNT.—

(1) IN GENERAL.—Funds the Conservation and Rural America Account may be used to conduct programs as follows:

(A) CONSERVATION PROGRAMS.—The Secretary may conduct the Environmental Quality Incentive Program described in section 1201 of S. 1357 (as passed by the Senate on October 27, 1995); and

(B) FUND FOR RURAL AMERICA.—Notwithstanding any other provision of law, the Secretary may transfer funds from the Fund for Rural America to—

(i) rural development programs authorized by the Consolidated Farm and Rural Development Act; and

(ii) research programs authorized or reauthorized by title XVI of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624) or by section 102 of this Act.

KOHL AMENDMENT NO. 3145

(Ordered to lie on the table.)

Mr. KOHL submitted an amendment intended to be proposed by him to the bill S. 1541, supra; as follows:

On page 74, strike lines 5 through 24 and insert the following:

(B) by transferring sections 111 and 201(c) (7 U.S.C. 1445f and 1446(c)) to appear after section 304 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1304) and redesignating the transferred sections as sections 305 and 306, respectively; and

(C) by transferring sections 404 and 416 (7 U.S.C. 1424 and 1431) to appear after section 390 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1390) and redesignating the transferred sections as sections 390A and 390B, respectively.

(2) REPEAL.—The Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) (as amended by paragraph (1)) is repealed.

(c) CONFORMING AMENDMENTS.—

(1) Section 306 of the Agricultural Adjustment Act of 1938 (as transferred and redesignated by subsection (b)(1)(B)) is amended by striking "section 204" and inserting "section _____01 of the Agricultural Market Transition Act of 1996".

TITLE ___—DAIRY

Subtitle A—Milk Price Support and Other Activities

SEC. ___01. MILK PRICE SUPPORT PROGRAM.

(a) SUPPORT ACTIVITIES.—To replace the milk price support program established under section 204 of the Agricultural Act of 1949 (7 U.S.C. 1446e), which is repealed by section 19(b)(2)), the Secretary of Agriculture shall use the authority provided in this section to support the price of milk produced in the 48 contiguous States through the purchase of cheddar cheese produced from such milk. Until the first day of the first month beginning not less than 30 days after the date of the enactment of this Act, the Secretary also may support the price of milk under this section through the purchase of butter and nonfat dry milk produced from milk produced in the 48 contiguous States.

(b) RATE.—The price of milk shall be supported at the following rates per hundredweight for milk containing 3.67 percent butterfat:

(1) During calendar year 1996, not less than $10.35.

(2) During calendar year 1997, not less than $10.25.

(3) During calendar year 1998, not less than $10.15.

(4) During calendar year 1999, not less than $10.05.

(5) During calendar year 2000, not less than $9.95.

(6) During calendar years 2001 and 2002, not less than $9.85.

(c) BID PRICES.—The Commodity Credit Corporation support purchase prices under this section for cheddar cheese (and for butter and nonfat dry milk subject to subsection (a)) announced by the Corporation shall be the same for all of that milk product sold by persons offering to sell the product to the Corporation. The purchase prices shall be sufficient to enable plants of average efficiency to pay producers, on average, a price not less than the rate of price support for milk in effect during a 12-month period under this section.

(d) USE OF COMMODITY CREDIT CORPORATION.—The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this section.

(e) RESIDUAL AUTHORITY FOR REFUND OF BUDGET DEFICIT ASSESSMENTS.—

(1) APPLICATION OF SUBSECTION.—This subsection shall apply with respect to the reductions made under subsection (h)(2) of section 204 of the Agricultural Act of 1949, as in effect on the day before the date of the enactment of this Act, in the price of milk received by producers during calendar years 1995 and 1996.

(2) REFUND REQUIRED.—The Secretary shall provide a refund of the entire reduction made under such subsection (h)(2) in the price of milk received by a producer during a calendar year referred to in paragraph (1) if the producer provides evidence that the producer did not increase marketings in that calendar year when compared to the preceding calendar year.

(3) TREATMENT OF REFUNDS.—A refund under this subsection shall not be considered as any type of price support or payment for purposes of sections 1211 and 1221 of the Food Security Act of 1985 (16 U.S.C. 3811, 3821).

(g) TRANSFER OF MILK PRODUCTS TO MILITARY AND VETERANS HOSPITALS.—

(1) TRANSFER AUTHORIZED.—As a means of increasing the utilization of milk and milk products, upon the certification by the Secretary of Veterans Affairs or by the Secretary of the Army, acting for the military departments under the Single Service Purchase Assignment for Subsistence of the Department of Defense, that the usual quantities of milk products have been purchased in the normal channels of trade, the Commodity Credit Corporation shall make available—

(A) to the Secretary of Veterans Affairs at warehouses where milk products are stored, such milk products acquired under this section as the Secretary of Veterans Affairs certifies are required in order to provide milk products as a part of the ration in hospitals under the jurisdiction of the Secretary of Veterans Affairs; and

(B) to the Secretary of the Army, at warehouses where milk products are stored, such milk products acquired under this section as the Secretary of the Army certifies can be utilized in order to provide additional milk products as a part of the ration—

(i) of the Army, Navy, Air Force, or Coast Guard;

(ii) in hospitals under the jurisdiction of the Department of Defense; and

(iii) of cadets and midshipmen at, and other personnel assigned to, the United States Merchant Marine Academy.

(2) REPORTS.—The Secretary of Veterans Affairs and the Secretary of the Army shall report every six months to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives and the Secretary of Agriculture the amount of milk products used under this subsection.

(3) PROCESS.—The Secretary of Veterans Affairs and the Secretary of the Army shall reimburse the Commodity Credit Corporation for all costs associated in making milk products available under this subsection.

(4) LIMITATION.—The obligation of the Commodity Credit Corporation to make milk products available pursuant to this subsection shall be limited to milk products acquired by the Corporation under this section and not disposed of under provisions (1) and (2) of section 390B(a) of the Agricultural Adjustment Act of 1938.

(h) PERIOD OF EFFECTIVENESS.—Notwithstanding any other provision of law, this section shall be effective only during the period

(1) beginning on the date of the enactment of this Act; and

(2) ending on December 31, 2002.

SEC. ___02. RECOURSE LOANS FOR COMMERCIAL PROCESSORS OF DAIRY PRODUCTS.

(a) RECOURSE LOANS AVAILABLE.—The Secretary of Agriculture shall make recourse loans available to commercial processors of eligible dairy products to assist such processors to manage inventories of eligible dairy products to assure a greater degree of price stability for the dairy industry during the year. Recourse loans may be made available under such reasonable terms and conditions as the Secretary may prescribe. The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this section.

(b) AMOUNT OF LOAN.—The Secretary shall establish the amount of a loan for eligible dairy products, which shall reflect 90 percent of the reference price for that product. The rate of interest charged participants in this program shall not be less than the rate of interest charged the Commodity Credit Corporation by the United States Treasury.

(c) PERIOD OF LOANS.—A recourse loan made under this section may not extend beyond the end of the fiscal year during which the loan is made, except that the Secretary may extend the loan for an additional period not to exceed the end of the next fiscal year.

(d) DEFINITIONS.—In this section:

(1) The term "eligible dairy products" means cheddar cheese, butter, and nonfat dry milk.

(2) The term "reference price" means—

(A) for cheddar cheese, the average National (Green Bay) Cheese Exchange price for 40 pound blocks of cheddar cheese for the previous three months;

(B) for butter, the average Chicago Mercantile Exchange price for Grade AA butter for the previous three months; and

(C) for nonfat dry milk, the average Western States Extra Grade and Grade A price for nonfat dry milk for the previous three months.

SEC. ___03. DAIRY EXPORT INCENTIVE PROGRAM.

(a) DURATION.—Subsection (a) of section 153 of the Food Security Act of 1985 (15 U.S.C. 713a-14) is amended by striking "2001" and inserting "2002".

(b) ELEMENTS OF PROGRAM.—Subsection (c) of such section is amended—

(1) by striking "and" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting "; and"; and

(3) by adding at the end the following new paragraphs:

"(3) the maximum volume of dairy product exports allowable consistent with the obligations of the United States as a member of the World Trade Organization are exported under the program each year (minus the volume sold under section 1163 of this Act (7 U.S.C. 1731 note) during that year), except to the extent that the export of such a volume under the program would, in the judgment of the Secretary, exceed the limitations on the value set forth in subsection (f); and

"(4) payments may be made under the program for exports to any destination in the world for the purpose of market development, except a destination in a country with respect to which shipments from the United States are otherwise restricted by law.".

(c) SOLE DISCRETION.—Subsection (b) of such section is amended by inserting "sole" before "discretion".

(d) MARKET DEVELOPMENT.—Subsection (e)(1) of such section is amended—

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

(2) by inserting before the period the following: ", and any additional amount that may be required to assist in the development of world markets for United States dairy products".

(e) MAXIMUM ALLOWABLE AMOUNTS.—Such section is further amended by adding at the end the following:

"(f) REQUIRED FUNDING.—The Commodity Credit Corporation shall in each year use money and commodities for the program under this section in the maximum amount consistent with the obligations of the United States as a member of the World Trade Organization, minus the amount expended under section 1163 of this Act (7 U.S.C. 1731 note) during that year. However, the Commodity Credit Corporation may not exceed the limitations specified in subsection (c)(3) on the volume of allowable dairy product exports.".

SEC. ___04. DAIRY PROMOTION PROGRAM.

(a) EXPANSION TO COVER DAIRY PRODUCTS IMPORTED INTO THE UNITED STATES.—Section 110(b) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4501(b)) is amended by inserting after "commercial use" the following: "and dairy products imported into the United States".

(b) DEFINITIONS.—

(1) MILK.—Subsection (d) of section 111 of such Act (7 U.S.C. 4502) is amended by inserting before the semicolon the following: "or cow's milk imported into the United States in the form of dairy products intended for consumption in the United States".

(2) DAIRY PRODUCTS.—Subsection (e) of such section is amended by inserting before the semicolon the following: "and casein (except casein imported under sections 3501.90.20 (casein glue) and 3501.90.50 (other) of the Harmonized Tariff Schedule)".

(3) RESEARCH.—Subsection (j) of such section is amended by inserting before the semicolon the following: "or to reduce the costs associated with processing or marketing those products".

(4) UNITED STATES.—Subsection (l) of such section is amended to read as follows:

"(l) the term 'United States' means the several States and the District of Columbia;".

(5) IMPORTERS AND EXPORTERS.—Such section is further amended—

(A) in subsection (k), by striking "and" at the end of such subsection; and

(B) by adding at the end the following new subsections:

"(m) the term 'importer' means the first person to take title to dairy products imported into the United States for domestic consumption; and

"(n) the term 'exporter' means any person who exports dairy products from the United States.".

(c) MEMBERSHIP OF BOARD.—Section 113(b) of such Act (7 U.S.C. 4504(b)) is amended—

(1) in the first sentence, by striking "thirty-six members" and inserting "38 members, including one representative of importers and one representative of exporters to be appointed by the Secretary";

(2) in the second sentence, by striking "Members" and inserting "The remaining members"; and

(3) in the third sentence, by striking "United States" and inserting "United States, including Alaska and Hawaii".

(d) ASSESSMENT.—Section 113(g) of such Act (7 U.S.C. 4504(g)) is amended—

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

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

"(2) The order shall provide that each importer of dairy products intended for consumption in the United States shall remit to the Board, in the manner prescribed by the order, an assessment equal to 1.2 cents per pound of total milk solids contained in the imported dairy products, or 15 cents per hundredweight of milk contained in the imported dairy products, whichever is less. If an importer can establish that it is participating in active, ongoing qualified State or regional dairy product promotion or nutrition programs intended to increase the consumption of milk and dairy products, the importer shall receive credit in determining the assessment due from that importer for contributions to such programs of up to .8 cents per pound of total milk solids contained in the imported dairy products, or 10 cents per hundredweight of milk contained in the imported dairy products, whichever is less. The assessment collected under this paragraph shall be used for the purpose specified in paragraph (1).".

(e) RECORDS.—Section 113(k) of such Act (7 U.S.C. 4504(k)) is amended in the first sentence by inserting after "commercial use," the following: "each importer of dairy products,".

(f) TERMINATION OR SUSPENSION OF ORDER.—Section 116(b) of such Act (7 U.S.C. 4507(b)) is amended—

(1) by inserting "and importers" after "producers" each place it appears;

(2) by striking "who, during a representative period (as determined by the Secretary), have been engaged in the production of milk for commercial use"; and

(3) by adding at the end the following new sentences: "A producer shall be eligible to vote in the referendum if the producer, during a representative period (as determined by the Secretary), has been engaged in the production of milk for commercial use. An importer shall be eligible to vote in the referendum if the importer, during a representative period (as determined by the Secretary), has been engaged in the importation of dairy products into the United States intended for consumption in the United States.".

(g) PROMOTION IN INTERNATIONAL MARKETS.—Section 113(e) of such Act (7 U.S.C. 4504(e)) is amended by adding at the end the following new sentence: "For each of the fiscal years 1996 through 2000, the Board's budget shall provide for the expenditure of not less than 10 percent of the anticipated revenues available to the Board to develop international markets for, and to promote within such markets, the consumption of dairy products produced in the United States from milk produced in the United States.".

(h) IMPLEMENTATION OF AMENDMENTS.—

(1) IMPLEMENTATION PROCESS.—To implement the amendments made by this section, the Secretary of Agriculture shall issue an amended dairy products promotion and research order under section 112 of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4503) reflecting such amendments, and no other changes, in the order in existence on the date of the enactment of this Act.

(2) PROPOSAL OF AMENDED ORDER.—Not later than 60 days after the date of the enactment of this Act, the Secretary shall publish a proposed dairy products promotion and research order reflecting the amendments made by this section. The Secretary shall provide notice and an opportunity for public comment on the proposed order.

(3) ISSUANCE OF AMENDED ORDER.—After notice and opportunity for public comment are provided in accordance with paragraph (2), the Secretary shall issue a final dairy products promotion and research order, taking into consideration the comments received and including in the order such provisions as are necessary to ensure that the order is in conformity with the amendments made by this section.

(4) EFFECTIVE DATE.—The final dairy products promotion and research order shall be issued and become effective not later than 120 days after publication of the proposed order.

(i) REFERENDUM ON AMENDMENTS.—Not later than 36 months after the issuance of the dairy products promotion and research order reflecting the amendments made by this section, the Secretary of Agriculture shall conduct a referendum under section 115 of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4506) for the sole purpose of determining whether the requirements of such amendments shall be continued. The Secretary shall conduct the referendum among persons who have been producers or importers (as defined in section 111 of such Act (7 U.S.C. 4502)) during a representative period as determined by the Secretary. The requirements of such amendments shall be continued only if the Secretary determines that such requirements have been approved by not less than a majority of the persons voting in the referendum. If continuation of the amendments is not approved, the Secretary shall issue a new order, within six months after the announcement of the results of the referendum, that is identical to the order in effect on the date of the enactment of this Act. The new order shall become effective upon issuance and shall not be subject to referendum for approval.

SEC. ___05. FLUID MILK STANDARDS UNDER MILK MARKETING ORDERS.

(a) NATURE OF STANDARDS.—Each marketing order issued with respect to milk and its products under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, shall contain terms and conditions to provide that all dispositions of fluid milk products containing milk of the highest use classification covered by such orders shall comply with the following requirements:

(1) In the case of milk marketed as whole milk, not less than 12.05 percent total milk solids consisting of not less than 8.8 percent milk solids not fat and not less than 3.25 percent milk fat.

(2) In the case of milk marketed as 2 percent (or lowfat) milk, not less than 12 percent total milk solids consisting of not less than 10 percent milk solids not fat and not less than 2 percent milk fat.

(3) In the case of milk marketed as 1 percent (or light) milk, not less than 12 percent total milk solids consisting of not less than 11 percent milk solids not fat and not less than 1 percent milk fat.

(4) In the case of milk marketed as skim (or nonfat) milk, not less than 9 percent total milk solids consisting of not less than 9 percent milk solids not fat and not more than .25 percent milk fat.

(b) VIOLATIONS.—A violation of the requirements specified in subsection (a) shall be subject to the penalties provided in section 8c(14) of the Agricultural Adjustment Act (7 U.S.C. 608c(14)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.

(c) EFFECTIVE DATE.—The requirements imposed by this section shall apply to fluid milk marketed on and after the first day of the first month beginning not less than 30 days after the date of the enactment of this Act.

(d) EFFECT OF ENACTMENT.—The requirements imposed by this section shall supersede any conflicting requirements regarding fluid milk imposed pursuant to the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

SEC. ___06. MANUFACTURING ALLOWANCE.

(a) MAXIMUM ALLOWANCES ESTABLISHED.—No State shall provide for a manufacturing allowance for the processing of milk in excess of—

(1) in the case of milk manufactured into butter, butter oil, nonfat dry milk, or whole dry milk—

(A) $1.65 per hundredweight of milk, for milk marketed during the 2-year period beginning on the effective date of this section; and

(B) such allowance per hundredweight of milk as the Secretary of Agriculture may establish under section ___21(b)(3), for milk marketed after the end of such period; and

(2) in the case of milk manufactured into cheese and whey—

(A) $1.80 per hundredweight of milk, for milk marketed during the 2-year period beginning on the effective date of this section; and

(B) such allowance per hundredweight of milk as the Secretary may establish under section ___21(b)(3), for milk marketed after the end of such period.

(b) YIELDS.—In converting the weight of milk to dairy products during the two-year period beginning on the effective date of this section, the Secretary shall use the following yields with respect to a hundred pounds of milk:

(1) Butter: 4.2 pounds.

(2) Nonfat dry milk: 8.613 pounds.

(3) 40 pound block cheddar cheese: 10.169 pounds.

(4) Whey cream butter: .27 pounds.

(c) SOURCES OF PRODUCT PRICE VALUES.—In determining the manufacturing allowance applicable in a State during the 2-year period beginning on the effective date of this section, the Secretary shall use the following sources for product price values:

(1) For butter, Chicago Mercantile Exchange Grade AA butter.

(2) For nonfat dry milk, California Manufacturing Plants Extra Grade and Grade A nonfat dry milk.

(3) For cheese, National (Green Bay) Cheese Exchange 40 pound block cheddar cheese.

(4) For whey cream butter, Chicago Mercantile Exchange Grade B butter.

(d) MANUFACTURING ALLOWANCE DEFINED.—In this section, the term "manufacturing allowance" means—

(1) the amount by which the product price value of butter and nonfat dry milk manufactured from a hundred pounds of milk containing 3.5 pounds of milk fat and 8.7 pounds of milk solids not fat exceeds the class price for the milk used to produce those products; or

(2) an amount by which the product price value of cheese and whey manufactured from a hundred pounds of milk containing 3.6 pounds of milk fat and 8.7 pounds of milk solids not fat exceeds the class price for the milk used to produce those products.

(e) EFFECT OF VIOLATION.—If the Secretary determines that a State has in effect a manufacturing allowance that exceeds the manufacturing allowance authorized in subsection (a), the Secretary shall suspend, until such time as the State complies with such subsection—

(1) purchases under section ___01 of cheddar cheese produced in that State; and

(2) disbursements from the Class IV equalization pool under section ___08 to milk marketing orders operating in that State with respect to milk produced in that State.

(f) CONFORMING SUSPENSION AND REPEAL.—

(1) SUSPENSION AND REPEAL.—During the 2-year period beginning on the effective date of this section, the requirements of section 102 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1446e-1) shall not apply. Effective on the first day after the end of such period, such section is repealed.

(2) EXCEPTION.—Notwithstanding paragraph (1), in the event that an injunction or other order of a court prohibits or impairs the implementation of this section or the activities of the Secretary under this section, the Secretary shall use the authorities provided by section 102 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1446e-1) until such time as the injunction or other court order is lifted.

(g) EFFECTIVE DATE; IMPLEMENTATION.—This section shall take effect on the first day of the first month beginning not less than 30 days after the date of the enactment of this Act. After such effective date, the Secretary may exercise the authority provided to the Secretary under this section without regard to the issuance of regulations intended to carry out this section.

SEC. ___07. ESTABLISHMENT OF TEMPORARY CLASS I PRICE AND TEMPORARY CLASS I EQUALIZATION POOLS.

(a) TEMPORARY PRICING FOR MILK OF THE HIGHEST USE CLASSIFICATION (CLASS I MILK).—

(1) ESTABLISHMENT OF MINIMUM PRICE.—During the 2-year period beginning on the effective date of this section, the minimum price for milk of the highest use classification marketed under a marketing order issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, shall not be less than the sum of—

(A) $12.87 per hundredweight; and

(B) the aggregate adjustment in effect under clauses (1) and (2) of the second sentence of paragraph (5)(A) of such section on December 31, 1995, for milk of the highest use classification in that order.

(2) ADDITION TO MINIMUM PRICE.—If the basic formula price for milk exceeds $12.87 per hundredweight in any month during the 2-year period beginning on the effective date of this section, the positive difference between the basic formula price and $12.87 shall be added to the price for milk of the highest use classification marketed under a marketing order issued under such section 8c in the second month following the month in which the difference occurred.

(3) EFFECT ON OTHER USE CLASSIFICATIONS.—This subsection shall not affect the calculation of the basic formula price used to determine the price for milk of use classifications other than the highest use classification.

(b) CLASS I EQUALIZATION POOLS.—

(1) COLLECTIONS.—During the 2-year period beginning on the effective date of this section, the Secretary of Agriculture shall collect, on a monthly basis, from each marketing order issued with respect to milk and its products under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, and from the comparable milk marketing order issued by the State of California, an amount equal to the product of—

(A) $0.80 per hundredweight; and

(B) the total hundredweights of all milk of the highest use classification marketed under the order for the month.

(2) DISBURSEMENTS.—The Secretary shall pay, on a monthly basis, to each marketing order referred to in paragraph (1) an amount equal to the product of—

(A) the total collection under paragraph (1) for the month; and

(B) the ratio of the total hundredweights of all milk marketed for the month under that order to all milk marketed for the month under all such orders.

(3) EFFECT ON BLEND PRICES.—Producer blend prices under a milk marketing order shall be adjusted to account for collections made under paragraph (1) and disbursements made under paragraph (2).

(c) ENFORCEMENT.—

(1) IN GENERAL.—Amounts for which a milk marketing order are responsible under subsection (b) shall be determined on a monthly basis and shall be collected and remitted to the Secretary in the manner prescribed by the Secretary.

(2) PENALTIES.—If any person fails to remit the amount required in subsection (b) or fails to comply with such requirements for recordkeeping or otherwise as are required by the Secretary to carry out this section, the person shall be liable to the Secretary for a civil penalty up to an amount determined by multiplying—

(A) the quantity of milk involved in the violation; by

(B) the support rate for milk in effect at the time of the violation under section ___01.

(3) ENFORCEMENT.—The Secretary may enforce this section in the courts of the United States.

(d) CONFORMING REPEAL.—Section 8c(5)(A) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)(A)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by striking out the sentence beginning "Throughout the 2-year period" and all that follows through the end of the subparagraph.

(e) EFFECTIVE DATE.—Except as provided in subsection (f), this section shall take effect on the first day of the first month beginning not less than 30 days after the date of the enactment of this Act.

(f) IMPLEMENTATION.—Not later than the effective date of this section, the Secretary shall amend Federal milk marketing orders issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, to effectuate the requirements of this section. The amendments shall not be—

(1) subject to a referendum under subsection (17) or (19) of such section among milk producers to determine whether issuance of such order is approved or favored by milk producers;

(2) preconditioned on the existence of a marketing agreement among handlers under subsection (8) of such section and section 8b of such Act (7 U.S.C. 608b);

(3) subject to rulemaking under title 5, United States Code; or

(4) subject to review or approval by other executive agencies.

SEC. ___08. ESTABLISHMENT OF TEMPORARY CLASS IV PRICE AND TEMPORARY CLASS IV EQUALIZATION POOL.

(a) TEMPORARY CLASSIFICATION OF CLASS IV MILK.—

(1) CLASSIFICATION.—For purposes of classifying milk in accordance with the form in which or the purpose for which it is used, the Secretary of Agriculture shall designate all milk marketed in the 48 contiguous States of the United States and used to produce butter, butter oil, nonfat dry milk, or dry whole milk as Class IV milk. The Secretary may include other products of milk, except cheese, within the Class IV classification if the Secretary determines that inclusion of the product would be fair and equitable.

(2) USE OF CLASSIFICATION.—Each marketing order issued with respect to milk and its products under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, and each comparable State milk marketing order, shall use the classification required by paragraph (1) in lieu of any other classification, such as Class III-A milk, to properly classify milk used to produce butter, butter oil, nonfat dry milk, or dry whole milk.

(b) ESTABLISHMENT OF CLASS IV POOL.—The Secretary shall establish a Class IV pool for the purpose of making collections and disbursements related to milk classified as Class IV milk under subsection (a). The Class IV pool shall apply to milk covered by a milk marketing order referred to in subsection (a) and unregulated milk.

(c) ESTABLISHMENT OF MONTHLY CLASS IV PRICE.—For the purpose of determining whether the Secretary will make collections and disbursements under the Class IV equalization pool, the Secretary shall establish, on a monthly basis, a price for dairy products manufactured from Class IV milk on a 3.5 percent butterfat basis. In determining that price, the Secretary shall calculate the amount equal to—

(1) the sum of—

(A) the product of the Western States Extra Grade and Grade A price per pound for nonfat dry milk and 8.613; and

(B) the product of the Chicago Mercantile Exchange Grade AA price per pound for butter and 4.2; less

(2) a manufacturing allowance equal to $1.65 per hundredweight of milk.

(d) OPERATION OF CLASS IV EQUALIZATION POOL.—

(1) APPLICATION OF SUBSECTION.—This subsection shall apply in any month in which the support price for milk under section ___01, adjusted to 3.5 percent butterfat, exceeds the Class IV price established under subsection (c).

(2) COLLECTION.—In any month in which the Class IV equalization pool is in operation under paragraph (1), each milk marketing order referred to in subsection (a) and each handler of unregulated milk shall pay into the Class IV equalization pool an amount equal to the product of—

(A) the total hundredweights of Class IV milk used to manufacture dairy products during that month under all such orders and by all such handlers;

(B) 50 percent of the amount by which the support price for milk under section ___01, adjusted to 3.5 percent butterfat, exceeded the Class IV price determined under subsection (c) for that month; and

(C) the ratio of the total hundredweights of all milk marketed during that month under that order or by that handler to the total hundredweights of all milk marketed for that month under all such orders and by all such handlers.

(3) DISBURSEMENTS.—In any month in which the Class IV equalization pool is in operation under paragraph (1), each milk marketing order referred to in subsection (a) in

which products were manufactured from Class IV milk during that month and each handler of unregulated milk that manufactured products from Class IV milk during that month shall receive from the Class IV equalization pool an amount equal to the product of—

(A) the total collection under paragraph (2) for the month; and

(B) the ratio of the total hundredweights of Class IV milk manufactured into dairy products during that month under that order or by that handler to the total hundredweights of Class IV milk manufactured into dairy products during that month under all such orders and by all such handlers.

(4) EFFECT ON BLEND PRICES.—Producer blend prices under a milk marketing order referred to in subsection (a) shall be adjusted to account for collections under paragraph (2) and disbursements under paragraph (3).

(e) ENFORCEMENT.—

(1) IN GENERAL.—Amounts for which a milk marketing order or handler are responsible under subsection (b) shall be determined on a monthly basis and shall be collected and remitted to the Secretary in the manner prescribed by the Secretary.

(2) PENALTIES.—If any person fails to remit the amount required in subsection (c) or fails to comply with such requirements for recordkeeping or otherwise as are required by the Secretary to carry out this section, the person shall be liable to the Secretary for a civil penalty up to an amount determined by multiplying—

(A) the quantity of milk involved in the violation; by

(B) the support rate for milk in effect at the time of the violation under section ___01.

(3) ENFORCEMENT.—The Secretary may enforce this section in the courts of the United States.

(f) EFFECTIVE DATE.—Except as provided in subsection (g), this section shall—

(1) take effect on the first day of the first month beginning not less than 30 days after the date of the enactment of this Act; and

(2) apply during the 2-year period beginning on such effective date.

(g) IMPLEMENTATION.—Not later than the start of the effective date of this section, the Secretary shall amend Federal milk marketing orders issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, to effectuate the requirements of this section. The amendments shall not be—

(1) subject a referendum under subsection (17) or (19) of such section among milk producers to determine whether issuance of such order is approved or favored by milk producers;

(2) preconditioned on the existence of a marketing agreement among handlers under subsection (8) of such section and section 8b of such Act (7 U.S.C. 608b);

(3) subject to rulemaking under title 5, United States Code; or

(4) subject to review or approval by other executive agencies.

SEC. ___09. AUTHORITY FOR ESTABLISHMENT OF STANDBY POOLS.

(a) AUTHORITY TO ESTABLISH.—As soon as possible after the effective date of this section, the Secretary of Agriculture shall publish in the Federal Register an invitation for interested persons to submit proposals for the establishment within Federal milk marketing orders issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, of standby pools to facilitate the movement of milk over long distances during periods of shortage through the sharing of proceeds from sales of milk of the highest use classification due to producers under the order with producers shipping to plants regulated by another order to provide a reserve supply of milk in the other market.

(b) APPROVAL OR TERMINATION OF PARTICIPATION IN STANDBY POOL.—Order provisions under this section shall not become effective in any marketing order unless such provisions are approved by producers in the manner provided for the approval of marketing orders under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, but separately from other order provisions. Standby pool provisions approved under this section in an order may be disapproved separately by producers or terminated separately by the Secretary under section 8c(16)(B) of such Act. Such disapproval or termination shall not be considered to be a disapproval or termination of the other terms of that order.

(c) EFFECTIVE DATE.—This section shall take effect on the first day of the first month beginning not less than 30 days after the date of the enactment of this Act.

Subtitle B—Reform of Federal Milk Marketing Orders

SEC. ___21. ISSUANCE OR AMENDMENT OF FEDERAL MILK MARKETING ORDERS TO IMPLEMENT CERTAIN REFORMS.

(a) ISSUANCE OF AMENDED ORDERS.—Subject to the time limits specified in section ___22, the Secretary of Agriculture shall issue new or amended marketing orders with respect to milk and its products under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, to effectuate the requirements of subsection (b). The orders shall take effect on the date the orders are issued and shall supersede all other marketing orders and any other statutes, rules, and regulations that are applicable to the pricing and marketing of milk and its products in effect immediately before that date, whether under the authority of section 8c of such Act or a State or local law.

(b) REFORM REQUIREMENTS.—The Secretary shall reform the Federal milk marketing order system under subsection (a) to accomplish the following purposes:

(1) Consolidation of Federal milk marketing orders into not less than 8 nor more than 13 orders, which shall also include those areas of the 48 contiguous States not covered by a Federal milk marketing order on the date of the enactment of this Act. One of the new Federal milk marketing orders shall only cover the State of California. A new or amended order shall have the right to blend order receipts to address unique issues to that order such as a preexisting State quota system.

(2) Implementation of uniform multiple component pricing for milk used in manufactured dairy products.

(3) Establishment of class prices for milk used to produce cheese, nonfat dry milk, and butter based on national product prices, less a manufacturing allowance. The resulting prices shall not vary regionally, except to reflect variances in transportation and reasonable operating costs, if any, of efficient processing plants in different geographical areas.

(c) STATUS OF PRODUCER HANDLERS.—In amending Federal milk marketing orders under this section, the Secretary shall ensure that the legal status of producer handlers of milk under the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, shall be the same after the amendments made by this section take effect as it was before the effective date of the amendments.

SEC. ___22. REFORM PROCESS.

(a) PROCESS.—In preparation for the issuance of the new or amended Federal milk marketing orders required under section ___21, the Secretary of Agriculture shall comply with the following expedited procedural requirements:

(1) Not later than 165 days after the date of the enactment of this Act, the Secretary shall issue proposed amendments or new milk marketing orders to effectuate the reform requirements specified in such section .

(2) The Secretary shall provide for a 75-day comment period on the proposed amendments or orders issued under paragraph (1).

(3) Not later than 120 days after the end of the comment period provided under paragraph (2), the Secretary shall publish in the Federal Register a final administrative decision regarding the issuance or amendment of Federal milk marketing orders to effectuate the reform requirements specified in such section.

(b) REFERENDUM AND MARKETING AGREEMENT.—After the issuance of the new or amended Federal milk marketing orders under section ___21, the Secretary may conduct a referendum in the manner provided in section 8c(16)(B) of the Agricultural Adjustment Act (7 U.S.C. 608c(16)(B)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, with respect to each order to determine whether milk producers subject to the order favor the termination of the order.

(c) APPLICATION OF ADMINISTRATIVE PROCEDURES ACT.—The issuance of the new or amended Federal milk marketing orders required under section ___21 shall not be subject to rulemaking under title 5, United States Code.

(d) REVIEW AND APPROVAL.—The action of the Secretary under section ___21 shall not be subject to review or approval by any other executive agency.

SEC. ___23. EFFECT OF FAILURE TO COMPLY WITH REFORM PROCESS REQUIREMENTS.

(a) FAILURE TO TIMELY ISSUE OR AMEND ORDERS.—If, before the end of the 1-year period beginning on the date of the enactment of this Act, the Secretary of Agriculture does not issue new or amended Federal milk marketing orders under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, to effectuate the requirements of section ___21(b), then the Secretary may not assess or collect assessments from milk producers or handlers under such section 8c for marketing order administration and services provided under such section after the end of that period. The Secretary may not reduce the level of services provided under such section on account of the prohibition against assessments, but shall rather cover the cost of marketing order administration and services through funds available for the Agricultural Marketing Service of the Department of Agriculture.

(b) FAILURE TO TIMELY IMPLEMENT ORDERS.—Unless the Secretary certifies to Congress before the end of the 2-year period beginning on the date of the enactment of this Act that all of the Federal marketing order

reforms required by section ___21(b) have been fully implemented, then, effective at the end of that period—

(1) the Secretary shall immediately cease all price support activities under section ___01;

(2) the Secretary shall immediately terminate all Federal milk marketing orders under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, and may not issue any further order under such Act with respect to milk;

(3) the Commodity Credit Corporation shall immediately cease to operate the dairy export incentive program under section 153 of the Food Security Act of 1985 (15 U.S.C. 713a–14);

(4) the Secretary and the National Processor Advertising and Promotion Board shall immediately cease all activities under the Fluid Milk Promotion Act of 1990 (7 U.S.C. 6401 et seq.); and

(5) the Secretary and the National Dairy Promotion and Research Board shall immediately cease all activities under the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4501 et seq.).

MOYNIHAN (AND MIKULSKI) AMENDMENTS NOS. 3146–3147

(Ordered to lie on the table.)

Mr. MOYNIHAN (for himself and Ms. MIKULSKI) submitted two amendments intended to be proposed by them to the bill S. 1541, supra; as follows:

AMENDMENT NO. 3146

At the appropriate place insert the following: "Whenever the domestic price of raw sugar exceeds 115 percent of the loan rate, then the Secretary of Agriculture shall permit the importation of additional raw cane sugar from existing quota holders until he determines that such conditions no longer prevail in the market."

AMENDMENT NO. 3147

At the appropriate place insert the following: "Whenever the domestic price of raw sugar exceeds 115 percent of the loan rate, then the Secretary of Agriculture shall permit the importation of additional raw cane sugar from existing quota holders until he determines that such conditions no longer prevail in the market."

WELLSTONE AMENDMENT NO. 3148

(Ordered to lie on the table.)

Mr. WELLSTONE submitted an amendment intended to be proposed by him to the bill S. 1541, supra; as follows:

SEC. 2. PAYMENT LIMITATION.

Section 15(b)(3) is amended by striking (A) and inserting the following:

"(A) by striking "(a) PREVENTION OF CREATION OF ENTITIES" and all that follows through "(b) PAYMENTS LIMITED TO ACTIVE FARMERS.—"

BRYAN AMENDMENTS NOS. 3149–3152

(Ordered to lie on the table.)

Mr. BRYAN submitted four amendments intended to be proposed by him to the bill S. 1541, supra; as follows:

AMENDMENT NO. 3149

On page 88, line 10, strike "$100,000,000" and insert "$2,000,000".

AMENDMENT NO. 3150

On page 88, line 10, strike "$100,000,000" and insert "$70,000,000".

AMENDMENT NO. 3151

Strike the section 17 beginning on page 65, line 21 through page 72, line 8.

AMENDMENT NO. 3152

Strike the section 16 beginning on page 49, line 13 through page 65, line 20.

BROWN (AND REID) AMENDMENT NO. 3153

(Ordered to lie on the table.)

Mr. BROWN (for himself and Mr. REID) submitted an amendment intended to be proposed by them to the bill S. 1541, supra; as follows:

At the appropriate place, insert the following:

(a) None of the funds appropriated or made available to the Federal Drug Administration shall be used to operate the Board of Tea Experts and related activities.

(b) The Tea Importation Act (21 U.S.C. 41 et seq.) is repealed.

BROWN AMENDMENTS NOS. 3154–3158

(Ordered to lie on the table.)

Mr. BROWN submitted five amendments intended to be proposed by him to the bill S. 1541, supra; as follows:

AMENDMENT NO. 3154

In subsection (g) of the section relating to peanuts—

(1) in paragraph (2)(A), strike "paragraphs (3) and (4)" and insert "paragraphs (4) and (5)";

(2) redesignate paragraphs (3), (4), (5), and (6) as paragraphs (4), (5), (6), and (7), respectively; and

(3) insert after paragraph (2) the following:

(3) ADDITIONAL MARKETING ASSESSMENT TO COVER EXPENSES OF THE SECRETARY.—In addition to the marketing assessment required under the other provisions of his subsection, the Secretary shall charge producers a marketing assessment applicable to each crop of peanuts to cover the costs of the salaries of the employees, and the expenses, of the Consolidated Farm Service Agency in carrying out the program established under this section.

AMENDMENT NO. 3155

At the appropriate place in title I, insert the following:

SEC. . ADDITIONAL TOBACCO MARKETING ASSESSMENT TO COVER EXPENSES OF THE SECRETARY.

Section 315(g) of the Agricultural Adjustment Act of 1938 (as transferred and redesignated by section 19(b)(1)(A)) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(2) by inserting after paragraph (1) the following:

"(2) ADDITIONAL MARKETING ASSESSMENT TO COVER EXPENSES OF THE SECRETARY.—In addition to the marketing assessment required under paragraph (1), the Secretary shall charge producers, purchasers, and importers of tobacco a marketing assessment applicable to each crop of tobacco to cover the costs of the salaries of the employees, and the expenses, of the Consolidated Farm Service Agency in carrying out the program under this section.".

AMENDMENT NO. 3156

At the appropriate place, insert the following:

SEC. . AGRICULTURAL PAYMENTS.

(a) None of the funds authorized under this Act shall be used to make any payments described in this Act to individuals with an annual net taxable income of more than $120,000 or corporations with an annual net taxable income of more than $5,000,000.

(b) CERTIFICATION.—

(1) INDIVIDUALS.—The Secretary of Agriculture shall certify to the appropriate committees of the Congress that no individuals receiving payments under this Act had an annual net taxable income greater than $120,000 in the previous tax year.

(2) CORPORATIONS.—The Secretary of Agriculture shall certify to the appropriate committees of the Congress that no corporations receiving payments under this Act had an annual net taxable income greater than $5,000,000 in the previous tax year.

(c) Subsection (a) and (b) shall not apply to any existing subsidy contracts.

AMENDMENT NO. 3157

At the appropriate place, insert:

SEC. . PEANUT PROGRAM.

(a) IN GENERAL.—Each year the Secretary of Agriculture shall calculate the costs, including expenses and salaries of the employees, to the Consolidated Farm Services Agency in order to administer the peanut program.

(b) ASSESSMENT.—The Secretary, based on these findings, shall raise the current marketing assessment to a level sufficient to cover all costs of the peanut program.

AMENDMENT NO. 3158

At the appropriate place, insert the following:

SEC. . TOBACCO PROGRAM.

(a) IN GENERAL.—Each year the Secretary of Agriculture shall calculate the costs, including expenses and salaries of the employees, to the Consolidated Farm Services Agency in order to administer the tobacco program.

(b) ASSESSMENT.—The Secretary, based on these findings, shall raise the current marketing assessment to a level sufficient to cover all costs of the tobacco program. The cost of the tobacco program shall not be offset by any revenues raised through tariffs imposed under the Uruguay Round Agreements Act (Public Law 103–465) on imports of tobacco or tobacco products into the United States.

FEINGOLD AMENDMENT NO. 3159

(Ordered to lie on the table.)

Mr. FEINGOLD submitted an amendment intended to be proposed by them to the bill S. 1541, supra; as follows:

On page 95, after line 10, add the following:

SEC. 7. COMPETITIVE MATCHING GRANT PROGRAM FOR APPLIED RESEARCH.

(a) PURPOSE.—The purpose of this section is to convert the current special grants program administered by the Secretary under subsection (c) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 4501(c)) into a competitive matching grant program for applied research in coordination with the research priorities outlined in section 1402 of the National Agricultural Research Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3101).

(b) TITLE CHANGES.—The Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i) is amended—

(1) In the section heading, by striking ", SPECIAL, AND FACILITIES" AFTER "COMPETITIVE";

(2) In subsection (a)(2), by striking ", Special, and Facilities" after "Competitive"; and

(3) In the heading of subsection (b) by striking "Competitive" and inserting "National research initiative".

(c) COMPETITIVE GRANT PROGRAM FOR APPLIED RESEARCH.—Section 2(c) (7 U.S.C. 450i(c) is amended—

(1) In the heading, by striking "SPECIAL GRANTS" and inserting "COMPETITIVE GRANTS FOR APPLIED RESEARCH";

(2) In paragraph (1) by striking "grants," and all that follows, including subparagraphs (A) and (B), and inserting "competitive grants for applied research in the research priority areas identified in section 1402 of National Agricultural Research, Extension and Teaching Policy Act of 1977.";

(3) In paragraph (3), by striking all that follows "Matching Funds.—" and inserting "The Secretary may establish such matching requirements for grants made pursuant to this section as the Secretary deems appropriate. Such matching requirements established by the Secretary may be met with unreimbursed indirect costs and in-kind contributions, except that the Secretary may include and evaluation preference for projects for which the applicant proposes funds for the direct costs of the project to meet the required match."; and

(4) In paragraph (4), by striking all text after "(4)" and inserting "Eligible Institutions.—For purposes of this subsection, "eligible institutions" means State agricultural experiment stations, land-grant colleges and universities, research foundations established by land-grant colleges and universities, colleges and universities receiving funds under the Act of October 10, 1962 (16 U.S.C. 582a, *et seq.*), and accredited schools or colleges of veterinary medicine.".

WELLSTONE AMENDMENT NO. 3160

(Ordered to lie on the table.)

Mr. WELLSTONE submitted an amendment intended to be proposed by them to the bill S. 1541, supra; as follows:

On page 11 strike all beginning on line 3 through the end of page 48 and insert the following:

(A) For fiscal year 1996, $5,430,000,000.

(B) For fiscal year 1997, $5,245,000,000.

(C) For fiscal year 1998, $5,660,000,000.

(D) For fiscal year 1999, $5,463,000,000.

(E) For fiscal year 2000, $4,990,000,000.

(F) For fiscal year 2001, $3,990,000,000.

(G) For fiscal year 2002, $3,868,000,000.

(2) ALLOCATION.—The amount made available for a fiscal year under paragraph (1) shall be allocated as follows:

(A) For wheat, 26.26 percent.

(B) For corn, 46.22 percent.

(C) For grain sorghum, 5.11 percent.

(D) For barley, 2.16 percent.

(E) For oats, 0.15 percent.

(F) For upland cotton, 11.63 percent.

(G) For rice, 8.47 percent.

(3) ADJUSTMENT.—The Secretary shall adjust the amounts allocated for each contract commodity under paragraph (2) for a particular fiscal year by—

(A) subtracting an amount equal to the amount, if any, necessary to satisfy payment requirements under sections 101B, 103B, 105B, and 107B of the Agricultural Act of 1949 (as in effect prior to the amendment made by section 19(b)(2)) for the 1994 and 1995 crops of the commodity;

(B) adding an amount equal to the sum of all repayments of deficiency payments received under section 114(a)(2) of the Act (as so in effect) for the commodity;

(C) to the maximum extent practicable, adding an amount equal to the sum of all contract payments withheld by the Secretary, at the request of an owner or operator subject to a contract, as an offset against repayments of deficiency payments otherwise required under section 114(a)(2) of the Act (as so in effect) for the commodity; and

(D) adding an amount equal to the sum of all refunds of contract payments received during the preceding fiscal year under subsection (h) for the commodity.

(f) DETERMINATION OF CONTRACT PAYMENTS.—

(1) INDIVIDUAL PAYMENT QUANTITY OF CONTRACT COMMODITIES.—For each contract, the payment quantity of a contract commodity for each fiscal year shall be equal to the product of—

(A) 85 percent of the contract acreage; and

(B) the farm program payment yield.

(2) ANNUAL PAYMENT QUANTITY OF CONTRACT COMMODITIES.—The payment quantity of each contract commodity covered by all contracts for each fiscal year shall equal the sum of the amounts calculated under paragraph (1) for each individual contract.

(3) ANNUAL PAYMENT RATE.—The payment rate for a contract commodity for each fiscal year shall be equal to—

(A) the amount made available under subsection (e) for the contract commodity for the fiscal year; divided by

(B) the amount determined under paragraph (2) for the fiscal year.

(4) ANNUAL PAYMENT AMOUNT.—The amount to be paid under a contract in effect for each fiscal year with respect to a contract commodity shall be equal to the product of—

(A) the payment quantity determined under paragraph (1) with respect to the contract; and

(B) the payment rate in effect under paragraph (3).

(5) ASSIGNMENT OF CONTRACT PAYMENTS.—The provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(g)) (relating to assignment of payments) shall apply to contract payments under this subsection. The owner or operator making the assignment, or the assignee, shall provide the Secretary with notice, in such manner as the Secretary may require in the contract, of any assignment made under this paragraph.

(6) SHARING OF CONTRACT PAYMENTS.—The Secretary shall provide for the sharing of contract payments among the owners and operators subject to the contract on a fair and equitable basis.

(g) PAYMENT LIMITATION.—The total amount of contract payments made to a person under a contract during any fiscal year may not exceed the payment limitations established under sections 1001 through 1001C of the Food Security Act of 1985 (7 U.S.C. 1308 through 1308–3).

(h) EFFECT OF VIOLATION.—

(1) TERMINATION OF CONTRACT.—Except as provided in paragraph (2), if an owner or operator subject to a contract violates the conservation plan for the farm containing eligible farmland under the contract, wetland protection requirements applicable to the farm, or the planting flexibility requirements of subsection (j), the Secretary shall terminate the contract with respect to the owner or operator on each farm in which the owner or operator has an interest. On the termination, the owner or operator shall forfeit all rights to receive future contract payments on each farm in which the owner or operator has an interest and shall refund to the Secretary all contract payments received by the owner or operator during the period of the violation, together with interest on the contract payments as determined by the Secretary.

(2) REFUND OR ADJUSTMENT.—If the Secretary determines that a violation does not warrant termination of the contract under paragraph (1), the Secretary may require the owner or operator subject to the contract—

(A) to refund to the Secretary that part of the contract payments received by the owner or operator during the period of the violation, together with interest on the contract payments as determined by the Secretary; or

(B) to accept a reduction in the amount of future contract payments that is proportionate to the severity of the violation, as determined by the Secretary.

(3) FORECLOSURE.—An owner or operator subject to a contract may not be required to make repayments to the Secretary of amounts received under the contract if the contract acreage has been foreclosed on and the Secretary determines that forgiving the repayments is appropriate in order to provide fair and equitable treatment. This paragraph shall not void the responsibilities of such an owner or operator under the contract if the owner or operator continues or resumes operation, or control, of the contract acreage. On the resumption of operation or control over the contract acreage by the owner or operator, the provisions of the contract in effect on the date of the foreclosure shall apply.

(4) REVIEW.—A determination of the Secretary under this subsection shall be considered to be an adverse decision for purposes of the availability of administrative review of the determination.

(i) TRANSFER OF INTEREST IN LANDS SUBJECT TO CONTRACT.—

(1) EFFECT OF TRANSFER.—Except as provided in paragraph (2), the transfer by an owner or operator subject to a contract of the right and interest of the owner or operator in the contract acreage shall result in the termination of the contract with respect to the acreage, effective on the date of the transfer, unless the transferee of the acreage agrees with the Secretary to assume all obligations of the contract. At the request of the transferee, the Secretary may modify the contract if the modifications are consistent with the objectives of this section as determined by the Secretary.

(2) EXCEPTION.—If an owner or operator who is entitled to a contract payment dies, becomes incompetent, or is otherwise unable to receive the contract payment, the Secretary shall make the payment, in accordance with regulations prescribed by the Secretary.

(j) PLANTING FLEXIBILITY.—

(1) PERMITTED CROPS.—Subject to paragraph (2), any commodity or crop may be planted on contract acreage on a farm.

(2) LIMITATIONS.—

(A) HAYING AND GRAZING.—

(i) TIME LIMITATIONS.—Haying and grazing on land exceeding 15 percent of the contract acreage on a farm as provided in clause (iii) shall be permitted, except during any consecutive 5-month period between April 1 and October 31 that is determined by the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) for a State. In the case of a natural disaster, the Secretary may permit unlimited haying and grazing on the contract acreage of a farm.

(ii) CONTRACT COMMODITIES.—A contract commodity may be hayed or grazed on contract acreage on a farm without limitation.

(iii) HAYING AND GRAZING LIMITATION ON PORTION OF CONTRACT ACREAGE.—Unlimited haying and grazing shall be permitted on not more than 15 percent of the contract acreage on a farm.

(B) ALFALFA.—Alfalfa may be planted for harvest without limitation on the contract acreage on a farm, except that each contract acre that is planted for harvest to alfalfa in excess of 15 percent of the total contract acreage on a farm shall be ineligible for contract payments.

(C) FRUITS AND VEGETABLES.—

(i) IN GENERAL.—The planting for harvest of fruits and vegetables shall be prohibited on contract acreage.

(ii) UNRESTRICTED VEGETABLES.—Lentils, mung beans, and dry peas may be planted without limitation on contract acreage.

SEC. 14. NONRECOURSE MARKETING ASSISTANCE LOANS AND LOAN DEFICIENCY PAYMENTS.

(a) AVAILABILITY OF NONRECOURSE LOANS.—

(1) AVAILABILITY.—For each of the 1996 through 2002 crops of each loan commodity, the Secretary shall make available to producers on a farm nonrecourse marketing assistance loans for loan commodities produced on the farm. The loans shall be made under terms and conditions that are prescribed by the Secretary and at the loan rate established under subsection (b) for the loan commodity.

(2) ELIGIBLE PRODUCTION.—The following production shall be eligible for a marketing assistance loan under this section:

(A) In the case of a marketing assistance loan for a contract commodity, any production by a producer who has entered into a production flexibility contract.

(B) In the case of a marketing assistance loan for extra long staple cotton and oilseeds, any production.

(b) LOAN RATES.—

(1) WHEAT.—

(A) LOAN RATE.—Subject to subparagraph (B), the loan rate for a marketing assistance loan for wheat shall be—

(i) not less than 85 percent of the simple average price received by producers of wheat, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of wheat, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; but

(ii) not more than $3.25 per bushel.

(B) STOCKS TO USE RATIO ADJUSTMENT.—If the Secretary estimates for any marketing year that the ratio of ending stocks of wheat to total use for the marketing year will be—

(i) equal to or greater than 30 percent, the Secretary may reduce the loan rate for wheat for the corresponding crop by an amount not to exceed 10 percent in any year;

(ii) less than 30 percent but not less than 15 percent, the Secretary may reduce the loan rate for wheat for the corresponding crop by an amount not to exceed 5 percent in any year; or

(iii) less than 15 percent, the Secretary may not reduce the loan rate for wheat for the corresponding crop.

(C) NO EFFECT ON FUTURE YEARS.—Any reduction in the loan rate for wheat under subparagraph (B) shall not be considered in determining the loan rate for wheat for subsequent years.

(2) FEED GRAINS.—

(A) LOAN RATE FOR CORN.—Subject to subparagraph (B), the loan rate for a marketing assistance loan for corn shall be—

(i) not less than 85 percent of the simple average price received by producers of corn, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of corn, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; but

(ii) not more than $2.25 per bushel.

(B) STOCKS TO USE RATIO ADJUSTMENT.—If the Secretary estimates for any marketing year that the ratio of ending stocks of corn to total use for the marketing year will be—

(i) equal to or greater than 25 percent, the Secretary may reduce the loan rate for corn for the corresponding crop by an amount not to exceed 10 percent in any year;

(ii) less than 25 percent but not less than 12.5 percent, the Secretary may reduce the loan rate for corn for the corresponding crop by an amount not to exceed 5 percent in any year; or

(iii) less than 12.5 percent the Secretary may not reduce the loan rate for corn for the corresponding crop.

(C) NO EFFECT ON FUTURE YEARS.—Any reduction in the loan rate for corn under subparagraph (B) shall not be considered in determining the loan rate for corn for subsequent years.

(D) OTHER FEED GRAINS.—The loan rate for a marketing assistance loan for grain sorghum, barley, and oats, respectively, shall be established at such level as the Secretary determines is fair and reasonable in relation to the rate that loans are made available for corn, taking into consideration the feeding value of the commodity in relation to corn.

(3) UPLAND COTTON.—

(A) LOAN RATE.—Subject to subparagraph (B), the loan rate for a marketing assistance loan for upland cotton shall be established by the Secretary at such loan rate, per pound, as will reflect for the base quality of upland cotton, as determined by the Secretary, at average locations in the United States a rate that is not less than the smaller of—

(i) 85 percent of the average price (weighted by market and month) of the base quality of cotton as quoted in the designated United States spot markets during 3 years of the 5-year period ending July 31 in the year in which the loan rate is announced, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; or

(ii) 90 percent of the average, for the 15-week period beginning July 1 of the year in which the loan rate is announced, of the 5 lowest-priced growths of the growths quoted for Middling 1 3/32-inch cotton C.I.F. Northern Europe (adjusted downward by the average difference during the period April 15 through October 15 of the year in which the loan is announced between the average Northern European price quotation of such quality of cotton and the market quotations in the designated United States spot markets for the base quality of upland cotton), as determined by the Secretary.

(B) LIMITATIONS.—The loan rate for a marketing assistance loan for upland cotton shall not be less than $0.50 per pound or more than $0.60 per pound.

(4) EXTRA LONG STAPLE COTTON.—The loan rate for a marketing assistance loan for extra long staple cotton shall be—

(A) not less than 85 percent of the simple average price received by producers of extra long staple cotton, as determined by the Secretary, during 3 years of the 5 previous marketing years, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; but

(B) not more than $0.7965 per pound.

(5) RICE.—The loan rate for a marketing assistance loan for rice shall be $7.00 per hundredweight.

(6) OILSEEDS.—

(A) SOYBEANS.—The loan rate for a marketing assistance loan for soybeans shall be $4.92 per bushel.

(B) SUNFLOWER SEED, CANOLA, RAPESEED, SAFFLOWER, MUSTARD SEED, AND FLAXSEED.—The loan rates for a marketing assistance loan for sunflower seed, canola, rapeseed, safflower, mustard seed, and flaxseed, individually, shall be $0.087 per pound.

(C) OTHER OILSEEDS.—The loan rates for a marketing assistance loan for other oilseeds shall be established at such level as the Secretary determines is fair and reasonable in relation to the loan rate available for soybeans, except in no event shall the rate for the oilseeds (other than cottonseed) be less than the rate established for soybeans on a per-pound basis for the same crop.

(c) TERM OF LOAN.—In the case of each loan commodity (other than upland cotton or extra long staple cotton), a marketing assistance loan under subsection (a) shall have a term of 9 months beginning on the first day of the first month after the month in which the loan is made. A marketing assistance loan for upland cotton or extra long staple cotton shall have a term of 10 months beginning on the first day of the first month after the month in which the loan is made. The Secretary may not extend the term of a marketing assistance loan for any loan commodity.

(d) REPAYMENT.—

(1) REPAYMENT RATES FOR WHEAT AND FEED GRAINS.—The Secretary shall permit a producer to repay a marketing assistance loan under subsection (a) for wheat, corn, grain sorghum, barley, and oats at a level that the Secretary determines will—

(A) minimize potential loan forfeitures;

(B) minimize the accumulation of stocks of the commodities by the Federal Government;

(C) minimize the cost incurred by the Federal Government in storing the commodities; and

(D) allow the commodities produced in the United States to be marketed freely and competitively, both domestically and internationally.

(2) REPAYMENT RATES FOR UPLAND COTTON, OILSEEDS AND RICE.—The Secretary shall permit producers to repay a marketing assistance loan under subsection (a) for upland cotton, oilseeds and rice at a level that is the lesser of—

(A) the loan rate established for upland cotton, oilseeds and rice, respectively, under subsection (b); or

(B) the prevailing world market price for upland cotton, oilseeds and rice, respectively (adjusted to United States quality and location), as determined by the Secretary.

(3) REPAYMENT RATES FOR EXTRA LONG STAPLE COTTON.—Repayment of a marketing assistance loan for extra long staple cotton shall be at the loan rate established for the commodity under subsection (b), plus interest (as determined by the Secretary).

(4) PREVAILING WORLD MARKET PRICE.—For purposes of paragraph (2)(B) and subsection (f), the Secretary shall prescribe by regulation—

(A) a formula to determine the prevailing world market price for each loan commodity, adjusted to United States quality and location; and

(B) a mechanism by which the Secretary shall announce periodically the prevailing world market price for each loan commodity.

(5) ADJUSTMENT OF PREVAILING WORLD MARKET PRICE FOR UPLAND COTTON.—

(A) IN GENERAL.—During the period ending July 31, 2003, the prevailing world market price for upland cotton (adjusted to United States quality and location) established under paragraph (4) shall be further adjusted if—

(i) the adjusted prevailing world market price is less than 115 percent of the loan rate for upland cotton established under subsection (b), as determined by the Secretary; and

(ii) the Friday through Thursday average price quotation for the lowest-priced United States growth as quoted for Middling (M) 1 3/32-inch cotton delivered C.I.F. Northern Europe is greater than the Friday through Thursday average price of the 5 lowest-priced growths of upland cotton, as quoted for Middling (M) 1 3/32-inch cotton, delivered C.I.F. Northern Europe (referred to in this subsection as the "Northern Europe price").

(B) FURTHER ADJUSTMENT.—Except as provided in subparagraph (C), the adjusted prevailing world market price for upland cotton shall be further adjusted on the basis of some or all of the following data, as available:

(i) The United States share of world exports.

(ii) The current level of cotton export sales and cotton export shipments.

(iii) Other data determined by the Secretary to be relevant in establishing an accurate prevailing world market price for upland cotton (adjusted to United States quality and location).

(C) LIMITATION ON FURTHER ADJUSTMENT.—The adjustment under subparagraph (B) may not exceed the difference between—

(i) the Friday through Thursday average price for the lowest-priced United States growth as quoted for Middling 1 3/32-inch cotton delivered C.I.F. Northern Europe; and

(ii) the Northern Europe price.

(e) LOAN DEFICIENCY PAYMENTS.—

(1) AVAILABILITY.—Except as provided in paragraph (4), the Secretary may make loan deficiency payments available to producers who, although eligible to obtain a marketing assistance loan under subsection (a) with respect to a loan commodity, agree to forgo obtaining the loan for the commodity in return for payments under this subsection.

(2) COMPUTATION.—A loan deficiency payment under this subsection shall be computed by multiplying—

(A) the loan payment rate determined under paragraph (3) for the loan commodity; by

(B) the quantity of the loan commodity that the producers on a farm are eligible to place under loan but for which the producers forgo obtaining the loan in return for payments under this subsection.

(3) LOAN PAYMENT RATE.—For purposes of this subsection, the loan payment rate shall be the amount by which—

(A) the loan rate established under subsection (b) for the loan commodity; exceeds

(B) the rate at which a loan for the commodity may be repaid under subsection (d).

(4) EXCEPTION FOR EXTRA LONG STAPLE COTTON.—This subsection shall not apply with respect to extra long staple cotton.

(f) SPECIAL MARKETING LOAN PROVISIONS FOR UPLAND COTTON.—

(1) COTTON USER MARKETING CERTIFICATES.—

(A) ISSUANCE.—Subject to subparagraph (D), during the period ending July 31, 2003, the Secretary shall issue marketing certificates or cash payments to domestic users and exporters for documented purchases by domestic users and sales for export by exporters made in the week following a consecutive 4-week period in which—

(i) the Friday through Thursday average price quotation for the lowest-priced United States growth, as quoted for Middling (M) 1 3/32-inch cotton, delivered C.I.F. Northern Europe exceeds the Northern Europe price by more than 1.25 cents per pound; and

(ii) the prevailing world market price for upland cotton (adjusted to United States quality and location) does not exceed 130 percent of the loan rate for upland cotton established under subsection (b).

(B) VALUE OF CERTIFICATES OR PAYMENTS.—The value of the marketing certificates or cash payments shall be based on the amount of the difference (reduced by 1.25 cents per pound) in the prices during the 4th week of the consecutive 4-week period multiplied by the quantity of upland cotton included in the documented sales.

(C) ADMINISTRATION OF MARKETING CERTIFICATES.—

(i) REDEMPTION, MARKETING, OR EXCHANGE.—The Secretary shall establish procedures for redeeming marketing certificates for cash or marketing or exchange of the certificates for agricultural commodities owned by the Commodity Credit Corporation in such manner, and at such price levels, as the Secretary determines will best effectuate the purposes of cotton user marketing certificates. Any price restrictions that would otherwise apply to the disposition of agricultural commodities by the Commodity Credit Corporation shall not apply to the redemption of certificates under this paragraph.

(ii) DESIGNATION OF COMMODITIES AND PRODUCTS.—To the extent practicable, the Secretary shall permit owners of certificates to designate the commodities and products, including storage sites, the owners would prefer to receive in exchange for certificates. If any certificate is not presented for redemption, marketing, or exchange within a reasonable number of days after the issuance of the certificate (as determined by the Secretary), reasonable costs of storage and other carrying charges, as determined by the Secretary, shall be deducted from the value of the certificate for the period beginning after the reasonable number of days and ending with the date of the presentation of the certificate to the Commodity Credit Corporation.

(iii) TRANSFERS.—Marketing certificates issued to domestic users and exporters of upland cotton may be transferred to other persons in accordance with regulations issued by the Secretary.

(D) EXCEPTION.—The Secretary shall not issue marketing certificates or cash payments under subparagraph (A) if, for the immediately preceding consecutive 10-week period, the Friday through Thursday average price quotation for the lowest priced United States growth, as quoted for Middling (M) 1 3/32-inch cotton, delivered C.I.F. Northern Europe, adjusted for the value of any certificate issued under this paragraph, exceeds the Northern Europe price by more than 1.25 cents per pound.

(E) LIMITATION ON EXPENDITURES.—Total expenditures under this paragraph shall not exceed $701,000,000 during fiscal years 1996 through 2002.

(2) SPECIAL IMPORT QUOTA.—

(A) ESTABLISHMENT.—The President shall carry out an import quota program that provides that, during the period ending July 31, 2003, whenever the Secretary determines and announces that for any consecutive 10-week period, the Friday through Thursday average price quotation for the lowest-priced United States growth, as quoted for Middling (M) 1 3/32-inch cotton, delivered C.I.F. Northern Europe, adjusted for the value of any certificates issued under paragraph (1), exceeds the Northern Europe price by more than 1.25 cents per pound, there shall immediately be in effect a special import quota.

(B) QUANTITY.—The quota shall be equal to 1 week's consumption of upland cotton by domestic mills at the seasonally adjusted average rate of the most recent 3 months for which data are available.

(C) APPLICATION.—The quota shall apply to upland cotton purchased not later than 90 days after the date of the Secretary's announcement under subparagraph (A) and entered into the United States not later than 180 days after the date.

(D) OVERLAP.—A special quota period may be established that overlaps any existing quota period if required by subparagraph (A), except that a special quota period may not be established under this paragraph if a quota period has been established under subsection (g).

(E) PREFERENTIAL TARIFF TREATMENT.—The quantity under a special import quota shall be considered to be an in-quota quantity for purposes of—

(i) section 213(d) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(d));

(ii) section 204 of the Andean Trade Preference Act (19 U.S.C. 3203);

(iii) section 503(d) of the Trade Act of 1974 (19 U.S.C. 2463(d)); and

(iv) General Note 3(a)(iv) to the Harmonized Tariff Schedule.

(F) DEFINITION.—In this paragraph, the term "special import quota" means a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota.

(g) LIMITED GLOBAL IMPORT QUOTA FOR UPLAND COTTON.—

(1) IN GENERAL.—The President shall carry out an import quota program that provides that whenever the Secretary determines and announces that the average price of the base quality of upland cotton, as determined by the Secretary, in the designated spot markets for a month exceeded 130 percent of the average price of such quality of cotton in the markets for the preceding 36 months, notwithstanding any other provision of law, there shall immediately be in effect a limited global import quota subject to the following conditions:

(A) QUANTITY.—The quantity of the quota shall be equal to 21 days of domestic mill consumption of upland cotton at the seasonally adjusted average rate of the most recent 3 months for which data are available.

(B) QUANTITY IF PRIOR QUOTA.—If a quota has been established under this subsection during the preceding 12 months, the quantity of the quota next established under this subsection shall be the smaller of 21 days of domestic mill consumption calculated under subparagraph (A) or the quantity required to increase the supply to 130 percent of the demand.

(C) PREFERENTIAL TARIFF TREATMENT.—The quantity under a limited global import quota shall be considered to be an in-quota quantity for purposes of—

(i) section 213(d) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(d));

(ii) section 204 of the Andean Trade Preference Act (19 U.S.C. 3203);

(iii) section 503(d) of the Trade Act of 1974 (19 U.S.C. 2463(d)); and

(iv) General Note 3(a)(iv) to the Harmonized Tariff Schedule.

(D) DEFINITIONS.—In this subsection:

(i) SUPPLY.—The term "supply" means, using the latest official data of the Bureau of the Census, the Department of Agriculture, and the Department of the Treasury—

(I) the carry-over of upland cotton at the beginning of the marketing year (adjusted to 480-pound bales) in which the quota is established;

(II) production of the current crop; and

(III) imports to the latest date available during the marketing year.

(ii) DEMAND.—The term "demand" means—

(I) the average seasonally adjusted annual rate of domestic mill consumption in the most recent 3 months for which data are available; and

(II) the larger of—

(aa) average exports of upland cotton during the preceding 6 marketing years; or

(bb) cumulative exports of upland cotton plus outstanding export sales for the marketing year in which the quota is established.

(iii) LIMITED GLOBAL IMPORT QUOTA.—The term "limited global import quota" means a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota.

(E) QUOTA ENTRY PERIOD.—When a quota is established under this subsection, cotton may be entered under the quota during the 90-day period beginning on the date the quota is established by the Secretary.

(2) NO OVERLAP.—Notwithstanding paragraph (1), a quota period may not be established that overlaps an existing quota period or a special quota period established under subsection (f)(2).

(h) SOURCE OF LOANS.—

(1) IN GENERAL.—The Secretary shall provide the loans authorized by this section and the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) through the Commodity Credit Corporation and other means available to the Secretary.

(2) PROCESSORS.—Whenever any loan or surplus removal operation for any agricultural commodity is carried out through purchases from or loans or payments to processors, the Secretary shall, to the extent practicable, obtain from the processors such assurances as the Secretary considers adequate that the producers of the commodity have received or will receive maximum benefits from the loan or surplus removal operation.

(i) ADJUSTMENTS OF LOANS.—

(1) IN GENERAL.—The Secretary may make appropriate adjustments in the loan levels for any commodity for differences in grade, type, quality, location, and other factors.

(2) LOAN LEVEL.—The adjustments shall, to the maximum extent practicable, be made in such manner that the average loan level for the commodity will, on the basis of the anticipated incidence of the factors, be equal to the level of support determined as provided in this section or the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.).

(j) PERSONAL LIABILITY OF PRODUCERS FOR DEFICIENCIES.—

(1) IN GENERAL.—Except as provided in paragraph (2), no producer shall be personally liable for any deficiency arising from the sale of the collateral securing any nonrecourse loan made under this section or the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) unless the loan was obtained through a fraudulent representation by the producer.

(2) LIMITATIONS.—Paragraph (1) shall not prevent the Commodity Credit Corporation or the Secretary from requiring a producer to assume liability for—

(A) a deficiency in the grade, quality, or quantity of a commodity stored on a farm or delivered by the producer;

(B) a failure to properly care for and preserve a commodity; or

(C) a failure or refusal to deliver a commodity in accordance with a program established under this section or the Agricultural Adjustment Act of 1938.

(3) ACQUISITION OF COLLATERAL.—The Secretary may include in a contract for a nonrecourse loan made under this section or the Agricultural Adjustment Act of 1938 a provision that permits the Commodity Credit Corporation, on and after the maturity of the loan or any extension of the loan, to acquire title to the unredeemed collateral without obligation to pay for any market value that the collateral may have in excess of the loan indebtedness.

(4) SUGARCANE AND SUGAR BEETS.—A security interest obtained by the Commodity Credit Corporation as a result of the execution of a security agreement by the processor of sugarcane or sugar beets shall be superior to all statutory and common law liens on raw cane sugar and refined beet sugar in favor of the producers of sugarcane and sugar beets and all prior recorded and unrecorded liens on the crops of sugarcane and sugar beets from which the sugar was derived.

(k) COMMODITY CREDIT CORPORATION SALES PRICE RESTRICTIONS.—

(1) IN GENERAL.—The Commodity Credit Corporation may sell any commodity owned or controlled by the Corporation at any price that the Secretary determines will maximize returns to the Corporation.

(2) NONAPPLICATION OF SALES PRICE RESTRICTIONS.—Paragraph (1) shall not apply to—

(A) a sale for a new or byproduct use;

(B) a sale of peanuts or oilseeds for the extraction of oil;

(C) a sale for seed or feed if the sale will not substantially impair any loan program;

(D) a sale of a commodity that has substantially deteriorated in quality or as to which there is a danger of loss or waste through deterioration or spoilage;

(E) a sale for the purpose of establishing a claim arising out of a contract or against a person who has committed fraud, misrepresentation, or other wrongful act with respect to the commodity;

(F) a sale for export, as determined by the Corporation; and

(G) a sale for other than a primary use.

(3) PRESIDENTIAL DISASTER AREAS.—

(A) IN GENERAL.—Notwithstanding paragraph (1), on such terms and conditions as the Secretary may consider in the public interest, the Corporation may make available any commodity or product owned or controlled by the Corporation for use in relieving distress—

(i) in any area in the United States (including the Virgin Islands) declared by the President to be an acute distress area because of unemployment or other economic cause, if the President finds that the use will not displace or interfere with normal marketing of agricultural commodities; and

(ii) in connection with any major disaster determined by the President to warrant assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(B) COSTS.—Except on a reimbursable basis, the Corporation shall not bear any costs in connection with making a commodity available under subparagraph (A) beyond the cost of the commodity to the Corporation incurred in—

(i) the storage of the commodity; and

(ii) the handling and transportation costs in making delivery of the commodity to designated agencies at 1 or more central locations in each State or other area.

(4) EFFICIENT OPERATIONS.—Paragraph (1) shall not apply to the sale of a commodity the disposition of which is desirable in the interest of the effective and efficient conduct of the operations of the Corporation because of the small quantity of the commodity involved, or because of the age, location, or questionable continued storability of the commodity.

SEC. 15. PAYMENT LIMITATIONS.

(a) IN GENERAL.—Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended by striking paragraphs (1) through (4) and inserting the following:

"(1) LIMITATION ON PAYMENTS UNDER PRODUCTION FLEXIBILITY CONTRACTS.—The total amount of contract payments made under section 13 of the Agricultural Market Transition Act to a person under 1 or more production flexibility contracts during any fiscal year may not exceed $40,000.

"(2) LIMITATION ON MARKETING LOAN GAINS AND LOAN DEFICIENCY PAYMENTS.—

"(A) LIMITATION.—The total amount of payments specified in subparagraph (B) that a person shall be entitled to receive under section 14 of the Agricultural Market Transition Act for contract commodities and oilseeds during any crop year may not exceed $75,000.

"(B) DESCRIPTION OF PAYMENTS.—The payments referred to in subparagraph (A) are the following:

"(i) Any gain realized by a producer from repaying a marketing assistance loan for a crop of any loan commodity at a lower level than the original loan rate established for the commodity under section 14(b) of the Act.

"(ii) Any loan deficiency payment received for a loan commodity under section 14(e) of the Act.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) (as amended by subsection (a)) is amended—

(A) by redesignating paragraphs (5), (6), and (7) as paragraphs (3), (4), and (5), respectively; and

(B) in the second sentence of paragraph (3)(A) (as so redesignated), by striking "paragraphs (6) and (7)" and inserting "paragraphs (4) and (5)".

(2) Section 1305(d) of the Agricultural Reconciliation Act of 1987 (Public Law 100–203; 7 U.S.C. 1308 note) is amended by striking "paragraphs (5) through (7) of section 1001, as amended by this subtitle," and inserting "paragraphs (3) through (5) of section 1001,".

(3) Section 1001A of the Food Security Act of 1985 (7 U.S.C. 1308–1(a)(1)) is amended—

"(A) by striking "(a) PREVENTION OF CREATION OF ENTITIES" and all that follows through "(b) PAYMENTS LIMITED TO ACTIVE FARMERS.".

REID (AND BROWN) AMENDMENT NO. 3161

(Ordered to lie on the table.)

Mr. REID (for himself and Mr. BROWN) submitted an amendment intended to be proposed by them to the bill S. 1541, supra; as follows:

At the appropriate place in the bill insert the following:

SEC. . TEA IMPORTATION.

(a) PROHIBITION OF FUNDING.—None of the funds appropriated or made available to the Food and Drug Administration shall be used to operate the Board of Tea Experts and related activities.

(b) REPEAL OF THE TEA IMPORTATION ACT.—The Act entitled "An Act To prevent the importation of impure and unwholesome tea", approved March 2, 1897 (commonly known as the Tea Importation Act; 21 U.S.C. 41 et seq.), is repealed.

(c) EFFECTIVE DATE.—This section shall take effect on the date of enactment of this Act.

FEINGOLD AMENDMENTS NOS. 3162—3166

(Ordered to lie on the table.)

Mr. FEINGOLD submitted five amendments intended to be proposed by him to the bill S. 1541, supra; as follows:

AMENDMENT NO. 3162

At the appropriate place in the miscellaneous title, insert the following:

Subtitle ___—Agricultural Promotion Accountability

SEC. ___1. SHORT TITLE.

This subtitle may be cited as the "Agricultural Promotion Accountability Act of 1996".

SEC. ___2. PURPOSE.

The purpose of this subtitle is to make agricultural promotion boards and councils more responsive to producers whose mandatory assessments support the activities of such boards and councils, to improve the representation and participation of such producers on such boards and councils, to ensure the independence of such boards and councils, to ensure the appropriate use of promotion funds, and to prevent legislatively authorized agricultural promotion and research boards from using mandatory assessments to directly or indirectly influence legislation or governmental action or policy.

SEC. ___3. DEFINITIONS.

In this subtitle:

(1) INFLUENCING LEGISLATION OR GOVERNMENTAL ACTION OR POLICY.—The term "influencing legislation or governmental action or policy" includes—

(A) establishing, administering, contributing to, or paying the expenses of a political party campaign, political action committee, or other organization established for the purpose of influencing the outcome of an election;

(B) attempting to influence—

(i) the outcome of any Federal, State or local election, referendum, initiative, or similar procedure through a cash contribution, in-kind contribution, endorsement, publicity or public relations activity or similar activity;

(ii) the introduction, modification, or enactment of any Federal or State legislation or signature or veto of any enrolled Federal or State legislation, including through—

(I) communication with any member or employee of a legislative body or agency or with any governmental official or employee who may participate in the formulation of the legislation, including engaging State or local officials in similar activity (not including a communication to an appropriate government official in response to a written request by the official for factual, scientific, or technical information relating to the conduct, implementation, or results of promotion, research, consumer information and education, industry information, or producer information activities under a promotion program);

(II) planning, preparing, funding, or distributing any publicity or propaganda to affect the opinion of the general public or a segment of the public in connection with a pending legislative matter; or

(III) urging members of the general public or any segment of the general public to contribute to, or participate in, any mass demonstration, march, rally, fund-raising drive, lobbying campaign, letter-writing campaign, or telephone campaign in connection with a pending legislative matter;

(C) carrying out a legislative liaison activity, including attendance at a legislative session or committee hearing to gather information regarding legislation or to analyze the effect of legislation, if the activity is carried on in support of, or in knowing preparation for, an effort to influence legislation or government action or policy;

(D) carrying out an opinion survey of the general public or a segment of the public, general research, or information gathering, if carried out in support of, or in knowing preparation for, an effort to influence legislation or government action or policy; or

(E) attempting to influence any agency action or agency proceeding, as the terms are defined in section 551 of title 5, United States Code, through—

(i) communication with any government official or employee who may participate in the action or proceeding (not including a communication to an appropriate government official in response to a written request by the official for factual, scientific, or technical information relating to the conduct, implementation, or results of promotion, research, consumer information or education, or industry information of producer information activities under a promotion program);

(ii) planning, preparing, funding, or distributing any publicity or propaganda to affect the opinions of the general public or any segment of the general public in connection with the action or proceeding; or

(iii) urging members of the general public or any segment of the general public to contribute to, or participate in, any mass demonstration, march, rally, fundraising drive, lobbying campaign, letter-writing campaign, or telephone campaign in connection with the action or proceeding.

(2) PROMOTION PROGRAM.—The term "promotion program" means—

(A) the cotton research and promotion program established under the Cotton Research and Promotion Act (7 U.S.C. 2101 et seq.);

(B) the potato research, development, advertising, and promotion program established under the Potato Research and Promotion Act (7 U.S.C. 2611 et seq.);

(C) the egg research, consumer and producer education, and promotion program established under the Egg Research and Consumer Information Act (7 U.S.C. 2701 et seq.);

(D) the beef promotion and research program established under the Beef Research and Information Act (7 U.S.C. 2901 et seq.);

(E) the wheat research and nutrition education program established under the Wheat and Wheat Foods Research and Nutrition Education Act (7 U.S.C. 3401 et seq.);

(F) the dairy promotion program established under the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4501 et seq.);

(G) the honey research, promotion, and consumer education program established under the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4601 et seq.);

(H) the pork promotion, research, and consumer information program established under the Pork Promotion, Research, and Consumer Information Act (7 U.S.C. 4801 et seq.);

(I) the watermelon research, development, advertising, and promotion program established under the Watermelon Research and Promotion Act (7 U.S.C. 4901 et seq.);

(J) the pecan promotion, research, industry information, and consumer information program established under the Pecan Promotion and Research Act of 1990 (7 U.S.C. 6001 et seq.);

(K) the mushroom promotion, research, and consumer and industry information program established under the Mushroom Promotion, Research, and Consumer Information Act of 1990 (7 U.S.C. 6101 et seq.);

(L) the lime research, promotion, and consumer information program established under the Lime Research, Promotion, and Consumer Information Act of 1990 (7 U.S.C. 6201 et seq.);

(M) the soybean promotion, research, consumer information, and industry information program established under the Soybean Promotion, Research, and Consumer Information Act (7 U.S.C. 6301 et seq.);

(N) the fluid milk advertising and promotion program established under the Fluid Milk Promotion Act of 1990 (7 U.S.C. 6401 et seq.);

(O) the flowers and greens promotion, consumer information, and related research program established under the Fresh Cut Flowers and Fresh Cut Greens Promotion and Information Act of 1993 (7 U.S.C. 6801 et seq.);

(P) the sheep promotion, research, consumer information, education, and industry information program established under the Sheep Promotion, Research, and Information Act of 1994 (7 U.S.C. 7101 et seq.); and

(Q) any other coordinated program of promotion, research, industry information, and consumer information that is funded by mandatory assessments on producers and designed to maintain and expand markets and uses for an agricultural commodity, as determined by the Secretary.

(3) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

SEC. ___4. INFLUENCING LEGISLATION OR GOVERNMENTAL ACTION OR POLICY.

(a) IN GENERAL.—A board or council established by a promotion program may not use any funds collected by the board or council for the purpose of directly or indirectly influencing legislation or governmental action or policy, except for the development and recommendation of amendments to the promotion program to the Secretary.

(b) CONFORMING AMENDMENTS.—

(1) COTTON.—Section 7(h) of the Cotton Research and Promotion Act (7 U.S.C. 2106(h)) is amended by striking "influencing governmental policy or action" and inserting "directly or indirectly influencing legislation or governmental action or policy (as defined in section ___3(1) of the Agricultural Promotion Accountability Act of 1996)".

(2) POTATOES.—Section 308(f)(3) of the Potato Research and Promotion Act (7 U.S.C. 2617(f)(3)) is amended by striking "influencing governmental policy or action" and inserting "directly or indirectly influencing legislation or governmental action or policy (as defined in section ___3(1) of the Agricultural Promotion Accountability Act of 1996)".

(3) EGGS.—Section 8(h) of the Egg Research and Consumer Information Act (7 U.S.C.

2707) is amended by striking "influencing governmental policy or action" and inserting "directly or indirectly influencing legislation or governmental action or policy (as defined in section ___3(1) of the Agricultural Promotion Accountability Act of 1996)".

(4) BEEF.—Section 5(10) of the Beef Research and Information Act (7 U.S.C. 2904(10)) is amended—

(A) by striking "influencing governmental action or policy" and inserting "directly or indirectly influencing legislation or governmental action or policy (as defined in section ___3(1) of the Agricultural Promotion Accountability Act of 1996)"; and

(B) by inserting "to the Secretary" before the period at the end.

(5) WHEAT.—Section 1706(i) of the Wheat and Wheat Foods Research and Nutrition Education Act (7 U.S.C. 3405(i)) is amended by striking "influencing governmental policy or action" and inserting "directly or indirectly influencing legislation or governmental action or policy (as defined in section ___3(1) of the Agricultural Promotion Accountability Act of 1996)".

(6) DAIRY.—Section 113(j) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504(j)) is amended by striking "influencing governmental policy or action" and inserting "directly or indirectly influencing legislation or governmental action or policy (as defined in section ___3(1) of the Agricultural Promotion Accountability Act of 1996),".

(7) HONEY.—Section 7(h) of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4606(h)) is amended by striking "influencing governmental policy or action" and inserting "directly or indirectly influencing legislation or governmental action or policy (as defined in section ___3(1) of the Agricultural Promotion Accountability Act of 1996)".

(8) PORK.—Section 1620(e) of the Pork Promotion, Research, and Consumer Information Act (7 U.S.C. 4809(e)) is amended by striking "influencing legislation" and all that follows through the period at the end and inserting the following: "directly or indirectly influencing legislation or governmental action or policy (as defined in section ___3(1) of the Agricultural Promotion Accountability Act of 1996), except to recommend amendments to the order to the Secretary.".

(9) WATERMELONS.—Section 1647(g)(3) of the Watermelon Research and Promotion Act (7 U.S.C. 4906(g)(3)) is amended by striking "influencing governmental policy or action" and inserting "directly or indirectly influencing legislation or governmental action or policy (as defined in section ___3(1) of the Agricultural Promotion Accountability Act of 1996)".

(10) PECANS.—Section 1910(g)(1) of the Pecan Promotion and Research Act of 1990 (7 U.S.C. 6005(g)(1)) is amended—

(A) in the matter preceding paragraph (1)—

(i) by striking "to," and inserting "for the purpose of,"; and

(ii) by striking "to—" and inserting "for the purpose of—";

(B) in paragraph (1), by striking "influence legislation or governmental action" and inserting "directly or indirectly influencing legislation or governmental action or policy (as defined in section ___3(1) of the Agricultural Promotion Accountability Act of 1996)";

(C) in paragraph (2), by striking "engage" and inserting "engaging"; and

(D) in paragraph (3), by striking "engage" and inserting "engaging".

(11) MUSHROOMS.—Section 1925(h) of the Mushroom Promotion, Research, and Consumer Information Act of 1990 (7 U.S.C. 6104(h)) is amended by striking "influencing legislation or governmental action or policy" and inserting "directly or indirectly influencing legislation or governmental action or policy (as defined in section ___3(1) of the Agricultural Promotion Accountability Act of 1996)".

(12) LIMES.—Section 1955(g) of the Lime Research, Promotion, and Consumer Information Act of 1990 (7 U.S.C. 6204(g)) is amended by striking "influencing legislation or governmental policy or action" and inserting "directly or indirectly influencing legislation or governmental action or policy (as defined in section ___3(1) of the Agricultural Promotion Accountability Act of 1996)".

(13) SOYBEANS.—Section 1969(p) of the Soybean Promotion, Research, and Consumer Information Act (7 U.S.C. 6304(p) is amended—

(A) in paragraph (1), by striking "influencing legislation or governmental action or policy" and inserting "directly or indirectly influencing legislation or governmental action or policy (as defined in section ___3(1) of the Agricultural Promotion Accountability Act of 1996)"; and

(B) in paragraph (2)—

(i) in subparagraph (A), by inserting "to the Secretary" before the semicolon; and

(ii) in subparagraph (B), by inserting ", in response to a request made by the officials," after "officials".

(14) MILK.—Section 1999H(j)(1) of the Fluid Milk Promotion Act of 1990 (7 U.S.C. 6407(j)(1)) is amended by striking "influencing legislation or governmental action or policy" and inserting "directly or indirectly influencing legislation or governmental action or policy (as defined in section ___3(1) of the Agricultural Promotion Accountability Act of 1996)".

(15) FLOWERS AND GREENS.—Section 5(i) of the Fresh Cut Flowers and Fresh Cut Greens Promotion and Information Act of 1993 (7 U.S.C. 6804(i)) is amended by striking "influencing legislation or government action or policy" and inserting "directly or indirectly influencing legislation or governmental action or policy (as defined in section ___3(1) of the Agricultural Promotion Accountability Act of 1996)".

(16) SHEEP.—Section 5(l)(1) of the Sheep Promotion, Research, and Information Act of 1994 (7 U.S.C. 7104(l)(1)) is amended by striking "influencing legislation or government action or policy" and inserting "directly or indirectly influencing legislation or governmental action or policy (as defined in section ___3(1) of the Agricultural Promotion Accountability Act of 1996)".

SEC. ___5. PROMOTING THE IMAGE OF AN INDUSTRY PROHIBITED.

(a) IN GENERAL.—A board or council established by a promotion program may not use any funds collected by the board or council for the purpose of enhancing the image of an industry, except that the board or council may promote the image of a product with the express intent of stimulating demand for and sales of an agricultural product in the marketplace.

(b) CONFORMING AMENDMENTS.—

(1) BEEF.—Section 3(9) of the Beef Research and Information Act (7 U.S.C. 2902(9)) is amended by striking ", increased efficiency" and all that follows through "industry" and inserting "and increased efficiency".

(2) PECANS.—Section 1907(12) of the Pecan Promotion and Research Act of 1990 (7 U.S.C. 6002(12)) is amended by striking ", increased efficiency" and all that follows through "industry" and inserting "and increased efficiency".

(3) MUSHROOMS.—Section 1923(7) of the Mushroom Promotion, Research, and Consumer Information Act of 1990 (7 U.S.C. 6103(7)) is amended by striking ", increased efficiency" and all that follows through "industry" and inserting "and increased efficiency".

(4) SOYBEANS.—Section 1967(7) of the Soybean Promotion, Research, and Consumer Information Act (7 U.S.C. 6302(7)) is amended by striking ", and activities" and all that follows through "industry".

SEC. ___6. LIMITATIONS ON CONTRACTING.

(a) PERMITTED CONTRACTS OR AGREEMENTS.—Notwithstanding any other provision of law, a board or council established by a promotion program shall not be limited to contracting with, or entering into an agreement with, an established national nonprofit industry-governed organization.

(b) COMPETITIVE BIDDING.—It is the policy of Congress that boards and councils should, to the extent practicable, use competitive bidding in the awarding of contracts and grants for activities authorized under a promotion program.

(c) INDEPENDENCE OF BOARDS AND COUNCILS.—

(1) APPLICATIONS AND RECOMMENDATIONS NOT BINDING.—Notwithstanding any other provision of law, a board or council established by a promotion program shall not be bound by a proposed application for a board or council contract or a recommendation or advice of a potential contractor or a national nonprofit industry-governed organization on the use of board or council receipts.

(2) INTERLOCKING BOARDS OR MEMBERSHIP.—Notwithstanding any other provision of law, no person shall be eligible to be a member of any board or council established by a promotion program (including operating and nominating committees) if the person serves in any decision making capacity, such as that of a member of the board of directors, executive committee, or other committee, for an entity that enters into a contract or other agreement with the board or council.

(3) REQUIREMENTS FOR CONTRACTING.—A contractor or grantee of a board or council may not use funds collected through mandatory assessments under a promotion program to fund any staff (including expenses or other activities of the staff) who, in part, engage in 1 or more activities to influence legislation or governmental action or policy.

(d) PRODUCER APPROVAL OF RELATIONSHIPS WITH BOARDS OR COUNCILS.—

(1) IN GENERAL.—Except as provided in paragraph (2) and notwithstanding any other provision of law, the entering into of a permanent cooperative arrangement or the establishment of a joint committee (including an arrangement that is advisory in nature) by a board or council established by a promotion program with a national nonprofit industry-governed organization shall require the prior approval of at least ⅔ of the eligible producers under the promotion program.

(2) EXCEPTION.—Paragraph (1) shall not apply to a cooperative arrangement or joint committee—

(A) that was established prior to January 1, 1995; or

(B) that includes representatives or participation from all producer-, processor-, or handler-governed national nonprofit organizations (including general farm organizations) that represent any but an insignificant number of producers, processors, or handlers paying assessments under the promotion program to the board or council, as determined by the Secretary.

(3) PERMANENT COOPERATIVE ARRANGEMENT.—In this subsection, the term "permanent cooperative arrangement" means a formal or informal, written or unwritten agreement or understanding establishing a relationship, a liaison, a sole source contract, or an operational mechanism under which a board or council shares staff, facilities, or other resources or carries out coordinated activities with any entity on a more or less permanent and exclusive basis.

(e) FUNGIBILITY OF BOARD OR COUNCIL FUNDS.—

(1) IN GENERAL.—The Inspector General of the Department of Agriculture shall conduct an annual review of contractual arrangements between each board or council established by a promotion program and any entity or association that engages in activities to influence legislation or governmental action or policy and receives a significant amount of funding from the board or council as determined by the Secretary.

(2) SCOPE OF REVIEW.—A review under paragraph (1) shall examine whether any funds collected by the board or council are used to directly or indirectly fund or subsidize an entity or association that engages in influencing legislation or governmental action or policy.

(3) REPORT.—The Secretary shall submit a report on the findings of any review under this subsection and make recommendations for any actions that should be taken as a result of the findings to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

SEC. ___7. PERIODIC REFERENDA.

(a) IN GENERAL.—Notwithstanding any other provision of law, not less than 4 nor more than 6 years after the date of enactment of this Act or the date on which the Secretary determines the results of the most recent referendum for a promotion program, whichever is earlier, and not less than once every 5 years thereafter, the Secretary shall conduct a referendum to determine whether to approve or terminate the order under the promotion program and whether refunds should be made under the order.

(b) PROCEDURE.—The referendum under subsection (a) shall be conducted using the same eligibility and other procedures as the referendum used to approve the original order under the promotion program, except that, notwithstanding any other provision of law, no greater than a simple majority of eligible producers shall be required to approve the making of refunds to producers.

(c) TERMINATION.—

(1) IN GENERAL.—If the percentage of persons voting to approve the order does not equal or exceed the percentage of persons necessary to approve the continuation of the original order under the promotion program, the Secretary shall terminate the order.

(2) TIME OF TERMINATION.—The Secretary shall terminate the order at the end of the marketing year during which the referendum is conducted.

(d) REFUNDS.—If the making of refunds is approved in a referendum under subsection (a), the Secretary shall establish a procedure for making the refunds not later than 180 days after the date of the referendum.

(e) COOPERATIVE ASSOCIATION.—Notwithstanding subsection (b), a cooperative association may not vote on behalf of the members of the association in a referendum conducted under this section.

(f) INACTIVE PROMOTION PROGRAMS.—The Secretary shall not conduct a referendum of a promotion program under this section if the Secretary determines that the promotion program is not active.

AMENDMENT NO. 3163

At the appropriate place in the bill, insert the following:

SEC. ___. DAIRY PROMOTION PROGRAM IMPROVEMENT.

(a) FUNDING OF DAIRY PROMOTION AND RESEARCH PROGRAM.—

(1) DECLARATION OF POLICY.—The first sentence of section 110(b) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4501(b)) is amended—

(A) by inserting after "commercial use" the following: "and on imported dairy products"; and

(B) by striking "products produced in" and inserting "products produced in or imported into".

(2) DEFINITIONS.—Section 111 of the Act (7 U.S.C. 4502) is amended—

(A) in subsection (k), by striking "and" at the end;

(B) in subsection (l), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following new subsections:

"(m) the term 'imported dairy product' means—

"(1) any dairy product, including milk and cream and fresh and dried dairy products;

"(2) butter and butterfat mixtures;

"(3) cheese;

"(4) casein and mixtures; and

"(5) other dairy products;

that are imported into the United States; and

"(n) the term 'importer' means a person that imports an imported dairy product into the United States.".

(2) FUNDING.—

(A) REPRESENTATION ON BOARD.—Section 113(b) of the Act (7 U.S.C. 4504(b)) is amended—

(i) by designating the first through ninth sentences as paragraphs (1) through (5) and paragraphs (7) through (10), respectively;

(ii) in paragraph (1) (as so designated), by striking "thirty-six" and inserting "38";

(iii) in paragraph (2) (as so designated), by striking "Members" and inserting "Of the members of the Board, 36 members"; and

(iv) by inserting after paragraph (5) (as so designated) the following new paragraph:

"(6) Of the members of the Board, 2 members shall be representatives of importers of imported dairy products. The importer representatives shall be appointed by the Secretary from nominations submitted by importers under such procedures as the Secretary determines to be appropriate.".

(B) ASSESSMENT.—Section 113(g) of the Act is amended—

(i) by designating the first through fifth sentences as paragraphs (1) through (5), respectively; and

(ii) by adding at the end the following new paragraph:

"(6)(A) The order shall provide that each importer of imported dairy products shall pay an assessment to the Board in the manner prescribed by the order.

"(B) The rate of assessment on imported dairy products shall be determined in the same manner as the rate of assessment per hundredweight or the equivalent of milk.

"(C) For the purpose of determining the assessment on imports under subparagraph (B), the value to be placed on imported dairy products shall be established by the Secretary in a fair and equitable manner.".

(C) RECORDS.—The first sentence of section 113(k) of the Act is amended by striking "person receiving" and inserting "importer of imported dairy products, each person receiving".

(D) REFERENDUM.—Section 116 of the Act (7 U.S.C. 4507) is amended by adding at the end the following new subsection:

"(d)(1) On the request of a representative group comprising 10 percent or more of the number of producers subject to the order, the Secretary shall—

"(A) conduct a referendum to determine whether the producers favor suspension of the application of the amendments made by section 2 of the Dairy Promotion Program Improvement Act of 1995; and

"(B) suspend the application of the amendments until the results of the referendum are known.

"(2) The Secretary shall continue the suspension of the application of the amendments made by section 2 only if the Secretary determines that suspension of the application of the amendments is favored by a majority of the producers voting in the referendum who, during a representative period (as determined by the Secretary), have been engaged in the production of milk for commercial use.".

(b) PERIODIC REFERENDA.—Section 115(a) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4506(a)) is amended—

(1) in the first sentence, by striking "Within the sixty-day period immediately preceding September 30, 1985" and inserting "Every 5 years"; and

(2) in the second sentence, by striking "six months" and inserting "3 months".

(c) PROHIBITION ON BLOC VOTING.—Section 117 of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4508) is amended—

(1) in the first sentence, by striking "Secretary shall" and inserting "Secretary shall not"; and

(2) by striking the second through fifth sentences.

AMENDMENT NO. 3164

On page 72, between lines 8 and 9, insert the following:

SEC. . LOCATION ADJUSTMENTS FOR MINIMUM PRICES FOR CLASS I MILK.

Section 8c(5) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(1) in paragraph (A)—

(A) in clause (3) of the second sentence, by inserting after "the locations" the following: "within a marketing area subject to the order"; and

(B) by striking the last 2 sentences and inserting the following: "Notwithstanding paragraph (18) or any other provision of law, when fixing minimum prices for milk of the highest use classification in a marketing area subject to an order under this subsection, the Secretary may not, directly or indirectly, base the prices on the distance from, or all or part of the costs incurred to transport milk to or from, any location that is not within the marketing area subject to the order, unless milk from the location constitutes at least 50 percent of the total supply of milk of the highest use classification in the marketing area. The Secretary shall report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the criteria that are used as the basis for the minimum prices referred to in the preceding sentence, including a certification that the minimum prices are made in accordance with the preceding sentence."; and

(2) in paragraph (B)(c), by inserting after "the locations" the following: "within a marketing area subject to the order".

AMENDMENT NO. 3165

On page 72, between lines 8 and 9, insert the following:

SEC. . MILK MANUFACTURING MARKETING ADJUSTMENT.

Subsections (a) and (b) of section 102 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1446e-1) are amended to read as follows:

"(a) DEFINITIONS.—In this section:

"(1) FEDERAL MAKE ALLOWANCE.—The term 'Federal make allowance' means the allowance for the processing of milk that is permitted under a Federal program to establish a Grade A price for manufacturing butter, nonfat dry milk, or cheese.

"(2) PERSON.—The term 'person' includes a cooperative.

"(3) STATE MAKE ALLOWANCE.—The term 'State make allowance' means the allowance for the processing of milk that is permitted by a State for manufacturing butter, nonfat dry milk, or cheese.

"(b) MILK MANUFACTURING MARKETING ADJUSTMENT.—Notwithstanding any other provision of law, if a person collects a State make allowance that is higher than the Federal make allowance and the milk or product of milk that is subject to the allowance is purchased by the Commodity Credit Corporation, regardless of the point of sale, the Corporation shall reduce the support purchase price for the milk and each product of the milk by an amount that is equal to the difference between the State make allowance and the Federal make allowance for the milk and product, as determined by the Secretary of Agriculture.".

AMENDMENT NO. 3166

On page 95, after line 10, add the following:

SEC. . SPECIAL RESEARCH GRANTS PROGRAM.

(a) IN GENERAL.—Section 2(c)(2) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i(c)(2)) is amended—

(1) in subparagraph (A), by striking "or" at the end;

(2) in subparagraph (B), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(C) unless the project to receive the grant has been subject to a competitive selection process and a scientific peer review evaluation by qualified scientists in the Federal Government, colleges and universities, State agricultural experiment stations, and the private sector.".

(b) APPLICATION.—The amendments made by subsection (a) shall apply only in the case of a project that has not been specifically authorized, or for which no funds have been made available, as of the date of enactment of this Act.

HARKIN AMENDMENTS NOS. 3167–3169

(Ordered to lie on the table.)

Mr. HARKIN submitted three amendments intended to be proposed by him to the bill S. 1541, supra; as follows:

AMENDMENT NO. 3167

On page 20, strike lines 15 and 16 and insert the following: "loan for wheat shall not be less than 90 percent of the".

On page 20, strike lines 23 and 24 and insert the following: "age price was the lowest in the period."

On page 22, strike lines 3 and 4 and insert the following: "ing assistance loan for corn shall not be less than 90 percent of the".

On page 22, strike lines 11 and 12 and insert the following: "price was the lowest in the period."

On page 25, strike lines 24 and 25 and insert the following: "keting assistance loan for soybeans shall be—

"(i) 90 percent of the simple average price received by producers of soybeans, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of soybeans, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; but

"(ii) not less than $4.92 per bushel."

On page 26, strike line 6 and insert the following: "individually, shall be—

"(i) 90 percent of the simple average price received by producers of each such oilseed, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of the oilseed, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; but

"(ii) not less than $0.087 per pound."

AMENDMENT NO. 3168

On page 74, strike lines 5 through 10 and insert the following:

(B) by transferring sections 110, 111, 201(c), and 204 (7 U.S.C. 1445e, 1445f, 1446(c), and 1446e) to appear after section 304 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1304) and redesignating the transferred sections as sections 305, 306, 307, and 308, respectively; and

On page 74, strike lines 21 through 24 and insert the following:

(1) Section 307 of the Agricultural Adjustment Act of 1938 (as transferred and redesignated by subsection (b)(1)(B)) is amended by striking "204" and inserting "308".

AMENDMENT NO. 3169

Strike the section relating to the Commodity Credit Corporation interest rate.

KERREY AMENDMENTS NOS. 3170–3175

Mr. KERREY submitted six amendments intended to be proposed by him to the bill (S. 1541), supra; as follows:

AMENDMENT NO. 3170

On page 22, line 1, strike "subject to subparagraph (B),".

AMENDMENT NO. 3171

On page 20, line 13, strike "subject to subparagraph (B),".

AMENDMENT NO. 3172

On page 20, line 23, strike "; but" through page 21, line 23, and insert in lieu thereof ".".

AMENDMENT NO. 3173

On page 22, line 12, strike "; but" through page 23, line 10, and insert in lieu thereof ".".

AMENDMENT NO. 3174

On page 25, line 23 strike line 23 through page 26, line 6, and insert in lieu thereof, "The loan rate for a marketing assistance loan for soybeans shall be not less than 85 percent of the simple coverage price received by producers of soybeans, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of soybeans, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period."

"B. Sunflower seed, canola, rapeseed, safflower, mustard seed, and flaxseed.—The loan rates for a marketing assistance loan for a sunflower seed, canola, rapeseed, safflowers, mustard seed, and flaxseed, individually, shall be not less than 85 percent of the simple average price received by producers of such crops, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of such crops, excluding, the year in which the average price was the highest and the year in which the average price was the lowest in the period."

AMENDMENT NO. 3175

On page 73, strike all of section 19.

KERREY amendment no. 3176

(Ordered to lie on the table.)

Mr. KERREY submitted an amendment intended to be proposed by him to the bill S. 1541, supra; as follows:

On page 77, line 18, strike "means an operation that—" through page 78 line 9, and insert in lieu thereof, "shall be determined by each State's State Technical Committee, which shall consider local conditions in its determination."

KERREY AMENDMENTS NOS. 3177–3181

(Ordered to lie on the table.)

Mr. KERREY submitted five amendments intended to be proposed by him to the bill S. 1541, supra; as follows:

AMENDMENT NO. 3177

On page 91, between line 11 and 12, insert the following:

(c) RECONFIGURATION OF BOARD OF DIRECTORS.—Section 505 of the Federal Crop Insurance Act (7 U.S.C. 1505) is amended to read as follows:

"SEC. 505. BOARD OF DIRECTORS.

"(a) AUTHORITY.—The management of the Corporation shall be vested in a Board of Directors subject to the general supervision of the Secretary.

"(b) MEMBERSHIP.—

"(1) IN GENERAL.—The Board shall be appointed by the Secretary and shall consist of the Manager of the Corporation, the Under Secretary of Agriculture responsible for the Federal crop insurance program, one person who is an officer or employee of an approved insurance provider, one person who is a licensed crop insurance agent, one person experienced in the reinsurance business who is not otherwise employed by the Federal Government, and four active producers who are not otherwise employed by the Federal Government. The Secretary may not be a member of the Board.

"(2) PRODUCER MEMBERS.—In appointing the four active producers who are not otherwise employed by the Federal Government, the Secretary shall ensure that three such members are policyholders and are from different geographic areas of the United States, in order that diverse agricultural interests in the United States are at all times represented on the Board. The Secretary shall ensure that the fourth active producer, who may also be a policyholder, receives a significant portion of crop income from crops covered by the noninsured crop disaster assistance program established under section 519.

"(c) TERMS OF OFFICE.—

"(1) TERMS OF USDA EMPLOYEES.—The Manager of the Corporation and the Under Secretary of Agriculture responsible for the Federal crop insurance program shall hold office at the pleasure of the Secretary.

"(2) TERMS OF OTHER MEMBERS.—Other than the Manager of the Corporation and the Under Secretary of Agriculture responsible for the Federal crop insurance program, the members of the Board shall be appointed by the Secretary for a term of 3 years. However, in the initial appointment of such members, the Secretary shall appoint two members for one year, two members for two years, and two members for three years in order to provide greater continuity to the Board.

"(3) SUCCESSION.—A member of the Board appointed under paragraph (2) may serve after the expiration of the term of office of such member until the successor for such member has taken office.

"(d) QUORUM.—Five of the members in office shall constitute a quorum for the transaction of the business of the Board.

"(e) IMPAIRMENT OF POWERS.—The powers of the Board to execute the functions of the Corporation shall be impaired at any time there are not six members of the Board in office.

"(f) COMPENSATION.—

"(1) EMPLOYEES OF THE DEPARTMENT.—The Directors of the Corporation who are employed in the Department shall receive no additional compensation for their services as such Directors but may be allowed necessary traveling and subsistence expenses when engaged in business of the Corporation, outside of the District of Columbia.

"(2) NON-EMPLOYEES OF THE FEDERAL GOVERNMENT.—The Directors of the Corporation who are not employed by the Federal Government shall be paid such compensation for their services as Directors as the Secretary shall determine, but such compensation shall not exceed the daily equivalent of the rate prescribed for positions at level V of the Executive Schedule under section 5316 of Title 5, United States Code, when actually employed. Such members may also receive actual necessary traveling and subsistence expenses, or a per diem allowance in lieu of subsistence expenses, as authorized by section 5703 of such title for persons in Government service employed intermittently, when on the business of the Corporation away from their homes or regular places of business.

"(g) CHIEF EXECUTIVE OFFICER.—The Manager of the Corporation shall be its chief executive officer, with such power and authority as may be conferred by the Board. The Manager shall be appointed by, and hold office at the pleasure of, the Secretary.".

AMENDMENT NO. 3178

On page 91, between lines 11 and 12, insert the following:

(c) ESTABLISHMENT OF THE OFFICE OF RISK MANAGEMENT.—

(1) ESTABLISHMENT.—The Department of Agriculture Reorganization Act of 1994 is amended by inserting after section 226 (7 U.S.C. 6932) the following new section:

"SEC. 226A. OFFICE OF RISK MANAGEMENT.

"(a) ESTABLISHMENT.—The Secretary shall establish and maintain in the Department an independent Office of Risk Management.

or

"(a) ESTABLISHMENT.—Nothing in this Act shall change the status of the Federal Crop Insurance Corporation, an agency created under the Federal Crop Insurance Act (7 U.S.C. 1503), as an agency within the Department. The administration of the agency shall be carried out by an independent Office of Risk Management that is separate and independent of the Consolidated Farm Services Agency and of equal or higher ranking than that agency within the Department.

"(b) FUNCTIONS OF THE OFFICE OF RISK MANAGEMENT.—The Office of Risk Management shall have jurisdiction over the following functions:

"(1) Supervision of the Federal Crop Insurance Corporation.

"(2) Administration and oversight of all aspects, including delivery through local offices of the Department, of all programs authorized under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

"(3) Any pilot or other programs involving revenue insurance, risk management savings account, or the use of the futures market to manage risk and support farm income that may be established under the Federal Crop Insurance Act or other law.

"(4) Such other functions as the Secretary considers appropriate.

"(c) MANAGER.—The Manager of the Federal Crop Insurance Corporation shall serve as head of the Office of Risk Management but not in any other capacity.

"(d) RESOURCES.—

"(1) FUNCTIONAL COORDINATION.—Certain functions of the Office of Risk Management such as human resources, public affairs, and legislative affairs may be provided by a consolidation of such functions under the Under Secretary of Agriculture responsible for the crop insurance program.

"(2) MINIMUM PROVISIONS.—Notwithstanding paragraph (1) or any other provision of law or order of the Secretary, the Secretary shall provide the Office of Risk Management with human and capital resources sufficient for it to carry out its functions in a timely and efficient manner.

"(3) FISCAL YEAR 1996 FUNDING.—Not less than $88,500,000 of the appropriation provided for the salaries and expenses of the Consolidated Farm Services Agency in the Agricultural, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1996 shall be provided to the Office of Risk Management for the salaries and expenses of the Office.".

(2) CONFORMING AMENDMENT.—Section 226(b) of such Act (7 U.S.C. 6932(b)) is amended by striking paragraph (2).

AMENDMENT NO. 3179

On page 85, strike lines 12 through line 17.

AMENDMENT NO. 3180

On page 87, strike lines 19 through line 25.

AMENDMENT NO. 3181

On page 95, strike lines 3 through line 10.

KERRY AMENDMENT NO. 3182

(Ordered to lie on the table.)

Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 1541, supra; as follows:

On page 88, strike all after "$100,000,000" on line 10 through "2002,"." on line 11 and insert in lieu thereof the following: "$1,000,000 for each of fiscal years 1996 through 2002, and notwithstanding any other provision of law or this Act, $90,000,000 shall be placed in a separate fund in each of fiscal years 1996 through 2002 which fund is to be administered by the Secretary of Agriculture, and from which fund the Secretary is authorized to make grants to the states and to non-profit organizations for the purpose of alleviating the hunger of women, infants, and children which exceeds the ability of government programs to alleviate because of funding limitations imposed by this Act or any other law on the federal programs intended to accomplish that objective."

KERRY AMENDMENT NO. 3183

(Ordered to lie on the table.)

Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 1541, supra; as follows:

On page 88, strike "$100,000,000" on line 10 and insert in lieu thereof "$500,000".

LEAHY (AND OTHERS) AMENDMENT NO. 3184

Mr. CRAIG (for Mr. LEAHY, for himself, Mr. LUGAR, Mr. BREAUX, Mr. DOLE, Mr. JOHNSTON, Mr. COCHRAN, Mr. GRAHAM, Mr. GRASSLEY, Mr. JEFFORDS, and Mr. MCCONNELL), proposed an amendment to the bill S. 1541, supra; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Agricultural Reform and Improvement 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—AGRICULTURAL MARKET TRANSITION PROGRAM

Sec. 101. Short title.
Sec. 102. Definitions.
Sec. 103. Production flexibility contracts.
Sec. 104. Nonrecourse marketing assistance loans and loan deficiency payments.
Sec. 105. Payment limitations.
Sec. 106. Peanut program.
Sec. 107. Sugar program.
Sec. 108. Consent to Northeast Interstate Dairy Compact.
Sec. 109. Administration.
Sec. 110. Elimination of permanent price support authority.
Sec. 111. Effect of amendments.

TITLE II—AGRICULTURAL TRADE

Sec. 201. Public Law 480.
Sec. 202. Market promotion program.
Sec. 203. Export enhancement program.
Sec. 204. Food for progress.
Sec. 205. Emerging democracies.

TITLE III—CONSERVATION

Subtitle A—Definitions

Sec. 301. Definitions.

Subtitle B—Environmental Conservation Acreage Reserve Program

Sec. 311. Environmental conservation acreage reserve program.
Sec. 312. Conservation reserve program.
Sec. 313. Wetlands reserve program.
Sec. 314. Environmental quality incentives program.

Subtitle C—Conservation Funding

Sec. 321. Conservation funding.

Subtitle D—National Natural Resources Conservation Foundation

Sec. 331. Short title.
Sec. 332. Definitions.
Sec. 333. National Natural Resources Conservation Foundation.
Sec. 334. Composition and operation.

Sec. 335. Officers and employees.
Sec. 336. Corporate powers and obligations of the Foundation.
Sec. 337. Administrative services and support.
Sec. 338. Audits and petition of Attorney General for equitable relief.
Sec. 339. Release from liability.
Sec. 340. Authorization of appropriations.
Subtitle E—Miscellaneous
Sec. 351. Flood risk reduction.
Sec. 352. Forestry.
Sec. 353. State technical committees.
Sec. 354. Conservation of private grazing land.
Sec. 355. Conforming amendments.
TITLE IV—NUTRITION ASSISTANCE
Sec. 401. Food stamp program.
Sec. 402. Commodity distribution program; commodity supplemental food program.
Sec. 403. Emergency food assistance program.
Sec. 404. Soup kitchens program.
Sec. 405. National commodity processing.
TITLE V—MISCELLANEOUS
Sec. 501. Fund for dairy producers to pay for nutrient management.
Sec. 502. Crop insurance.
Sec. 503. Revenue insurance.
Sec. 504. Collection and use of agricultural quarantine and inspection fees.
Sec. 505. Commodity Credit Corporation interest rate.
Sec. 506. Everglades Agricultural Area.

TITLE I—AGRICULTURAL MARKET TRANSITION PROGRAM

SEC. 101. SHORT TITLE.

This title may be cited as the "Agricultural Market Transition Act".

SEC. 102. DEFINITIONS.

In this title:

(1) CONSIDERED PLANTED.—The term "considered planted" means acreage that is considered planted under title V of the Agricultural Act of 1949 (7 U.S.C. 1461 et seq.) (as in effect prior to the amendment made by section 110(b)(2)).

(2) CONTRACT.—The term "contract" means a production flexibility contract entered into under section 103.

(3) CONTRACT ACREAGE.—The term "contract acreage" means 1 or more crop acreage bases established for contract commodities under title V of the Agricultural Act of 1949 (as in effect prior to the amendment made by section 110(b)(2)) that would have been in effect for the 1996 crop (but for the amendment made by section 110(b)(2)).

(4) CONTRACT COMMODITY.—The term "contract commodity" means wheat, corn, grain sorghum, barley, oats, upland cotton, and rice.

(5) CONTRACT PAYMENT.—The term "contract payment" means a payment made under section 103 pursuant to a contract.

(6) CORN.—The term "corn" means field corn.

(7) DEPARTMENT.—The term "Department" means the United States Department of Agriculture.

(8) FARM PROGRAM PAYMENT YIELD.—The term "farm program payment yield" means the farm program payment yield established for the 1995 crop of a contract commodity under title V of the Agricultural Act of 1949 (as in effect prior to the amendment made by section 110(b)(2)).

(9) LOAN COMMODITY.—The term "loan commodity" means each contract commodity, extra long staple cotton, and oilseeds.

(10) OILSEED.—The term "oilseed" means a crop of soybeans, sunflower seed, rapeseed, canola, safflower, flaxseed, mustard seed, or, if designated by the Secretary, other oilseeds.

(11) PERSON.—The term "person" means an individual, partnership, firm, joint-stock company, corporation, association, trust, estate, or State agency.

(12) PRODUCER.—

(A) IN GENERAL.—The term "producer" means a person who, as owner, landlord, tenant, or sharecropper, shares in the risk of producing a crop, and is entitled to share in the crop available for marketing from the farm, or would have shared had the crop been produced.

(B) HYBRID SEED.—The term "producer" includes a person growing hybrid seed under contract. In determining the interest of a grower of hybrid seed in a crop, the Secretary shall not take into consideration the existence of a hybrid seed contract.

(13) PROGRAM.—The term "program" means the agricultural market transition program established under this title.

(14) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(15) STATE.—The term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

(16) UNITED STATES.—The term "United States", when used in a geographical sense, means all of the States.

SEC. 103. PRODUCTION FLEXIBILITY CONTRACTS.

(a) CONTRACTS AUTHORIZED.—

(1) OFFER AND TERMS.—Beginning as soon as practicable after the date of the enactment of this title, the Secretary shall offer to enter into a contract with an eligible owner or operator described in paragraph (2) on a farm containing eligible farmland. Under the terms of a contract, the owner or operator shall agree, in exchange for annual contract payments, to comply with—

(A) the conservation plan for the farm prepared in accordance with section 1212 of the Food Security Act of 1985 (16 U.S.C. 3812);

(B) wetland protection requirements applicable to the farm under subtitle C of title XII of the Act (16 U.S.C. 3821 et seq.); and

(C) the planting flexibility requirements of subsection (j).

(2) ELIGIBLE OWNERS AND OPERATORS DESCRIBED.—The following persons shall be considered to be an owner or operator eligible to enter into a contract:

(A) An owner of eligible farmland who assumes all of the risk of producing a crop.

(B) An owner of eligible farmland who shares in the risk of producing a crop.

(C) An operator of eligible farmland with a share-rent lease of the eligible farmland, regardless of the length of the lease, if the owner enters into the same contract.

(D) An operator of eligible farmland who cash rents the eligible farmland under a lease expiring on or after September 30, 2002, in which case the consent of the owner is not required.

(E) An operator of eligible farmland who cash rents the eligible farmland under a lease expiring before September 30, 2002, if the owner consents to the contract.

(F) An owner of eligible farmland who cash rents the eligible farmland and the lease term expires before September 30, 2002, but only if the actual operator of the farm declines to enter into a contract. In the case of an owner covered by this subparagraph, contract payments shall not begin under a contract until the fiscal year following the fiscal year in which the lease held by the nonparticipating operator expires.

(G) An owner or operator described in a preceding subparagraph regardless of whether the owner or operator purchased catastrophic risk protection for a fall-planted 1996 crop under section 508(b) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)).

(3) TENANTS AND SHARECROPPERS.—In carrying out this section, the Secretary shall provide adequate safeguards to protect the interests of operators who are tenants and sharecroppers.

(b) ELEMENTS.—

(1) TIME FOR CONTRACTING.—

(A) DEADLINE.—Except as provided in subparagraph (B), the Secretary may not enter into a contract after April 15, 1996.

(B) CONSERVATION RESERVE LANDS.—

(i) IN GENERAL.—At the beginning of each fiscal year, the Secretary shall allow an eligible owner or operator on a farm covered by a conservation reserve contract entered into under section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) that terminates after the date specified in subparagraph (A) to enter into or expand a production flexibility contract to cover the contract acreage of the farm that was subject to the former conservation reserve contract.

(ii) AMOUNT.—Contract payments made for contract acreage under this subparagraph shall be made at the rate and amount applicable to the annual contract payment level for the applicable crop.

(2) DURATION OF CONTRACT.—

(A) BEGINNING DATE.—A contract shall begin with—

(i) the 1996 crop of a contract commodity; or

(ii) in the case of acreage that was subject to a conservation reserve contract described in paragraph (1)(B), the date the production flexibility contract was entered into or expanded to cover the acreage.

(B) ENDING DATE.—A contract shall extend through the 2002 crop.

(3) ESTIMATION OF CONTRACT PAYMENTS.—At the time the Secretary enters into a contract, the Secretary shall provide an estimate of the minimum contract payments anticipated to be made during at least the first fiscal year for which contract payments will be made.

(c) ELIGIBLE FARMLAND DESCRIBED.—Land shall be considered to be farmland eligible for coverage under a contract only if the land has contract acreage attributable to the land and—

(1) for at least 1 of the 1991 through 1995 crops, at least a portion of the land was enrolled in the acreage reduction program authorized for a crop of a contract commodity under section 101B, 103B, 105B, or 107B of the Agricultural Act of 1949 (as in effect prior to the amendment made by section 110(b)(2)) or was considered planted;

(2) was subject to a conservation reserve contract under section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) whose term expired, or was voluntarily terminated, on or after January 1, 1995; or

(3) is released from coverage under a conservation reserve contract by the Secretary during the period beginning on January 1, 1995, and ending on the date specified in subsection (b)(1)(A).

(d) TIME FOR PAYMENT.—

(1) IN GENERAL.—An annual contract payment shall be made not later than September 30 of each of fiscal years 1996 through 2002.

(2) ADVANCE PAYMENTS.—

(A) FISCAL YEAR 1996.—At the option of the owner or operator, 50 percent of the contract payment for fiscal year 1996 shall be made not later than June 15, 1996.

(B) SUBSEQUENT FISCAL YEARS.—At the option of the owner or operator for fiscal year 1997 and each subsequent fiscal year, 50 percent of the annual contract payment shall be made on December 15.

(e) AMOUNTS AVAILABLE FOR CONTRACT PAYMENTS FOR EACH FISCAL YEAR.—

(1) IN GENERAL.—The Secretary shall, to the maximum extent practicable, expend on a fiscal year basis the following amounts to satisfy the obligations of the Secretary under all contracts:

(A) For fiscal year 1996, $5,570,000,000.

(B) For fiscal year 1997, $5,385,000,000.

(C) For fiscal year 1998, $5,800,000,000.

(D) For fiscal year 1999, $5,603,000,000.

(E) For fiscal year 2000, $5,130,000,000.

(F) For fiscal year 2001, $4,130,000,000.

(G) For fiscal year 2002, $4,008,000,000.

(2) ALLOCATION.—The amount made available for a fiscal year under paragraph (1) shall be allocated as follows:

(A) For wheat, 26.26 percent.

(B) For corn, 46.22 percent.

(C) For grain sorghum, 5.11 percent.

(D) For barley, 2.16 percent.

(E) For oats, 0.15 percent.

(F) For upland cotton, 11.63 percent.

(G) For rice, 8.47 percent.

(3) ADJUSTMENT.—The Secretary shall adjust the amounts allocated for each contract commodity under paragraph (2) for a particular fiscal year by—

(A) subtracting an amount equal to the amount, if any, necessary to satisfy payment requirements under sections 103B, 105B, and 107B of the Agricultural Act of 1949 (as in effect prior to the amendment made by section 110(b)(2)) for the 1994 and 1995 crops of the commodity;

(B) adding an amount equal to the sum of all repayments of deficiency payments received under section 114(a)(2) of the Agricultural Act of 1949 (as in effect prior to the amendment made by section 110(b)(2)) for the commodity;

(C) to the maximum extent practicable, adding an amount equal to the sum of all contract payments withheld by the Secretary, at the request of an owner or operator subject to a contract, as an offset against repayments of deficiency payments otherwise required under section 114(a)(2) of the Act (as so in effect) for the commodity; and

(D) adding an amount equal to the sum of all refunds of contract payments received during the preceding fiscal year under subsection (h) for the commodity.

(4) ADDITIONAL RICE ALLOCATION.—In addition to the allocations provided under paragraphs (1), (2), and (3), the amounts made available for rice contract payments shall be increased by $17,000,000,000 for each of fiscal years 1997 through 2002.

(f) DETERMINATION OF CONTRACT PAYMENTS.—

(1) INDIVIDUAL PAYMENT QUANTITY OF CONTRACT COMMODITIES.—For each contract, the payment quantity of a contract commodity for each fiscal year shall be equal to the product of—

(A) 85 percent of the contract acreage; and

(B) the farm program payment yield.

(2) ANNUAL PAYMENT QUANTITY OF CONTRACT COMMODITIES.—The payment quantity of each contract commodity covered by all contracts for each fiscal year shall equal the sum of the amounts calculated under paragraph (1) for each individual contract.

(3) ANNUAL PAYMENT RATE.—The payment rate for a contract commodity for each fiscal year shall be equal to—

(A) the amount made available under subsection (e) for the contract commodity for the fiscal year; divided by

(B) the amount determined under paragraph (2) for the fiscal year.

(4) ANNUAL PAYMENT AMOUNT.—The amount to be paid under a contract in effect for each fiscal year with respect to a contract commodity shall be equal to the product of—

(A) the payment quantity determined under paragraph (1) with respect to the contract; and

(B) the payment rate in effect under paragraph (3).

(5) ASSIGNMENT OF CONTRACT PAYMENTS.—The provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(g)) (relating to assignment of payments) shall apply to contract payments under this subsection. The owner or operator making the assignment, or the assignee, shall provide the Secretary with notice, in such manner as the Secretary may require in the contract, of any assignment made under this paragraph.

(6) SHARING OF CONTRACT PAYMENTS.—The Secretary shall provide for the sharing of contract payments among the owners and operators subject to the contract on a fair and equitable basis.

(g) PAYMENT LIMITATION.—The total amount of contract payments made to a person under a contract during any fiscal year may not exceed the payment limitations established under sections 1001 through 1001C of the Food Security Act of 1985 (7 U.S.C. 1308 through 1308–3).

(h) EFFECT OF VIOLATION.—

(1) TERMINATION OF CONTRACT.—Except as provided in paragraph (2), if an owner or operator subject to a contract violates the conservation plan for the farm containing eligible farmland under the contract, wetland protection requirements applicable to the farm, or the planting flexibility requirements of subsection (j), the Secretary shall terminate the contract with respect to the owner or operator on each farm in which the owner or operator has an interest. On the termination, the owner or operator shall forfeit all rights to receive future contract payments on each farm in which the owner or operator has an interest and shall refund to the Secretary all contract payments received by the owner or operator during the period of the violation, together with interest on the contract payments as determined by the Secretary.

(2) REFUND OR ADJUSTMENT.—If the Secretary determines that a violation does not warrant termination of the contract under paragraph (1), the Secretary may require the owner or operator subject to the contract—

(A) to refund to the Secretary that part of the contract payments received by the owner or operator during the period of the violation, together with interest on the contract payments as determined by the Secretary; or

(B) to accept a reduction in the amount of future contract payments that is proportionate to the severity of the violation, as determined by the Secretary.

(3) FORECLOSURE.—An owner or operator subject to a contract may not be required to make repayments to the Secretary of amounts received under the contract if the contract acreage has been foreclosed on and the Secretary determines that forgiving the repayments is appropriate in order to provide fair and equitable treatment. This paragraph shall not void the responsibilities of such an owner or operator under the contract if the owner or operator continues or resumes operation, or control, of the contract acreage. On the resumption of operation or control over the contract acreage by the owner or operator, the provisions of the contract in effect on the date of the foreclosure shall apply.

(4) REVIEW.—A determination of the Secretary under this subsection shall be considered to be an adverse decision for purposes of the availability of administrative review of the determination.

(i) TRANSFER OF INTEREST IN LANDS SUBJECT TO CONTRACT.—

(1) EFFECT OF TRANSFER.—Except as provided in paragraph (2), the transfer by an owner or operator subject to a contract of the right and interest of the owner or operator in the contract acreage shall result in the termination of the contract with respect to the acreage, effective on the date of the transfer, unless the transferee of the acreage agrees with the Secretary to assume all obligations of the contract. At the request of the transferee, the Secretary may modify the contract if the modifications are consistent with the objectives of this section as determined by the Secretary.

(2) EXCEPTION.—If an owner or operator who is entitled to a contract payment dies, becomes incompetent, or is otherwise unable to receive the contract payment, the Secretary shall make the payment, in accordance with regulations prescribed by the Secretary.

(j) PLANTING FLEXIBILITY.—

(1) PERMITTED CROPS.—Subject to paragraph (2), any commodity or crop may be planted on contract acreage on a farm.

(2) LIMITATIONS.—

(A) HAYING AND GRAZING.—

(i) TIME LIMITATIONS.—Haying and grazing on land exceeding 15 percent of the contract acreage on a farm as provided in clause (iii) shall be permitted, except during any consecutive 5-month period between April 1 and October 31 that is determined by the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) for a State. In the case of a natural disaster, the Secretary may permit unlimited haying and grazing on the contract acreage of a farm.

(ii) CONTRACT COMMODITIES.—A contract commodity may be hayed or grazed on contract acreage on a farm without limitation.

(iii) HAYING AND GRAZING LIMITATION ON PORTION OF CONTRACT ACREAGE.—Unlimited haying and grazing shall be permitted on not more than 15 percent of the contract acreage on a farm.

(B) ALFALFA.—Alfalfa may be planted for harvest without limitation on the contract acreage on a farm, except that each contract acre that is planted for harvest to alfalfa in excess of 15 percent of the total contract acreage on a farm shall be ineligible for contract payments.

(C) FRUITS AND VEGETABLES.—

(i) IN GENERAL.—The planting for harvest of fruits and vegetables shall be prohibited on contract acreage.

(ii) UNRESTRICTED VEGETABLES.—Lentils, mung beans, and dry peas may be planted without limitation on contract acreage.

(k) CONSERVATION FARM OPTION.—

(1) IN GENERAL.—The Secretary shall offer eligible owners and operators with contract acreage under this title on a farm who also have entered into a conservation reserve program contract under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (7 U.S.C. 3831 et seq.), the option of entering into a conservation farm option contract for a period of 10 years, as an alternative to the market transition payment contract.

(2) TERMS.—Under the conservation farm option contract—

(A) the Secretary shall provide eligible owners and operators with payments that reflect the Secretary's estimate of the payments and benefits the eligible owner or operator is expected to receive during the 10-year period under—

(i) conservation cost-share programs administered by the Secretary;

(ii) conservation reserve program rental and cost-share payments;

(iii) market transition payments; and

(iv) loan programs for contract commodities, oilseeds, and extra long staple cotton; and

(B) the eligible owner and operator shall—

(i) forgo eligibility to participate in the conservation reserve program, conservation cost-share program payments, and market transition contracts; and

(ii) comply with a conservation plan for the farm approved by the Secretary that is consistent with the State conservation farm option plan established under paragraph (3).

(3) STATE CONSERVATION FARM OPTION PLAN.—In consultation with the State Technical Committee established under section 1261 of the Food Security Act of 1985 (16 U.S.C. 3801), the Secretary shall establish a plan for each State that is designed to—

(A) protect wildlife habitat;

(B) improve water quality; and

(C) reduce soil erosion.

SEC. 104. NONRECOURSE MARKETING ASSISTANCE LOANS AND LOAN DEFICIENCY PAYMENTS.

(a) AVAILABILITY OF NONRECOURSE LOANS.—

(1) AVAILABILITY.—For each of the 1996 through 2002 crops of each loan commodity, the Secretary shall make available to producers on a farm nonrecourse marketing assistance loans for loan commodities produced on the farm. The loans shall be made under terms and conditions that are prescribed by the Secretary and at the loan rate established under subsection (b) for the loan commodity.

(2) ELIGIBLE PRODUCTION.—The following production shall be eligible for a marketing assistance loan under this section:

(A) In the case of a marketing assistance loan for a contract commodity, any production by a producer who has entered into a production flexibility contract.

(B) In the case of a marketing assistance loan for extra long staple cotton and oilseeds, any production.

(b) LOAN RATES.—

(1) WHEAT.—

(A) LOAN RATE.—Subject to subparagraph (B), the loan rate for a marketing assistance loan for wheat shall be—

(i) not less than 85 percent of the simple average price received by producers of wheat, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of wheat, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; but

(ii) not more than $2.58 per bushel.

(B) STOCKS TO USE RATIO ADJUSTMENT.—If the Secretary estimates for any marketing year that the ratio of ending stocks of wheat to total use for the marketing year will be—

(i) equal to or greater than 30 percent, the Secretary may reduce the loan rate for wheat for the corresponding crop by an amount not to exceed 10 percent in any year;

(ii) less than 30 percent but not less than 15 percent, the Secretary may reduce the loan rate for wheat for the corresponding crop by an amount not to exceed 5 percent in any year; or

(iii) less than 15 percent, the Secretary may not reduce the loan rate for wheat for the corresponding crop.

(C) NO EFFECT ON FUTURE YEARS.—Any reduction in the loan rate for wheat under subparagraph (B) shall not be considered in determining the loan rate for wheat for subsequent years.

(2) FEED GRAINS.—

(A) LOAN RATE FOR CORN.—Subject to subparagraph (B), the loan rate for a marketing assistance loan for corn shall be—

(i) not less than 85 percent of the simple average price received by producers of corn, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of corn, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; but

(ii) not more than $1.89 per bushel.

(B) STOCKS TO USE RATIO ADJUSTMENT.—If the Secretary estimates for any marketing year that the ratio of ending stocks of corn to total use for the marketing year will be—

(i) equal to or greater than 25 percent, the Secretary may reduce the loan rate for corn for the corresponding crop by an amount not to exceed 10 percent in any year;

(ii) less than 25 percent but not less than 12.5 percent, the Secretary may reduce the loan rate for corn for the corresponding crop by an amount not to exceed 5 percent in any year; or

(iii) less than 12.5 percent the Secretary may not reduce the loan rate for corn for the corresponding crop.

(C) NO EFFECT ON FUTURE YEARS.—Any reduction in the loan rate for corn under subparagraph (B) shall not be considered in determining the loan rate for corn for subsequent years.

(D) OTHER FEED GRAINS.—The loan rate for a marketing assistance loan for grain sorghum, barley, and oats, respectively, shall be established at such level as the Secretary determines is fair and reasonable in relation to the rate that loans are made available for corn, taking into consideration the feeding value of the commodity in relation to corn.

(3) UPLAND COTTON.—

(A) LOAN RATE.—Subject to subparagraph (B), the loan rate for a marketing assistance loan for upland cotton shall be established by the Secretary at such loan rate, per pound, as will reflect for the base quality of upland cotton, as determined by the Secretary, at average locations in the United States a rate that is not less than the smaller of—

(i) 85 percent of the average price (weighted by market and month) of the base quality of cotton as quoted in the designated United States spot markets during 3 years of the 5-year period ending July 31 in the year in which the loan rate is announced, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; or

(ii) 90 percent of the average, for the 15-week period beginning July 1 of the year in which the loan rate is announced, of the 5 lowest-priced growths of the growths quoted for Middling 1$\frac{3}{32}$-inch cotton C.I.F. Northern Europe (adjusted downward by the average difference during the period April 15 through October 15 of the year in which the loan is announced between the average Northern European price quotation of such quality of cotton and the market quotations in the designated United States spot markets for the base quality of upland cotton), as determined by the Secretary.

(B) LIMITATIONS.—The loan rate for a marketing assistance loan for upland cotton shall not be less than $0.50 per pound or more than $0.5192 per pound.

(4) EXTRA LONG STAPLE COTTON.—The loan rate for a marketing assistance loan for extra long staple cotton shall be—

(A) not less than 85 percent of the simple average price received by producers of extra long staple cotton, as determined by the Secretary, during 3 years of the 5 previous marketing years, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; but

(B) not more than $0.7965 per pound.

(5) RICE.—The loan rate for a marketing assistance loan for rice shall be $6.50 per hundredweight.

(6) OILSEEDS.—

(A) SOYBEANS.—The loan rate for a marketing assistance loan for soybeans shall be $4.92 per bushel.

(B) SUNFLOWER SEED, CANOLA, RAPESEED, SAFFLOWER, MUSTARD SEED, AND FLAXSEED.—The loan rates for a marketing assistance loan for sunflower seed, canola, rapeseed, safflower, mustard seed, and flaxseed, individually, shall be $0.087 per pound.

(C) OTHER OILSEEDS.—The loan rates for a marketing assistance loan for other oilseeds shall be established at such level as the Secretary determines is fair and reasonable in relation to the loan rate available for soybeans, except in no event shall the rate for the oilseeds (other than cottonseed) be less than the rate established for soybeans on a per-pound basis for the same crop.

(c) TERM OF LOAN.—In the case of each loan commodity (other than upland cotton or extra long staple cotton), a marketing assistance loan under subsection (a) shall have a term of 9 months beginning on the first day of the first month after the month in which the loan is made. A marketing assistance loan for upland cotton or extra long staple cotton shall have a term of 10 months beginning on the first day of the first month after the month in which the loan is made. The Secretary may not extend the term of a marketing assistance loan for any loan commodity.

(d) REPAYMENT.—

(1) REPAYMENT RATES FOR WHEAT AND FEED GRAINS.—The Secretary shall permit a producer to repay a marketing assistance loan under subsection (a) for wheat, corn, grain sorghum, barley, and oats at a level that the Secretary determines will—

(A) minimize potential loan forfeitures;

(B) minimize the accumulation of stocks of the commodities by the Federal Government;

(C) minimize the cost incurred by the Federal Government in storing the commodities; and

(D) allow the commodities produced in the United States to be marketed freely and competitively, both domestically and internationally.

(2) REPAYMENT RATES FOR UPLAND COTTON, OILSEEDS, AND RICE.—The Secretary shall permit producers to repay a marketing assistance loan under subsection (a) for upland cotton, oilseeds, and rice at a level that is the lesser of—

(A) the loan rate established for upland cotton, oilseeds, and rice, respectively, under subsection (b); or

(B) the prevailing world market price for upland cotton, oilseeds, and rice, respectively (adjusted to United States quality and location), as determined by the Secretary.

(3) REPAYMENT RATES FOR EXTRA LONG STAPLE COTTON.—Repayment of a marketing assistance loan for extra long staple cotton

shall be at the loan rate established for the commodity under subsection (b), plus interest (as determined by the Secretary).

(4) PREVAILING WORLD MARKET PRICE.—For purposes of paragraph (2)(B) and subsection (f), the Secretary shall prescribe by regulation—

(A) a formula to determine the prevailing world market price for each loan commodity, adjusted to United States quality and location; and

(B) a mechanism by which the Secretary shall announce periodically the prevailing world market price for each loan commodity.

(5) ADJUSTMENT OF PREVAILING WORLD MARKET PRICE FOR UPLAND COTTON.—

(A) IN GENERAL.—During the period ending July 31, 2003, the prevailing world market price for upland cotton (adjusted to United States quality and location) established under paragraph (4) shall be further adjusted if—

(i) the adjusted prevailing world market price is less than 115 percent of the loan rate for upland cotton established under subsection (b), as determined by the Secretary; and

(ii) the Friday through Thursday average price quotation for the lowest-priced United States growth as quoted for Middling (M) 1 3/32-inch cotton delivered C.I.F. Northern Europe is greater than the Friday through Thursday average price of the 5 lowest-priced growths of upland cotton, as quoted for Middling (M) 1 3/32-inch cotton, delivered C.I.F. Northern Europe (referred to in this subsection as the "Northern Europe price").

(B) FURTHER ADJUSTMENT.—Except as provided in subparagraph (C), the adjusted prevailing world market price for upland cotton shall be further adjusted on the basis of some or all of the following data, as available:

(i) The United States share of world exports.

(ii) The current level of cotton export sales and cotton export shipments.

(iii) Other data determined by the Secretary to be relevant in establishing an accurate prevailing world market price for upland cotton (adjusted to United States quality and location).

(C) LIMITATION ON FURTHER ADJUSTMENT.—The adjustment under subparagraph (B) may not exceed the difference between—

(i) the Friday through Thursday average price for the lowest-priced United States growth as quoted for Middling 1 3/32-inch cotton delivered C.I.F. Northern Europe; and

(ii) the Northern Europe price.

(e) LOAN DEFICIENCY PAYMENTS.—

(1) AVAILABILITY.—Except as provided in paragraph (4), the Secretary may make loan deficiency payments available to producers who, although eligible to obtain a marketing assistance loan under subsection (a) with respect to a loan commodity, agree to forgo obtaining the loan for the commodity in return for payments under this subsection.

(2) COMPUTATION.—A loan deficiency payment under this subsection shall be computed by multiplying—

(A) the loan payment rate determined under paragraph (3) for the loan commodity; by

(B) the quantity of the loan commodity that the producers on a farm are eligible to place under loan but for which the producers forgo obtaining the loan in return for payments under this subsection.

(3) LOAN PAYMENT RATE.—For purposes of this subsection, the loan payment rate shall be the amount by which—

(A) the loan rate established under subsection (b) for the loan commodity; exceeds

(B) the rate at which a loan for the commodity may be repaid under subsection (d).

(4) EXCEPTION FOR EXTRA LONG STAPLE COTTON.—This subsection shall not apply with respect to extra long staple cotton.

(f) SPECIAL MARKETING LOAN PROVISIONS FOR UPLAND COTTON.—

(1) COTTON USER MARKETING CERTIFICATES.—

(A) ISSUANCE.—Subject to subparagraph (D), during the period ending July 31, 2003, the Secretary shall issue marketing certificates or cash payments to domestic users and exporters for documented purchases by domestic users and sales for export by exporters made in the week following a consecutive 4-week period in which—

(i) the Friday through Thursday average price quotation for the lowest-priced United States growth, as quoted for Middling (M) 1 3/32-inch cotton, delivered C.I.F. Northern Europe exceeds the Northern Europe price by more than 1.25 cents per pound; and

(ii) the prevailing world market price for upland cotton (adjusted to United States quality and location) does not exceed 130 percent of the loan rate for upland cotton established under subsection (b).

(B) VALUE OF CERTIFICATES OR PAYMENTS.—The value of the marketing certificates or cash payments shall be based on the amount of the difference (reduced by 1.25 cents per pound) in the prices during the 4th week of the consecutive 4-week period multiplied by the quantity of upland cotton included in the documented sales.

(C) ADMINISTRATION OF MARKETING CERTIFICATES.—

(i) REDEMPTION, MARKETING, OR EXCHANGE.—The Secretary shall establish procedures for redeeming marketing certificates for cash or marketing or exchange of the certificates for agricultural commodities owned by the Commodity Credit Corporation in such manner, and at such price levels, as the Secretary determines will best effectuate the purposes of cotton user marketing certificates. Any price restrictions that would otherwise apply to the disposition of agricultural commodities by the Commodity Credit Corporation shall not apply to the redemption of certificates under this paragraph.

(ii) DESIGNATION OF COMMODITIES AND PRODUCTS.—To the extent practicable, the Secretary shall permit owners of certificates to designate the commodities and products, including storage sites, the owners would prefer to receive in exchange for certificates. If any certificate is not presented for redemption, marketing, or exchange within a reasonable number of days after the issuance of the certificate (as determined by the Secretary), reasonable costs of storage and other carrying charges, as determined by the Secretary, shall be deducted from the value of the certificate for the period beginning after the reasonable number of days and ending with the date of the presentation of the certificate to the Commodity Credit Corporation.

(iii) TRANSFERS.—Marketing certificates issued to domestic users and exporters of upland cotton may be transferred to other persons in accordance with regulations issued by the Secretary.

(D) EXCEPTION.—The Secretary shall not issue marketing certificates or cash payments under subparagraph (A) if, for the immediately preceding consecutive 10-week period, the Friday through Thursday average price quotation for the lowest priced United States growth, as quoted for Middling (M) 1 3/32-inch cotton, delivered C.I.F. Northern Europe, adjusted for the value of any certificate issued under this paragraph, exceeds the Northern Europe price by more than 1.25 cents per pound.

(E) LIMITATION ON EXPENDITURES.—Total expenditures under this paragraph shall not exceed $701,000,000 during fiscal years 1996 through 2002.

(2) SPECIAL IMPORT QUOTA.—

(A) ESTABLISHMENT.—The President shall carry out an import quota program that provides that, during the period ending July 31, 2003, whenever the Secretary determines and announces that for any consecutive 10-week period, the Friday through Thursday average price quotation for the lowest-priced United States growth, as quoted for Middling (M) 1 3/32-inch cotton, delivered C.I.F. Northern Europe, adjusted for the value of any certificates issued under paragraph (1), exceeds the Northern Europe price by more than 1.25 cents per pound, there shall immediately be in effect a special import quota.

(B) QUANTITY.—The quota shall be equal to 1 week's consumption of upland cotton by domestic mills at the seasonally adjusted average rate of the most recent 3 months for which data are available.

(C) APPLICATION.—The quota shall apply to upland cotton purchased not later than 90 days after the date of the Secretary's announcement under subparagraph (A) and entered into the United States not later than 180 days after the date.

(D) OVERLAP.—A special quota period may be established that overlaps any existing quota period if required by subparagraph (A), except that a special quota period may not be established under this paragraph if a quota period has been established under subsection (g).

(E) PREFERENTIAL TARIFF TREATMENT.—The quantity under a special import quota shall be considered to be an in-quota quantity for purposes of—

(i) section 213(d) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(d));

(ii) section 204 of the Andean Trade Preference Act (19 U.S.C. 3203);

(iii) section 503(d) of the Trade Act of 1974 (19 U.S.C. 2463(d)); and

(iv) General Note 3(a)(iv) to the Harmonized Tariff Schedule.

(F) DEFINITION.—In this paragraph, the term "special import quota" means a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota.

(g) LIMITED GLOBAL IMPORT QUOTA FOR UPLAND COTTON.—

(1) IN GENERAL.—The President shall carry out an import quota program that provides that whenever the Secretary determines and announces that the average price of the base quality of upland cotton, as determined by the Secretary, in the designated spot markets for a month exceeded 130 percent of the average price of such quality of cotton in the markets for the preceding 36 months, notwithstanding any other provision of law, there shall immediately be in effect a limited global import quota subject to the following conditions:

(A) QUANTITY.—The quantity of the quota shall be equal to 21 days of domestic mill consumption of upland cotton at the seasonally adjusted average rate of the most recent 3 months for which data are available.

(B) QUANTITY IF PRIOR QUOTA.—If a quota has been established under this subsection during the preceding 12 months, the quantity of the quota next established under this subsection shall be the smaller of 21 days of domestic mill consumption calculated under subparagraph (A) or the quantity required to increase the supply to 130 percent of the demand.

(C) PREFERENTIAL TARIFF TREATMENT.—The quantity under a limited global import quota shall be considered to be an in-quota quantity for purposes of—

(i) section 213(d) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(d));

(ii) section 204 of the Andean Trade Preference Act (19 U.S.C. 3203);

(iii) section 503(d) of the Trade Act of 1974 (19 U.S.C. 2463(d)); and

(iv) General Note 3(a)(iv) to the Harmonized Tariff Schedule.

(D) DEFINITIONS.—In this subsection:

(i) SUPPLY.—The term "supply" means, using the latest official data of the Bureau of the Census, the Department of Agriculture, and the Department of the Treasury—

(I) the carry-over of upland cotton at the beginning of the marketing year (adjusted to 480-pound bales) in which the quota is established;

(II) production of the current crop; and

(III) imports to the latest date available during the marketing year.

(ii) DEMAND.—The term "demand" means—

(I) the average seasonally adjusted annual rate of domestic mill consumption in the most recent 3 months for which data are available; and

(II) the larger of—

(aa) average exports of upland cotton during the preceding 6 marketing years; or

(bb) cumulative exports of upland cotton plus outstanding export sales for the marketing year in which the quota is established.

(iii) LIMITED GLOBAL IMPORT QUOTA.—The term "limited global import quota" means a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota.

(E) QUOTA ENTRY PERIOD.—When a quota is established under this subsection, cotton may be entered under the quota during the 90-day period beginning on the date the quota is established by the Secretary.

(2) NO OVERLAP.—Notwithstanding paragraph (1), a quota period may not be established that overlaps an existing quota period or a special quota period established under subsection (f)(2).

(h) SOURCE OF LOANS.—

(1) IN GENERAL.—The Secretary shall provide the loans authorized by this section and the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) through the Commodity Credit Corporation and other means available to the Secretary.

(2) PROCESSORS.—Whenever any loan or surplus removal operation for any agricultural commodity is carried out through purchases from or loans or payments to processors, the Secretary shall, to the extent practicable, obtain from the processors such assurances as the Secretary considers adequate that the producers of the commodity have received or will receive maximum benefits from the loan or surplus removal operation.

(i) ADJUSTMENTS OF LOANS.—

(1) IN GENERAL.—The Secretary may make appropriate adjustments in the loan levels for any commodity for differences in grade, type, quality, location, and other factors.

(2) LOAN LEVEL.—The adjustments shall, to the maximum extent practicable, be made in such manner that the average loan level for the commodity will, on the basis of the anticipated incidence of the factors, be equal to the level of support determined as provided in this section or the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.).

(j) PERSONAL LIABILITY OF PRODUCERS FOR DEFICIENCIES.—

(1) IN GENERAL.—Except as provided in paragraph (2), no producer shall be personally liable for any deficiency arising from the sale of the collateral securing any nonrecourse loan made under this section or the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) unless the loan was obtained through a fraudulent representation by the producer.

(2) LIMITATIONS.—Paragraph (1) shall not prevent the Commodity Credit Corporation or the Secretary from requiring a producer to assume liability for—

(A) a deficiency in the grade, quality, or quantity of a commodity stored on a farm or delivered by the producer;

(B) a failure to properly care for and preserve a commodity; or

(C) a failure or refusal to deliver a commodity in accordance with a program established under this section or the Agricultural Adjustment Act of 1938.

(3) ACQUISITION OF COLLATERAL.—The Secretary may include in a contract for a nonrecourse loan made under this section or the Agricultural Adjustment Act of 1938 a provision that permits the Commodity Credit Corporation, on and after the maturity of the loan or any extension of the loan, to acquire title to the unredeemed collateral without obligation to pay for any market value that the collateral may have in excess of the loan indebtedness.

(4) SUGARCANE AND SUGAR BEETS.—A security interest obtained by the Commodity Credit Corporation as a result of the execution of a security agreement by the processor of sugarcane or sugar beets shall be superior to all statutory and common law liens on raw cane sugar and refined beet sugar in favor of the producers of sugarcane and sugar beets and all prior recorded and unrecorded liens on the crops of sugarcane and sugar beets from which the sugar was derived.

(k) COMMODITY CREDIT CORPORATION SALES PRICE RESTRICTIONS.—

(1) IN GENERAL.—The Commodity Credit Corporation may sell any commodity owned or controlled by the Corporation at any price that the Secretary determines will maximize returns to the Corporation.

(2) NONAPPLICATION OF SALES PRICE RESTRICTIONS.—Paragraph (1) shall not apply to—

(A) a sale for a new or byproduct use;

(B) a sale of peanuts or oilseeds for the extraction of oil;

(C) a sale for seed or feed if the sale will not substantially impair any loan program;

(D) a sale of a commodity that has substantially deteriorated in quality or as to which there is a danger of loss or waste through deterioration or spoilage;

(E) a sale for the purpose of establishing a claim arising out of a contract or against a person who has committed fraud, misrepresentation, or other wrongful act with respect to the commodity;

(F) a sale for export, as determined by the Corporation; and

(G) a sale for other than a primary use.

(3) PRESIDENTIAL DISASTER AREAS.—

(A) IN GENERAL.—Notwithstanding paragraph (1), on such terms and conditions as the Secretary may consider in the public interest, the Corporation may make available any commodity or product owned or controlled by the Corporation for use in relieving distress—

(i) in any area in the United States (including the Virgin Islands) declared by the President to be an acute distress area because of unemployment or other economic cause, if the President finds that the use will not displace or interfere with normal marketing of agricultural commodities; and

(ii) in connection with any major disaster determined by the President to warrant assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(B) COSTS.—Except on a reimbursable basis, the Corporation shall not bear any costs in connection with making a commodity available under subparagraph (A) beyond the cost of the commodity to the Corporation incurred in—

(i) the storage of the commodity; and

(ii) the handling and transportation costs in making delivery of the commodity to designated agencies at 1 or more central locations in each State or other area.

(4) EFFICIENT OPERATIONS.—Paragraph (1) shall not apply to the sale of a commodity the disposition of which is desirable in the interest of the effective and efficient conduct of the operations of the Corporation because of the small quantity of the commodity involved, or because of the age, location, or questionable continued storability of the commodity.

SEC. 105. PAYMENT LIMITATIONS.

(a) IN GENERAL.—Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended by striking paragraphs (1) through (4) and inserting the following:

"(1) LIMITATION ON PAYMENTS UNDER PRODUCTION FLEXIBILITY CONTRACTS.—The total amount of contract payments made under section 103 of the Agricultural Market Transition Act to a person under 1 or more production flexibility contracts during any fiscal year may not exceed $40,000.

"(2) LIMITATION ON MARKETING LOAN GAINS AND LOAN DEFICIENCY PAYMENTS.—

"(A) LIMITATION.—The total amount of payments specified in subparagraph (B) that a person shall be entitled to receive under section 104 of the Agricultural Market Transition Act for contract commodities and oilseeds during any crop year may not exceed $75,000.

"(B) DESCRIPTION OF PAYMENTS.—The payments referred to in subparagraph (A) are the following:

"(i) Any gain realized by a producer from repaying a marketing assistance loan for a crop of any loan commodity at a lower level than the original loan rate established for the commodity under section 104(b) of the Act.

"(ii) Any loan deficiency payment received for a loan commodity under section 104(e) of the Act.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) (as amended by subsection (a)) is amended—

(A) by redesignating paragraphs (5), (6), and (7) as paragraphs (3), (4), and (5), respectively; and

(B) in the second sentence of paragraph (3)(A) (as so redesignated), by striking "paragraphs (6) and (7)" and inserting "paragraphs (4) and (5)".

(2) Section 1305(d) of the Agricultural Reconciliation Act of 1987 (Public Law 100–203; 7 U.S.C. 1308 note) is amended by striking "paragraphs (5) through (7) of section 1001, as amended by this subtitle," and inserting "paragraphs (3) through (5) of section 1001,".

(3) Section 1001A of the Food Security Act of 1985 (7 U.S.C. 1308–1(a)(1)) is amended—

(A) in the first sentence of subsection (a)(1)—

(i) by striking "section 1001(5)(B)(i)" and inserting "section 1001(3)(B)(i)";

(ii) by striking "under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.)"; and

(iii) by striking "section 1001(5)(B)(i)(II)" and inserting "section 1001(3)(B)(i)(II)"; and

(B) in subsection (b)—

(i) in paragraph (1)—

(I) by striking "under the Agricultural Act of 1949"; and

(II) by striking "section 1001(5)(B)(i)" and inserting "section 1001(3)(B)(i)"; and

(ii) in paragraph (2)(B), by striking "section 1001(5)(B)(i)(II)" and inserting "section 1001(3)(B)(i)(II)".

(4) Section 1001C(a) of the Food Security Act of 1985 (7 U.S.C. 1308–3(a)) is amended—

(A) by striking "For each of the 1991 through 1997 crops, any" and inserting "Any";

(B) by striking "price support program loans, payments, or benefits made available under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.)," and inserting "loans or payments made available under the Agricultural Market Transition Act"; and

(C) by striking "during the 1989 through 1997 crop years".

SEC. 106. PEANUT PROGRAM.

(a) QUOTA PEANUTS.—

(1) AVAILABILITY OF LOANS.—The Secretary shall make nonrecourse loans available to producers of quota peanuts.

(2) LOAN RATE.—The national average quota loan rate for quota peanuts shall be $610 per ton.

(3) INSPECTION, HANDLING, OR STORAGE.—The loan amount may not be reduced by the Secretary by any deductions for inspection, handling, or storage.

(4) LOCATION AND OTHER FACTORS.—The Secretary may make adjustments in the loan rate for quota peanuts for location of peanuts and such other factors as are authorized by section 411 of the Agricultural Adjustment Act of 1938.

(b) ADDITIONAL PEANUTS.—

(1) IN GENERAL.—The Secretary shall make nonrecourse loans available to producers of additional peanuts at such rates as the Secretary finds appropriate, taking into consideration the demand for peanut oil and peanut meal, expected prices of other vegetable oils and protein meals, and the demand for peanuts in foreign markets.

(2) ANNOUNCEMENT.—The Secretary shall announce the loan rate for additional peanuts of each crop not later than February 15 preceding the marketing year for the crop for which the loan rate is being determined.

(c) AREA MARKETING ASSOCIATIONS.—

(1) WAREHOUSE STORAGE LOANS.—

(A) IN GENERAL.—In carrying out subsections (a) and (b), the Secretary shall make warehouse storage loans available in each of the producing areas (described in section 1446.95 of title 7 of the Code of Federal Regulations (January 1, 1989)) to a designated area marketing association of peanut producers that is selected and approved by the Secretary and that is operated primarily for the purpose of conducting the loan activities. The Secretary may not make warehouse storage loans available to any cooperative that is engaged in operations or activities concerning peanuts other than those operations and activities specified in this section and section 358e of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359a).

(B) ADMINISTRATIVE AND SUPERVISORY ACTIVITIES.—An area marketing association shall be used in administrative and supervisory activities relating to loans and marketing activities under this section and section 358e of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359a).

(C) ASSOCIATION COSTS.—Loans made to the association under this paragraph shall include such costs as the area marketing association reasonably may incur in carrying out the responsibilities, operations, and activities of the association under this section and section 358e of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359a).

(2) POOLS FOR QUOTA AND ADDITIONAL PEANUTS.—

(A) IN GENERAL.—The Secretary shall require that each area marketing association establish pools and maintain complete and accurate records by area and segregation for quota peanuts handled under loan and for additional peanuts placed under loan, except that separate pools shall be established for Valencia peanuts produced in New Mexico.

(B) ELIGIBILITY TO PARTICIPATE.—

(i) IN GENERAL.—Except as provided in clause (ii), in the case of the 1996 and subsequent crops, Valencia peanuts not physically produced in the State of New Mexico shall not be eligible to participate in the pools of the State.

(ii) EXCEPTION.—A resident of the State of New Mexico may enter Valencia peanuts that are produced outside of the State into the pools of the State in a quantity that is not greater than the 1995 crop of the resident.

(C) TYPES OF PEANUTS.—Bright hull and dark hull Valencia peanuts shall be considered as separate types for the purpose of establishing the pools.

(D) NET GAINS.—Net gains on peanuts in each pool, unless otherwise approved by the Secretary, shall be distributed only to producers who placed peanuts in the pool and shall be distributed in proportion to the value of the peanuts placed in the pool by each producer. Net gains for peanuts in each pool shall consist of the following:

(i) QUOTA PEANUTS.—For quota peanuts, the net gains over and above the loan indebtedness and other costs or losses incurred on peanuts placed in the pool.

(ii) ADDITIONAL PEANUTS.—For additional peanuts, the net gains over and above the loan indebtedness and other costs or losses incurred on peanuts placed in the pool for additional peanuts.

(d) LOSSES.—Losses in quota area pools shall be covered using the following sources in the following order of priority:

(1) TRANSFERS FROM ADDITIONAL LOAN POOLS.—The proceeds due any producer from any pool shall be reduced by the amount of any loss that is incurred with respect to peanuts transferred from an additional loan pool to a quota loan pool by the producer under section 358–1(b)(8) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358–1(b)(8)).

(2) OTHER PRODUCERS IN SAME POOL.—Further losses in an area quota pool shall be offset by reducing the gain of any producer in the pool by the amount of pool gains attributed to the same producer from the sale of additional peanuts for domestic and export edible use.

(3) USE OF MARKETING ASSESSMENTS.—The Secretary shall use funds collected under subsection (g) (except funds attributable to handlers) to offset further losses in area quota pools. The Secretary shall transfer to the Treasury those funds collected under subsection (g) and available for use under this subsection that the Secretary determines are not required to cover losses in area quota pools.

(4) CROSS COMPLIANCE.—Further losses in area quota pools, other than losses incurred as a result of transfers from additional loan pools to quota loan pools under section 358–1(b)(8) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358–1(b)(8)), shall be offset by any gains or profits from quota pools in other production areas (other than separate type pools established under subsection (c)(2)(A) for Valencia peanuts produced in New Mexico) in such manner as the Secretary shall by regulation prescribe.

(5) INCREASED ASSESSMENTS.—If use of the authorities provided in the preceding paragraphs is not sufficient to cover losses in an area quota pool, the Secretary shall increase the marketing assessment established under subsection (g) by such an amount as the Secretary considers necessary to cover the losses. The increased assessment shall apply only to quota peanuts in the production area covered by the pool. Amounts collected under subsection (g) as a result of the increased assessment shall be retained by the Secretary to cover losses in that pool.

(e) DISAPPROVAL OF QUOTAS.—Notwithstanding any other provision of law, no loan for quota peanuts may be made available by the Secretary for any crop of peanuts with respect to which poundage quotas have been disapproved by producers, as provided for in section 358–1(d) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358–1(d)).

(f) QUALITY IMPROVEMENT.—

(1) IN GENERAL.—With respect to peanuts under loan, the Secretary shall—

(A) promote the crushing of peanuts at a greater risk of deterioration before peanuts of a lesser risk of deterioration;

(B) ensure that all Commodity Credit Corporation inventories of peanuts sold for domestic edible use must be shown to have been officially inspected by licensed Department inspectors both as farmer stock and shelled or cleaned in-shell peanuts;

(C) continue to endeavor to operate the peanut program so as to improve the quality of domestic peanuts and ensure the coordination of activities under the Peanut Administrative Committee established under Marketing Agreement No. 146, regulating the quality of domestically produced peanuts (under the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937); and

(D) ensure that any changes made in the peanut program as a result of this subsection requiring additional production or handling at the farm level shall be reflected as an upward adjustment in the Department loan schedule.

(2) EXPORTS AND OTHER PEANUTS.—The Secretary shall require that all peanuts in the domestic and export markets fully comply with all quality standards under Marketing Agreement No. 146.

(g) MARKETING ASSESSMENT.—

(1) IN GENERAL.—The Secretary shall provide for a nonrefundable marketing assessment. The assessment shall be made on a per pound basis in an amount equal to 1.1 percent for each of the 1994 and 1995 crops, 1.15 percent for the 1996 crop, and 1.2 percent for each of the 1997 through 2002 crops, of the national average quota or additional peanut loan rate for the applicable crop.

(2) FIRST PURCHASERS.—

(A) IN GENERAL.—Except as provided under paragraphs (3) and (4), the first purchaser of peanuts shall—

(i) collect from the producer a marketing assessment equal to the quantity of peanuts acquired multiplied by—

(I) in the case of each of the 1994 and 1995 crops, .55 percent of the applicable national average loan rate;

(II) in the case of the 1996 crop, .6 percent of the applicable national average loan rate; and

(III) in the case of each of the 1997 through 2002 crops, .65 percent of the applicable national average loan rate;

(ii) pay, in addition to the amount collected under clause (i), a marketing assessment in an amount equal to the quantity of peanuts acquired multiplied by .55 percent of the applicable national average loan rate; and

(iii) remit the amounts required under clauses (i) and (ii) to the Commodity Credit Corporation in a manner specified by the Secretary.

(B) DEFINITION OF FIRST PURCHASER.—In this subsection, the term "first purchaser" means a person acquiring peanuts from a producer except that in the case of peanuts forfeited by a producer to the Commodity Credit Corporation, the term means the person acquiring the peanuts from the Commodity Credit Corporation.

(3) OTHER PRIVATE MARKETINGS.—In the case of a private marketing by a producer directly to a consumer through a retail or wholesale outlet or in the case of a marketing by the producer outside of the continental United States, the producer shall be responsible for the full amount of the assessment and shall remit the assessment by such time as is specified by the Secretary.

(4) LOAN PEANUTS.—In the case of peanuts that are pledged as collateral for a loan made under this section, ½ of the assessment shall be deducted from the proceeds of the loan. The remainder of the assessment shall be paid by the first purchaser of the peanuts. For purposes of computing net gains on peanuts under this section, the reduction in loan proceeds shall be treated as having been paid to the producer.

(5) PENALTIES.—If any person fails to collect or remit the reduction required by this subsection or fails to comply with the requirements for recordkeeping or otherwise as are required by the Secretary to carry out this subsection, the person shall be liable to the Secretary for a civil penalty up to an amount determined by multiplying—

(A) the quantity of peanuts involved in the violation; by

(B) the national average quota peanut rate for the applicable crop year.

(6) ENFORCEMENT.—The Secretary may enforce this subsection in the courts of the United States.

(h) CROPS.—Subsections (a) through (f) shall be effective only for the 1996 through 2002 crops of peanuts.

(i) MARKETING QUOTAS.—

(1) IN GENERAL.—Part VI of subtitle B of title III of the Agricultural Adjustment Act of 1938 is amended—

(A) in section 358–1 (7 U.S.C. 1358–1)—

(i) in the section heading, by striking "**1991 through 1997 crops of**";

(ii) in subsections (a)(1), (b)(1)(B), (b)(2)(A), (b)(2)(C), and (b)(3)(A), by striking "of the 1991 through 1997 marketing years" each place it appears and inserting "marketing year";

(iii) in subsection (a)(3), by striking "1990" and inserting "1990, for the 1991 through 1995 marketing years, and 1995, for the 1996 through 2002 marketing years";

(iv) in subsection (b)(1)(A)—

(I) by striking "each of the 1991 through 1997 marketing years" and inserting "each marketing year"; and

(II) in clause (i), by inserting before the semicolon the following: ", in the case of the 1991 through 1995 marketing years, and the 1995 marketing year, in the case of the 1996 through 2002 marketing years"; and

(v) in subsection (f), by striking "1997" and inserting "2002";

(B) in section 358b (7 U.S.C. 1358b)—

(i) in the section heading, by striking "**1991 through 1995 crops of**"; and

(ii) in subsection (c), by striking "1995" and inserting "2002";

(C) in section 358c(d) (7 U.S.C. 1358c(d)), by striking "1995" and inserting "2002"; and

(D) in section 358e (7 U.S.C. 1359a)—

(i) in the section heading, by striking "**for 1991 through 1997 crops of peanuts**"; and

(ii) in subsection (i), by striking "1997" and inserting "2002".

(2) ELIMINATION OF QUOTA FLOOR.—Section 358–1(a)(1) of the Act (7 U.S.C. 1358–1(a)(1)) is amended by striking the second sentence.

(3) TEMPORARY QUOTA ALLOCATION.—Section 358–1 of the Act (7 U.S.C. 1358–1) is amended—

(A) in subsection (a)(1), by striking "domestic edible, seed," and inserting "domestic edible use";

(B) in subsection (b)(2)—

(i) in subparagraph (A), by striking "subparagraph (B) and subject to"; and

(ii) by striking subparagraph (B) and inserting the following:

"(B) TEMPORARY QUOTA ALLOCATION.—

"(i) ALLOCATION RELATED TO SEED PEANUTS.—Temporary allocation of quota pounds for the marketing year only in which the crop is planted shall be made to producers for each of the 1996 through 2002 marketing years as provided in this subparagraph.

"(ii) QUANTITY.—The temporary quota allocation shall be equal to the pounds of seed peanuts planted on the farm, as may be adjusted under regulations prescribed by the Secretary.

"(iii) ADDITIONAL QUOTA.—The temporary allocation of quota pounds under this paragraph shall be in addition to the farm poundage quota otherwise established under this subsection and shall be credited, for the applicable marketing year only, in total to the producer of the peanuts on the farm in a manner prescribed by the Secretary.

"(iv) EFFECT OF OTHER REQUIREMENTS.—Nothing in this section alters or changes the requirements regarding the use of quota and additional peanuts established by section 358e(b)."; and

(C) in subsection (e)(3), strike "and seed and use on a farm".

(4) UNDERMARKETINGS.—Part VI of subtitle B of title III of the Act is amended—

(A) in section 358–1(b) (7 U.S.C. 1358–1(b))—

(i) in paragraph (1)(B), by striking "including—" and clauses (i) and (ii) and inserting "including any increases resulting from the allocation of quotas voluntarily released for 1 year under paragraph (7).";

(ii) in paragraph (3)(B), by striking "include—" and clauses (i) and (ii) and inserting "include any increase resulting from the allocation of quotas voluntarily released for 1 year under paragraph (7)."; and

(iii) by striking paragraphs (8) and (9); and

(B) in section 358b(a) (7 U.S.C. 1358b(a))—

(i) in paragraph (1), by striking "(including any applicable under marketings)" both places it appears;

(ii) in paragraph (1)(A), by striking "of undermarketings and";

(iii) in paragraph (2), by striking "(including any applicable under marketings)"; and

(iv) in paragraph (3), by striking "(including any applicable undermarketings)".

(5) DISASTER TRANSFERS.—Section 358–1(b) of the Act (7 U.S.C. 1358–1(b)), as amended by paragraph (4)(A)(iii), is further amended by adding at the end the following:

"(8) DISASTER TRANSFERS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), additional peanuts produced on a farm from which the quota poundage was not harvested and marketed because of drought, flood, or any other natural disaster, or any other condition beyond the control of the producer, may be transferred to the quota loan pool for pricing purposes on such basis as the Secretary shall by regulation provide.

"(B) LIMITATION.—The poundage of peanuts transferred under subparagraph (A) shall not exceed the difference between—

"(i) the total quantity of peanuts meeting quality requirements for domestic edible use, as determined by the Secretary, marketed from the farm; and

"(ii) the total farm poundage quota, excluding quota pounds transferred to the farm in the fall.

"(C) SUPPORT RATE.—Peanuts transferred under this paragraph shall be supported at not more than 70 percent of the quota support rate for the marketing years in which the transfers occur. The transfers for a farm shall not exceed 25 percent of the total farm quota pounds, excluding pounds transferred in the fall.".

SEC. 107. SUGAR PROGRAM.

(a) SUGARCANE.—The Secretary shall make loans available to processors of domestically grown sugarcane at a rate equal to 18 cents per pound for raw cane sugar.

(b) SUGAR BEETS.—The Secretary shall make loans available to processors of domestically grown sugar beets at a rate equal to 22.9 cents per pound for refined beet sugar.

(c) TERM OF LOANS.—

(1) IN GENERAL.—Loans under this section during any fiscal year shall be made available not earlier than the beginning of the fiscal year and shall mature at the earlier of—

(A) the end of 9 months; or

(B) the end of the fiscal year.

(2) SUPPLEMENTAL LOANS.—In the case of loans made under this section in the last 3 months of a fiscal year, the processor may repledge the sugar as collateral for a second loan in the subsequent fiscal year, except that the second loan shall—

(A) be made at the loan rate in effect at the time the second loan is made; and

(B) mature in 9 months less the quantity of time that the first loan was in effect.

(d) LOAN TYPE; PROCESSOR ASSURANCES.—

(1) RECOURSE LOANS.—Subject to paragraph (2), the Secretary shall carry out this section through the use of recourse loans.

(2) NONRECOURSE LOANS.—During any fiscal year in which the tariff rate quota for imports of sugar into the United States is established at, or is increased to, a level in excess of 1,500,000 short tons raw value, the Secretary shall carry out this section by making available nonrecourse loans. Any recourse loan previously made available by the Secretary under this section during the fiscal year shall be changed by the Secretary into a nonrecourse loan.

(3) PROCESSOR ASSURANCES.—If the Secretary is required under paragraph (2) to make nonrecourse loans available during a fiscal year or to change recourse loans into nonrecourse loans, the Secretary shall obtain from each processor that receives a loan under this section such assurances as the Secretary considers adequate to ensure that the processor will provide payments to producers that are proportional to the value of the loan received by the processor for sugar beets and sugarcane delivered by producers served by the processor. The Secretary may establish appropriate minimum payments for purposes of this paragraph.

(e) MARKETING ASSESSMENT.—

(1) SUGARCANE.—Effective for marketings of raw cane sugar during the 1996 through

2003 fiscal years, the first processor of sugarcane shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to—

(A) in the case of marketings during fiscal year 1996, 1.1 percent of the loan rate established under subsection (a) per pound of raw cane sugar, processed by the processor from domestically produced sugarcane or sugarcane molasses, that has been marketed (including the transfer or delivery of the sugar to a refinery for further processing or marketing); and

(B) in the case of marketings during each of fiscal years 1997 through 2003, 1.375 percent of the loan rate established under subsection (a) per pound of raw cane sugar, processed by the processor from domestically produced sugarcane or sugarcane molasses, that has been marketed (including the transfer or delivery of the sugar to a refinery for further processing or marketing).

(2) SUGAR BEETS.—Effective for marketings of beet sugar during the 1996 through 2003 fiscal years, the first processor of sugar beets shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to—

(A) in the case of marketings during fiscal year 1996, 1.1794 percent of the loan rate established under subsection (a) per pound of beet sugar, processed by the processor from domestically produced sugar beets or sugar beet molasses, that has been marketed; and

(B) in the case of marketings during each of fiscal years 1997 through 2003, 1.47425 percent of the loan rate established under subsection (a) per pound of beet sugar, processed by the processor from domestically produced sugar beets or sugar beet molasses, that has been marketed.

(3) COLLECTION.—

(A) TIMING.—A marketing assessment required under this subsection shall be collected on a monthly basis and shall be remitted to the Commodity Credit Corporation not later than 30 days after the end of each month. Any cane sugar or beet sugar processed during a fiscal year that has not been marketed by September 30 of the year shall be subject to assessment on that date. The sugar shall not be subject to a second assessment at the time that it is marketed.

(B) MANNER.—Subject to subparagraph (A), marketing assessments shall be collected under this subsection in the manner prescribed by the Secretary and shall be nonrefundable.

(4) PENALTIES.—If any person fails to remit the assessment required by this subsection or fails to comply with such requirements for recordkeeping or otherwise as are required by the Secretary to carry out this subsection, the person shall be liable to the Secretary for a civil penalty up to an amount determined by multiplying—

(A) the quantity of cane sugar or beet sugar involved in the violation; by

(B) the loan rate for the applicable crop of sugarcane or sugar beets.

(5) ENFORCEMENT.—The Secretary may enforce this subsection in a court of the United States.

(f) FORFEITURE PENALTY.—

(1) IN GENERAL.—A penalty shall be assessed on the forfeiture of any sugar pledged as collateral for a nonrecourse loan under this section.

(2) CANE SUGAR.—The penalty for cane sugar shall be 1 cent per pound.

(3) BEET SUGAR.—The penalty for beet sugar shall bear the same relation to the penalty for cane sugar as the marketing assessment for sugar beets bears to the marketing assessment for sugarcane.

(4) EFFECT OF FORFEITURE.—Any payments owed producers by a processor that forfeits of any sugar pledged as collateral for a nonrecourse loan shall be reduced in proportion to the loan forfeiture penalty incurred by the processor.

(g) INFORMATION REPORTING.—

(1) DUTY OF PROCESSORS AND REFINERS TO REPORT.—A sugarcane processor, cane sugar refiner, and sugar beet processor shall furnish the Secretary, on a monthly basis, such information as the Secretary may require to administer sugar programs, including the quantity of purchases of sugarcane, sugar beets, and sugar, and production, importation, distribution, and stock levels of sugar.

(2) PENALTY.—Any person willfully failing or refusing to furnish the information, or furnishing willfully any false information, shall be subject to a civil penalty of not more than $10,000 for each such violation.

(3) MONTHLY REPORTS.—Taking into consideration the information received under paragraph (1), the Secretary shall publish on a monthly basis composite data on production, imports, distribution, and stock levels of sugar.

(h) MARKETING ALLOTMENTS.—Part VII of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359aa et seq.) is repealed.

(i) CROPS.—This section (other than subsection (h)) shall be effective only for the 1996 through 2002 crops of sugar beets and sugarcane.

SEC. 108. CONSENT TO NORTHEAST INTERSTATE DAIRY COMPACT.

Congress consents to the Northeast Interstate Dairy Compact entered into among the States of Vermont, New Hampshire, Maine, Connecticut, Rhode Island, and Massachusetts as specified in section 1(b) of Senate Joint Resolution 28 of the 104th Congress, as placed on the calendar of the Senate, subject to the following conditions:

(1) COMPENSATION OF CCC.—Before the end of each fiscal year that a Compact price regulation is in effect, the Compact Commission shall compensate the Commodity Credit Corporation for the cost of any purchases of milk and milk products by the Corporation that result from projected fluid milk production for the fiscal year within the Compact region in excess of the national average rate of purchases of milk and milk products by the Corporation.

(2) MILK MARKET ORDER ADMINISTRATOR.—By agreement among the States and the Secretary, the Administrator shall provide technical assistance to the Compact Commission, and be reimbursed for the assistance, with respect to the applicable milk marketing order issued under section 8c(5) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.

(3) LIMITATION OF MANUFACTURING PRICE REGULATION.—The Compact Commission may not regulate Class II, Class III, or Class III-A milk used for manufacturing purposes or any other milk, other than Class I, or fluid milk, as defined by a Federal milk marketing order issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Act of 1937, unless both Houses of Congress have first consented to and approved the authority by a law enacted after the date of enactment of this Act.

(4) TERMINATION AND RENEWAL.—The consent for the Compact—

(A) shall terminate on the date that is 5 years after the date of enactment of this Act, subject to subparagraph (B); and

(B) may be renewed by Congress, without prior re-ratification by the States' legislatures.

SEC. 109. ADMINISTRATION.

(a) COMMODITY CREDIT CORPORATION.—

(1) USE OF CORPORATION.—The Secretary shall carry out this title through the Commodity Credit Corporation.

(2) SALARIES AND EXPENSES.—No funds of the Corporation shall be used for any salary or expense of any officer or employee of the Department of Agriculture.

(b) DETERMINATIONS BY SECRETARY.—A determination made by the Secretary under this title or the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) shall be final and conclusive.

(c) REGULATIONS.—The Secretary may issue such regulations as the Secretary determines necessary to carry out this title.

SEC. 110. ELIMINATION OF PERMANENT PRICE SUPPORT AUTHORITY.

(a) AGRICULTURAL ADJUSTMENT ACT OF 1938.—The Agricultural Adjustment Act of 1938 is amended—

(1) in title III—

(A) in subtitle B—

(i) by striking parts II through V (7 U.S.C. 1326–1351); and

(ii) in part VI—

(I) by moving subsection (c) of section 358d (7 U.S.C. 1358d(c)) to appear after section 301(b)(17) (7 U.S.C. 1301(b)(17)) and redesignating the subsection as paragraph (18); and

(II) by striking sections 358, 358a, and 358d (7 U.S.C. 1358, 1358a, and 1359); and

(B) by striking subtitle D (7 U.S.C. 1379a–1379j); and

(2) by striking title IV (7 U.S.C. 1401–1407).

(b) AGRICULTURAL ACT OF 1949.—

(1) TRANSFER OF CERTAIN SECTIONS.—The Agricultural Act of 1949 is amended—

(A) by transferring sections 106, 106A, and 106B (7 U.S.C. 1445, 1445–1, 1445–2) to appear after section 314A of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314–1) and redesignating the transferred sections as sections 315, 315A, and 315B, respectively;

(B) by transferring sections 111, 201(c), and 204 (7 U.S.C. 1445f, 1446(c), and 1446e) to appear after section 304 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1304) and redesignating the transferred sections as sections 305, 306, and 307, respectively; and

(C) by transferring sections 404 and 416 (7 U.S.C. 1424 and 1431) to appear after section 390 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1390) and redesignating the transferred sections as sections 390A and 390B, respectively.

(2) REPEAL.—The Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) (as amended by paragraph (1)) is repealed.

(c) CONFORMING AMENDMENTS.—

(1) Section 306 of the Agricultural Adjustment Act of 1938 (as transferred and redesignated by subsection (b)(1)(B)) is amended by striking "204" and inserting "307".

(2) Section 361 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1361) is amended by striking ", corn, wheat, cotton, peanuts, and rice, established".

SEC. 111. EFFECT OF AMENDMENTS.

(a) EFFECT ON PRIOR CROPS.—Except as otherwise specifically provided and notwithstanding any other provision of law, this title and the amendments made by this title shall not affect the authority of the Secretary to carry out a price support or production adjustment program for any of the 1991 through 1995 crops of an agricultural commodity established under a provision of law in effect immediately before the date of the enactment of this Act.

(b) LIABILITY.—A provision of this title or an amendment made by this title shall not affect the liability of any person under any provision of law as in effect before the date of the enactment of this Act.

TITLE II—AGRICULTURAL TRADE

SEC. 201. PUBLIC LAW 480.

(a) GENERAL LEVELS OF ASSISTANCE.—Section 204(a) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1724(a)) is amended—

(1) in paragraph (1)(E), by striking "for fiscal year 1995" and inserting "for each of fiscal years 1995 and 1996"; and

(2) in paragraph (2)(E), by striking "for fiscal year 1995" and inserting "for each of fiscal years 1995 and 1996".

(b) FOOD AID CONSULTATIVE GROUP.—Section 205(f) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1725(f)) is amended by striking "1995" and inserting "1996".

(c) AUTHORITY TO ENTER INTO AGREEMENTS.—Section 408 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736b) is amended by striking "1995" and inserting "1996".

(d) FARMER-TO-FARMER PROGRAM.—Section 501(c) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1737(c)) is amended by striking "1995" and inserting "1996".

SEC. 202. MARKET PROMOTION PROGRAM.

Effective October 1, 1995, section 211(c)(1) of the Agricultural Trade Act of 1978 (7 U.S.C. 5641(c)(1)) is amended—

(1) by striking "and" after "1991 through 1993,"; and

(2) by striking "through 1997," and inserting "through 1995, and not more than $100,000,000 for each of fiscal years 1996 through 2002,".

SEC. 203. EXPORT ENHANCEMENT PROGRAM.

Effective October 1, 1995, section 301(e)(1) of the Agricultural Trade Act of 1978 (7 U.S.C. 5651(e)(1)) is amended to read as follows:

"(1) IN GENERAL.—The Commodity Credit Corporation shall make available to carry out the program established under this section not more than—

"(A) $350,000,000 for fiscal year 1996;

"(B) $350,000,000 for fiscal year 1997;

"(C) $500,000,000 for fiscal year 1998;

"(D) $550,000,000 for fiscal year 1999;

"(E) $579,000,000 for fiscal year 2000;

"(F) $478,000,000 for fiscal year 2001; and

"(G) $478,000,000 for fiscal year 2002.".

SEC. 204. FOOD FOR PROGRESS.

Section 1110 of the Food Security Act of 1985 (7 U.S.C. 1736o) is amended by striking "1995" each place it appears in subsections (g), (k), and (l)(1) and inserting "1996".

SEC. 205. EMERGING DEMOCRACIES.

Section 1542 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 7 U.S.C. 5622 note) is amended—

(1) in subsection (a), by striking "1995" and inserting "1996"; and

(2) in subsection (d)(1)(A)(i), by striking "1995" and inserting "1996".

TITLE III—CONSERVATION

Subtitle A—Definitions

SEC. 301. DEFINITIONS.

Section 1201(a) of the Food Security Act of 1985 (16 U.S.C. 3801(a)) is amended—

(1) by redesignating paragraphs (3) through (16) as paragraphs (4) through (17), respectively; and

(2) by inserting after paragraph (2) the following:

"(3) CONSERVATION SYSTEM.—The term 'conservation system' means the conservation measures and practices that are approved for application by a producer to a highly erodible field and that provide for cost effective and practical erosion reduction on the field based on local resource conditions and standards contained in the Natural Resources Conservation Service field office technical guide.".

Subtitle B—Environmental Conservation Acreage Reserve Program

SEC. 311. ENVIRONMENTAL CONSERVATION ACREAGE RESERVE PROGRAM.

Section 1230 of the Food Security Act of 1985 (16 U.S.C. 3830) is amended to read as follows:

"SEC. 1230. ENVIRONMENTAL CONSERVATION ACREAGE RESERVE PROGRAM.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—During the 1996 through 2002 calendar years, the Secretary shall establish an environmental conservation acreage reserve program (referred to in this section as 'ECARP') to be implemented through contracts and the acquisition of easements to assist owners and operators of farms and ranches to conserve and enhance soil, water, and related natural resources, including grazing land, wetland, and wildlife habitat.

"(2) MEANS.—The Secretary shall carry out the ECARP by—

"(A) providing for the long-term protection of environmentally sensitive land; and

"(B) providing technical and financial assistance to farmers and ranchers to—

"(i) improve the management and operation of the farms and ranches; and

"(ii) reconcile productivity and profitability with protection and enhancement of the environment.

"(3) PROGRAMS.—The ECARP shall consist of—

"(A) the conservation reserve program established under subchapter B;

"(B) the wetlands reserve program established under subchapter C; and

"(C) the environmental quality incentives program established under chapter 4.

"(b) ADMINISTRATION.—

"(1) IN GENERAL.—In carrying out the ECARP, the Secretary shall enter into contracts with owners and operators and acquire interests in land through easements from owners, as provided in this chapter and chapter 4.

"(2) PRIOR ENROLLMENTS.—Acreage enrolled in the conservation reserve or wetlands reserve program prior to the effective date of this paragraph shall be considered to be placed into the ECARP.

"(c) CONSERVATION PRIORITY AREAS.—

"(1) DESIGNATION.—

"(A) IN GENERAL.—The Secretary shall designate watersheds or regions of special environmental sensitivity, including the Chesapeake Bay Region (consisting of Pennsylvania, Maryland, and Virginia), the Great Lakes Region, and the Long Island Sound Region, as conservation priority areas that are eligible for enhanced assistance through the programs established under this chapter and chapter 4.

"(B) APPLICATION.—A designation shall be made under this paragraph if agricultural practices on land within the watershed or region pose a significant threat to soil, water, and related natural resources, as determined by the Secretary, and an application is made by—

"(i) a State agency in consultation with the State technical committee established under section 1261; or

"(ii) State agencies from several States that agree to form an interstate conservation priority area.

"(C) ASSISTANCE.—The Secretary shall designate a watershed or region of special environmental sensitivity as a conservation priority area to assist, to the maximum extent practicable, agricultural producers within the watershed or region to comply with nonpoint source pollution requirements under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) and other Federal and State environmental laws.

"(2) APPLICABILITY.—The Secretary shall designate a watershed or region of special environmental sensitivity as a conservation priority area in a manner that conforms, to the maximum extent practicable, to the functions and purposes of the conservation reserve, wetlands reserve, and environmental quality incentives programs, as applicable, if participation in the program or programs is likely to result in the resolution or amelioration of significant soil, water, and related natural resource problems related to agricultural production activities within the watershed or region.

"(3) TERMINATION.—A conservation priority area designation shall terminate on the date that is 5 years after the date of the designation, except that the Secretary may—

"(A) redesignate the area as a conservation priority area; or

"(B) withdraw the designation of a watershed or region if the Secretary determines the area is no longer affected by significant soil, water, and related natural resource impacts related to agricultural production activities.".

SEC. 312. CONSERVATION RESERVE PROGRAM.

(a) IN GENERAL.—Section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) is amended—

(1) by striking "1995" each place it appears and inserting "2002"; and

(2) in subsection (d), by striking "38,000,000" and inserting "36,400,000".

(b) DUTIES OF OWNERS AND OPERATORS.—Section 1232(c) of the Food Security Act of 1985 (16 U.S.C. 3832(c)) is amended by striking "1995" and inserting "2002".

SEC. 313. WETLANDS RESERVE PROGRAM.

(a) PURPOSES.—Section 1237(a) of the Food Security Act of 1985 (16 U.S.C. 3837(a)) is amended by striking "to assist owners of eligible lands in restoring and protecting wetlands" and inserting "to protect wetlands for purposes of enhancing water quality and providing wildlife benefits while recognizing landowner rights".

(b) ENROLLMENT.—Section 1237 of the Food Security Act of 1985 (16 U.S.C. 3837) is amended by striking subsection (b) and inserting the following:

"(b) MINIMUM ENROLLMENT.—The Secretary shall enroll into the wetlands reserve program—

"(1) during the 1996 through 2002 calendar years, a total of not more than 975,000 acres; and

"(2) beginning with offers accepted by the Secretary during calendar year 1997, to the maximum extent practicable, ⅓ of the acres in permanent easements, ⅓ of the acres in 30-year easements, and ⅓ of the acres in restoration cost-share agreements.".

(c) ELIGIBILITY.—Section 1237(c) of the Food Security Act of 1985 (16 U.S.C. 3837(c)) is amended—

(1) by striking "2000" and inserting "2002";

(2) by inserting "the land maximizes wildlife benefits and wetland values and functions and" after "determines that";

(3) in paragraph (1)—

(A) by striking "December 23, 1985" and inserting "January 1, 1996"; and

(B) by striking "and" at the end;

(4) by redesignating paragraph (2) as paragraph (3);

(5) by inserting after paragraph (1) the following:

"(2) enrollment of the land meets water quality goals through—

"(A) creation of tailwater pits or settlement ponds; or

"(B) enrollment of land that was enrolled (on the day before the effective date of this subparagraph) in the water bank program established under the Water Bank Act (16 U.S.C. 1301 et seq.) at a rate not to exceed the rates in effect under the program;";

(6) in paragraph (3) (as so redesignated), by striking the period at the end and inserting "; and"; and

(7) by adding at the end the following:

"(4) enrollment of the land maintains or improves wildlife habitat.".

(d) OTHER ELIGIBLE LANDS.—Section 1237(d) (16 U.S.C. 3837(d)) is amended by inserting after "subsection (c)" the following ", land that maximizes wildlife benefits and that is".

(e) EASEMENTS.—Section 1237A of the Food Security Act of 1985 (16 U.S.C. 3837a) is amended—

(1) in the section heading, by inserting before the period at the end the following: "**and agreements**";

(2) by striking subsection (c) and inserting the following:

"(c) RESTORATION PLANS.—The development of a restoration plan, including any compatible use, under this section shall be made through the local Natural Resources Conservation Service representative, in consultation with the State technical committee.";

(3) in subsection (f), by striking the third sentence and inserting the following: "Compensation may be provided in not less than 5, nor more than 30, annual payments of equal or unequal size, as agreed to by the owner and the Secretary."; and

(4) by adding at the end the following:

"(h) COST SHARE AGREEMENTS.—The Secretary may enroll land into the wetland reserve through agreements that require the landowner to restore wetlands on the land, if the agreement does not provide the Secretary with an easement.".

(f) COST SHARE AND TECHNICAL ASSISTANCE.—Section 1237C of the Food Security Act of 1985 (16 U.S.C. 3837c) is amended by striking subsection (b) and inserting the following:

"(b) COST SHARE AND TECHNICAL ASSISTANCE.—In the case of an easement entered into during the 1996 through 2002 calendar years, in making cost share payments under subsection (a)(1), the Secretary shall—

"(1) in the case of a permanent easement, pay the owner an amount that is not less than 75 percent, but not more than 100 percent, of the eligible costs;

"(2) in the case of a 30-year easement or a cost-share agreement, pay the owner an amount that is not less than 50 percent, but not more than 75 percent, of the eligible costs; and

"(3) provide owners technical assistance to assist landowners in complying with the terms of easements and agreements.".

SEC. 314. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

Subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3830 et seq.) is amended by adding at the end the following:

"CHAPTER 4—ENVIRONMENTAL QUALITY INCENTIVES PROGRAM

"SEC. 1238. FINDINGS AND PURPOSES.

"(a) FINDINGS.—Congress finds that—

"(1) farmers and ranchers cumulatively manage more than ½ of the private lands in the continental United States;

"(2) because of the predominance of agriculture, the soil, water, and related natural resources of the United States cannot be protected without cooperative relationships between the Federal Government and farmers and ranchers;

"(3) farmers and ranchers have made tremendous progress in protecting the environment and the agricultural resource base of the United States over the past decade because of not only Federal Government programs but also their spirit of stewardship and the adoption of effective technologies;

"(4) it is in the interest of the entire United States that farmers and ranchers continue to strive to preserve soil resources and make more efforts to protect water quality and wildlife habitat, and address other broad environmental concerns;

"(5) environmental strategies that stress the prudent management of resources, as opposed to idling land, will permit the maximum economic opportunities for farmers and ranchers in the future;

"(6) unnecessary bureaucratic and paperwork barriers associated with existing agricultural conservation assistance programs decrease the potential effectiveness of the programs; and

"(7) the recent trend of Federal spending on agricultural conservation programs suggests that assistance to farmers and ranchers in future years will, absent changes in policy, dwindle to perilously low levels.

"(b) PURPOSES.—The purposes of the environmental quality incentives program established by this chapter are to—

"(1) combine into a single program the functions of—

"(A) the agricultural conservation program authorized by sections 7 and 8 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590g and 590h) (as in effect before the amendments made by section 355(a)(1) of the Agricultural Reform and Improvement Act of 1996);

"(B) the Great Plains conservation program established under section 16(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590p(b)) (as in effect before the amendment made by section 355(b)(1) of the Agricultural Reform and Improvement Act of 1996); and

"(C) the water quality incentives program established under chapter 2 (as in effect before the amendment made by section 355(k) of the Agricultural Reform and Improvement Act of 1996); and

"(D) the Colorado River Basin salinity control program established under section 202(c) of the Colorado River Basin Salinity Control Act (43 U.S.C. 1592(c)) (as in effect before the amendment made by section 355(c)(1) of the Agricultural Reform and Improvement Act of 1996); and

"(2) carry out the single program in a manner that maximizes environmental benefits per dollar expended, and that provides—

"(A) flexible technical and financial assistance to farmers and ranchers that face the most serious threats to soil, water, and related natural resources, including grazing lands, wetlands, and wildlife habitat;

"(B) assistance to farmers and ranchers in complying with this title and Federal and State environmental laws, and to encourage environmental enhancement;

"(C) assistance to farmers and ranchers in making beneficial, cost-effective changes to cropping systems, grazing management, manure, nutrient, pest, or irrigation management, land uses, or other measures needed to conserve and improve soil, water, and related natural resources; and

"(D) for the consolidation and simplification of the conservation planning process to reduce administrative burdens on the owners and operators of farms and ranches.

"SEC. 1238A. DEFINITIONS.

"In this chapter:

"(1) LAND MANAGEMENT PRACTICE.—The term 'land management practice' means nutrient or manure management, integrated pest management, irrigation management, tillage or residue management, grazing management, or another land management practice the Secretary determines is needed to protect soil, water, or related resources in the most cost effective manner.

"(2) LARGE CONFINED LIVESTOCK OPERATION.—The term 'large confined livestock operation' means a farm or ranch that—

"(A) is a confined animal feeding operation; and

"(B) has more than—

"(i) 700 mature dairy cattle;

"(ii) 10,000 beef cattle;

"(iii) 150,000 laying hens or broilers;

"(iv) 55,000 turkeys;

"(v) 15,000 swine; or

"(vi) 10,000 sheep or lambs.

"(3) LIVESTOCK.—The term 'livestock' means mature dairy cows, beef cattle, laying hens, broilers, turkeys, swine, sheep, or lambs.

"(4) OPERATOR.—The term 'operator' means a person who is engaged in crop or livestock production (as defined by the Secretary).

"(5) STRUCTURAL PRACTICE.—The term 'structural practice' means the establishment of an animal waste management facility, terrace, grassed waterway, contour grass strip, filterstrip, permanent wildlife habitat, or another structural practice that the Secretary determines is needed to protect soil, water, or related resources in the most cost effective manner.

"SEC. 1238B. ESTABLISHMENT AND ADMINISTRATION OF ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—During the 1996 through 2002 fiscal years, the Secretary shall provide technical assistance, cost-sharing payments, and incentive payments to operators, who enter into contracts with the Secretary, through an environmental quality incentives program in accordance with this chapter.

"(2) ELIGIBLE PRACTICES.—

"(A) STRUCTURAL PRACTICES.—An operator who implements a structural practice shall be eligible for technical assistance or cost-sharing payments, or both.

"(B) LAND MANAGEMENT PRACTICES.—An operator who performs a land management practice shall be eligible for technical assistance or incentive payments, or both.

"(b) APPLICATION AND TERM.—A contract between an operator and the Secretary under this chapter may—

"(1) apply to 1 or more structural practices or 1 or more land management practices, or both; and

"(2) have a term of not less than 5, nor more than 10, years, as determined appropriate by the Secretary, depending on the practice or practices that are the basis of the contract.

"(c) STRUCTURAL PRACTICES.—

"(1) COMPETITIVE OFFER.—The Secretary shall administer a competitive offer system for operators proposing to receive cost-sharing payments in exchange for the implementation of 1 or more structural practices by

the operator. The competitive offer system shall consist of—

"(A) the submission of a competitive offer by the operator in such manner as the Secretary may prescribe; and

"(B) evaluation of the offer in light of the priorities established in section 1238C and the projected cost of the proposal, as determined by the Secretary.

"(2) CONCURRENCE OF OWNER.—If the operator making an offer to implement a structural practice is a tenant of the land involved in agricultural production, for the offer to be acceptable, the operator shall obtain the concurrence of the owner of the land with respect to the offer.

"(d) LAND MANAGEMENT PRACTICES.—The Secretary shall establish an application and evaluation process for awarding technical assistance or incentive payments, or both, to an operator in exchange for the performance of 1 or more land management practices by the operator.

"(e) COST-SHARING AND INCENTIVE PAYMENTS.—

"(1) COST-SHARING PAYMENTS.—

"(A) IN GENERAL.—The Federal share of cost-sharing payments to an operator proposing to implement 1 or more structural practices shall not be less than 75 percent of the projected cost of the practice, as determined by the Secretary, taking into consideration any payment received by the operator from a State or local government.

"(B) LIMITATION.—An operator of a large confined livestock operation shall not be eligible for cost-sharing payments to construct an animal waste management facility.

"(C) OTHER PAYMENTS.—An operator shall not be eligible for cost-sharing payments for structural practices on eligible land under this chapter if the operator receives cost-sharing payments or other benefits for the same land under chapter 1 or 3.

"(2) INCENTIVE PAYMENTS.—The Secretary shall make incentive payments in an amount and at a rate determined by the Secretary to be necessary to encourage an operator to perform 1 or more land management practices.

"(f) TECHNICAL ASSISTANCE.—

"(1) FUNDING.—The Secretary shall allocate funding under this chapter for the provision of technical assistance according to the purpose and projected cost for which the technical assistance is provided in a fiscal year. The allocated amount may vary according to the type of expertise required, quantity of time involved, and other factors as determined appropriate by the Secretary. Funding shall not exceed the projected cost to the Secretary of the technical assistance provided in a fiscal year.

"(2) OTHER AUTHORITIES.—The receipt of technical assistance under this chapter shall not affect the eligibility of the operator to receive technical assistance under other authorities of law available to the Secretary.

"(g) MODIFICATION OR TERMINATION OF CONTRACTS.—

"(1) VOLUNTARY MODIFICATION OR TERMINATION.—The Secretary may modify or terminate a contract entered into with an operator under this chapter if—

"(A) the operator agrees to the modification or termination; and

"(B) the Secretary determines that the modification or termination is in the public interest.

"(2) INVOLUNTARY TERMINATION.—The Secretary may terminate a contract under this chapter if the Secretary determines that the operator violated the contract.

"(h) NON-FEDERAL ASSISTANCE.—

"(1) IN GENERAL.—The Secretary may request the services of a State water quality agency, State fish and wildlife agency, State forestry agency, or any other governmental or private resource considered appropriate to assist in providing the technical assistance necessary for the development and implementation of a structural practice or land management practice.

"(2) LIMITATION ON LIABILITY.—No person shall be permitted to bring or pursue any claim or action against any official or entity based on or resulting from any technical assistance provided to an operator under this chapter to assist in complying with a Federal or State environmental law.

"SEC. 1238C. EVALUATION OF OFFERS AND PAYMENTS.

"(a) REGIONAL PRIORITIES.—The Secretary shall provide technical assistance, cost-sharing payments, and incentive payments to operators in a region, watershed, or conservation priority area under this chapter based on the significance of the soil, water, and related natural resource problems in the region, watershed, or area, and the structural practices or land management practices that best address the problems, as determined by the Secretary.

"(b) MAXIMIZATION OF ENVIRONMENTAL BENEFITS.—

"(1) IN GENERAL.—In providing technical assistance, cost-sharing payments, and incentive payments to operators in regions, watersheds, or conservation priority areas under this chapter, the Secretary shall accord a higher priority to assistance and payments that maximize environmental benefits per dollar expended.

"(2) NATIONAL AND REGIONAL PRIORITY.—The prioritization shall be done nationally as well as within the conservation priority area, region, or watershed in which an agricultural operation is located.

"(3) CRITERIA.—To carry out this subsection, the Secretary shall establish criteria for implementing structural practices and land management practices that best achieve conservation goals for a region, watershed, or conservation priority area, as determined by the Secretary.

"(c) STATE OR LOCAL CONTRIBUTIONS.—The Secretary shall accord a higher priority to operators whose agricultural operations are located within watersheds, regions, or conservation priority areas in which State or local governments have provided, or will provide, financial or technical assistance to the operators for the same conservation or environmental purposes.

"(d) PRIORITY LANDS.—The Secretary shall accord a higher priority to structural practices or land management practices on lands on which agricultural production has been determined to contribute to, or create, the potential for failure to meet applicable water quality standards or other environmental objectives of a Federal or State law.

"SEC. 1238D. DUTIES OF OPERATORS.

"To receive technical assistance, cost-sharing payments, or incentives payments under this chapter, an operator shall agree—

"(1) to implement an environmental quality incentives program plan that describes conservation and environmental goals to be achieved through a structural practice or land management practice, or both, that is approved by the Secretary;

"(2) not to conduct any practices on the farm or ranch that would tend to defeat the purposes of this chapter;

"(3) on the violation of a term or condition of the contract at any time the operator has control of the land, to refund any cost-sharing or incentive payment received with interest, and forfeit any future payments under this chapter, as determined by the Secretary;

"(4) on the transfer of the right and interest of the operator in land subject to the contract, unless the transferee of the right and interest agrees with the Secretary to assume all obligations of the contract, to refund all cost-sharing payments and incentive payments received under this chapter, as determined by the Secretary;

"(5) to supply information as required by the Secretary to determine compliance with the environmental quality incentives program plan and requirements of the program; and

"(6) to comply with such additional provisions as the Secretary determines are necessary to carry out the environmental quality incentives program plan.

"SEC. 1238E. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM PLAN.

"An environmental quality incentives program plan shall include (as determined by the Secretary)—

"(1) a description of the prevailing farm or ranch enterprises, cropping patterns, grazing management, cultural practices, or other information that may be relevant to conserving and enhancing soil, water, and related natural resources;

"(2) a description of relevant farm or ranch resources, including soil characteristics, rangeland types and condition, proximity to water bodies, wildlife habitat, or other relevant characteristics of the farm or ranch related to the conservation and environmental objectives set forth in the plan;

"(3) a description of specific conservation and environmental objectives to be achieved;

"(4) to the extent practicable, specific, quantitative goals for achieving the conservation and environmental objectives;

"(5) a description of 1 or more structural practices or 1 or more land management practices, or both, to be implemented to achieve the conservation and environmental objectives;

"(6) a description of the timing and sequence for implementing the structural practices or land management practices, or both, that will assist the operator in complying with Federal and State environmental laws; and

"(7) information that will enable evaluation of the effectiveness of the plan in achieving the conservation and environmental objectives, and that will enable evaluation of the degree to which the plan has been implemented.

"SEC. 1238F. DUTIES OF THE SECRETARY.

"To the extent appropriate, the Secretary shall assist an operator in achieving the conservation and environmental goals of an environmental quality incentives program plan by—

"(1) providing an eligibility assessment of the farming or ranching operation of the operator as a basis for developing the plan;

"(2) providing technical assistance in developing and implementing the plan;

"(3) providing technical assistance, cost-sharing payments, or incentive payments for developing and implementing 1 or more structural practices or 1 or more land management practices, as appropriate;

"(4) providing the operator with information, education, and training to aid in implementation of the plan; and

"(5) encouraging the operator to obtain technical assistance, cost-sharing payments, or grants from other Federal, State, local, or private sources.

"SEC. 1238G. ELIGIBLE LANDS.

"Agricultural land on which a structural practice or land management practice, or both, shall be eligible for technical assistance, cost-sharing payments, or incentive payments under this chapter include—

"(1) agricultural land (including cropland, rangeland, pasture, and other land on which crops or livestock are produced) that the Secretary determines poses a serious threat to soil, water, or related resources by reason of the soil types, terrain, climatic, soil, topographic, flood, or saline characteristics, or other factors or natural hazards;

"(2) an area that is considered to be critical agricultural land on which either crop or livestock production is carried out, as identified in a plan submitted by the State under section 319 of the Federal Water Pollution Control Act (33 U.S.C. 1329) as having priority problems that result from an agricultural nonpoint source of pollution;

"(3) an area recommended by a State lead agency for protection of soil, water, and related resources, as designated by a Governor of a State; and

"(4) land that is not located within a designated or approved area, but that if permitted to continue to be operated under existing management practices, would defeat the purpose of the environmental quality incentives program, as determined by the Secretary.

"SEC. 1238H. LIMITATIONS ON PAYMENTS.

"(a) PAYMENTS.—The total amount of cost-sharing and incentive payments paid to a person under this chapter may not exceed—

"(1) $10,000 for any fiscal year; or

"(2) $50,000 for any multiyear contract.

"(b) REGULATIONS.—The Secretary shall issue regulations that are consistent with section 1001 for the purpose of—

"(1) defining the term 'person' as used in subsection (a); and

"(2) prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitations contained in subsection (a).".

Subtitle C—Conservation Funding

SEC. 321. CONSERVATION FUNDING.

(a) IN GENERAL.—Subtitle E of title XII of the Food Security Act of 1985 (16 U.S.C. 3841 et seq.) is amended to read as follows:

"Subtitle E—Funding

"SEC. 1241. FUNDING.

"(a) MANDATORY EXPENSES.—For each of fiscal years 1996 through 2002, the Secretary shall use the funds of the Commodity Credit Corporation to carry out the programs authorized by—

"(1) subchapter B of chapter 1 of subtitle D (including contracts extended by the Secretary pursuant to section 1437 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 16 U.S.C. 3831 note));

"(2) subchapter C of chapter 1 of subtitle D; and

"(3) chapter 4 of subtitle D.

"(b) ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.—

"(1) IN GENERAL.—For each of fiscal years 1996 through 2002, $200,000,000 of the funds of the Commodity Credit Corporation shall be available for providing technical assistance, cost-sharing payments, and incentive payments under the environmental quality incentives program under chapter 4 of subtitle D.

"(2) LIVESTOCK PRODUCTION.—For each of fiscal years 1996 through 2002, 50 percent of the funding available for technical assistance, cost-sharing payments, and incentive payments under the environmental quality incentives program shall be targeted at practices relating to livestock production.

"(c) ADVANCE APPROPRIATIONS TO CCC.—The Secretary may use the funds of the Commodity Credit Corporation to carry out chapter 3 of subtitle D, except that the Secretary may not use the funds of the Corporation unless the Corporation has received funds to cover the expenditures from appropriations made available to carry out chapter 3 of subtitle D.

"SEC. 1242. ADMINISTRATION.

"(a) PLANS.—The Secretary shall, to the extent practicable, avoid duplication in—

"(1) the conservation plans required for—

"(A) highly erodible land conservation under subtitle B;

"(B) the conservation reserve program established under subchapter B of chapter 1 of subtitle D; and

"(C) the wetlands reserve program established under subchapter C of chapter 1 of subtitle D; and

"(2) the environmental quality incentives program established under chapter 4 of subtitle D.

"(b) ACREAGE LIMITATION.—

"(1) IN GENERAL.—The Secretary shall not enroll more than 25 percent of the cropland in any county in the programs administered under the conservation reserve and wetlands reserve programs established under subchapters B and C, respectively, of chapter 1 of subtitle D. Not more than 10 percent of the cropland in a county may be subject to an easement acquired under the subchapters.

"(2) EXCEPTION.—The Secretary may exceed the limitations in paragraph (1) if the Secretary determines that—

"(A) the action would not adversely affect the local economy of a county; and

"(B) operators in the county are having difficulties complying with conservation plans implemented under section 1212.

"(3) SHELTERBELTS AND WINDBREAKS.—The limitations established under this subsection shall not apply to cropland that is subject to an easement under chapter 1 or 3 of subtitle D that is used for the establishment of shelterbelts and windbreaks.

"(c) TENANT PROTECTION.—Except for a person who is a tenant on land that is subject to a conservation reserve contract that has been extended by the Secretary, the Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers, including provision for sharing, on a fair and equitable basis, in payments under the programs established under subtitles B through D.

"(d) REGULATIONS.—Not later than 90 days after the effective date of this subsection, the Secretary shall issue regulations to implement the conservation reserve and wetlands reserve programs established under chapter 1 of subtitle D.".

Subtitle D—National Natural Resources Conservation Foundation

SEC. 331. SHORT TITLE.

This subtitle may be cited as the "National Natural Resources Conservation Foundation Act".

SEC. 332. DEFINITIONS.

In this subtitle (unless the context otherwise requires):

(1) BOARD.—The term "Board" means the Board of Trustees established under section 334.

(2) DEPARTMENT.—The term "Department" means the United States Department of Agriculture.

(3) FOUNDATION.—The term "Foundation" means the National Natural Resources Conservation Foundation established by section 333(a).

(4) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

SEC. 333. NATIONAL NATURAL RESOURCES CONSERVATION FOUNDATION.

(a) ESTABLISHMENT.—A National Natural Resources Conservation Foundation is established as a charitable and nonprofit corporation for charitable, scientific, and educational purposes specified in subsection (b). The Foundation is not an agency or instrumentality of the United States.

(b) PURPOSES.—The purposes of the Foundation are to—

(1) promote innovative solutions to the problems associated with the conservation of natural resources on private lands, particularly with respect to agriculture and soil and water conservation;

(2) promote voluntary partnerships between government and private interests in the conservation of natural resources;

(3) conduct research and undertake educational activities, conduct and support demonstration projects, and make grants to State and local agencies and nonprofit organizations;

(4) provide such other leadership and support as may be necessary to address conservation challenges, such as the prevention of excessive soil erosion, enhancement of soil and water quality, and the protection of wetlands, wildlife habitat, and strategically important farmland subject to urban conversion and fragmentation;

(5) encourage, accept, and administer private gifts of money and real and personal property for the benefit of, or in connection with, the conservation and related activities and services of the Department, particularly the Natural Resources Conservation Service;

(6) undertake, conduct, and encourage educational, technical, and other assistance, and other activities, that support the conservation and related programs administered by the Department (other than activities carried out on National Forest System lands), particularly the Natural Resources Conservation Service, except that the Foundation may not enforce or administer a regulation of the Department; and

(7) raise private funds to promote the purposes of the Foundation.

(c) LIMITATIONS AND CONFLICTS OF INTERESTS.—

(1) POLITICAL ACTIVITIES.—The Foundation shall not participate or intervene in a political campaign on behalf of any candidate for public office.

(2) CONFLICTS OF INTEREST.—No director, officer, or employee of the Foundation shall participate, directly or indirectly, in the consideration or determination of any question before the Foundation affecting—

(A) the financial interests of the director, officer, or employee; or

(B) the interests of any corporation, partnership, entity, organization, or other person in which the director, officer, or employee—

(i) is an officer, director, or trustee; or

(ii) has any direct or indirect financial interest.

(3) LEGISLATION OR GOVERNMENT ACTION OR POLICY.—No funds of the Foundation may be used in any manner for the purpose of influencing legislation or government action or policy.

(4) LITIGATION.—No funds of the Foundation may be used to bring or join an action against the United States or any State.

SEC. 334. COMPOSITION AND OPERATION.

(a) COMPOSITION.—The Foundation shall be administered by a Board of Trustees that

shall consist of 9 voting members, each of whom shall be a United States citizen and not a Federal officer. The Board shall be composed of—

(1) individuals with expertise in agricultural conservation policy matters;

(2) a representative of private sector organizations with a demonstrable interest in natural resources conservation;

(3) a representative of statewide conservation organizations;

(4) a representative of soil and water conservation districts;

(5) a representative of organizations outside the Federal Government that are dedicated to natural resources conservation education; and

(6) a farmer or rancher.

(b) NONGOVERNMENTAL EMPLOYEES.—Service as a member of the Board shall not constitute employment by, or the holding of, an office of the United States for the purposes of any Federal law.

(c) MEMBERSHIP.—

(1) INITIAL MEMBERS.—The Secretary shall appoint 9 persons who meet the criteria established under subsection (a) as the initial members of the Board and designate 1 of the members as the initial chairperson for a 2-year term.

(2) TERMS OF OFFICE.—

(A) IN GENERAL.—A member of the Board shall serve for a term of 3 years, except that the members appointed to the initial Board shall serve, proportionately, for terms of 1, 2, and 3 years, as determined by the Secretary.

(B) LIMITATION ON TERMS.—No individual may serve more than 2 consecutive 3-year terms as a member.

(3) SUBSEQUENT MEMBERS.—The initial members of the Board shall adopt procedures in the constitution of the Foundation for the nomination and selection of subsequent members of the Board. The procedures shall require that each member, at a minimum, meets the criteria established under subsection (a) and shall provide for the selection of an individual, who is not a Federal officer or a member of the Board.

(d) CHAIRPERSON.—After the appointment of an initial chairperson under subsection (c)(1), each succeeding chairperson of the Board shall be elected by the members of the Board for a 2-year term.

(e) VACANCIES.—A vacancy on the Board shall be filled by the Board not later than 60 days after the occurrence of the vacancy.

(f) COMPENSATION.—A member of the Board shall receive no compensation from the Foundation for the service of the member on the Board.

(g) TRAVEL EXPENSES.—While away from the home or regular place of business of a member of the Board in the performance of services for the Board, the member shall be allowed travel expenses paid by the Foundation, including per diem in lieu of subsistence, at the same rate as a person employed intermittently in the Government service would be allowed under section 5703 of title 5, United States Code.

SEC. 335. OFFICERS AND EMPLOYEES.

(a) IN GENERAL.—The Board may—

(1) appoint, hire, and discharge the officers and employees of the Foundation, other than the appointment of the initial Executive Director of the Foundation;

(2) adopt a constitution and bylaws for the Foundation that are consistent with the purposes of the Foundation and this subtitle; and

(3) undertake any other activities that may be necessary to carry out this subtitle.

(b) OFFICERS AND EMPLOYEES.—

(1) APPOINTMENT AND HIRING.—An officer or employee of the Foundation—

(A) shall not, by virtue of the appointment or employment of the officer or employee, be considered a Federal employee for any purpose, including the provisions of title 5, United States Code, governing appointments in the competitive service, except that such an individual may participate in the Federal employee retirement system as if the individual were a Federal employee; and

(B) may not be paid by the Foundation a salary in excess of $125,000 per year.

(2) EXECUTIVE DIRECTOR.—

(A) INITIAL DIRECTOR.—The Secretary shall appoint an individual to serve as the initial Executive Director of the Foundation who shall serve, at the direction of the Board, as the chief operating officer of the Foundation.

(B) SUBSEQUENT DIRECTORS.—The Board shall appoint each subsequent Executive Director of the Foundation who shall serve, at the direction of the Board, as the chief operating officer of the Foundation.

(C) QUALIFICATIONS.—The Executive Director shall be knowledgeable and experienced in matters relating to natural resources conservation.

SEC. 336. CORPORATE POWERS AND OBLIGATIONS OF THE FOUNDATION.

(a) IN GENERAL.—The Foundation—

(1) may conduct business throughout the United States and the territories and possessions of the United States; and

(2) shall at all times maintain a designated agent who is authorized to accept service of process for the Foundation, so that the serving of notice to, or service of process on, the agent, or mailed to the business address of the agent, shall be considered as service on or notice to the Foundation.

(b) SEAL.—The Foundation shall have an official seal selected by the Board that shall be judicially noticed.

(c) POWERS.—To carry out the purposes of the Foundation under section 333(b), the Foundation shall have, in addition to the powers otherwise provided under this subtitle, the usual powers of a corporation, including the power—

(1) to accept, receive, solicit, hold, administer, and use any gift, devise, or bequest, either absolutely or in trust, of real or personal property or any income from, or other interest in, the gift, devise, or bequest;

(2) to acquire by purchase or exchange any real or personal property or interest in property, except that funds provided under section 310 may not be used to purchase an interest in real property;

(3) unless otherwise required by instrument of transfer, to sell, donate, lease, invest, reinvest, retain, or otherwise dispose of any property or income from property;

(4) to borrow money from private sources and issue bonds, debentures, or other debt instruments, subject to section 339, except that the aggregate amount of the borrowing and debt instruments outstanding at any time may not exceed $1,000,000;

(5) to sue and be sued, and complain and defend itself, in any court of competent jurisdiction, except that a member of the Board shall not be personally liable for an action in the performance of services for the Board, except for gross negligence;

(6) to enter into a contract or other agreement with an agency of State or local government, educational institution, or other private organization or person and to make such payments as may be necessary to carry out the functions of the Foundation; and

(7) to do any and all acts that are necessary to carry out the purposes of the Foundation.

(d) INTEREST IN PROPERTY.—

(1) IN GENERAL.—The Foundation may acquire, hold, and dispose of lands, waters, or other interests in real property by donation, gift, devise, purchase, or exchange.

(2) INTERESTS IN REAL PROPERTY.—For purposes of this subtitle, an interest in real property shall be treated, among other things, as including an easement or other right for the preservation, conservation, protection, or enhancement of agricultural, natural, scenic, historic, scientific, educational, inspirational, or recreational resources.

(3) GIFTS.—A gift, devise, or bequest may be accepted by the Foundation even though the gift, devise, or bequest is encumbered, restricted, or subject to a beneficial interest of a private person if any current or future interest in the gift, devise, or bequest is for the benefit of the Foundation.

SEC. 337. ADMINISTRATIVE SERVICES AND SUPPORT.

For each of fiscal years 1996 through 1998, the Secretary may provide, without reimbursement, personnel, facilities, and other administrative services of the Department to the Foundation.

SEC. 338. AUDITS AND PETITION OF ATTORNEY GENERAL FOR EQUITABLE RELIEF.

(a) AUDITS.—

(1) IN GENERAL.—The accounts of the Foundation shall be audited in accordance with Public Law 88–504 (36 U.S.C. 1101 et seq.), including an audit of lobbying and litigation activities carried out by the Foundation.

(2) CONFORMING AMENDMENT.—The first section of Public Law 88–504 (36 U.S.C. 1101) is amended by adding at the end the following:

"(77) The National Natural Resources Conservation Foundation.".

(b) RELIEF WITH RESPECT TO CERTAIN FOUNDATION ACTS OR FAILURE TO ACT.—The Attorney General may petition in the United States District Court for the District of Columbia for such equitable relief as may be necessary or appropriate, if the Foundation—

(1) engages in, or threatens to engage in, any act, practice, or policy that is inconsistent with this subtitle; or

(2) refuses, fails, neglects, or threatens to refuse, fail, or neglect, to discharge the obligations of the Foundation under this subtitle.

SEC. 339. RELEASE FROM LIABILITY.

(a) IN GENERAL.—The United States shall not be liable for any debt, default, act, or omission of the Foundation. The full faith and credit of the United States shall not extend to the Foundation.

(b) STATEMENT.—An obligation issued by the Foundation, and a document offering an obligation, shall include a prominent statement that the obligation is not directly or indirectly guaranteed, in whole or in part, by the United States (or an agency or instrumentality of the United States).

SEC. 340. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department to be made available to the Foundation $1,000,000 for each of fiscal years 1997 through 1999 to initially establish and carry out activities of the Foundation.

Subtitle E—Miscellaneous

SEC. 351. FLOOD RISK REDUCTION.

(a) IN GENERAL.—During fiscal years 1996 through 2002, the Secretary of Agriculture (referred to in this section as the "Secretary") may enter into a contract with contract acreage under title I on a farm with land that is frequently flooded.

(b) DUTIES OF PRODUCERS.—Under the terms of the contract, with respect to acres that are subject to the contract, the producer must agree to—

(1) the termination of any contract acreage;

(2) forgo loans for contract commodities, oilseeds, and extra long staple cotton;

(3) not apply for crop insurance issued or reinsured by the Secretary;

(4) comply with applicable wetlands and high erodible land conservation compliance requirements established under title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.);

(5) not apply for any conservation program payments from the Secretary;

(6) not apply for disaster program benefits provided by the Secretary; and

(7) refund the payments, with interest, issued under the flood risk reduction contract to the Secretary, if the producer violates the terms of the contract or if the producer transfers the property to another person who violates the contract.

(c) DUTIES OF SECRETARY.—In return for a flood risk reduction contract entered into by a producer under this section, the Secretary shall agree to pay the producer for the 1996 through 2002 crops not more than 95 percent of the projected contract payments under title I, and not more than 95 percent of the projected payments and subsidies from the Federal Crop Insurance Corporation.

(d) COMMODITY CREDIT CORPORATION.—The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

SEC. 352. FORESTRY.

(a) FORESTRY INCENTIVES PROGRAM.—Section 4 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103) is amended by striking subsection (k).

(b) OFFICE OF INTERNATIONAL FORESTRY.—Section 2405 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6704) is amended by adding at the end the following:

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized each fiscal year such sums as are necessary to carry out this section.".

SEC. 353. STATE TECHNICAL COMMITTEES.

Section 1261(c) of the Food Security Act of 1985 (16 U.S.C. 3861(c)) is amended—

(1) in paragraph (7), by striking "and" at the end;

(2) in paragraph (8), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(9) agricultural producers.".

SEC. 354. CONSERVATION OF PRIVATE GRAZING LAND.

(a) FINDINGS.—Congress finds that—

(1) privately owned grazing land constitutes nearly one-half of the non-Federal land of the United States and is basic to the environmental, social, and economic stability of rural communities;

(2) privately owned grazing land contains a complex set of interactions among soil, water, air, plants, and animals;

(3) grazing land constitutes the single largest watershed cover type in the United States and contributes significantly to the quality and quantity of water available for all of the many uses of the land;

(4) private grazing land constitutes the most extensive wildlife habitat in the United States;

(5) private grazing land can provide opportunities for improved nutrient management from land application of animal manures and other by-product nutrient resources;

(6) owners and managers of private grazing land need to continue to recognize conservation problems when the problems arise and receive sound technical assistance to improve or conserve grazing land resources to meet ecological and economic demands;

(7) new science and technology must continually be made available in a practical manner so owners and managers of private grazing land may make informed decisions concerning vital grazing land resources;

(8) agencies of the Department of Agriculture with private grazing land responsibilities are the agencies that have the expertise and experience to provide technical assistance, education, and research to owners and managers of private grazing land for the long-term productivity and ecological health of grazing land;

(9) although competing demands on private grazing land resources are greater than ever before, assistance to private owners and managers of private grazing land is currently limited and does not meet the demand and basic need for adequately sustaining or enhancing the private grazing lands resources; and

(10) privately owned grazing land can be enhanced to provide many benefits to all Americans through voluntary cooperation among owners and managers of the land, local conservation districts, and the agencies of the Department of Agriculture responsible for providing assistance to owners and managers of land and to conservation districts.

(b) PURPOSE.—It is the purpose of this section to authorize the Secretary of Agriculture to provide a coordinated technical, educational, and related assistance program to conserve and enhance private grazing land resources and provide related benefits to all citizens of the United States by—

(1) establishing a coordinated and cooperative Federal, State, and local grazing conservation program for management of private grazing land;

(2) strengthening technical, educational, and related assistance programs that provide assistance to owners and managers of private grazing land;

(3) conserving and improving wildlife habitat on private grazing land;

(4) conserving and improving fish habitat and aquatic systems through grazing land conservation treatment;

(5) protecting and improving water quality;

(6) improving the dependability and consistency of water supplies;

(7) identifying and managing weed, noxious weed, and brush encroachment problems on private grazing land; and

(8) integrating conservation planning and management decisions by owners and managers of private grazing land, on a voluntary basis.

(c) DEFINITIONS.—In this section:

(1) PRIVATE GRAZING LAND.—The term "private grazing land" means privately owned, State-owned, tribally-owned, and any other non-federally owned rangeland, pastureland, grazed forest land, and hay land.

(2) SECRETARY.—The term "Secretary" means the Secretary of Agriculture, acting through the Natural Resources Conservation Service.

(d) PRIVATE GRAZING LAND CONSERVATION ASSISTANCE.—

(1) ASSISTANCE TO GRAZING LANDOWNERS AND OTHERS.—Subject to the availability of appropriations, the Secretary shall establish a voluntary program to provide technical, educational, and related assistance to owners and managers of private grazing land and public agencies, through local conservation districts, to enable the landowners, managers, and public agencies to voluntarily carry out activities that are consistent with this section, including—

(A) maintaining and improving private grazing land and the multiple values and uses that depend on private grazing land;

(B) implementing grazing land management technologies;

(C) managing resources on private grazing land, including—

(i) planning, managing, and treating private grazing land resources;

(ii) ensuring the long-term sustainability of private grazing land resources;

(iii) harvesting, processing, and marketing private grazing land resources; and

(iv) identifying and managing weed, noxious weed, and brush encroachment problems;

(D) protecting and improving the quality and quantity of water yields from private grazing land;

(E) maintaining and improving wildlife and fish habitat on private grazing land;

(F) enhancing recreational opportunities on private grazing land;

(G) maintaining and improving the aesthetic character of private grazing lands; and

(H) identifying the opportunities and encouraging the diversification of private grazing land enterprises.

(2) PROGRAM ELEMENTS.—

(A) FUNDING.—The program under paragraph (1) shall be funded through a specific line-item in the annual appropriations for the Natural Resources Conservation Service.

(B) TECHNICAL ASSISTANCE AND EDUCATION.—Personnel of the Department of Agriculture trained in pasture and range management shall be made available under the program to deliver and coordinate technical assistance and education to owners and managers of private grazing land, at the request of the owners and managers.

(e) GRAZING TECHNICAL ASSISTANCE SELF-HELP.—

(1) FINDINGS.—Congress finds that—

(A) there is a severe lack of technical assistance for grazing producers;

(B) the Federal budget precludes any significant expansion, and may force a reduction of, current levels of technical support; and

(C) farmers and ranchers have a history of cooperatively working together to address common needs in the promotion of their products and in the drainage of wet areas through drainage districts.

(2) ESTABLISHMENT OF GRAZING DEMONSTRATION.—The Secretary may establish 2 grazing management demonstration districts at the recommendation of the Grazing Lands Conservation Initiative Steering Committee.

(3) PROCEDURE.—

(A) PROPOSAL.—Within a reasonable time after the submission of a request of an organization of farmers or ranchers engaged in grazing, the Secretary shall propose that a grazing management district be established.

(B) FUNDING.—The terms and conditions of the funding and operation of the grazing management district shall be proposed by the producers.

(C) APPROVAL.—The Secretary shall approve the proposal if the Secretary determines that the proposal—

(i) is reasonable;

(ii) will promote sound grazing practices; and

(iii) contains provisions similar to the provisions contained in the promotion orders in effect on the effective date of this section.

(D) AREA INCLUDED.—The area proposed to be included in a grazing management district shall be determined by the Secretary on the basis of a petition by farmers or ranchers.

(E) AUTHORIZATION.—The Secretary may use authority under the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, to operate, on a demonstration basis, a grazing management district.

(F) ACTIVITIES.—The activities of a grazing management district shall be scientifically sound activities, as determined by the Secretary in consultation with a technical advisory committee composed of ranchers, farmers, and technical experts.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $20,000,000 for fiscal year 1996;

(2) $40,000,000 for fiscal year 1997; and

(3) $60,000,000 for fiscal year 1998 and each subsequent fiscal year.

SEC. 355. CONFORMING AMENDMENTS.

(a) AGRICULTURAL CONSERVATION PROGRAM.—

(1) ELIMINATION.—

(A) Section 8 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h) is amended—

(i) in subsection (b)—

(I) by striking paragraphs (1) through (4) and inserting the following:

"(1) ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.—The Secretary shall provide technical assistance, cost share payments, and incentive payments to operators through the environmental quality incentives program in accordance with chapter 2 of subtitle D of the Food Security Act of 1985 (16 U.S.C. 3838 et seq.).."; and

(II) by striking paragraphs (6) through (8); and

(ii) by striking subsections (d), (e), and (f).

(B) The first sentence of section 11 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590k) is amended by striking "performance: *Provided further*," and all that follows through "or other law" and inserting "performance".

(C) Section 14 of the Act (16 U.S.C. 590n) is amended—

(i) in the first sentence, by striking "or 8"; and

(ii) by striking the second sentence.

(D) Section 15 of the Act (16 U.S.C. 590o) is amended—

(i) in the first undesignated paragraph—

(I) in the first sentence, by striking "sections 7 and 8" and inserting "section 7"; and

(II) by striking the third sentence; and

(ii) by striking the second undesignated paragraph.

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of the last proviso of the matter under the heading "CONSERVATION RESERVE PROGRAM" under the heading "SOIL BANK PROGRAMS" of title I of the Department of Agriculture and Farm Credit Administration Appropriation Act, 1959 (72 Stat. 195; 7 U.S.C. 1831a) is amended by striking "Agricultural Conservation Program" and inserting "environmental quality incentives program established under chapter 2 of subtitle D of the Food Security Act of 1985 (16 U.S.C. 3838 et seq.)".

(B) Section 4 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103) is amended by striking "as added by the Agriculture and Consumer Protection Act of 1973" each place it appears in subsections (d) and (i) and inserting "as in effect before the amendment made by section 355(a)(1) of the Agricultural Reform and Improvement Act of 1996".

(C) Section 226(b)(4) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6932(b)(4)) is amended by striking "and the agricultural conservation program under the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590g et seq.)".

(D) Section 246(b)(8) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6962(b)(8)) is amended by striking "and the agricultural conservation program under the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590g et seq.)".

(E) Section 1271(c)(3)(C) of the Food, Agriculture, Conservation, and Trade Act of 1990 (16 U.S.C. 2106a(c)(3)(C)) is amended by striking "Agricultural Conservation Program established under section 16(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h, 590l, or 590p)" and inserting "environmental quality incentives program established under chapter 2 of subtitle D of the Food Security Act of 1985 (16 U.S.C. 3838 et seq.)".

(F) Section 126(a)(5) of the Internal Revenue Code of 1986 is amended to read as follows:

"(5) The environmental quality incentives program established under chapter 2 of subtitle D of the Food Security Act of 1985 (16 U.S.C. 3838 et seq.).".

(G) Section 304(a) of the Lake Champlain Special Designation Act of 1990 (Public Law 101-596; 33 U.S.C. 1270 note) is amended—

(i) in the subsection heading, by striking "SPECIAL PROJECT AREA UNDER THE AGRICULTURAL CONSERVATION PROGRAM" and inserting "A PRIORITY AREA UNDER THE ENVIRONMENTAL QUALITY INCENTIVES PROGRAM"; and

(ii) in paragraph (1), by striking "special project area under the Agricultural Conservation Program established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b))" and inserting "priority area under the environmental quality incentives program established under chapter 2 of subtitle D of the Food Security Act of 1985 (16 U.S.C. 3838 et seq.)".

(H) Section 6 of the Department of Agriculture Organic Act of 1956 (70 Stat. 1033) is amended by striking subsection (b).

(b) GREAT PLAINS CONSERVATION PROGRAM.—

(1) ELIMINATION.—Section 16 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590p) is repealed.

(2) CONFORMING AMENDMENTS.—

(A) The Agricultural Adjustment Act of 1938 is amended by striking "Great Plains program" each place it appears in sections 344(f)(8) and 377 (7 U.S.C. 1344(f)(8) and 1377) and inserting "environmental quality incentives program established under chapter 2 of subtitle D of the Food Security Act of 1985 (16 U.S.C. 3838 et seq.)".

(B) Section 246(b) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6962(b)) is amended by striking paragraph (2).

(C) Section 126(a) of the Internal Revenue Code of 1986 is amended—

(i) by striking paragraph (6); and

(ii) by redesignating paragraphs (7) through (10) as paragraphs (6) through (9), respectively.

(c) COLORADO RIVER BASIN SALINITY CONTROL PROGRAM.—

(1) ELIMINATION.—Section 202 of the Colorado River Basin Salinity Control Act (43 U.S.C. 1592) is amended by striking subsection (c).

(2) CONFORMING AMENDMENT.—Section 246(b) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6962(b)) is amended by striking paragraph (6).

(d) RURAL ENVIRONMENTAL CONSERVATION PROGRAM.—

(1) ELIMINATION.—Title X of the Agricultural Act of 1970 (16 U.S.C. 1501 et seq.) is repealed.

(2) CONFORMING AMENDMENTS.—Section 246(b) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6962(b)) is amended—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2) through (8) as paragraphs (1) through (7), respectively.

(e) OTHER CONSERVATION PROVISIONS.—Subtitle F of title XII of the Food Security Act of 1985 (16 U.S.C. 2005a and 2101 note) is repealed.

(f) COMMODITY CREDIT CORPORATION CHARTER ACT.—Section 5(g) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c(g)) is amended to read as follows:

"(g) Carry out conservation functions and programs.".

(g) RESOURCE CONSERVATION.—

(1) ELIMINATION.—Subtitles A, B, D, E, F, G, and J of title XV of the Agriculture and Food Act of 1981 (95 Stat. 1328; 16 U.S.C. 3401 et seq.) are repealed.

(2) CONFORMING AMENDMENT.—Section 739 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1982 (7 U.S.C. 2272a), is repealed.

(h) ENVIRONMENTAL EASEMENT PROGRAM.—Section 1239(a) of the Food Security Act of 1985 (16 U.S.C. 3839(a)) is amended by striking "1991 through 1995" and inserting "1996 through 2002".

(i) RESOURCE CONSERVATION AND DEVELOPMENT PROGRAM.—Section 1538 of the Agriculture and Food Act of 1981 (16 U.S.C. 3461) is amended by striking "1991 through 1995" and inserting "1996 through 2002".

(j) TECHNICAL AMENDMENT.—The first sentence of the matter under the heading "Commodity Credit Corporation" of Public Law 99-263 (100 Stat. 59; 16 U.S.C. 3841 note) is amended by striking ": Provided further," and all that follows through "Acts".

(k) AGRICULTURAL WATER QUALITY INCENTIVES PROGRAM.—Chapter 2 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3838 et seq.) is repealed.

TITLE IV—NUTRITION ASSISTANCE

SEC. 401. FOOD STAMP PROGRAM.

(a) EMPLOYMENT AND TRAINING.—Section 16(h)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2025(h)(1)) is amended by striking "1995" each place it appears and inserting "2002".

(b) AUTHORIZATION OF PILOT PROJECTS.—The last sentence of section 17(b)(1)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2026(b)(1)(A)) is amended by striking "1995" and inserting "2002".

(c) OUTREACH DEMONSTRATION PROJECTS.—The first sentence of section 17(j)(1)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2026(j)(1)(A)) is amended by striking "1995" and inserting "2002".

(d) AUTHORIZATION FOR APPROPRIATIONS.—The first sentence of section 18(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2027(a)(1)) is amended by striking "1995" and inserting "2002".

(e) REAUTHORIZATION OF PUERTO RICO NUTRITION ASSISTANCE PROGRAM.—The first sentence of section 19(a)(1)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2028(a)(1)(A)) is amended by striking "$974,000,000" and all that follows through "fiscal year 1995" and inserting "$1,143,000,000 for fiscal year 1996,

$1,174,000,000 for fiscal year 1997, $1,204,000,000 for fiscal year 1998, $1,236,000,000 for fiscal year 1999, $1,268,000,000 for fiscal year 2000, $1,301,000,000 for fiscal year 2001, and $1,335,000,000 for fiscal year 2002".

(f) AMERICAN SAMOA.—The Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) is amended by adding at the end the following:

"SEC. 24. TERRITORY OF AMERICAN SAMOA.

"From amounts made available to carry out this Act, the Secretary may pay to the Territory of American Samoa not more than $5,300,000 for each of fiscal years 1996 through 2002 to finance 100 percent of the expenditures for the fiscal year for a nutrition assistance program extended under section 601(c) of Public Law 96-597 (48 U.S.C. 1469d(c)).".

SEC. 402. COMMODITY DISTRIBUTION PROGRAM; COMMODITY SUPPLEMENTAL FOOD PROGRAM.

(a) REAUTHORIZATION.—The first sentence of section 4(a) of the Agriculture and Consumer Protection Act of 1973 (Public Law 93-86; 7 U.S.C. 612c note) is amended by striking "1995" and inserting "2002".

(b) FUNDING.—Section 5 of the Agriculture and Consumer Protection Act of 1973 (Public Law 93-86; 7 U.S.C. 612c note) is amended—

(1) in subsection (a)(2), by striking "1995" and inserting "2002"; and

(2) in subsection (d)(2), by striking "1995" and inserting "2002".

SEC. 403. EMERGENCY FOOD ASSISTANCE PROGRAM.

(a) REAUTHORIZATION.—The first sentence of section 204(a)(1) of the Emergency Food Assistance Act of 1983 (Public Law 98-8; 7 U.S.C. 612c note) is amended by striking "1995" and inserting "2002".

(b) PROGRAM TERMINATION.—Section 212 of the Emergency Food Assistance Act of 1983 (Public Law 98-8; 7 U.S.C. 612c note) is amended by striking "1995" and inserting "2002".

(c) REQUIRED PURCHASES OF COMMODITIES.—Section 214 of the Emergency Food Assistance Act of 1983 (Public Law 98-8; 7 U.S.C. 612c note) is amended—

(1) in the first sentence of subsection (a), by striking "1995" and inserting "2002"; and

(2) in subsection (e), by striking "1995" each place it appears and inserting "2002".

SEC. 404. SOUP KITCHENS PROGRAM.

Section 110 of the Hunger Prevention Act of 1988 (Public Law 100-435; 7 U.S.C. 612c note) is amended—

(1) in the first sentence of subsection (a), by striking "1995" and inserting "2002"; and

(2) in subsection (c)(2)—

(A) in the paragraph heading, by striking "1995" and inserting "2002"; and

(B) by striking "1995" each place it appears and inserting "2002".

SEC. 405. NATIONAL COMMODITY PROCESSING.

The first sentence of section 1114(a)(2)(A) of the Agriculture and Food Act of 1981 (7 U.S.C. 1431e(2)(A)) is amended by striking "1995" and inserting "2002".

TITLE V—MISCELLANEOUS

SEC. 501. FUND FOR DAIRY PRODUCERS TO PAY FOR NUTRIENT MANAGEMENT.

Section 8c(5) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(1) in paragraph (A), by adding at the end the following: "The minimum price for milk of the highest classification in any order (other than an order amended under paragraph (M)) may not be higher than the minimum price required under this paragraph."; and

(2) by adding at the end the following:

"(M) SAFE HARBOR.—

"(i) IN GENERAL.—Providing that each order may be amended such that not more than $.10 per hundredweight of milk of the highest use classification may be added to the minimum applicable price to be set aside in a fund called the 'Safe Harbor Fund Account' (referred to in this paragraph as the 'Account').

"(ii) ADMINISTRATION.—

"(I) MARKET ADMINISTRATOR.—The Account shall be administered by the Market Administrator.

"(II) USE OF FUNDS.—A determination regarding the use of the funds in the Account shall be made by the Safe Harbor Committee established under clause (iii).

"(iii) SAFE HARBOR COMMITTEE.—The Secretary shall establish a Safe Harbor Committee consisting of 7 milk producers appointed by the Secretary who supply milk to handlers regulated under a Federal milk marketing order.

"(iv) USE OF FUNDS.—

"(I) APPLICATIONS.—To be eligible to use amounts in the fund, a milk producer who supplies milk to handlers regulated under a Federal milk marketing order shall submit an application to the Safe Harbor Committee.

"(II) APPROVAL.—The Safe Harbor Committee may approve only applications that fund conservation practices approved by the Secretary that control the off-migration of nutrients from the farm.

"(III) STATE WATER QUALITY PRIORITIES.—In approving applications, the Safe Harbor Committee shall take into account, to the extent practicable, the applicable State water quality priorities.".

SEC. 502. CROP INSURANCE.

(a) CATASTROPHIC RISK PROTECTION.—Section 508(b) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)) is amended—

(1) in paragraph (4), by adding at the end the following:

"(C) DELIVERY OF COVERAGE.—

"(i) IN GENERAL.—In full consultation with approved insurance providers, the Secretary may continue to offer catastrophic risk protection in a State (or a portion of a State) through local offices of the Department if the Secretary determines that there is an insufficient number of approved insurance providers operating in the State or portion to adequately provide catastrophic risk protection coverage to producers.

"(ii) COVERAGE BY APPROVED INSURANCE PROVIDERS.—To the extent that catastrophic risk protection coverage by approved insurance providers is sufficiently available in a State as determined by the Secretary, only approved insurance providers may provide the coverage in the State.

"(iii) CURRENT POLICIES.—Subject to clause (ii), all catastrophic risk protection policies written by local offices of the Department shall be transferred (including all fees collected for the crop year in which the approved insurance provider will assume the policies) to the approved insurance provider for performance of all sales, service, and loss adjustment functions."; and

(2) in paragraph (7), by striking subparagraph (A) and inserting the following:

"(A) IN GENERAL.—Effective for the spring-planted 1996 and subsequent crops, to be eligible for any payment or loan under the Agricultural Market Transition Act or the Agricultural Adjustment Act of 1938 (7 U.S.C. 1301 et seq.), the conservation reserve program, or any benefit described in section 371 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008f), a person shall—

"(i) obtain at least the catastrophic level of insurance for each crop of economic significance in which the person has an interest; or

"(ii) provide a written waiver to the Secretary that waives any eligibility for emergency crop loss assistance in connection with the crop.".

(b) COVERAGE OF SEED CROPS.—Section 519(a)(2)(B) of the Act (7 U.S.C. 1519(a)(2)(B)) is amended by inserting "seed crops," after "turfgrass sod,".

SEC. 503. REVENUE INSURANCE.

Section 508(h) of the Federal Crop Insurance Act (7 U.S.C. 1508(h)) is amended by adding at the end the following:

"(9) REVENUE INSURANCE PILOT PROGRAM.—

"(A) IN GENERAL.—Not later than December 31, 1996, the Secretary shall carry out a pilot program in a limited number of counties, as determined by the Secretary, for crop years 1997, 1998, 1999, and 2000, under which a producer of corn, wheat, or soybeans may elect to receive insurance against loss of revenue, as determined by the Secretary.

"(B) ADMINISTRATION.—Revenue insurance under this paragraph shall—

"(i) be offered through reinsurance arrangements with private insurance companies;

"(ii) offer at least a minimum level of coverage that is an alternative to catastrophic crop insurance;

"(iii) be actuarially sound; and

"(iv) require the payment of premiums and administrative fees by an insured producer.".

SEC. 504. COLLECTION AND USE OF AGRICULTURAL QUARANTINE AND INSPECTION FEES.

Subsection (a) of section 2509 of the Food, Agriculture, Conservation, and Trade Act of 1990 (21 U.S.C. 136a) is amended to read as follows:

"(a) QUARANTINE AND INSPECTION FEES.—

"(1) FEES AUTHORIZED.—The Secretary of Agriculture may prescribe and collect fees sufficient—

"(A) to cover the cost of providing agricultural quarantine and inspection services in connection with the arrival at a port in the customs territory of the United States, or the preclearance or preinspection at a site outside the customs territory of the United States, of an international passenger, commercial vessel, commercial aircraft, commercial truck, or railroad car;

"(B) to cover the cost of administering this subsection; and

"(C) through fiscal year 2002, to maintain a reasonable balance in the Agricultural Quarantine Inspection User Fee Account established under paragraph (5).

"(2) LIMITATION.—In setting the fees under paragraph (1), the Secretary shall ensure that the amount of the fees are commensurate with the costs of agricultural quarantine and inspection services with respect to the class of persons or entities paying the fees. The costs of the services with respect to passengers as a class includes the costs of related inspections of the aircraft or other vehicle.

"(3) STATUS OF FEES.—Fees collected under this subsection by any person on behalf of the Secretary are held in trust for the United States and shall be remitted to the Secretary in such manner and at such times as the Secretary may prescribe.

"(4) LATE PAYMENT PENALTIES.—If a person subject to a fee under this subsection fails to pay the fee when due, the Secretary shall assess a late payment penalty, and the overdue fees shall accrue interest, as required by section 3717 of title 31, United States Code.

"(5) AGRICULTURAL QUARANTINE INSPECTION USER FEE ACCOUNT.—

"(A) ESTABLISHMENT.—There is established in the Treasury of the United States a no-year fund, to be known as the 'Agricultural Quarantine Inspection User Fee Account', which shall contain all of the fees collected under this subsection and late payment penalties and interest charges collected under paragraph (4) through fiscal year 2002.

"(B) USE OF ACCOUNT.—For each of the fiscal years 1996 through 2002, funds in the Agricultural Quarantine Inspection User Fee Account shall be available, in such amounts as are provided in advance in appropriations Acts, to cover the costs associated with the provision of agricultural quarantine and inspection services and the administration of this subsection. Amounts made available under this subparagraph shall be available until expended.

"(C) EXCESS FEES.—Fees and other amounts collected under this subsection in any of the fiscal years 1996 through 2002 in excess of $100,000,000 shall be available for the purposes specified in subparagraph (B) until expended, without further appropriation.

"(6) USE OF AMOUNTS COLLECTED AFTER FISCAL YEAR 2002.—After September 30, 2002, the unobligated balance in the Agricultural Quarantine Inspection User Fee Account and fees and other amounts collected under this subsection shall be credited to the Department of Agriculture accounts that incur the costs associated with the provision of agricultural quarantine and inspection services and the administration of this subsection. The fees and other amounts shall remain available to the Secretary until expended without fiscal year limitation.

"(7) STAFF YEARS.—The number of full-time equivalent positions in the Department of Agriculture attributable to the provision of agricultural quarantine and inspection services and the administration of this subsection shall not be counted toward the limitation on the total number of full-time equivalent positions in all agencies specified in section 5(b) of the Federal Workforce Restructuring Act of 1994 (Public Law 103-226; 5 U.S.C. 3101 note) or other limitation on the total number of full-time equivalent positions.".

SEC. 505. COMMODITY CREDIT CORPORATION INTEREST RATE.

Notwithstanding any other provision of law, the monthly Commodity Credit Corporation interest rate applicable to loans provided for agricultural commodities by the Corporation shall be 100 basis points greater than the rate determined under the applicable interest rate formula in effect on October 1, 1995.

SEC. 506. EVERGLADES AGRICULTURAL AREA.

(a) IN GENERAL.—On July 1, 1996, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall provide $200,000,000 to the Secretary of the Interior to carry out this section.

(b) ENTITLEMENT.—The Secretary of the Interior—

(1) shall accept the funds made available under subsection (a);

(2) shall be entitled to receive the funds; and

(3) shall use the funds to conduct restoration activities in the Everglades ecosystem, which may include acquiring the remaining private acreage in Townships 46, 47, and 48 of the Everglades Agricultural Area of approximately 52,000 acres that is commonly known as the "Talisman tract".

(c) DEADLINE.—The Secretary of the Interior shall acquire acreage referred to in subsection (b)(3) not later than December 31, 1998.

(d) EMINENT DOMAIN.—If necessary, the Secretary of the Interior may use the power of eminent domain to carry out this section.

NICKLES AMENDMENT NO. 3185

(Ordered to lie on the table.)

Mr. NICKLES submitted an amendment intended to be proposed by him to the bill S. 1541, supra; as follows:

Section 13(j)(2)(ii), and insert in lieu thereof the following:

(ii) CONTRACT COMMODITIES.—Contract acreage planted to contract commodities may be hayed or grazed at any time without limitation.

NOTICE OF HEARING

COMMITTEE ON RULES AND ADMINISTRATION

Mr. WARNER. Mr. President, I wish to announce that the Committee on Rules and Administration will meet in SR-301, Russell Senate Office Building, on Thursday, February 1, 1996, at 9:30 a.m., to receive testimony on campaign finance reform.

For further information concerning this hearing, please contact Ed Edens of the committee staff on 224-6684.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FINANCE

Mr. CRAIG. Mr. President, I ask unanimous consent that the Finance Committee be permitted to meet Wednesday, January 31, 1996, beginning at 10 a.m., in room 215 of the Dirksen Senate Office Building, to conduct a hearing on the tax reform report issued by the National Commission on Economic Growth and Tax Reform.

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

SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER DEVELOPMENT AND RELATED MATTERS

Mr. CRAIG. Mr. President, I ask unanimous consent that the Special Committee To Investigate Whitewater Development and Related Matters be authorized to meet during the session of the Senate on Tuesday, January 30, Wednesday, January 31, and Thursday, February 1, 1996, to conduct hearings pursuant to Senate Resolution 120.

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

ADDITIONAL STATEMENTS

CHINA THREATENS TAIWAN

• Mr. SIMON. Mr. President, the New York Times carried an article titled "As China Threatens Taiwan, It Makes Sure U.S. Listens," written by Patrick E. Tyler, about irresponsible talk from Chinese leaders against Taiwan. I ask that the article be printed at the end of my remarks.

It is the kind of talk that inevitably sours relations between China and the United States but, also, causes apprehension among the entire community of nations.

The United States made a mistake in the Shanghai Communique of not recognizing that Taiwan and China, in fact, today are two separate countries. If they eventually want to merge as East Germany and West Germany did, that is up to them.

But China should not think that when we read accounts like that in the New York Times, we sit idly by and think that it makes no difference. The New York Times editorial response to it, which I ask to be printed at the end of my remarks, is appropriate.

I want a good relationship with China. All of my colleagues want a good relationship with China. But China is impeding the possibility of that good relationship with its threats to Taiwan.

The New York Times article and editorial response follow:

AS CHINA THREATENS TAIWAN, IT MAKES SURE UNITED STATES LISTENS

(By Patrick E. Tyler)

BEIJING, Jan. 23.—The Chinese leadership has sent unusually explicit warnings to the Clinton Administration that China has completed plans for a limited attack on Taiwan that could be mounted in the weeks after Taiwan's President, Lee Tenghui, wins the first democratic balloting for the presidency in March.

The purpose of this saber-rattling is apparently to prod the United States to rein in Taiwan and President Lee, whose push for greater international recognition for the island of 21 million people, has been condemned here as a drive for independence.

While no one familiar with the threats thinks China is on the verge of risking a catastrophic war against Taiwan, some China experts fear that the Taiwan issue has become such a test of national pride for Chinese leaders that the danger of war should be taken seriously.

A senior American official said the Administration has "no independent confirmation or even credible evidence" that the Chinese are contemplating an attack, and spoke almost dismissively of the prospect.

"They can fire missiles, but Taiwan has some teeth of its own," the official said. "And does China want to risk that and the international effects?"

The most pointed of the Chinese warnings was conveyed recently through a former Assistant Secretary of Defense, Chas. W. Freeman Jr., who traveled to China this winter for discussions with senior Chinese officials. On Jan. 4, after returning to Washington, Mr. Freeman informed President Clinton's national security adviser, Anthony Lake, that the People's Liberation Army had prepared plans for a missile attack against Taiwan consisting of one conventional missile strike a day for 30 days.

This warning followed similar statements relayed to Administration officials by John W. Lewis, a Stanford University political scientist who meets frequently with senior Chinese military figures here.

These warnings do not mean that an attack on Taiwan is certain or imminent. Instead, a number of China specialists say that China, through "credible preparations" for an attack, hopes to intimidate the Taiwanese and to influence American policy toward

Taiwan. The goal, these experts say, is to force Taiwan to abandon the campaign initiated by President Lee, including his effort to have Taiwan seated at the United Nations, and to end high-profile visits by President Lee to the United States and to other countries.

If the threats fail to rein in Mr. Lee, however, a number of experts now express the view that China could resort to force, despite the enormous consequences for its economy and for political stability in Asia.

Since last summer, when the White House allowed Mr. Lee to visit the United States, the Chinese leadership has escalated its attacks on the Taiwan leader, accusing him of seeking to "split the motherland" and undermine the "one China" policy that had been the bedrock of relations between Beijing and its estranged province since 1949.

A Chinese Foreign Ministry spokesman, asked to comment on reports that the Chinese military has prepared plans for military action against Taiwan, said he was awaiting a response from his superiors. Last month, a senior ministry official said privately that China's obvious preparations for military action have been intended to head off an unwanted conflict.

"We have been trying to do all we can to avoid a scenario in which we are confronted in the end with no other option but a military one," the official said. He said that if China does not succeed in changing Taiwan's course, "then I am afraid there is going to be a war."

Mr. Freeman described the most recent warning during a meeting Mr. Lake had called with nongovernmental China specialists.

Participants said that Mr. Freeman's presentation was arresting as he described being told by a Chinese official of the advanced state of military planning. Preparations for a missile attack on Taiwan, he said, and the target selection to carry it out, have been completed and await a final decision by the Politburo in Beijing.

One of the most dramatic moments came when Mr. Freeman quoted a Chinese official as asserting that China could act militarily against Taiwan without fear of intervention by the United States because American leaders "care more about Los Angeles than they do about Taiwan," a statement that Mr. Freeman characterized as an indirect threat by China to use nuclear weapons against the United States.

An account of the White House meeting was provided by some of the participants. Mr. Freeman, reached by telephone, confirmed the gist of his remarks, reiterating that he believes that while "Beijing clearly prefers negotiation to combat," there is a new sense of urgency in Beijing to end Taiwan's quest for "independent international status."

Mr. Freeman said that President Lee's behavior "in the weeks following his re-election will determine" whether Beijing's Communist Party leaders feel they must act "by direct military means" to change his behavior.

In recent months, Mr. Freeman said he has relayed a number of warnings to United States Government officials. "I have quoted senior Chinese who told me" that China "would sacrifice 'millions of men' and 'entire cities' to assure the unity of China and who opined that the United States would not make comparable sacrifices."

He also asserted that "some in Beijing may be prepared to engage in nuclear blackmail against the U.S. to insure that Americans do not obstruct" efforts by the People's Liberation Army "to defend the principles of Chinese sovereignty over Taiwan and Chinese national unity."

Some specialists at the meeting wondered if Mr. Freeman's presentation was too alarmist and suggested that parliamentary elections on Taiwan in December had resulted in losses for the ruling Nationalist Party and that President Lee appeared to be moderating his behavior to avoid a crisis.

"I am not alarmist at this point," said one specialist, who would not comment on the substance of the White House meeting. "I don't think the evidence is developing in that direction."

Other participants in the White House meeting, who said they would not violate the confidentiality pledge of the private session, separately expressed their concern that a potential military crisis is building in the Taiwan Strait.

"I think there is evidence to suggest that the Chinese are creating at least the option to apply military pressure to Taiwan if they feel that Taiwan is effectively moving out of China's orbit politically," said Kenneth Lieberthal, a China scholar at the University of Michigan and an informal adviser to the Administration.

Mr. Lieberthal, who also has traveled to China in recent months, said Beijing has redeployed forces from other parts of the country to the coastal areas facing Taiwan and set up new command structures "for various kinds of military action against Taiwan."

"They have done all this in a fashion they know Taiwan can monitor," he said, "so as to become credible on the use of force."

"I believe there has been no decision to use military force," he continued, "and they recognize that it would be a policy failure for them to have to resort to force; but they have set up the option, they have communicated that in the most credible fashion and, I believe, the danger is that they would exercise it in certain circumstances."

Several experts cited their concern that actions by Congress in the aftermath of President Lee's expected election could be a critical factor contributing to a military confrontation. If President Lee perceives that he has a strong base of support in the United States Congress and presses forward with his campaign to raise Taiwan's status, the risk of a military crisis is greater, they said. A chief concern is that Congress would seek to invite the Taiwan leader back to the United States as a gesture of American support. A Chinese military leader warned in November that such a step could have "explosive" results.

In recent months, American statements on whether United States forces would come to the defense of Taiwan if it came under attack have been deliberately vague so as to deter Beijing through a posture of what the Pentagon calls "strategic ambiguity."

Some members of Congress assert that the Taiwan Relations Act of 1979 includes an implicit pledge to defend Taiwan if attacked, but Administration officials say that, in the end, the decision would depend on the timing, pretext and nature of Chinese aggression.

CHINA THREATENS TAIWAN

China has made no secret of its concern that Taiwan is drifting toward independence with the tacit support of the United States. Beijing pounced on an unofficial visit to America last year by Taiwan's President, Lee Teng-hui, to register its strong objection to any potential change in Taiwan's status. But China has now escalated tensions by recklessly raising the prospect that it might use military force to intimidate Taiwan. The United States and other countries must make clear that such a step would unravel Beijing's relations with the international community and undermine China's prized economic boom.

Patrick Tyler of The Times reports that Chinese officials have let the Clinton Administration know that Beijing has completed plans for a limited military attack on Taiwan as soon as this spring unless the island bows to demands for a lower-profile foreign policy.

These warnings may well be nine-tenths diplomatic bluff. But even so they suggest that Beijing has lost sight of one of the basic understandings underlying improved Chinese-American relations since the Nixon Administration—that Taiwan's future status must be settled by peaceable means.

Beijing is plainly infuriated by the recent efforts of President Lee to win increased recognition for his country in foreign capitals and international bodies like the United Nations. The mainland Government sees Taiwan as an integral part of the historical Chinese empire, torn away by foreign imperialists and Chiang Kai-shek at a time when China was weak. Taiwanese see it differently, pointing to their centuries of separate cultural development and, more importantly, their hard-won political democracy and thriving capitalist economy as good reasons for standing somewhat apart.

China apparently hopes its warnings will lead Washington to lean on Mr. Lee to accommodate Beijing. While Washington should urge caution on both sides, the United States must vigorously reject military bullying from Beijing in cases like this.

Taiwan is too big to be treated as a mere pawn in relations between Washington and Beijing. It is America's seventh-largest trading partner, with 21 million people, a vibrant democracy and one of Asia's highest living standards.

More than anything else, it is the fear that today's freedoms and prosperity would be lost under Beijing's harsh authoritarian rule that fuels Taiwan's quest for a separate identity. Beijing would do better to address this fear with political and economic reforms at home rather than threatening the use of force across the Taiwan Straits.•

TRIBUTE TO THE FAITH HOUSE

• Mr. BOND. Mr. President, I rise today to pay a special tribute to the Faith House. It is a great pleasure to recognize this organization for its 4 years of superior service to the underprivileged children of the St. Louis community.

The Faith House was established in 1992 to meet the ever-increasing demand for the care of infants and children exposed to drugs. This residential facility has already succeeded in serving over 250 infants and children in its stable, home-like environment through the dedication of numerous volunteers and professional medical staff. The 24-hour comfort and security provided by the caring individuals comprising the Faith House is essential to the long-term physical, emotional, and intellectual development of our children.

As a father and long-term advocate for children and families, I believe the

welfare and security of our Nation's children are of paramount importance to the future of our society. The Faith House aspires to continue its tireless dedication to improving the quality of life for those children who have been some of the least fortunate in our society.

The Faith House is endeavoring to meet the increasing demand for growth and expansion of its quality care through construction of a new 50-bed home. Efforts are currently underway to realize this project, and on February 23, 1996, a dinner-dance and auction will be held in St. Louis to recognize this outstanding facility. It is an honor to congratulate the people of the Faith House on all of their successes and to wish them the best of luck in their future pursuits.•

TRIBUTE TO FATHER MAC

• Mr. SIMON. Mr. President, I would like to bring attention to the outstanding work of Msgr. Ignatius McDermott and Haymarket House. It is my pleasure to inform you that in December, Haymarket celebrated its 20th anniversary. One of largest treatment and detoxification centers in Chicago and the Midwest, Haymarket is the culmination of one man's lifetime of education and devotion to helping the addicted.

Haymarket was founded in December 1975, when "Father Mac" was in his early sixties. For the last 20 years they have made history, establishing programs for those no one else wishes to serve. The programs include Illinois' first non-medical detox center and Illinois' first sanctuary program for skid row alcoholics. These programs, along with the tireless efforts of Monsignor McDermott, have helped change attitudes about alcoholism and have helped establish it as a disease to be treated, rather than as a social problem.

Through Haymarket, Father McDermott reached out to serve those ostracized by today's society. His goal—to serve the homeless, the chemically dependent, the substance abuser, the disadvantaged, and the unfortunate—is reached through the providing of shelter and care for these people and their families.

When drug-addicted infants enraged the public, Haymarket provided the first residential treatment program for drug-addicted pregnant women. This was at a time when those providing treatment were more concerned with liability issues than with the treatment of these women. Since it began, the Maternal Addiction Center [MAC] has delivered 350 drug-free babies. Haymarket, along with Maryville Academy, has also established Illinois' first residential treatment program for post-partum women who have delivered drug-addicted babies.

Haymarket currently runs 28 programs and has served over 13,000 clients. Their unique program is centered around the idea that to achieve long-term recovery the whole person must be addressed. They believe that without a continuum of care, people are more likely to relapse. This continuum brings together drug abuse prevention and treatment, health services, day care, parent training, vocational education, and job placement. These services help the center improve the prevention and treatment services and increase the savings to taxpayers associated with these services.

I encourage my colleagues to join me in commending Father Mac and Haymarket for their continued commitment to the services they provide. I extend to my colleagues an invitation to visit Haymarket when they visit the Chicago area.•

CONGRATULATING PETER CRISTIANO ON HIS DECADES OF SERVICE TO SOUTHFIELD, MI

• Mr. ABRAHAM. Mr. President, I rise today to congratulate and pay tribute to Peter Cristiano on his long and successful service to the city of Southfield, MI. Mr. Cristiano began his public service in Southfield in 1960, when he was chosen superintendent of parks and recreation. By 1964, he had been appointed deputy city administrator. From 1968 to 1980, he served as Southfield's city administrator, moving on to the city council in 1981 and serving as council president from 1986 to 1988.

Peter won numerous awards during his tenure in Southfield, including the Governor's Distinguished Public Employee Award, the Jaycees' "Man of the Year," and the International City Managers Association's Management Innovation Award. He won these awards the hard way: By making substantial improvements in his city's structure and way of life. Capital improvements, park land acquisition, and development, addition of a sports arena, municipal golf arena, and an animal control facility, all were part of his program to improve Southfield, as were new police-court facilities, a senior adult housing complex, and a new headquarters fire station and training center. As important, Peter initiated and implemented a nationally renowned life support unit emergency medical service—one of the first of its kind in the Nation. And Peter restored the city's lovely historical site, "The Burgh," for all of us to enjoy.

Peter will be missed as a fixture of Southfield city government. His long, dedicated service helped his community in many concrete ways. And his example should serve as an inspiration to all of us concerning what we can accomplish for our neighbors. Thankfully, Peter will not be leaving us altogether; instead he is merely giving up his government position to concentrate on his duties as president and CEO of his own telecommunications company. I would like to wish Peter all the best in his new endeavors and thank him for all the hard work and good service he has done for his community.•

FEDERAL CONTRACTORS AND AFFIRMATIVE ACTION

• Mr. SIMON. Mr. President, the Federal Government has played an important role in promoting equal opportunity in employment by Federal contractors for the past 55 years. Current Federal policy requires contractors to review their own hiring practices for any intentional or unintentional discrimination. Academic studies show that enforcement of these policies has led to increases in hiring of ethnic minority and female workers and that these programs continue to have a positive and significant impact on remedying discrimination in the workplace.

The Federal affirmative action guidelines not only benefit workers. Employers have found that affirmative action programs help them to ensure that they locate and select the best qualified candidates from an expanded talent pool. Companies also report that a diverse work force leads to enhanced performance and productivity.

There is always room for improvement, however. A Labor and Human Resources Committee hearing last June 15 suggested that some contractors are not aware that their progress in achieving recruitment goals is lagging behind industry or regional norms unless or until they are selected for a compliance review. Witnesses also raised several concerns about the burdens some regulations may impose on the businesses—particularly paperwork.

Shortly after the hearing, my colleague from Michigan, Mr. ABRAHAM, and I wrote to Shirley J. Wilcher, the Deputy Assistant Secretary of Labor who oversees the Office of Federal Contract Compliance Programs (OFCCP). We suggested that OFCCP develop a way of providing employers with earlier indications that their progress toward compliance with affirmative action guidelines should be reviewed for possible problems. We also requested that they meet with representatives from contracting, consulting, and other constituent groups to review OFCCP regulations and to suggest how they may be improved upon or eliminated.

I am pleased to report that OFCCP has made significant progress toward resolution of many of the complaints raised at the hearings. They have developed strategies to ensure that compliance officers are consistent and uniform when administering and enforcing laws and regulations. They are creating a technical assistance manual that

will allow contractors to develop affirmative action plans without retaining expensive law firms or consultants. They have clarified the relationship between OFCCP and the Equal Employment Opportunity Commission to ensure that employers are not subject to duplicative, inconsistent, or unnecessary regulatory burdens.

OFCCP officials have had substantive discussions with a variety of constituent groups. These meetings will likely lead to regulatory reforms that will reduce paperwork, reduce the time involved in developing written affirmative action programs, and establish practical reporting requirements without undermining OFCCP's mission. They are also considering the development of an early alert system that would provide contractors with feedback on progress before the need arises for a full compliance review.

I commend Deputy Assistant Secretary Wilcher for the progress she has made. I encourage her and her colleagues to continue to work toward these important changes.

I ask that Ms. Wilcher's written response be printed in the RECORD.

The material follows:

U.S. DEPARTMENT OF LABOR, EMPLOYMENT STANDARDS ADMINISTRATION, OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS,
Washington, DC, December 15, 1995.

Hon. PAUL SIMON,
U.S. Senate, Washington, DC.

DEAR SENATOR SIMON: On June 27, 1995, following the Labor and Human Resources Committee's hearing on the Office of Federal Contract Programs (OFCCP), you wrote to suggest some actions that I might take to respond to the concerns of the agency that were highlighted in the hearing testimony. This letter responds to your request that we report by December 15th on the progress we have made toward reducing the contractors' compliance burdens and improving OFCCP's performance. I appreciate the opportunity to report on our efforts.

Since coming to OFCCP in February 1994, I have been committed to pursuing a fair enforcement strategy. Over the past several months, I have heard the concerns about the internal program management and administration of the contract compliance program. As noted in your letter, several of the witnesses at the June hearing voiced concerns about the time involved in preparing affirmative action programs; the use of goals as rigid quotas; inconsistency in interpretation and application of the regulations; and duplication of efforts with the Equal Employment Opportunity Commission (EEOC). Because these issues seriously affect our ability to administer and enforce the equal employment opportunity requirements in a manner consistent with our fair enforcement approach, we have taken actions to address each of these concerns.

Several measures have been taken to ensure that compliance officers are consistent and uniform when administering and enforcing our laws and regulations. First, in order to clear up any confusion about how affirmative action works under Executive Order 11246, on August 2, 1995, the agency issued a policy directive on "Numerical Goals under Executive Order 11246." The directive reaffirms OFCCP's longstanding policy that affirmative action program goals are not to be used as quotas which must be achieved through race-based and gender-based preferences.

Rather, as the policy directive explains, goals under Executive Order 11246 are to be used as a tool to aid in breaking down barriers to equal employment opportunity for women and minorities without impinging upon the rights and expectations of other members of the workforce.

Additionally, we provided enhanced training to the staff; conducted several accountability reviews of regional and district office operations; and implemented a customer service improvement plan. Further, we are establishing the position of ombudsperson to handle contractor and constituent complaints about the program and actions of compliance officers. The person assigned to the position will be responsible for outreach, public education and alternative dispute resolution.

In response to complaints about the time and expense associated with developing an affirmative action program, in FY 1995 OFCCP began work on developing a comprehensive compliance assistance program, which will include a technical assistance or "how to" manual. The agency has not had an effective public educational component or a "user friendly" technical assistance manual. As a result, small and newly covered contractors feel obligated to retain law firms and consultants to assist them in developing a written affirmative action program. Our goal is to increase technical support to Federal contractors by establishing programs that expand training about our regulatory requirements and enhance voluntary compliance.

In light of the concerns that OFCCP and EEOC are duplicating work, OFCCP and EEOC have examined the interagency coordinating mechanisms that were established to ensure that employers are not subject to duplicative, inconsistent, or unnecessary regulatory burdens. OFCCP and EEOC staff routinely communicate on issues of mutual interest and concern. This coordination is prescribed in Executive Order 12067, the 1981 Memorandum of Understanding between DOL and EEOC, and Title I of the Americans with Disabilities Act of 1990 (ADA). EEOC and OFCCP have issued joint regulations which delineate the respective responsibilities for processing complaints that are within the jurisdiction of both the ADA and Section 503 of the Rehabilitation Act of 1973. Further, employers generally are not subject to simultaneous or dual enforcement proceedings by OFCCP and EEOC. In the rare instance where both agencies may investigate or seek enforcement against the same employer, one of the agencies defers to the other, or the matter is handled on a joint basis by OFCCP and EEOC.

As you suggested, between August and October, we held meetings with representatives of the employer and constituency groups to discuss proposals to revise the regulations under the Executive Order program. We met separately with representatives of the following employer groups: the Society for Human Resource Management (SHRM), the Equal Employment Advisory Council (EEAC) and the Organization Resources Counselors, Inc. (ORC). We also met with representatives of civil rights and women's rights organizations. These recent meetings with OFCCP stakeholders were the latest in a series of consultations on regulatory reforms that began in April 1994 in connection with an earlier proposal to revise certain of the provisions in the Executive Order regulations. OFCCP also convened four partnership meetings outside of Washington with several hundred representatives from the contractor and constituent communities in the Spring of 1995. The purpose of the meetings, which were held in Dallas, Pittsburgh, San Diego, and Chicago, was to elicit recommendations for changing the regulatory requirements for written affirmative action programs and the procedures for evaluating a contractor's compliance with the regulatory requirements. The participants at the partnership meetings were also asked to suggest data requirements for a proposed affirmative action program summary format.

We have identified a number of issues we would like to change through regulatory reforms. OFCCP staff is in the process of drafting rulemaking proposals to effect the contemplated revisions to the regulations. These consultative meetings not only are required by Executive Order 12866, which requires agencies to involve the public in proposed rulemaking, but also have been an integral part of OFCCP's established rulemaking practices. The discussions with our stockholders have been worthwhile and productive. In addition, we are examining whether some of the issues raised during the consultations can be addressed through policy guidance or other kinds of programmatic changes.

Our overall objectives are to reduce paperwork, reduce the time involved in preparing a written affirmative action program, and establish practical reporting requirements without undermining the ability of OFCCP to be an effective enforcement agency. Further, revising the compliance review procedures would enable OFCCP to better focus its limited resources while reaching a greater percentage of the contractor universe than it currently reaches.

Finally, the agency also intends to prepare annual monitoring reports by geographic area and industry to track how different industries are performing. You also recommended that we develop a way of providing contractors early indications of compliance problems. We are considering the concept of an "early alert system" to give a contractor advance notice of potential deficiencies so that the contractor would have the opportunity to "self-correct" and thereby lessen (if not obviate) the need for a full compliance review. Such an alert system could assist the agency in targeting its limited resources. Accordingly, we are trying to determine the feasibility and administrative costs involved.

Again, thank you for the opportunity to provide an update on our efforts to develop and implement changes to the Executive Order program.

Sincerely,

SHIRLEY J. WILCHER,
Deputy Assistant Secretary for Federal Contract Compliance.•

DANGEROUS PATHOGENS

• Mr. HATCH. Mr. President, I intend to hold hearings in the Judiciary Committee in the very near future on the subject of possession of dangerous human pathogens, such as bubonic plague, anthrax, and similar pathogens. My purpose will be to determine what legislation may be necessary to protect the American people from the misuse of such pathogens.

These are very dangerous and deadly organisms which, apparently, are readily available to just about anyone, including those with legitimate needs, such as researchers, and those who, instead, may have an evil intent or who simply do not know how to store and handle properly these organisms.

The December 30, 1995, Washington Post has a story with a headline that leaps off the page: "Man Gets Hands on Bubonic Plague Germ, but That's No Crime." The story is more chilling than the headline. An Ohio white supremacist purchased, through the mail, three vials of this extremely dangerous pathogen, which wiped out about one-third of Europe in the Middle Ages. When the purchaser called the seller to complain about slow delivery, the sales representative got concerned about whether the caller was someone who really ought to have the bubonic plague in his possession. Ohio authorities were contacted, according to the story. When police, public health officials, the FBI, and emergency workers in space suits scoured the purchaser's house, they found nearly a dozen M-1 rifles, smoke grenades, blasting caps, and white separatist literature, but no bubonic plague. The deadly microorganisms were found in the glove compartment of his automobile, still packed as shipped.

Apparently, while the U.S. Department of Agriculture requires permits for shipping animal pathogens, at least between States, there is no Federal domestic regulation of who may receive these deadly human pathogens. According to the Washington Post story, "* * * the only domestic restrictions on human pathogens * * * are the rules the handlers impose themselves." As Kenneth Gage, acting chief of the plague section at the Centers for Disease Control and Prevention's vector-borne diseases division, stated: "I don't think it's going too much out on a limb by saying this kind of thing shouldn't happen."

So, for the purchase of three strains of bubonic plague, what was the purchaser charged with? Three counts of wire fraud and one count of mail fraud. And these charges have been plea bargained down to a guilty plea for one count of wire fraud. Even these charges would not have been possible if the purchaser had not faxed a false statement on the letterhead of a nonexistent laboratory stating the laboratory assumed responsibility for the shipment, as the seller had required.

Earlier this year, a group released a nerve gas in Tokyo's subway station, killing 12 and injuring over 5,000. The ready availability of deadly human pathogens raises the obvious concern that such organisms not fall into the wrong hands. The task will be to meet the legitimate needs of scientists while assuring protection of our citizens from the inadvertent or deliberate misuse of these pathogens.●

ENFIELD FIRE DEPARTMENT

● Mr. LIEBERMAN. Mr. President, I rise today to honor the Enfield Fire Department on the occasion of their 100th anniversary.

For the past 100 years this dedicated group of men and women have strived to ensure the safety of the community of Enfield, CT. Their dedication is evident in their unshakable commitment to self sacrifice for the security of their friends, families, and neighbors. Indeed some have given the ultimate sacrifice, giving their lives while trying to protect their fellow citizens.

This organization's dedication and commitment to the town of Enfield can be seen not only through the fire department's actions but also in the great confidence and respect the residents of Enfield place upon these men and women. Ordinary men and women asked to perform extraordinary tasks, never asking what was in it for them. The community's faith in their fire department has not wavered in its first 100 years and will undoubtedly continue through the next century.

The Enfield Fire Department has been an important stone in the foundation of the town of Enfield. The people of Connecticut thank them for their service, dedication, and contribution to their community.●

U.S. TROOPS AS PEACEKEEPERS

● Mr. ABRAHAM. Mr. President, I rise today to address America's role in implementing peace accords around the world, and in providing peacekeeping troops to enforce them. As we all know, President Clinton decided unilaterally to send American ground troops to Bosnia. During our debate on that decision, I argued that our troops have too high a political profile and represent too powerful a nation to successfully implement the Dayton Accord.

This is not to say, Mr. President, that our troops can never succeed as peacekeepers. In my opinion there have been and will continue to be occasions when our participation in peacekeeping efforts will advance U.S. strategic and political interests. But we do a disservice to our troops and to our Nation if we do not examine such operations coolly and dispassionately to determine whether we should, in fact, engage in them. Because we are likely to receive requests for American peacekeepers from a variety of sources in the future, Mr. President, I would like to further clarify my views on the criteria we should apply before putting our sons and daughters in harm's way.

In my view it is our duty in dealing with such requests to assess the nature of the conflict and determine if our troops are appropriate. We also, however, must assess how directly events in the area impact on our interests. We then must determine whether in fact a peace exists which we can help keep, and whether our relations with any of the parties to the conflict are sufficiently close that we would be willing to assume this greater responsibility.

Therefore, let me express an overall theme which I believe warrants specific elaboration. When we previously considered the issue of peacekeeping and U.S. troop deployments, I felt many in this body were searching for some absolute, universal theories to guide our actions. I do not believe that is necessary. In fact, I would argue that decisions such as these require us to accept that our national interests vary from region to region and from situation to situation. We must therefore consider our options on a case-by-case basis. These situations almost never call for black-or-white, do-or-die, absolute decisions. Instead we are usually presented with a sliding scale of U.S. interests, transitory levels of progress toward establishing a just and lasting peace, and fluid relationships with the parties involved. It may be possible to develop a theoretical model to address these gradations, and give us a quantitative output as to whether or not we should intercede, but I doubt such a model would be workable if it could even be developed. Therefore, I believe we must accept that these situations are best analyzed on an individualized and prudential basis, where the sliding scales of U.S. national interests, the probability of success, and the current state of U.S. international relations are all measured against one another.

Having said that, Mr. President, let me now discuss one area where I believe some generalizations can be made regarding the deployment of U.S. troops as peacekeepers. I believe American troops are singularly ill-suited to serve in traditional peacekeeping roles, and that their deployment in such roles should be the exception rather than the rule. Because our national interests are so extensive and widespread, we almost always will be seen as an interested party, taking sides in the conflict rather than serving as neutral arbiters. Traditional peacekeeping demands objectivity and strict neutrality. Peacekeeping troops themselves may be forced to take action against one side or the other in particular circumstances, but they must be perceived as being, on the whole, scrupulously neutral.

Our troops are the fighting forces of the world's sole remaining superpower. This means that they bring to the field their status as fighting forces for the world's sole remaining superpower, and the living representation of our Nation's political will. Because our influence and interests are so far-flung, the mere presence of our troops in a particular area is a political statement. Both sides will see our troops as potential allies or enemies who can decide the outcome of a continued conflict.

Therefore, I believe traditional peacekeeping is best conducted by smaller countries who are not perceived to have any vested interest in the outcome of a conflict; who, because their country's interests are marginal in the area of conflict, are undeniably neutral.

However, even if circumstances favor use of American peacekeepers we must keep in mind that our ability to deploy troops is not sufficient reason to do so. In my view this administration has too willingly committed our troops and national resources to foreign hot spots on the naive assumption that we can and should develop a world police force. Mr. President, I believe we must remember that a peacekeeping mission is not just another peacetime deployment overseas. It is a dangerous situation in which troops are intentionally placed among warring parties in order to construct some sense of order and discipline.

American troops are highly visible and so will be especially at risk in these conditions. This makes it our duty, as policy makers, to commit troops only where our vital interests are at stake. We neither can nor should subordinate our interests to those of any abstract, world-wide organization beholden to dictators who see us as enemies. Rather, in deciding whether to deploy U.S. troops to a particular area, we first must weigh the extent to which success in that area will advance our national interests. Only where vital national interests are at stake should we expose our troops to extraordinary danger.

Mr. President, please let me also reiterate my earlier statement as to the sliding-scale of interests that usually lay before us. The more directly and significantly our national interests are effected by instability in a particular area, the greater will be the argument for the deployment of U.S. troops. Again, I do not believe that there is some definitive level of American interests that signals the call for U.S. involvement, but rather, the effect upon our interests must be measured against the degree to which the other criteria I have established are impacted.

Which brings me to my second criteria—the probability of success in furthering our national interests. It makes little sense to me to undertake a mission that has little or no chance of success unless the threats to our national interests are so great, that such a high level of risk is justified. With peacekeeping, compared to other, more traditional military missions, the risk should be low given the relatively low return we can expect from a mission, which by definition, is supposed to be nonconfrontational. I will repeat again that there is not, in my opinion, some definitive level of risk which we should not cross in a peacekeeping mission; the measurement of that risk should be weighed along the sliding scale of national interests and broader international relations we maintain with the various parties to the conflict.

Furthermore, the probability of success will, in my opinion, be much greater for those conflicts where a peace is already at hand, arrived at by the parties themselves from a true desire to end the conflict and find some common ground from which to build a future. In those situations, a peacekeeping force from a trusted friend may be just the step necessary to allay fears and allow the peace process to continue. But when the United States, from a position of superiority or paternalism, attempts to impose a peace upon warring factions in an essentially unresolved conflict, the underlying issues continue to smolder, and the chances for success drop dramatically.

There is, however, a third factor which I believe must be considered in any decision to deploy U.S. forces: the degree to which our relationships with the countries of the region will be improved by our participation. At times, for example, while both sides of a conflict wish for peace, one side or the other is so frightened that only American assurances will be sufficient to quiet them. Furthermore, there are countries who are such trusted friends and allies, that their security is a national interest for us too. And just as I have stated earlier regarding the sliding scale with which I believe we should make such analyses, the closer and more significant our relations are with the countries of the region, the more willing we should be to deploy our troops in support of a peace accord.

But in such a case we must not seek merely to mimic traditional peacekeepers like the Swedes or Fijians, following some inflexible policy of impartiality. Rather, we should, in my view, make clear that we will not tolerate threats to our interests, or to the interests of our friends. Precisely because we always are perceived as choosing sides, such a statement of interest, if backed up by military presence, will be believed.

Two cases where we have become involved may shed some light on how I think we should apply these criteria. In the Sinai, America saw the confluence of vital national security interests, a strong probability of success emerging from a peace accord initiated and completed by Egypt and Israel, and a conflict where two of our close allies requested our involvement. The Middle East conflicts of the last 50 years have repeatedly placed the United States at odds with the Arab world. The threats to the vital energy supplies of the West's industrial base threatened our most significant national interests. Indeed, the worldwide economic recessions of the late 1970's and early 1990's are both directly attributable to the oil shocks of 1973 and 1990.

The threats to our national security alone were sufficient to warrant our involvement. But, in this case, the criteria of our international relations with the involved countries was also met through our ties with Egypt and Israel. The Camp David Accord was a consummation of a growing United States-Egyptian relationship, heralding a breakthrough in United States-Arab relations. Started with the shuttle diplomacy of Henry Kissinger, and culminating in the extensive military-to-military relationship developing through our assistance programs, the deployment of American troops to the Sinai helped cement our emerging relationship with Egypt. Furthermore, our commitment to Israeli sovereignty and security has always been a cornerstone of United States Middle East policy. Our participation in the Sinai multinational observer force directly improved our relationship with both countries, helped stabilize the Middle East, and directly represented our commitment to the success of the Camp David Accords. It is doubtful our close relations with either country, the successful establishment of Palestinian authority, or the Israeli-Jordanian Peace Agreement, would have been possible without our peacekeeping pledge.

Finally, the probability of success for the Camp David Accord was particularly high given that the combatant states themselves initiated the process and had the most to lose by its failure. It was apparent from the start that both Anwar Sadat and Menachem Begin wanted peace, but needed assistance in finding a way to protect their vital national security interests. In such a situation, the good offices provided by the United States, and the assurances to Israeli security provided by the presence of our troops, were the critical elements in securing the Accord.

The Dayton agreement, on the other hand, in my view represents a situation in which an American peacekeeping presence is not justified. As I stated during the authorization debate, there is an American interest in resolving the Balkan conflict arising from the threat of broader European instability, the strain the conflict places on our relationships with our NATO allies, and the friction it causes between Eastern and Western Europe. But none of these threats is so far along the scale of national interest that they warrant our involvement in and of their own right. In fact, when measured against the other criteria of success probability and our relationships with the regional states, I believe a compelling case is made for the United States to participate in a peacekeeping mission.

As I just explained, I believe American troops are particularly ill-suited to serve as traditional, impeccably neutral peacekeepers. They present too ripe a political target and bring too

much political baggage simply because of the flag they fly. Because there are alternatives to United States ground involvement, including the provision of air and naval forces, logistical support, and financial resources to support other nations' forces, I believe it is wiser to use smaller, more traditional peacekeeping forces from areas such as Scandinavia, Africa, and Asia.

Furthermore, I am not convinced the Dayton Accord was anything other than an imposed peace by a paternalistic Clinton administration. Whereas both the Israelis and Egyptians had concluded that further use of arms was fruitless and counterproductive, the Balkan parties, in my opinion, believe force may still be a legitimate tool to achieve their political aims. In fact, the Washington Times of 31 January 1996 quoted a draft version of a new national intelligence estimate as stating, "the former combatants share a deep, mutual distrust and will continue to seek achievement of their fundamental goals, rather than accommodation, even as the Dayton agreement proceeds * * *. They will see compromise as a zero-sum game and attempt to divide and manipulate the international community in the way the accords are implemented." Until all sides truly want peace, I am doubtful that any peace agreement, no matter how elegantly crafted, will hold in the long run. An imposed peace is, to me, only conflict delayed. Once we leave, I believe the conflict will start anew.

Mr. President, I wish we could decide when and where to deploy American troops in support of peacekeeping missions by consulting a checklist of clearly definable and easily quantifiable criteria. Unfortunately, the world is not so simplistic. Each conflict, each situation that begs our involvement, each call for America to serve as policeman or arbiter of justice, presents an enormous range of national security concerns. Along the broad scales of national interests, international relations, and mission success feasibility, we must identify the net result for each situation and determine what action will best advance our national goals. It is not easy, it is not clean, but we must do it. Oftentimes, I believe we will discover that our national interests are not sufficiently implicated to warrant the disproportionate risk under which our military must labor simply because they are the highly visible political force of the world's only superpower. But at other times, especially when our interests do lie with the protection of one or more parties to a conflict, the deployment of U.S. peacekeepers may reasonably advance our national interests. At times like these, we must be ready and willing to make such a commitment to assisting our friends and allies in achieving true and lasting peace.•

JOSEPH GENTILE

• Mr. LIEBERMAN. Mr. President, I rise today to recognize Joseph Gentile from the State of Connecticut. Over the last three decades, Mr. Gentile, who resides in the Morris Cove section of New Haven with his wife, Bernadette, and three children, has truly demonstrated a genuine love for his fellow man. He has devoted himself tirelessly to his community in his quest to help the area youth and underprivileged succeed. Through his participation in sports and community organizations, he has always extended a helping hand and his good will to those in need.

His accomplishments, as are the lives that Joseph has touched and help shape, are countless. As a coach, commissioner, administrator, and friend of the Annex Y.M.A. Little League, the East Haven Midget Football League, and East Haven High School he produced winners on and off the field. His football, baseball, and softball teams won numerous league, State, and district championships throughout his coaching career. More importantly, the youngsters he came in contact with learned lessons in humility, sportsmanship, and perseverance from a true role model.

Joseph Gentile has also exemplified these same qualities as a long-standing member and former board of governor and director of the Walter Camp Football Foundation, as a volunteer for the Connecticut Special Olympics and while serving as a New Haven commissioner for persons with disabilities. He has also played an instrumental role while serving as district coordinator for the New Challenger Division in Little League baseball for physically and mentally handicapped children. When called upon for assistance, Joseph Gentile has always answered the call.

Therefore, Mr. President, I see it only fitting that this outstanding and caring individual be commended for his many contributions, hard work, and for always having a golden heart.•

ORDER OF BUSINESS

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FAIRCLOTH. 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. FAIRCLOTH. Mr. President, I ask unanimous consent that I be allowed to speak as in morning business for 5 minutes.

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

WELFARE REFORM

Mr. FAIRCLOTH. Mr. President, on the night of January 9, while this city was buried under a record snowfall, President Clinton vetoed the welfare reform conference report by this Congress, thereby blocking real welfare reform. Recent news accounts suggest that an effort is underway to resurrect the Senate-passed welfare bill and send that to the President.

I rise today to state that I would be strongly opposed to doing that. As I just said, Mr. President, the fact of the matter is simply this: The Congress has passed a bill and demonstrated its commitment to real welfare reform. It is time the President quit talking about welfare reform and demonstrate his commitment to it.

Mr. President, the President promised to "end welfare as we know it," but I think it is time he did a better job explaining what he means by ending welfare as we know it before we send him another bill.

The welfare reform bill that President Clinton opposes takes the first step in 60 years of the welfare programs toward requiring that recipients work for their benefits.

The welfare reform bill that President Clinton opposes takes important steps to stop and slow the growth in illegitimacy, which is the root cause of welfare dependency, and we are still subsidizing it.

The welfare reform bill that we have passed places a 5-year limit on receiving benefits and consolidates the Federal welfare bureaucracy and returns power to the States; toughens child support enforcement laws; prevents noncitizens from receiving benefits; and saves working American taxpayers $60 billion. It was a good bill that we sent the President. The conference report was a good bill, and he stood up at the State of the Union Address and said, "I am for welfare reform," but vetoes it.

I voted against the Senate welfare reform bill because it excluded critically important illegitimacy provisions such as a family cap and a limit on the subsidies for children born out of wedlock. I support the improved conference report as it was sent to the President as a first step toward requiring real work from welfare recipients, reducing illegitimacy, and slowing the unrestrained growth of welfare spending.

President Clinton simply does not want welfare reform by requiring work and reducing illegitimacy. What he means by "welfare reform" and what he meant when he said we "misunderstood him," what he meant when he said he was going to "end welfare as we have known it," was that he was going to put more money into it than we ever heard of, he was going to hire more people to administer the program, and he was going to put more people on the welfare program. That is what he

means by ending welfare as we have known it.

I urge my colleagues in both Houses to stand by the welfare reform conference report, let the President come forward with his version of welfare reform before we retreat from a good product and a year's work. Let him bring us one.

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

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

JOINT MEETING OF THE TWO HOUSES—ADDRESS BY THE PRESIDENT OF THE FRENCH REPUBLIC

Mr. FAIRCLOTH. Mr. President, I ask unanimous consent that the President of the Senate be authorized to appoint a committee on the part of the Senate to join with a like committee on the part of the House of Representatives to escort His Excellency Jacques Chirac, President of the French Republic, into the House Chamber for the joint meeting on Thursday, February 1, 1996.

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

ORDERS FOR THURSDAY, FEBRUARY 1, 1996

Mr. FAIRCLOTH. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 10:30 a.m., Thursday, February 1; further, that immediately following the prayer the Journal of proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed to have expired, and the time for the two leaders be reserved for their use later in the day, and the Senate then immediately resume consideration of S. 1541, the farm bill, as under the previous agreement.

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

Mr. FAIRCLOTH. Mr. President, I further ask unanimous consent that, notwithstanding rule XXII and the recess of the Senate for the joint meeting, Senators have until the hour of 12 noon on Thursday in order to file first-degree amendments to the substitute amendment, and that Senators have until the hour of 1 p.m. on Thursday in order to file second-degree amendments.

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

PROGRAM

Mr. FAIRCLOTH. For the information of all Senators, the Senate will reconvene on Thursday at 10:30 a.m. and will resume consideration of the farm bill under the unanimous-consent agreement. There will be at least two cloture votes beginning at 1:30 p.m. on Thursday. Additional rollcall votes may be necessary in order to complete action on the farm bill during tomorrow's session.

Again, as a reminder to Senators, there will be a joint meeting beginning at 11:45 a.m. on Thursday for an address by the President of France, President Chirac.

ADJOURNMENT UNTIL 10:30 A.M. TOMORROW

Mr. FAIRCLOTH. Mr. President, if there is no further business to come before the Senate, I ask that the Senate now stand in adjournment as under the previous order.

There being no objection, the Senate, at 5:13 p.m., adjourned until Thursday, February 1, 1996, at 10:30 a.m.

HOUSE OF REPRESENTATIVES—*Wednesday, January 31, 1996*

The House met at 11 a.m. and was called to order by the Speaker pro tempore [Mr. RADANOVICH].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
January 31, 1996.

I hereby designate the Honorable GEORGE P. RADANOVICH to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Reverend Joe Voss, Valley Center Assembly of God, Valley Center, KS, offered the following prayer:

Lord, we pause at the beginning of this session to humbly bow our hearts before You. We acknowledge Your lordship and Your majesty and our utter dependence upon You.

From the beginning of creation, You have moved the hearts of kings like a river. So move the hearts of this House, and the great Nation they represent. Lord, move our hearts to submit under Your hand and to seek Your wisdom from above. Give us that wisdom that You declared is first, pure, and peaceable and gentle, willing to yield, full of mercy and good faith, without partiality and without hypocrisy.

Lord, forgive us for the times we have walked outside of this wisdom. Be merciful to us as a nation and forgive us our sins, both against You and one another.

Help us to be a light to the world, to do justly, to love mercy, and to walk humbly with our God.

We ask this in the precious name of our Lord and Savior, Jesus Christ. Amen.

THE JOURNAL

The SPEAKER pro tempore (Mr. RADANOVICH). The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Florida (Mr. DIAZ-BALART) come forward and lead the House in the Pledge of Allegiance.

Mr. DIAZ-BALART led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one if its clerks, announced that the Senate agrees to the amendments of the House to the amendments of the Senate to the bill (H.R. 2353) "An Act to amend title 38, United States Code, to extend certain expiring authorities of the Department of Veterans Affairs relating to delivery of health and medical care, and for other purposes.".

The message also announced that the Senate has passed a concurrent resolution of the following title, in which the concurrence of the House is requested:

S. Con. Res. 40. Concurrent Resolution to commemorate the sesquicentennial of Texas statehood.

The message also announced that pursuant to Public Law 103–227, the Chair, on behalf of the Republican leader, appoints Mr. JEFFORDS as a member of the national education goals panel, vice Mr. GREGG.

The message also announced that in accordance with Public Law 81–754, as amended by Public Law 93–536 and Public Law 100–365, the Chair, on behalf of the Vice President, appoints Mr. HATFIELD to the National Historical Publications and Records Commission.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. RADANOVICH). The Chair will recognize Members for an unlimited number of 1-minute speeches.

WELCOME TO REV. JOE VOSS, VALLEY CENTER ASSEMBLY OF GOD CHURCH

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

Mr. TIAHRT. Mr. Speaker, today the House was opened in prayer by my friend and pastor, Joe Voss. Joe is from a tough neighborhood in St. Louis. As a teenager, he was sent to a correctional school for boys, but thanks to Salvation Army officers, Major Froeberg and Clarence Harvey, who is currently a Divisional Commander here in D.C., Joe turned his life around.

He went to Forest Park Community College and graduated from the Salvation Army Seminary in Chicago in 1970. Joe married Connie 25 years ago and they have a 21-year-old son, Joey, and a daughter who is 18, named April.

But the real story is what Joe and Connie are doing today. He has just finished heading up a building program for a new sanctuary without borrowing money. Instead of mortgage payments, Joe and the members of Valley Center Assembly of God are investing in young boys and girls, many from single homes, through a scouting program called Royal Rangers and Missionettes.

They are not only working with the teenagers in their church, but also reaching out to the gangs in Wichita. They have even reached out to those trapped by prostitution, by drugs, and by alcohol through their "Christ in the Streets" program.

Joe has exchanged pulpits with black congregations in our community, allowing them to come into Valley Center Assembly of God, while he goes to other community churches. Some would say that this is innovative for a church to reach outside its walls. Joe would simply say it is changing the hearts and minds of America one soul at a time.

Welcome to the House, Pastor Voss.

CONGRESS SHOULD STAY IN SESSION AND WORK

(Mr. EDWARDS asked and was given permission to address the House for 1 minute.)

Mr. EDWARDS. Mr. Speaker, a moment ago we put our right hands over our hearts and pledged allegiance to our flag and the Nation for which it stands. I would like to challenge every Member of this House today to take another pledge, a pledge that we will not go home in February for a month, a pledge we will not take a paid vacation as Members of Congress, while this Nation is on the brink of defaulting on its good faith and credit for the first time in two centuries.

Mr. Speaker, I think every Member of Congress tomorrow who would vote to recess, when we are on this brink, are playing Russian roulette with the American economy and average working people's lives whose mortgage rates will go up and veterans who will not receive their paychecks and the widows of veterans who will not receive their pensions.

Anybody who votes to go on recess tomorrow should volunteer not only to give up his or her paycheck for the month of February. They should volunteer to explain to 44 million senior citizens why on March 1 they may not get their Social Security checks and Medicare recipients will not get their checks. We should stay here and work.

PROTECT CALIFORNIA'S FRUIT AND VEGETABLE INDUSTRY

(Mr. CALVERT asked and was given permission to address the House for 1 minute.)

Mr. CALVERT. Mr. Speaker, the rumor going around the California agricultural community is that USDA Secretary Dan Glickman is out to ruin California's multibillion-dollar-a-year fruit and vegetable industry.

Why would Secretary Glickman want to destroy California's Agricultural industry? Only he knows.

Bill Clinton will get the blame—conventional wisdom says this is a no brainer—costing Clinton the November election.

An independent study by University of California, Riverside, Boston University, Cornell University, and Oregon State University states that USDA has not used good science.

Allowing pest-ridden Mexican avocados into the United States is a recipe for disaster. They will bring in fruit flies, stem borers, and seed weevils. The invasion of these pests will destroy California's crops for generations to come.

Secretary Glickman, use common sense. Don't allow pest-ridden Mexican avocados into our country. It is bad policy, based on bad science.

LOAN GUARANTEES

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

Mr. TRAFICANT. Mr. Speaker, let us see if this makes any sense. Uncle Sam borrows money from Japan and Germany and then gives that borrowed money to Russia. Russia then sells nuclear technology, fighter jets, tanks, and submarines to Iran and China. Military experts say that Iran threatens the gulf and that China, as we speak, threatens to nuke Taiwan.

If that is not enough to float your boat, the White House wants to guarantee part of a $9 billion loan, another one to Russia, $9 billion.

Mr. Speaker, did anyone ever stop to think that America with these policies just may be aiding and abetting our enemies?

Beam me up, Mr. Speaker.

If we can guarantee any loans for anybody, it should be for the people in the United States of America.

CASTRO'S THREATS AGAINST DISSIDENTS' YOUNG CHILDREN

(Mr. DIAZ-BALART asked and was given permission to address the House for 1 minute.)

Mr. DIAZ-BALART. Mr. Speaker, since the time of the visits of two of our colleagues to Cuba a few weeks ago, dissidents and independent journalists there are facing increased repression. Dissident leaders Miriam Garcia, Mercedes Parada Antunes, Leonel Morejon Almagro, Pedro Brito Hernandez, and many others, have reported being the victims of increasing repression. But perhaps the most spine-chilling example of Castro's new wave of brutality is the way in which Vicky Ruiz, a member of the dissident umbrella group Concilio Cubano, is being threatened.

State security has not only repeatedly threatened Vicky Ruiz's physical safety, but Castro agents have also told her that, if she does not stop her human rights advocacy, her young children, a 9-year-old girl and a 6-year-old boy, will be physically assaulted, as will be her 13-year-old nephew, who also lives with her in the same house.

I, Mr. Speaker, have personally heard her plea for help sent by telephone. All human rights groups, international organizations, our Government, and all governments have a duty to immediately condemn these acts of cowardly brutality with all vehemence, and to intercede on behalf of Vicky Ruiz and her young family.

STOP JEOPARDIZING AMERICA'S CREDIT

(Mr. DOGGETT asked and was given permission to address the House for 1 minute.)

Mr. DOGGETT. Mr. Speaker, as so many Texans gathered yesterday in Austin to honor Senator Ralph Yarborough, I was reminded of his urging that we ought to put the jam on the lower shelf so the little people can reach it. How appropriate those words are this morning.

Speaker GINGRICH wants to put all the jam up there on the top shelf so that those who are sitting comfortably on the top ladder can reach up there and get the tax breaks and the crown jewels. Those that are down there on the bottom rung, working families, they reach into the cupboard and they find it bare. All they get is a notice for raised taxes under this Republican economic plan.

Mr. Speaker, meanwhile the Speaker is talking about getting this country into a jam of a far different type: Defaulting on the full faith and credit of the United States of America, the kind of idea we would have only heard on the crackpot circuit a year ago. Well, it is time to stop jeopardizing with these political shenanigans the future of working families across America.

PRESIDENT CLINTON AND BIG GOVERNMENT

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to include extraneous material.)

Mr. BALLENGER. Mr. Speaker, last week President Clinton said this was the end of the era of big government. And this week, the President says that he established a record of remarkable consistency.

Mr. Speaker, let's review the facts. President Clinton is responsible for the largest tax increase in American history. He tried to take over one-seventh of the U.S. economy by socializing the Nation's health care system. Last year, the President submitted four budget plans, none of which balanced, all of which had $200 billion deficits as far as the eye could see. And only until very recently has the President submitted a balanced budget, but even that puts off the tough choices for future politicians and spends $326 billion more on failed Washington programs.

If this is the end of big government, I must be in political fantasyland.

Mr. Speaker, let's cut through the double-speak see that, in reality, Bill Clinton has become big government's little buddy.

Mr. Speaker, I submit the following for the RECORD:

[From the Washington Post, Jan. 31, 1996]

CLINTON SAYS RECORD SHOWS "REMARKABLE CONSISTENCY"

(By Ann Devroy and John F. Harris)

President Clinton said yesterday his declaration last week that the era of big government is over was not a departure from the philosophy he brought to the White House three years ago and said he will show voters this year that he has compiled a record of "remarkable consistency."

Clinton's comments came in an Oval Office interview a week after a State of the Union address in which he embraced many of the limited-government themes sounded by congressional Republicans. Despite his advocacy of a federal overhaul of health care earlier in his administration and recurrent charges by his critics that he has moved across the political spectrum with the polls, Clinton said his basic approach to the presidency has not changed.

"I believe I've given the American people a coherent view of the world," he said, adding: "Just because I'm not for big government doesn't mean I think we should have a weak government or that there's nothing for government to do."

Clinton said that while he hopes other Democrats share this vision, he will not make recapturing Congress for the Democrats a primary goal of his 1996 campaign. Such an appeal based solely on party, he said, would be "self-defeating."

On welfare reform, Clinton said he has not given up hope that a compromise bill acceptable to him will be approved this year. But he set a new price for his signature on a welfare system overhaul, asserting that the Senate proposal he indicated he would support last fall will have to be changed for him to support it now. He called on Republicans to send him a revised bill that would contain fewer cuts in funding for food stamps, provide child care for welfare recipients who

work and preserve current protections for disabled children.

One of Clinton's major campaign pledges in 1992 was to replace welfare "as we know it," but he must reconcile that with his veto of a Republican welfare plan earlier this year because it was too hard on children. Since the veto, Republicans have been debating among themselves how to revive the issue. One alternative they have discussed is to agree to unite behind the Senate version, which was adamantly opposed by House Republicans.

That way, some Republicans argue, Clinton would have to sign the bill—as he earlier indicated he would do—hereby angering liberals in his party, who think the Senate bill amounts to an abandonment of the party's traditional commitment to the needy.

Clinton's comments yesterday appear to add a new hurdle to getting any version of welfare overhaul through Congress this year. Some argue it is an academic discussion anyway, because Republicans have deep disagreements over whether to try for a deal, how to proceed and whether a more limited measure like the Senate version could make it through the House.

In the interview and later talking to reporters, Clinton said any new version sent him should "at least reflect" understandings on improvements reached between him and congressional Republicans during their marathon balanced-budget talks at the end of 1995.

"We reached an understanding," Clinton said, that "we should do more" on child care funding, food stamp proposals, funding that covers Social Security disability payments to children and provisions affecting the children of legal immigrants.

Republicans disputed Clinton's description of the talks and his call for using them as a basis for new legislation. Tony Blankley, spokesman for House Speaker Newt Gingrich (R-Ga.), said the welfare discussions were in the context of Republicans taking less than real reform in order to get more of a real balanced budget. Without the balanced budget, he said, the equation doesn't hold up.

"It's not going to happen," he said of legislation rewritten to reflect the president's newest specifications. Adding new requirements now to the one version he did embrace "offers a flavor of the kind of two-step he did in the Oval Office last month," moving the goal posts as the game proceeded, Blankley said.

Administration officials are vague on what precisely Clinton and the Republicans reached understandings about. But one senior official said Republicans agreed to add back about $4 billion of the $26 billion in cuts they proposed for food stamps, and were no longer seeking to make the program a block grant. On child care, they did not object to adding $2 billion in spending and to allowing women who work 20 hours a week to meet the work requirement to keep benefits.

On Social Security disability payments, the Republicans, officials said, did not object to loosening requirements to allow more traditionally disabled recipients to retain their benefits, while removing alcoholics and others. The two sides also "threw out a number of ideas" on how to loosen the GOP requirement that legal immigrants not be eligible for most welfare benefits, an official said.

Clinton was relaxed and voluble for most of the interview, becoming more intense only when defending himself when asked if he has been inconsistent in his approach to government. He was joined in the Oval Office by a handful of senior aides, including senior adviser George Stephanopoulos, press secretary Michael McCurry and communications director Don Baer, none of whom joined the discussion.

Regarding the 1996 campaign, Clinton said he has gotten a good reception to the conciliatory tone of his State of the Union speech and said seeking common ground with Republicans would be part of his election-year message.

But asked if he would ask voters to give him a Democratic Congress to help accomplish second-term goals, Clinton said, "The American people don't think it's the president's business to tell them what ought to happen in the congressional elections."

Presidents have been only modestly successful in recent elections in getting voters to link their presidential votes to congressional votes by party. George Bush, when he was elected in 1988, saw his party lose seats in Congress, as did Clinton in his 1992 election. But the reelections of Richard M. Nixon and Ronald Reagan, in 1972 and 1984, saw their Republican Party make double-digit gains in congressional seats.

"The evidence that the president's been successful making that kind of argument to the American people is not very heavy," Clinton said.

He added, "I think it ought to be obvious to people that Speaker Gingrich would like to have a Republican president and it's obvious to people that I would like to have more Democrats in the Congress, but I think what the American people want to know is: What are these people saying, how's it going to affect me, and then I'll make a decision about how I'm going to vote." The president said he would "make my case" about what he wants to do in a second term. "I hope it will embrace a lot of the people that are running for Congress in my party. But to tie the two things together I think would probably be self-defeating."

Asked about his changes in governing philosophy since he took office and to reconcile his first speech to Congress in 1993 with his State of the Union address last week, the president flushed and rejected the premise that the different themes showed a different philosophy.

In 1993, he began his speech by saying, "Tonight I want to talk to you about what government can do because I believe government must do more," and went on to outline a "package of jobs investments of over $30 billion to put people to work now, to create half a million jobs: jobs to rebuild our highways and airports, to renovate housing, to bring new life to rural communities." Last week, he twice proclaimed, "The era of big government is over."

Clinton said the two speeches are inconsistent "only if you have that kind of selective quotes."

"I've worked very hard to work out a coherent philosophy that is different from either just letting the market run the world and America, or pretending that the government can solve all the problems," he said. "I have worked on it very hard for years and years and I believe that there's a remarkable consistency in what we have done."

CONGRESS SHOULD BALANCE THE BUDGET IN THE RIGHT WAY

(Mr. OLVER asked and was given permission to address the House for 1 minute.)

Mr. OLVER. Mr. Speaker, as American workers and families struggle for economic security, the 104th Congress has an obligation to help. First, this Congress must protect the credit and good name of our Nation. Congress should pass clean legislation to avoid default on our debt now, this week.

Next, we should raise the national minimum wage so working families can survive without Government assistance. Then we should provide workers with portable health insurance and guarantee that no one can be denied health coverage due to a preexisting condition.

We should balance this budget, but only in a way that protects our parents' pensions, provides education and job training, keeps our streets and schools safe, and protects our environment.

Mr. Speaker, Americans are skeptical that their Government can do anything to make their futures brighter. We should prove them wrong.

BALANCE THE BUDGET

(Mr. METCALF asked and was given permission to address the House for 1 minute.)

Mr. METCALF. Mr. Speaker, the interest on the debt this year is $235 billion; that is more than the deficit. In other words, Government spending is really less than Government income, if we do not count the deficit.

We are paying interest on a debt that Congress overspent, the result of Congress overspending for decades. It has resulted in this disgraceful deficit, and the budget we now begin this year, the interest on the debt will exceed the huge defense budget. Interest on the debt costs $1,300 for every American. That is $5,200 for a family of four. Think what $5,200 would do for the standard of living of each American family.

We have a moral responsibility to balance the budget and a moral responsibility to protect the American dream for our grandchildren.

DEBT CEILING

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, for the first time in the history of the United States, the President and Secretary of the Treasury are sitting in consultation as to what to do if this Nation defaults on its debt. What a crisis. Not in World War I, not in the Civil War, not in World War II did we ever sit to determine what we would do if we default on the debt.

What an irresponsible act, Mr. Speaker, that we in a couple of days will not be able to pay our Social Security benefits to those who are living on the margin of life. This includes our benefits to the veterans, and, yes, our

military pay to active duty military, particularly to those in Bosnia. I have been there, to Bosnia, Croatia, and the former Yugoslavia, to Germany and Italy, where our men and women are serving. I say to my colleagues that they are committed, but we will not be able to pay them.

In addition, we will have working men and women who will see interest rates on their credit cards go up, as well as student loans, mortgages, and unemployment.

Join me in supporting a privileged resolution that I will offer. We will not go home until we pass a bill creating a clean debt ceiling.

Mr. Speaker, I rise today to urge this House to stop playing games with the full faith and credit of the United States and pass a clean debt ceiling extension.

If the debt ceiling is not extended or is sent to the President in a form that he cannot sign, the repercussions will be devastating. Already, the leaders of our European Allies are warning of an international financial crisis should the United States default on its debt payments. Bond rating agencies are raising alarm that our Nation's triple A bond rating is in jeopardy.

An actual default would cause interest rates on Treasury Bonds to rise, making a balanced budget almost impossible to achieve. Home mortgage and business borrowing rates would increase, slowing economic growth.

In the past, many clean debt limit extensions have been passed in a bipartisan manner by this House. It was the right thing to do then, and it is the right thing to do now.

Because of the devastating effects of a default, I plan to offer a privileged resolution to keep this House working until a clean debt ceiling is sent to the President.

I urge my colleagues on both sides, do the right thing. Vote for my resolution, pass a clean debt ceiling extension and preserve the full faith and credit of the United States.

REVITALIZING AMERICA'S MANUFACTURING SECTOR

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

Mr. FRANKS of New Jersey. Mr. Speaker, today, along with Representatives JACK QUINN, PAUL MCHALE, and MARTY MEEHAN, I will introduce legislation aimed at revitalizing America's industrial sector. Our bill encourages businesses to reclaim old, abandoned industrial sites known as Brownfields and redevelop them into sites of economic activity. The bill will help bring jobs and much needed revenue to blighted areas across the country.

Our bill complements State Brownfields initiatives by removing existing Federal barriers that inhibit site cleanup and impose threats of liability on prospective buyers. Importantly, however, our bill does not compromise public health or environmental quality. Also, our legislation creates a Brownfields IRA which will serve as a key resource to businesses by allowing tax-free contributions of up to $5 million which can only be used for Brownfield site remediation costs.

I urge Members to cosponsor this bill and help revitalize our country's urban industrial centers.

PASS A CLEAN DEBT CEILING NOW

(Mrs. KENNELLY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. KENNELLY. Mr. Speaker, this past Sunday, there was a large, black headline in the Washington Post. "Default," it said—with an exclamation point. It was a frightening story, depicting the cascading effect of a U.S. Government default from worldwide currency markets to home mortgages.

Fortunately, it was a story that has not yet come true. And more and more Members are now saying publicly that they do not think it will come true.

But the question remains: If no one wants a default, and if everyone understands that the debt limit must be raised, and if a majority of the House and Senate are willing to take the tough but necessary vote to do so—why have we not done so yet?

Lifting the debt limit should not be a matter of politics, but of governance. Ensuring that it is done should not be a question of partisan leverage, but of leadership.

As the sponsor of critical legislation to pass a clean debt ceiling, I urge my colleagues to cosponsor this bill. I further urge them to sign the discharge petition that would bring this legislation to the floor. And above all, I urge: Pass a clean debt ceiling now.

□ 1120

HOW FAIR ARE OUR TAXES?

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

Mr. STEARNS. Mr. Speaker, I rise today to bring to my colleagues' attention a Reader's Digest article in the February issue entitled, "How Fair Are Our Taxes?" The results should not be surprising. Simply put, and I am quoting from the article, "Americans at every income level think we are overtaxed." Furthermore Americans, according to this poll, think a family of four should bear a maximum tax of 25 percent. And that is not just Federal income tax, that is all taxes at all levels.

I remind my colleagues, the Reader's Digest is a publication which is fair. They conclude clearly that a large majority of Americans, nearly 70 percent of those polled, regard the tax burden as unfair.

Mr. Speaker, my colleagues, we need to act now to reduce the tax burden for Americans. Not only is reducing taxes a matter of fairness, but a matter of economic opportunity for America and a matter of shrinking the Federal bureaucracy.

DEFAULTING ON THE DEBT

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, last month, House Republicans shut down the Government to try to blackmail the President into signing their extreme agenda. Now, they are at it again. This time, the crowd that brought us two Government shutdowns is threatening to destroy our country's credit rating by defaulting on our debt.

If Republicans have their way, the United States will default on our financial obligations for the first time in our history. Think about that—for 220 years our country has paid its bills and now that is about to change because extremists in this Congress would rather force a Government default then compromise on their right wing agenda for America.

Two hundred and twenty years is a long time and much has changed. Once America was led by Madison and Jefferson, who became known as the Founding Fathers of our democracy. Now, we are left with GINGRICH and DOLE, who seem intent on becoming the deadbeat dads of democracy.

PASS A CLEAN DEBT CEILING EXTENSION

(Mr. PALLONE asked and was given permission to address the House for 1 minute.)

Mr. PALLONE. Mr. Speaker, again I wanted to comment on the possibility of the default on March 1. I find it incredible that the Republican leadership first attempted to shut down the Government on several occasions in the past few months in order to try to enforce their radical agenda and essentially hold the Government hostage because the Democrats would not agree to major cuts in Medicare and Medicaid, environmental protection, and education.

Now, realizing that the American people could not support the Government shutdown and that they were losing the support of the American people, they decided they would leave the Government open again, and now they are moving toward this default. They are jeopardizing the credit rating of the

United States which, as of March 1, there is a real possibility that this Government would default.

What they are saying is, that is OK. We will go home for 3 weeks. We will adjourn after tomorrow. We will come back at the very end of February, just a few days before March 1. And if you do not go along with our radical agenda and cut Medicare and cut Medicaid and do the other things that we want to you to do, based on our ideology, then we are going to default.

I think it is a terrible way to operate. We should put a stop to it.

A FRIGHTENING STRATEGY

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

Mr. MILLER of California. Mr. Speaker, I read with interest of the remarks of Albert J. "Chainsaw Al" Dunlap to the Republican freshman caucus. Mr. Dunlap earned his nickname by firing thousands of employees at various companies, most recently Scott Paper Co.

American workers and voters, take note.

Mr. Dunlap's frightening strategy involves firing loyal employees, ignoring impacts on communities, and maximizing profits to stockholders and the corporate elite—like Mr. Dunlap.

Two years of firing employees made Chainsaw Dunlap a very rich man; he pocketed about $100 million, much of it in stock gains that would be untaxed under the Republicans' flat tax scheme.

Along the way, he fired 20 percent of hourly workers and 50 percent of managers, barred community activities, and reneged on charitable commitments. But as the chairman of Wharton's management department noted, "Dunlap didn't create value. He redistributed income from the employees and the community to the shareholders."

Let us hope that the Republican revolutionaries who listened to Dunlap do not buy into his prescription that people are as disposable as Scott tissue as long as the bottom line spells money for the wealthy

FINANCIAL CREDIBILITY

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

Mr. STUPAK. Mr. Speaker, the United States faces a major threat to its financial credibility from the new majority, which is playing politics with the Nation's credit and refusing to raise the Nation's debt limit. Their tactics hurt all Americans, just as Americans were hurt by the expense and inconvenience of two Government shutdowns.

But the issue involves more than finances. The credibility of this very Nation is hurt by such tactics. We approve spending measures for Social Security, for education, for the environment, for the defense of this Nation, and then we tell America that we are simply not going to pay our bills. Whatever happened to the fullfaith and credit of this country? What ever happened to one's good word.

Republicans may try to fool the public by suggesting that raising the debt ceiling will somehow cap future spending, part of their agenda to reduce spending on Medicare, or Medicaid, the environment, and education, but the new majority should be honest with the American people. The debt limit must be approved to pay for current spending, not future spending. We must be responsible and protect our Nation's finances and reject this destructive extremism by passing a clean resolution to raise the Nation's debt ceiling.

OREGON ELECTION RESULTS

(Mr. BROWN of Ohio asked and was given permission to address the House for 1 minute.)

Mr. BROWN of Ohio. Mr. Speaker, yesterday for the first time in 34 years, voters in Oregon elected a Democrat to the U.S. Senate. Despite being outspent over 3 to 1 and largely from Washington special interest money, Democrat RON WYDEN was elected to replace Republican Bob Packwood. Why? Because Oregon voters are sick and tired of Speaker GINGRICH shutting down Government in this country, not once but twice, and voters are sick and tired of Speaker GINGRICH threatening over and over to force our Nation into bankruptcy, all because the Speaker wants his extremist agenda enacted into law in this country.

People all over the country are rejecting this kind of thinking. They are rejecting cuts in Medicare to give tax breaks to the wealthiest individuals in this country. Voters are rejecting cuts in student loans and cuts in environmental programs in order to give tax breaks to the largest companies in America. That kind of extremist thinking is not what the American people want. Let us have a balanced budget that protects Medicare, protects the environment, and does not give major tax breaks to the wealthiest people in this country that do not need it.

ARTIFICIAL DEFAULT

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

Mr. GIBBONS. Mr. Speaker, the Republicans in this Congress, in the House of Representatives, are trying to force this Government into an artificial default. This is not a new power that the Congress suddenly possesses. It is something that has been embedded in the Constitution since the founding of this Government.

The power to force a default has always been there, but in all of the 200-plus years of the history of this country, it has never been used by either political party, except the Republicans are now attempting to use it to force a default.

The consequences of a default are unthinkable. It is so drastic that no one has really ever actively played a scenario as to what would happen.

I hope our Republican colleagues will relent and give the American people an opportunity to pay their debts when they come due and to allow the Government to function in a normal manner.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. RADANOVICH). 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.

REMEMBERING CHRISTA MCAULIFFE AND THE CREW OF THE "CHALLENGER"

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. MORELLA] is recognized for 5 minutes.

Mrs. MORELLA. Mr. Speaker, a decade after the *Challenger* exploded, Christa McAuliffe is still fulfilling her mission, inspiring young people to look skyward with curiosity about science and outer space.

On January 26, 1996, the Christa McAuliffe Elementary School in Germantown, MD, honored their namesake by devoting a day of activities to her memory. In keeping with the wishes of Christa McAuliffe's mother, the students and teachers worked with a shared sense of purpose to remember the teacher-astronaut in a dignified manner. "Christa, This One's For You and the Challenger Crew," was the theme for the day.

Under the expert guidance of teacher Bettie Shortt, the children in the Head Start Program made a mural of the *Challenger*. The kindergartners listed Christa McAuliffe's character traits and elaborated on each one.

Team leader Lynne Barrett asked the first graders to read an important book about the *Challenger* flight. Students then discussed why Christa McAuliffe was important. Each second grade teacher selected a subject and prepared a 45-minute lesson. The subjects included: Astronauts, the Space Shuttle, the Moon, Planets, and Christa McAuliffe. Teacher and team leader for the second-graders, Susan Gougeon made sure that the classes were rotated so that each class was afforded

the opportunity to participate in all of the relevant lessons.

Peggy Duffy asked each third-grader to make a symbol to put into a goal quilt, keeping in mind that "Christa McAuliffe set a goal and went for it." The finished quilt was hung in the school hall and was "quite a display," according to Dr. Edith Rohrbacher, the assistant principal.

The fourth graders viewed the film, "The Dream is Alive," and then discussed the concept of being part of a team. The fifth graders wrote essays. One of the fifth grade classes will correspond with Christa McAuliffe's mother. Jean Withee and Kristin Dillman deserve credit and praise for their outstanding efforts as team leaders for the fourth and fifth grades.

Mr. Speaker, I am proud of the winning combination of students and faculty at the Christa McAuliffe Elementary School in Germantown, MD, for it is my understanding that the day set aside to remember the *Challenger*, was a huge success. I congratulate Principal Eugene Haines and the entire McAuliffe Elementary School on their ambitious program, and I wish them continued success in all of their future educational challenges and endeavors.

As Keith Geiger, President of the NEA, stated: "Christa taught us about living life to the fullest. Because she reached for the stars, she made the world a brighter place for all of us."

As a member of the Committee on Science that has under its jurisdiction our space program and as somebody who is a former educator myself, I commend the school. I hope that the *Challenger* tragedy becomes a symbol for future generations to adopt the kind of theme that the Christa McAuliffe School has, and that is, reach out and touch the future.

THREATS OF DEFAULT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. BROWN] is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, a lot of us in this institution are troubled by the threats to force the Nation into default, the comments made throughout the year by Speaker GINGRICH and the gentleman from Texas, Mr. ARMEY, majority leader, that if they do not get their way on the balanced budget or if they do not get their way on a host of things that are they are going to shut the Government down.

We heard those threats throughout 1995. Unfortunately, come November once and then in December a second time, they made good on their threats because they did not get the kind of, exactly the kind of balanced budget that they wanted. And they went ahead and shut the Government down. What that meant to lots of American families that depended on services from the Government, what it meant to people that work in Government, what it meant across the board to this country.

Now the threats, in a lot of ways, Mr. Speaker, are even more serious, because those threats are to force the Nation into default, again, if Speaker GINGRICH and the gentleman from Texas, Mr. ARMEY, majority leader do not get their way with the balanced budget. At the same time as we move toward this default on March 1 or February 29, the Congress is going to recess today or tomorrow for 2 weeks and just go home and forget about it, when default can be imminent, when they are threatening default.

The gentleman from Texas is with me who knows more probably about what default will mean to veterans, has been a leader on these issues, what exactly it will mean to an awful lot of veterans in this country in addition to all the other problems that the first default in the history of the United States of America in 220 years would mean.

Mr. Speaker, I yield to the gentleman from Texas [Mr. EDWARDS].

Mr. EDWARDS. Mr. Speaker, I know this issue of defaulting on the good faith and credit of the American economy and our Government debts is an issue that a lot of folks back home do not necessarily relate to themselves personally. But I would like to specifically address what the default on March 1 could do to men and women who put their lives on the line for our country.

I am very grateful to have the opportunity to be the ranking Democrat on the Subcommittee on Hospitals and Health Care of the Committee on Veterans' Affairs. So on a regular basis I have a chance to go out to our VA hospitals and see those men and women who were combat injured and put their lives on the line.

Let me quote from Jesse Brown himself, a very distinguished combat veteran who was very seriously wounded in service to our Nation. He said that veterans and their families have suffered enough. They should not be the victims of a battle they cannot even fight. The battle that Secretary Brown is talking about is the game of Russian roulette that is being played with the American economy in threatening to shut down our Government once again and to default on our debt.

Let me just put this in real terms, to how a Republican pushed default on our debt, especially if we are going into recess and get a paid vacation for the next month and only come back 4 days before the March 1 default, let me talk about how this would affect real American veterans: 2.2 million veterans with service-connected disabilities may receive bad checks March 1. More than 300,000 survivors of veterans who died from service-connected causes may receive bad checks.

To be even more clear on that, what that means is that widows of combat veterans who died in service to our Nation may receive bad checks, in effect, hot checks on March 1 from the VA.

□ 1140

Nearly three-quarters of a million poor wartime veterans or survivors may receive bad checks. Also, $140 million a month in education program funds, G.I. Montgomery College loan funds would not go out to veterans on March 1 and for each month thereafter, if the leadership of this House does not keep us here for the month of February, and have us deal directly and honestly with the debt default issue. Hardworking VA employers and employees, people who try to take care of our veterans and hospitals all over this country, once again will not be paid for their work. That will have a devastating impact on the quality of people we can attract to work in our VA hospitals.

The bottom line to all of this, Mr. Speaker, I would say to the gentleman and to our American veterans, is they need to understand that this complex, convoluted discussion of default is something that affects America's veterans, it affects 44 million senior citizens receiving Social Security checks, including many that are on SSI, that receive checks because they are disabled, in wheelchairs, and need that check to pay for their bills.

This is a real issue, a terribly important one that affects real families. It is devastating, most importantly, to America's working families, those people who are working hard to pay their bills and put their children through college. Their mortgage interest rates could go up after March 1. The money they borrowed to keep their farm alive or to expand their business or keep their business alive, that they have struggled so hard to support for years, those costs could go up.

Mr. BROWN of Ohio. Mr. Speaker, I would say to the gentleman, that simply does not have to happen. In 220 years it never has happened in this country, through the Civil War, through World War II, through the burning of the Capitol.

THE IMPACT OF GOVERNMENTAL DEFAULT, AND URGING SUPPORT FOR THE FAN FREEDOM AND COMMUNITY PROTECTION ACT

The SPEAKER pro tempore (Mr. RADANOVICH). Under a previous order of the House, the gentleman from Ohio [Mr. HOKE] is recognized for 5 minutes.

Mr. HOKE. Mr. Speaker, before my colleague, the gentleman from Ohio, leaves the floor, I want to shock him, if I can get his attention. If I can get the

gentleman's attention, I want to shock him with the disclosure that I, in fact, am in at least partial agreement with the comments that he just made regarding the debt service, or, I am sorry, the debt ceiling and the extension of the debt ceiling. I would certainly not characterize the shutdown of the Government as, first of all, having been the responsibility of this Congress, but was, in fact, the responsibility of the President.

I also think that the impact of a shutdown of the Federal Government is very, very different from the impact of a default on the full faith and creditworthiness of the U.S. Government. But notwithstanding those differences I, in fact, agree with you that the creditworthiness of our country should not be tampered with and that, in fact, the impact that such a thing might have would be far-reaching.

Mr. Speaker, I had not specifically thought about the impact it would have on veterans, but you can be darned sure that it would have a tremendous impact on every single person who holds any kind of obligation bearing interest on any debt in this country, including mortgages, including car loans, including student loans, et cetera, et cetera. Nobody knows this better than somebody from northeastern Ohio, where we were thrown into a default situation some two decades ago in the city of Cleveland.

And not only is there an economic consequence from this, but there is also a psychological stigma. It is a stigma that we have suffered under for some time, and only recently dug ourselves out of in the past 5 or so years.

Mr. BROWN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. HOKE. Mr. Speaker, I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Speaker, I thank my friend, the gentleman from Cleveland, Ohio. When he talks about the prospective default, never before have I heard political leaders in this country that are responsible leaders with titles like Speaker of the House and majority leader of the House make threats about default similar to the threats that were made about closing the Government down.

You can say it was the President's fault that the Government shut down, but the fact is it was written on the sleeve of the Speaker and lots of other leaders that "If we do not get what we want, we are going to shut the Government down. If we do not get what we want, we are going to force a default." That kind of discussion, those kinds of statements, send all kinds of uncertainties and tremors through the financial markets, something that is not good for the country, something that makes the United States look weak rather than strong, something that, frankly, scares a lot of people in this country.

Mr. HOKE. Reclaiming my time, Mr. Speaker, just to recap, and we will agree to disagree, but I really reject your characterization of the reason that we got to the situation we got to. It clearly was a result of the President's absolute refusal to negotiate in good faith what he had said he would, in fact, negotiate in good faith. I think it probably suffices to say that we will just disagree on that.

Mr. Speaker, in any event, I think that there are real consequences that have to be thought about in a very, and I only have a couple more minutes, and I actually did not want to talk about this, I wanted to talk about something completely different, so I am not going to yield any more time, but I do agree at least in that respect.

Mr. Speaker, what I want to talk about this morning for the probably 3 minutes that I have remaining is football, good, old National Football League football.

I think it is particularly appropriate, since the Superbowl was just on Sunday, to remind my colleagues that it was in 1961 that Mr. Pete Rozelle came to the U.S. Congress and he asked this Congress to give a specific benefit not only to the NFL but also to the NBA, to the NHL, and to major league baseball, with an exemption from antitrust laws that would allow them to bundle all of their broadcasting rights and take them from each city and put them in one package and sell them.

This resulted in a bill called the Sports Broadcasting Act of 1961. It was passed in the House, it was passed in the Senate, it was signed into law by the President. I can assure you this was not something instigated by the House and Senate, I can assure you it was instigated by the NFL and other pro leagues.

What did they ask for? What was it they were asking for? What would they get in return? They said if they got this, it would allow them to be financially stable. What they would do in return is they would protect communities and they would protect fans.

I would ask the question, Mr. Speaker, do you think that fans and communities have, in fact, been protected over the past 35 years by the NFL, or in fact, have they taken this market power that came as the result of the Sports Broadcasting Act of 1961 and have they used it as a bludgeon to exploit, extort, and legally blackmail cities to compete against each other in order to not lose their franchise?

The 1961 act, by the way, Mr. Speaker, was followed by the 1966 act, and the 1966 act is the act of Congress that specifically, and Mr. Speaker, I see I am out of time, but I want to take more time later to explain the problem we have here to my colleagues, and then to ask for their support for the Fan Freedom and Community Protection Act that now has 40 cosponsors in the House, and to support that.

SUBSTITUTION OF SPECIAL ORDER TIME

Mr. DOGGETT. Mr. Speaker, I ask unanimous consent to substitute my name for that of the next Democrat who is up.

THe SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

URGING REPUBLICAN MEMBERS TO SIGN DISCHARGE PETITION TO AVOID GOVERNMENTAL DEFAULT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. DOGGETT] is recognized for 5 minutes.

Mr. DOGGETT. Mr. Speaker, before my colleague, the gentleman from Cleveland, OH [Mr. HOKE] leaves, I appreciate his comments about governmental default. I would just offer the gentleman from Ohio [Mr. HOKE] the opportunity to come down here in the well and join over 150 Members.

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

Mr. DOGGETT. No, I will not yield. Mr. Speaker, we do not need any more of this crybaby nonsense around here. The question that I was asking the gentleman from Ohio is, that in the event that he feels, and I do commend him for his comments on default, he feels as strongly about it as he said, then I would ask him to come down and join the over 150 Members of this House who have already signed on a discharge petition so that today, if we could get a few more signatures, we could vote to avoid this problem of default and go ahead and resolve the debt limit right now.

Mr. Speaker, if the gentleman wishes to respond to that, I would be glad to yield to him briefly to do that.

Mr. HOKE. Mr. Speaker, I thank the gentleman very much. I appreciate the gentleman yielding.

Mr. Speaker, I would say to the gentleman, no, I will not join. I will tell him why I will not. Because that particular piece of legislation gives another $500 billion of additional extension on the debt ceiling, a half a trillion dollars. I think that is absolutely dead wrong. It is the kind of license that he and the other lovers of big government in this Congress on the other side that are now in the minority want. I refuse it. I reject it.

Mr. DOGGETT. Mr. Speaker, that is interesting to hear, since it was a limit that was already in the Republican reconciliation bill. You have already voted to do that two or three times here. But now you feel a need to have a crowbar to highjack the Government, to pressure the President, to threaten the future of this country by waiting until a few days before we enter the first default in the 200-plus-year history of this country. It is that kind of

political shenanigans that the people of this country are rejecting.

Mr. Speaker, I heard on the way over here this morning that there was another low in the temperature in Embarrassment, MN. They had gotten down to minus 40 or minus 50. That may be a low in terms of the temperature, but you know, I have not seen a low like we have here in this House this morning.

Just look around. You will not find many Members on the floor. Why is that? Because after a 5- or 6-day weekend that we just celebrated, the Republican leadership does not have one piece of legislation on this floor for the Congress to act on today. They think work is not only a four-letter word, but a dirty four-letter word. What is this Congress doing, if here, even before the lunch hour, we cannot get about working and dealing with the critical problems that this country faces?

I will tell you, Mr. Speaker, all the news from the north end of this country is not cold news, because I see a report here from the State of Oregon. Our distinguished colleague here in the House, the gentleman from Oregon, Congressman RON WYDEN, is now Senator RON WYDEN, because the people of Oregon had an opportunity to consider this proposal to let Medicare wither on the vine, to consider the proposal to have unilateral disarmament on our environment, to consider the mistaken priorities of this House Republican leadership, and they voted "no," and in favor of sending a Democrat to the U.S. Senate.

Mr. Speaker, last week the Senate came within one vote, one vote, of passing the very kind of adjustment in the debt limit to protect the full faith and credit of this country, the same type that I asked the gentleman form Ohio [Mr. HOKE] to come down here and sign, along with over 150 Democrats, to not threaten the creditworthiness of our country. One vote. And now Senator RON WYDEN will be over there to cast a vote for fiscal responsibility.

I commend and congratulate him, Mr. Speaker, but I particularly commend the people of Oregon for speaking out against this extremist agenda and doing what they have the power to do, and that is hold their public officials accountable, and replace a Republican with a Democrat, and a very progressive and responsible Democrat, to do something about the tragic circumstances which this extremist agenda has placed the country in.

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

Mr. DOGGETT. I yield to the gentleman from Texas.

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

Mr. Speaker, I am disappointed that some Members on the Republican side of the aisle would not walk those 45 feet it would take to sign a discharge petition so we would not default on our debt, so that on March 1 we could pay Social Security recipients their checks, and veterans, and even soldiers serving in Bosnia now will not get paid if we do not do something about this debt problem.

Mr. Speaker, I would like to ask the gentleman a question. If he and I were in business and we were within 30 days of our company going bankrupt, and we took a 26-day vacation and went to Hawaii and got a paid vacation and said, "We will come back 4 days before our company goes bankrupt," what do you think the stockholders of that company would do to you and me?

Mr. DOGGETT. Mr. Speaker, I think they would throw out the management of the company. That is exactly what the people of the United States are going to do if we continue to have the kind of shenanigans that have been going on here. It is time to protect the full faith and credit of this country.

THE DANGERS OF THREATENING DEFAULT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. SMITH] is recognized for 5 minutes.

Mr. SMITH of Michigan. Mr. Speaker, I think it is very dangerous to keep threatening a default of this country. I think the Democrat Members would be well served to look at the real financial situations. No. 1, if Secretary Rubin or the President of the United States default on our debt, and that is, not pay principal, not pay interest, they both should be impeached. What we are talking about is 1½ percent of existing revenues coming into this Government to totally satisfy the interest and principal; so to play these political games, to scare the American people, to try to convince Wall Street that something disastrous is going to happen I think is a very dangerous, a very dangerous commentary, because it does have, what you say does have an effect on people in trying to understand and believe what is actually going to happen.

We talked about a director of a company or a manager or a CEO of a company being fired. If there was a manager of a company that took the actions of Secretary Rubin last June and July, developing the plans on how he is going to come up with additional cash flow to meet those needs, and at the same time proclaim to the Nation that there was going to be a disastrous danger of default, interest rates would be going up across the country.

Let us look at what Mr. Rubin just did the day before yesterday. He sent out a memo to the Veterans Administration, to Social Security, and what he said was if people call in and ask if they are going to get their payments, telling them that there is a problem, we might not have enough money to pay Social Security payments, to pay veterans' payments, to pay civil service retiree payments. What a tremendous disaster, to threaten people, to scare people, when it is absolutely untrue, uncalled for.

What this administration has done so far is they have reached into the trust funds, they have reached into the Federal financing bank, they have reached into the exchange stabilization funds, to the tune of $20 billion for the Mexican bailout. Now they are reaching in again for another $3.5 billion, to say that they are going to have additional money to pay this out. They are saying they do not want to go any further, because they think they can blame everything on Republicans now.

Mr. Speaker, I ask the ladies and gentlemen of America to take some time to study this budget, to study the reality of the consequences. Fifty percent of the spending of the United States is now in the hands of the President. Article 1, section 8 of the Constitution says that Congress has the control over spending, Congress has control over borrowing. Now the President has taken control over welfare spending. He has said, "No, we are not going to cut that spending." Somehow, if we give a hang for our kids and our grandkids, and for the future economy of this country, we are going to have to somehow have a real, honest balanced budget.

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

Mr. SMITH of Michigan. I yield to the gentleman from Ohio.

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

Mr. Speaker, I did not have an opportunity to respond a little earlier to the gentleman, but I wanted to point out that in the Budget Reconciliation Act, in the balanced budget agreement that the President vetoed and that all of my colleagues on the other side of the aisle voted against, and that I did vote for, that did extend the debt ceiling, there was a very good reason for it; because, in fact, in that situation what we did is we balanced the budget of the Federal Government. We actually set the glide path so we could bring back fiscal responsibility and fiscal integrity and fiscal authenticity. But that is something that my colleague, the gentleman from Texas, refused to agree to and would not agree to, and did not agree to.

Mr. SMITH of Michigan. Mr. Speaker, I think we should mention that the President has now vetoed two debt limit increases. There is not a Member on this floor that has ever voted for a clean debt limit increase. I pause, because is it not sad that they are doing so much political rhetoric, yet all of the debt ceiling increases that have been used over the years have been used over the years to put in the Kemp-Roth, the Gramm-Rudman, the tax increases?

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

Mr. SMITH of Michigan. I yield to the gentleman from California.

Mr. ROHRABACHER. Mr. Speaker, I thank the gentleman.

Mr. SCHUMER. Mr. Speaker, the gentleman has made some statements.

Mr. ROHRABACHER. Excuse me, I think I have the floor.

Mr. SMITH of Michigan. Mr. Speaker, I yielded to the gentleman from California.

Mr. ROHRABACHER. I have asked for someone to yield to me on the floor during debate and they have not done it. I would like to express some thoughts about some of the thoughts expressed earlier when your side controlled the floor. Unfortunately, it looks like I will not have time to do that, after being interrupted.

THE LOOMING DEFAULT CRISIS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas [Ms. JACKSON-LEE] is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, it is good that we are here this morning in vigorous debate, and hearing my colleague, the gentleman from Michigan, who serves as the chair of a 130-person panel from the Republican Conference, it is interesting that he would say that we on this side of the aisle are frivolously representing to the American people that this is not a crisis.

I beg to differ with my colleague, and I respect him, Mr. Speaker, but we have strong differences by the very fact that he made a statement that said that if this was to delay tax refund payments, to not allow tax refund payments into the spring or next year, it did not matter to him. So we do have a decided difference about the reality of what is going on today.

I would simply like to draw the American people to not a frivolous discussion that my colleagues have been raising here, but one that is very serious. As I understand, it has been commented on by Wall Street representatives, commented on by individuals outside of the Beltway who truly will feel the impact.

Let me call upon some of their names, Mr. Speaker. Those who live on the margin and receive their Social Security payments, by a default of this Government, they will not receive it. It sounds like I have said this before, but it is the seriousness of this issue. Veterans will not get their money, retirees, and our existing military personnel in Bosnia, will not get their money. We will be seeing some $965 million of payments to veterans that have been diminished by all of this.

□ 1200

We know this, as I see my colleague from New York had the opportunity to chair a Democratic Committee on Banking and Financial Services hearing yesterday. He called upon the Republican chair to have a hearing to get the facts on what a default would cause and what would happen.

Unfortunately, they did not join in this hearing. I think some letter came to Mr. SCHUMER that said, we will do it next week. That puts us some 10 days away from default.

Mr. SCHUMER, I would like to yield to you, if I might, just to provide us with some insight on that hearing.

Mr. SCHUMER. I thank the gentlewoman for yielding to me.

It was a great hearing. One point that came up time and time again, and the gentleman from Michigan is misstating and misleading on this issue, it is true that clean debt ceilings have not come before us. It is also true that when there was a division, both sides agreed what should be done with the debt ceiling.

Not once, not once, I say to the gentleman from Michigan, as when Bush was President and the Democrats had Congress, or Reagan, President, and the Democrats had Congress, did one side say, unless you are doing it our way, we are not going to approve the debt ceiling. Not once. The bottom line is, these are bully-boy tactics which were never used before.

Yes, there has been agreement with the debt ceiling put on ABDC, but it was bipartisan, et cetera. I thank the gentlewoman for yielding, because that is a grave misstatement of the facts.

Ms. JACKSON-LEE of Texas. I think your point is very well taken. I think it is important, as Mr. SCHUMER indicated, that any time that we have not had the passing of a clean debt ceiling or lifting of such, it has been bipartisan; but more importantly, let me state that all of the economists will confirm, we have never, never, never defaulted on payments that the American people must make and that this Nation must make on their behalf.

We must understand, this Nation must understand, that the creditworthiness of this country is based upon its ability to pay its debt. The alternative: Sell all our gold. The other alternative: Do not pay any tax refunds.

The President of the United States will not stand on those alternatives. That is a crisis.

Has any other Western civilization nation or any other nation defaulted? Yes, four of them in the past 100 years, and they have not done so since 1970. Places like Argentina, Stalinist Russia. Is that the kind of company we want to keep to ensure that we have a nation that can be respected internationally and have the economy stable?

Do we want to default? Do we understand that the Republican majority is saying to us, we are going to leave tomorrow, not come back, and take us to the brink of March 1, when we have not passed a clean debt ceiling in order to prevent default. That is the crisis which we face; and my colleague from Michigan, who, as I said, I respect, is clearly on the wrong road if he thinks he can bring the American people to the brink of default and we not constantly get on the floor of the House and explain it.

We will not leave here tomorrow, and I will offer a resolution that we not have a recess so that we can continue this, and that we not go home while we are without the responsibility or the action of making sure that we can pay on our responsibilities and our debt on March 1.

DEMOCRATS SO-CALLED SCAMS ARE SHAMS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. MICA] is recognized for 5 minutes.

Mr. MICA. Mr. Speaker, and my colleagues, I come to the floor this morning to talk about two scams that have been perpetrated by both the administration and the other side of the aisle.

The first scam is what I call the Clinton shutdown and the charges that were made about balancing the budget and about getting our Nation's finances in order. It is part of a scare scam, and it is pretty clever. It says, that Republicans will hurt the elderly, the environment, education.

In fact, if we just take a minute and look at the facts involved here, in the area of Medicare, we have heard it over and over: Republicans are going to cut it. In fact, over the next 7 years we will add $724 billion in spending.

Medicaid, we will add $348 billion in spending. In education and job training and student loans, we will add $25.7 billion in spending. But we hear it over and over.

What they do not in fact tell us is that part of this argument is about the bureaucracy. EPA has 6,069 employees in Washington, DC. That is almost as many as a dozen years ago, a total of 18,000. I am not talking about the 12,000 outside of Washington, but 6,000 in Washington, DC.

Education, we have 3,322 employees in Washington, D.C., out of a total of 4,876 employees. A total of 358,000 Federal employees. These are not defense; these are not civilian defense. These are part of that bureaucracy within just earshot of the Capitol building. That is what this debate is really about.

Now, my colleagues, a second scam comes before us, and the second scam is this: If the Republicans do not continue taxing and spending and driving this Nation into debt, then we will not be able to pay our Social Security recipients, and they have even said, Mr.

SMITH said, we are not going to be able to pay our veterans.

This administration, which has just gotten through robbing the Federal retirement trust funds, now is engaged in the second scam. They can pay welfare payments to illegal aliens, they can pay medical benefits better than we have for our veterans, but they cannot pay Social Security.

They can pay for bilingual education for illegal aliens. They can find $50 billion to bail out Mexico. But, in fact, they cannot pay Social Security and our veterans.

So the President is making these choices. The administration is making these choices. They can even pay AmeriServe, or whatever the name of the President's volunteer, so-called volunteer program, which pays volunteers for the first time in the history of this country and gives them an array of perks that would make any veteran blush.

These are the choices that we face. I will say again, the greatest threat facing our senior citizens today is that we get this mess in order.

We debated here about extending the debt limit of this country for 34 days, and we needed $67 billion. We are going into the hole at the rate of over half a billion dollars a day, and they want to continue this tax-and-spend policy; and they say that in fact we cannot pay our senior citizens Social Security checks. Well, that is their choice, because they have other choices, and that is what this debate is about, whether the debate deals with in fact balancing the budget or extending the debt limit.

So we are in fact here today. Let me tell my colleagues, I chair the Subcommittee on Civil Service, and let me describe the mess we inherited: 35 of 39 Federal retirement trust funds have unfunded liabilities in the trillions of dollars. Now they have spent the last number of days robbing what little remains, what shred remains, so now they are threatening our senior citizens. That is what this is about.

Mr. SMITH of Michigan. Mr. Speaker, will the gentleman yield?

Mr. MICA. I yield to the gentleman from Michigan.

Mr. SMITH of Michigan. Let me just say that I asked the Congressional Research Service whether Secretary Rubin could legally withhold trust funds. They said their first review of the law said, no, it would be illegal to withhold trust fund payments for any trust fund where there is a surplus coming into those trust funds. I have written Secretary Rubin the day before yesterday asking him to give us the reasons why he thinks he can do this.

Mr. MICA. Finally, my colleagues, let me say that the President, after this Congress and this new majority did its job and came forward with 12 funding bills, the President never came up with a balanced budget proposal until January 6, 1996.

TIME FOR RESPONSIBILITY IS NOW

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Colorado [Mrs. SCHROEDER] is recognized for 5 minutes.

Mrs. SCHROEDER. Mr. Speaker, this debate, I think, for people at home is very frustrating, except I think the people are a lot smarter than those of us in the Chamber, and they see right through it. They know what is going on here. They see people saying, we are not going to pay our bills.

Now, that has never happened. There have never been elected representatives that have come in and said, we are not going to pay our bills. That is not anything that anybody respects in America. Try that as a family. Furthermore, if you know you are just about to go into bankruptcy, you know you are just about to run up against that brick wall, you go on vacation for 3 weeks.

Mr. BUNNING of Kentucky. Mr. Speaker, will the gentlewoman yield?

Mrs. SCHROEDER. Well, let me finish, if you do not mind, because I do have a few things to say. I have asked others to yield and they do not. I remember the days when we used to yield, but I guess that seems to be over.

I sit here and on one hand, I get depressed because people come to me and they say, why are you leaving? And I say to them, why are you staying? Why are you staying? This place has just fallen to its new, all-time low. Never in the history of this Republic, during several wars, during depressions, during anything, have people stood up here and refused to pay the bills and said, OK, we will just take the full faith and credit of this great Nation, this Nation that has the best credit rating on the planet and we will just shove it off the cliff because we want our way. Never has it done that. I am embarrassed to be here.

The good news is, the reason some of my colleagues are staying is because today in Oregon we know that the people are waking up and the people are saying, this is outrageous. We just saw a race where one person who spent $1 million more than the other lost. That says the people are saying, we have to pay our bills and we want this Government to pay theirs, and we do not want people playing fast and loose with the credit rating of this country.

I have a question and my question is, if we know that March 1 is a very serious date, why are we leaving and not having any votes until February 27? Why are we having the French Prime Minister in here, the guy who is dropping nuclear tests all over the Pacific that most people and most countries are outraged about? Why is he coming here to give a speech? We have time to do everything in the world except deal with the one basic responsibility we have, and that is to pay our bills.

Everything that is being discussed and everything that has already been committed to, this is not new spending; this is stuff that has been committed to. I think if we listen real closely and we are real quiet, we can hear the rest of the world laughing at us.

I think that we ought to stay here, we ought to get started on this debt issue. We should not be running toward being a defaulting Nation or a deadbeat Nation.

I just find it absolutely outrageous people saying, look, we are either going to be deadbeats or you are going to do it my way. It is like saying to Visa, "I am not going to pay my bill unless you come paint my house, take care of my kids, walk my dog, and do anything I ask you to." I do not think that is how it works, and I think we all know that is not how it works.

So I guess I am basically saying, remember, this is about paying our bills. We have had over 200 years of history where people in this Chamber have never, never used that as a leverage or a gun at the head of a President or anyone else. That should be done. Those things were decided upon; that happened, and we should pay those bills just like every other American.

To play with the credit rating of this Nation we love is every bit as bad as desecrating the flag, as desecrating any other thing. I think it is really about patriotism. I cannot think of anything worse that we could do to our country at this moment than just trampling all over the credit rating and make this country be a deadbeat.

Think about what other countries are going to think. They are going to think, hey, if we default, we default. We could have National Default Day.

That is not what we were about, I thought. I thought we were about responsibility. I thought that is what Republicans were about, responsibility.

I listen to all of this with 23-plus years of experience, sitting on this floor, and it saddens me greatly. Every single thing that the President has been asked to do, he has come forward with a proposal. It ends up, they do not like what he did, so they want it still to be their proposal.

We do not have tantrums. Let us move on. Let us pay our bills and let us not be deadbeats.

PRESIDENT HAS NOT KEPT HIS PROMISES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. ROHRABACHER] is recognized for 5 minutes.

Mr. ROHRABACHER. Mr. Speaker, this President has kept all of his promises? I mean, who is kidding whom? This President was the President who campaigned vigorously across America 4 years ago, and what were the issues? He is going to end welfare as we know

it, and now we see him vetoing and threatening to veto any piece of legitimate welfare reform.

What was the second thing that he campaigned on? That he was going to balance the budget; he is a new Democrat. This President is not a new Democrat, he is just like the old Democrats and the fact is, it is the old Democrats and his philosophy that have gotten America in the position it is in today, that we are going to have to make these tough choices or we will go broke.

Now, earlier I heard criticism of how this body is functioning and how much work we are putting out. I happen to have been here, and this is my eighth year as a Member of Congress. We have done more since the Republicans took over a year ago legislatively than in the entire 6 years that I served before the Republicans took over.

□ 1215

The reform efforts before that were thwarted time and time again.

Let me cite just one example. Our country is going broke, we are being told now we have to borrow more and more money from our children, and we cannot even put any type of restrictions on spending in that process. But let me give one example of a reform that has actually cost the American people tens of billions of dollars since I have been a Member of Congress, and how the other side thwarted our attempts over and over again to get even a vote on the floor. It was mentioned earlier by the gentleman from Florida. Should illegal aliens be consuming scarce dollars when we are going to the poorhouse, we are having to borrow from our children? We tried to get that reform so illegal aliens would not be encouraged to come into this country to consume scarce dollars. We could not even get a vote on it.

Mr. HAYWORTH. Mr. Speaker, if the gentleman will yield, I just wanted to make a point.

We heard the gentlewoman from Colorado make the statement, we should pay our bills. I could not agree more with that, but the question becomes this: Are we willing to rob future generations to pay the seemingly endless bills of today? That is the bottom line on this issue.

Mr. ROHRABACHER. There is nothing standing in the way of a balanced budget, there is nothing standing in the way to bring to an end this policy that we have had of having to increase the debt limit over and over and over again because we are nowhere in sight of a balanced budget. There is no one standing in the way except the President of the United States.

The other side had a chance. For 2 years the President controlled both Houses, or his party, controlled both Houses of Congress and every executive department and every executive office. All of those were controlled by the liberal Democrats who control the Democratic Party, and what did we get? We got no reform. We got no reform at all.

What do we Republicans get now, after working as hard as we possibly can, passing more reforms in a shorter period of time? We get criticism that we are not working hard enough, when in reality we all know it is the President of the United States that is standing in the way of these reforms, it is the President of the United States standing in the way of a balanced budget, it is the President of the United States who is putting the burden of higher and higher debt onto our children. That is what the problem is.

I am proud to be a Member of this body. I am proud to be a reformer in this Republican effort and NEWT GINGRICH's effort.

Mr. MICA. Will the gentleman yield?

Mr. ROHRABACHER. I yield to the gentleman from Florida.

Mr. MICA. Mr. Speaker, we on this side, I think, were foxed before by the President because he promised to come up with a balanced budget. He never did. Now they are telling us the responsible thing to do is raise the debt limit without any guarantees, to continue taxing and spending. We were betrayed before.

The alternative is the President's budget, which they are afraid to really even bring on the floor today. It has in it $210 billion in additional spending. That is more than 1 entire year's deficit that we are running now. Then another surprise, $66 billion in taxes.

They are saying we cannot pay our senior citizens or our veterans, but in fact we are going to make choices and we are going to pay if we do not make some changes here; our illegal aliens, we are going to pay volunteers for paid volunteer programs, and we can dig up $50 billion here or there for Mexico. We cannot make these wrong choices again.

REPUBLICANS ASKED TO PASS CLEAN DEBT LIMIT

The SPEAKER pro tempore (Mr. RADANOVICH). Under a previous order of the House, the gentleman from California [Mr. MILLER] is recognized for 5 minutes.

Mr. MILLER of California. Mr. Speaker, there is a lot of revisionist history going on here on the other side.

First let us understand something. The demand was that the President would submit a 7-year CBO-scored balanced budget. The Republicans came saying, "He won't do it, he won't do it." He did it. They called off the negotiations. Apparently they were not serious about that.

They spent 50 hours at the White House. The leaders of the legislative branch, Senator DOLE, Speaker GINGRICH, and the President of the United States, first time in history, high-level negotiations, at the 50-hour point after conferring on a number of topics, the President put down a budget that was CBO-scored, 7 years, balanced the budget, and the Republicans said the meetings are off. Why did they do that? Because apparently they cannot stand success.

So now they want to up the ante, and what they want to suggest is what they are now prepared to do is to jeopardize the credit rating of the United States of America, to put this Government into default, and to potentially cost American families billions of dollars because they want to play fast and loose with the debt of this country and the debt limit.

They should not be allowed to do that. They should not be allowed to cost the American people billions of dollars by leaving town tomorrow. I guess they are going to stay to hear Jacques Chirac, the Prime Minister of France, and they are going to listen to him and then they are going to leave for 3 weeks and come back, apparently on the 26th or the 27th, 2 days before the debt limit expires, and play brinksmanship with the White House or with themselves.

Or really what they are doing is, they are going to play brinksmanship with the American people and their families. Because of the speculation and going down to the wire, people in the bond market will make decisions, the price of bonds will go up or they will not go up, and all of the American families that have automobile loans, that have adjustable rate mortgages on their home, that have a credit card whose interest rate is tied to indexes, who have home loans that are tied to indexes, all of those people will immediately be disadvantaged because the Republicans decided they want to leave town for 3 weeks.

I guess they want to leave town for 3 weeks because their program is not working. Someone just said they will not put the President's budget on the floor. No; the Republicans will not put the President's budget on the floor. That was the decision today. That is why we are doing 5-minute special orders, because they do not have anything to put on the floor, except we have this huge backlog of business to do.

We have not done the 1996 budget. The 1997 budget is supposed to be getting underway. We have not dealt with the appropriations bills. We have not dealt with the farm bill. We have not dealt with the Endangered Species Act, we have not dealt with the Clean Water Act, we have not dealt with regulatory reform, but yet the Republicans want to go home.

If your children did this, you would say, "Eat your vegetables first before you get dessert." If a corporation did this who was contemplating going into

chapter 11 and they said, "We're going to leave town for 3 weeks, we'll get back to you on the day before the default," they would be fired. But somehow the Republican-led Congress can decide that we are just going to take 3 weeks off so Mr. DOLE can go campaign in New Hampshire and in Iowa, and the deficit be damned.

That kind of cavalier attitude is going to cost American families billions of dollars. It is going to cost this country its standing in the credit markets of the world. That should not be allowed.

It was the same cavalier attitude that led to the tragedy of shutting down the Government, to deny American taxpayers the benefits of the Government for which they were paying and to jeopardize the financial stability of governmental workers and their families. It was unfair, it was rude, it was reckless, and it turned out it was repudiated by the American public; repudiated again as late as yesterday in the Oregon election where the citizens of Oregon chose not to go with an extremist attitude, chose not to go with an extremist agenda but rather to try to go with a constructive individual who is interested in working for change, to bring about real change as opposed to extreme rhetorical charges and rhetorical comments about change.

Mr. Speaker, this Congress should stay here, it should do its work and get its job done. If Mr. DOLE wants to run for President, let him resign as the leader of the Senate and get on with his campaign, and let the American public get the benefit of us meeting the debt limit on a timely basis, on a clean basis, without threats of blackmail, without threats of taking hostages, without threats of shutting down the Government. That is the way we ought to do business.

This obstructionism, this extremism ought to be brought to an end. Maybe the Oregon election will help bring that to an end. Maybe the Oregon election will get these people to understand that their agenda is being repudiated as being anti-American and American family.

BOEHNER SEES NO PROSPECT OF DEFAULT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. BOEHNER) is recognized for 5 minutes.

Mr. BOEHNER. Mr. Speaker, there has been an awful lot of talk about the credit of the United States of America. Over the last 15 years, the Congress of the United States has consistently used the statute to increase the debt limit to move their agenda, the congressional agenda, through the White House and into law. We have seen this over these past 15 years by Democrat Congresses.

Over the last year, Republicans in Congress have felt pretty strongly about the need to bring fiscal responsibility to Washington, DC. We have accumulated some $5 trillion worth of debt that none of us in this room are ever really going to pay off. Our children and our grandchildren are going to pay that off. We are imprisoning our children and our grandchildren by our irresponsibility over the last 25 to 30 years.

So now is the time to do something about it. The President of the United States wants us to give him a clean increase in the debt limit. He wants to put more debt on the backs of our children. What we are going to insist is that we make a down payment, a down payment on saving the future for our children and theirs, a downpayment on moving us toward a plan to bring fiscal responsibility to Washington.

Our friends on the other side and the White House are making this big issue about whether we are going to default. Well, there is going to be no default, not now, nor is there going to be any default in the future. We believe that the debt limit is being handled by the Treasury, probably not in a way that I would do it, but it is being handled.

But I have to tell Members the frustration amongst Members on both sides of this Capitol about the refusal of the President of the United States to deal honestly with trying to bring fiscal responsibility to Washington is excessive. We sat through 6 weeks of meetings at the White House over trying to find some agreement on balancing the budget.

I have got to tell Members, looking back over those last 6 weeks, nothing really happened other than we were diddled with. We were props for the cameras at the White House, because the President of the United States in fact made hardly no movement toward any honest effort to balance the budget. Oh, yes, the President wants to agree on some numbers but never agree on the policies that would actually get us there. He wanted to do the same thing the politicians from both sides of the aisle over the last 30 years have done to the American people, and that is to sell them out.

We are not going to get into a debate with the President about balancing the budget unless it is real. We are not going to do to our children and theirs what has gone on in this town far too long. So if we are going to have a plan to balance the budget, it is going to be with real numbers, it is going to be with real policies that will move us toward actually balancing the budget.

But the President has refused. Negotiations and discussions have stopped. So what we are going to do this year is that we are going to make attempts to get down payments on our plan to balance this budget. One such down payment will come as we bring the debt limit extension to the floor of the House the last week in February.

The President has said that he needs a debt limit extension by March 1. The President will have a debt limit extension by March 1. There is no threat, let me repeat, no threat that this country will default on its debts now, nor is there any threat in the future that we will default on our debt. There is not going to be any default.

But we are going to have a down payment on this debt limit. The Balanced Budget Down Payment Act that we passed last week to extend to the Government funding authority for those six departments or appropriation areas that had not been funded continued that process. We are seeing funding for these agencies reduced over what we spent last year. We are seeing grants by agencies, that have been agreed to by the House and Senate, not allowed to make new grants.

□ 1230

If you look at that one-third of the budget which is discretionary spending, we expected to save about $23 billion this year. These are real dollars, less spending this year than what we spent in the last fiscal year, and if we continue on this course with continuing resolutions for the balance of this year, we expect to save $29 to $30 billion in real spending.

This is a downpayment for our children's future, and it is the right thing for our kids and theirs.

BRING UP A CLEAN BILL TO EXTEND THE DEBT LIMIT

The SPEAKER pro tempore (Mr. RADANOVICH). Under a previous order of the House, the gentleman from New Jersey [Mr. PALLONE] is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, I listened to what the previous speaker, the gentleman from Ohio, said, and I do have the utmost respect for him. But I just do not understand how he can say some of the things he is saying based on what has been happening in this House in the last year.

The only reason that we can wait until March 1 before we go into default is because the Secretary of the Treasury, Mr. Rubin, has been doing things basically since November 15 when the debt ceiling expired to try to prevent the Nation from going into default, and he has been criticized by the same Republican leadership for doing that.

I think it should be understood by the American people that the default was a possibility on November 15, because the Republican leadership refused to bring up a clean bill to extend the debt limit, and in fact, some of the Republican leaders have actually called for the Secretary of the Treasury's impeachment because he has been doing what he has to do in order to avoid default.

Now we see the leadership get up and say, oh, there is no problem until March 1; trust us, we will extend the debt ceiling when it comes to March 1. If you are going to do it, why not do it now? Why send us home for 3 weeks after tomorrow and basically risk the possibility that sometime before March 1 that it is not going to happen, or why suggest that you are going to load up this debt ceiling bill with all kinds of budget items that reflect your own ideology, come back here February 26 or 27, just a couple days before this March 1 deadline? There is no question that what the Republican leadership is trying to do here is to hold this Congress hostage just like they did with the Government shutdown. They said, "We are going to shut the Government down. If you do not go along with our budget, which is cut Medicaid, cut Medicare, cut environmental programs, cut educational programs, if you do not go along with this, we are going to shut the Government down." They did that several times.

Now they are doing the same thing again. They are saying, "We are going to send you home so you cannot sit here and debate this or try to come to a reasonable conclusion on this. We are going to bring you back 2 or 3 days before this March 1 deadline, default deadline, that we have engineered essentially because we have not passed a clean debt ceiling, and we are going to then force you to our own ideology, to these same budget cuts. It is only going to be a down payment." Now it is not going to be the full-blown cut in Medicare, Medicaid, environmental programs, education, student loans. It is just going to be a down payment on that.

I maintain it is the same thing. It is the same hostage environment. It is the same idea if you do not go along with our plan, then we are going to hold the Government hostage, either shut it down, or now, send it into default.

How can sending this Government into default or decreasing or destroying the United States' credit rating possibly be the responsible thing to do? If I listened to the previous speaker's statements, he basically was saying in a somewhat, it seemed to him logical sense, we do not have to worry about this, because it is more important how the down payment and how these budget cuts that he has proposed, than it is to preserve the Nation's credit rating. That does not make any sense.

The responsible thing is to preserve the credit rating. If the Nation goes into default, our budget situation, our financial situation is in critical condition. We are going to have higher interest rates. We could have a possibility where other countries, central banks in other countries or pension funds, decide they want to start selling our Government bonds. We do not know what our securities are going to be worth. We do not know what the impact is going to be of the higher interest rates not only on the Government but also on individuals who may have their mortgage rates go up or other interest rates that they have to face or their car payments or whatever. The potential, the real potential, exists for an economic downturn not only in this country but around the world.

We are going to risk that? How could that possibly be the responsible thing to do?

I would maintain over and over again that this Republican leadership has gone haywire. Some of us on the Democratic side have described them as a bunch of crackpots. No one, no one who is involved in the Nation's finances would ever suggest that it makes sense for us to threaten default, to even use it as a tool of Government policy. It makes no sense at all if you are concerned about the Government, if you are concerned about the economy, if you are concerned about where this country is going in terms of creating jobs and making it possible for us to have an economic upturn rather than an economic downturn.

Let me tell you, this is not pie in the sky. We have already heard statements from some of the leading credit rating firms. Moody's, I think a week or two ago, came out and said the possibility of a default or the effect on the credit rating could be devastating to the Nation's economy. We have had statements this morning in our Democratic Caucus. We had statements from various Department heads who pointed out what the impact would be. Donna Shalala, Secretary of Health and Human Services and Welfare, she said that if we do not pay our bills March 1, $26 billion in Social Security payments are threatened, $1 billion in veterans' payments are threatened, civil service payments and survivor annuities.

These are people that are going to be negatively impacted, the little people, by this Republican default.

REPUBLICANS ARE WORKING TO BALANCE THE BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina [Mr. JONES] is recognized for 5 minutes.

Mr. JONES. Mr. Speaker, I was home the last couple of weeks, and I represent eastern North Carolina, the Third District. I am a freshman, and I campaigned with a promise to the people of my district and the people of America that I would work with my colleagues to balance the budget.

I had to come to the floor when I hear some of these scare tactics of not meeting our obligations as a government and letting this Government default. That is such an outrageous statement, and the people in my district do not believe that.

I am a little bit tired, from Medicare to default, that we are going to let the Government default, we are not going to take care of our senior citizens.

I want to make just a couple of comments. My father served in the U.S. Congress for 26 years. He was a Member of the other side, a Democrat, and many times we would talk about in the late 1980's why the Congress did not balance the budget. And several times he would make the statement to me, "Well, WALTER, you know, we could have chaos if we do. Programs would be cut. People would feel threatened." I would say to my father, "Father, I don't understand if we don't balance the budget, we also are going to have economic chaos," and that is what this debate is all about.

When we know the General Accounting Office, the GAO, says that in 17 years without a balanced budget, working people will pay 80 cents out of a dollar. People are not going to stand for that. We have got to deal with these problems now, and putting our heads in the sand is not going to solve these problems. We have got to deal with the problems now.

I just could not sit in the office and hear this debate go any further.

I yield to the gentleman from Arizona.

Mr. HAYWORTH. I thank my friend from North Carolina. I listened with great interest. I am sure the gentleman from Florida did as well to hear our friend from New Jersey kind of rhetorically gloss over the actions taken by the Treasury Secretary.

Quoting my friend from New Jersey now: Secretary Rubin has been "doing some things" to keep this Government in business.

Mr. Speaker, what the Secretary has been doing is raiding the pension funds. What the Secretary has done, and this is the fundamental part of this debate, are we so in love with government that we fail to live up to our responsibility? For, as my friend from North Carolina points out, the ultimate economic disaster, what unleashes chaos on the world markets is runaway spending of the type we have seen for the past 4 decades.

The real question is not doing some things, like raiding the pension funds and using that as really the epitome of the examples of what has gone on here for the last 40 years. The key is to change things now.

How? With positive economic initiatives for the future that deal with growth, growth that emphasizes the freedom of the marketplace; that is the essence of the debate, not to be in love with government, but to love every generation, our seniors and generations yet unborn, to end business as usual, end this runaway spending, restore true fiscal integrity.

Mr. JONES. I yield to the gentleman from Florida.

Mr. MICA. I thank the gentleman for yielding.

This really does concern me, because it is again another scare tactic. We saw the scare tactic with Medicare, the comments about Medicare dying on the vine.

In fact, the President's own commission said that this program was going to die on the vine if we did not do anything. God forbid we should give seniors another choice. You just take this is full of waste, fraud and abuse, and everybody is dipping their bucket into it and profiting from it except the seniors it is to serve. So here again we are scaring the seniors that we are not going to be able to pay their checks, using them as pawns, giving them only one choice, but in fact we, the President and this administration, will make a choice, and the choice is also in these budget figures. They want to pay illegal aliens. They want to pay people not to work.

Now this has not worked. We have seen the mess it has created in our society, and it is related to crime, it is related to our juvenile problem, it is related to teenage pregnancies, and you can do all you want, put them in uniforms or do whatever you want to do, I am telling you, unless you make people responsible and people to work; they want to pay people not to work, but they do not want to pay the senior citizens when this bill comes due. They do not want to pay our veterans; they would rather pay volunteers in a volunteer program with better perks and benefits than pay our seniors and our veterans.

So this is what this debate is all about, really. We have got to get a grip in this Congress.

We came here as the new majority. We said we were going to do things. We cut a quarter of a billion dollars out of our legislative appropriations. They talked about cutting here. They talked about congressional accountability. We passed it. We live under the same laws. We passed gift ban, lobbying reforms, things they talked about and dreamed about for years and never did a darn thing about.

THE MEANING OF OUR CURRENT DEBATE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. SCHUMER] is recognized for 5 minutes.

Mr. SCHUMER. Mr. Speaker, we just had an election in Oregon, and we saw what happened. The Democrat won a seat that had been held by a Republican for a very long period of time. And so today all the pundits and prognosticators have been asking what does that election mean. Why did it happen?

Well, anyone who listened to the debate in the last 10 minutes, in the last half hour, on this floor knows exactly why it happened. It happened because a group of extremists have taken over this House.

I would admit and say that in 1994, Republicans appeared to be the more centrist party. Democrats appeared to be too far over to the left, and Republicans won. And in a short span of a year, folks, you have ceded the center ground to us by doing all sorts of things that most people regard as lunatic, and probably at the top of the list is the idea of letting us default.

But I would say one other thing about Oregon. Oregon is going to be the predecessor of what is going to happen in the 1996 elections. Oregon foretells the 1996 elections.

Yes, the Republicans had, the Republicans had much more money. Many would argue he was more attractive, better looking, smoother and suaver, but you know what, the voters of Oregon said no more of this extremism, no more of sending people who are so far to the right that they are not where the American people are, to this body.

And if anything shows how crazy things have become here, it is their idea that we should default. I have heard the other side talk on and on about balancing the budget. Well, guess what, President Clinton has submitted a balanced budget. He has done it in 7 years. He has done it with CBO numbers.

First, the Republicans said we want him to submit a balanced budget. He did. Then they said no, that is not good enough, 7 years. He did. Then they said that is not good enough, CBO numbers.

You know what the dirty little secret is here, there is a group of 80 or 100 extremists on that side of the aisle who really do not want a balanced budget. They just want as deep a tax cut as possible. And so they say President Clinton is not telling the truth, but everyone knows that is that he submitted a balanced budget. It just does not have as much tax cuts as you guys want, and you gals want.

Well, ask the American people. They want it. But that is not the point here today. They want fewer tax cuts and fewer cuts in Medicare and Medicaid. But nobody wants America to default.

It is interesting, I see all of my colleagues here, they do not talk about what default is. The gentleman from Ohio [Mr. BOEHNER] got up, and he said we will never default. And then the next guy gets up and says, oh no, we will never default if the President submits to our balanced budget. That is blackmail. That is blackmail. You know that, the gentleman from Arizona, you want him to say, "I will go for a balanced budget that you attach what you want." You do not want to negotiate with him.

□ 1245

You want to say balanced budget plus ABC, Mr. President; take it or leave it, or we will cause disaster to the American people.

Well, gentlemen, learn your lesson. Your great theory was let the Government shut down, and that would bring the White House to its knees and you would get what you want by bullying tactics. It failed. You looked miserable. You had to retreat with your tail between your legs. And what do you do now? You come up with even a more ludicrous theory, and that is that we should let the Government default.

You know, I believe each of you does not think the Government will default, because maybe he will back off. Maybe you will back off. Well, when I was a teenager there was this game that certain people played called chicken. They each get in cars at one end of the highway, and they would rev up the engines to x miles per hour, and whoever swerved first was the chicken. And you know what? If no one swerved, there was a big crash. And that crash will mean nothing compared to the crash that will occur if no one swerves here.

So you are playing with fire, and you should have learned your lesson. What I would do, since my words are rather strong and maybe we can get a debate going again, I would yield to the gentleman from Arizona, but only please for 30 seconds, so I might have the chance to answer.

Mr. HAYWORTH. I am so grateful to my friend from New York for yielding. There goes the time right there, so your noble experiment has failed.

Mr. SCHUMER. Let the RECORD show I did not know my time was about to expire.

COMPROMISE ON BUDGET NEEDED NOW

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. GILMAN] is recognized for 5 minutes.

Mr. GILMAN. Mr. Speaker, I think our goals are all similar, having a balanced budget. We are pleased to hear the President in his State of the Union Message adopt the call for a balanced budget and challenge the Congress to make certain we have a balanced budget.

None of us wants to put the Government in default. We want to have a good debt measure. We want to have a good balanced budget adopted before we leave the Congress for any recess period. But we do need cooperation. People are willing to negotiate across the table. Too often in the process it has been finger pointing and one party or another walking out of the negotiating area.

I think the American public wants to see us get down to work, develop a balanced budget, and develop a clean debt ceiling measure, and I think most of us in the House would like to see that happen. But that means good intentions by all parties and the willingness

to stop the finger pointing, and an intense desire to bring these problems to a halt by finding a proper solution.

I am pleased to yield to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. I thank the gentleman very much. I think we should all really tone down our rhetoric, if we could. I have to say, I use a lot of descriptions of my friends, but let me say to my friend from New York, telling us that we are a bunch of extremists and you now are centrists, does not further the debate. You must have used the word "extremist" five or six times. We will let the American people determine who is in the extreme and who is in the center and who most closely reflects their point of view.

I do not accept the notion that we Republicans closed down the Government. I heard that this morning as well. I believe it was the President of the United States and his refusal to act that resulted in the shutdown of the Federal Government. In fact, if we indeed were putting pressure on the President to do certain things, you might say that we came to the point where we had to put him in a position of shutting down the Government himself before he would come forward with even a semblance of a balanced budget plan. If you remember, the President did not feel compelled even to put a balanced budget plan on the table.

So what we are talking about, all of these things, whether you are talking about default or closing the Federal Government, all these things, I do not believe we are doing. We are doing what is responsible and putting the President in the position of saying he will have to make the decision in terms of default or shutting down the Federal Government.

One last point. In order to achieve his objective, his objective is opposite from what he ran on. He ran on a balanced budget, he ran on changing welfare as we know it, but now he is willing to shut down the Government, he is willing to default, rather than come forward with an honest discussion and negotiation of how we get to a balanced budget.

Mr. GILMAN. I yield to the gentleman from Arizona.

Mr. HAYWORTH. I thank my friend from New York, and thank him for coming to this floor and responding in measured tones to some of the shrill rhetoric we heard this morning. I have one comment in particular about blackmail. The record will show in our discussions with the White House, the new majority has moved some $400 billion in the direction of the White House, and the White House has responded with only incremental efforts to reach some sort of consensus.

Therein lies the rub here, because, again, in the wake of the rhetoric, I would simply make this statement: The only thing extreme on this floor is the extreme good sense the new majority is showing in trying to put our fiscal house in order. As my friend who chairs the committee so vital to international relations understands, it is fiscal responsibility, not only in our own financial markets, but internationally, that builds and expands the full faith and credit of the United States. And after almost a half century of runaway deficit spending, now trying to put our house in order should be paramount.

So let the record reflect that this new majority has moved in the direction of trying to reach some sort of consensus. But as everyone in any business knows, a bad deal is not the answer. No deal may be better than a bad deal.

Mr. GILMAN. I thank the gentleman from Arizona for reflecting on how important our economic status is, not only domestically, but internationally.

CONGRESS SHOULD BE WORKING ON SUBSTANTIVE ISSUES, NOT DISCUSSING GOVERNMENT DEFAULT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York [Mrs. LOWEY] is recognized for 5 minutes.

Mrs. LOWEY. Mr. Speaker, yesterday I visited with some high school students in Ryenek High School and we were talking about the Endangered Species Act. They wanted to know what the Congress was doing. They wanted to know how the debate was proceeding.

I also visited with students in another school to talk about education and what the Federal Government was doing or could do. It is hard for me to believe, Mr. Speaker, that it is almost 5 minutes to 1 in the afternoon. We are not working on the Clean Water Act or education, the Endangered Species Act or Head Start. We are here on the House floor because the Republican leadership cannot get their act together, and we are debating whether we should shut the Government down or not, whether we should allow a default of the Federal Government.

Mr. Speaker, a default of the Federal Government should be unheard of. It should not even be discussed, to even put in question the credit of the United States, to even think that we would talk about adjourning to just before the brink of March 1 when the Government could default.

Mr. Speaker, I appreciate the effort to be bipartisan, and I do so hope we could. Look, I think it is a fair debate to talk about the programs, to talk about what is efficient, what is not. That is what AL GORE's reinventing government was all about. In fact, the Government is 200,000 positions smaller because of President Clinton and AL GORE's reinventing government program. We have already reduced the deficit because of courage in 1993 by $500 billion. We have already done that. Now we know that the deficit was cut in half this year. It is $160 billion rather than $300 billion when the President took office. So we have already done some things.

No one ever thought in my district when I went home it was the subject of conversation that we would ever, the Congress of the United States, led by the Republicans, would shut down the Government. Twice. In fact, if that had not happened, I am sure no one would even believe, anyone in their right mind, that we could even think about the United States Government defaulting, putting our credit at risk.

That is unheard of. I was on the phone the other day with the head of the National Cancer Institute. Because of the Government shutdown, six cancer drugs were not released. In fact, the Geological Survey could not release maps to businesses that wanted to build projects. In fact, the SBA could not make loans to small business.

We are still trying to figure out what the impact of shutting the Government down was. I know it is difficult for NEWT GINGRICH and the Republican leadership, because they are a group of freshman that feel that it is their way or no way. I have always worked in a bipartisan way. I saw my colleague the gentleman from New York, BEN GILMAN, was here before. I wish my colleague from North Carolina, WALTER JONES, Jr., was here now, because I would have liked to have applauded his father, who was the chairman of the Committee on Merchant Marine and Fisheries on which I served.

We did all kinds of good things on that committee. We passed the Coastal Zone Management Act, we worked to preserve Long Island Sound, we passed an ocean dumping bill. There is a lot of work that has to be done in the Congress of the United States for my constituents and for the country. We should be working on these issues at 10 minutes to 1, not talking about a possible default of the Federal Government.

The President put a balanced budget on the table. Now, originally I heard day after day the Republicans saying "We need a balanced budget, we need a balanced budget. We need it scored by the Congressional Budget Office." I apologize to all our constituents. They probably may not be aware of all these details. But the President did put a balanced budget on the table, scored by the Congressional Budget Office. Now the Republicans are saying "That is not good enough."

Well, let us bring that bill to the table. Let us bring that balanced budget on the table. We can agree on $711 billion. Let us vote on it. Let us balance the budget and move forward and get to work.

I am very worried about how we are going to educate the next generation. I visit our schools. We can do so much more. It is legitimate to talk about what is the Federal role, what kind of investments can we make. There was an article just this week on the success of some boot camps. Can we invest in more boot camps so we can ensure our kids can get that education?

Let us not talk about default. That is an outrage. Let us get to work at 1 o'clock.

U.S. MONETARY POLICY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. DINGELL] is recognized for 5 minutes.

Mr. DINGELL. Mr. Speaker, the House will be adjourning shortly until February 6. Mark Twain would have greeted that news with great joy and said that during that period of time the Republic was safe.

The fact of the matter is the Republic is going to be in greater danger during that period. As the first Secretary of the Treasury, Alexander Hamilton, found, the one thing that was important for him to do as the Secretary of the Treasury was to assure the credit of the United States. This was something which had not existed prior to that time. In consequence, the currency, the full faith and credit of the United States, and, indeed, the economic promises and commitments of this country, meant very little.

Alexander Hamilton set in place a tradition and a history and a culture which during those years since his tenure have been manifested by two things: First, that the United States paid its debts when due; and, second, that the United States' credit was regarded as the best in the world.

Today as we sit here, credit rating agencies are reviewing the credit of the United States to see whether in fact the credit of the United States should continue to be AAA or whether in fact it should be reduced to some lower number.

During the time that we have been discussing the budget, we have been talking to our Republican colleagues about that matter, they have been stressing that there were two purposes that they were going to carry out to assure that the President agreed to their stand with regard to a balanced budget.

The first was to bring a Government shutdown. That has happened not once, but twice. The American taxpayers, American business, American industry, American citizens, have undergone substantial hardship. Our foreign trade has been impaired. The programs upon which business, industry, ordinary citizens are dependent, have all been hurt. Checks by the Government to its contractors have been delayed and withheld. Losses of employment amongst Government contractors have occurred.

Federal employees have been laid off. Federal employees have been paid for not working.

□ 1300

That need not have been done. Indeed, with wise fiscal management, no party in control of a legislative branch of government would permit a situation of that kind to obtain.

We have seen the consequences of that: new trucking unable to be certified, businesses unable to send delegations abroad to promote sale of U.S. commodities and goods and services, Americans incapable of bringing in foreigners to see things like the automobile show; our monuments to the success of that unfortunate policy.

We are now looking at February 29. What will happen on February 29? On February 29, the United States will go into default on its obligations. At that time, the credit of the United States will be reduced in the eyes of all on that sole event. It need not happen.

Never before in my memory in this body, or indeed in the history of the United States since Alexander Hamilton was the first Secretary of Treasury, has that sort of event occurred.

We are going to adjourn here shortly then until February 29. We will probably do so without having addressed the question of the debt ceiling. Let us look a little bit at what happens to this country if a default occurs.

My Republican colleagues are feeling very, very macho about this matter, because they are now able to say they have a tool which they can use which will force the President to do their bidding. Well, the President has not been forced to do their bidding by the shutdown of the Government. Indeed, the only persons who have been hurt have been the United States and the people of the United States.

The President has done his best to see to it that the country is run during those periods of time. But we have wasted billions in paying salaries to people who did not work. We are now paying people who are not able to work effectively because their agencies are not fully funded, even though we are paying them. But let us look ahead to see what will occur.

A BALANCED BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri [Mr. VOLKMER] is recognized for 5 minutes.

Mr. VOLKMER. Mr. Speaker, I yield to the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Speaker, interest rates will rise. Prices of U.S. Government obligations will fall. Interest rates will rise on municipal bonds, State securities, and private debt, corporate and individual.

Prices of bonds will drop. The securities markets, both stocks and bonds, will fall. The credit rating of the United States will be impaired. Employment will rise. Home mortgages will be thrown into disarray. Homeowners will find the value of their real estate declining. Pension funds will be impaired by reason of the loss of the value of their equity and the loss of earnings. Perhaps high unemployment in this country and around the world will occur because of a significant breakdown in the world money markets and the world currency markets.

Mr. Speaker, I urge my colleagues on the Republican side, if they are going to play with fire, to burn only themselves, but be careful of what they do.

Mr. VOLKMER. Mr. Speaker, reclaiming my time, I have been listening to some of the debate that is going on over here, and it is really amazing to me that we have adults here masquerading as Congressmen that will not accept the responsibility for their own actions.

I can remember back when my children were young. One of the things that I tried to teach them was if they take an action, do something, to accept the responsibility for what has been done. But what we find here among the Republican majority is that they will not accept the responsibility at all for shutting down the Government. They want to blame it on somebody else.

Mr. Speaker, I have known of people that way. They do things and they think of all kinds of reasons to blame somebody else for what has happened to them instead of accepting responsibility for their own shortcomings.

Come March 15, I want to see the President continue this Government in those areas that expire by March 15. There is only one group that can do that, and that is the majority in the House. Senator DOLE cannot even do it on a continuing resolution. It is an appropriation that has to originate in the House. Only the Republicans can originate a bill of appropriations. If they do not do it, like they did not do it in December, they did not do it, and, for not doing it, the Government shut down. The same thing happened in November. When they did not do it, the Government shut down.

That is all it amounts to, folks, and now they tell us that all this big fight is over a balanced budget, that the President has not submitted a balanced budget. But the President has. And not only the President, the Democratic Coalition submitted a balanced budget that is a lot better than the Republican balanced budget.

The Congressional Budget Office tells us that the Democratic Coalition budget, by the year 2002, that Federal debt is $66 billion less under the Democratic Coalition budget than under the Newt

Gingrich Budget. No, they will not take that.

Know why? I will say why, Mr. Speaker. Because it does not have a tax cut for the wealthy in it. It does not have a tax cut at all. Some of us believe that we should not be cutting taxes until we see a balanced budget. All I am doing and my colleagues are doing in these balanced budget resolutions is estimating that by the year 2002 there is going to be a balanced budget.

There is not one person in this world that can guarantee that there is going to be a balanced budget. So let us wait until we get to a balanced budget, then we will do tax cuts. They say: Oh, no. We want the tax cut now. We want the tax cut now.

What that tells me is that they really want a tax cut more than they want a balanced budget. That is what it tells me. They are more interested in seeing a tax cut. Let us wait and see the debt limit. I hear talk now that the gentleman from Texas [Mr. ARCHER] is going to put some of those tax cuts on the debt limit. That tells me something. That tells me that that tax cut is really important, more important than the credit of the United States.

That is what my colleagues are taking a risk with doing, by doing that. It is more important than the balanced budget. It is the most important thing of all among the whole area, this whole year, is the tax cuts. That is what the Republican majority really wants.

Mr. Speaker, it is not really the balanced budget. If they wanted that, they could have had that a long time ago. We gave that to them, the Democratic Coalition. CBO says, yes, it just does not have the tax cut. And if they really want a debt limit increase, I suggest that they pass a clean one. Once they do not, the Senate will add all kinds of amendments. If my colleagues add some, the Senate will add a bunch more, and we will not have it done.

TRIBUTE TO RONALD REAGAN

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Arizona [Mr. HAYWORTH] is recognized for 60 minutes as the designee of the majority leader.

CONGRESS MUST WORK TOGETHER TO END DEFICIT SPENDING

Mr. HAYWORTH. Mr. Speaker, we were to use this time for a special occasion that appears on the calendar in a few days, and we will get to that in a few minutes. But after hearing the rhetoric bandied about this floor this morning and on into the afternoon, I think it is important to make several points.

First and foremost, when we talk about credit and credit ratings, when we talk about abdication of responsibility, Mr. Speaker, the problem is this: For too long those who have come to this Chamber have always found a reason to say yes; have always found a reason to spend more and more of the American taxpayers' money.

For almost a half century, it has been fact in this city, in this Chamber, that it is always easier to say yes. It is always easier to say, oh, gee, we should be able to find some money for that. To that extent, we have now spent ourselves to almost $5 trillion of debt.

No, Mr. Speaker, the ultimate abdication of responsibility is not facing up to this problem and saying, let us work together to change these ways. The ultimate abdication of responsibility would be to continue to heap debt upon debt upon those who have no voice in this Chamber, for they are generations yet unborn.

We have heard a lot about bipartisanship. Let me congratulate the President and his budgeteers for something they did a couple of years ago, something called generational accounting, where the President asked his budgeteers to take a look at Government as it exists today and extrapolate what it would cost the average American taxpayer if nothing changed. The President's own budgeteers said, if nothing changes, the average American 25 years from now will surrender 82 percent of his or her income in taxation to some level of government, to some governmental entity.

Today the American taxpayer, the average American family, pays more in taxes than on food, shelter, and clothing combined. Yet, our friends would come here and say, gee, if you want to make the Government work, we will just take more or hang on to more of people's hard-earned money, and we will get our act together.

Yet the inescapable fact is, for every dollar raised in taxes for years, this Congress has spent $1.59. Now it is supposed to be different. My distinguished friend, the gentleman from Michigan, quoted Mark Twain. Mark Twain also said this: "History does not repeat itself, but it rhymes."

Yes, momentous decisions await us in this Chamber. Yes, the American people deserve the best. Yes, the American people deserve a Government that will allow pro-growth policies by letting people hang on to more of their hard-earned money and at the same time deliver a one-two punch, not only allowing Americans to hang on to more of their money but, yes, curtailing the levels of spending.

It is only extreme in the sense that it makes extremely good sense.

Mr. Speaker, with that I yield to my friend from California.

Mr. ROHRABACHER. Mr. Speaker, I think it is important to realize that, when we say 80 percent of people's income will have to be taken from them in taxes in the future in order to pay for government if we leave the situation the way it is, let us remember what that 80 percent will mean. That 80 percent will not be providing those future generations with services. What we are talking about is leaving future generations to pay a majority of their income simply to pay for the interest on the debt that we have left them.

Mr. Speaker, we are basically condemning future generations of Americans to slavery. Our fellow Americans should take a look and see what we are talking about here. One is not a free person if one has to work half of one's life simply to pay the interest on the debt that someone else has given. That is what the young people of our country have to look forward to unless we are responsible.

Our country will not be a prosperous country in a situation like that, and our people will not be a free people. It is the freedom of our fellow Americans in the future that we are talking about. It is the freedom of our children and our children's children; not only their prosperity but their freedom as well.

Let us note this: that we have heard a lot of talk today and a lot of names called. I heard one of our colleagues suggest that we are "masquerading as Congressmen." I heard another colleague say that we are just a "bunch of extremists." This type of name calling should raise the red flag in American homes and say, wait a minute, what is going on here? Why do people have to call these types of names? What about the basic argument at hand?

I think we should look at some of the basic things. We have been told today, for example, that 200,000 Federal employees have been cut by this administration. Well, we know almost all of those are a result of a reduction in our military forces. Is that being forthright with the American people, to claim that we have reduced the size of Government when in reality all we have done is reduced the size of the American military?

Then we heard about the $500 billion cut in our deficit. Does anyone believe that in the last 2 years we have seen a reduction of $500 billion in our deficit? That is absolutely ludicrous, to say that over these last 2 years we have seen a $500 billion cut in the deficit.

Mr. Speaker, what reduction there has been in the deficit, however, might be attributed simply to, No. 1, the good economy that this President inherited, and, No. 2, the fact that the President passed, immediately upon entering office, one of the largest tax increases in American history. Before that has its chance to wreak havoc upon our economy, there seems to be a little bit more revenue coming in because of tax increases.

□ 1315

It is absolutely ludicrous to suggest that this cut in the deficit has anything to do with a reduction in the size

of Government or Vice President GORE's plan to reinvent Government. This is not an honest debate when we move forward like this. The American people should understand that what we have today and the reason we are in a budget confrontation, the reason people are talking about default, the reason the Federal Government was closed down is, there is a philosophical struggle going on in Washington, DC. And the democratic process is playing it out, just as our Founding Fathers intended this democratic process to work.

The fact is that one group of people is demanding more and more Federal spending and an ever-increasing Government versus a shrinking proportion of take-home pay for the American people.

On the other side, we Republicans believe that a free society means that people have a chance to take home some of their hard-earned dollars and make choices for themselves, how they will educate their children, how they will spend the money that they have earned, how they will allocate these limited resources. It is not a free society, as I say, if a greater and greater portion is taken away from someone who has earned that money. We are condemning our children to a future of virtual slavery unless we change that pattern.

But changing the pattern is exactly what this is about. This President and the minority, who by the way had a chance to do anything they wanted to do for the last 2 years, they had the Presidency and both Houses of Congress, but the other side is so committed to bigger Government, to taking resources away from the people and giving them to bureaucrats and officials in Washington, who are bestowed, I guess, with some benevolence in that they understand how to use those resources, have a greater understanding than the people themselves who earned them. This is what they would like to do, and they want to do that so much, they are so committed to a bigger and bigger Government that they are willing to shut down the Federal Government. We hear time and time again of all of the consequences of the short shutdown that we faced with the Federal Government. The fact is, I understand that. You understand that. The majority understands that.

We did our job. The reason the Government was shut down was that the President of the United States did not do his job because he was committed to bigger Government and higher taxes and more controls and more regulation and Washington, DC, the omnipotent Washington DC, rather than committed to the freedom and prosperity of the people.

That is what is going on here. That is what is playing out. When you hear talk of default, the Republicans are forcing no default, just as the Republicans did not force the closing down of the Government. What we are doing, we are doing our very best to turn around a situation where if the United States continues to go in the direction that it is that we will be sacrificing the freedom and prosperity of young Americans and future generations.

Mr. HAYWORTH. Mr. Speaker, I thank my dear friend from California, again, for expounding on some of the rhetoric we heard this morning.

One who preceded us in America's public affairs said it this way, Mr. Speaker:

> This is the issue, whether we believe in our capacity for self-government or whether we abandon the American Revolution and confess that a little intellectual elite in a far distant capital can plan our lives for us better than we can plan them ourselves.

The truth of those words rings true. And it is in that spirit that we move today to our reason for taking this time, as Members of the majority, to commemorate the fact that on February 6, the great communicator, indeed one of the greatest Presidents ever to serve in the Oval Office, Ronald Wilson Reagan, will turn 85 years of age. There are so many inspiring factors, when one looks at the life of Ronald Reagan and his life in public service, but I look to his earlier years. Indeed, many, to offer this personal note, have looked at my career, those pundits and would-be potentates of the fourth estate inside this beltway, as some have written of my stewardship in this Congress, my heavens, he is a sportscaster.

Well, let the record show that Ronald Reagan began his working career on the air in radio, first at WOC Davenport and then WHO Des Moines and indeed, the bulk of his duties entailed sportscasting.

Now, I will be the first to admit, Mr. Speaker, that I am certainly no Ronald Reagan, but we are joined today in this Chamber, Mr. Speaker, by those who have served President Reagan and those who continue to serve former President Reagan. I would be happy to yield some time again to my good friend from California, one of the surfing Congressmen, indeed, one of the surfing speechwriters who worked in the Reagan White House, who was present at the Reagan revolution, my good friend, Mr. ROHRABACHER.

Mr. ROHRABACHER. I thank the gentleman very much. I was blessed to be born in California and to have lived in California at the time when Ronald Reagan was Governor of that State. In fact, I worked on his very first campaign.

I was the Los Angeles County high school chairman of Youth for Reagan. And one little anecdote that might give people a better sense of who we are talking about is that after that campaign, it was a very hard-fought campaign, Ronald Reagan was always told during his entire career that he would lose the election that he was in because he was an extremist. And we have heard that word bandied about here today.

Ronald Reagan was always called an extremist and was always told that the American people would never elect him and that he could not win, that was always the argument against him in the Republican primaries.

It was a hard-fought primary and Reagan won handily. During that primary in the youth group, in the youth movement that we had there working for Ronald Reagan, there was a conflict between the Young Republicans and the Young Americans for Freedom. And it was a very brutal conflict, even though we had a great man to work for. Everybody was fighting each other and some of us tried to just walk the precincts and pay attention to the job, but everybody seemed to get sucked into this battle.

What happened was, the senior staff of the Reagan campaign determined after the primary that what they would do is eliminate Youth for Reagan and then they would just put all the young people into the organization that was based for everybody, for the adult volunteers of the campaign. I just felt terrible about this. I just did not know what to do.

I had walked about 20 precincts myself. I had 120 kids in my area that had just worked their hearts out for Ronald Reagan and Youth for Reagan, and I was crestfallen. What was this going to mean? There would be no Youth for Reagan.

I decided to talk to Ronald Reagan himself about this problem. And there I was, 17, I guess I was more like 18 years old. I got up one morning and went to Ronald Reagan's home at 2 or 3 in the morning. And I walked up this narrow driveway, and this shows you how different things are, there was not even a guard on the outside of the house. And I went to the backyard and camped out in the backyard. And I had a little sign.

And the next morning about 7 in the morning, Nancy stuck her head out of the door and said, Who are you? I had this little sign and it said, Ronald Reagan, please speak to me. And she explained, she said, Now, look, my husband cannot come out; otherwise I know him, he will miss his breakfast or he will be late for the rest of the day.

How can you argue with a wife who is concerned about her husband? And so she said, If you will go down and if you will leave now, I will make sure that you get an appointment with one of the top campaign people. You can discuss your problem with him.

So, OK, I started walking down that long driveway. And then behind me I heard a thump, thump, thump. And it was Ronald Reagan. His shirt was half

off. There was shaving cream on his face. He said, Wait a minute, wait a minute. He said, If you can camp out on my back lawn all night, I can at least spend a couple minutes with you.

Sure enough, he spent 5 minutes with me. And I would like to think that that was the 5 minutes that saved Youth for Reagan, because the adult organization did not take over. But this is just the type of man Ronald Reagan was. He had a wonderful heart. He thought about young people.

We have just been discussing what will happen if we do not set our country on the right path. It will be our young people that suffer. Ronald Reagan knew this. Ronald Reagan's whole goal, when he became President of the United States, was to make sure that we passed onto our children a country that was more prosperous and a world that was more free and a world that was more likely to be at peace than the one that we inherited.

President Clinton, by the way, has had an easy job of this. I know that our colleagues on the other side of the aisle will not accept this, but the fact is, President Clinton inherited a great economy, an economy that was growing, an economy that had almost no inflation. And in fact, he also inherited a world in which the United States was the supreme power and that the cold war was a memory, the cold war was over.

For the first half of Mr. Clinton's Presidency, he had control of both Houses of Congress. His party could have done anything they wanted. This is so different than when Ronald Reagan took over as President. Ronald Reagan inherited a disaster. Our economy, I remember that, because I was a journalist at the time. I remember that in the 2 years prior to Ronald Reagan becoming President, my income was reduced by 25 percent due to inflation.

All those people who were not getting raises found out that with an inflation rate of 13 percent and 12 percent a year, that their income was going down, that they could not afford to live. In fact, one of the greatest drops in the economic well-being of minority Americans and less affluent Americans happened in the 2 years just prior to Ronald Reagan taking over as President.

And when Reagan came to office, we faced this incredible economic catastrophe. We also faced an enemy intent on destroying the United States of America, an enemy that had been arming itself to the teeth for years, and a situation in which our own Armed Forces had been neglected out of some ideological commitment by the left. I guess the left at that time felt that a strong United States was an enemy of peace and not a friend of peace.

Ronald Reagan had to turn that situation around or we would have been at war. He had to turn the situation around or our young people would never have had any chance of prosperity or the economic lives that we lived even in this generation would have continued to decline.

On top of that, the Democrats had control of this body, of the House of Representatives, during his entire time as President. In fact, the Democrats did everything they could to undermine President Reagan. I know there is a lot of revisionist history going on these days about the cold war, but I will tell you this right now, that when Ronald Reagan tried to confront Soviet aggression, tried to rebuild America's strength, tried to do what he could to confront this bully that threatened all of mankind, we did not have the liberal wing of the Democratic Party on our side. In fact, they were doing everything they possibly could to undermine our effort.

In fact, at the time in the domestic area, when Ronald Reagan proposed cuts, today we hear him blamed for the great deficit increase that happened during his years.

□ 1330

I remember very well what happened during those years. What happened was Ronald Reagan was personally attacked. He was villified, not for spending too much, not for creating a bigger deficit. The very same people who today call him those names and blame him for the deficit were the ones in charge of this House who were attacking Ronald Reagan for not spending enough money. They were the ones who pushed Ronald Reagan to the wall in order to get more money put into the budget, not less. It is funny now that we hear the revisionist history about Ronald Reagan being the one responsible for the deficit by the very same people who demanded more and more spending, and villified Ronald Reagan for fighting it.

Worse than that, however, When Ronald Reagan tried to confront the Soviet Union, in our efforts, for example, before Ronald Reagan became President, there was a movement by the Soviets to dominate Europe with a buildup of intermediate range missiles. Immediately thereafter, after the Soviet Union expanded its military might, it called for what they call a nuclear freeze, which would have frozen them into a military superiority which would not put them in domination of Europe, and would have put them in a situation where the cold war would never have ended, because they would have been a dominant force on this planet.

Ronald Reagan countered that with a proposal saying, "Look, if we are going to limit nuclear weapons, and we are talking about intermediate range nuclear weapons, let us bring down the levels of nuclear weapons in Europe to zero, so both sides will be able to decrease their spending on the military, and you will not have to have any missiles in Europe on either side."

The proposal was considered seriously in the Soviet Union. Where it is not considered seriously was by the liberal wing of the Democratic Party who attacked Ronald Reagan publicly for offering this, saying that they knew that the Soviet Union would never seriously consider this, and that Ronald Reagan was just hiding his true intent, which was wasting money on the military.

In fact, 5 years later the Soviet Union agreed to that arms control proposal, the zero option, and it was signed by President Reagan and Mr. Gorbachev into an agreement, a historic agreement, that signaled a change in the cold war. But that was not, that was not due to bipartisan, as we hear now, bipartisan support from the other side of the aisle. It was due despite the nitpicking and the public disagreement and the public undermining of the President's position.

I well remember sitting in the White House when we were discussing having arms control negotiations and what was going on in the arms control negotiations with the Soviet Union, when we had demanded that they live up to their past treaty obligations. The Soviet Union had built a huge radar facility, in total violation of one of its treaty obligations to the United States, but yet, people, liberal Democrats on the other side of the aisle, came forward in this body to defend the Soviet position, and to suggest that it was really the belligerence of Ronald Reagan and we extremists, which we hear all the time, extremists, which was at the heart of the cold war.

Liberal Democrats were proclaiming that there was a moral equivalency between the United States and the Soviet Union. This was not the bipartisan support that we hear time and time again, now that the cold war is over. The fact is that there was not bipartisan support. There was some bipartisan support, because there were some Democrats that come over, but by and large, Ronald Reagan had a two-front war to fight in order to end the cold war.

Mr. HAYWORTH. Mr. Speaker, I thank my friend, the gentleman from California, for his unique perspective. Now we know it will be in the history books one day, and perhaps in the archives of those who follow American political endeavors, that our good friend, the gentleman from California [Mr. ROHRABACHER], camped out on the back lawn of Ronald Reagan.

A couple of points and then I will yield to the gentlewoman who has the distinction of having the former President as a constituent, at least part of the time. It is this notion of optimism. Dwight Eisenhower said that a great leader should always be optimistic; not a cockeyed optimist, to be sure, but

one who believed in the basic goodness of people, and one who would defend the notions and the ideas he put forth.

President Reagan said it this way. Before he ever became a candidate for office, quoting him now, "They say the world has become too complex for simple answers. They are wrong. There are no easy answers, but there are simple answers. We must have the courage to do what we know is morally right."

As the gentleman from California outlined, facing considerable odds here at home domestically, facing the pundits and those who would fail to acknowledge the common sense of his policies, Ronald Reagan was willing to see a policy through. Because of his efforts, it has been said by our friend from Great Britain, the former Prime Minister, Mrs. Thatcher, if there is one individual responsible for the victory of the free world in the cold war, his name is Ronald Wilson Reagan.

With that, I am happy to yield to my good friend and fellow freshman, the gentlewoman from California [Mrs. SEASTRAND].

Mrs. SEASTRAND. Mr. Speaker, it is truly an honor to pay tribute to Ronald Reagan, and it is an honor that we do it here on the House floor. The gentleman from California talked about this involvement in trying to get the President elected. I have the unique pleasure to say, I go way back when, and I can remember stuffing those envelopes in the local headquarters for Ronald Reagan when he was running for Governor of California, and all the wonderful stories that, when we sit here and mull these things over and think about it, it is an honor, again, as I said to be here, and go way back when.

Today, as the Republican Congress moves our agenda of fiscal responsibility and bureaucratic downsizing through the House of Representatives, we are reminded of the first revolution—the Reagan revolution—that swept through Washington during the 1980's. Many of the things President Reagan championed throughout his Presidency have found a home and a new life in the Republican Congress. Welfare reform, real spending cuts, the balanced budget amendment, giving more flexibility to the States, and the line-item veto were all regular features of the Reagan program stifled by the Democrat Congress.

President Reagan's list of accomplishments seems unending. On the economic front, Reaganomics—as it was derided by his opponents—produced the longest peacetime economic expansion since World War II and blew holes right through the traditional and current Democrat appeals to class warfare. The Reagan tax cuts reduced the top marginal income tax rate from 70 to 28 percent and took many low-income people off the tax rolls altogether. The double-digit inflation and soaring interest rates of the Carter years crumbled to record lows. As Mr. Reagan himself has pointed out on many occasions, his only regret was an inability to get Congress to cut spending.

In foreign policy, Mr. Reagan's steadfast commitment to peace through strength sent an important signal to the world that the United States would no longer stand back and watch an expansionist Soviet Union roll up more territory. From Afghanistan to Angola to Nicaragua, the Reagan Doctrine put the United States firmly behind the freedom fighters who sought to throw off the oppressive Communists.

President Reagan was truly the man of the decade during the 1980's. There was no single figure more responsible for ending the cold war than Ronald Reagan. One sterling example was the 1986 Reykjavik summit. For 2 days the United States and the Soviets negotiated the most comprehensive arms reduction treaty in history only to have Mikhail Gorbachev throw a big curve at the end—the United States would have to give up the Strategic Defense Initiative. Ronald Reagan stood before Gorbachev and the world, held his ground, and said no deal. More than any single moment of his Presidency that was the nail right through the heart of the Soviet empire. As Gorbachev himself later admitted, when the Soviets realized that Reagan could not be bowled over, the game had changed and they did not have the resources to keep up.

President Reagan's policy of peace through strength was a hands down winner. It was a winner in spite of his critics. All during his Presidency Ronald Reagan withstood a vigorous assault from the left. But, through it all, he remained committed to restoring our Nation's defenses. There would be no further fears of a hollow army, and no lack of morale on the part of American serviceman. Having lived through four major wars in his lifetime, President Reagan was determined to make sure that our Armed Forces—those who would be asked to defend American interests at home and abroad at a moment's notice—had the resources, the respect, and the commitment from their government to do the job. As he so passionately and eloquently stated in perhaps his finest speech, the 40th anniversary of the Allied invasion at Normandy: "We will always remember. We will always be proud. We will always be prepared, so we may always be free."

It was a great honor for me to introduce legislation earlier this year that has since been enacted into law, legislation naming the newest constructed Federal building located on the last undeveloped stretch of Pennsylvania Avenue—America's Main Street—the Ronald Reagan Building and International Trade Center.

Ronald Reagan spoke of "Main Street America" as the "millions who work so hard to support their families and keep our country together." He often talked of the rising tide of optimism in Main Street America and that is why it is fitting that we named this Federal building after him.

The structure is designed by James Ingo Freed of Pei Cobb Freed & Partners; I.M. Pei designed the east wing of the National Gallery of Art and Freed designed the Holocaust Museum on 14th street and will be the centerpiece of downtown Washington. The building will dedicate 500,000 square feet for an international trade center and will attract additional business and tourism to our Nation's Capital. It seems fitting that this building that will feature free trade should bear Ronald Reagan's name.

Despite the arguments put forth by revisionist thinkers, President Reagan's place in history is secure. He stands next to the giants, Presidents like Roosevelt and Lincoln, who arrived at a time when the Nation desperately needed the passion and the leadership of a true believer. As he fights with courage, conviction, and that famous Reagan optimism against his current physical ailment, let us remember and pay tribute to a man who embodies the American Dream.

Mr. HAYWORTH. Mr. Speaker, I thank the gentlewoman from California, and reclaiming my time, I would ask if during the course of her busy day if she still has time to pause with us and reflect on those personal glimpses of President Reagan, she is more than welcome during the remainder of our time to do so.

My good friend, the gentleman from California, reflecting and offering yet more personal glimpses, as well as policy analysis of those years, the Reagan years in the White House and those years before, I am happy to yield to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Speaker, it is such a pleasure to be here with the gentleman, and celebrating the birthday of this great American, who has done so much for my life personally and also for the lives of every American.

People would like to know what kind of man Ronald Reagan was. I think I will make this a little personal as well as oriented towards his policy. I worked with him on his campaign in 1976 when he ran for President against Gerald Ford and lost. I remember one day when the President was speaking before a rally at a parking lot in North Carolina, where a young lady grabbed me by the arm and said, "I am here with a group of blind children. They cannot see. They cannot really get up into this crowd to hear as much as they should be able to, so I have had to keep them back here on the side. I was wondering if it was possible for," and they

called him Governor Reagan at that time, because he was not elected President yet, "for Governor Reagan to come here and to shake hands with these young people."

As the rally was over, the press were getting into their buses, and I mentioned this to Mike Deaver, and Ronald Reagan was in earshot and heard me talking about these young blind children. He said "Look, I don't want anybody in the press to come over there, because I don't want these young people to think that I'm trying to exploit young people, or blind children, for my candidacy, so do not tell the press anything. Let them get on the bus, and then I will go over there and meet with these young people and talk to them for a moment."

Sure enough, we jogged over to the side of the parking lot and there were about five children, probably 11 or 12 years old, that were blind. Ronald Reagan was speaking to them.

□ 1345

As he spoke to them, he said, would you like to touch my face? I will never forget that, because it would not have dawned on me to say that. It was not a thought that came to my mind. But he was so understanding and so sensitive that he knew that they could not see him unless they touched his face.

Of course, they all wanted to touch his face. As they were there, these five blind children touching his face in the corner of that parking lot, I thought to myself, what politician in this country would not give millions of dollars to have his picture on the front of Time magazine or Newsweek magazine to have all of these children touching his face. It was such a heartfelt picture, it would have been a Pulitzer Prize. But, instead, Ronald Reagan knew that this was a private moment, and that he was talking to these young people, and if he was going to keep faith with them, he did not want them ever to have the thought that he was exploiting them for those purposes.

I guess that is what our basic challenge was when we were working for Ronald Reagan as President. Before people could really see him, they had to feel Ronald Reagan, and the American people got a feel of Ronald Reagan. During his presidency, they knew that he was a good and decent man. Even though during his entire presidency, and during his campaigns he was maligned over and over again, as if trying to be responsible, trying to say that we cannot spend everything for everybody, that that in some way makes you a malicious person.

Reagan was attacked over and over and over again, as if he did not have a good heart. But the American people saw that he had a good heart. They felt that. They knew that about him, just like those little blind children, when they touched his face, knew what this man looked like.

Well, the American people knew what Ronald Reagan looked like on the inside. That is why they trusted him. To the degree that he was successful, it had a lot to do with the trust that the American people put in him. He spoke to them.

I was Ronald Reagan's speech writer for 7 years. I had never written a speech for anyone else before I wrote a speech for Ronald Reagan as President of the United States. He was the one who taught me how to write. A lot of people, again maligning Ronald Reagan, tried to say that he was some sort of puppet and that he could not do anything without his cards.

Well, the fact is, Ronald Reagan was an excellent writer. I always said that if he had not been president, he was a good enough writer to be a presidential speech writer. He taught us that.

He was, as you had mentioned, an expert in communication, and that served him well, it served the country well. When Ronald Reagan took over the country, it was in a funk. The country and the American people had been told to lower their expectations. They had been told that all of the problems of the world dealt with our own faults as Americans. They were told that we could not succeed, that we were in a malaise, and Ronald Reagan, with his buoyant optimism and with his great sense of the people themselves and his ability to communicate, turned the American spirit around.

People complained that the deficit expanded during Reagan's years. Again, he tried to cut it and the Congress would not do it. But on top of that, just figure out where our country would have been had the same policies been in place that the Democrats had in place before Reagan was elected and those same economic trends would have continued. Our deficit would have been twice as big, and our inflation rate would have destroyed the economic well-being and the standard of living of all of our people. So Ronald Reagan was successful at that.

But perhaps what I am most proud of, through it all, Ronald Reagan was called a warmonger, called a militarist. He was portrayed as someone who wanted to spend money on all of these weapons. But in fact, Ronald Reagan was a champion of freedom and liberty, and in doing so, he was a champion of peace in the world. We have a more peaceful world today because of what he did, the stands he took.

I remember when Ronald Reagan was castigated; and this side of the aisle, the Democrats who controlled the Congress at the time, did everything they could to undermine his policy of supporting freedom fighters in the various parts of the world who were fighting Soviet aggression. I mean, it made every sense to me that we should arm local people to defend themselves rather than send Americans all over the world to have to fight; and in fact, we drained the Soviet Empire of its military capabilities by forcing them to fight for their gains rather than just giving it to them and letting people surrender without a fight.

In Nicaragua, where the Soviet Union was perched and ready to roll up Central America right into Mexico and to the borders of the United States, before Reagan was elected, in Nicaragua, the Communists were ready. The Soviet Union pumped billions of dollars of military aid into that country, and the Democrats on that side of the aisle undermined Reagan's effort over and over and over again to try to give the Nicaraguan people the right to fight for their own freedom.

I have no understanding of why that happened, but in today's revisionist history, we are told that a bipartisan effort ended the cold war. There would have been no end to the cold war had there been a major Soviet offensive in Latin America that was victorious, and that would have happened had not Ronald Reagan come in and supported those who were struggling for freedom.

Finally, let us not forget that it was Ronald Reagan's speeches and his ability to communicate to the world, his ability to champion the cause of freedom and to condemn communism. Ronald Reagan was the first President of the United States not just to condemn Soviet actions, but to condemn communism as an evil, tyrannical force on the planet. Let us not forget that those words, along with his policies, are what brought an end to the Soviet imperial empire that threatened our freedom and threatened the peace of the world.

I will leave you with one last story of Ronald Reagan, because Reagan was called, he was called names, too, about his rhetoric. I have heard speeches over and over again about how he was a warmonger and his speeches were going to get us into trouble. But I remember very well the incident when Ronald Reagan was going to go to Berlin, and Reagan, one of his speech writers went to Berlin before him, and we came back.

Ronald Reagan had mentioned that he thought that this was the place to talk about the tearing down of the Berlin Wall. And we speech writers did our job; we gave him text.

He approved it, and all of a sudden volcanoes began to erupt all over the world. Diplomats, foreign policy experts, George Shultz, our Secretary of State, you name it, everybody, the National Security Advisor to the President himself, they were just—they were screaming at the top of their lungs, do not do it. Do not tell Mr. Gorbachev to tear down the Wall, because it will be an insult to Gorbachev. He is our only hope.

It was said by many that Gorbachev was the man who was making the world more peaceful, which is what we

hear from the liberal side, and not Reagan and a commitment to freedom that was changing the world. Reagan in fact was told just the day before he gave the speech in Berlin by his own National Security Advisor to take out of his speech that reference to tearing down the Berlin Wall. He was handed another speech draft and told, Mr. President, you should use this draft instead of the one you have. And Ronald Reagan, being the leader that he was said, well, no, I think I will use the one I have.

He went to Berlin, and he pointed to the Wall and he said, Mr. Gorbachev, if you believe in democracy and peace, tear down this wall. That strength of purpose and that commitment to freedom sent a shock wave around the world which unnerved the last vestiges of power in the Soviet Union and brought about the end of the cold war.

Ronald Reagan made that decision on his own, against the advice of the experts, because he knew in his heart that saying and demanding the tearing down of the Berlin Wall made everything that he had done and everything America stood for real, not only to the people of the world, but to the leaders of the Soviet Union; and within a few days the CIA told us that Gorbachev had had a meeting and had been seriously discussing with his advisors how to move forward in bringing down the Berlin Wall as a symbol of peace. What a magnificent, magnificent victory.

Then, one moment, I am going to tell you about my best day at the White House. I remember when Nathan Sharansky came to the White House. Many people do not know who Nathan Sharansky is. He used to be called Anatoly Sharansky and was a true hero of the cause of human liberty. He was a Jewish dissident in Russia, Soviet Russia, and he was thrown into the slammer, thrown into the gulag and told, all you have to do is sign a slip of paper saying that the Soviet Union is really a democracy and does not persecute Jews, and we will let you out of the gulag; and Sharansky refused to do so.

When the word of this heroic stand of this individual got around the world, he became one of our heroes. He became in the 1980's not just a Jewish hero; he was a hero to all people who believed in liberty, especially to Ronald Reagan's speech writers.

Well, when he was let loose from the gulag, it was because we traded a spy for him, a Russian spy. We got a heroic champion of freedom and they got some low-life spy who was trying to help Soviet tyranny. Boy, did we get the better part of that deal.

Sharansky ended up coming to the White House to visit Ronald Reagan, and he told Ronald Reagan, he said, Mr. President, whatever you do, do not tone down your speeches, because apparently when he was at the bottom of despair, in the dark and damp dungeon of a gulag, he was slipped a small piece of paper and on that paper was written, President Reagan has called it an "evil empire." And he said that is what gave him hope. That is what gave the world a reason to resist Soviet tyranny.

Not only did Sharansky prevail, but all of the freedom-loving people prevailed, because Ronald Reagan had the courage to speak about the values and the principles of this country at a time of great adversity.

So today, I am very pleased to join you and my other colleagues in saying "happy birthday" to my old boss, a man who may now have lost his memory, but will never be forgotten. Thank you.

Mr. HAYWORTH. Mr. Speaker, reclaiming my time, I thank my friend from California for that heartfelt tribute, and for his willingness to share the very personal side of history, a history of this Nation, a history of this world, in which our former President, Ronald Reagan, served as a catalyst; a man who had the courage to point out the world as it was and the conviction to help change the world to the place it ought to be.

I look here in this Chamber, Mr. Speaker, and I see another of our good friends who has joined us in this effort to continue the battle, to restore the notion of freedom and constitutional government to this great constitutional Republic, and for his perspectives on the service and stewardship of President Reagan. I am happy to yield time to the gentleman from Minnesota [Mr. GUTKNECHT].

Mr. GUTKNECHT. Well, I thank the gentleman from Minnesota. After listening to Mr. ROHRABACHER from California, particularly that close, it is really very difficult to speak, because we all have our own personal recollections and memories.

I had never been to Washington, I do not think, during the Reagan administration; I had never been to Washington until the Bush administration, so my memory is somewhat different.

I appreciate your having this Special Order. We have heard a lot today about President Reagan as the great communicator. Sometimes we forget, and we remember the tremendous speeches that he gave and some of the powerful things that he said. But it is easy to forget that communication is always a two-way street.

It seems to me that one of the parts that is forgotten about President Reagan is that he had a tremendous listening ear. He understood. He had an empathy for the American people that sometimes is forgotten.

One of his favorite expressions, and I have stolen a lot of things from the President; one of his expressions that he used frequently, and I subsequently found out he got from John Adams, but I use it a lot. He said, facts are stubborn things. You know, we can ignore the facts, we can deny the facts, but ultimately facts are facts. And he deeply believed that.

He also believed that ideas matter, that words have meaning, and that actions have consequences. As Mr. ROHRABACHER talked about earlier, when he went to Berlin and he said, Mr. Gorbachev, if you mean what you say, then tear down this wall.

□ 1400

Those words were barely even reported here in Washington and in the western press. It was passed along and does not appear anywhere in the lists of famous quotations, so that expression was almost forgotten here in the West. But those words had meaning, and they rolled across Eastern Europe all the way to Moscow, and ultimately the reverberation of those words brought that wall down.

I will always remember, and I have got to be brief because I have to run, but again I appreciate so much the gentleman having this special order today. But I remember the day that Ronald Reagan was sworn in as our President in his first inaugural address. I remember I was traveling in central Minnesota and I pulled the car off the side of the road to listen to that speech. It was one of the most powerful and most moving speeches I have ever heard.

In fact I was in New Ulm, MN when I heard the speech, and I will always remember. In fact I do not have it in front of me and I cannot do it word for word, but I will paraphrase only slightly the last paragraph of that speech.

Some may remember he talked about a young man from Wisconsin who during World War I had written on his diary that he was going to work and he was going to fight and he was going to serve as if the entire outcome of that long and bloody war depended upon him and him alone. President Reagan closed his inaugural address with these words.

He said,

> Our problems do not require that kind of sacrifice. They do, however, require our best effort and our willingness to believe in ourselves, to believe in our capacity to perform great deeds, that together, with God's help, we can resolve the problems which confront us now. And, after all, why shouldn't we believe that? We are Americans.

Those words were powerful then; they are powerful today. I think the most important thing about that sentence is that he believed in us, he believed in the American people, he believed in those deep core values that made this country work, and he talked about them often. He talked about the values of faith, of family, of freedom, of work and personal responsibility, and he believed deeply that Government policy ought to reinforce those values and that liberal programs, no matter how well intentioned, have had the net practical effect of undermining those values.

I remember, too, the day that he left office. It was a poignant moment for me, because I was watching when President Bush was sworn in, and at the end of the ceremony he and Mrs. Reagan walked out on the east side of this building. They turned around and he saluted to President Bush. Then he got up on the stairs to get on the helicopter which was to take him to the airport to take him back to California.

I will never forget, I was watching this, my wife and I, who are both big Ronald Reagan fans, and I turned to my wife Mary and I said, "You know, he was a long time coming, he'll be a long time gone." It will be a long time before we see a President like President Reagan who could communicate so clearly to the American people, and indeed to the world. I want to thank the gentleman from Arizona for having this special order.

I want to thank you, Mr. President, for all that you did for me, all that you did for the American people, and all that you did for all the freedom-loving people of the world. You will always be a blessing to us and you will always be that symbol that speaks to the best in the American people, that appeals to our best hopes, not our worst fears. I thank you, Mr. President. I wish you a happy birthday, and may God bless you.

Mr. HAYWORTH. Reclaiming my time, I would like to thank the gentleman from Minnesota for his perspective. It is worth noting, as the gentleman from Minnesota points out, Mr. Speaker, that President Reagan's observations still make the point today. Indeed, in a speech delivered about a year ago the President said these words, and I think they still pertain to our situation today:

> After watching the State of the Union address the other night, I'm reminded of the old adage that imitation is the sincerest form of flattery. Only in this case it's not flattery but grand larceny, the intellectual theft of ideas that you and I recognize as our own. Speech delivery counts for little on the world stage unless you have the convictions and, yes, the vision to see beyond the front row seats.

How important that is, Mr. Speaker. My friend from Minnesota was absolutely correct. Words do mean something. Promises must be made but, more importantly, promises must be kept. It is the vision that President Reagan spoke of in his inaugural address, on that day in January of 1981, that made the point so well:

> It is not my intention to do away with government. It is, rather, to make it work, work with us, not over us, stand by our side, not ride on our back. Government can and must provide opportunity, not smother it; foster productivity, not stifle it.

Indeed as the words are bandied about on this floor, as the epithets are hurled, remarks of blackmail and extortion and extremist, let us remember the observation of Mark Twain, that history does not repeat itself but it rhymes. And as President Reagan embraced the vision of Abraham Lincoln, that the American people once fully informed would make the right decision, let us dedicate our work and our labors in this legislative branch of Government to that same endeavor, recognizing that good people can disagree, recognizing that in a free society debate leads to decision, and also recognizing the contributions of a great American.

Mr. Speaker, let us wish the happiest of birthdays to Ronald Wilson Reagan as he approaches his 85th, and let us remember his example and do all that we can to ensure that his vision of America, a vision that harkens back to our founders, is remembered, not for its novelty, not for cutting back, to seem to embrace antiquity, but because it embraces the basic goodness of the American people and an undying optimism that is uniquely American. Happy birthday, Ronald Reagan.

ONGOING BUDGET DEBATE

The SPEAKER pro tempore (Mr. JONES). Under a previous order of the House, the gentleman from Minnesota [Mr. GUTKNECHT] is recognized for 60 minutes.

Mr. GUTKNECHT. Mr. Speaker, after the last hour we would like to talk a little bit about what is happening with the budget. The gentleman from Arizona is going to join me for a while and I believe one of my freshman colleagues from Idaho is going to join us in a little bit.

I know that the gentleman from Arizona, I do not believe he had a chance to join us in Baltimore over the weekend, but I think we should maybe take a few minutes to talk about, because I know the press has talked a lot about what has happened in the budget negotiations of recent and that somehow, I know that within the course of just a couple of weeks, in referring to the freshmen, we have been described as being mean spirited, and then last week we were being described as being dispirited. I think the only thing I can honestly say is, we are still spirited as freshmen, are we not?

I yield to the gentleman from Arizona.

Mr. HAYWORTH. I thank my friend for yielding. Yes, I was unable to be at the freshman advance—note, Mr. Speaker, we do not use the word "retreat" in any way, shape, or form—with the freshman advance, and I was interested to read the comments in one east coast newspaper, "Humbled Freshmen Regroup," or words to that effect.

Mr. Speaker, my good friend from Minnesota shares the same sense of honor and awe that comes with serving in this House. Indeed, as old man eloquent John Quincy Adams said upon his election, after serving as President, upon his election to the House of Representatives, there is no higher honor than service in the people's House.

Mr. Speaker, and to my friend from Minnesota, I think what confounds the fourth estate is that though we are honored and awed to serve here, we understand that we were sent here to change business as usual, and the spirit remains and the almost, you could see it coming a mile off, from my days in the media, we were bound to get a story at the halfway point that, gee, some folks have grown, that is, they have accepted the ways of Washington; some people have matured, that is, they have been willing to accept compromises in certain ways, and that somehow reasonableness, the Washington definition, higher spending, higher taxes, more big Government, and an abandonment of campaign promises, that type of reasonableness had infected our ranks.

Well, Mr. Speaker and to my colleague from Minnesota—I am sure he will join me on this—we do not for a minute accept the Washington definition of what is reasonable. Our mission is to serve our constituents and the American public who have the ultimate wisdom, who understand what is reasonable, who know what it is like to sit around a kitchen table and try to make ends meet, who know what it is to try and pay the tax man, who understand the notion not only of trying to pay the tax man and trying to take care of their many obligations but also who look for unlimited economic growth, who try time and again to deal with the impediments that this Government has placed upon them in trying to start a business, in trying to create jobs, people who are willing to see this economy grow if only the shackles are taken off and truly a free market is embraced.

Mr. GUTKNECHT. This sort of goes back to the discussion we were having in the last hour. While they continue to try and belittle Reaganomics, the facts are stubborn things. The economy grew at an unbelievable rate during the 1980's, in part because there was a commitment to lower taxes, to less regulation, and to smaller Government.

It was not complete, but we have the opportunity now to complete that revolution and really free up the free enterprise system, to free up the American people, because the Government does not create jobs, the Government does not create wealth. Businesses do. People do. We have got to allow them to have more control over their futures. That is what this is about.

I think it is important that we have this discussion, because I think there is a view out there perhaps that now we have been tempered now after a year, and that our basic goals and our basic mission and our basic visions of what ought to happen in Washington have changed. I do not think that is the case at all.

I think we still understand who it is that controls the wealth, who it is that creates the jobs, who it is that can do the best job in helping to shape America's future. It certainly is not bureaucrats here in Washington. It obviously is people out in communities like Phoenix and like Rochester, MN, and all across the fruited plain.

It is people out there who Ronald Reagan believed in that are going to make the difference, that are going to make this a better country. It is not 5 trillion dollars' worth of debt. We look at the welfare issue. Maybe we can talk a little bit about that.

Unfortunately, sometimes when we talk about restructuring and reforming and in fact starting over with a blank sheet of paper, hopefully with the States having far more control in determining what kind of a system they are going to have to help people who truly need help. And I think there is a genuine commitment on all of our parts that when people genuinely need help, we should help them, but we should also find the most efficient way, and that the definition that we have used in the past of helping people simply has not worked.

I yield to the gentleman.

Mr. HAYWORTH. Again recalling the words of President Reagan, and I think this rings so true today, "The size of the Federal budget is not an appropriate barometer of social conscience or charitable concern."

Indeed what we have seen for the past half century is a usurpation, if you will, of charitable concerns by the Federal Government. None of us here are willing to abandon the notion of a safety net for those less fortunate, for those who may face physical challenges, for those who may face mental challenges, for those who literally have no way to take advantage of the freedom that they have to better themselves.

□ 1415

But what so tragically has happened, with ofttimes the best of intentions, is that we have turned the safety net into a hammock, and that we have made it more lucrative for some to stay away from work and that we have, in the words of one official from a charitable organization with whom I visited in the 6th District of Arizona, he said to me, "You know, J.D., the Federal Government basically stepped into my line of work about 30 years ago, and they have taken over the bulk of it."

Now, we have a fundamental debate going on. But to those who would claim it is mean-spirited, it is extreme to look at restraining the rate of growth of Government, to those who would claim it is selfish or somehow ignoble, or less than honorable to allow the American people to hang onto more of their hard-earned money, to those who would accept the misguided notion that it is the Government that controls the wealth, that it is the Government that should be the catalyst for every program from soup to nuts, from cradle to grave, that it is the Government with whom the power resides, they are ignoring one basic fact of our remarkable constitutional republic. Our Founders who composed this document believed this, and I believe though good people can disagree, we should understand this, in this Nation it is the people who are sovereign, and it is the people who confer power upon the Government. This Government belongs to the people, and again, to quote President Reagan, Government is the people's business, and every man, woman and child becomes a shareholder with the first penny of tax paid.

There is nothing dishonorable and there is nothing selfish and there is nothing mean-spirited about the average American family which now spends more on taxes than on food, shelter, and clothing combined hanging onto more of their income. There is nothing ignoble about letting a small business owner be free of the shackles of capital gains taxation which would limit growth and economic expansion. There is nothing ignoble about empowering the people. Good people can disagree, to be sure.

But we must work, as we have this historic debate, to listen to the people, to understand their concerns, and to deal with these concerns in what some would call a new way, but what I would maintain is the way that that has improved this Nation since its foundation, not reinventing Government, but remembering those principles embodied in our Constitution, recognizing there is room for dissent and debate, but moving to do the people's business, because we are stewards of their money, and the Government has taken from them, not that the Government gives to everyone else.

Mr. GUTKNECHT. I think one of the most frustrating, and there are many frustrating parts about the debate we have been having in Washington about restructuring the way Government works and what functions should be done at the Federal level, downsizing Federal Government. One of the most frustrating things is facts do not mean anything anymore, at least according to some people.

If you look at the facts, there is overwhelming amounts of evidence to suggest the Great Society has failed. In fact, even President Clinton in some respects when he gave his State of the Union Address the other night said the era of Big Government is over. I think he said that several times during his speech. But yet, the next day it was like some of the Members of this body did not hear that or do not agree with that or do not share that particular view.

But I think we have to look at the facts. Facts are stubborn things. If you look at the facts about what has happened to the welfare state over the last 30 or 40 years, we have spent $5 trillion, and if you want to see the evidence of what we have gotten for $5 trillion, you do not have to go very far from this building, because Washington, DC is perhaps the greatest social welfare experiment of any city.

In fact, if you go around Washington, DC, you will see the product that we have produced. We have created debt. We have created dependency. We have created despair. If you look at the housing projects, for example, here in Washington, DC, 80 percent of the violent crime in the city of Washington is committed within two blocks of a Federal housing project. Some people believe the answer is more and bigger Federal housing programs. We believe it ought to be decentralized.

We also understand there are some people who need some help. Maybe they need a voucher. We certainly do not need a large Department of Housing and Urban Development based here in Washington, DC, that has created what is has created, and that is throughout the entire social welfare system. It has been an abysmal failure.

The facts demonstrate that, and yet so many of our colleagues want to ignore the facts.

Now, is our answer perfect? No, absolutely not. But it cannot be any worse than the system that has been created over the last 30 or 40 years. That is the important point.

I yield to the gentleman.

Mr. HAYWORTH. I thank my friend from Minnesota. Yes, it was with great interest and, indeed, somewhat of surprise, although I expected in part the rhetoric that came from the President the other night when he said the days of Big Government are over, and now the challenge becomes, Mr. Speaker, for this President to join with this new majority and to really live up to that notion.

I ran into a reporter who will remain nameless, from one of the major television networks. "How is it going, Congressman?" "Great." "Did you see the headlines in the paper? It says President embracing GOP agenda." This reporter said, "You managed to make victory look like defeat." I said, "No, sir, with all due respect, you have. There is great reason to be optimistic. The President has now at least turned the page and changed the terms of debate and has taken a look at fiscal responsibility. Yes, there are many details to be worked out. Let us rejoice in that realization."

Mr. GUTKNECHT. I think that is the good message. We talked about the incurable optimist President Ronald Reagan was.

If you talk about the freshman class, you will see incurable optimists. While we have stubbed our toes and made a few mistakes and have not accomplished all we wanted to accomplish,

the bottom line, the truth of the matter is the entire fulcrum of this debate has moved, and even the President now is acknowledging the era of Big Government is over and big Washington solutions to all of our problems are not the answers.

And now we may not win on every point now, but it is not really a matter of whether we win or the President wins, the Republicans versus Democrats. The real issue is whether the American people win. This is not a battle between Republicans and Democrats. It is a battle between those who believe that the Government is the answer to most of our problems and those who believe that government is a big part of a lot of our problems; those who believe that Big Government solutions are the way to solve problems and those who believe we ought to decentralize and let individuals have more responsibility and authority in their lives, and we start with that basic premise, we the people. The three most important words are "We the people."

What has happened over the last several months has obviously given us a better education about how this place works, but it has not changed our optimism. It has not changed our view. We may have to change our tactics somewhat. We are not going to keep this Napoleonic, all lined up in a straight line and let people stand behind trees and fight a guerilla war; we are not going to change the goals, not going to change principles, not going to change what we came here for. As long as the people keep sending us back, we are going to fight for the fundamental principles President Reagan talked about, that we fought for in the last election. We are not going to give up. The freshman class is not going to change.

WE MUST GET PAST THE CLICHES

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12 1995, the gentlewoman from Ohio [Ms. KAPTUR] is recognized for 60 minutes as the designee of the minority leader.

Ms. KAPTUR. Mr. Speaker, I would like to yield to the distinguished Member from the great State of Montana, Mr. WILLIAMS, who announced a little earlier in the month that he would not be returning after this year, and that is a great disappointment, not just to myself as a Member of this body, but to every person in this country.

Few know this man. Let me say to the people of Montana, you sent the best.

Now you can say whatever you want to say.

Mr. WILLIAMS. I thank the gentlewoman very much for yielding.

I first want to say to my colleague and friend, the gentlewoman from Ohio [Ms. KAPTUR], how pleased I am with your kind and overly generous introduction and thoughts about me.

But I am here for another year. One of the reasons I am glad enough for that is I continue to get to work with the gentlewoman.

We have just heard on the House floor an argument for apple pie and motherhood and American flags. The previous speakers, it seems to me, are well-intentioned, but nonetheless were just filled with cliches. They condemned debt dependency and despair, they talked about fighting for fundamental principles, they condemned more and bigger government, and accused only one side of the aisle of being for that awful thing, talked about bloated regulations and big Washington solutions. I really did not hear anything they said with which I disagreed. It is just that almost everything they said, in my judgment, was somewhat meaningless and mostly cliches.

One has to, it seems to me, in difficult times like this get past cliches and move to facts if we are really to change this Government and our response to people in the way they want. For example, let me take education. I serve on that committee. There has been for at least a decade, and particularly for the past year, howls coming out of this Chamber about the fat bureaucracy in education. So that is the cliche.

Whether one, however, bothers, takes a few minutes to check the facts, you find out that in the schools of this country, central office personnel constitute less than 2 percent of school employees. We have heard, particularly during this last year on the floor of the House, a lot of talk about regulations in the schools, mandates from Washington, horrible regulations, how bad they are, how overwhelming, overwhelmingly destructive they are, but when you look at the facts of it, you find out some interesting things.

Goals 2000 has no regulations. School-to-work legislation, relatively new, school-to-work law, no regulations. Under President Clinton, who came to office believing there were too many regulations, the Department of Education has eliminated two-thirds of the regulations surrounding elementary and secondary education in this country. Now I know there is a little cloud that follows President Clinton around, that no-credit cloud, he never gets any credit, but he has eliminated two-thirds of the elementary and secondary regulations in this country.

A Member of this House, I will not name him or his State because it would not be fair, he is not here today, said about a week ago, speaking from the well of the House not far from where the gentlewoman from Ohio is standing, he said to the American people over C-SPAN with how many people listening, 100,000, 200,000, 1 million, 2 million, he said, You know, folks, I am not quoting him, I am paraphrasing him, I will quote him in a second, he said, You know, the problem, with Federal expenditures is only 23 cents of the dollars that we appropriate ever leaves Washington, only 23 cents on the dollar ever leaves Washington and gets down to the student; the rest of it, he said, feeds the Federal bureaucracy. So out of a dollar, he is saying only 23 cents gets to the student.

Now, I suppose, what, hundreds of thousands, millions of people heard that. It is totally inaccurate when one checks the facts. The Department of Education in Washington DC, has the best, lowest overhead administrative record of any department. The Defense Department would kill for a record as good as the Department of Education has; less than 2 percent, less than two cents of every dollar is used for the bureaucracy, for the overhead here in Washington, DC. So one needs to get past the cliches. One needs to get past the mistakes, some of them I think quite intentional.

One really needs to get down to the facts, particularly, I want to say as I conclude, particularly in this representative democracy of ours, where the citizens need the facts if they are to make proper choices in November and on election days at the ballot box. If they are to place upon their elected representatives their will, their choices, their options, those must be based on facts—not cliches, not myths, not intolerance, not lack of compromise—facts.

□ 1430

Again, I am appreciative of the gentlewoman sharing some of her time with me.

COME SHOP WITH ME AT SCOTT PAPER CO.

Ms. KAPTUR. I will reclaim my remaining time. I thank the gentleman very much for offering that important clarification. I think one of the difficulties is when you have a large number of new Members that are elected, it takes a long time to learn the ropes, and sometimes perhaps people speak out before they check the facts. I think the gentleman's commentary this afternoon is helpful to the country.

Let me say I come down here for a similar reason, and that is to offer a word of caution to Members of the freshman class, especially on the Republican side of the aisle, who this past Friday held a retreat. According to the press accounts, the purpose of the retreat was to reflect on how their best-laid plans for the so-called revolution went awry and to reflect why the American people have turned their backs thus far on their message.

There was an article in my local paper, the Toledo Blade, last Saturday, which I am going to submit for the RECORD, which talks about the fact that this group of new Members was very concerned after the President's

State of the Union that he was able to get his message across to the country, but that their leadership, according to this quote in the newspaper, that their leaders did not understand the importance of what they are calling communication. They were criticizing some of their leaders as too in your face, too extreme, too ideological. In order to help them out of this mess, one of the speakers that was invited to the retreat was the chief executive officer of Scott Paper Co.

When I read down to that point in the article, I knew that I had to come down here today and speak a bit. I would just say to the Members of the new class that rather than seeking political assistance from speakers like this Mr. Dunlap, I think maybe it might be important to have some quiet reflection, more in a spiritual sense, on your own, because when I tell you about this gentleman, I am not so sure you would want to invite him back.

He is one of the most well known chief executive officers in our country, who is referred to as "Chainsaw Al," the meanest boss in America, the country's most notorious employee killer. In his own biography he describes himself as Rambo in pinstripes because of the way that he cut employment and laid off, terminated, thousands of workers at Scott Paper Company, his home company. In fact, the May 1995 issue of Fortune Magazine indicates a reduction in work force at Scott Paper of nearly half. Thousands and thousands and thousands of workers at that particular company were given the pink slip.

Now, if I could give my colleagues some advice, it would be don't listen to Mr. Dunlap. Yet I see that he was invited. Over the last couple of years he has fired over 30,000 people in our country and shipped most of those jobs overseas. Recently he was a party to a merger between Kimberly Clark and Scott Paper, which he ended up coming out of that deal looking pretty good. He made over $100 million on the deal.

I would like to ask Mr. Dunlap, in giving his advice to the new Members, I would like to know what happened to those thousands and thousands of workers that gave their loyal service to Scott Paper? What happened to them?

During the time that all these workers were cut and terminated, Scott Paper enjoyed profits like it had never seen. Well, who would not, when you cut our work force in half? But he benefited, $100 million.

It is interesting to look at Scott Paper as a company, because it has manufacturing facilities all over the world. I know our listeners and Members of the House here buy their products. Viva paper towels is one you will notice on the shelves, or Scotties facial tissues, or Cottonelle, that you use in the bathroom.

But the company whose products are familiar to us all is cleaning up at the expense of the U.S. taxpayers. Some of the countries that they do business in have the most dirt cheap labor anywhere on the globe. Honduras, gosh, they are a great respect for workers in Honduras. They are shot if they try to earn a decent living down there. Costa Rica, China, Thailand, Malaysis, Taiwan, South Korea. Scott Paper has a huge presence in Mexico. In fact, its Mexican subsidiary, Compania Industrial de San Cristobal, operates five manufacturing facilities in Mexico, and plans for more expansion are under way.

In other words, all these people that got laid off in this country and are terminated coast to coast, they are going to be replaced by workers in Mexico who earn less than $1 an hour. Yet if you go to the store and buy any one of those products from Scott Paper, your prices did not go down. So what happened to the money? Mr. Dunlap took it.

Though the productivity of the workers at Scott even prior to the layoffs was very high and their profits were high, they were not a bankrupt company, workers in Scott Paper's tissue mill in Everett, WA, and I hope there are citizens from Everett, WA, who are listening, and other mills across the country, saw their jobs transferred to Mexico already. It is very interesting. In Mexico those workers have no benefits, they have no benefits. The workers in Washington made a living wage. That company really used to stand for something, before "Chain Saw Al" got involved.

In January 1994, Scott employed 33,000 people worldwide. But by December, when he had finished, there were 19,900 people left. Those who did not lose their job last year, imagine what it must be like to come to work every day in that company wondering whether the hatchet is going to fall on your neck in spite of how hard you work, in spite of your loyalty to the company, because every worker in that company knows they can be replaced by a worker in another country where Scott has a plant that earns almost nothing, not even enough to afford to buy Scott's products in the countries where those products are sold and made.

Scott Paper essentially put U.S. employees out of work, and, by building up operations in companies like Honduras and Mexico, the company continues to undercut the wages of this country and the American people.

But, wait. It gets worse. We know prices have not gone down. In fact, prices in the tissue area have been going up for years, at the same time as people like Mr. Dunlap are reaping huge profits while they take advantage of dirt cheap labor elsewhere and put our people out of work in this country. The company does not even have the decency to pass along its cost savings as a result of manufacturing and other companies in the form of price reductions at the shelves when our people go to the supermarkets to shop.

In the last year alone, however, as a result of this kind of shredding of a corporate charter with the American people, where so many of our folks are thrown out of work, its stock price skyrocketed. Wall Street could not be happier, its price value going up over 100 percent.

Now, what happened recently was Kimberly Clark just bought Scott Paper in July of this past year for $6.9 billion. Mr. Dunlap, that is where he managed to get $100 million on the deal, and effectively built a rising stock price on the swelling ranks of jobless people. How would you like to have him live next door to you?

Kimberly Clark is the largest paper product company in Mexico, having invested over $100 million there, and millions more in other countries. It is interesting to see, a gentleman who came into address the new freshmen, who disdains Government, who disdains the laws of this country, benefits so much from Government programs.

In 1994, Kimberly Clark, get ready for this, obtained $9.27 million from the Overseas Private Investment Corporation, for insurance. That is an instrumentality of the Government of the United States, paid for by our taxpayers to invest their money in other countries.

In the same year, our Department of Labor certified 636 U.S. employees of Kimberly Clark as approved to receive help, unemployment help, because they were being put out of work because imports were coming in from Scott and Kimberly, the same products from these other countries, putting our workers out of work, and the American people have to pay for the families that have been put out of work by this very same company. Scott Paper, with its presence in Mexico, also had 300 workers. So that is nearly 800 workers just in the past year that we are paying for, unemployed people, that these very same companies put out of work in the United States.

You could say that is a form of corporate welfare, because, on the one hand these companies are using our money to go abroad, insurance through the taxpayers of the United States, and then putting the U.S. work force out of work and having to get the money to pay for those unemployed workers through our Department of Labor. We know Americans are paying for the training of nearly 1,000 workers just over the last year because of the actions of these two companies.

Now, it is amazing, because Mr. Dunlap began working for Scott Paper at the beginning of 1994. The terms of his contract, though hidden from the public, specify a base salary of no less

than $1 million per year. While 13,100 workers got pink slips, Scott Paper bought Mr. Dunlap a multimillion-dollar home in Boca Raton, FL, and gave him a $333,000 hiring bonus. I sure hope that the new freshmen did not have to pay him to speak before their group, because he certainly could afford to come on his own.

So I guess what I wanted to point out today, there were articles that were included in Roll Call on Monday talking about some of his comments to that group, where he said, and I can't repeat some of these words, by the way, but I will just leave a blank, where he advised the freshmen, "Never give up. Never give up. Never let the 'blank' get you down. This nonsense about the working people, don't ever apologize for being successful."

This is the kind of person that is being listened to here in Washington. It says here, and I quote directly,

> The sleepy-eyed freshmen were greeted with a take no prisoners exhortation from Al Dunlap, the chief executive of the Scott Paper Company, who has been described variously as the meanest boss in America, the country's most notorious employee killer.

What an attitude at the end of the 20th century for someone with this kind of rapacious greed to be invited to address Members of the Congress of the United States, which means that they are acquiescing in the actions that he has taken.

Mr. KILDEE. Mr. Speaker, will the gentlewoman yield?

Ms. KAPTUR. I yield to the gentleman from Michigan.

Mr. KILDEE. I have been listening to the gentlewoman's remarks. I was wondering, Mr. Dunlap is being asked by the Republican Conference to address them and to give them advice? Is that what the article states?

Ms. KAPTUR. The article states that they were asking for his advice.

Mr. KILDEE. His advice on Medicare, how to cut Medicare, the school lunch program, the WIC program for pregnant women? They have already cut those programs. He could advise them further on how to cut those programs. He is good at cutting programs. Is he coming in because he is an expert on cutting and they are going to go further in taking his advice on how to cut these programs for the people?

Ms. KAPTUR. I think it is very interesting they would invite him in as an expert and listen to a gentleman like this, and try to shape their agenda for 1996. That is why I bring it to the attention of the body.

Mr. KILDEE. I suggest after Mr. Dunlap, they should at least balance things out and maybe have someone like Mother Theresa come in and give them some spiritual guidance.

Mr. HEFNER. I think he probably has a special interest, Mr. Dunlap. If you make the drastic cuts in Medicare and Medicaid and these other programs, it will make more room for a tax cut, which he will benefit very greatly from. So I admire the man for being honest about it. He at least is sticking to his principles. The more working folks you can get rid of and you can cut the Medicare and Medicaid and programs for children, then you give him a bigger tax cut. I do not have any idea what $100 million would be in a tax cut, but I think it would probably be substantial under the proposed budget that the Republicans are offering. So at least he is going to his constituency, those that sympathize with him and feel the same way that he does. It would have been kind of nice if we had heard what his views are on Medicare and Medicaid and family leave and this sort of thing.

□ 1445

Maybe the next retreat that they have—no, it is not a retreat. Maybe the next whatever you call it that they have, what is it? The next one they have, they will discuss some of these programs and let the American people know how they truly feel about some of the programs that affect the most vulnerable people in our country rather than the most privileged few, rather than those that made their fortunes on the backs of the working people of this country. And do not apologize for getting wealthy. How much in tax breaks did the company get under the overseas advertising program that we did?

Ms. KAPTUR. The Overseas Private Investment Corporation, they received nearly $10 million in insurance in 1994, for investment in other countries. So it shows how he is thinking.

Mr. HEFNER. Mr. Speaker, if the gentlewoman will yield, that would be investing in other countries where the labor force would be cheaper, and labor would be more kind to a company of this size, and that the benefits would tend to not be as great as they are if they had all of their production in this country? Would that be a fair assumption?

Ms. KAPTUR. That is a fair assumption. What is interesting to look at is that, even before this is done, they were making profits in the United States. They had a good work force. They were making profits as a company. It is not that they had a work force that was not producing for them, but they wanted not to just make reasonable profits, they wanted excessive profits. They disinfested this country and used our tax dollars to do it to us.

Mr. HEFNER. I think we have to admire the gentleman's intestinal fortitude to come to people that think along the same lines and have the same philosophy. At least we have to give him that. He goes to where he has the potential to get even more goodies from this Congress if the budget passes along the lines that our Republican friends want to pass it.

Ms. KAPTUR. I thank the gentleman for bringing up a good point about his personal tax benefits that would flow from the tax package that they are proposing. He earns, who knows, millions and millions of dollars a year. The benefit to him would be absolutely incredible, probably in the hundreds of thousands of dollars, figuring his stock options, and so forth. So, he certainly would not be the example I would have chosen.

We have so many good companies in this country that are making profits that are well-managed and that treat their workers with respect, that have respect for people. But I thought that this was just a terrible indictment on the freshman class. I hope that the caution we have given them today might encourage them to bring business leaders to this Congress that are worthy of the kind of recognition that they give to this type of gentleman.

Mr. Speaker, I yield to the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN. Mr. Speaker, I have been talking about one aspect of the House freshmen and women.

I would like to, if I might, talk about another one of their, I think, extreme causes. That is essentially the debt ceiling be damned. All torpedoes ahead, no matter what we are going to hit or whom we are going to hit.

I wanted to say just a few words about a letter that one of my colleagues from Michigan sent to Secretary Rubin, and I quote. The gentleman from Michigan [Mr. SMITH] said, "It is my understanding that you are considering withholding Social Security and other trust fund payments due on March 1, 1996, despite the positive cash-flows of such trust funds."

There is a grave misunderstanding here. The Treasury is not going to withhold Social Security and other trust fund payments. Here is the problem: If the debt ceiling is not extended, the Treasury is going to be put in this position, as I understand it. They are not going to be able to redeem the nonmarketable funds that they have. And if they cannot do that, they have to do it by issuing marketable securities. Then they may not have the money to honor the Social Security checks that would have been mailed to millions and millions of people.

So, it is not the Treasury Department that is, as the gentleman from Michigan [Mr. SMITH] put it in his letter, withholding Social Security and other fund payments, despite the positive cash-flows of such trust funds. It would be that the Republican majority here, I think a reckless act it would be, and I find it hard to believe that they will ultimately do this, would put the Government in the position of not being able to honor these checks.

Now, even if they could find the funds if cash came in, et cetera, the day that these checks were presented,

if there were not enough money, if there were not enough monies to honor all the checks that came in from Social Security on that day, and every other source, none of these checks under Federal Reserve policies would be honored, none of them.

There is because the Treasury Department does not at this point have the ability to segregate the kinds of checks that are paid. Social Security checks for mothers, they all come in. The software is such that either they are all handled together or they are not, under Federal Reserve rules, handled at all.

That is my understanding of it. So, the Republican majority, again they have got blinders on. They are seeing only what they want to see. Here they are being terribly myopic. They are so myopic they cannot even see what is in front of them, let alone, what is far away.

So, I would strongly urge that we do this: I heard a lot of the back and forth earlier on the floor, and to my colleague from Ohio, that is why I am here. I am deeply troubled. The gentlewoman referred to an example of the extremism of some of the House Republicans, especially some of the freshman, not all. I think that the ultimate example of this is playing around with the debt ceiling. There are other examples pointed out.

This is the ultimate. The faith and credit of the United States, their ability, when checks are presented, including by Social Security recipients, the question of whether they will be honored. What do other people think about this? I know that my colleagues on the other side, they do not like us to call them extremists, but they ought to understand that the public is calling them extremists, because playing around with the debt ceiling is an example of it.

I was reading the article on the House freshman in Business Week, the January 29 edition. it refers to a Business Week Harris Poll where 45 percent of the Americans thought of the first-termers on the Republican side as extremists. That is a huge number. They are doing so because it is based on the reality they see, extreme actions are well as rhetoric.

So, my reaction to the back and forth today, and all the oratory that went on, I know that my colleagues have trouble just giving ground in terms of some of these extreme ideas. I know they want to use every leverage they can, because they hold there views so deeply. But the problem with extreme ideas is that sometimes it causes people to adopt extreme means. In this case, the extremity, the extremeness of the end leads people to justify extreme means.

Mr. Speaker, playing around with the debt ceiling is an extreme means that is going to lead, I fear, if it were ever undertaken, the default, to extreme results.

So, the mainstream of America, which we are part of here, those of us who are pleading that we end the leveraging with the debt ceiling, even talking about it, the mainstream of America is saying resist the temptation. They talk about people who touch a hot stove, they learn having touched it once. In this case, our colleagues on the Republican side touched the stove twice at least in terms of shutting down the Government, and they got burned, but so did America. You would think people would learn. I hope so.

Ms. KAPTUR. Mr. Speaker, reclaiming my time, and I would be happy to yield again, talking about measures that go too far, I think part of the problem is who they might be listening to. Again this Mr. Dunlap, and this is a direct quote from Roll Call on Monday, January 29, suggested, just think about this for a second, that they should abolish the Senate, the other body. And if they did that, then they could get somewhere.

Now, a lot of us have problems with the way things are set up. We are not always pleased with the way we make our laws in this country, but I do not think that that remark was made in jest. And I think there are a lot of people that would want to dismantle the very tenets of our Constitution. To me that borders on anarchy. That is not just reform. That someone would come before them and offer that as a proposal, I find not just to be off the edge, I find that to be about as extreme a recommendation as they could make.

It goes to the very fundamental rights of representation that the small States and the large States have in our country. It goes back to the founding of the Republic. What gives this person the right to speak before this group in this way?

Mr. LEVIN. Mr. Speaker, if the gentlewoman will continue to yield, I think she put her finger on it. There is an obligation on the part of some of our colleagues on the Republican side who really do not like this extremism, who have said to a number of us on many occasions privately that it is reckless, and sometimes they used the word "crazy," that they now speak out publicly.

We should not leave here tomorrow or the next day wit the debt ceiling issue up in the air. It could have all kinds of results. And, look, it might help us politically, Democrats, if the Republicans playing with fire unleashed an inferno, but I do not want that and my colleague does not want that.

What the Republicans here should do is to say, look, we are reluctant to give up this leverage, if they think it is. It is not, and we are going to cut it cleanly. Cut it cleanly, extend the debt ceiling and let us argue out these important issues. We are in favor of a balanced budget. We are arguing out how we do it. Let that be the argument, not the debt ceiling.

I deeply appreciate the distinguished gentlewoman from Ohio yielding to me. I just wanted to come to the floor and to straighten out this issue about Social Security, the debt ceiling that would cause the checks perhaps to be dishonored, not because the Treasury was taking steps. The onus is on our colleagues over there, and I just pray that they will act responsibly and do it this week.

Ms. KAPTUR. Mr. Speaker, I thank the gentleman for raising a very important matter that frankly we could have taken care of weeks ago, months ago. We do not have to be constantly operating at the edge.

I think, as the gentleman says, and he is a very moderate individual in his own views, that perhaps people feel so strongly that they think this is their only alternative. But for the sake of the Nation I think it is best to put on the shelf some of the deeper urges we might have and for the sake of the Nation do what is right for all of the people, not just for a small subset or how we might personally feel about something.

□ 1500

OUR COVENANT TO PROTECT THE ENVIRONMENT WHILE PRESERVING LIBERTY AND UPHOLDING THE CONSTITUTION

The SPEAKER pro tempore (Mr. RADANOVICH). Under the Speaker's announced policy of May 12, 1995, the Chair recognizes the gentlewoman from Idaho [Mrs. CHENOWETH] for 43 minutes.

Mrs. CHENOWETH. Mr. Speaker, it is a rare individual who does not want an effective environmental policy. Sometimes these policies, or the remedies thereof, have been called extreme, just like we heard from my friends on the other side of the aisle. I am one of the freshman Members, but I find it interesting that a party who has lost its vision can use only one word to define the other party, and that is the word "extreme." I beg of my colleagues on the other side of the aisle to come up with alternative programs that will benefit the American people.

I just have to say, Mr. Speaker, this was not a planned part of my speech, but I do want to say that it is private individuals who risk and who invest who employ Americans. I join the gentlewoman from Ohio [Ms. KAPTUR], a woman I admire greatly, about the fact that we do want to keep American jobs here in America. I do agree with her there. But, you know, we either have one of two employers: Either you, the taxpayers, are employing individuals through government, or we have private businesses employing people. I

prefer private entrepreneurs in employing people and downsizing government.

Mr. Speaker, it is a rare individual who doesn't want an effective environmental policy. We all want to promote the wise use of America's natural resources, but the driving force behind our current policies have little to do with sound science, foresight, or reason. Instead, environmental policies are driven by a kind of emotional spiritualism that threatens the very foundation of our society, by eroding basic principles of our Constitution.

Mr. Speaker, if there is one quote I could center my remarks around today, I think it would be a personal statement made by Thomas Jefferson, who probably was the world's greatest articulator of man's heavenly endowed individual rights and liberties. Jefferson wrote in 1776:

> I may grow rich by an art I am compelled to follow, I may recover health by medicines I am compelled to take against my own judgement; but I cannot be saved by a worship I disbelieve and abhor.

Mr. Speaker, the very first clause of the very first amendment to our Constitution states that "Congress shall make no law respecting an establishment of religion," and yet there is increasing evidence of a government sponsored religion in America. This religion, a cloudy mixture of new age mysticism, Native American folklore, and primitive Earth worship (Pantheism) is being promoted and enforced by the Clinton administration in violation of our rights and freedoms.

Proponents of this new-environmentalism are the first to recognize its religious nature. Just to name a few: Sierra Club Director David Brower announced "We are a kind of religion." Scientist James Lovelock, author of the bestseller "Gaia," admits that "Gaia is a religious as well as a scientific concept." Bill McKibbon, author of "The End of Nature," proclaimed that "it is not in God's house that I feel his presence most—it is in His outdoors." According to columnist Alston Chase, nearly all environmental leaders have conceded that environmentalism is a religious movement.

The trouble is that these sentiments are not just expressed by leaders in the environmental movement, but frequently, by government leaders who influence and promulgate the regulations we live under. When Vice President AL GORE was invited to speak at the Episcopal Cathedral of St. John the Divine, he sermonized that "God is not separate from the Earth." Espousal of this environmental religion by political leaders and regulators carries profound constitutional implications.

I recently came across the transcript of a speech delivered by U.S. Secretary of the Interior Bruce Babbitt on November 11 to a joint meeting of the National Religious Partnership for the Environment and the American Association for the Advancement of Science. It was entitled "Between the flood and the rainbow: Our Covenant to Protect the Whole of Creation." In this speech, Babbitt explains how he became disillusioned with Christianity because the commandment that man should have dominion "over every living thing that moveth upon the Earth" conflicted with his view of nature's supremacy. "I always had a nagging instinct," he explained, "that the vast landscape was somehow sacred, and holy, and connected to me in a sense that my catechism ignored." Babbitt explains how a young Hopi friend taught him "that the blue mountain was, truly, a sacred place," and he became "acutely aware of a vacancy, a poverty amidst [his] own religious tradition."

To fill this vacancy he adopted the new environmentalism, and he has every intention of regulating and enforcing his dream of utopia into reality.

You may ask, what is the harm of public officials maintaining deeply held beliefs? The problem, Mr. Speaker, comes when those deeply held beliefs become the driving force for policy which that nonbelievers face persecution. Mr. Babbitt has made it clear that environmentalism—the religion—is driving this Nation's regulatory scheme. This is a violation of the establishment clause of the Constitution. It smothers our values and it threatens our liberties.

James Madison wrote his great "Memorial and Remonstrance" against a Virginia tax for the support of an established church. In it, he eloquently argued that a true religion did not need the support of law; that no person, either believer or nonbeliever, should be taxed to support a religious institution of any kind; that the best interest of a society required that the minds of men always be wholly free; and that cruel persecution were the inevitable result of government-established religions.

Madison was right. The backbone of America—workers, small businessmen, and property owners—are becoming victims of this new-environmentalism.

Businesses like Stibnite Mine in my district, whose mining operation was shut down for 2 years waiting for the National Marine Fisheries Service to determine whether they could haul supplies on a Forest Service road.

People like the Yantis family in my district, who were told by the National Marine Fisheries Service that they should just give up their right to irrigate for a fish that is not instream now, but could be one day.

People like a Minnesota farmer who had two 1-acre glacial potholes on his property. To make farming around them easier, the farmer filled one and expanded the other two acres. The U.S. Army Corps of Engineers objected, and the Federal Government ordered him to dig out the pothole he had filled and fined him $45,000.

Whole families throughout the Northwest who have lost their jobs because government restrictions and environmental lawsuits have shut down the region's ability to keep forests healthy.

Farmers in the Bruneau Valley whose livelihoods have been held hostage to a snail the size of a buck shot. The Fish and Wildlife Service has yet to scientifically prove that farming activities have an effect on the snail.

For those who still refuse to see the dangerous character of an established religious environmental movement, let me give you another example:

Wayne and Jean Hage bought a cattle ranch in Nevada in 1978. The former owner had been forced to sell because the regulatory pressure by the U.S. Forest Service had become unbearable. But Hage was confident that he could work with the Forest Service to resolve any problems that might occur. He was wrong. Problems started when, without warning or notification, a nearby Forest Service Ranger Station began to pump water from a critical spring on Hage's property into the ranger's cabin. The Forest Service maintained a fence around the spring so that cattle could not drink, but Hage felt that if the Service needed the water an amicable agreement could be reached. The Forest Service refused to cooperate, and when Hage held a field hearing on the issue, they launched an all-out holy war against the rancher.

For the sacrilege of questioning Forest Service actions, Wayne was contacted no less than 110 times with violations of bureaucratic regulations. Most, if not all, were wild goose chases, but each required time consuming and often expensive responses. The Forest Service even resorted to several armed raids on the ranch, confiscating 104 head of cattle and keeping the proceeds of their sale. Hage also faced felony charges for clearing brush from his own irrigation drains. The charges were thrown out by the courts, but this was the last straw—Hage filed a suit for the regulatory and physical taking of his ranch.

Unfortunately, CIGNA Corporation, the lender and lien holder on Hage's property is one of the environmentalist faithful, and has been attempting to foreclose on the property to effectively kill the case. CIGNA is a major corporate donor to the National Wildlife Federation which is acting as a friend of the court on behalf of the Forest Service. This is an organization that instructs environmental activists on how to use Forest Service and Bureau of Land Management regulatory power to "Make it so expensive for the rancher to operate that he goes broke."

Mr. Speaker, there is something seriously wrong with this picture.

Environmentalism need not be a religion. It could—and should—be based on science and logic and aimed at secular goals. But Secretary Babbitt rejects the protection of species for potential cures for disease, or new strains of drought-resistant crops, or bioremediation of oil spills, in favor of uniting "all state, county and federal workers under a common moral goal." He concluded his speech by affirming that "religious values remain at the heart of the Endangered Species Act, that they make themselves manifest through the green eyes of the grey wolf, through the call of the whooping crane, through the splash of the Pacific salmon."

The fact that this moral philosophy makes villains of hard working, productive citizens makes it repugnant to American values. The fact that it dismisses science prevents technological progress. The fact that it violates the Establishment Clause of the Constitution makes it an attack on our form of government. And the fact that it places obstacles in the way of American prosperity makes it a threat to our children's future.

Mr. Speaker, policies inspired by this new green religion are having devastating effects on my State. One example that I think exemplifies this new trend is unnecessary introduction of predators such as wolves and grizzlies against the will of the people and at great expense to the taxpayer.

Many people do not realize that the idea of releasing wolves in Idaho and in the west is not a new one. There were attempts as far back as 1982, when Senator CRAIG held the seat that I hold now. At that time, when the U.S. Fish and Wildlife Service introduced this idea, the plan was quickly shelved after then-Congressman CRAIG held hearings in which obvious flaws of artificially introducing the wolves were exposed.

In those hearings biologists admitted that the wolf was recovering naturally in Canada and Alaska, where there are currently as many as 40,000 to 50,000 of the grey wolves. Moreover, the plan was soundly rejected after it became clear what the consequences would be of introducing a dangerous predator into an area that was no longer completely wild, but in fact, where there are activities such as ranching, logging, mining, and recreation.

The mere suggestion of introducing wolves prompted the State legislature to pass a number of bills prohibiting the introduction of wolves unless it was under the terms and conditions of the State. I would like to insert into the RECORD the testimony of State representative JoAn Wood, who came before the House Resources Committee and testified to the long history of Idaho's objection to Federal wolf introductions.

Nevertheless, when President Clinton was elected, Bruce Babbitt, the President's appointed Secretary of the Interior, again resurrected the idea of introducing wolves in the West. This time, instead of trying to establish a sound, practical, scientific basis for the program, the Government promoted wolf introduction as a romantic notion of restoring the western ecosystem to its pre-Colombian state. Indeed, Mr. Babbitt has gone as far as saying that it fulfills a "spiritual" void. Mr. Babbitt proclaimed in his November 11 speech that wolf introduction efforts were driven by the "elevated nature of America's conservation laws: laws with the power to make creation whole * * *." in essence recover "our ancient religious values."

The Department of the Interior also responded differently to the avid opposition to wolf reintroduction by States of Montana, Idaho, and Wyoming. The Fish and Wildlife Service promised the States that no wolves would be released until an agreement of how these wolves would be managed was in place. The Department of the Interior, in conjunction with the many environmental groups also initiated a large-scale nationwide advertising campaign—in places where nobody would have to worry about managing the critters—to sell the romantic notion of returning these animals to the west.

Very little has been mentioned during the Government's public campaign blitz of the overall costs of the wolf introduction, which includes aircraft, ground vehicles, equipment such as kennels, shipping crates, sophisticated radar tracking devices, radio collars, tranquilizing guns, and extensive staff of biologists, veterinarians, technicians, and administrators—not to mention a massive publicity campaign. Added up, it amounts to about $1 million per wolf.

I first dealt with Mr. Babbitt's infatuation with the green eyes of the wolf just after I was sworn in to represent the citizens of Idaho's First Congressional District. It was apparent that after the fiscally austere Republicans won the majority in Congress, Babbitt determined that the release of the wolves must be greatly expedited or his chance "to make nature whole" would once again be jeopardized. We found that his attempts to work out an arrangement with the States were not only completely disingenuous, but merely used as a device to detour the legitimate concerns of the States while he found a way to implement his plan. When Babbitt realized that his costly wolf scheme could come under scrutiny by this Congress, he went into emergency mode, bypassing all the processes, including State laws and section 6(f) of the Endangered Species Act which specifically requires the Secretary to work in coordination with the States in any introduction effort. He did this while ignoring the pleas of Governors and legislators to not proceed, but by actually speeding up the capture of the wolves.

By early January, just days after the new Congress had been sworn in, Babbitt had his wolves ready to be released at Yellowstone and in Idaho. My office received a firestorm of pleas and concerns from constituents and State officials calling for an immediate halt to the releases. In fact, one of my first official acts as a Congressman was to send a letter to the Secretary requesting that he halt any releases, and at the very least let due process take place. Babbitt defiantly responded by immediately releasing the wolves into Idaho—and even forging a highly questionable agreement with the Nez Perce Indian Tribe to manage the wolves.

Despite all, Secretary Babbitt proceeded with the release of his imprisoned green-eyed friends—although I don't know how anyone can consider him a friend of the wolf considering the abrupt way these wolves were tracked down and shot by a tranquilizer gun, forced into a pen, had a collar placed around their neck, taken away from their native habitat, and released into unfamiliar and unfriendly territory. Moreover, problems resulting from the unnatural methods used became evident when wolves which were released into Yellowstone, that were under the care of humans for weeks, refused for a time to leave their newfound comforts and security. Even now the wolves, which in the wild stear clear of humans, are routinely seen—and quite possibly fed—by many of the tourists visiting the park. It is easy to see that the wolf program in Yellowstone Park has done nothing more than create more dependents on the Government dole.

The released wolves faced—and caused—even more dire consequences in Idaho. Shortly after the wolves were released in Central Idaho, a wolf was shot near Salmon after feeding on the carcass of a newborn calf. The body of the wolf was found on the property of a 74-year-old World War II veteran and rancher by the name of Mr. Gene Hussey. The reaction of the Fish and Wildlife Service was to initiate a full-blown investigation that included a $500,000 autopsy performed on the dead wolf. The Fish and Wildlife Service obtained a search warrant, and without notifying Mr. Hussey or the local sheriff, proceeded to send several officers to investigate Mr. Hussey's property. In a hearing about this incident held jointly with the Resources and Agriculture Committees, on which I sit, Mr. Hussey testified that on arriving home from his neighbor's house, he discovered several armed Fish and Wildlife officers crawling over his gate—damaging the gate in the process—and refusing to heed his warnings to leave his property until the local sheriff arrived. The predicament escalated to the point that the Federal agents accused this 74-

year-old man of throwing rocks at them, and rushed across a stream to confront him about it. In the meantime, the local sheriff, Mr. Barsalou, was speeding to the scene—very concerned about the possibility of a violent confrontation. Fortunately, he was able to arrive in time to defuse the situation.

After some of the problems that we have witnessed with the release of only 14 wolves last year, I am amazed to see the media reporting the program as "remarkably successful." I was even more disappointed to find out that even during the Government shutdown, and before their appropriations were approved, the Fish and Wildlife Service was busy preparing to capture another 30 wolves in Canada for release in Idaho and Wyoming. The Service has spared no expense and has let nothing stop them including inclement weather, lack of appropriations, animal rights protesters, the continued disapproval of the State legislature, and another call by this Congressman to refrain from capturing and releasing more wolves.

Apparently one of Mr. Babbitt's green-eyed friends did not like the whole idea and bit one of his handlers before receiving the unlucky fate of being killed by one of the Fish and Wildlife officials. Of course, if I had just been tracked down from my home, snared, darted, caged, drugged, and jostled, I would have bitten someone too.

The truth of the matter is that there remain many unanswered questions and unaddressed concerns about the wolf introduction program. Despite the fact that the Government continues to disregard the wishes of the local citizens, to implement a program that serves no scientific purpose, creates the potential for more conflicts, and costs taxpayers a bundle, the Government and the national media continue to paint the program as a better than expected success with few hitches. I believe this is because the media, like Mr. Babbitt, are not focusing on the logic or scientific merits of the program, but on how well it has fulfilled their own spiritual expectations.

Some wonder why I have fought so hard against a Federal program that has little direct impact on most Americans. I fight because I believe that we should be practicing great fiscal constraint, because excessive deficits threaten the future stability of this country. I fight because the taxpayer deserves to know that millions of their dollars are being spent on aircraft outfitted with sophisticated radio equipment which daily track a handful of confused wolves meandering about and stirring up trouble in the mountains of Idaho, Wyoming, and Montana.

I also fight because I believe there are deep implications about the wolf introduction program that affects all Americans—and that is the precedent it has set.

Now the Federal Government is finalizing plans to introduce an even more dangerous predator into the Selway-Bitteroot mountain range located in Idaho and Montana—the grizzly bear. Mr. Speaker, only a few years ago—the very idea of introducing grizzlies into central Idaho was considered pure lunacy. Why? Quite frankly, the grizzly bear, a species that now numbers over 100,000 in Canada, Alaska, parts of Montana, and in Yellowstone, simply has a propensity for violence against humans and animals. Last year there were numerous incidents of bear maulings during unprovoked situations. In one case a hiker was merely taking his shoes and socks off to cool his feet in a mountain stream when the odor of his socks apparently caught the attention of a nearby grizzly. And in the State of Wyoming and Montana, there has been an epidemic of nuisance bears which have been killing cattle and sheep, and rummaging around human habitation. Some are even suggesting that the grizzly no longer needs the special protection of the Endangered Species Act.

Mr. Speaker, the response that I have received from my constituents—even some who do not normally agree with me—has been overwhelmingly against the introduction of the grizzly. I believe that some in the forest industry have been driven by fear or strong coercive tactics into supporting a program that simply will not work. Other than that, the reaction against the idea comes from all types of individuals and for many legitimate reasons. Campers and hikers are concerned for obvious safety reasons, and that many of the trails and areas would be made off-limits. Hunters are concerned about dramatic reductions in game animal population. Ranchers are concerned about the loss of cattle and road closures. Miners are concerned about the possibility of restrictions on their activity as well, and property owners are deeply concerned about bears foraging about their garbage, and around their homes. Overall, people are not only afraid of the potential danger of having the bears in their backyard, but also having severe restrictions in accessing the forests and lands, both for recreational and industrial purposes. In fact the public comments compiled by the Fish and Wildlife Service show overwhelming opposition to the grizzly introduction plan in the Selway-Bitteroot coming from places as far as California and Colorado.

Moreover, introducing the bear has little scientific merit. The Fish and Wildlife Service has not shown how the grizzly is vital to the survival of the ecosystem of the Selway-Bitteroot. In fact, no solid evidence proves that the bear once roamed there in great numbers. Some have pointed to a supposed journal entry by Lewis and Clark claiming that they shot around 20 grizzly in the area during their travels. Considering that no taxonomy was even in place at the time to distinguish between types of bears, it is ludicrous to use a journal entry almost 200 years ago as a solid basis of the facts. Finally, the small amount of data that does exist from previous attempts to capture and release grizzly into unfamiliar and rugged terrain shows that it is impossible to predict the behavioral response of the bear. I believe it is not worth the cost, both in human and budgetary terms, to find out.

Mr. Speaker, considering the significant amount of opposition to, and the lack of scientific need for the proposed grizzly introduction, we must look again at what is clearly the real impetus behind this idea. Introducing the bears addresses only an emotional attachment to the romance of having grizzly bears roaming the wilderness. It contributes to Mr. Babbitt's realization of the spiritual dream that he envisioned with his Hopi Indian friend so many years ago.

If environmentalists get their way with the grizzlies, there will be a devastating impact on the freedoms and livelihoods of my constituents, and significant ramifications throughout this country. I have seen evidence lately of ambitious goals by the Fish and Wildlife Service and environmental groups to populate regions of the West with thousands of grizzly bears. This would have the drastic consequence of shutting down access to many of our lands and forests to all human activity, including hiking and camping which virtually all Americans enjoy from time to time.

This would be a giant step closer to the utopia religious environmentalists are striving to create—a utopia where human beings have only as much value as the razorback sucker fish, and possibly less.

Mr. Speaker, this religious vision is not shared by every American and no American should be forced to promote a religious vision contrary to their own beliefs. The environmentalists want a new Inquisition to eradicate those with opposing views, and they have the might of the Executive behind them. This threatens, in the most profound way, our entire way of life. It is thoroughly un-American, and I won't stand for it.

Mr. Speaker, I include for the RECORD the following documents:

TESTIMONY OF JOAN WOOD, IDAHO HOUSE OF REPRESENTATIVES, BEFORE THE HOUSE RESOURCES COMMITTEE, JANUARY 26, 1995

Madam Chairman, I am JoAn Wood of the Idaho House of Representatives. I am the ranking member of the House State Affairs committee, Resources and Conservation committee, and presently chairman of the House Transportation and Defense. I was the first committee co-chair of the Idaho Wolf oversight committee.

My purpose here is to establish before the committee the stand the people of Idaho,

represented by its legislature, have taken concerning the federal policies of the reintroduction of wolves into our state and region. I am also here as the representative of the state government to demand that, first, the Department of Interior immediately cease and desist the releasing of wolves into central Idaho, which has been done without the consent of the Idaho Legislature or any of its elected official—as required by Idaho State law; and, second, it abandon this wolf re-introduction program entirely, which is both scientifically and economically flawed.

I have a number of items that are pertinent to my testimony that I would at this time ask unanimous consent to be entered into the record.

I would like to refer to a letter and petition signed by elected officials of our state government, including our governor, and over ⅔ of our state legislature to our Congressional delegation stating a request that the delegation demand Secretary Babbitt immediately stop this illegal action. I would like to include this letter in the record.

Let me call your attention to Idaho law, code 36–103, which states that wildlife is the property of the state, and that it "shall be preserved, protected, perpetuated, and managed." We are outraged because of the possible legal liability that has been forced upon our state by the unauthorized release of these wolves on January 14, 1995.

Further, Idaho code 36–715, pertaining to wolf/dog hybridizations, which are not protected by the Endangered Species Act (ESA), requires a biological evaluation be performed on wolves to determine species priority before the Department of Fish and Game may take any action in accordance with the U.S. ESA. A request by the legislative committee and the Idaho State Veterinarian to quarantine and biologically test, as required by this law, was ignored by the U.S. Fish and Wildlife. This was in direct violation of Idaho State law.

Also, this law (36–715) gives direction to our own Fish and Game Department that they not expend funds, transfer assets, or enter into any cooperative agreements with any agency, department, or entity of the United States Government concerning wolves unless expressly authorized by state statute, with the exception that one representative participate in the wolf recovery team. The total recovery cost for this wolf re-introduction program is estimated to be 12.7 million dollars. We are concerned that Idaho may be forced by federal mandate to pick up as much as 25 percent of this cost. This has not been agreed to by the Idaho Legislature. The fear of this forced obligation is born out by a letter received by Idaho Fish and Game Director from Mr. Donald Friberg, Deputy Assistant Regional Director, and a copy of a letter from Minnesota State Director, Richard Wetzel, as to the problems encountered in Minnesota concerning wolf depredation and cost to that program. We received a letter also from the Wildlife federation under the signature of Thomas France Esquire, that once wolf populations are recovered, defenders of Wildlife will make a decision about continuing the compensation in conjunction with the states and other affected interests.

Further we charge that the agencies involved did not comply with Idaho Code 36–715(b), by not taking into consideration local economies, custom, culture, and private property rights. Proper notifications were not given for hearings on this matter. In addition, Suggestions that the government provide funding for compensation to livestock owners for all losses and to all people economically affected by land-use restrictions, among other local economic considerations, given to the Fish and Wildlife Services by the Wolf Oversight Committee, of which I was the ranking member, were completely struck out of the completed wolf plan. I would like to include a copy of the original plan in the record.

As early as 1984, the Idaho Legislature sent House Joint Memorial 11 to the President, the secretary of Interior, and other federal authorities wherein we urged the department of Interior and US FG&W service terminate any plans to plant wolf populations into Idaho. It is obvious that was ignored. Again in 1991, the state legislature sent a memorial (to also be included in the record) to the same federal officials (HJM6) stating the serious negative impact on the resource base of our state. The federal government responded to this memorial by threatening to turn the wolves over to the Nez Pierce Indians, who have no plan or process in place whatsoever to handle the wolves and compliances required by law.

We presented in the 1991 memorial five criteria for cooperation of Idaho oversight if the reintroduction cannot be stopped. I am submitting a copy of Dr. Tod Hoffman's testimony an Idaho Veterinarian and member of the Wolf Oversight Committee as a further witness of my testimony.

In conclusion, we submit to this congressional committee that the U.S. F&W under the direction and authority of the Secretary of Interior comply with 17.81 of the rules and regulations (A) refuted by Dr. Charles E. Kay and also Dr. Edward Goldman, renowned scientists in wildlife biology and ecology. We also request from Congress that you support Senator Kay Bailey Hutchinson's legislation to stop any further ESA action in Texas, but Idaho as well.

I am the latest effort by Idaho to petition Congress for relief from these recent unwarranted actions of U.S. Fish and Wildlife Program, and urge for a desisting of the wolf and a stop to this 6.4 million waste of tax payer money. So far, we have been ignored.

Ladies and Gentlemen, I hope my state does not have to sue our own Federal Government.

OFFICE OF THE GOVERNOR,
Boise, ID, January 25, 1996.

HON. HELEN CHENOWETH,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE CHENOWETH: The state of Idaho is strongly opposed to reintroduction of grizzly bears in Idaho. The state has many concerns regarding reintroduction, however there are two major areas that stand out. First, introduced bears will pose serious public safety concerns for Idahoans and tourists vacationing in our wonderful state. Second, the reintroduction has the potential to affect the social and economic stability of our rural communities by imposing undue burdens and restrictions on Idaho's natural resources based industries.

As you are aware, the United States Fish and Wildlife Service is developing an Environmental Impact Statement on the reintroduction of grizzly bears in central Idaho. I urge you to explore every available option to stop this reintroduction process as soon as possible.

Very truly yours,

PHILIP E. BATT,
Governor.

STATE OF IDAHO,
Boise, ID, January 18, 1996.

MR. ED BANGS,
Wolf Reintroduction Coordinator,
U.S. Fish and Wildlife Service, Helena, MT.

DEAR MR. BANGS: I write to reiterate the State of Idaho's objection to the reintroduction of wolves into central Idaho. Last year, the Idaho legislature determined that the United States Fish and Wildlife Service's wolf reintroduction program did not adequately respond to the concerns of the people of Idaho. Those inadequacies have been pointed out to you many times.

Since that time, the United States Congress has also indicated its dissatisfaction with wolf reintroduction by holding up the appropriation for the program. I cannot overemphasize my frustration that the Service has decided to proceed with wolf reintroduction despite the State of Idaho's and the U.S. Congress' opposition to the program.

I am encouraged, however, by the statements attributed to you in an article carried in the January 18, 1996, issue of the Idaho Statesman newspaper. In that article, you state that the 1996 shipment of wolves into Idaho may be the last shipment that is necessary to meet the goals of the program. I certainly hope so. I implore you to make this the last year that is marked by the controversy of this ill-conceived program.

Thank you for being responsive to the concerns of the people of Idaho.

Sincerely,

ALAN G. LANCE,
Attorney General.

OFFICE OF THE GOVERNOR,
Boise, ID, January 17, 1996.

ED BANGS,
Wolf Reintroduction Coordinator,
U.S. Fish and Wildlife Service, Helena, MT.

DEAR MR. BANGS: According to the Gray Wolf Reintroduction Progress Report, the United States Fish and Wildlife Service (USFWS) began capturing gray wolves, to be released in central Idaho, on January 16, 1996. This capture is being commenced even though the USFWS has not been issued the appropriate wildlife importation permits by the Idaho Department of Fish and Game. Without these permits, the USFWS is ignoring Idaho state laws and its responsibility under the Endangered Species Act to cooperate with affected states to the greatest extent possible.

USFWS management of the wolves released in January of 1995 has been unsatisfactory. The monitoring of the wolves has been inadequate. There have been a number of occasions when some of the wolves could not be located. Additionally, the USFWS has failed to notify Idaho citizens, or state agencies, when wolves were in close proximity to residential areas or livestock.

Until the USFWS adequately addresses the concerns of the state of Idaho, I must reiterate my opposition to the release of any more wolves in central Idaho. Please advise me of the USFWS's intentions.

Very truly yours,

PHILIP E. BATT,
Governor.

IDAHO FISH & GAME,
Boise, ID, 21 December 1995.

ED BANGS,
Wolf Reintroduction Coordinator,
U.S. Fish and Wildlife Service, Helena, MT.

DEAR MR. BANGS: In 1995, the Idaho Legislature rejected a wolf recovery and management plan that would have allowed the Idaho Department of Fish and Game to assume the

lead role in wolf recovery in Idaho. As a result of this legislative action, our Department will not be issuing a special permit for the release of additional wolves into Idaho. Because we remain the agency responsible for the management of elk, deer, and other potential prey of the wolf, we will continue to work with your agency, the Nez Perce Tribe, and other agencies and organizations as wolf recovery proceeds.

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

Sincerely,

JERRY M. CONLEY,
Director.

CONFERENCE REPORT ON H.R. 2546, DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1996

Mr. LIVINGSTON submitted the following conference report and statement on the bill (H.R. 2546) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1996, and for other purposes:

CONFERENCE REPORT (H. REPT. 104-455)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2546) "making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1996, 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 stricken and inserted by said amendment, insert:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Government of the District of Columbia for the fiscal year ending September 30, 1996, and for other purposes, namely:

TITLE I—FISCAL YEAR 1996 APPROPRIATIONS

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA

For payment to the District of Columbia for the fiscal year ending September 30, 1996, $660,000,000, as authorized by section 502(a) of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198, as amended (D.C. Code, sec. 47-3406.1).

FEDERAL CONTRIBUTION TO RETIREMENT FUNDS

For the Federal contribution to the Police Officers and Fire Fighters', Teachers', and Judges' Retirement Funds, as authorized by the District of Columbia Retirement Reform Act, approved November 17, 1979 (93 Stat. 866; Public Law 96-122), $52,070,000.

FEDERAL CONTRIBUTION FOR EDUCATIONAL REFORM

For a Federal contribution to Education Reform, $14,930,000 which shall be deposited into an escrow account of the District of Columbia Financial Responsibility and Management Assistance Authority, pursuant to section 205 of Public Law 104-8, approved April 17, 1995 (109 Stat. 131), and shall be disbursed from such account pursuant to the instructions of the Authority and in accordance with title II of this Act, where applicable, as follows:

$200,000 shall be available for payments to charter schools;

$300,000 shall be available for Public Charter School Board;

$2,000,000 shall be transferred directly, notwithstanding any other provision of law, to the United States Department of Education for awarding grants to carry out Even Start programs in the District of Columbia as provided for in Subtitle C of title II of this Act;

$1,250,000 shall be available to establish core curriculum, content standards, and assessments;

$500,000 shall be available for payment to the Administrator of the General Services Administration for the costs of developing engineering plans for donated work on District of Columbia public school facilities;

$100,000 shall be available to develop a plan for a residential school;

$860,000 shall be available for the District Education and Learning Technologies Advancement Council;

$1,450,000 shall be available to the District Employment and Learning Center;

$1,000,000 shall be available for a professional development program for teachers and administrators administered by the nonprofit corporation selected under section 2701 of title II of this Act;

$1,450,000 shall be available for the Jobs for D.C. Graduates Program;

$70,000 shall be available for the Everybody Wins program: Provided, That $35,000 of this amount shall not be available until the Superintendent certifies to the Chairman of the District of Columbia Financial Responsibility and Management Assistance Authority that he has raised a like amount from private sources;

$100,000 shall be available for the Fit Kids program: Provided, That $50,000 of this amount shall not be available until the Superintendent certifies to the Chairman of the District of Columbia Financial Responsibility and Management Assistance Authority that he has raised a like amount from private sources;

$250,000 shall be transferred directly, notwithstanding any other provision of law, to the United States Department of Education to carry out the evaluation of the scholarship program as provided for in Subtitle N of title II of this Act;

$400,000 shall be available to the District of Columbia Public Schools to improve security (such as installing electronic door locking devices) at such schools, including at a minimum the following schools: Winston Education Center; McKinley High School; Ballou High School; and Cardozo High School; and

$5,000,000 shall be available for scholarships for low-income students and shall not be disbursed by the Authority until the Authority receives a certification from the District of Columbia Scholarship Corporation that the proposed allocation between the tuition scholarships and enhanced achievement scholarships has been approved by the Council of the District of Columbia consistent with the Scholarship Corporation's most recent proposal concerning the implementation of the low-income scholarship program. These funds shall lapse and be returned by the Authority to the U.S. Treasury on September 30, 1996, if the required certification from the Scholarship Corporation is not received by July 1, 1996: Provided, That no funds provided under this heading may be used for any indirect cost charges of the District of Columbia Board of Education, the District of Columbia Public Schools or the District of Columbia government.

DIVISION OF EXPENSES

The following amounts are appropriated for the District of Columbia for the current fiscal year out of the general fund of the District of Columbia, except as otherwise specifically provided.

GOVERNMENTAL DIRECTION AND SUPPORT

Governmental direction and support, $149,130,000 and 1,498 full-time equivalent positions (end of year) (including $117,464,000 and 1,158 full-time equivalent positions from local funds, $2,464,000 and 5 full-time equivalent positions from Federal funds, $4,474,000 and 71 full-time equivalent positions from other funds, and $24,728,000 and 264 full-time equivalent positions from intra-District funds): Provided, That not to exceed $2,500 for the Mayor, $2,500 for the Chairman of the Council of the District of Columbia, and $2,500 for the City Administrator shall be available from this appropriation for expenditures for official purposes: Provided further, That any program fees collected from the issuance of debt shall be available for the payment of expenses of the debt management program of the District of Columbia: Provided further, That no revenues from Federal sources shall be used to support the operations or activities of the Statehood Commission and Statehood Compact Commission: Provided further, That the District of Columbia shall identify the sources of funding for Admission to Statehood from its own locally-generated revenues: Provided further, That $29,500,000 is for pay-as-you-go capital projects of which $1,500,000 shall be for a capital needs assessment study, and $28,000,000 shall be for a new financial management system, if so determined following the evaluation and review process subsequently described in this paragraph, of which $2,000,000 shall be used to develop a needs analysis and assessment of the existing financial management environment, and the remaining $26,000,000 shall be used to procure the necessary hardware and installation of new software, conversion, testing and training: Provided further, That the $26,000,000 shall not be obligated or expended until: (1) the District of Columbia Financial Responsibility and Management Assistance Authority submits a report to the Committees on Appropriations of the House and the Senate, the Committee on Governmental Reform and Oversight of the House, and the Committee on Governmental Affairs of the Senate reporting the results of a needs analysis and assessment of the existing financial management environment, specifying the deficiencies in, and recommending necessary improvements to or replacement of the District's financial management system including a detailed explanation of each recommendation and its estimated cost; and (2) 30 days lapse after receipt of the report by Congress.

ECONOMIC DEVELOPMENT AND REGULATION

Economic development and regulation, $140,983,000 and 1,692 full-time equivalent positions (end-of-year) (including $68,203,000 and 698 full-time equivalent positions from local funds, $38,792,000 and 509 full-time equivalent positions from Federal funds, $17,658,000 and 258 full-time equivalent positions from other funds, and $16,330,000 and 227 full-time equivalent positions from intra-District funds): Provided, That the District of Columbia Housing Finance Agency, established by section 201 of the District of Columbia Housing Finance Agency Act, effective March 3, 1979 (D.C. Law 2-135; D.C. Code, sec. 45-2111), based upon its capability of repayments as determined each year by the Council of the District of Columbia from the Housing Finance Agency's annual audited financial statements to the Council of the District of Columbia, shall repay to the general fund an amount equal to the appropriated administrative costs plus interest at a rate of four percent per annum for a term of 15 years, with a deferral of payments for the first three years: Provided further, That notwithstanding the foregoing provision, the obligation to repay all or

part of the amounts due shall be subject to the rights of the owners of any bonds or notes issued by the Housing Finance Agency and shall be repaid to the District of Columbia government only from available operating revenues of the Housing Finance Agency that are in excess of the amounts required for debt service, reserve funds, and operating expenses: Provided further, That upon commencement of the debt service payments, such payments shall be deposited into the general fund of the District of Columbia.

PUBLIC SAFETY AND JUSTICE

Public safety and justice, including purchase of 135 passenger-carrying vehicles for replacement only, including 130 for police-type use and five for fire-type use, without regard to the general purchase price limitation for the current fiscal year, $963,848,000 and 11,544 full-time equivalent positions (end-of-year) (including $940,631,000 and 11,365 full-time equivalent positions from local funds, $8,942,000 and 70 full-time equivalent positions from Federal funds, $5,160,000 and 4 full-time equivalent positions from other funds, and $9,115,000 and 105 full-time equivalent positions from intra-District funds): Provided, That the Metropolitan Police Department is authorized to replace not to exceed 25 passenger-carrying vehicles and the Fire Department of the District of Columbia is authorized to replace not to exceed five passenger-carrying vehicles annually whenever the cost of repair to any damaged vehicle exceeds three-fourths of the cost of the replacement: Provided further, That not to exceed $500,000 shall be available from this appropriation for the Chief of Police for the prevention and detection of crime: Provided further, That the Metropolitan Police Department shall provide quarterly reports to the Committees on Appropriations of the House and Senate on efforts to increase efficiency and improve the professionalism in the department: Provided further, That notwithstanding any other provision of law, or Mayor's Order 86–45, issued March 18, 1986, the Metropolitan Police Department's delegated small purchase authority shall be $500,000: Provided further, That the District of Columbia government may not require the Metropolitan Police Department to submit to any other procurement review process, or to obtain the approval of or be restricted in any manner by any official or employee of the District of Columbia government, for purchases that do not exceed $500,000: Provided further, That $250,000 is used for the Georgetown Summer Detail; $200,000 is used for East of the River Detail; $100,000 is used for Adams Morgan Detail; and $100,000 is used for the Capitol Hill Summer Detail: Provided further, That the Metropolitan Police Department shall employ an authorized level of sworn officers not to be less than 3,800 sworn officers for the fiscal year ending September 30, 1996: Provided further, That funds appropriated for expenses under the District of Columbia Criminal Justice Act, approved September 3, 1974 (88 Stat. 1090; Public Law 93–412; D.C. Code, sec. 11–2601 et seq.), for the fiscal year ending September 30, 1996, shall be available for obligations incurred under the Act in each fiscal year since inception in the fiscal year 1975: Provided further, That funds appropriated for expenses under the District of Columbia Neglect Representation Equity Act of 1984, effective March 13, 1985 (D.C. Law 5–129; D.C. Code, sec. 16–2304), for the fiscal year ending September 30, 1996, shall be available for obligations incurred under the Act in each fiscal year since inception in the fiscal year 1985: Provided further, That funds appropriated for expenses under the District of Columbia Guardianship, Protective Proceedings, and Durable Power of Attorney Act of 1986, effective February 27, 1987 (D.C. Law 6–204; D.C. Code, sec. 21–2060), for the fiscal year ending September 30, 1996, shall be available for obligations incurred under the Act in each fiscal year since inception in fiscal year 1989: Provided further, That not to exceed $1,500 for the Chief Judge of the District of Columbia Court of Appeals, $1,500 for the Chief Judge of the Superior Court of the District of Columbia, and $1,500 for the Executive Officer of the District of Columbia Courts shall be available from this appropriation for official purposes: Provided further, That the District of Columbia shall operate and maintain a free, 24-hour telephone information service whereby residents of the area surrounding Lorton prison in Fairfax County, Virginia, can promptly obtain information from District of Columbia government officials on all disturbances at the prison, including escapes, riots, and similar incidents: Provided further, That the District of Columbia government shall also take steps to publicize the availability of the 24-hour telephone information service among the residents of the area surrounding the Lorton prison: Provided further, That not to exceed $100,000 of this appropriation shall be used to reimburse Fairfax County, Virginia, and Prince William County, Virginia, for expenses incurred by the counties during the fiscal year ending September 30, 1996, in relation to the Lorton prison complex: Provided further, That such reimbursements shall be paid in all instances in which the District requests the counties to provide police, fire, rescue, and related services to help deal with escapes, fires, riots, and similar disturbances involving the prison: Provided further, That the Mayor shall reimburse the District of Columbia National Guard for expenses incurred in connection with services that are performed in emergencies by the National Guard in a militia status and are requested by the Mayor, in amounts that shall be jointly determined and certified as due and payable for these services by the Mayor and the Commanding General of the District of Columbia National Guard: Provided further, That such sums as may be necessary for reimbursement to the District of Columbia National Guard under the preceding proviso shall be available from this appropriation, and the availability of the sums shall be deemed as constituting payment in advance for emergency services involved.

PUBLIC EDUCATION SYSTEM

Public education system, including the development of national defense education programs, $795,201,000 and 11,670 full-time equivalent positions (end-of-year) (including $676,251,000 and 9,996 full-time equivalent positions from local funds, $87,385,000 and 1,227 full-time equivalent positions from Federal funds, $21,719,000 and 234 full-time equivalent positions from other funds, and $9,846,000 and 213 full-time equivalent positions from intra-District funds), to be allocated as follows: $580,996,000 and 10,167 full-time equivalent positions (including $498,310,000 and 9,014 full-time equivalent positions from local funds $75,786,000 and 1,058 full-time equivalent positions from Federal funds, $4,343,000 and 44 full-time equivalent positions from other funds, and $2,557,000 and 51 full-time equivalent positions from intra-District funds), for the public schools of the District of Columbia; $111,800,000 (including $111,000,000 from local funds and $800,000 from intra-District funds) shall be allocated for the District of Columbia Teachers' Retirement Fund; $79,396,000 and 1,079 full-time equivalent positions (including $45,388,000 and 572 full-time equivalent positions from local funds, $10,611,000 and 156 full-time equivalent positions from Federal funds, $16,922,000 and 189 full-time equivalent positions from other funds, and $6,486,000 and 162 full-time equivalent positions from intra-District funds) for the University of the District of Columbia; $20,742,000 and 415 full-time equivalent positions (including $19,839,000 and 408 full-time equivalent positions from local funds, $446,000 and 6 full-time equivalent positions from Federal funds, $454,000 and 1 full-time equivalent position from other funds, and $3,000 from intra-District funds) for the Public Library; $2,267,000 and 9 full-time equivalent positions (including $1,725,000 and 2 full-time equivalent positions from local funds and $542,000 and 7 full-time equivalent positions from Federal funds) for the Commission on the Arts and Humanities: Provided, That the public schools of the District of Columbia are authorized to accept not to exceed 31 motor vehicles for exclusive use in the driver education program: Provided further, That not to exceed $2,500 for the Superintendent of Schools, $2,500 for the President of the University of the District of Columbia, and $2,000 for the Public Librarian shall be available from this appropriation for expenditures for official purposes: Provided further, That this appropriation shall not be available to subsidize the education of nonresidents of the District of Columbia at the University of the District of Columbia, unless the Board of Trustees of the University of the District of Columbia adopts, for the fiscal year ending September 30, 1996, a tuition rate schedule that will establish the tuition rate for nonresident students at a level no lower than the nonresident tuition rate charged at comparable public institutions of higher education in the metropolitan area.

EDUCATION REFORM

Education reform, $14,930,000, to be allocated as follows:

$200,000 shall be available for payments to charter schools as authorized under Subtitle B of title II of this Act;

$300,000 shall be available for the Public Charter School Board as authorized under Subtitle B of title II of this Act;

$2,000,000 shall be transferred directly, notwithstanding any other provision of law, to the United States Department of Education for awarding grants to carry out Even Start programs in the District of Columbia as provided for in Subtitle C of title II of this Act;

$1,250,000 shall be available to establish core curriculum, content standards, and assessments as authorized under Subtitle D of title II of this Act;

$500,000 shall be available for payment to the Administrator of the General Services Administration for the costs of developing engineering plans for donated work on District of Columbia public school facilities as authorized under Subtitle F of title II of this Act;

$100,000 shall be available to develop a plan for a residential school as authorized under Subtitle G of title II of this Act;

$860,000 shall be available for the District Education and Learning Technologies Advancement Council as authorized under Subtitle I of title II of this Act;

$1,450,000 shall be available to the District Employment and Learning Center as authorized under Subtitle I of title II of this Act;

$1,000,000 shall be available for a professional development program for teachers and administrators administered by the nonprofit corporation selected under section 2701 of title II of this Act as authorized under Subtitle I of title II of this Act;

$1,450,000 shall be available for the Jobs for D.C. Graduates Program as authorized under Subtitle I of title II of this Act;

$70,000 shall be available for the Everybody Wins program;

$100,000 shall be available for the Fit Kids program;

$250,000 shall be transferred directly, notwithstanding any other provision of law, to the United States Department of Education to carry out the evaluation of the scholarship program as provided for in Subtitle N of title II of this Act;

$400,000 shall be available to the District of Columbia Public Schools to improve security (such as installing electronic door locking devices) at such schools, including at a minimum the following schools: Winston Education Center; McKinley High School; Ballou High School; and Cardozo High School; and

$5,000,000 shall be paid to the District of Columbia Scholarship Corporation authorized under Subtitle N of title II of this Act for scholarships for low-income students: Provided, That the District of Columbia government shall enter into negotiations with Gallaudet University to transfer, at a fair market value rate, Hamilton School from the District of Columbia to Gallaudet University with the proceeds, if such a sale takes place, deposited into the general fund of the District and used to improve public school facilities in the same ward as the Hamilton School.

HUMAN SUPPORT SERVICES

Human support services, $1,855,014,000 and 6,469 full-time equivalent positions (end-of-year) (including $1,076,856,000 and 3,650 full-time equivalent positions from local funds, $726,685,000 and 2,639 full-time equivalent positions from Federal funds, $46,799,000 and 66 full-time equivalent positions from other funds, and $4,674,000 and 114 full-time equivalent positions from intra-District funds): Provided, That $26,000,000 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees' disability compensation: Provided further, That the District shall not provide free government services such as water, sewer, solid waste disposal or collection, utilities, maintenance, repairs, or similar services to any legally constituted private nonprofit organization (as defined in section 411(5) of Public Law 100–77, approved July 22, 1987) providing emergency shelter services in the District, if the District would not be qualified to receive reimbursement pursuant to the Stewart B. McKinney Homeless Assistance Act, approved July 22, 1987 (101 Stat. 485; Public Law 100–77; 42 U.S.C. 11301 et seq.).

PUBLIC WORKS

Public works, including rental of one passenger-carrying vehicle for use by the Mayor and three passenger-carrying vehicles for use by the Council of the District of Columbia and purchase of passenger-carrying vehicles for replacement only, $297,568,000 and 1,914 full-time equivalent positions (end-of-year) (including $225,915,000 and 1,158 full-time equivalent positions from local funds, $2,682,000 and 32 full-time equivalent positions from Federal funds, $18,342,000 and 68 full-time equivalent positions from other funds, and $50,629,000 and 656 full-time equivalent positions from intra-District funds): Provided, That this appropriation shall not be available for collecting ashes or miscellaneous refuse from hotels and places of business.

WASHINGTON CONVENTION CENTER FUND TRANSFER PAYMENT

For payment to the Washington Convention Center Enterprise Fund, $5,400,000 from local funds.

REPAYMENT OF LOANS AND INTEREST

For reimbursement to the United States of funds loaned in compliance with An Act to provide for the establishment of a modern, adequate, and efficient hospital center in the District of Columbia, approved August 7, 1946 (60 Stat. 896; Public Law 79–648); section 1 of An Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85–451; D.C. Code, sec. 9–219); section 4 of An Act to authorize the Commissioners of the District of Columbia to plan, construct, operate, and maintain a sanitary sewer to connect the Dulles International Airport with the District of Columbia system, approved June 12, 1960 (74 Stat. 211; Public Law 86–515); sections 723 and 743(f) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973, as amended (87 Stat. 821; Public Law 93–198; D.C. Code, sec. 47–321, note; 91 Stat. 1156; Public Law 95–131; D.C. Code, sec. 9–219, note), including interest as required thereby, $327,787,000 from local funds.

REPAYMENT OF GENERAL FUND RECOVERY DEBT

For the purpose of eliminating the $331,589,000 general fund accumulated deficit as of September 30, 1990, $38,678,000 from local funds, as authorized by section 461(a) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973, as amended (105 Stat. 540; Public Law 102–106; D.C. Code, sec. 47–321(a)).

REPAYMENT OF INTEREST ON SHORT-TERM BORROWING

For repayment of interest on short-term borrowing, $9,698,000 from local funds.

PAY RENEGOTIATION OR REDUCTION IN COMPENSATION

The Mayor shall reduce appropriations and expenditures for personal services in the amount of $46,409,000, by decreasing rates of compensation for District government employees; such decreased rates are to be realized from employees who are subject to collective bargaining agreements to the extent possible through the renegotiation of existing collective bargaining agreements: Provided, That, if a sufficient reduction from employees who are subject to collective bargaining agreements is not realized through renegotiating existing agreements, the Mayor shall decrease rates of compensation for such employees, notwithstanding the provisions of any collective bargaining agreements: Provided further, That the Congress hereby ratifies and approves legislation enacted by the council of the District of Columbia during fiscal year 1995 to reduce the compensation and benefits of all employees of the District of Columbia government during that fiscal year: Provided further, That notwithstanding any other provision of law, the legislation enacted by the Council of the District of Columbia during fiscal year 1995 to reduce the compensation and benefits of all employees of the District of Columbia government during that fiscal year shall be deemed to have been ratified and approved by the Congress during fiscal year 1995.

RAINY DAY FUND

For mandatory unavoidable expenditures within one or several of the various appropriation headings of this Act, to be allocated to the budgets for personal services and nonpersonal services as requested by the Mayor and approved by the Council pursuant to the procedures in section 4 of the Reprogramming Policy Act of 1980, effective September 16, 1980 (D.C. Law 3–100; D.C. Code, sec. 47–363), $4,563,000 from local funds: Provided, That the District of Columbia shall provide to the Committees on Appropriations of the House of Representatives and the Senate quarterly reports by the 15th day of the month following the end of the quarter showing how monies provided under this fund are expended with a final report providing a full accounting of the fund due October 15, 1996 or not later than 15 days after the last amount remaining in the fund is disbursed.

INCENTIVE BUYOUT PROGRAM

For the purpose of funding costs associated with the incentive buyout program, to be apportioned by the Mayor of the District of Columbia within the various appropriation headings in this Act from which costs are properly payable, $19,000,000.

OUTPLACEMENT SERVICES

For the purpose of funding outplacement services for employees who leave the District of Columbia government involuntarily, $1,500,000.

BOARDS AND COMMISSIONS

The Mayor shall reduce appropriations and expenditures for boards and commissions under the various headings in this Act in the amount of $500,000.

GOVERNMENT RE-ENGINEERING PROGRAM

The Mayor shall reduce appropriations and expenditures for personal and nonpersonal services in the amount of $16,000,000 within one or several of the various appropriation headings in this Act.

CAPITAL OUTLAY

(INCLUDING RESCISSIONS)

For construction projects, $168,222,000 (including $82,850,000 from local funds and $85,372,000 from Federal funds), as authorized by An Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; Public Law 58–140; D.C. Code, secs. 43–1512 through 43–1519); the District of Columbia Public Works Act of 1954, approved May 18, 1954 (68 Stat. 101; Public Law 83–364); An Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85–451; including acquisition of sites, preparation of plans and specifications, conducting preliminary surveys, erection of structures, including building improvement and alteration and treatment of grounds, to remain available until expended: Provided, That $105,660,000 from local funds appropriated under this heading in prior fiscal years is rescinded: Provided further, That funds for use of each capital project implementing agency shall be managed and controlled in accordance with all procedures and limitations established under the Financial Management System: Provided further, That all funds provided by this appropriation title shall be available only for the specific projects and purposes intended: Provided further, That notwithstanding the foregoing, all authorizations for capital outlay projects, except those projects covered by the first sentence of section 23(a) of the Federal-Aid Highway Act of 1968, approved August 23, 1968 (82 Stat. 827; Public Law 90–495; D.C. Code, sec. 7–134, note), for which funds are provided by this appropriation title, shall expire on September 30, 1997, except authorizations for projects as to which funds have been obligated in whole or in part prior to September 30, 1997: Provided further, That upon expiration of any such project authorization the funds provided herein for the project shall lapse.

WATER AND SEWER ENTERPRISE FUND

For the Water and Sewer Enterprise Fund, $242,253,000 and 1,024 full-time equivalent positions (end-of-year) (including $237,076,000 and 924 full-time equivalent positions from local funds, $433,000 from other funds, and $4,744,000 and 100 full-time equivalent positions from intra-District funds), of which $41,036,000 shall be apportioned and payable to the debt service fund for repayment of loans and interest incurred for capital improvement projects.

For construction projects, $39,477,000 from Federal funds, as authorized by An Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of

assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; Public Law 58–140; D.C. Code, sec. 43–1512 et seq.): Provided, That the requirements and restrictions that are applicable to general fund capital improvement projects and set forth in this Act under the Capital Outlay appropriation title shall apply to projects approved under this appropriation title.

LOTTERY AND CHARITABLE GAMES ENTERPRISE FUND

For the Lottery and Charitable Games Enterprise Fund, established by the District of Columbia Appropriation Act for the fiscal year ending September 30, 1982, approved December 4, 1981 (95 Stat. 1174, 1175; Public Law 97–91), as amended, for the purpose of implementing the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia, effective March 10, 1981 (D.C. Law 3–172; D.C. Code, secs. 2–2501 et seq. and 22–1516 et seq.), $229,950,000 and 88 full-time equivalent positions (end-of-year) (including $7,950,000 and 88 full-time equivalent positions for administrative expenses and $222,000,000 for non-administrative expenses from revenue generated by the Lottery Board), to be derived from non-Federal District of Columbia revenues: Provided, That the District of Columbia shall identify the source of funding for this appropriation title from the District's own locally-generated revenues: Provided further, That no revenues from Federal sources shall be used to support the operations or activities of the Lottery and Charitable Games Control Board.

CABLE TELEVISION ENTERPRISE FUND

For the Cable Television Enterprise Fund, established by the Cable Television Communications Act of 1981, effective October 22, 1983 (D.C. Law 5–36; D.C. Code, sec. 43–1801 et seq.), $2,351,000 and 8 full-time equivalent positions (end-of-year) (including $2,019,000 and 8 full-time equivalent positions from local funds and $332,000 from other funds), of which $572,000 shall be transferred to the general fund of the District of Columbia.

STARPLEX FUND

For the Starplex Fund, $6,580,000 from other funds for the expenses incurred by the Armory Board in the exercise of its powers granted by An Act To Establish A District of Columbia Armory Board, and for other purposes, approved June 4, 1948 (62 Stat. 339; D.C. Code, sec. 2–301 et seq.) and the District of Columbia Stadium Act of 1957, approved September 7, 1957 (71 Stat. 619; Public Law 85–300; D.C. Code, sec. 2–321 et seq.): Provided, That the Mayor shall submit a budget for the Armory Board for the forthcoming fiscal year as required by section 442(b) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 824; Public Law 93–198; D.C. Code, sec. 47–301(b)).

D.C. GENERAL HOSPITAL

For the District of Columbia General Hospital, established by Reorganization Order No. 57 of the Board of Commissioners, effective August 15, 1953, $115,034,000, of which $56,735,000 shall be derived by transfer as intra-District funds from the general fund, $52,684,000 is to be derived from the other funds, and $5,615,000 is to be derived from intra-District funds.

D.C. RETIREMENT BOARD

For the D.C. Retirement Board, established by section 121 of the District of Columbia Retirement Reform Act of 1989, approved November 17, 1989 (93 Stat. 866; D.C. Code, sec. 1–711), $13,440,000 and 11 full-time equivalent positions (end-of-year) from the earnings of the applicable retirement funds to pay legal, management, investment, and other fees and administrative expenses of the District of Columbia Retirement Board: Provided, That the District of Columbia Retirement Board shall provide to the Congress and to the Council of the District of Columbia a quarterly report of the allocations of charges by fund and of expenditures of all funds: Provided further, That the District of Columbia Retirement Board shall provide the Mayor, for transmittal to the Council of the District of Columbia, an item accounting of the planned use of appropriated funds in time for each annual budget submission and the actual use of such funds in time for each annual audited financial report.

CORRECTIONAL INDUSTRIES FUND

For the Correctional Industries Fund, established by the District of Columbia Correctional Industries Establishment Act, approved October 3, 1964 (78 Stat. 1000; Public Law 88–622), $10,516,000 and 66 full-time equivalent positions (end-of-year) (including $3,415,000 and 22 full-time equivalent positions from other funds and $7,101,000 and 44 full-time equivalent positions from intra-District funds).

WASHINGTON CONVENTION CENTER ENTERPRISE FUND

For the Washington Convention Center Enterprise Fund, $37,957,000, of which $5,400,000 shall be derived by transfer from the general fund.

DISTRICT OF COLUMBIA FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE AUTHORITY

For the District of Columbia Financial Responsibility and Management Assistance Authority, established by section 101(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995 (109 Stat. 97; Public Law 104–8), $3,500,000.

PERSONAL AND NONPERSONAL SERVICES ADJUSTMENTS

Notwithstanding any other provision of law, the Chief Financial Officer established under section 302 of Public Law 104–8, approved April 17, 1995 (109 Stat. 142) shall, on behalf of the Mayor, adjust appropriations and expenditures for personal and nonpersonal services, together with the related full-time equivalent positions, in accordance with the direction of the District of Columbia Financial Responsibility and Management Assistance Authority such that there is a net reduction of $165,837,000, within or among one or several of the various appropriation headings in this Act, pursuant to section 208 of Public Law 104–8, approved April 17, 1995 (109 Stat. 134).

GENERAL PROVISIONS

SEC. 101. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 102. Except as otherwise provided in this Act, all vouchers covering expenditures of appropriations contained in this Act shall be audited before payment by the designated certifying official and the vouchers as approved shall be paid by checks issued by the designated disbursing official.

SEC. 103. Whenever in this Act, an amount is specified within an appropriation for particular purposes or objects of expenditure, such amount, unless otherwise specified, shall be considered as the maximum amount that may be expended for said purpose or object rather than an amount set apart exclusively therefor.

SEC. 104. Appropriations in this Act shall be available, when authorized by the Mayor, for allowances for privately owned automobiles and motorcycles used for the performance of official duties at rates established by the Mayor: Provided, That such rates shall not exceed the maximum prevailing rates for such vehicles as prescribed in the Federal Property Management Regulations 101–7 (Federal Travel Regulations).

SEC. 105. Appropriations in this Act shall be available for expenses of travel and for the payment of dues of organizations concerned with the work of the District of Columbia government, when authorized by the Mayor: Provided, That the Council of the District of Columbia and the District of Columbia Courts may expend such funds without authorization by the Mayor.

SEC. 106. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making refunds and for the payment of judgments that have been entered against the District of Columbia government: Provided, That nothing contained in this section shall be construed as modifying or affecting the provisions of section 11(c)(3) of title XII of the District of Columbia Income and Franchise Tax Act of 1947, approved March 31, 1956 (70 Stat. 78; Public Law 84–460; D.C. Code, sec. 47–1812.11(c)(3)).

SEC. 107. Appropriations in this Act shall be available for the payment of public assistance without reference to the requirement of section 544 of the District of Columbia Public Assistance Act of 1982, effective April 6, 1982 (D.C. Law 4–101; D.C. Code, sec. 3–205.44), and for the non-Federal share of funds necessary to qualify for Federal assistance under the Juvenile Delinquency Prevention and Control Act of 1968, approved July 31, 1968 (82 Stat. 462; Public Law 90–445, 42 U.S.C. 3801 et seq.).

SEC. 108. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 109. No funds appropriated in this Act for the District of Columbia government for the operation of educational institutions, the compensation of personnel, or for other educational purposes may be used to permit, encourage, facilitate, or further partisan political activities. Nothing herein is intended to prohibit the availability of school buildings for the use of any community or partisan political group during non-school hours.

SEC. 110. The annual budget for the District of Columbia government for the fiscal year ending September 30, 1997, shall be transmitted to the Congress no later than April 15, 1996 or as provided for under the provisions of Public Law 104–8, approved April 17, 1995.

SEC. 111. None of the funds appropriated in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name, title, grade, salary, past work experience, and salary history are not available for inspection by the House and Senate Committees on Appropriations, the House Committee on Government Reform and Oversight, District of Columbia Subcommittee, the Subcommittee on Oversight of Government Management, of the Senate Committee on Governmental Affairs, and the Council of the District of Columbia, or their duly authorized representative: Provided, That none of the funds contained in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name and salary are not available for public inspection.

SEC. 112. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making payments authorized by the District of Columbia Revenue Recovery Act of 1977, effective September 23, 1977 (D.C. Law 2–20; D.C. Code, sec. 47–421 et seq.).

SEC. 113. No part of this appropriation shall be used for publicity or propaganda purposes or implementation of any policy including boycott

designed to support or defeat legislation pending before Congress or any State legislature.

SEC. 114. At the start of the fiscal year, the Mayor shall develop an annual plan, by quarter and by project, for capital outlay borrowings: Provided, That within a reasonable time after the close of each quarter, the Mayor shall report to the Council of the District of Columbia and the Congress the actual borrowings and spending progress compared with projections.

SEC. 115. The Mayor shall not borrow any funds for capital projects unless the Mayor has obtained prior approval from the Council of the District of Columbia, by resolution, identifying the projects and amounts to be financed with such borrowings.

SEC. 116. The Mayor shall not expend any moneys borrowed for capital projects for the operating expenses of the District of Columbia government.

SEC. 117. None of the funds appropriated by this Act may be obligated or expended by reprogramming except pursuant to advance approval of the reprogramming granted according to the procedure set forth in the Joint Explanatory Statement of the Committee of Conference (House Report No. 96–443), which accompanied the District of Columbia Appropriation Act, 1980, approved October 30, 1979 (93 Stat. 713; Public Law 96–93), as modified in House Report No. 98–265, and in accordance with the Reprogramming Policy Act of 1980, effective September 16, 1980 (D.C. Law 3–100; D.C. Code, sec. 47–361 et seq.): Provided, That for the fiscal year ending September 30, 1996 the above shall apply except as modified by Public Law 104–8.

SEC. 118. None of the Federal funds provided in this Act shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of the District of Columbia.

SEC. 119. None of the Federal Funds provided in this Act shall be obligated or expended to procure passenger automobiles as defined in the Automobile Fuel Efficiency Act of 1980, approved October 10, 1980 (94 Stat. 1824; Public Law 96–425; 15 U.S.C. 2001(2)), with an Environmental Protection Agency estimated miles per gallon average of less than 22 miles per gallon: Provided, That this section shall not apply to security, emergency rescue, or armored vehicles.

SEC. 120. (a) Notwithstanding section 422(7) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 790; Public Law 93–198; D.C. Code, sec. 1–242(7)), the City Administrator shall be paid, during any fiscal year, a salary at a rate established by the Mayor, not to exceed the rate established for level IV of the Executive Schedule under 5 U.S.C. 5315.

(b) For purposes of applying any provision of law limiting the availability of funds for payment of salary or pay in any fiscal year, the highest rate of pay established by the Mayor under subsection (a) of this section for any position for any period during the last quarter of calendar year 1995 shall be deemed to be the rate of pay payable for that position for September 30, 1995.

(c) Notwithstanding section 4(a) of the District of Columbia Redevelopment Act of 1945, approved August 2, 1946 (60 Stat. 793; Public Law 79–592; D.C. Code, sec. 5–803(a)), the Board of Directors of the District of Columbia Redevelopment Land Agency shall be paid, during any fiscal year, per diem compensation at a rate established by the Mayor.

SEC. 121. Notwithstanding any other provisions of law, the provisions of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2–139; D.C. Code, sec. 1–601.1 et seq.), enacted pursuant to section 422(3) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 790; Public Law 93–198; D.C. Code, sec. 1–242(3)), shall apply with respect to the compensation of District of Columbia employees: Provided, That for pay purposes, employees of the District of Columbia government shall not be subject to the provisions of title 5 of the United States Code.

SEC. 122. The Director of the Department of Administrative Services may pay rentals and repair, alter, and improve rented premises, without regard to the provisions of section 322 of the Economy Act of 1932 (Public Law 72–212; 40 U.S.C. 278a), upon a determination by the Director, that by reason of circumstances set forth in such determination, the payment of these rents and the execution of this work, without reference to the limitations of section 322, is advantageous to the District in terms of economy, efficiency, and the District's best interest.

SEC. 123. No later than 30 days after the end of the first quarter of the fiscal year ending September 30, 1996, the Mayor of the District of Columbia shall submit to the Council of the District of Columbia the new fiscal year 1996 revenue estimates as of the end of the first quarter of fiscal year 1996. These estimates shall be used in the budget request for the fiscal year ending September 30, 1997. The officially revised estimates at midyear shall be used for the midyear report.

SEC. 124. No sole source contract with the District of Columbia government or any agency thereof may be renewed or extended without opening that contract to the competitive bidding process as set forth in section 303 of the District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6–85; D.C. Code, sec. 1–1183.3), except that the District of Columbia Public Schools may renew or extend sole source contracts for which competition is not feasible or practical, provided that the determination as to whether to invoke the competitive bidding process has been made in accordance with duly promulgated Board of Education rules and procedures.

SEC. 125. For purposes of the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99–177), as amended, the term "program, project, and activity" shall be synonymous with and refer specifically to each account appropriating Federal funds in this Act, and any sequestration order shall be applied to each of the accounts rather than to the aggregate total of those accounts: Provided, That sequestration orders shall not be applied to any account that is specifically exempted from sequestration by the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99–177), as amended.

SEC. 126. In the event of a sequestration order is issued pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037: Public Law 99–177), as amended, after the amounts appropriated to the District of Columbia for the fiscal year involved have been paid to the District of Columbia, the Mayor of the District of Columbia shall pay to the Secretary of the Treasury, within 15 days after receipt of a request therefor from the Secretary of the Treasury, such amounts as are sequestered by the order: Provided, That the sequestration percentage specified in the order shall be applied proportionately to each of the Federal appropriation accounts in this Act that are not specifically exempted from sequestration by the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99–177), as amended.

SEC. 127. For the fiscal year ending September 30, 1996, the District of Columbia shall pay interest on its quarterly payments to the United States that are made more than 60 days from the date of receipt of an itemized statement from the Federal Bureau of Prisons of amounts due for housing District of Columbia convicts in Federal penitentiaries for the preceding quarter.

SEC. 128. Nothing in this Act shall be construed to authorize any office, agency or entity to expend funds for programs or functions for which a reorganization plan is required but has not been approved by the Council pursuant to section 422(12) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 790; Public Law 93–198; D.C. Code, sec. 1–242(12)) and the Governmental Reorganization Procedures Act of 1981, effective October 17, 1981 (D.C. Law 4–42; D.C. Code, sec. 1–299.1 to 1–299.7). Appropriations made by this Act for such programs or functions are conditioned on the approval by the Council, prior to October 1, 1995, of the required reorganization plans.

SEC. 129. (a) An entity of the District of Columbia government may accept and use a gift or donation during fiscal year 1996 if—

(1) the Mayor approves the acceptance and use of the gift or donation: Provided, That the Council of the District of Columbia may accept and use gifts without prior approval by the Mayor; and

(2) the entity uses the gift or donation to carry out its authorized functions or duties.

(b) Each entity of the District of Columbia government shall keep accurate and detailed records of the acceptance and use of any gift or donation under subsection (a) of this section, and shall make such records available for audit and public inspection.

(c) For the purposes of this section, the term "entity of the District of Columbia government" includes an independent agency of the District of Columbia.

(d) This section shall not apply to the District of Columbia Board of Education, which may, pursuant to the laws and regulations of the District of Columbia, accept and use gifts to the public schools without prior approval by the Mayor.

SEC. 130. None of the Federal funds provided in this Act may be used by the District of Columbia to provide for salaries, expenses, or other costs associated with the offices of United States Senator or United States Representative under section 4(d) of the District of Columbia Statehood Constitutional Convention Initiatives of 1979, effective March 10, 1981 (D.C. Law 3–171; D.C. Code, sec. 1–113(d)).

PROHIBITION AGAINST USE OF FUNDS FOR ABORTIONS

SEC. 131. None of the funds appropriated under this Act shall be expended for any abortion except where the life of the mother would be endangered if the fetus were carried to term or where the pregnancy is the result of an act of rape or incest.

PROHIBITION ON DOMESTIC PARTNERS ACT

SEC. 132. No funds made available pursuant to any provision of this Act shall be used to implement or enforce any system of registration of unmarried, cohabiting couples whether they are homosexual, lesbian, or heterosexual, including but not limited to registration for the purpose of extending employment, health, or governmental benefits to such couples on the same basis that such benefits are extended to legally married couples; nor shall any funds made available pursuant to any provision of this Act otherwise be used to implement or enforce D.C. Act 9–188, signed by the Mayor of the District of Columbia on April 15, 1992.

COMPENSATION FOR THE COMMISSION ON JUDICIAL DISABILITIES AND TENURE AND FOR THE JUDICIAL NOMINATION COMMISSION

SEC. 133. Sections 431(f) and 433(b)(5) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 813; Public Law 93-198; D.C. Code, secs. 11-1524 and title 11, App. 433), are amended to read as follows:

(a) Section 431(f) (D.C. Code, sec. 11-1524) is amended to read as follows:

"(f) Members of the Tenure Commission shall serve without compensation for services rendered in connection with their official duties on the Commission.".

(b) Section 433(b)(5) (title 11, App. 433) is amended to read as follows:

"(5) Members of the Commission shall serve without compensation for services rendered in connection with their official duties on the Commission.".

MULTIYEAR CONTRACTS

SEC. 134. Section 451 of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 803; Public Law 93-198; D.C. Code, sec. 1-1130), is amended by adding a new subsection (c) to read as follows:

"(c)(1) The District may enter into multiyear contracts to obtain goods and services for which funds would otherwise be available for obligation only within the fiscal year for which appropriated.

"(2) If the funds are not made available for the continuation of such a contract into a subsequent fiscal year, the contract shall be cancelled or terminated, and the cost of cancellation or termination may be paid from—

"(A) appropriations originally available for the performance of the contract concerned;

"(B) appropriations currently available for procurement of the type of acquisition covered by the contract, and not otherwise obligated; or

"(C) funds appropriated for those payments.

"(3) No contract entered into under this section shall be valid unless the Mayor submits the contract to the Council for its approval and the Council approves the contract (in accordance with criteria established by act of the Council). The Council shall be required to take affirmative action to approve the contract within 45 days. If no action is taken to approve the contract within 45 calendar days, the contract shall be deemed disapproved.".

CALCULATED REAL PROPERTY TAX RATE RESCISSION AND REAL PROPERTY TAX FREEZE

SEC. 135. The District of Columbia Real Property Tax Revision Act of 1974, approved September 3, 1974 (88 Stat. 1051; D.C. Code, sec. 47-801 et seq.), is amended as follows:

(1) Section 412 (D.C. Code, sec. 47-812) is amended as follows:

(A) Subsection (a) is amended by striking the third and fourth sentences and inserting the following sentences in their place: "If the Council does extend the time for establishing the rates of taxation on real property, it must establish those rates for the tax year by permanent legislation. If the Council does not establish the rates of taxation of real property by October 15, and does not extend the time for establishing rates, the rates of taxation applied for the prior year shall be the rates of taxation applied during the tax year.".

(B) A new subsection (a-2) is added to read as follows:

"(a-2) Notwithstanding the provisions of subsection (a) of this section, the real property tax rates for taxable real property in the District of Columbia for the tax year beginning October 1, 1995, and ending September 30, 1996, shall be the same rates in effect for the tax year beginning October 1, 1993, and ending September 30, 1994.".

(2) Section 413(c) (D.C. Code, sec. 47-815(c)) is repealed.

PRISONS INDUSTRIES

SEC. 136. Title 18 U.S.C. 1761(b) is amended by striking the period at the end and inserting the phrase "or not-for-profit organizations." in its place.

REPORTS ON REDUCTIONS

SEC. 137. Within 120 days of the effective date of this Act, the Mayor shall submit to the Congress and the Council a report delineating the actions taken by the executive to effect the directives of the Council in this Act, including—

(1) negotiations with representatives of collective bargaining units to reduce employee compensation;

(2) actions to restructure existing long-term city debt;

(3) actions to apportion the spending reductions anticipated by the directives of this Act to the executive for unallocated reductions; and

(4) a list of any position that is backfilled including description, title, and salary of the position.

MONTHLY REPORTING REQUIREMENTS—BOARD OF EDUCATION

SEC. 138. The Board of Education shall submit to the Congress, Mayor, and Council of the District of Columbia no later than fifteen (15) calendar days after the end of each month a report that sets forth—

(1) current month expenditures and obligations, year-to-date expenditures and obligations, and total fiscal year expenditure projections vs. budget broken out on the basis of control center, responsibility center, agency reporting code, and object class, and for all funds, including capital financing;

(2) a breakdown of FTE positions and staff for the most current pay period broken out on the basis of control center, responsibility center, and agency reporting code within each responsibility center, for all funds, including capital funds;

(3) a list of each account for which spending is frozen and the amount of funds frozen, broken out by control center, responsibility center, detailed object, and agency reporting code, and for all funding sources;

(4) a list of all active contracts in excess of $10,000 annually, which contains; the name of each contractor; the budget to which the contract is charged broken out on the basis of control center, responsibility center, and agency reporting code; and contract identifying codes used by the D.C. Public Schools; payments made in the last month and year-to-date, the total amount of the contract and total payments made for the contract and any modifications, extensions, renewals; and specific modifications made to each contract in the last month;

(5) all reprogramming requests and reports that are required to be, and have been, submitted to the Board of Education; and

(6) changes made in the last month to the organizational structure of the D.C. Public Schools, displaying previous and current control centers and responsibility centers, the names of the organizational entities that have been changed, the name of the staff member supervising each entity affected, and the reasons for the structural change.

MONTHLY REPORTING REQUIREMENT

UNIVERSITY OF THE DISTRICT OF COLUMBIA

SEC. 139. The University of the District of Columbia shall submit to the Congress, Mayor, and Council of the District of Columbia no later than fifteen (15) calendar days after the end of each month a report that sets forth—

(1) current month expenditures and obligations, year-to-date expenditures and obligations, and total fiscal year expenditure projections vs. budget broken out on the basis of control center, responsibility center, and object class, and for all funds, including capital financing;

(2) a breakdown of FTE positions and all employees for the most current pay period broken out on the basis of control center and responsibility center, for all funds, including capital funds;

(3) a list of each account for which spending is frozen and the amount of funds frozen, broken out by control center, responsibility center, detailed object, and for all funding sources;

(4) a list of all active contracts in excess of $10,000 annually, which contains: the name of each contractor; the budget to which the contract is charged broken out on the basis of control center and responsibility center, and contract identifying codes used by the University of the District of Columbia; payments made in the last month and year-to-date, the total amount of the contract and total payments made for the contract and any modifications, extensions, renewals; and specific modifications made to each contract in the last month;

(5) all reprogramming requests and reports that have been made by the University of the District of Columbia within the last month in compliance with applicable law; and

(6) changes in the last month to the organizational structure of the University of the District of Columbia, displaying previous and current control centers and responsibility centers, the names of the organizational entities that have been changed, the name of the staff member supervising each entity affected, and the reasons for the structural change.

ANNUAL REPORTING REQUIREMENTS

SEC. 140. (a) The Board of Education of the District of Columbia and the University of the District of Columbia shall annually compile an accurate and verifiable report on the positions and employees in the public school system and the university, respectively. The annual report shall set forth—

(1) the number of validated schedule A positions in the District of Columbia Public Schools and the University of the District of Columbia for fiscal year 1995, fiscal year 1996, and thereafter on full-time equivalent basis, including a compilation of all positions by control center, responsibility center, funding source, position type, position title, pay plan, grade, and annual salary; and

(2) a compilation of all employees in the District of Columbia Public Schools and the University of the District of Columbia as of the preceding December 31, verified as to its accuracy in accordance with the functions that each employee actually performs, by control center, responsibility center, agency reporting code, program (including funding source), activity, location for accounting purposes, job title, grade and classification, annual salary, and position control number.

(b) The annual report required by subsection (a) of this section shall be submitted to the Congress, the Mayor and Council of the District of Columbia, by not later than February 8 of each year.

ANNUAL BUDGETS AND BUDGET REVISIONS

SEC. 141. (a) Not later than October 1, 1995, or within 15 calendar days after the date of the enactment of the District of Columbia Appropriations Act, 1996, whichever occurs later, and each succeeding year, the Board of Education and the University of the District of Columbia shall submit to the Congress, the Mayor, and Council of the District of Columbia, a revised appropriated funds operating budget for the public school system and the University of the District of Columbia for such fiscal year that is in the total amount of the approved appropriation and that realigns budgeted data for personal services

and other-than-personal services, respectively, with anticipated actual expenditures.

(b) The revised budget required by subsection (a) of this section shall be submitted in the format of the budget that the Board of Education and the University of the District of Columbia submit to the Mayor of the District of Columbia for inclusion in the Mayor's budget submission to the Council of the District of Columbia for inclusion in the Mayor's budget submission to the Council of the District of Columbia pursuant to section 442 of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93–198, as amended (D.C. Code, sec. 47–301).

BUDGET APPROVAL

SEC. 142. The Board of Education the Board of Trustees of the University of the District of Columbia, the Board of Library Trustees, and the Board of Governors of the D.C. School of Law shall vote on and approve their respective annual or revised budgets before submission to the Mayor of the District of Columbia for inclusion in the Mayor's budget submission to the Council of the District of Columbia in accordance with section 442 of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93–198, as amended (D.C. Code, sec. 47–301), or before submitting their respective budgets directly to the Council.

PUBLIC SCHOOL EMPLOYEE EVALUATIONS

SEC. 143. Notwithstanding any other provision of law, rule, or regulation, the evaluation process and instruments for evaluating District of Columbia Public Schools employees shall be a non-negotiable item for collective bargaining purposes.

POSITION VACANCIES

SEC. 144. (a) No agency, including an independent agency, shall fill a position wholly funded by appropriations authorized by this Act, which is vacant on October 1, 1995, or becomes vacant between October 1, 1995, and September 30, 1996, unless the Mayor or independent agency submits a proposed resolution of intent to fill the vacant position to the Council. The Council shall be required to take affirmative action on the Mayor's resolution within 30 legislative days. If the Council does not affirmatively approve the resolution within 30 legislative days, the resolution shall be deemed disapproved.

(b) No reduction in the number of full-time equivalent positions or reduction-in-force due to privatization or contracting out shall occur if the District of Columbia Financial Responsibility and Management Assistance Authority, established by section 101(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995 (109 Stat. 97; Public Law 104–8), disallows the full-time equivalent position reduction provided in this act in meeting the maximum ceiling of 35,984 for the fiscal year ending September 30, 1996.

(c) This section shall not prohibit the appropriate personnel authority from filling a vacant position with a District government employee currently occupying a position that is funded with appropriated funds.

(d) This section shall not apply to local school-based teachers, school-based officers, or school-based teachers' aides; or court personnel covered by title 11 of the D.C. Code, except chapter 23.

MODIFICATIONS OF BOARD OF EDUCATION REDUCTION-IN-FORCE PROCEDURES

SEC. 145. The District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2–139; D.C. Code, sec. 1–601.1 et seq.), is amended as follows:

(a) Section 301 (D.C. Code, sec. 1–603.1) is amended as follows:

(1) A new paragraph (13A) is added to read as follows:

"(13A) 'Nonschool-based personnel' means any employee of the District of Columbia Public Schools who is not based at a local school or who does not provide direct services to individual students.".

(2) A new paragraph (15A) is added to read as follows:

"(15A) 'School administrators' means principals, assistant principals, school program directors, coordinators, instructional supervisors, and support personnel of the District of Columbia Public Schools.".

(b) Section 801A(b)(2) (D.C. Code, sec. 1–609.1(b)(2)) is amended by adding a new subparagraph (L–i) to read as follows:

"(L–i) Notwithstanding any other provision of law, the Board of Education shall not issue rules that require or permit nonschool-based personnel or school administrators to be assigned or reassigned to the same competitive level as classroom teachers;"

(c) Section 2402 (D.C. Code, sec. 1–625.2) is amended by adding a new subsection (f) to read as follows:

"(f) Notwithstanding any other provision of law, the Board of Education shall not require or permit nonschool-based personnel or school administrators to be assigned or reassigned to the same competitive level as classroom teachers.".

SEC. 146. (a) Notwithstanding any other provision of law, rule, or regulation, an employee of the District of Columbia Public Schools shall be—

(1) classified as an Educational Service employee;

(2) placed under the personnel authority of the Board of Education; and

(3) subject to all Board of Education rules.

(b) School-based personnel shall constitute a separate competitive area from nonschool-based personnel who shall not compete with school-based personnel for retention purposes.

SEC. 147. None of the funds provided in this Act may be used directly or indirectly for the renovation of the property located at 227 7th Street Southeast (commonly known as Eastern Market), except that funds provided in this Act may be used for the regular maintenance and upkeep of the current structure and grounds located at such property.

CAPITAL PROJECT EMPLOYEES

SEC. 148. (a) Not later than 15 days after the end of every fiscal quarter (beginning October 1, 1995), the Mayor shall submit to the Council of the District of Columbia, the District of Columbia Financial Responsibility and Management Assistance Authority, and the Committees on Appropriations of the House of Representatives and the Senate a report with respect to the employees on the capital project budget for the previous quarter.

(b) Each report submitted pursuant to subsection (a) of this section shall include the following information—

(1) a list of all employees by position, title, grade and step;

(2) a job description, including the capital project for which each employee is working;

(3) the date that each employee began working on the capital project and the ending date that each employee completed or is projected to complete work on the capital project; and

(4) a detailed explanation justifying why each employee is being paid with capital funds.

MODIFICATION OF REDUCTION-IN-FORCE PROCEDURES

SEC. 149. The District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2–139; D.C. Code, sec. 1–601.1 et seq.), is amended as follows:

(a) Section 2401 (D.C. Code, sec. 1–625.1) is amended by amending the third sentence to read as follows: "A personnel authority may establish lesser competitive areas within an agency on the basis of all or a clearly identifiable segment of an agency's mission or a division or major subdivision of an agency.".

(b) A new section 2406 is added to read as follows:

"SEC. 2406. Abolishment of positions for Fiscal Year 1996.

"(a) Notwithstanding any other provision of law, regulation, or collective bargaining agreement either in effect or to be negotiated while this legislation is in effect for the fiscal year ending September 30, 1996, each agency head is authorized, within the agency head's discretion, to identify positions for abolishment.

"(b) Prior to February 1, 1996, each personnel authority shall make a final determination that a position within the personnel authority is to be abolished.

"(c) Notwithstanding any rights or procedures established by any other provision of this title, any District government employee, regardless of date of hire, who encumbers a position identified for abolishment shall be separated without competition or assignment rights, except as provided in this section.

"(d) An employee affected by the abolishment of a position pursuant to this section who, but for this section would be entitled to compete for retention, shall be entitled to 1 round of lateral competition pursuant to Chapter 24 of the District of Columbia Personnel Manual, which shall be limited to positions in the employee's competitive level.

"(e) Each employee who is a bona fide resident of the District of Columbia shall have added 5 years to his or her creditable service for reduction-in-force purposes. For purposes of this subsection only, a nonresident District employee who was hired by the District government prior to January 1, 1980, and has not had a break in service since that date, or a former employee of the U.S. Department of Health and Human Services at Saint Elizabeths Hospital who accepted employment with the District government on October 1, 1987, and has not had a break in service since that date, shall be considered a District resident.

"(f) Each employee selected for separation pursuant to this section shall be given written notice of at least 30 days before the effective date of his or her separation.

"(g) Neither the establishment of a competitive area smaller than an agency, nor the determination that a specific position is to be abolished, nor separation pursuant to his section shall be subject to review except as follows—

"(1) an employee may file a complaint contesting a determination or a separation pursuant to title XV of this Act or section 303 of the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2–38; D.C. Code, sec. 1–2543); and

"(2) an employee may file with the Office of Employee Appeals an appeal contesting that the separation procedures of subsections (d) and (f) of this section were not properly applied.

"(h) An employee separated pursuant to this section shall be entitled to severance pay in accordance with title XI of this Act, except that the following shall be included in computing creditable service for severance pay for employees separated pursuant to this section—

"(1) four years for an employee who qualified for veteran's preference under this act, and

"(2) three years for an employee who qualified for residency preference under this act.

"(i) Separation pursuant to this section shall not affect an employee's rights under either the Agency Reemployment Priority Program or the

Displaced Employee Program established pursuant to Chapter 24 of the District Personnel Manual.

"(j) The Mayor shall submit to the Council a listing of all positions to be abolished by agency and responsibility center by March 1, 1996, or upon the delivery of termination notices to individual employees.

"(k) Notwithstanding the provisions of section 1708 or section 2402(d), the provisions of this act shall not be deemed negotiable.

"(l) A personnel authority shall cause a 30-day termination notice to be served, no later than September 1, 1996, on any incumbent employee remaining in any position identified to be abolished pursuant to subsection (b) of this section".

Sec. 150. (a) CEILING ON TOTAL OPERATING EXPENSES.—Notwithstanding any other provision of law, the total amount appropriated in this Act for operating expenses for the District of Columbia for fiscal year 1996 under the caption "Division of Expenses" shall not exceed $4,994,000,000 of which $165,339,000 shall be from intra-District funds.

(b) ACCEPTANCE AND USE OF GRANTS NOT INCLUDED IN CEILING.—

(1) IN GENERAL.—Notwithstanding subsection 9a), the Mayor of the District of Columbia may accept, obligate, and expend Federal, private, and other grants received by the District government that are not reflected in the amounts appropriated in this Act.

(2) REQUIREMENT OF CHIEF FINANCIAL OFFICER REPORT AND FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE AUTHORITY APPROVAL.—No such Federal, private, or other grant may be accepted, obligated, or expended pursuant to paragraph (1) until—

(A) the Chief Financial Officer of the District submits to the District of Columbia Financial Responsibility and Management Assistance Authority established by Public Law 104–8 (109 Stat. 97) a report setting forth detailed information regarding such grant; and

(B) the District of Columbia Financial Responsibility and Management Assistance Authority has reviewed and approved the acceptance, obligation, and expenditure of such grant in accordance with review and approval procedures consistent with the provisions of Public Law 104–8.

(3) PROHIBITION ON SPENDING IN ANTICIPATION OF APPROVAL OR RECEIPT.—No amount may be obligated or expended from the general fund or other funds of the District government in anticipation of the approval or receipt of a grant under paragraph (2)(B) or in anticipation of the approval or receipt of a Federal, private, or other grant not subject to such paragraph.

(4) MONTHLY REPORTS.—The Chief Financial Officer of the District shall prepare a monthly report setting forth detailed information regarding all Federal, private, and other grants subject to this subsection. Each such report shall be submitted to the Council of the District of Columbia, and to the Committees on Appropriations of the House of Representatives and the Senate, not later than 15 days after the end of the month covered by the report.

PLANS FOR LORTON CORRECTIONAL COMPLEX

SEC. 151. (a) DEVELOPMENT OF PLANS.—Not later than March 15, 1996, the District of Columbia shall develop a series of alternative plans meeting the requirements of subsection (b) for the use and operation of the Lorton Correctional Complex (hereafter in this section referred to as the "Complex"), including—

(1) a plan under which the Complex will be closed;

(2) a plan under which the Complex will remain in operation under the management of the District of Columbia subject to such modifications as the District considers appropriate;

(3) a plan under which the Complex will be operated under the management of the Federal government;

(4) a plan under which the Complex will be operated under private management; and

(5) such other plans as the District of Columbia considers appropriate.

(b) REQUIREMENTS FOR PLANS.—Each of the plans developed by the District of Columbia under subsection (a) shall meet the following requirements:

(1) The plan shall provide for an appropriate transition period not to exceed 5 years in length.

(2) The plan shall include provisions specifying how and to what extent the District will utilize alternative management, including the private sector, for the operation of correctional facilities for the District, and shall include provisions describing the treatment under such alternative management (including under contracts) of site selection, design, financing, construction, and operation of correctional facilities for the District.

(3) The plan shall include a description of any legislation required to implement the plan.

(4) The plan shall include an implementation schedule, together with specific performance measures and timelines to determine the extent to which the District is meeting the schedule during the transition period.

(5) Under the plan, the Mayor of the District of Columbia shall submit a semi-annual report to the President, Congress, and the District of Columbia Financial Responsibility and Management Assistance Authority describing the actions taken by the District under the plan, and in addition shall regularly report to the President, Congress, and the District of Columbia Financial Responsibility and Management Assistance Authority on all significant measures taken under the plan as soon as such measures are taken.

(6) For each of the years during which the plan is in effect, the plan shall be consistent with the financial plan and budget for the District of Columbia for the year under subtitle A of title II of the District of Columbia Financial Responsibility and Management Assistance Act of 1995.

(c) SUBMISSION OF PLAN.—Upon completing the development of the plans under subsection (a), the District of Columbia shall submit the plans to the President, Congress, and the District of Columbia Financial Responsibility and Management Assistance Authority.

PROHIBITION AGAINST ADOPTION BY UNMARRIED COUPLES

SEC. 152. (a) IN GENERAL.—Section 16–302, D.C. Code, is amended—

(1) by striking "Any person" and inserting "(a) Subject to subsection (b), any person"; and

(2) by adding at the end the following subsection:

"(b)(1) Except as provided in paragraph (2), no person may join in a petition under this section unless the person is the spouse of the petitioner.

"(2) An unmarried person may file a petition for adoption where no other person joins in the petition or where the co-petitioner is the natural parent of the child.".

TECHNICAL CORRECTIONS TO FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE ACT

SEC. 153. (a) REQUIRING GSA TO PROVIDE SUPPORT SERVICES.—Section 103(f) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 is amended by striking "may provide" and inserting "shall promptly provide".

(b) AVAILABILITY OF CERTAIN FEDERAL BENEFITS FOR INDIVIDUALS WHO BECOME EMPLOYED BY THE AUTHORITY.—

(1) FORMER FEDERAL EMPLOYEES.—Subsection (e) of section 102 of such Act is amended to read as follows:

"(e) PRESERVATION OF RETIREMENT AND CERTAIN OTHER RIGHTS OF FEDERAL EMPLOYEES WHO BECOME EMPLOYED BY THE AUTHORITY.—

"(1) IN GENERAL.—Any Federal employee who becomes employed by the Authority—

"(A) may elect, for the purposes set forth in paragraph (2)(A), to be treated, for so long as that individual remains continuously employed by the Authority, as if such individual had not separated from service with the Federal Government, subject to paragraph (3); and

"(B) shall, if such employee subsequently becomes reemployed by the Federal Government, be entitled to have such individual's service with the Authority treated, for purposes of determining the appropriate leave accrual rate, as if it had been service with the Federal Government.

"(2) EFFECT OF AN ELECTION.—An election made by an individual under the provisions of paragraph (1)(A)—

"(A) shall qualify such individual for the treatment describe in such provisions for purposes of—

"(i) chapter 83 or 84 of title 5, United States Code, as appropriate (relating to retirement), including the Thrift Savings Plan;

"(ii) chapter 87 of such title (relating to life insurance); and

"(iii) chapter 89 of such title (relating to health insurance); and

"(B) shall disqualify such individual, while such election remains in effect, from participating in the programs offered by the government of the District of Columbia (if any) corresponding to the respective programs referred to in subparagraph (A).

"(3) CONDITIONS FOR AN ELECTION TO BE EFFECTIVE.—An election made by an individual under paragraph (1)(A) shall be ineffective unless—

"(A) it is made before such individual separates from service with the Federal Government; and

"(B) such individual's service with the Authority commences within 3 days after so separating (not counting any holiday observed by the government of the District of Columbia).

"(4) CONTRIBUTIONS.—If an individual makes an election under paragraph (1)(A), the Authority shall, in accordance with applicable provisions of law referred to in paragraph (2)(A), be responsible for making the same deductions from pay and the same agency contributions as would be required if it were a Federal agency.

"(5) REGULATIONS.—Any regulations necessary to carry out this subsection shall be prescribed in consultation with the Authority by—

"(A) the Office of Personnel Management, to the extent that any program administered by the office is involved;

"(B) the appropriate office or agency of the government of the District of Columbia, to the extent that any program administered by such office or agency is involved; and

"(C) the Executive Director referred to in section 8474 of title 5, United States Code, to the extent that the Thrift Savings Plan is involved.".

"(2) OTHER INDIVIDUALS.—Section 102 of such Act is further amended by adding at the end the following:

"(f) FEDERAL BENEFITS FOR OTHERS.—

"(1) IN GENERAL.—The Office of personnel Management, in conjunction with each corresponding office or agency of the government of the District of Columbia and in consultation with the Authority, shall prescribe regulations under which any individual who becomes employed by the Authority (under circumstances other than as described in subsection (e)) may elect either—

"(A) to be deemed a Federal employee for purposes of the programs referred to in subsection (e)(2)(A) (i)–(iii); or

"(B) to participate in 1 or more of the corresponding programs offered by the government of the District of Columbia.

"(2) EFFECT OF AN ELECTION.—An individual who elects the option under subparagraph (A) or (B) of paragraph (1) shall be disqualified, while such election remains in effect, from participating in any of the programs referred to in the other such subparagraph.

"(3) DEFINITION OF 'CORRESPONDING OFFICE OR AGENCY'.—For purposes of paragraph (1), the term 'corresponding office or agency of the government of the District of Columbia' means, with respect to any program administered by the Office of Personnel Management, the office or agency responsible for administering the corresponding program (if any) offered by the government of the District of Columbia.

"(4) THRIFT SAVINGS PLAN.—To the extent that the Thrift Savings Plan is involved, the preceding provisions of this subsection shall be applied by substituting 'the Executive Director referred to in section 8474 of title 5, United States Code' for 'the Office of Personnel Management'.".

"(3) EFFECTIVE DATE; ADDITIONAL ELECTION FOR FORMER FEDERAL EMPLOYEES SERVING ON DATE OF ENACTMENT; ELECTION FOR EMPLOYEES APPOINTED DURING INTERIM PERIOD.—

"(A) EFFECTIVE DATE.—Not later than 6 months after the date of enactment of this Act, there shall be prescribed in consultation with the Authority (and take effect)—

"(i) regulations to carry out the amendments made by this subsection; and

"(ii) any other regulations necessary to carry out this subsection.

"(B) ADDITIONAL ELECTION FOR FORMER FEDERAL EMPLOYEES SERVING ON DATE OF ENACTMENT.—

"(i) IN GENERAL.—Any former Federal employee employed by the Authority on the effective date of the regulations referred to in subparagraph (A)(i) may, within such period as may be provided for under those regulations, make an election similar, to the maximum extent practicable, to the election provided for under section 102(e) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, as amended by this subsection. Such regulations shall be prescribed jointly by the Office of Personnel Management and each corresponding office or agency of the government of the District of Columbia (in the same manner as provided for in section 102(f) of such Act, as so amended).

"(ii) EXCEPTION.—An election under this subparagraph may not be made by any individual who—

"(I) is not then participating in a retirement system for Federal employees (disregarding Social Security); or

"(II) is then participating in any program of the government of the District of Columbia referred to in section 102(e)(2)(B) of such Act (as so amended).

(C) ELECTION FOR EMPLOYEES APPOINTED DURING INTERIM PERIOD.—

(i) FROM THE FEDERAL GOVERNMENT.—Subsection (e) of section 102 of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 (as last in effect before the date of enactment of this Act) shall be deemed to have remained in effect for purposes of any Federal employee who becomes employed by the District of Columbia Financial Responsibility and Management Assistance Authority during the period beginning on such date of enactment and ending on the day before the effective date of the regulations prescribed to carry out subparagraph (B).

(ii) OTHER INDIVIDUALS.—The regulations prescribed to carry out subsection (f) of section 102 of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 (as amended by this subsection) shall include provisions under which an election under such subsection shall be available to any individual who—

(I) becomes employed by the District of Columbia Financial Responsibility and Management Assistance Authority during the period beginning on the date of enactment of this Act and ending on the day before the effective date of such regulations;

(II) would have been eligible to make an election under such regulations had those regulations been in effect when such individual became so employed; and

(III) is not then participating in any program of the government of the District of Columbia referred to in subsection (f)(1)(B) of such section 102 (as so amended).

(c) EXEMPTION FROM LIABILITY FOR CLAIMS FOR AUTHORITY EMPLOYEES.—Section 104 of such Act is amended—

(1) by striking "the Authority and its members" and inserting "the Authority, its members, and its employees"; and

(2) by striking "the District of Columbia" and inserting "the Authority or its members or employees or the District of Columbia".

(d) PERMITTING REVIEW OF EMERGENCY LEGISLATION.—Section 203(a)(3) of such Act is amended by striking subparagraph (C).

ESTABLISHMENT OF EXCLUSIVE ACCOUNTS FOR BLUE PLAINS ACTIVITIES

SEC. 154. (a) OPERATION AND MAINTENANCE ACCOUNT.—

(1) CONTENTS OF ACCOUNT.—There is hereby established within the Water and Sewer Enterprise Fund the Operation and Maintenance Account, consisting of all fund paid to the District of Columbia on or after the date of the enactment of this Act which are—

(A) attributable to waste water treatment user charges;

(B) paid by users jurisdictions for the operation and maintenance of the Blue Plains Wastewater Treatment Facility and related waste water treatment works; or

(C) appropriated or otherwise provided for the operation and maintenance of the Blue Plains Wastewater Treatment Facility and related waste water treatment works.

(2) USE OF FUNDS IN ACCOUNT.—Funds in the Operation and Maintenance Account shall be used solely for funding the operation and maintenance of the Blue Plains Wastewater Treatment Facility and related waste water treatment works and may not be obligated or expended for any other purpose, and may be used for related debt service and capital costs if such funds are not attributable to user charges assessed for purposes of section 204(b)(1) of the Federal Water Pollution Control Act.

(b) EPA GRANT ACCOUNT.—

(1) CONTENTS OF ACCOUNT.—There is hereby established within the Water and Sewer Enterprise Fund and EPA Grant Account, consisting of all funds paid to the District of Columbia on or after the date of the enactment of this Act which are—

(A) attributable to grants from the Environmental Protection Agency for construction at the Blue Plains Wastewater Treatment Facility and related waste water treatment works; or

(B) appropriated or otherwise provided for construction at the Blue Plains Wastewater Treatment Facility and related waste water treatment works.

(2) USE OF FUNDS IN ACCOUNT.—Funds in the EPA Grant Account shall be used solely for the purposes specified under the terms of the grants and appropriations involved, and may not be obligated or expended for any other purpose.

SEC. 155. (a) Up to 50 police officers and up to 50 Fire and Emergency Medical Services members who were hired before February 14, 1980, and who retire on disability before the end of calendar year 1996 shall be excluded from the computation of the rate of disability retirements under subsection 145(a) of the District of Columbia Retirement Reform Act of 1979 (93 Stat. 882; D.C. Code, sec. 1–725(a)), for purposes of reducing the authorized Federal payment to the District of Columbia Police Offices and Fire Fighters' Retirement Fund pursuant to subsection 145(c) of the District of Columbia Retirement Reform Act of 1979.

(b) The Mayor, within 30 days after the enactment of this provision, shall engage an enrolled actuary, to be paid by the District of Columbia Retirement Board, and shall comply with the requirements of section 142(d) and section 144(d) of the District of Columbia Retirement Reform Act of 1979 (Public Law 96–122, approved November 17, 1979; D.C. Code, secs. 1–722(d) and 1–724(d)).

This title may be cited as the "District of Columbia Appropriations Act, 1996".

TITLE II—DISTRICT OF COLUMBIA SCHOOL REFORM

SEC. 2001. SHORT TITLE.

This title may be cited as the "District of Columbia School Reform Act of 1995".

SEC. 2002. DEFINITIONS.

Except as otherwise provided, for purposes of this title:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means—

(A) the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate;

(B) the Committee on Economic and Educational Opportunities of the House of Representatives and the Committee on Labor and Human Resources of the Senate; and

(C) the Committee on Government Reform and Oversight of the House of Representatives and the Committee on Governmental Affairs of the Senate.

(2) AUTHORITY.—The term "Authority" means the District of Columbia Financial Responsibility and Management Assistance Authority established under section 101(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 (Public Law 104–8).

(3) AVERAGE DAILY ATTENDANCE.—The term "average daily attendance" means the aggregate attendance of students of the school during the period divided by the number of days during the period in which—

(A) the school is in session; and

(B) the students of the school are under the guidance and direction of teachers.

(4) AVERAGE DAILY MEMBERSHIP.—The term "average daily membership" means the aggregate enrollment of students of the school during the period divided by the number of days during the period in which—

(A) the school is in session; and

(B) the students of the school are under the guidance and direction of teachers.

(5) BOARD OF EDUCATION.—The term "Board of Education" means the Board of Education of the District of Columbia.

(6) BOARD OF TRUSTEES.—The term "Board of Trustees" means the governing board of a public charter school, the members of which are selected pursuant to the charter granted to the school and in a manner consistent with this title.

(7) CONSENSUS COMMISSION.—The term "Consensus Commission" means the Commission on Consensus Reform in the District of Columbia public schools established under subtitle L.

(8) CORE CURRICULUM.—The term "core curriculum" means the concepts, factual knowledge, and skills that students in the District of Columbia should learn in kindergarten through

grade 12 in academic content areas, including, at a minimum, English, mathematics, science, and history.

(9) DISTRICT OF COLUMBIA COUNCIL.—The term "District of Columbia Council" means the Council of the District of Columbia established pursuant to section 401 of the District of Columbia Self-Government and Governmental Reorganization Act (D.C. Code, sec. 1–221).

(10) DISTRICT OF COLUMBIA GOVERNMENT.—

(A) IN GENERAL.—The term "District of Columbia Government" means the government of the District of Columbia, including—

(i) any department, agency, or instrumentality of the government of the District of Columbia;

(ii) any independent agency of the District of Columbia established under part F of title IV of the District of Columbia Self-Government and Governmental Reorganization Act;

(iii) any other agency, board, or commission established by the Mayor or the District of Columbia Council;

(iv) the courts of the District of Columbia;

(v) the District of Columbia Council; and

(vi) any other agency, public authority, or public nonprofit corporation that has the authority to receive moneys directly or indirectly from the District of Columbia (other than moneys received from the sale of goods, the provision of services, or the loaning of funds to the District of Columbia).

(B) EXCEPTION.—The term "District of Columbia Government" neither includes the Authority nor a public charter school.

(11) DISTRICT OF COLUMBIA GOVERNMENT RETIREMENT SYSTEM.—The term "District of Columbia Government retirement system" means the retirement programs authorized by the District of Columbia Council or the Congress for employees of the District of Columbia Government.

(12) DISTRICT OF COLUMBIA PUBLIC SCHOOL.—

(A) IN GENERAL.—The term "District of Columbia public school" means a public school in the District of Columbia that offers classes—

(i) at any of the grade levels from prekindergarten through grade 12; or

(ii) leading to a secondary school diploma, or its recognized equivalent.

(B) EXCEPTION.—The term "District of Columbia public school" does not include a public charter school.

(13) DISTRICTWIDE ASSESSMENTS.—The term "districtwide assessments" means a variety of assessment tools and strategies (including individual student assessments under subparagraph (E)(ii)) administered by the Superintendent to students enrolled in District of Columbia public schools and public charter schools that—

(A) are aligned with the District of Columbia's content standards and core curriculum;

(B) provide coherent information about student attainment of such standards;

(C) are used for purposes for which such assessments are valid, reliable, and unbiased, and are consistent with relevant nationally recognized professional and technical standards for such assessments;

(D) involve multiple up-to-date measures of student performance, including measures that assess higher order thinking skills and understanding; and

(E) provide for—

(i) the participation in such assessments of all students;

(ii) individual student assessments for students that fail to reach minimum acceptable levels of performance;

(iii) the reasonable adaptations and accommodations for students with special needs (as defined in paragraph (32)) necessary to measure the achievement of such students relative to the District of Columbia's content standards; and

(iv) the inclusion of limited-English proficient students, who shall be assessed, to the extent practicable, in the language and form most likely to yield accurate and reliable information regarding such students' knowledge and abilities.

(14) ELECTRONIC DATA TRANSFER SYSTEM.—The term "electronic data transfer system" means a computer-based process for the maintenance and transfer of student records designed to permit the transfer of individual student records among District of Columbia public schools and public charter schools.

(15) ELEMENTARY SCHOOL.—The term "elementary school" means an institutional day or residential school that provides elementary education, as determined under District of Columbia law.

(16) ELIGIBLE APPLICANT.—The term "eligible applicant" means a person, including a private, public, or quasi-public entity, or an institution of higher education (as defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a))), that seeks to establish a public charter school in the District of Columbia.

(17) ELIGIBLE CHARTERING AUTHORITY.—The term "eligible chartering authority" means any of the following:

(A) The Board of Education.

(B) The Public Charter School Board.

(C) Any one entity designated as an eligible chartering authority by enactment of a bill by the District of Columbia Council after the date of the enactment of this Act.

(18) FAMILY RESOURCE CENTER.—The term "family resource center" means an information desk—

(A) located in a District of Columbia public school or a public charter school serving a majority of students whose family income is not greater than 185 percent of the income official 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 applicable to a family of the size involved (42 U.S.C. 9902(3))); and

(B) which links students and families to local resources and public and private entities involved in child care, adult education, health and social services, tutoring, mentoring, and job training.

(19) INDIVIDUAL CAREER PATH.—The term "individual career path" means a program of study that provides a secondary school student the skills necessary to compete in the 21st century workforce.

(20) LITERACY.—The term "literacy" means—

(A) in the case of a minor student, such student's ability to read, write, and speak in English, and compute and solve problems at levels of proficiency necessary to function in society, to achieve such student's goals, and develop such student's knowledge and potential; and

(B) in the case of an adult, such adult's ability to read, write, and speak in English, and compute and solve problems at levels of proficiency necessary to function on the job and in society, to achieve such adult's goals, and develop such adult's knowledge and potential.

(21) LONG-TERM REFORM PLAN.—The term "long-term reform plan" means the plan submitted by the Superintendent under section 2101.

(22) MAYOR.—The term "Mayor" means the Mayor of the District of Columbia.

(23) METROBUS AND METRORAIL TRANSIT SYSTEM.—The term "Metrobus and Metrorail Transit System" means the bus and rail systems administered by the Washington Metropolitan Area Transit Authority.

(24) MINOR STUDENT.—The term "minor student" means an individual who—

(A) is enrolled in a District of Columbia public school or a public charter school; and

(B) is not beyond the age of compulsory school attendance, as prescribed in section 1 of article I, and section 1 of article II, of the Act of February 4, 1925 (sections 31–401 and 31–402, D.C. Code).

(25) NONRESIDENT STUDENT.—The term "nonresident student" means—

(A) an individual under the age of 18 who is enrolled in a District of Columbia public school or a public charter school, and does not have a parent residing in the District of Columbia; or

(B) an individual who is age 18 or older and is enrolled in a District of Columbia public school or public charter school, and does not reside in the District of Columbia.

(26) PARENT.—The term "parent" means a person who has custody of a child, and who—

(A) is a natural parent of the child;

(B) is a stepparent of the child;

(C) has adopted the child; or

(D) is appointed as a guardian for the child by a court of competent jurisdiction.

(27) PETITION.—The term "petition" means a written application.

(28) PROMOTION GATE.—The term "promotion gate" means the criteria, developed by the Superintendent and approved by the Board of Education, that are used to determine student promotion at different grade levels. Such criteria shall include student achievement on districtwide assessments established under subtitle D.

(29) PUBLIC CHARTER SCHOOL.—The term "public charter school" means a publicly funded school in the District of Columbia that—

(A) is established pursuant to subtitle B; and

(B) except as provided under sections 2212(d)(5) and 2213(c)(5) is not a part of the District of Columbia public schools.

(30) PUBLIC CHARTER SCHOOL BOARD.—The term "Public Charter School Board" means the Public Charter School Board established under section 2214.

(31) SECONDARY SCHOOL.—The term "secondary school" means an institutional day or residential school that provides secondary education, as determined by District of Columbia law, except that such term does not include any education beyond grade 12.

(32) STUDENT WITH SPECIAL NEEDS.—The term "student with special needs" means a student who is a child with a disability as provided in section 602(a)(1) of the Individuals with Disabilities Education Act (20 U.S.C. 1401(a)(1)) or a student who is an individual with a disability as provided in section 7(8) of the Rehabilitation Act of 1973 (29 U.S.C. 706(8)).

(33) SUPERINTENDENT.—The term "Superintendent" means the Superintendent of the District of Columbia public schools.

(34) TEACHER.—The term "teacher" means any person employed as a teacher by the Board of Education or by a public charter school.

SEC. 2003. GENERAL EFFECTIVE DATE.

Except as otherwise provided in this title, this title shall be effective during the period beginning on the date of enactment of this Act and ending 5 years after such date.

Subtitle A—District of Columbia Reform Plan

SEC. 2101. LONG-TERM REFORM PLAN.

(a) IN GENERAL.—

(1) PLAN.—The Superintendent, with the approval of the Board of Education, shall submit to the Mayor, the District of Columbia Council, the Authority, the Consensus Commission, and the appropriate congressional committees, a long-term reform plan, not later than 90 days after the date of enactment of this Act, and each February 15 thereafter. The long-term reform plan shall be consistent with the financial plan and budget for the District of Columbia for fiscal year 1996, and each financial plan and budget for a subsequent fiscal year, as the case may be, required under section 201 of the District of Columbia Financial Responsibility and Management Assistance Act of 1995.

(2) CONSULTATION.—

(A) IN GENERAL.—In developing the long-term reform plan, the Superintendent—

(i) shall consult with the Board of Education, the Mayor, the District of Columbia Council, the Authority, and the Consensus Commission; and

(ii) shall afford the public, interested organizations, and groups an opportunity to present their views and make recommendations regarding the long-term reform plan.

(B) SUMMARY OF RECOMMENDATIONS.—The Superintendent shall include in the long-term plan a summary of the recommendations made under subparagraph (A)(ii) and the response of the Superintendent to the recommendations.

(b) CONTENTS.—

(1) AREAS TO BE ADDRESSED.—The long-term reform plan shall describe how the District of Columbia public schools will become a world-class education system that prepares students for lifetime learning in the 21st century and which is on a par with the best education systems of other cities, States, and nations. The long-term reform plan shall include a description of how the District of Columbia public schools will accomplish the following:

(A) Achievement at nationally and internationally competitive levels by students attending District of Columbia public schools.

(B) The preparation of students for the workforce, including—

(i) providing special emphasis for students planning to obtain a postsecondary education; and

(ii) the development of individual career paths.

(C) The improvement of the health and safety of students in District of Columbia public schools.

(D) Local school governance, decentralization, autonomy, and parental choice among District of Columbia public schools.

(E) The implementation of a comprehensive and effective adult education and literacy program.

(F) The identification, beginning in grade 3, of each student who does not meet minimum standards of academic achievement in reading, writing, and mathematics in order to ensure that such student meets such standards prior to grade promotion.

(G) The achievement of literacy, and the possession of the knowledge and skills necessary to think critically, communicate effectively, and perform competently on districtwide assessments, by students attending District of Columbia public schools prior to such student's completion of grade 8.

(H) The establishment of after-school programs that promote self-confidence, self-discipline, self-respect, good citizenship, and respect for leaders, through such activities as arts classes, physical fitness programs, and community service.

(I) Steps necessary to establish an electronic data transfer system.

(J) Encourage parental involvement in all school activities, particularly parent teacher conferences.

(K) Development and implementation, through the Board of Education and the Superintendent, of a uniform dress code for the District of Columbia public schools, that—

(i) shall include a prohibition of gang membership symbols;

(ii) shall take into account the relative costs of any such code for each student; and

(iii) may include a requirement that students wear uniforms.

(L) The establishment of classes, beginning not later than grade 3, to teach students how to use computers effectively.

(M) The development of community schools that enable District of Columbia public schools to collaborate with other public and nonprofit agencies and organizations, local businesses, recreational, cultural, and other community and human service entities, for the purpose of meeting the needs and expanding the opportunities available to residents of the communities served by such schools.

(N) The establishment of programs which provide counseling, mentoring (especially peer mentoring), academic support, outreach, and supportive services to elementary, middle, and secondary school students who are at risk of dropping out of school.

(O) The establishment of a comprehensive remedial education program to assist students who do not meet basic literacy standards, or the criteria of promotion gates established in section 2421.

(P) The establishment of leadership development projects for middle school principals, which projects shall increase student learning and achievement and strengthen such principals as instructional school leaders.

(Q) The implementation of a policy for performance-based evaluation of principals and teachers, after consultation with the Superintendent and unions (including unions that represent teachers and unions that represent principals).

(R) The implementation of policies that require competitive appointments for all District of Columbia public school positions.

(S) The implementation of policies regarding alternative teacher certification requirements.

(T) The implementation of testing requirements for teacher licensing renewal.

(U) A review of the District of Columbia public school central office budget and staffing reductions for each fiscal year compared to the level of such budget and reductions at the end of fiscal year 1995.

(V) The implementation of the discipline policy for the District of Columbia public schools in order to ensure a safe, disciplined environment conducive to learning.

(2) OTHER INFORMATION.—For each of the items described in subparagraphs (A) through (V) of paragraph (1), the long-term reform plan shall include—

(A) a statement of measurable, objective performance goals;

(B) a description of the measures of performance to be used in determining whether the Superintendent and Board of Education have met the goals;

(C) dates by which the goals shall be met;

(D) plans for monitoring and reporting progress to District of Columbia residents, the Mayor, the District of Columbia Council, the Authority, the Consensus Commission, and the appropriate congressional committees regarding the carrying out of the long-term reform plan; and

(E) the title of the management employee of the District of Columbia public schools most directly responsible for the achievement of each goal and, with respect to each such employee, the title of the employee's immediate supervisor or superior.

(c) AMENDMENTS.—The Superintendent, with the approval of the Board of Education, shall submit any amendment to the long-term reform plan to the Mayor, the District of Columbia Council, the Authority, the Consensus Commission, and the appropriate congressional committees. Any amendment to the long-term reform plan shall be consistent with the financial plan and budget for fiscal year 1996, and each financial plan and budget for a subsequent fiscal year, as the case may be, for the District of Columbia required under section 201 of the District of Columbia Financial Responsibility and Management Assistance Act of 1995.

Subtitle B—Public Charter Schools

SEC. 2201. PROCESS FOR FILING CHARTER PETITIONS.

(a) EXISTING PUBLIC SCHOOL.—An eligible applicant seeking to convert a District of Columbia public school into a public charter school—

(1) shall prepare a petition to establish a public charter school that meets the requirements of section 2202;

(2) shall provide a copy of the petition to—

(A) the parents of minor students attending the existing school;

(B) adult students attending the existing school; and

(C) employees of the existing school; and

(3) shall file the petition with an eligible chartering authority for approval after the petition—

(A) is signed by two-thirds of the sum of—

(i) the total number of parents of minor students attending the school; and

(ii) the total number of adult students attending the school; and

(B) is endorsed by at least two-thirds of full-time teachers employed in the school.

(b) PRIVATE OR INDEPENDENT SCHOOL.—An eligible applicant seeking to convert an existing private or independent school in the District of Columbia into a public charter school—

(1) shall prepare a petition to establish a public charter school that is approved by the Board of Trustees or authority responsible for the school and that meets the requirements of section 2202;

(2) shall provide a copy of the petition to—

(A) the parents of minor students attending the existing school;

(B) adult students attending the existing school; and

(C) employees of the existing school; and

(3) shall file the petition with an eligible chartering authority for approval after the petition—

(A) is signed by two-thirds of the sum of—

(i) the total number of parents of minor students attending the school; and

(ii) the total number of adult students attending the school; and

(B) is endorsed by at least two-thirds of full-time teachers employed in the school.

(c) NEW SCHOOL.—An eligible applicant seeking to establish in the District of Columbia a public charter school, but not seeking to convert a District of Columbia public school or a private or independent school into a public charter school, shall file with an eligible chartering authority for approval a petition to establish a public charter school that meets the requirements of section 2202.

SEC. 2202. CONTENTS OF PETITION.

A petition under section 2201 to establish a public charter school shall include the following:

(1) A statement defining the mission and goals of the proposed school and the manner in which the school will meet the content standards, and conduct the districtwide assessments, described in section 2411(b).

(2) A statement of the need for the proposed school in the geographic area of the school site.

(3) A description of the proposed instructional goals and methods for the proposed school, which shall include, at a minimum—

(A) the area of focus of the proposed school, such as mathematics, science, or the arts, if the school will have such a focus;

(B) the methods that will be used, including classroom technology, to provide students with the knowledge, proficiency, and skills needed—

(i) to become nationally and internationally competitive students and educated individuals in the 21st century; and

(ii) to perform competitively on any districtwide assessments; and

(C) the methods that will be used to improve student self-motivation, classroom instruction, and learning for all students.

(4) A description of the scope and size of the proposed school's program that will enable students to successfully achieve the goals established by the school, including the grade levels to be served by the school and the projected and maximum enrollment of each grade level.

(5) A description of the plan for evaluating student academic achievement at the proposed school and the procedures for remedial action that will be used by the school when the academic achievement of a student falls below the expectations of the school.

(6) An operating budget for the first 2 years of the proposed school that is based on anticipated enrollment and contains—

(A) a description of the method for conducting annual audits of the financial, administrative, and programmatic operations of the school;

(B) either—

(i) an identification of the site where the school will be located, including a description of any buildings on the site and any buildings proposed to be constructed on the site; or

(ii) a timetable by which such an identification will be made;

(C) a description of any major contracts planned, with a value equal to or exceeding $10,000, for equipment and services, leases, improvements, purchases of real property, or insurance; and

(D) a timetable for commencing operations as a public charter school.

(7) A description of the proposed rules and policies for governance and operation of the proposed school.

(8) Copies of the proposed articles of incorporation and bylaws of the proposed school.

(9) The names and addresses of the members of the proposed Board of Trustees and the procedures for selecting trustees.

(10) A description of the student enrollment, admission, suspension, expulsion, and other disciplinary policies and procedures of the proposed school, and the criteria for making decisions in such areas.

(11) A description of the procedures the proposed school plans to follow to ensure the health and safety of students, employees, and guests of the school and to comply with applicable health and safety laws, and all applicable civil rights statutes and regulations of the Federal Government and the District of Columbia.

(12) An explanation of the qualifications that will be required of employees of the proposed school.

(13) An identification, and a description, of the individuals and entities submitting the petition, including their names and addresses, and the names of the organizations or corporations of which such individuals are directors or officers.

(14) A description of how parents, teachers, and other members of the community have been involved in the design and will continue to be involved in the implementation of the proposed school.

(15) A description of how parents and teachers will be provided an orientation and other training to ensure their effective participation in the operation of the public charter school.

(16) An assurance the proposed school will seek, obtain, and maintain accreditation from at least one of the following:

(A) The Middle States Association of Colleges and Schools.

(B) The Association of Independent Maryland Schools.

(C) The Southern Association of Colleges and Schools.

(D) The Virginia Association of Independent Schools.

(E) American Montessori Internationale.

(F) The American Montessori Society.

(G) The National Academy of Early Childhood Programs.

(H) Any other accrediting body deemed appropriate by the eligible chartering authority that granted the charter to the school.

(17) In the case that the proposed school's educational program includes preschool or prekindergarten, an assurance the proposed school will be licensed as a child development center by the District of Columbia Government not later than the first date on which such program commences.

(18) An explanation of the relationship that will exist between the public charter school and the school's employees.

(19) A statement of whether the proposed school elects to be treated as a local educational agency or a District of Columbia public school for purposes of part B of the Individuals With Disabilities Education Act (20 U.S.C. 1411 et seq.) and section 504 of the Rehabilitation Act of 1973 (20 U.S.C. 794), and notwithstanding any other provision of law the eligible chartering authority shall not have the authority to approve or disapprove such election.

SEC. 2203. PROCESS FOR APPROVING OR DENYING PUBLIC CHARTER SCHOOL PETITIONS.

(a) SCHEDULE.—An eligible chartering authority shall establish a schedule for receiving petitions to establish a public charter school and shall publish any such schedule in the District of Columbia Register and newspapers of general circulation.

(b) PUBLIC HEARING.—Not later than 45 days after a petition to establish a public charter school is filed with an eligible chartering authority, the eligible chartering authority shall hold a public hearing on the petition to gather the information that is necessary for the eligible chartering authority to make the decision to approve or deny the petition.

(c) NOTICE.—Not later than 10 days prior to the scheduled date of a public hearing on a petition to establish a public charter school, an eligible chartering authority—

(1) shall publish a notice of the hearing in the District of Columbia Register and newspapers of general circulation; and

(2) shall send a written notification of the hearing date to the eligible applicant who filed the petition.

(d) APPROVAL.—Subject to subsection (i), an eligible chartering authority may approve a petition to establish a public charter school, if—

(1) the eligible chartering authority determines that the petition satisfies the requirements of this subtitle;

(2) the eligible applicant who filed the petition agrees to satisfy any condition or requirement, consistent with this subtitle and other applicable law, that is set forth in writing by the eligible chartering authority as an amendment to the petition; and

(3) the eligible chartering authority determines that the public charter school has the ability to meet the educational objectives outlined in the petition.

(e) TIMETABLE.—An eligible chartering authority shall approve or deny a petition to establish a public charter school not later than 45 days after the conclusion of the public hearing on the petition.

(f) EXTENSION.—An eligible chartering authority and an eligible applicant may agree to extend the 45-day time period referred to in subsection (e) by a period that shall not exceed 30 days.

(g) DENIAL EXPLANATION.—If an eligible chartering authority denies a petition or finds the petition to be incomplete, the eligible chartering authority shall specify in writing the reasons for its decision and indicate, when the eligible chartering authority determines appropriate, how the eligible applicant who filed the petition may revise the petition to satisfy the requirements for approval.

(h) APPROVED PETITION.—

(1) NOTICE.—Not later than 10 days after an eligible chartering authority approves a petition to establish a public charter school, the eligible chartering authority shall provide a written notice of the approval, including a copy of the approved petition and any conditions or requirements agreed to under subsection (d)(2), to the eligible applicant and to the Chief Financial Officer of the District of Columbia. The eligible chartering authority shall publish a notice of the approval of the petition in the District of Columbia Register and newspapers of general circulation.

(2) CHARTER.—The provisions described in paragraphs (1), (7), (8), (11), (16), (17), and (18) of section 2202 of a petition to establish a public charter school that are approved by an eligible chartering authority, together with any amendments to the petition containing conditions or requirements agreed to by the eligible applicant under subsection (d)(2), shall be considered a charter granted to the school by the eligible chartering authority.

(i) NUMBER OF PETITIONS.—

(1) FIRST YEAR.—For academic year 1996–1997, not more than 10 petitions to establish public charter schools may be approved under this subtitle.

(2) SUBSEQUENT YEARS.—For academic year 1997–1998 and each academic year thereafter each eligible chartering authority shall not approve more than 5 petitions to establish a public charter school under this subtitle.

(j) EXCLUSIVE AUTHORITY OF THE ELIGIBLE CHARTERING AUTHORITY.—No governmental entity, elected official, or employee of the District of Columbia shall make, participate in making, or intervene in the making of, the decision to approve or deny a petition to establish a public charter school, except for officers or employees of the eligible chartering authority with which the petition is filed.

SEC. 2204. DUTIES, POWERS, AND OTHER REQUIREMENTS, OF PUBLIC CHARTER SCHOOLS.

(a) DUTIES.—A public charter school shall comply with all of the terms and provisions of its charter.

(b) POWERS.—A public charter school shall have the following powers:

(1) To adopt a name and corporate seal, but only if the name selected includes the words "public charter school".

(2) To acquire real property for use as the public charter school's facilities, from public or private sources.

(3) To receive and disburse funds for public charter school purposes.

(4) Subject to subsection (c)(1), to secure appropriate insurance and to make contracts and leases, including agreements to procure or purchase services, equipment, and supplies.

(5) To incur debt in reasonable anticipation of the receipt of funds from the general fund of the District of Columbia or the receipt of Federal or private funds.

(6) To solicit and accept any grants or gifts for public charter school purposes, if the public charter school—

(A) does not accept any grants or gifts subject to any condition contrary to law or contrary to its charter; and

(B) maintains for financial reporting purposes separate accounts for grants or gifts.

(7) To be responsible for the public charter school's operation, including preparation of a budget and personnel matters.

(8) To sue and be sued in the public charter school's own name.

(c) PROHIBITIONS AND OTHER REQUIREMENTS.—

(1) CONTRACTING AUTHORITY.—

(A) NOTICE REQUIREMENT.—Except in the case of an emergency (as determined by the eligible chartering authority of a public charter school), with respect to any contract proposed to be awarded by the public charter school and having a value equal to or exceeding $10,000, the school shall publish a notice of a request for proposals in the District of Columbia Register and newspapers of general circulation not less than 30 days prior to the award of the contract.

(B) SUBMISSION TO THE AUTHORITY.—

(i) DEADLINE FOR SUBMISSION.—With respect to any contract described in subparagraph (A) that is awarded by a public charter school, the school shall submit to the Authority, not later than 3 days after the date on which the award is made, all bids for the contract received by the school, the name of the contractor who is awarded the contract, and the rationale for the award of the contract.

(ii) EFFECTIVE DATE OF CONTRACT.—

(I) IN GENERAL.—Subject to subclause (II), a contract described in subparagraph (A) shall become effective on the date that is 15 days after the date the school makes the submission under clause (i) with respect to the contract, or the effective date specified in the contract, whichever is later.

(II) EXCEPTION.—A contract described in subparagraph (A) shall be considered null and void if the Authority determines, within 12 days of the date the school makes the submission under clause (i) with respect to the contract, that the contract endangers the economic viability of the public charter school.

(2) TUITION.—A public charter school may not charge tuition, fees, or other mandatory payments, except to nonresident students, or for field trips or similar activities.

(3) CONTROL.—A public charter school—

(A) shall exercise exclusive control over its expenditures, administration, personnel, and instructional methods, within the limitations imposed in this subtitle; and

(B) shall be exempt from District of Columbia statutes, policies, rules, and regulations established for the District of Columbia public schools by the Superintendent, Board of Education, Mayor, District of Columbia Council, or Authority, except as otherwise provided in the school's charter or this subtitle.

(4) HEALTH AND SAFETY.—A public charter school shall maintain the health and safety of all students attending such school.

(5) CIVIL RIGHTS AND IDEA.—The Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.), and the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), shall apply to a public charter school.

(6) GOVERNANCE.—A public charter school shall be governed by a Board of Trustees in a manner consistent with the charter granted to the school and the provisions of this subtitle.

(7) OTHER STAFF.—No employee of the District of Columbia public schools may be required to accept employment with, or be assigned to, a public charter school.

(8) OTHER STUDENTS.—No student enrolled in a District of Columbia public school may be required to attend a public charter school.

(9) TAXES OR BONDS.—A public charter school shall not levy taxes or issue bonds.

(10) CHARTER REVISION.—A public charter school seeking to revise its charter shall prepare a petition for approval of the revision and file the petition with the eligible chartering authority that granted the charter. The provisions of section 2203 shall apply to such a petition in the same manner as such provisions apply to a petition to establish a public charter school.

(11) ANNUAL REPORT.—

(A) IN GENERAL.—A public charter school shall submit an annual report to the eligible chartering authority that approved its charter and to the Consensus Commission. The school shall permit a member of the public to review any such report upon request.

(B) CONTENTS.—A report submitted under subparagraph (A) shall include the following data:

(i) A report on the extent to which the school is meeting its mission and goals as stated in the petition for the charter school.

(ii) Student performance on any districtwide assessments.

(iii) Grade advancement for students enrolled in the public charter school.

(iv) Graduation rates, college admission test scores, and college admission rates, if applicable.

(v) Types and amounts of parental involvement.

(vi) Official student enrollment.

(vii) Average daily attendance.

(viii) Average daily membership.

(ix) A financial statement audited by an independent certified public accountant in accordance with Government auditing standards for financial audits issued by the Comptroller General of the United States.

(x) A report on school staff indicating the qualifications and responsibilities of such staff.

(xi) A list of all donors and grantors that have contributed monetary or in-kind donations having a value equal to or exceeding $500 during the year that is the subject of the report.

(C) NONIDENTIFYING DATA.—Data described in clauses (i) through (ix) of subparagraph (B) that are included in an annual report shall not identify the individuals to whom the data pertain.

(12) CENSUS.—A public charter school shall provide to the Board of Education student enrollment data necessary for the Board of Education to comply with section 3 of article II of the Act of February 4, 1925 (D.C. Code, sec. 31-404) (relating to census of minors).

(13) COMPLAINT RESOLUTION PROCESS.—A public charter school shall establish an informal complaint resolution process.

(14) PROGRAM OF EDUCATION.—A public charter school shall provide a program of education which shall include one or more of the following:

(A) Preschool.

(B) Prekindergarten.

(C) Any grade or grades from kindergarten through grade 12.

(D) Adult, community, continuing, and vocational education programs.

(15) NONSECTARIAN NATURE OF SCHOOLS.—A public charter school shall be nonsectarian and shall not be affiliated with a sectarian school or religious institution.

(16) NONPROFIT STATUS OF SCHOOL.—A public charter school shall be organized under the District of Columbia Nonprofit Corporation Act (D.C. Code, sec. 29-501 et seq.).

(17) IMMUNITY FROM CIVIL LIABILITY.—

(A) IN GENERAL.—A public charter school, and its incorporators, Board of Trustees, officers, employees, and volunteers, shall be immune from civil liability, both personally and professionally, for any act or omission within the scope of their official duties unless the act or omission—

(i) constitutes gross negligence;

(ii) constitutes an intentional tort; or

(iii) is criminal in nature.

(B) COMMON LAW IMMUNITY PRESERVED.—Subparagraph (A) shall not be construed to abrogate any immunity under common law of a person described in such subparagraph.

SEC. 2205. BOARD OF TRUSTEES OF A PUBLIC CHARTER SCHOOL.

(a) BOARD OF TRUSTEES.—The members of a Board of Trustees of a public charter school shall be elected or selected pursuant to the charter granted to the school. Such Board of Trustees shall have an odd number of members that does not exceed 7, of which—

(1) a majority shall be residents of the District of Columbia; and

(2) at least 2 shall be parents of a student attending the school.

(b) ELIGIBILITY.—An individual is eligible for election or selection to the Board of Trustees of a public charter school if the person—

(1) is a teacher or staff member who is employed at the school;

(2) is a parent of a student attending the school; or

(3) meets the election or selection criteria set forth in the charter granted to the school.

(c) ELECTION OR SELECTION OF PARENTS.—In the case of the first Board of Trustees of a public charter school to be elected or selected after the date on which the school is granted a charter, the election or selection of the members under subsection (a)(2) shall occur on the earliest practicable date after classes at the school have commenced. Until such date, any other members who have been elected or selected shall serve as an interim Board of Trustees. Such an interim Board of Trustees may exercise all of the powers, and shall be subject to all of the duties, of a Board of Trustees.

(d) FIDUCIARIES.—The Board of Trustees of a public charter school shall be fiduciaries of the school and shall set overall policy for the school. The Board of Trustees may make final decisions on matters related to the operation of the school, consistent with the charter granted to the school, this subtitle, and other applicable law.

SEC. 2206. STUDENT ADMISSION, ENROLLMENT, AND WITHDRAWAL.

(a) OPEN ENROLLMENT.—Enrollment in a public charter school shall be open to all students who are residents of the District of Columbia and, if space is available, to nonresident students who meet the tuition requirement in subsection (e).

(b) CRITERIA FOR ADMISSION.—A public charter school may not limit enrollment on the basis of a student's race, color, religion, national origin, language spoken, intellectual or athletic ability, measures of achievement or aptitude, or status as a student with special needs. A public charter school may limit enrollment to specific grade levels.

(c) RANDOM SELECTION.—If there are more applications to enroll in a public charter school from students who are residents of the District of Columbia than there are spaces available, students shall be admitted using a random selection process.

(d) ADMISSION TO AN EXISTING SCHOOL.—During the 5-year period beginning on the date that a petition, filed by an eligible applicant seeking to convert a District of Columbia public school or a private or independent school into a public charter school, is approved, the school may give priority in enrollment to—

(1) students enrolled in the school at the time the petition is granted;

(2) the siblings of students described in paragraph (1); and

(3) in the case of the conversion of a District of Columbia public school, students who reside within the attendance boundaries, if any, in which the school is located.

(e) NONRESIDENT STUDENTS.—Nonresident students shall pay tuition to attend a public charter school at the applicable rate established for

District of Columbia public schools administered by the Board of Education for the type of program in which the student is enrolled.

(f) STUDENT WITHDRAWAL.—A student may withdraw from a public charter school at any time and, if otherwise eligible, enroll in a District of Columbia public school administered by the Board of Education.

(g) EXPULSION AND SUSPENSION.—The principal of a public charter school may expel or suspend a student from the school based on criteria set forth in the charter granted to the school.

SEC. 2207. EMPLOYEES.

(a) EXTENDED LEAVE OF ABSENCE WITHOUT PAY.—

(1) LEAVE OF ABSENCE FROM DISTRICT OF COLUMBIA PUBLIC SCHOOLS.—The Superintendent shall grant, upon request, an extended leave of absence, without pay, to an employee of the District of Columbia public schools for the purpose of permitting the employee to accept a position at a public charter school for a 2-year term.

(2) REQUEST FOR EXTENSION.—At the end of a 2-year term referred to in paragraph (1), an employee granted an extended leave of absence without pay under such paragraph may submit a request to the Superintendent for an extension of the leave of absence for an unlimited number of 2-year terms. The Superintendent may not unreasonably (as determined by the eligible chartering authority) withhold approval of the request.

(3) RIGHTS UPON TERMINATION OF LEAVE.—An employee granted an extended leave of absence without pay for the purpose described in paragraph (1) or (2) shall have the same rights and benefits under law upon termination of such leave of absence as an employee of the District of Columbia public schools who is granted an extended leave of absence without pay for any other purpose.

(b) RETIREMENT SYSTEM.—

(1) CREDITABLE SERVICE.—An employee of a public charter school who has received a leave of absence under subsection (a) shall receive creditable service, as defined in section 2604 of D.C. Law 2-139, effective March 3, 1979 (D.C. Code, sec. 1-627.4) and the rules established under such section, for the period of the employee's employment at the public charter school.

(2) AUTHORITY TO ESTABLISH SEPARATE SYSTEM.—A public charter school may establish a retirement system for employees under its authority.

(3) ELECTION OF RETIREMENT SYSTEM.—A former employee of the District of Columbia public schools who becomes an employee of a public charter school within 60 days after the date the employee's employment with the District of Columbia public schools is terminated may, at the time the employee commences employment with the public charter school, elect—

(A) to remain in a District of Columbia Government retirement system and continue to receive creditable service for the period of their employment at a public charter school; or

(B) to transfer into a retirement system established by the public charter school pursuant to paragraph (2).

(4) PROHIBITED EMPLOYMENT CONDITIONS.—No public charter school may require a former employee of the District of Columbia public schools to transfer to the public charter school's retirement system as a condition of employment.

(5) CONTRIBUTIONS.—

(A) EMPLOYEES ELECTING NOT TO TRANSFER.—In the case of a former employee of the District of Columbia public schools who elects to remain in a District of Columbia Government retirement system pursuant to paragraph (3)(A), the public charter school that employs the person shall make the same contribution to such system on behalf of the person as the District of Columbia would have been required to make if the person had continued to be an employee of the District of Columbia public schools.

(B) EMPLOYEES ELECTING TO TRANSFER.—In the case of a former employee of the District of Columbia public schools who elects to transfer into a retirement system of a public charter school pursuant to paragraph (3)(B), the applicable District of Columbia Government retirement system from which the former employee is transferring shall compute the employee's contribution to that system and transfer this amount, to the retirement system of the public charter school.

(c) EMPLOYMENT STATUS.—Notwithstanding any other provision of law and except as provided in this section, an employee of a public charter school shall not be considered to be an employee of the District of Columbia Government for any purpose.

SEC. 2208. REDUCED FARES FOR PUBLIC TRANSPORTATION.

A student attending a public charter school shall be eligible for reduced fares on the Metrobus and Metrorail Transit System on the same terms and conditions as are applicable under section 2 of D.C. Law 2-152, effective March 9, 1979 (D.C. Code, sec. 44-216 et seq.), to a student attending a District of Columbia public school.

SEC. 2209. DISTRICT OF COLUMBIA PUBLIC SCHOOL SERVICES TO PUBLIC CHARTER SCHOOLS.

The Superintendent may provide services, such as facilities maintenance, to public charter schools. All compensation for costs of such services shall be subject to negotiation and mutual agreement between a public charter school and the Superintendent.

SEC. 2210. APPLICATION OF LAW.

(a) ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—

(1) TREATMENT AS LOCAL EDUCATIONAL AGENCY.—

(A) IN GENERAL.—For any fiscal year, a public charter school shall be considered to be a local educational agency for purposes of part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.), and shall be eligible for assistance under such part, if the fraction the numerator of which is the number of low-income students enrolled in the public charter school during the fiscal year preceding the fiscal year for which the determination is made and the denominator of which is the total number of students enrolled in such public charter school for such preceding year, is equal to or greater than the lowest fraction determined for any District of Columbia public school receiving assistance under such part A where the numerator is the number of low-income students enrolled in such public school for such preceding year and the denominator is the total number of students enrolled in such public school for such preceding year.

(B) DEFINITION.—For the purposes of this subsection, the term "low-income student" means a student from a low-income family determined according to the measure adopted by the District of Columbia to carry out the provisions of part A of title I of the Elementary and Secondary Education Act of 1965 that is consistent with the measures described in section 1113(a)(5) of such Act (20 U.S.C. 6313(a)(5)) for the fiscal year for which the determination is made.

(2) ALLOCATION FOR FISCAL YEARS 1996 THROUGH 1998.—

(A) PUBLIC CHARTER SCHOOLS.—For fiscal years 1996 through 1998, each public charter school that is eligible to receive assistance under part A of title I of the Elementary and Secondary Education Act of 1965 shall receive a portion of the District of Columbia's total allocation under such part which bears the same ratio to such total allocation as the number described in subparagraph (C) bears to the number described in subparagraph (D).

(B) DISTRICT OF COLUMBIA PUBLIC SCHOOLS.—For fiscal years 1996 through 1998, the District of Columbia public schools shall receive a portion of the District of Columbia's total allocation under part A of title I of the Elementary and Secondary Education Act of 1965 which bears the same ratio to such total allocation as the total of the numbers described in clauses (ii) and (iii) of subparagraph (D) bears to the aggregate total described in subparagraph (D).

(C) NUMBER OF ELIGIBLE STUDENTS ENROLLED IN THE PUBLIC CHARTER SCHOOL.—The number described in this subparagraph is the number of low-income students enrolled in the public charter school during the fiscal year preceding the fiscal year for which the determination is made.

(D) AGGREGATE NUMBER OF ELIGIBLE STUDENTS.—The number described in this subparagraph is the aggregate total of the following numbers:

(i) The number of low-income students who, during the fiscal year preceding the fiscal year for which the determination is made, were enrolled in a public charter school.

(ii) The number of low-income students who, during the fiscal year preceding the fiscal year for which the determination is made, were enrolled in a District of Columbia public school selected to provide services under part A of title I of the Elementary and Secondary Education Act of 1965.

(iii) The number of low-income students who, during the fiscal year preceding the fiscal year for which the determination is made—

(I) were enrolled in a private or independent school; and

(II) resided in an attendance area of a District of Columbia public school selected to provide services under part A of title I of the Elementary and Secondary Education Act of 1965.

(3) ALLOCATION FOR FISCAL YEAR 1999 AND THEREAFTER.—

(A) CALCULATION BY SECRETARY.—Notwithstanding sections 1124(a)(2), 1124A(a)(4), and 1125(d) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333(a)(2), 6334(a)(4), and 6335(d)), for fiscal year 1999 and each fiscal year thereafter, the total allocation under part A of title I of such Act for all local educational agencies in the District of Columbia, including public charter schools that are eligible to receive assistance under such part, shall be calculated by the Secretary of Education. In making such calculation, such Secretary shall treat all such local educational agencies as if such agencies were a single local educational agency for the District of Columbia.

(B) ALLOCATION.—

(i) PUBLIC CHARTER SCHOOLS.—For fiscal year 1999 and each fiscal year thereafter, each public charter school that is eligible to receive assistance under part A of title I of the Elementary and Secondary Education Act of 1965 shall receive a portion of the total allocation calculated under subparagraph (A) which bears the same ratio to such total allocation as the number described in paragraph (2)(C) bears to the aggregate total described in paragraph (2)(D).

(ii) DISTRICT OF COLUMBIA PUBLIC SCHOOL.—For fiscal year 1999 and each fiscal year thereafter, the District of Columbia public schools shall receive a portion of the total allocation calculated under subparagraph (A) which bears the same ratio to such total allocation as the total of the numbers described in clauses (ii) and (iii) of paragraph (2)(D) bears to the aggregate total described in paragraph (2)(D).

(4) USE OF ESEA FUNDS.—The Board of Education may not direct a public charter school in the school's use of funds under part A of title I of the Elementary and Secondary Education Act of 1965.

(5) ESEA REQUIREMENTS.—Except as provided in paragraph (6), a public charter school receiving funds under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) shall comply with all requirements applicable to schools receiving such funds.

(6) INAPPLICABILITY OF CERTAIN ESEA PROVISIONS.—The following provisions of the Elementary and Secondary Education Act of 1965 shall not apply to a public charter school:

(A) Paragraphs (5) and (8) of section 1112(b) (20 U.S.C. 6312(b)).

(B) Paragraphs (1)(A), (1)(B), (1)(C), (1)(D), (1)(F), (1)(H), and (3) of section 1112(c) (20 U.S.C. 6312(c)).

(C) Section 1113 (20 U.S.C. 6313).

(D) Section 1115A (20 U.S.C. 6316).

(E) Subsections (a), (b), and (c) of section 1116 (20 U.S.C. 6317).

(F) Subsections (d) and (e) of section 1118 (20 U.S.C. 6319).

(G) Section 1120 (20 U.S.C. 6321).

(H) Subsections (a) and (c) of section 1120A (20 U.S.C. 6322).

(I) Section 1126 (20 U.S.C. 6337).

(b) PROPERTY AND SALES TAXES.—A public charter school shall be exempt from District of Columbia property and sales taxes.

(c) EDUCATION OF CHILDREN WITH DISABILITIES.—Notwithstanding any other provision of this title, each public charter school shall elect to be treated as a local educational agency or a District of Columbia public school for the purpose of part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.) and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

SEC. 2211. POWERS AND DUTIES OF ELIGIBLE CHARTERING AUTHORITIES.

(a) OVERSIGHT.—

(1) IN GENERAL.—An eligible chartering authority—

(A) shall monitor the operations of each public charter school to which the eligible chartering authority has granted a charter;

(B) shall ensure that each such school complies with applicable laws and the provisions of the charter granted to such school; and

(C) shall monitor the progress of each such school in meeting student academic achievement expectations specified in the charter granted to such school.

(2) PRODUCTION OF BOOKS AND RECORDS.—An eligible chartering authority may require a public charter school to which the eligible chartering authority has granted a charter to produce any book, record, paper, or document, if the eligible chartering authority determines that such production is necessary for the eligible chartering authority to carry out its functions under this subtitle.

(b) FEES.—

(1) APPLICATION FEE.—An eligible chartering authority may charge an eligible applicant a fee, not to exceed $150, for processing a petition to establish a public charter school.

(2) ADMINISTRATION FEE.—In the case of an eligible chartering authority that has granted a charter to a public charter school, the eligible chartering authority may charge the school a fee, not to exceed one-half of one percent of the annual budget of the school, to cover the cost of undertaking the ongoing administrative responsibilities of the eligible chartering authority with respect to the school that are described in this subtitle. The school shall pay the fee to the eligible chartering authority not later than November 15 of each year.

(c) IMMUNITY FROM CIVIL LIABILITY.—

(1) IN GENERAL.—An eligible chartering authority, the Board of Trustees of such an eligible chartering authority, and a director, officer, employee, or volunteer of such an eligible chartering authority, shall be immune from civil liability, both personally and professionally, for any act or omission within the scope of their official duties unless the act or omission—

(A) constitutes gross negligence;

(B) constitutes an intentional tort; or

(C) is criminal in nature.

(2) COMMON LAW IMMUNITY PRESERVED.—Paragraph (1) shall not be construed to abrogate any immunity under common law of a person described in such paragraph.

(d) ANNUAL REPORT.—On or before July 30 of each year, each eligible chartering authority that issues a charter under this subtitle shall submit a report to the Mayor, the District of Columbia Council, the Board of Education, the Secretary of Education, the appropriate congressional committees, and the Consensus Commission that includes the following information:

(1) A list of the members of the eligible chartering authority and the addresses of such members.

(2) A list of the dates and places of each meeting of the eligible chartering authority during the year preceding the report.

(3) The number of petitions received by the eligible chartering authority for the conversion of a District of Columbia public school or a private or independent school to a public charter school, and for the creation of a new school as a public charter school.

(4) The number of petitions described in paragraph (3) that were approved and the number that were denied, as well as a summary of the reasons for which such petitions were denied.

(5) A description of any new charters issued by the eligible chartering authority during the year preceding the report.

(6) A description of any charters renewed by the eligible chartering authority during the year preceding the report.

(7) A description of any charters revoked by the eligible chartering authority during the year preceding the report.

(8) A description of any charters refused renewal by the eligible chartering authority during the year preceding the report.

(9) Any recommendations the eligible chartering authority has concerning ways to improve the administration of public charter schools.

SEC. 2212. CHARTER RENEWAL.

(a) TERM.—A charter granted to a public charter school shall remain in force for a 5-year period, but may be renewed for an unlimited number of times, each time for a 5-year period.

(b) APPLICATION FOR CHARTER RENEWAL.—In the case of a public charter school that desires to renew its charter, the Board of Trustees of the school shall file an application to renew the charter with the eligible chartering authority that granted the charter not later than 120 days nor earlier than 365 days before the expiration of the charter. The application shall contain the following:

(1) A report on the progress of the public charter school in achieving the goals, student academic achievement expectations, and other terms of the approved charter.

(2) All audited financial statements for the public charter school for the preceding 4 years.

(c) APPROVAL OF CHARTER RENEWAL APPLICATION.—The eligible chartering authority that granted a charter shall approve an application to renew the charter that is filed in accordance with subsection (b), except that the eligible chartering authority shall not approve such application if the eligible chartering authority determines that—

(1) the school committed a material violation of applicable laws or a material violation of the conditions, terms, standards, or procedures set forth in its charter, including violations relating to the education of children with disabilities; or

(2) the school failed to meet the goals and student academic achievement expectations set forth in its charter.

(d) PROCEDURES FOR CONSIDERATION OF CHARTER RENEWAL.—

(1) NOTICE OF RIGHT TO HEARING.—An eligible chartering authority that has received an application to renew a charter that is filed by a Board of Trustees in accordance with subsection (b) shall provide to the Board of Trustees written notice of the right to an informal hearing on the application. The eligible chartering authority shall provide the notice not later than 15 days after the date on which the eligible chartering authority received the application.

(2) REQUEST FOR HEARING.—Not later than 15 days after the date on which a Board of Trustees receives a notice under paragraph (1), the Board of Trustees may request, in writing, an informal hearing on the application before the eligible chartering authority.

(3) DATE AND TIME OF HEARING.—

(A) NOTICE.—Upon receiving a timely written request for a hearing under paragraph (2), an eligible chartering authority shall set a date and time for the hearing and shall provide reasonable notice of the date and time, as well as the procedures to be followed at the hearing, to the Board of Trustees.

(B) DEADLINE.—An informal hearing under this subsection shall take place not later than 30 days after an eligible chartering authority receives a timely written request for the hearing under paragraph (2).

(4) FINAL DECISION.—

(A) DEADLINE.—An eligible chartering authority shall render a final decision, in writing, on an application to renew a charter—

(i) not later than 30 days after the date on which the eligible chartering authority provided the written notice of the right to a hearing, in the case of an application with respect to which such a hearing is not held; and

(ii) not later than 30 days after the date on which the hearing is concluded, in the case of an application with respect to which a hearing is held.

(B) REASONS FOR NONRENEWAL.—An eligible chartering authority that denies an application to renew a charter shall state in its decision the reasons for denial.

(5) ALTERNATIVES UPON NONRENEWAL.—If an eligible chartering authority denies an application to renew a charter granted to a public charter school, the Board of Education may—

(A) manage the school directly until alternative arrangements can be made for students at the school; or

(B) place the school in a probationary status that requires the school to take remedial actions, to be determined by the Board of Education, that directly relate to the grounds for the denial.

(6) JUDICIAL REVIEW.—

(A) AVAILABILITY OF REVIEW.—A decision by an eligible chartering authority to deny an application to renew a charter shall be subject to judicial review by an appropriate court of the District of Columbia.

(B) STANDARD OF REVIEW.—A decision by an eligible chartering authority to deny an application to renew a charter shall be upheld unless the decision is arbitrary and capricious or clearly erroneous.

SEC. 2213. CHARTER REVOCATION.

(a) CHARTER OR LAW VIOLATIONS.—An eligible chartering authority that has granted a charter to a public charter school may revoke the charter if the eligible chartering authority determines that the school has committed a violation of applicable laws or a material violation of the conditions, terms, standards, or procedures set forth in the charter, including violations relating to the education of children with disabilities.

(b) FISCAL MISMANAGEMENT.—An eligible chartering authority that has granted a charter

to a public charter school shall revoke the charter if the eligible chartering authority determines that the school—

(1) has engaged in a pattern of nonadherence to generally accepted accounting principles;

(2) has engaged in a pattern of fiscal mismanagement; or

(3) is no longer economically viable.

(c) PROCEDURES FOR CONSIDERATION OF REVOCATION.—

(1) NOTICE OF RIGHT TO HEARING.—An eligible chartering authority that is proposing to revoke a charter granted to a public charter school shall provide to the Board of Trustees of the school a written notice stating the reasons for the proposed revocation. The notice shall inform the Board of Trustees of the right of the Board of Trustees to an informal hearing on the proposed revocation.

(2) REQUEST FOR HEARING.—Not later than 15 days after the date on which a Board of Trustees receives a notice under paragraph (1), the Board of Trustees may request, in writing, an informal hearing on the proposed revocation before the eligible chartering authority.

(3) DATE AND TIME OF HEARING.—

(A) NOTICE.—Upon receiving a timely written request for a hearing under paragraph (2), an eligible chartering authority shall set a date and time for the hearing and shall provide reasonable notice of the date and time, as well as the procedures to be followed at the hearing, to the Board of Trustees.

(B) DEADLINE.—An informal hearing under this subsection shall take place not later than 30 days after an eligible chartering authority receives a timely written request for the hearing under paragraph (2).

(4) FINAL DECISION.—

(A) DEADLINE.—An eligible chartering authority shall render a final decision, in writing, on the revocation of a charter—

(i) not later than 30 days after the date on which the eligible chartering authority provided the written notice of the right to a hearing, in the case of a proposed revocation with respect to which such a hearing is not held; and

(ii) not later than 30 days after the date on which the hearing is concluded, in the case of a proposed revocation with respect to which a hearing is held.

(B) REASONS FOR REVOCATION.—An eligible chartering authority that revokes a charter shall state in its decision the reasons for the revocation.

(5) ALTERNATIVES UPON REVOCATION.—If an eligible chartering authority revokes a charter granted to a public charter school, the Board of Education may manage the school directly until alternative arrangements can be made for students at the school.

(6) JUDICIAL REVIEW.—

(A) AVAILABILITY OF REVIEW.—A decision by an eligible chartering authority to revoke a charter shall be subject to judicial review by an appropriate court of the District of Columbia.

(B) STANDARD OF REVIEW.—A decision by an eligible chartering authority to revoke a charter shall be upheld unless the decision is arbitrary and capricious or clearly erroneous.

SEC. 2214. PUBLIC CHARTER SCHOOL BOARD.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established within the District of Columbia Government a Public Charter School Board (in this section referred to as the "Board").

(2) MEMBERSHIP.—The Secretary of Education shall present the Mayor a list of 15 individuals the Secretary determines are qualified to serve on the Board. The Mayor, in consultation with the District of Columbia City Council, shall appoint 7 individuals from the list to serve on the Board. The Secretary of Education shall recommend, and the Mayor shall appoint, members to serve on the Board so that a knowledge of each of the following areas is represented on the Board:

(A) Research about and experience in student learning, quality teaching, and evaluation of and accountability in successful schools.

(B) The operation of a financially sound enterprise, including leadership and management techniques, as well as the budgeting and accounting skills critical to the startup of a successful enterprise.

(C) The educational, social, and economic development needs of the District of Columbia.

(D) The needs and interests of students and parents in the District of Columbia, as well as methods of involving parents and other members of the community in individual schools.

(3) VACANCIES.—Any time there is a vacancy in the membership of the Board, the Secretary of Education shall present the Mayor a list of 3 individuals the Secretary determines are qualified to serve on the Board. The Mayor, in consultation with the District of Columbia Council, shall appoint 1 individual from the list to serve on the Board. The Secretary shall recommend and the Mayor shall appoint, such member of the Board taking into consideration the criteria described in paragraph (2). Any member appointed to fill a vacancy occurring prior to the expiration of the term of a predecessor shall be appointed only for the remainder of the term.

(4) TIME LIMIT FOR APPOINTMENTS.—If, at any time, the Mayor does not appoint members to the Board sufficient to bring the Board's membership to 7 within 30 days of receiving a recommendation from the Secretary of Education under paragraph (2) or (3), the Secretary shall make such appointments as are necessary to bring the membership of the Board to 7.

(5) TERMS OF MEMBERS.—

(A) IN GENERAL.—Members of the Board shall serve for terms of 4 years, except that, of the initial appointments made under paragraph (2), the Mayor shall designate—

(i) 2 members to serve terms of 3 years;

(ii) 2 members to serve terms of 2 years; and

(iii) 1 member to serve a term of 1 year.

(B) REAPPOINTMENT.—Members of the Board shall be eligible to be reappointed for one 4-year term beyond their initial term of appointment.

(6) INDEPENDENCE.—No person employed by the District of Columbia public schools or a public charter school shall be eligible to be a member of the Board or to be employed by the Board.

(b) OPERATIONS OF THE BOARD.—

(1) CHAIR.—The members of the Board shall elect from among their membership 1 individual to serve as Chair. Such election shall be held each year after members of the Board have been appointed to fill any vacancies caused by the regular expiration of previous members' terms, or when requested by a majority vote of the members of the Board.

(2) QUORUM.—A majority of the members of the Board, not including any positions that may be vacant, shall constitute a quorum sufficient for conducting the business of the Board.

(3) MEETINGS.—The Board shall meet at the call of the Chair, subject to the hearing requirements of sections 2203, 2212(d)(3), and 2213(c)(3).

(c) NO COMPENSATION FOR SERVICE.—Members of the Board shall serve without pay, but may receive reimbursement for any reasonable and necessary expenses incurred by reason of service on the Board.

(d) PERSONNEL AND RESOURCES.—

(1) IN GENERAL.—Subject to such rules as may be made by the Board, the Chair shall have the power to appoint, terminate, and fix the pay of an Executive Director and such other personnel of the Board as the Chair considers necessary, but no individual so appointed shall be paid in excess of the rate payable for level EG–16 of the Educational Service of the District of Columbia.

(2) SPECIAL RULE.—The Board is authorized to use the services, personnel, and facilities of the District of Columbia.

(e) EXPENSES OF BOARD.—Any expenses of the Board shall be paid from such funds as may be available to the Mayor.

(f) AUDIT.—The Board shall provide for an audit of the financial statements of the Board by an independent certified public accountant in accordance with Government auditing standards for financial audits issued by the Comptroller General of the United States.

(g) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out the provisions of this section and conducting the Board's functions required by this subtitle, there are authorized to be appropriated $300,000 for fiscal year 1996 and such sums as may be necessary for each of the 4 succeeding fiscal years.

SEC. 2215. FEDERAL ENTITIES.

(a) IN GENERAL.—The following Federal agencies and federally established entities are encouraged to explore whether it is feasible for the agency or entity to establish one or more public charter schools:

(1) The Library of Congress.

(2) The National Aeronautics and Space Administration.

(3) The Drug Enforcement Administration.

(4) The National Science Foundation.

(5) The Department of Justice.

(6) The Department of Defense.

(7) The Department of Education.

(8) The Smithsonian Institution, including the National Zoological Park, the National Museum of American History, the John F. Kennedy Center for the Performing Arts, and the National Gallery of Art.

(b) REPORT.—Not later than 120 days after date of enactment of this Act, any agency or institution described in subsection (a) that has explored the feasibility of establishing a public charter school shall report its determination on the feasibility to the appropriate committees of the Congress.

Subtitle C—Even Start

SEC. 2301. AMENDMENTS FOR EVEN START PROGRAMS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 1002 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6302) is amended by striking subsection (b) and inserting the following:

"(b) EVEN START.—

"(1) IN GENERAL.—For the purpose of carrying out part B, there are authorized to be appropriated $118,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"(2) DISTRICT OF COLUMBIA.—For the purpose of carrying out Even Start programs in the District of Columbia described in section 1211, there are authorized to be appropriated—

"(A) $2,000,000 for fiscal year 1996;

"(B) $3,500,000 for fiscal year 1997;

"(C) $5,000,000 for fiscal year 1998;

"(D) $5,000,000 for fiscal year 1999; and

"(E) $5,000,000 for fiscal year 2000.".

(b) EVEN START FAMILY LITERACY PROGRAMS.—Part B of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6361 et seq.) is amended—

(1) in section 1202(a)(1) (20 U.S.C. 6362(a)(1)), by inserting "(1)" after "1002(b)";

(2) in section 1202(b) (20 U.S.C. 6362(b)), by inserting "(1)" after "1002(b)";

(3) in section 1202(d)(3) (20 U.S.C. 6362(d)(3)), by inserting "(1)" after "1002(b)";

(4) in section 1204(a) (20 U.S.C. 6364(a)), by inserting "intensive" after "cost of providing";

(5) in section 1205(4) (20 U.S.C. 6365(4)), by inserting ", intensive" after "high-quality"; and

(6) by adding at the end the following new section:

"SEC. 1211. DISTRICT OF COLUMBIA EVEN START INITIATIVES.

"(a) DISTRICT OF COLUMBIA PROGRAM AUTHORIZED.—

"(1) IN GENERAL.—In addition to any grant for the District of Columbia authorized under section 1202, the Secretary shall provide grants, on a competitive basis, to eligible entities to enable such entities to carry out Even Start programs in the District of Columbia that build on the findings of the National Evaluation of the Even Start Family Literacy Program, such as providing intensive services in early childhood education, parent training, and adult literacy or adult education.

"(2) NUMBER OF GRANTS.—The Secretary shall award—

"(A) not more than 8 grants under this section for fiscal year 1996;

"(B) not more than 14 grants under this section for fiscal year 1997;

"(C) not more than 20 grants under this section for each of the fiscal years 1998 and 1999; and

"(D) not more than 20 grants under this section, or such number as the Secretary determines appropriate taking into account the results of evaluations described in subsection (i), for fiscal year 2000.

"(b) DEFINITION.—For the purpose of this section, the term 'eligible entity' means a partnership composed of at least—

"(1) a District of Columbia public school;

"(2) the local educational agency in existence on September 1, 1995 for the District of Columbia, any other public organization, or an institution of higher education (as defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a))); and

"(3) a private nonprofit community-based organization.

"(c) USES OF FUNDS; FEDERAL SHARE.—

"(1) COMPLIANCE.—Each eligible entity that receives funds under this section shall comply with section 1204(a) and 1204(b)(3), relating to the use of such funds.

"(2) FEDERAL SHARE.—Each program funded under this section is subject to the Federal share requirement of section 1204(b)(1), except that the Secretary may waive that requirement, in whole or in part, for any eligible entity that demonstrates to the Secretary's satisfaction that such entity otherwise would not be able to participate in the program under this section.

"(3) MINIMUM.—Except as provided in paragraph (4), each eligible entity selected to receive a grant under this section shall receive not more than $250,000 in any fiscal year, except that the Secretary may increase such amount if the Secretary determines that—

"(A) such entity needs additional funds to be effective; and

"(B) the increase will not reduce the amount of funds available to other eligible entities that receive funds under this section.

"(4) REMAINING FUNDS.—If funds remain after payments are made under paragraph (3) for any fiscal year, the Secretary shall make such remaining funds available to each eligible entity receiving a grant under this section for such year in an amount that bears the same relation to such funds as the amount each such entity received under this section bears to the amount all such entities received under this section.

"(d) PROGRAM ELEMENTS.—Each program assisted under this section shall comply with the program elements described in section 1205, including intensive high quality instruction programs of early childhood education, parent training, and adult literacy or adult education.

"(e) ELIGIBLE PARTICIPANTS.—

"(1) IN GENERAL.—Individuals eligible to participate in a program under this section are—

"(A) the parent or parents of a child described in subparagraph (B), or any other adult who is substantially involved in the day-to-day care of the child, if such parent or adult—

"(i) is eligible to participate in an adult education program under the Adult Education Act; or

"(ii) is attending, or is eligible by age to attend, a District of Columbia public school; and

"(B) any child, from birth through age 7, of an individual described in subparagraph (A).

"(2) ELIGIBILITY REQUIREMENTS.—The eligibility factors described in section 1206(b) shall apply to programs under this section, except that for purposes of this section—

"(A) the reference in paragraph (1) to subsection (a) shall be read to refer to paragraph (1); and

"(B) references in such section to this part shall be read to refer to this section.

"(f) APPLICATIONS.—Each eligible entity that wishes to receive a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

"(g) SELECTION OF GRANTEES.—In awarding grants under this section, the Secretary shall—

"(1) use the selection criteria described in subparagraphs (A) through (F), and (H), of section 1208(a)(1); and

"(2) give priority to applications for programs that—

"(A) target services to schools in which a schoolwide program is being conducted under section 1114; or

"(B) are located in areas designated as empowerment zones or enterprise communities.

"(h) DURATION OF PROGRAMS.—The priority for subgrants described in section 1208(a)(2), and the progress requirement described in section 1208(b)(4), shall apply to grants made under this section, except that—

"(1) references in those sections to the State educational agency and to subgrants shall be read to refer to the Secretary and to grants under this section, respectively; and

"(2) notwithstanding section 1208(b), the Secretary shall not provide continuation funding to a grant recipient under this section if the Secretary determines, after affording the recipient notice and an opportunity for a hearing, that the recipient has not made substantial progress in accomplishing the objectives of this section.

"(i) TECHNICAL ASSISTANCE AND EVALUATION.—

"(1) TECHNICAL ASSISTANCE.—(A) The Secretary shall use not more than 5 percent of the amounts authorized under section 1002(b)(2) for any fiscal year—

"(i) to provide technical assistance to eligible entities, including providing funds to one or more District of Columbia nonprofit organizations to enable such organizations to provide technical assistance to eligible entities in the areas of community development and coalition building; and

"(ii) for the evaluation conducted pursuant to paragraph (2).

"(B) The Secretary shall allocate 5 percent of the amounts authorized under section 1002(b)(2) for any fiscal year to enter into a contract with the National Center for Family Literacy for the provision of technical assistance to eligible entities.

"(2) EVALUATION.—(A) The Secretary shall use funds available under paragraph (1)(A)—

"(i) to provide for independent evaluations of programs under this section in order to determine the effectiveness of such programs in providing high quality family literacy services, including—

"(I) intensive and high quality early childhood education;

"(II) intensive and high quality services in adult literacy or adult education;

"(III) intensive and high quality services in parent training;

"(IV) coordination with related programs; and

"(V) training of related personnel in appropriate skill areas; and

"(ii) to determine if the grant amount provided to eligible recipients to carry out such projects is appropriate to accomplish the objectives of this section.

"(B)(i) Such evaluation shall be conducted by individuals not directly involved in the administration of a program operated with funds provided under this section. Such independent evaluators and the program administrators shall jointly develop evaluation criteria which provide for appropriate analysis of the factors listed in subparagraph (A).

"(ii) In order to determine a program's effectiveness, each evaluation shall contain objective measures of such effectiveness, and whenever feasible, shall contain the specific views of program participants about such programs.

"(C) The Secretary shall prepare and submit to the appropriate congressional committees a report regarding the results of such evaluations not later than March 1, 1999. The Secretary shall provide an interim report regarding the results of such evaluations by March 1, 1998.".

Subtitle D—World Class Schools Task Force, Core Curriculum, Content Standards, Assessments, and Promotion Gates

PART 1—WORLD CLASS SCHOOLS TASK FORCE, CORE CURRICULUM, CONTENT STANDARDS, AND ASSESSMENTS

SEC. 2411. GRANT AUTHORIZED AND RECOMMENDATION REQUIRED.

(a) GRANT AUTHORIZED.—

(1) IN GENERAL.—The Superintendent is authorized to award a grant to a World Class Schools Task Force to enable such task force to make the recommendation described in subsection (b).

(2) DEFINITION.—For the purpose of this subtitle, the term "World Class Schools Task Force" means 1 nonprofit organization located in the District of Columbia that—

(A) has a national reputation for advocating content standards;

(B) has a national reputation for advocating a strong liberal arts curriculum;

(C) has experience with at least 4 urban school districts for the purpose of establishing content standards;

(D) has developed and managed professional development programs in science, mathematics, the humanities and the arts; and

(E) is governed by an independent board of directors composed of citizens with a variety of experiences in education and public policy.

(b) RECOMMENDATION REQUIRED.—

(1) IN GENERAL.—The World Class Schools Task Force shall recommend to the Superintendent, the Board of Education, and the District of Columbia Goals Panel the following:

(A) Content standards in the core academic subjects that are developed by working with the District of Columbia community, which standards shall be developed not later than 12 months after the date of enactment of this Act.

(B) A core curriculum developed by working with the District of Columbia community, which curriculum shall include the teaching of computer skills.

(C) Districtwide assessments for measuring student achievement in accordance with content standards developed under subparagraph (A). Such assessments shall be developed at several grade levels, including at a minimum, the grade levels with respect to which the Superintendent establishes promotion gates under section 2421. To the extent feasible, such assessments shall, at a minimum, be designed to provide information that permits comparisons between—

(i) individual District of Columbia public schools and public charter schools; and

(ii) individual students attending such schools.

(D) Model professional development programs for teachers using the standards and curriculum developed under subparagraphs (A) and (B).

(2) SPECIAL RULE.—The World Class Schools Task Force is encouraged, to the extent practicable, to develop districtwide assessments described in paragraph (1)(C) that permit comparisons among—

(A) individual District of Columbia public schools and public charter schools, and individual students attending such schools; and

(B) students of other nations.

(c) CONTENT.—The content standards and assessments recommended under subsection (b) shall be judged by the World Class Schools Task Force to be world class, including having a level of quality and rigor, or being analogous to content standards and assessments of other States or nations (including nations whose students historically score high on international studies of student achievement).

(d) SUBMISSION TO BOARD OF EDUCATION FOR ADOPTION.—If the content standards, curriculum, assessments, and programs recommended under subsection (b) are approved by the Superintendent, the Superintendent may submit such content standards, curriculum, assessments, and programs to the Board of Education for adoption.

SEC. 2412. CONSULTATION.

The World Class Schools Task Force shall conduct its duties under this part in consultation with—

(1) the District of Columbia Goals Panel;

(2) officials of the District of Columbia public schools who have been identified by the Superintendent as having responsibilities relevant to this part, including the Deputy Superintendent for Curriculum;

(3) the District of Columbia community, with particular attention given to educators, and parent and business organizations; and

(4) any other persons or groups that the task force deems appropriate.

SEC. 2413. ADMINISTRATIVE PROVISIONS.

The World Class Schools Task Force shall ensure public access to its proceedings (other than proceedings, or portions of proceedings, relating to internal personnel and management matters) that are relevant to its duties under this part and shall make available to the public, at reasonable cost, transcripts of such proceedings.

SEC. 2414. CONSULTANTS.

Upon the request of the World Class Schools Task Force, the head of any department or agency of the Federal Government may detail any of the personnel of such agency to such task force to assist such task force in carrying out such task force's duties under this part.

SEC. 2415. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $2,000,000 for fiscal year 1996 to carry out this part. Such funds shall remain available until expended.

PART 2—PROMOTION GATES

SEC. 2421. PROMOTION GATES.

(a) KINDERGARTEN THROUGH 4TH GRADE.—Not later than one year after the date of adoption in accordance with section 2411(d) of the assessments described in section 2411(b)(1)(C), the Superintendent shall establish and implement promotion gates for mathematics, reading, and writing, for not less than 1 grade level from kindergarten through grade 4, including at least grade 4, and shall establish dates for establishing such other promotion gates for other subject areas.

(b) 5TH THROUGH 8TH GRADES.—Not later than one year after the adoption in accordance with section 2411(d) of the assessments described in section 2411(b)(1)(C), the Superintendent shall establish and implement promotion gates with respect to not less than one grade level from grade 5 through grade 8, including at least grade 8.

(c) 9TH THROUGH 12TH GRADES.—Not later than one year after the adoption in accordance with section 2411(d) of the assessments described in section 2411(b)(1)(C), the Superintendent shall establish and implement promotion gates with respect to not less than one grade level from grade 9 through grade 12, including at least grade 12.

Subtitle E—Per Capita District of Columbia Public School and Public Charter School Funding

SEC. 2501. ANNUAL BUDGETS FOR SCHOOLS.

(a) IN GENERAL.—For fiscal year 1997 and for each subsequent fiscal year, the Mayor shall make annual payments from the general fund of the District of Columbia in accordance with the formula established under subsection (b).

(b) FORMULA.—

(1) IN GENERAL.—The Mayor and the District of Columbia Council, in consultation with the Board of Education and the Superintendent, shall establish on or before April 15, 1996, a formula to determine the amount of—

(A) the annual payment to the Board of Education for the operating expenses of the District of Columbia public schools, which for purposes of this paragraph includes the operating expenses of the Board of Education and the Office of the Superintendent; and

(B) the annual payment to each public charter school for the operating expenses of each public charter school.

(2) FORMULA CALCULATION.—Except as provided in paragraph (3), the amount of the annual payment under paragraph (1) shall be calculated by multiplying a uniform dollar amount used in the formula established under such paragraph by—

(A) the number of students calculated under section 2502 that are enrolled at District of Columbia public schools, in the case of the payment under paragraph (1)(A); or

(B) the number of students calculated under section 2502 that are enrolled at each public charter school, in the case of a payment under paragraph (1)(B).

(3) EXCEPTIONS.—

(A) FORMULA.—Notwithstanding paragraph (2), the Mayor and the District of Columbia Council, in consultation with the Board of Education and the Superintendent, may adjust the formula to increase or decrease the amount of the annual payment to the District of Columbia public schools or each public charter school based on a calculation of—

(i) the number of students served by such schools in certain grade levels; and

(ii) the cost of educating students at such certain grade levels.

(B) PAYMENT.—Notwithstanding paragraph (2), the Mayor and the District of Columbia Council, in consultation with the Board of Education and the Superintendent, may adjust the amount of the annual payment under paragraph (1) to increase the amount of such payment if a District of Columbia public school or a public charter school serves a high number of students—

(i) with special needs; or

(ii) who do not meet minimum literacy standards.

SEC. 2502. CALCULATION OF NUMBER OF STUDENTS.

(a) SCHOOL REPORTING REQUIREMENT.—

(1) IN GENERAL.—Not later than September 15, 1996, and not later than September 15 of each year thereafter, each District of Columbia public school and public charter school shall submit a report to the Mayor and the Board of Education containing the information described in subsection (b) that is applicable to such school.

(2) SPECIAL RULE.—Not later than April 1, 1997, and not later than April 1 of each year thereafter, each public charter school shall submit a report in the same form and manner as described in paragraph (1) to ensure accurate payment under section 2503(a)(2)(B)(ii).

(b) CALCULATION OF NUMBER OF STUDENTS.—Not later than 30 days after the date of the enactment of this Act, and not later than October 15 of each year thereafter, the Board of Education shall calculate the following:

(1) The number of students, including nonresident students and students with special needs, enrolled in each grade from kindergarten through grade 12 of the District of Columbia public schools and in public charter schools, and the number of students whose tuition for enrollment in other schools is paid for with funds available to the District of Columbia public schools.

(2) The amount of fees and tuition assessed and collected from the nonresident students described in paragraph (1).

(3) The number of students, including nonresident students, enrolled in preschool and prekindergarten in the District of Columbia public schools and in public charter schools.

(4) The amount of fees and tuition assessed and collected from the nonresident students described in paragraph (3).

(5) The number of full time equivalent adult students enrolled in adult, community, continuing, and vocational education programs in the District of Columbia public schools and in public charter schools.

(6) The amount of fees and tuition assessed and collected from resident and nonresident adult students described in paragraph (5).

(7) The number of students, including nonresident students, enrolled in nongrade level programs in District of Columbia public schools and in public charter schools.

(8) The amount of fees and tuition assessed and collected from nonresident students described in paragraph (7).

(c) ANNUAL REPORTS.—Not later than 30 days after the date of the enactment of this Act, and not later than October 15 of each year thereafter, the Board of Education shall prepare and submit to the Authority, the Mayor, the District of Columbia Council, the Consensus Commission, the Comptroller General of the United States, and the appropriate congressional committees a report containing a summary of the most recent calculations made under subsection (b).

(d) AUDIT OF INITIAL CALCULATIONS.—

(1) IN GENERAL.—The Board of Education shall arrange with the Authority to provide for the conduct of an independent audit of the initial calculations described in subsection (b).

(2) CONDUCT OF AUDIT.—In conducting the audit, the independent auditor—

(A) shall provide an opinion as to the accuracy of the information contained in the report described in subsection (c); and

(B) shall identify any material weaknesses in the systems, procedures, or methodology used by the Board of Education—

(i) in determining the number of students, including nonresident students, enrolled in the District of Columbia public schools and in public charter schools, and the number of students whose tuition for enrollment in other school systems is paid for by funds available to the District of Columbia public schools; and

(ii) in assessing and collecting fees and tuition from nonresident students.

(3) SUBMISSION OF AUDIT.—Not later than 45 days, or as soon thereafter as is practicable, after the date on which the Authority receives the initial annual report from the Board of Education under subsection (c), the Authority shall submit to the Board of Education, the Mayor, the District of Columbia Council, and the appropriate congressional committees, the audit conducted under this subsection.

(4) COST OF THE AUDIT.—The Board of Education shall reimburse the Authority for the cost of the independent audit, solely from amounts appropriated to the Board of Education for staff, stipends, and other-than-personal-services of the Board of Education by an Act making appropriations for the District of Columbia.

SEC. 2503. PAYMENTS.

(a) IN GENERAL.—

(1) ESCROW FOR PUBLIC CHARTER SCHOOLS.—Except as provided in subsection (b), for any fiscal year, not later than 10 days after the date of enactment of an Act making appropriations for the District of Columbia for such fiscal year, the Mayor shall place in escrow an amount equal to the aggregate of the amounts determined under section 2501(b)(1)(B) for use only by District of Columbia public charter schools.

(2) TRANSFER OF ESCROW FUNDS.—

(A) INITIAL PAYMENT.—Not later than October 15, 1996, and not later than October 15 of each year thereafter, the Mayor shall transfer, by electronic funds transfer, an amount equal to 75 percent of the amount of the annual payment for each public charter school determined by using the formula established pursuant to section 2501(b) to a bank designated by such school.

(B) FINAL PAYMENT.—

(i) Except as provided in clause (ii), not later than May 1, 1997, and not later than May 1 of each year thereafter, the Mayor shall transfer the remainder of the annual payment for a public charter school in the same manner as the initial payment was made under subparagraph (A).

(ii) Not later than March 15, 1997, and not later than March 15 of each year thereafter, if the enrollment number of a public charter school has changed from the number reported to the Mayor and the Board of Education, as required under section 2502(a), the Mayor shall increase the payment in an amount equal to 50 percent of the amount provided for each student who has enrolled in such school in excess of such enrollment number, or shall reduce the payment in an amount equal to 50 percent of the amount provided for each student who has withdrawn or dropped out of such school below such enrollment number.

(C) PRO RATA REDUCTION OR INCREASE IN PAYMENTS.—

(i) PRO RATA REDUCTION.—If the funds made available to the District of Columbia Government for the District of Columbia public school system and each public charter school for any fiscal year are insufficient to pay the full amount that such system and each public charter school is eligible to receive under this subtitle for such year, the Mayor shall ratably reduce such amounts for such year on the basis of the formula described in section 2501(b).

(ii) INCREASE.—If additional funds become available for making payments under this subtitle for such fiscal year, amounts that were reduced under subparagraph (A) shall be increased on the same basis as such amounts were reduced.

(D) UNEXPENDED FUNDS.—Any funds that remain in the escrow account for public charter schools on September 30 of a fiscal year shall revert to the general fund of the District of Columbia.

(b) EXCEPTION FOR NEW SCHOOLS.—

(1) AUTHORIZATION.—There are authorized to be appropriated $200,000 for each fiscal year to carry out this subsection.

(2) DISBURSEMENT TO MAYOR.—The Secretary of the Treasury shall make available and disburse to the Mayor, not later than August 1 of each of the fiscal years 1996 through 2000, such funds as have been appropriated under paragraph (1).

(3) ESCROW.—The Mayor shall place in escrow, for use by public charter schools, any sum disbursed under paragraph (2) and not paid under paragraph (4).

(4) PAYMENTS TO SCHOOLS.—The Mayor shall pay to public charter schools described in paragraph (5), in accordance with this subsection, any sum disbursed under paragraph (2).

(5) SCHOOLS DESCRIBED.—The schools referred to in paragraph (4) are public charter schools that—

(A) did not operate as public charter schools during any portion of the fiscal year preceding the fiscal year for which funds are authorized to be appropriated under paragraph (1); and

(B) operated as public charter schools during the fiscal year for which funds are authorized to be appropriated under paragraph (1).

(6) FORMULA.—

(A) 1996.—The amount of the payment to a public charter school described in paragraph (5) that begins operation in fiscal year 1996 shall be calculated by multiplying $6,300 by 1/12 of the total anticipated enrollment as set forth in the petition to establish the public charter school; and

(B) 1997 THROUGH 2000.—The amount of the payment to a public charter school described in paragraph (5) that begins operation in any of fiscal years 1997 through 2000 shall be calculated by multiplying the uniform dollar amount used in the formula established under section 2501(b) by 1/12 of the total anticipated enrollment as set forth in the petition to establish the public charter school.

(7) PAYMENT TO SCHOOLS.—

(A) TRANSFER.—On September 1 of each of the years 1996 through 2000, the Mayor shall transfer, by electronic funds transfer, the amount determined under paragraph (6) for each public charter school from the escrow account established under subsection (a) to a bank designated by each such school.

(B) PRO RATA AND REMAINING FUNDS.—Subparagraphs (C) and (D) of subsection (a)(2) shall apply to payments made under this subsection, except that for purposes of this subparagraph references to District of Columbia public schools in such subparagraphs (C) and (D) shall be read to refer to public charter schools.

Subtitle F—School Facilities Repair and Improvement

SEC. 2550. DEFINITIONS.

For purposes of this subtitle—

(1) the term "facilities" means buildings, structures, and real property of the District of Columbia public schools, except that such term does not include any administrative office building that is not located in a building containing classrooms; and

(2) the term "repair and improvement" includes administration, construction, and renovation.

PART 1—SCHOOL FACILITIES

SEC. 2551. TECHNICAL ASSISTANCE.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act the Administrator of the General Services Administration shall enter into a Memorandum of Agreement or Understanding (referred to in this subtitle as the "Agreement") with the Superintendent regarding the terms under which the Administrator will provide technical assistance and related services with respect to District of Columbia public schools facilities management in accordance with this section.

(b) TECHNICAL ASSISTANCE AND RELATED SERVICES.—The technical assistance and related services described in subsection (a) shall include—

(1) the Administrator consulting with and advising District of Columbia public school personnel responsible for public schools facilities management, including repair and improvement with respect to facilities management of such schools;

(2) the Administrator assisting the Superintendent in developing a systemic and comprehensive facilities revitalization program, for the repair and improvement of District of Columbia public school facilities, which program shall—

(A) include a list of facilities to be repaired and improved in a recommended order of priority;

(B) provide the repair and improvement required to support modern technology; and

(C) take into account the Preliminary Facilities Master Plan 2005 (prepared by the Superintendent's Task Force on Education Infrastructure for the 21st Century);

(3) the method by which the Superintendent will accept donations of private goods and services for use by the District of Columbia public schools without regard to any law or regulation of the District of Columbia;

(4) the Administrator recommending specific repair and improvement projects in District of Columbia public school facilities to the Superintendent that are appropriate for completion by members and units of the National Guard and the Reserves in accordance with the program developed under paragraph (2);

(5) upon the request of the Superintendent, the Administrator assisting the appropriate District of Columbia public school officials in the preparation of an action plan for the performance of any repair and improvement recommended in the program developed under paragraph (2), which action plan shall detail the technical assistance and related services the Administrator proposes to provide in the accomplishment of the repair and improvement;

(6) upon the request of the Superintendent, and if consistent with the efficient use of resources as determined by the Administrator, the coordination of the accomplishment of any repair and improvement in accordance with the action plan prepared under paragraph (5), except that in carrying out this paragraph, the Administrator shall not be subject to the requirements of title III of the Federal Property and Administrative Services Act of 1949 (42 U.S.C. 471 et seq.), the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), or any other law governing procurements or public contracts, nor shall such action plan be subject to review under the bid protest procedures described in sections 3551 through 3556 of title 31, United States Code, or the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.);

(7) providing access for the Administrator to all District of Columbia public school facilities as well as permitting the Administrator to request and obtain any record or document regarding such facilities as the Administrator determines necessary, except that any such record or document shall not become a record (as defined in section 552a of title 5, United States Code) of the General Services Administration; and

(8) the Administrator making recommendations regarding how District of Columbia public school facilities may be used by the District of Columbia community for multiple purposes.

(c) AGREEMENT PROVISIONS.—The Agreement shall include—

(1) the procedures by which the Superintendent and Administrator will consult with respect to carrying out this section, including reasonable time frames for such consultation;

(2) the scope of the technical assistance and related services to be provided by the General Services Administration in accordance with this section;

(3) assurances by the Administrator and the Superintendent to cooperate with each other in any way necessary to ensure implementation of

the Agreement, including assurances that funds available to the District of Columbia shall be used to pay the obligations of the District of Columbia public school system that are incurred as a result of actions taken under, or in furtherance of, the Agreement, in addition to funds available to the Administrator for purposes of this section; and

(4) the duration of the Agreement, except that in no event shall the Agreement remain in effect later than the day that is 24 months after the date that the Agreement is signed, or the day that the agency designated pursuant to section 2552(a)(2) assumes responsibility for the District of Columbia public school facilities, whichever day is earlier.

(d) LIMITATION ON ADMINISTRATOR'S LIABILITY.—No claim, suit, or action may be brought against the Administrator in connection with the discharge of the Administrator's responsibilities under this subtitle.

(e) SPECIAL RULE.—Notwithstanding any other provision of law, the Administrator is authorized to accept and use a conditioned gift made for the express purpose of repairing or improving a District of Columbia public school, except that the Administrator shall not be required to carry out any repair or improvement under this section unless the Administrator accepts a donation of private goods or services sufficient to cover the costs of such repair or improvement.

(f) EFFECTIVE DATE.—This subtitle shall cease to be effective on the earlier day specified in subsection (c)(4).

SEC. 2552. FACILITIES REVITALIZATION PROGRAM.

(a) PROGRAM.—Not later than 24 months after the date that the Agreement is signed, the Mayor and the District of Columbia Council in consultation with the Administrator, the Authority, the Board of Education, and the Superintendent, shall—

(1) design and implement a comprehensive long-term program for the repair and improvement, and maintenance and management, of the District of Columbia public school facilities, which program shall incorporate the work completed in accordance with the program described in section 2551(b)(2); and

(2) designate a new or existing agency or authority within the District of Columbia Government to administer such program.

(b) PROCEEDS.—Such program shall include—

(1) identifying short-term funding for capital and maintenance of facilities, which may include retaining proceeds from the sale or lease of a District of Columbia public school facility; and

(2) identifying and designating long-term funding for capital and maintenance of facilities.

(c) IMPLEMENTATION.—Upon implementation of such program, the agency or authority created or designated pursuant to subsection (a)(2) shall assume authority and responsibility for the repair and improvement, and maintenance and management, of District of Columbia public schools.

SEC. 2553. AUTHORIZATION OF APPROPRIATIONS FOR ENGINEERING PLANS.

There are authorized to be appropriated to the Administrator, $500,000 for fiscal year 1996, which funds only shall be available for the costs of engineering plans developed to carry out this subtitle.

PART 2—WAIVERS

SEC. 2561. WAIVERS.

(a) IN GENERAL.—

(1) REQUIREMENTS WAIVED.—Subject to subsection (b), all District of Columbia fees and all requirements contained in the document entitled "District of Columbia Public Schools Standard Contract Provisions" (as such document was in effect on November 2, 1995 and including any revisions or modifications to such document) published by the District of Columbia public schools for use with construction or maintenance projects, are waived, for purposes of repair and improvement of District of Columbia public schools facilities for a period beginning on the date of enactment of this Act and ending 24 months after such date.

(2) DONATIONS AND SERVICES.—Notwithstanding any other provision of law, any employer may accept, and any person may voluntarily donate, materials and services for the repair and improvement of a District of Columbia public school facility.

(b) LIMITATION.—A waiver under subsection (a) shall apply only to a contractor, subcontractor, and any other group, entity, or individual who donates materials and services for the repair or improvement of a District of Columbia public school facility.

PART 3—GIFTS, DONATIONS, BEQUESTS, AND DEVISES

SEC. 2571. GIFTS, DONATIONS, BEQUESTS, AND DEVISES.

(a) IN GENERAL.—A District of Columbia public school or a public charter school may accept directly from any person a gift, donation, bequest, or devise of any property, real or personal, without regard to any law or regulation of the District of Columbia.

(b) TAX LAWS.—For the purposes of the income tax, gift tax, and estate tax laws of the Federal Government, any money or other property given, donated, bequeathed, or devised to a District of Columbia public school or a public charter school, shall be deemed to have been given, donated, bequeathed, or devised to or for the use of the District of Columbia.

Subtitle G—Residential School

SEC. 2601. RESIDENTIAL SCHOOL AUTHORIZED.

(a) IN GENERAL.—The Superintendent is authorized to develop a plan to establish for the District of Columbia a residential school for academic year 1997–1998 and to assist in the startup of such school.

(b) PLAN REQUIREMENTS.—If developed, the plan for the residential school shall include, at a minimum—

(1) options for the location of the school, including the renovation or construction of a facility;

(2) financial plans for the facility, including annual costs to operate the school, capital expenditures required to open the facility, maintenance of facilities, and staffing costs; and

(3) staff development and training plans.

SEC. 2602. USE OF FUNDS.

Funds under this subtitle may be used—

(1) to develop the plan described in section 2601; and

(2) for capital costs associated with the startup of a residential school, including the purchase of real and personal property and the renovation or construction of facilities.

SEC. 2603. FUTURE FUNDING.

The Superintendent shall identify, not later than December 31, 1996, in a report to the Mayor, the District of Columbia Council, the Authority, and the appropriate congressional committees, non-Federal funding sources for the operation of the residential school.

SEC. 2604. GIFTS.

The Superintendent may accept donations of money, property, and personal services for purposes of the establishment and operation of the residential school.

SEC. 2605. AUTHORIZATION OF APPROPRIATIONS.

(a) PLAN.—There are authorized to be appropriated to the District of Columbia $100,000 for fiscal year 1996 to develop the plan described in section 2601.

(b) CAPITAL COSTS.—There are authorized to be appropriated $1,900,000 for fiscal year 1997 to carry out section 2602(2).

SEC. 2606. ELIGIBILITY FOR SCHOLARSHIPS.

Notwithstanding any other provision of law, the residential school established under this subtitle shall be an eligible institution for the purposes of scholarships awarded under section 2923(d)(2).

Subtitle H—Progress Reports and Accountability

SEC. 2651. SUPERINTENDENT'S REPORT ON REFORMS.

Not later than December 1, 1996, the Superintendent shall submit to the appropriate congressional committees, the Board of Education, the Mayor, the Consensus Commission, and the District of Columbia Council a report regarding the progress of the District of Columbia public schools toward achieving the goals of the long-term reform plan.

SEC. 2652. DISTRICT OF COLUMBIA COUNCIL REPORT.

Not later than April 1, 1997, the Chairperson of the District of Columbia Council shall submit to the appropriate congressional committees a report describing legislative and other actions the District of Columbia Council has taken or will take to facilitate the implementation of the goals of the long-term reform plan.

Subtitle I—Partnerships With Business

SEC. 2701. PURPOSE.

The purpose of this subtitle is—

(1) to leverage private sector funds utilizing initial Federal investments in order to provide students and teachers within the District of Columbia public schools and public charter schools with access to state-of-the-art educational technology;

(2) to establish a regional job training and employment center;

(3) to strengthen workforce preparation initiatives for students within the District of Columbia public schools and public charter schools;

(4) to coordinate private sector investments in carrying out this title; and

(5) to assist the Superintendent with the development of individual career paths in accordance with the long-term reform plan.

SEC. 2702. DUTIES OF THE SUPERINTENDENT OF THE DISTRICT OF COLUMBIA PUBLIC SCHOOLS.

Not later than 45 days after the date of the enactment of this Act, the Superintendent shall provide a grant to a private, nonprofit corporation that meets the eligibility criteria under section 2703 for the purposes of carrying out the duties under sections 2704 and 2707.

SEC. 2703. ELIGIBILITY CRITERIA FOR PRIVATE, NONPROFIT CORPORATION.

A private, nonprofit corporation shall be eligible to receive a grant under section 2702 if the corporation is a national business organization incorporated in the District of Columbia, that—

(1) has a board of directors which includes members who are also chief executive officers of technology-related corporations involved in education and workforce development issues;

(2) has extensive practical experience with initiatives that link business resources and expertise with education and training systems;

(3) has experience in working with State and local educational agencies throughout the United States with respect to the integration of academic studies with workforce preparation programs; and

(4) has a nationwide structure through which additional resources can be leveraged and innovative practices disseminated.

SEC. 2704. DUTIES OF THE PRIVATE, NONPROFIT CORPORATION.

(a) DISTRICT EDUCATION AND LEARNING TECHNOLOGIES ADVANCEMENT COUNCIL.—

(1) ESTABLISHMENT.—The private, nonprofit corporation shall establish a council to be known as the "District Education and Learning

Technologies Advancement Council" (in this subtitle referred to as the "council").

(2) MEMBERSHIP.—

(A) IN GENERAL.—The private, nonprofit corporation shall appoint members to the council. An individual shall be appointed as a member to the council on the basis of the commitment of the individual, or the entity which the individual is representing, to providing time, energy, and resources to the council.

(B) COMPENSATION.—Members of the council shall serve without compensation.

(3) DUTIES.—The council—

(A) shall advise the private, nonprofit corporation with respect to the duties of the corporation under subsections (b) through (e) of this section; and

(B) shall assist the corporation in leveraging private sector resources for the purpose of carrying out such duties.

(b) ACCESS TO STATE-OF-THE-ART EDUCATIONAL TECHNOLOGY.—

(1) IN GENERAL.—The private, nonprofit corporation, in conjunction with the Superintendent, students, parents, and teachers, shall establish and implement strategies to ensure access to state-of-the-art educational technology within the District of Columbia public schools and public charter schools.

(2) ELECTRONIC DATA TRANSFER SYSTEM.—The private, nonprofit corporation shall assist the Superintendent in acquiring the necessary equipment, including computer hardware and software, to establish an electronic data transfer system. The private, nonprofit corporation shall also assist in arranging for training of District of Columbia public school employees in using such equipment.

(3) TECHNOLOGY ASSESSMENT.—

(A) IN GENERAL.—In establishing and implementing the strategies under paragraph (1), the private, nonprofit corporation, not later than September 1, 1996, shall provide for an assessment of the availability, on the date of enactment of this Act, of state-of-the-art educational technology within the District of Columbia public schools and public charter schools.

(B) CONDUCT OF ASSESSMENT.—In providing for the assessment under subparagraph (A), the private, nonprofit corporation—

(i) shall provide for onsite inspections of the state-of-the-art educational technology within a minimum sampling of District of Columbia public schools and public charter schools; and

(ii) shall ensure proper input from students, parents, teachers, and other school officials through the use of focus groups and other appropriate mechanisms.

(C) RESULTS OF ASSESSMENT.—The private, nonprofit corporation shall ensure that the assessment carried out under this paragraph provides, at a minimum, necessary information on state-of-the-art educational technology within the District of Columbia public schools and public charter schools, including—

(i) the extent to which typical District of Columbia public schools have access to such state-of-the-art educational technology and training for such technology;

(ii) how such schools are using such technology;

(iii) the need for additional technology and the need for infrastructure for the implementation of such additional technology;

(iv) the need for computer hardware, software, training, and funding for such additional technology or infrastructure; and

(v) the potential for computer linkages among District of Columbia public schools and public charter schools.

(4) SHORT-TERM TECHNOLOGY PLAN.—

(A) IN GENERAL.—Based upon the results of the technology assessment under paragraph (3), the private, nonprofit corporation shall develop a 3-year plan that includes goals, priorities, and strategies for obtaining the resources necessary to implement strategies to ensure access to state-of-the-art educational technology within the District of Columbia public schools and public charter schools.

(B) IMPLEMENTATION.—The private, nonprofit corporation, in conjunction with schools, students, parents, and teachers, shall implement the plan developed under subparagraph (A).

(5) LONG-TERM TECHNOLOGY PLAN.—Prior to the completion of the implementation of the short-term technology plan under paragraph (4), the private, nonprofit corporation shall develop a plan under which the corporation will continue to coordinate the donation of private sector resources for maintaining the continuous improvement and upgrading of state-of-the-art educational technology within the District of Columbia public schools and public charter schools.

(c) DISTRICT EMPLOYMENT AND LEARNING CENTER.—

(1) ESTABLISHMENT.—The private, nonprofit corporation shall establish a center to be known as the "District Employment and Learning Center" (in this subtitle referred to as the "center"), which shall serve as a regional institute providing job training and employment assistance.

(2) DUTIES.—

(A) JOB TRAINING AND EMPLOYMENT ASSISTANCE PROGRAM.—The center shall establish a program to provide job training and employment assistance in the District of Columbia and shall coordinate with career preparation programs in existence on the date of enactment of this Act, such as vocational education, school-to-work, and career academies in the District of Columbia public schools.

(B) CONDUCT OF PROGRAM.—In carrying out the program established under subparagraph (A), the center—

(i) shall provide job training and employment assistance to youths who have attained the age of 18 but have not attained the age of 26, who are residents of the District of Columbia, and who are in need of such job training and employment assistance for an appropriate period not to exceed 2 years;

(ii) shall work to establish partnerships and enter into agreements with appropriate agencies of the District of Columbia Government to serve individuals participating in appropriate Federal programs, including programs under the Job Training Partnership Act (29 U.S.C. 1501 et seq.), the Job Opportunities and Basic Skills Training Program under part F of title IV of the Social Security Act (42 U.S.C. 681 et seq.), the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.), and the School-to-Work Opportunities Act of 1994 (20 U.S.C. 6101 et seq.);

(iii) shall conduct such job training, as appropriate, through a consortium of colleges, universities, community colleges, businesses, and other appropriate providers, in the District of Columbia metropolitan area;

(iv) shall design modular training programs that allow students to enter and leave the training curricula depending on their opportunities for job assignments with employers; and

(v) shall utilize resources from businesses to enhance work-based learning opportunities and facilitate access by students to work-based learning and work experience through temporary work assignments with employers in the District of Columbia metropolitan area.

(C) COMPENSATION.—The center may provide compensation to youths participating in the program under this paragraph for part-time work assigned in conjunction with training. Such compensation may include need-based payments and reimbursement of expenses.

(d) WORKFORCE PREPARATION INITIATIVES.—

(1) IN GENERAL.—The private, nonprofit corporation shall establish initiatives with the District of Columbia public schools, and public charter schools, appropriate governmental agencies, and businesses and other private entities, to facilitate the integration of rigorous academic studies with workforce preparation programs in District of Columbia public schools and public charter schools.

(2) CONDUCT OF INITIATIVES.—In carrying out the initiatives under paragraph (1), the private, nonprofit corporation shall, at a minimum, actively develop, expand, and promote the following programs:

(A) Career academy programs in secondary schools, as such programs are established in certain District of Columbia public schools, which provide a school-within-a-school concept, focusing on career preparation and the integration of the academy programs with vocational and technical curriculum.

(B) Programs carried out in the District of Columbia that are funded under the School-to-Work Opportunities Act of 1994 (20 U.S.C. 6101 et seq.).

(e) PROFESSIONAL DEVELOPMENT PROGRAM FOR TEACHERS AND ADMINISTRATORS.—

(1) ESTABLISHMENT OF PROGRAM.—The private, nonprofit corporation shall establish a consortium consisting of the corporation, teachers, school administrators, and the consortium of universities located in the District of Columbia (in existence on the date of the enactment of this Act), for the purpose of establishing a program for the professional development of teachers and school administrators employed by the District of Columbia public schools and public charter schools.

(2) CONDUCT OF PROGRAM.—In carrying out the program established under paragraph (1), the consortium established under such paragraph, in consultation with the task force established under subtitle D and the Superintendent, at a minimum, shall provide for the following:

(A) Professional development for teachers consistent with the model professional development programs for teachers under section 2411(b)(4), or consistent with the core curriculum developed by the Superintendent under section 2411(b)(2), as the case may be, except that for fiscal year 1996, such professional development shall focus on curriculum for elementary school grades in reading and mathematics that have been demonstrated to be effective for students from low-income backgrounds.

(B) Professional development for principals, with a special emphasis on middle school principals, focusing on effective practices that reduce the number of students who drop out of school.

(C) Private sector training of teachers in the use, application, and operation of state-of-the-art technology in education.

(D) Training for school principals and other school administrators in effective private sector management practices for the purpose of site-based management in the District of Columbia public schools, and training in the management of public charter schools established in accordance with this title.

SEC. 2705. MATCHING FUNDS.

The private, nonprofit corporation, to the extent practicable, shall provide matching funds, or in-kind contributions, or a combination thereof, for the purpose of carrying out the duties of the corporation under section 2704, as follows:

(1) For fiscal year 1996, the nonprofit corporation shall provide matching funds or in-kind contributions of $1 for every $1 of Federal funds provided under this subtitle for such year for activities under section 2704.

(2) For fiscal year 1997, the nonprofit corporation shall provide matching funds or in-kind

contributions of $3 for every $1 of Federal funds provided under this subtitle for such year for activities under section 2704.

(3) For fiscal year 1998, the nonprofit corporation shall provide matching funds or in-kind contributions of $5 for every $1 of Federal funds provided under this subtitle for such year for activities under section 2704.

SEC. 2706. REPORT.

The private, nonprofit corporation shall prepare and submit to the appropriate congressional committees on a quarterly basis, or, with respect to fiscal year 1996, on a biannual basis, a report which shall contain—

(1) the activities the corporation has carried out, including the duties of the corporation described in section 2704, for the 3-month period ending on the date of the submission of the report, or, with respect to fiscal year 1996, the 6-month period ending on the date of the submission of the report;

(2) an assessment of the use of funds or other resources donated to the corporation;

(3) the results of the assessment carried out under section 2704(b)(3); and

(4) a description of the goals and priorities of the corporation for the 3-month period beginning on the date of the submission of the report, or, with respect to fiscal year 1996, the 6-month period beginning on the date of the submission of the report.

SEC. 2707. JOBS FOR D.C. GRADUATES PROGRAM.

(a) IN GENERAL.—The nonprofit corporation shall establish a program, to be known as the "Jobs for D.C. Graduates Program", to assist District of Columbia public schools and public charter schools in organizing and implementing a school-to-work transition system, which system shall give priority to providing assistance to at-risk youths and disadvantaged youths.

(b) CONDUCT OF PROGRAM.—In carrying out the program established under subsection (a), the nonprofit corporation, consistent with the policies of the nationally recognized Jobs for America's Graduates, Inc., shall—

(1) establish performance standards for such program;

(2) provide ongoing enhancement and improvements in such program;

(3) provide research and reports on the results of such program; and

(4) provide preservice and inservice training.

SEC. 2708. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—

(1) DELTA COUNCIL; ACCESS TO STATE-OF-THE-ART EDUCATIONAL TECHNOLOGY; AND WORKFORCE PREPARATION INITIATIVES.—There are authorized to be appropriated to carry out subsections (a), (b), and (d) of section 2704, $1,000,000 for each of the fiscal years 1996, 1997, and 1998.

(2) DEAL CENTER.—There are authorized to be appropriated to carry out section 2704(c), $2,000,000 for each of the fiscal years 1996, 1997, and 1998.

(3) PROFESSIONAL DEVELOPMENT PROGRAM FOR TEACHERS AND ADMINISTRATORS.—There are authorized to be appropriated to carry out section 2704(e), $1,000,000 for each of the fiscal years 1996, 1997, and 1998.

(4) JOBS FOR D.C. GRADUATES PROGRAM.—There are authorized to be appropriated to carry out section 2707—

(A) $2,000,000 for fiscal year 1996; and

(B) $3,000,000 for each of the fiscal years 1997 through 2000.

(b) AVAILABILITY.—Amounts authorized to be appropriated under subsection (a) are authorized to remain available until expended.

SEC. 2709. TERMINATION OF FEDERAL SUPPORT; SENSE OF THE CONGRESS RELATING TO CONTINUATION OF ACTIVITIES.

(a) TERMINATION OF FEDERAL SUPPORT.—The authority under this subtitle to provide assistance to the private, nonprofit corporation or any other entity established pursuant to this subtitle shall terminate on October 1, 1998.

(b) SENSE OF THE CONGRESS RELATING TO CONTINUATION OF ACTIVITIES.—It is the sense of the Congress that—

(1) the activities of the private, nonprofit corporation under section 2704 should continue to be carried out after October 1, 1998, with resources made available from the private sector; and

(2) the corporation should provide oversight and coordination for such activities after such date.

Subtitle J—Management and Fiscal Accountability

SEC. 2751. MANAGEMENT SUPPORT SYSTEMS.

(a) FOOD SERVICES AND SECURITY SERVICES.—Notwithstanding any other law, rule, or regulation, the Board of Education shall enter into a contract for academic year 1995–1996 and each succeeding academic year, for the provision of all food services operations and security services for the District of Columbia public schools, unless the Superintendent determines that it is not feasible and provides the Superintendent's reasons in writing to the Board of Education and the Authority.

(b) DEVELOPMENT OF NEW MANAGEMENT AND DATA SYSTEMS.—Notwithstanding any other law, rule, or regulation, the Board of Education shall, in academic year 1995–1996, consult with the Authority on the development of new management and data systems, as well as training of personnel to use and manage the systems in areas of budget, finance, personnel and human resources, management information services, procurement, supply management, and other systems recommended by the Authority. Such plans shall be consistent with, and contemporaneous to, the District of Columbia Government's development and implementation of a replacement for the financial management system for the District of Columbia Government in use on the date of enactment of this Act.

(c) FISCAL YEAR 1996 FOR MANAGEMENT AND DATA SYSTEMS.—Not less than $1,500,000 of the amount appropriated under title I of this Act for staff, stipends, and other-than-personal-services of the Board of Education shall be available to carry out subsection (b).

SEC. 2752. ANNUAL REPORTING REQUIREMENTS.

(a) IN GENERAL.—The Board of Education shall annually compile an accurate and verifiable report on the positions and employees in the District of Columbia public school system. The annual report shall set forth—

(1) the number of validated schedule A positions in the District of Columbia public schools for fiscal year 1995, fiscal year 1996, and thereafter on a full-time equivalent basis, including a compilation of all positions by control center, responsibility center, funding source, position type, position title, pay plan, grade, and annual salary; and

(2) a compilation of all employees in the District of Columbia public schools as of December 31, of the year preceding the year for which the report is made, verified as to its accuracy in accordance with the functions that each employee actually performs, by control center, responsibility center, agency reporting code, program (including funding source), activity, location for accounting purposes, job title, grade and classification, annual salary, and position control number.

(b) SUBMISSION.—The annual report required by subsection (a) shall be submitted to the Congress, the Mayor, the District of Columbia Council, the Consensus Commission, and the Authority, not later than February 8, 1996, and each February 8 thereafter.

SEC. 2753. ANNUAL BUDGETS AND BUDGET REVISIONS.

(a) IN GENERAL.—Not later than October 1, 1996, or prior to 15 calendar days after the date of the enactment of the District of Columbia Appropriations Act, 1996, whichever occurs first, and each succeeding year thereafter, the Board of Education shall submit to the appropriate congressional committees, the Mayor, the District of Columbia Council, the Consensus Commission, and the Authority, a revised appropriated funds operating budget for the District of Columbia public school system for such fiscal year that is consistent with the total amount appropriated in an Act making appropriations for the District of Columbia for such fiscal year and that realigns budgeted data for personal services and other than personal services, with anticipated actual expenditures.

(b) SUBMISSION.—The revised budget required by subsection (a) shall be submitted in the format of the budget that the Board of Education submits to the Mayor for inclusion in the Mayor's budget submission to the District of Columbia Council pursuant to section 442 of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93–198 (D.C. Code, sec. 47–301).

SEC. 2754. ACCESS TO FISCAL AND STAFFING DATA.

(a) IN GENERAL.—The budget, financial-accounting, personnel, payroll, procurement, and management information systems of the District of Columbia public schools shall be coordinated and interface with related systems of the District of Columbia Government.

(b) ACCESS.—The Board of Education shall provide read-only access to its internal financial management systems and all other data bases to designated staff of the Mayor, the Council, the Authority, and appropriate congressional committees.

SEC. 2755. DEVELOPMENT OF FISCAL YEAR 1997 BUDGET REQUEST.

(a) IN GENERAL.—The Board of Education shall develop its fiscal year 1997 gross operating budget and its fiscal year 1997 appropriated funds budget request in accordance with this section.

(b) FISCAL YEAR 1996 BUDGET REVISION.—Not later than February 15, 1996, the Board of Education shall develop, approve, and submit to the Mayor, the District of Columbia Council, the Authority, and appropriate congressional committees, a revised fiscal year 1996 gross operating budget that reflects the amount appropriated in the District of Columbia Appropriations Act, 1996, and which—

(1) is broken out on the basis of appropriated funds and nonappropriated funds, control center, responsibility center, agency reporting code, object class, and object; and

(2) indicates by position title, grade, and agency reporting code, all staff allocated to each District of Columbia public school as of October 15, 1995, and indicates on an object class basis all other-than-personal-services financial resources allocated to each school.

(c) ZERO-BASE BUDGET.—For fiscal year 1997, the Board of Education shall build its gross operating budget and appropriated funds request from a zero-base, starting from the local school level through the central office level.

(d) SCHOOL-BY-SCHOOL BUDGETS.—The Board of Education's initial fiscal year 1997 gross operating budget and appropriated funds budget request submitted to the Mayor, the District of Columbia Council, and the Authority shall contain school-by-school budgets and shall also—

(1) be broken out on the basis of appropriated funds and nonappropriated funds, control center, responsibility center, agency reporting code, object class, and object;

(2) indicate by position title, grade, and agency reporting code all staff budgeted for each District of Columbia public school, and indicate on an object class basis all other-than-personal-services financial resources allocated to each school; and

(3) indicate the amount and reason for all changes made to the initial fiscal year 1997 gross operating budget and appropriated funds request from the revised fiscal year 1996 gross operating budget required by subsection (b).

SEC. 2756. TECHNICAL AMENDMENTS.

Section 1120A of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6322) is amended—

(1) in subsection (b)(1), by—

(A) striking "(A) Except as provided in subparagraph (B), a State" and inserting "A State"; and

(B) striking subparagraph (B); and

(2) by adding at the end thereof the following new subsection:

"(d) EXCLUSION OF FUNDS.—For the purpose of complying with subsections (b) and (c), a State or local educational agency may exclude supplemental State or local funds expended in any school attendance area or school for programs that meet the intent and purposes of this part.".

Subtitle K—Personal Accountability and Preservation of School-Based Resources

SEC. 2801. PRESERVATION OF SCHOOL-BASED STAFF POSITIONS.

(a) RESTRICTIONS ON REDUCTIONS OF SCHOOL-BASED EMPLOYEES.—To the extent that a reduction in the number of full-time equivalent positions for the District of Columbia public schools is required to remain within the number of full-time equivalent positions established for the public schools in appropriations Acts, no reductions shall be made from the full-time equivalent positions for school-based teachers, principals, counselors, librarians, or other school-based educational positions that were established as of the end of fiscal year 1995, unless the Authority makes a determination based on student enrollment that—

(1) fewer school-based positions are needed to maintain established pupil-to-staff ratios; or

(2) reductions in positions for other than school-based employees are not practicable.

(b) DEFINITION.—The term "school-based educational position" means a position located at a District of Columbia public school or other position providing direct support to students at such a school, including a position for a clerical, stenographic, or secretarial employee, but not including any part-time educational aide position.

SEC. 2802. MODIFICATIONS OF BOARD OF EDUCATION REDUCTION-IN-FORCE PROCEDURES.

The District of Columbia Government Comprehensive Merit Personnel Act of 1978 (D.C. Code, sec. 1–601.1 et seq.) is amended—

(1) in section 301 (D.C. Code, sec. 1.603.1)—

(A) by inserting after paragraph (13), the following new paragraph:

"(13A) The term 'nonschool-based personnel' means any employee of the District of Columbia public schools who is not based at a local school or who does not provide direct services to individual students."; and

(B) by inserting after paragraph (15), the following new paragraph:

"(15A) The term 'school administrators' means principals, assistant principals, school program directors, coordinators, instructional supervisors, and support personnel of the District of Columbia public schools.";

(2) in section 801A(b)(2) (D.C. Code, sec. 1–609.1(b)(2)(L)—

(A) by striking "(L) reduction-in-force" and inserting "(L)(i) reduction-in-force"; and

(B) by inserting after subparagraph (L)(i), the following new clause:

"(ii) Notwithstanding any other provision of law, the Board of Education shall not issue rules that require or permit nonschool-based personnel or school administrators to be assigned or reassigned to the same competitive level as classroom teachers;"; and

(3) in section 2402 (D.C. Code, sec. 1–625.2), by adding at the end the following new subsection:

"(f) Notwithstanding any other provision of law, the Board of Education shall not require or permit nonschool-based personnel or school administrators to be assigned or reassigned to the same competitive level as classroom teachers.".

SEC. 2803. PUBLIC SCHOOL EMPLOYEE EVALUATIONS.

Notwithstanding any other provision of law, rule, or regulation, the evaluation process and instruments for evaluating District of Columbia public school employees shall be a nonnegotiable item for collective bargaining purposes.

SEC. 2804. PERSONAL AUTHORITY FOR PUBLIC SCHOOL EMPLOYEES.

(a) IN GENERAL.—Notwithstanding any other provision of law, rule, or regulation, an employee of a District of Columbia public school shall be—

(1) classified as an educational service employee;

(2) placed under the personnel authority of the Board of Education; and

(3) subject to all Board of Education rules.

(b) SCHOOL-BASED PERSONNEL.—School-based personnel shall constitute a separate competitive area from nonschool-based personnel who shall not compete with school-based personnel for retention purposes.

Subtitle L—Establishment and Organization of the Commission on Consensus Reform in the District of Columbia Public Schools

SEC. 2851. COMMISSION ON CONSENSUS REFORM IN THE DISTRICT OF COLUMBIA PUBLIC SCHOOLS.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established within the District of Columbia Government a Commission on Consensus Reform in the District of Columbia Public Schools, consisting of 7 members to be appointed in accordance with paragraph (2).

(2) MEMBERSHIP.—The Consensus Commission shall consist of the following members:

(A) 1 member to be appointed by the President chosen from a list of 3 proposed members submitted by the Majority Leader of the Senate.

(B) 1 member to be appointed by the President chosen from a list of 3 proposed members submitted by the Speaker of the House of Representatives.

(C) 2 members to be appointed by the President, of which 1 shall represent the local business community and 1 of which shall be a teacher in a District of Columbia public school.

(D) The President of the District of Columbia Congress of Parents and Teachers.

(E) The President of the Board of Education.

(F) The Superintendent.

(G) The Mayor and District of Columbia Council Chairman shall each name 1 nonvoting ex officio member.

(H) The Chief of the National Guard Bureau who shall be an ex officio member.

(3) TERMS OF SERVICE.—The members of the Consensus Commission shall serve for a term of 3 years.

(4) VACANCIES.—Any vacancy in the membership of the Consensus Commission shall be filled by the appointment of a new member in the same manner as provided for the vacated membership. A member appointed under this paragraph shall serve the remaining term of the vacated membership.

(5) QUALIFICATIONS.—Members of the Consensus Commission appointed under subparagraphs (A), (B), and (C) of paragraph (2) shall be residents of the District of Columbia and shall have a knowledge of public education in the District of Columbia.

(6) CHAIR.—The Chair of the Consensus Commission shall be chosen by the Consensus Commission from among its members, except that the President of the Board of Education and the Superintendent shall not be eligible to serve as Chair.

(7) NO COMPENSATION FOR SERVICE.—Members of the Consensus Commission shall serve without pay, but may receive reimbursement for any reasonable and necessary expenses incurred by reason of service on the Consensus Commission.

(b) EXECUTIVE DIRECTOR.—The Consensus Commission shall have an Executive Director who shall be appointed by the Chair with the consent of the Consensus Commission. The Executive Director shall be paid at a rate determined by the Consensus Commission, except that such rate may not exceed the highest rate of pay payable for level EG–16 of the Educational Service of the District of Columbia.

(c) STAFF.—With the approval of the Chair and the Authority, the Executive Director may appoint and fix the pay of additional personnel as the Executive Director considers appropriate, except that no individual appointed by the Executive Director may be paid at a rate greater than the rate of pay for the Executive Director.

(d) SPECIAL RULE.—The Board of Education, or the Authority, shall reprogram such funds, as the Chair of the Consensus Commission shall in writing request, from amounts available to the Board of Education.

SEC. 2852. PRIMARY PURPOSE AND FINDINGS.

(a) PURPOSE.—The primary purpose of the Consensus Commission is to assist in developing a long-term reform plan that has the support of the District of Columbia community through the participation of representatives of various critical segments of such community in helping to develop and approve the plan.

(b) FINDINGS.—The Congress finds that—

(1) experience has shown that the failure of the District of Columbia educational system has been due more to the failure to implement a plan than the failure to develop a plan;

(2) national studies indicate that 50 percent of secondary school graduates lack basic literacy skills, and over 30 percent of the 7th grade students in the District of Columbia public schools drop out of school before graduating;

(3) standard student assessments indicate only average performance for grade level and fail to identify individual students who lack basic skills, allowing too many students to graduate lacking these basic skills and diminishing the worth of a diploma;

(4) experience has shown that successful schools have good community, parent, and business involvement;

(5) experience has shown that reducing dropout rates in the critical middle and secondary school years requires individual student involvement and attention through such activities as arts or athletics; and

(6) experience has shown that close coordination between educators and business persons is required to provide noncollege-bound students the skills necessary for employment, and that personal attention is vitally important to assist each student in developing an appropriate career path.

SEC. 2853. DUTIES AND POWERS OF THE CONSENSUS COMMISSION.

(a) PRIMARY RESPONSIBILITY.—The Board of Education and the Superintendent shall have primary responsibility for developing and implementing the long-term reform plan for education in the District of Columbia.

(b) DUTIES.—The Consensus Commission shall—

(1) identify any obstacles to implementation of the long-term reform plan and suggest ways to remove such obstacles;

(2) assist in developing programs that—

(A) ensure every student in a District of Columbia public school achieves basic literacy skills;

(B) ensure every such student possesses the knowledge and skills necessary to think critically and communicate effectively by the completion of grade 8; and

(C) lower the dropout rate in the District of Columbia public schools;

(3) assist in developing districtwide assessments, including individual assessments, that identify District of Columbia public school students who lack basic literacy skills, with particular attention being given to grade 4 and the middle school years, and establish procedures to ensure that a teacher is made accountable for the performance of every such student in such teacher's class;

(4) make recommendations to improve community, parent, and business involvement in District of Columbia public schools and public charter schools;

(5) assess opportunities in the District of Columbia to increase individual student involvement and attention through such activities as arts or athletics, and make recommendations on how to increase such involvement; and

(6) assist in the establishment of procedures that ensure every District of Columbia public school student is provided the skills necessary for employment, including the development of individual career paths.

(c) POWERS.—The Consensus Commission shall have the following powers:

(1) To monitor and comment on the development and implementation of the long-term reform plan.

(2) To exercise its authority, as provided in this subtitle, as necessary to facilitate implementation of the long-term reform plan.

(3) To review and comment on the budgets of the Board of Education, the District of Columbia public schools and public charter schools.

(4) To recommend rules concerning the management and direction of the Board of Education that address obstacles to the development or implementation of the long-term reform plan.

(5) To review and comment on the core curriculum for kindergarten through grade 12 developed under subtitle D.

(6) To review and comment on a core curriculum for prekindergarten, vocational and technical training, and adult education.

(7) To review and comment on all other educational programs carried out by the Board of Education and public charter schools.

(8) To review and comment on the districtwide assessments for measuring student achievement in the core curriculum developed under subtitle D.

(9) To review and comment on the model professional development programs for teachers using the core curriculum developed under subtitle D.

(d) LIMITATIONS.—

(1) IN GENERAL.—Except as otherwise provided in this subtitle, the Consensus Commission shall have no powers to involve itself in the management or operation of the Board of Education with respect to the implementation of the long-term reform plan.

(2) SPECIAL RULE.—If the Consensus Commission determines that the Board of Education has failed to take an action necessary to develop or implement the long-term reform plan or that the Board of Education is unable to do so, the Consensus Commission shall request the Authority to take appropriate action, and the Authority shall take such action as the Authority deems appropriate, to develop or implement, as the case may be, the long-term reform plan.

SEC. 2854. IMPROVING ORDER AND DISCIPLINE.

(a) COMMUNITY SERVICE REQUIREMENT FOR SUSPENDED STUDENTS.—

(1) IN GENERAL.—Any student suspended from classes at a District of Columbia public school who is required to serve the suspension outside the school shall perform community service for the period of suspension. The community service required by this subsection shall be subject to rules and regulations promulgated by the Mayor.

(2) EFFECTIVE DATE.—This subsection shall take effect on the first day of the 1996–1997 academic year.

(b) EXPIRATION DATE.—This section, and sections 2101(b)(1)(K) and 2851(a)(2)(H), shall cease to be effective on the last day of the 1997–1998 academic year.

(c) REPORT.—The Consensus Commission shall study the effectiveness of the policies implemented pursuant to this section in improving order and discipline in District of Columbia public schools and report its findings to the appropriate congressional committees not later than 60 days prior to the last day of the 1997–1998 academic year.

SEC. 2855. EDUCATIONAL PERFORMANCE AUDITS.

(a) IN GENERAL.—The Consensus Commission may examine and request the Inspector General of the District of Columbia or the Authority to audit the records of the Board of Education to ensure, monitor, and evaluate the performance of the Board of Education with respect to compliance with the long-term reform plan and such plan's overall educational achievement. The Consensus Commission shall conduct an annual review of the educational performance of the Board of Education with respect to meeting the goals of such plan for such year. The Board of Education shall cooperate and assist in the review or audit as requested by the Consensus Commission.

(b) AUDIT.—The Consensus Commission may examine and request the Inspector General of the District of Columbia or the Authority to audit the records of any public charter school to assure, monitor, and evaluate the performance of the public charter school with respect to the content standards and districtwide assessments described in section 2411(b). The Consensus Commission shall receive a copy of each public charter school's annual report.

SEC. 2856. INVESTIGATIVE POWERS.

The Consensus Commission may investigate any action or activity which may hinder the progress of any part of the long-term reform plan. The Board of Education shall cooperate and assist the Consensus Commission in any investigation. Reports of the findings of any such investigation shall be provided to the Board of Education, the Superintendent, the Mayor, the District of Columbia Council, the Authority, and the appropriate congressional committees.

SEC. 2857. RECOMMENDATIONS OF THE CONSENSUS COMMISSION.

(a) IN GENERAL.—The Consensus Commission may at any time submit recommendations to the Board of Education, the Mayor, the District of Columbia Council, the Authority, the Board of Trustees of any public charter school and the Congress with respect to actions the District of Columbia Government or the Federal Government should take to ensure implementation of the long-term reform plan.

(b) AUTHORITY ACTIONS.—Pursuant to the District of Columbia Financial Responsibility and Management Assistance Act of 1995 or upon the recommendation of the Consensus Commission, the Authority may take whatever actions the Authority deems necessary to ensure the implementation of the long-term reform plan.

SEC. 2858. EXPIRATION DATE.

Except as otherwise provided in this subtitle, this subtitle shall be effective during the period beginning on the date of enactment of this Act and ending 7 years after such date.

Subtitle M—Parent Attendance at Parent-Teacher Conferences

SEC. 2901. POLICY.

Notwithstanding any other provision of law, the Mayor is authorized to develop and implement a policy encouraging all residents of the District of Columbia with children attending a District of Columbia public school to attend and participate in at least one parent-teacher conference every 90 days during the academic year.

Subtitle N—Low-Income Scholarships

SEC. 2921. DEFINITIONS.

As used in this subtitle—

(1) the term "Board" means the Board of Directors of the Corporation established under section 2922(b)(1);

(2) the term "Corporation" means the District of Columbia Scholarship Corporation established under section 2922(a);

(3) the term "eligible institution"—

(A) in the case of an eligible institution serving a student who receives a tuition scholarship under section 2923(d)(1), means a private or independent elementary or secondary school; and

(B) in the case of an eligible institution serving a student who receives an enhanced achievement scholarship under section 2923(d)(2), means an elementary or secondary school, or an entity that provides services to a student enrolled in an elementary or secondary school to enhance such student's achievement through activities described in section 2923(d)(2); and

(4) the term "poverty line" means the income official 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.

SEC. 2922. DISTRICT OF COLUMBIA SCHOLARSHIP CORPORATION.

(a) GENERAL REQUIREMENTS.—

(1) IN GENERAL.—There is authorized to be established a private, nonprofit corporation, to be known as the "District of Columbia Scholarship Corporation", which is neither an agency nor establishment of the United States Government or the District of Columbia Government.

(2) DUTIES.—The Corporation shall have the responsibility and authority to administer, publicize, and evaluate the scholarship program in accordance with this subtitle, and to determine student and school eligibility for participation in such program.

(3) CONSULTATION.—The Corporation shall exercise its authority—

(A) in a manner consistent with maximizing educational opportunities for the maximum number of interested families; and

(B) in consultation with the Board of Education, the Superintendent, the Consensus Commission, and other school scholarship programs in the District of Columbia.

(4) APPLICATION OF PROVISIONS.—The Corporation shall be subject to the provisions of this subtitle, and, to the extent consistent with this subtitle, to the District of Columbia Nonprofit Corporation Act (D.C. Code, sec. 29–501 et seq.).

(5) RESIDENCE.—The Corporation shall have its place of business in the District of Columbia and shall be considered, for purposes of venue in civil actions, to be a resident of the District of Columbia.

(6) FUND.—There is hereby established in the District of Columbia general fund a fund that shall be known as the "District of Columbia Scholarship Fund".

(7) DISBURSEMENT.—The Mayor shall disburse to the Corporation, before October 15 of each fiscal year or not later than 15 days after the date of enactment of an Act making appropriations for the District of Columbia for such year,

whichever occurs later, such funds as have been appropriated to the District of Columbia Scholarship Fund for the fiscal year for which such disbursement is made.

(8) AVAILABILITY.—Funds authorized to be appropriated under this subtitle shall remain available until expended.

(9) USES.—Funds authorized to be appropriated under this subtitle shall be used by the Corporation in a prudent and financially responsible manner, solely for scholarships, contracts, and administrative costs.

(10) AUTHORIZATION.—

(A) IN GENERAL.—There are authorized to be appropriated to the District of Columbia Scholarship Fund—

(i) $5,000,000 for fiscal year 1996;

(ii) $7,000,000 for fiscal year 1997; and

(iii) $10,000,000 for each of fiscal years 1998 through 2000.

(B) LIMITATION.—Not more than $250,000 of the amount appropriated to carry out this subtitle for any fiscal year may be used by the Corporation for any purpose other than assistance to students.

(b) ORGANIZATION AND MANAGEMENT; BOARD OF DIRECTORS.—

(1) BOARD OF DIRECTORS; MEMBERSHIP.—

(A) IN GENERAL.—The Corporation shall have a Board of Directors comprised of 7 members, with 6 members of the Board appointed by the President not later than 30 days after receipt of nominations from the Speaker of the House of Representatives, the Minority Leader of the House of Representatives, the Majority Leader of the Senate, and the Minority Leader of the Senate.

(B) HOUSE NOMINATIONS.—The President shall appoint 2 members of the Board from a list of at least 6 individuals nominated by the Speaker of the House of Representatives, and 1 member of the Board from a list of at least 3 individuals nominated by the Minority Leader of the House of Representatives.

(C) SENATE NOMINATIONS.—The President shall appoint 2 members of the Board from a list of at least 6 individuals nominated by the Majority Leader of the Senate, and 1 member of the Board from a list of at least 3 individuals nominated by the Minority Leader of the Senate.

(D) DEADLINE.—The Speaker and Minority Leader of the House of Representatives and Majority Leader and Minority Leader of the Senate shall submit their nominations to the President not later than 30 days after the date of the enactment of this Act.

(E) APPOINTEE OF MAYOR.—The Mayor shall appoint 1 member of the Board not later than 60 days after the date of the enactment of this Act.

(F) POSSIBLE INTERIM MEMBERS.—If the President does not appoint the 6 members of the Board in the 30-day period described in subparagraph (A), then the Speaker of the House of Representatives and the Majority Leader of the Senate shall each appoint 2 members of the Board, and the Minority Leader of the House of Representatives and the Minority Leader of the Senate shall each appoint 1 of the Board, from among the individuals nominated pursuant to subparagraphs (A) and (B), as the case may be. The appointees under the preceding sentence together with the appointee of the Mayor, shall serve as an interim Board with all the powers and other duties of the Board described in this subtitle, until the President makes the appointments as described in this subsection.

(2) POWERS.—All powers of the Corporation shall vest in and be exercised under the authority of the Board.

(3) ELECTIONS.—Members of the Board annually shall elect 1 of the members of the Board to be chairperson of the Board.

(4) RESIDENCY.—All members appointed to the Board shall be residents of the District of Columbia at the time of appointment and while serving on the Board.

(5) NONEMPLOYEE.—No member of the Board may be an employee of the United States Government or the District of Columbia Government when appointed to or during tenure on the Board, unless the individual is on a leave of absence from such a position while serving on the Board.

(6) INCORPORATION.—The members of the initial Board shall serve as incorporators and shall take whatever steps are necessary to establish the Corporation under the District of Columbia Nonprofit Corporation Act (D.C. Code, sec. 29–501 et seq.).

(7) GENERAL TERM.—The term of office of each member of the Board shall be 5 years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which the predecessor was appointed shall be appointed for the remainder of such term.

(8) CONSECUTIVE TERM.—No member of the Board shall be eligible to serve in excess of 2 consecutive terms of 5 years each. A partial term shall be considered as 1 full term. Any vacancy on the Board shall not affect the Board's power, but shall be filled in a manner consistent with this subtitle.

(9) NO BENEFIT.—No part of the income or assets of the Corporation shall inure to the benefit of any Director, officer, or employee of the Corporation, except as salary or reasonable compensation for services.

(10) POLITICAL ACTIVITY.—The Corporation may not contribute to or otherwise support any political party or candidate for elective public office.

(11) NO OFFICERS OR EMPLOYEES.—The members of the Board shall not, by reason of such membership, be considered to be officers or employees of the United States Government or of the District of Columbia Government.

(12) STIPENDS.—The members of the Board, while attending meetings of the Board or while engaged in duties related to such meetings or other activities of the Board pursuant to this subtitle, shall be provided a stipend. Such stipend shall be at the rate of $150 per day for which the member of the Board is officially recorded as having worked, except that no member may be paid a total stipend amount in any calendar year in excess of $5,000.

(13) CONGRESSIONAL INTENT.—Subject to the results of the program appraisal under section 2933, it is the intention of the Congress to turn over to District of Columbia officials the control of the Board at the end of the 5-year period beginning on the date of enactment of this Act, under terms and conditions to be determined at that time.

(c) OFFICERS AND STAFF.—

(1) EXECUTIVE DIRECTOR.—The Corporation shall have an Executive Director, and such other staff, as may be appointed by the Board for terms and at rates of compensation, not to exceed level EG–16 of the Educational Service of the District of Columbia, to be fixed by the Board .

(2) STAFF.—With the approval of the Board, the Executive Director may appoint and fix the salary of such additional personnel as the Executive Director considers appropriate.

(3) ANNUAL RATE.—No staff of the Corporation may be compensated by the Corporation at an annual rate of pay greater than the annual rate of pay of the Executive Director.

(4) SERVICE.—All officers and employees of the Corporation shall serve at the pleasure of the Board.

(5) QUALIFICATION.—No political test or qualification may be used in selecting, appointing, promoting, or taking other personnel actions with respect to officers, agents, or employees of the Corporation.

(d) POWERS OF THE CORPORATION.—

(1) GENERALLY.—The Corporation is authorized to obtain grants from, and make contracts with, individuals and with private, State, and Federal agencies, organizations, and institutions.

(2) HIRING AUTHORITY.—The Corporation may hire, or accept the voluntary services of, consultants, experts, advisory boards, and panels to aid the Corporation in carrying out this subtitle.

(e) FINANCIAL MANAGEMENT AND RECORDS.—

(1) AUDITS.—The financial statements of the Corporation shall be—

(A) maintained in accordance with generally accepted accounting principles for nonprofit corporations; and

(B) audited annually by independent certified public accountants.

(2) REPORT.—The report for each such audit shall be included in the annual report to Congress required by section 2933(c).

SEC. 2923. SCHOLARSHIPS AUTHORIZED.

(a) ELIGIBLE STUDENTS.—The Corporation is authorized to award tuition scholarships under subsection (d)(1) and enhanced achievement scholarships under subsection (d)(2) to students in kindergarten through grade 12—

(1) who are residents of the District of Columbia; and

(2) whose family income does not exceed 185 percent of the poverty line.

(b) SCHOLARSHIP PRIORITY.—

(1) FIRST.—The Corporation shall first award scholarships to students described in subsection (a) who—

(A) are enrolled in a District of Columbia public school or preparing to enter a District of Columbia kindergarten, except that this subparagraph shall apply only for academic years 1996, 1997, and 1998; or

(B) have received a scholarship from the Corporation in the year preceding the year for which the scholarship is awarded.

(2) SECOND.—If funds remain for a fiscal year for awarding scholarships after awarding scholarships under paragraph (1), the Corporation shall award scholarships to students described in subsection (a) who are not described in paragraph (1).

(c) SPECIAL RULE.—The Corporation shall attempt to ensure an equitable distribution of scholarship funds to students at diverse academic achievement levels.

(d) USE OF SCHOLARSHIP.—

(1) TUITION SCHOLARSHIPS.—A tuition scholarship may be used only for the payment of the cost of the tuition and mandatory fees for, and transportation to attend, an eligible institution located within the geographic boundaries of the District of Columbia.

(2) ENHANCED ACHIEVEMENT SCHOLARSHIP.—An enhanced achievement scholarship may be used only for the payment of—

(A) the costs of tuition and mandatory fees for, and transportation to attend, a program of nonsectarian instruction provided by an eligible institution which enhances student achievement of the core curriculum and is operated outside of regular school hours to supplement the regular school program;

(B) the costs of tuition and mandatory fees for, and transportation to attend, after-school activities that do not have an academic focus, such as athletics or music lessons; or

(C) the costs of tuition and mandatory fees for, and transportation to attend, vocational, vocational-technical, and technical training programs.

(e) NOT SCHOOL AID.—A scholarship under this subtitle shall be considered assistance to the student and shall not be considered assistance to an eligible institution.

SEC. 2924. SCHOLARSHIP PAYMENTS AND AMOUNTS.

(a) AWARDS.—From the funds made available under this subtitle, the Corporation shall award

a scholarship to a student and make payments in accordance with section 2930 on behalf of such student to a participating eligible institution chosen by the parent of the student.

(b) NOTIFICATION.—Each eligible institution that desires to receive payment under subsection (a) shall notify the Corporation not later than 10 days after—

(1) the date that a student receiving a scholarship under this subtitle is enrolled, of the name, address, and grade level of such student;

(2) the date of the withdrawal or expulsion of any student receiving a scholarship under this subtitle, of the withdrawal or expulsion; and

(3) the date that a student receiving a scholarship under this subtitle is refused admission, of the reasons for such a refusal.

(c) TUITION SCHOLARSHIP.—

(1) EQUAL TO OR BELOW POVERTY LINE.—For a student whose family income is equal to or below the poverty line, a tuition scholarship may not exceed the lesser of—

(A) the cost of tuition and mandatory fees for, and transportation to attend, an eligible institution; or

(B) $3,000 for fiscal year 1996, with such amount adjusted in proportion to changes in the Consumer Price Index for all urban consumers published by the Department of Labor for each of fiscal years 1997 through 2000.

(2) ABOVE POVERTY LINE.—For a student whose family income is greater than the poverty line, but not more than 185 percent of the poverty line, a tuition scholarship may not exceed the lesser of—

(A) 50 percent of the cost of tuition and mandatory fees for, and transportation to attend, an eligible institution; or

(B) $1,500 for fiscal year 1996, with such amount adjusted in proportion to changes in the Consumer Price Index for all urban consumers published by the Department of Labor for each of fiscal years 1997 through 2000.

(d) ENHANCED ACHIEVEMENT SCHOLARSHIP.—

(1) EQUAL TO OR BELOW POVERTY LINE.—For a student whose family income is equal to or below the poverty line, an enhanced achievement scholarship may not exceed the lesser of—

(A) the costs of tuition and mandatory fees for, and transportation to attend, a program of nonsectarian instruction at an eligible institution; or

(B) $1,500 for 1996, with such amount adjusted in proportion to changes in the Consumer Price Index for all urban consumers published by the Department of Labor for each of fiscal years 1997 through 2000.

(2) ABOVE POVERTY LINE.—For a student whose family income is greater than the poverty line, but not more than 185 percent of the poverty line, an enhanced achievement scholarship may not exceed the lesser of—

(A) 50 percent of the costs of tuition and mandatory fees for, and transportation to attend, a program of nonsectarian instruction at an eligible institution; or

(B) $750 for fiscal year 1996 with such amount adjusted in proportion to changes in the Consumer Price Index for all urban consumers published by the Department of Labor for each of fiscal years 1997 through 2000.

(e) ALLOCATION OF FUNDS.—

(1) FEDERAL FUNDS.—

(A) PLAN.—The Corporation shall submit to the District of Columbia Council a proposed allocation plan for the allocation of Federal funds between the tuition scholarships under section 2923(d)(1) and enhanced achievement scholarships under section 2923(d)(2).

(B) CONSIDERATION.—Not later than 30 days after receipt of each such plan, the District of Columbia Council shall consider such proposed allocation plan and notify the Corporation in writing of its decision to approve or disapprove such allocation plan.

(C) OBJECTIONS.—In the case of a vote of disapproval of such allocation plan, the District of Columbia Council shall provide in writing the District of Columbia Council's objections to such allocation plan.

(D) RESUBMISSION.—The Corporation may submit a revised allocation plan for consideration to the District of Columbia Council.

(E) PROHIBITION.—No Federal funds provided under this subtitle may be used for any scholarship until the District of Columbia Council has approved the allocation plan for the Corporation.

(2) PRIVATE FUNDS.—The Corporation shall annually allocate unrestricted private funds equitably, as determined by the Board, for scholarships under paragraphs (1) and (2) of section 2923(d), after consultation with the public, the Mayor, the District of Columbia Council, the Board of Education, the Superintendent, and the Consensus Commission.

SEC. 2925. CERTIFICATION OF ELIGIBLE INSTITUTIONS.

(a) APPLICATION.—An eligible institution that desires to receive a payment on behalf of a student who receives a scholarship under this subtitle shall file an application with the Corporation for certification for participation in the scholarship program under this subtitle. Each such application shall—

(1) demonstrate that the eligible institution has operated with not less than 25 students during the 3 years preceding the year for which the determination is made unless the eligible institution is applying for certification as a new eligible institution under subsection (c);

(2) contain an assurance that the eligible institution will comply with all applicable requirements of this subtitle;

(3) provide the most recent audit of the financial statements of the eligible institution by an independent certified public accountant using generally accepted auditing standards, completed not earlier than 3 years before the date such application is filed;

(4) describe the eligible institution's proposed program, including personnel qualifications and fees;

(5) contain an assurance that a student receiving a scholarship under this subtitle shall not be required to attend or participate in a religion class or religious ceremony without the written consent of such student's parent;

(6) contain an assurance that funds received under this subtitle will not be used to pay the costs related to a religion class or a religious ceremony, except that such funds may be used to pay the salary of a teacher who teaches such class or participates in such ceremony if such teacher also teaches an academic class at such eligible institution;

(7) contain an assurance that the eligible institution will abide by all regulations of the District of Columbia Government applicable to such eligible institution; and

(8) contain an assurance that the eligible institution will implement due process requirements for expulsion and suspension of students, including at a minimum, a process for appealing the expulsion or suspension decision.

(b) CERTIFICATION.—

(1) IN GENERAL.—Except as provided in paragraph (3), not later than 60 days after receipt of an application in accordance with subsection (a), the Corporation shall certify an eligible institution to participate in the scholarship program under this subtitle.

(2) CONTINUATION.—An eligible institution's certification to participate in the scholarship program shall continue unless such eligible institution's certification is revoked in accordance with subsection (d).

(3) EXCEPTION FOR 1996.—For fiscal year 1996 only, and after receipt of an application in accordance with subsection (a), the Corporation shall certify the eligibility of an eligible institution to participate in the scholarship program under this subtitle at the earliest practicable date.

(c) NEW ELIGIBLE INSTITUTION.—

(1) IN GENERAL.—An eligible institution that did not operate with at least 25 students in the 3 years preceding the year for which the determination is made may apply for a 1-year provisional certification to participate in the scholarship program under this subtitle for a single year by providing to the Corporation not later than July 1 of the year preceding the year for which the determination is made—

(A) a list of the eligible institution's board of directors;

(B) letters of support from not less than 10 members of the community served by such eligible institution;

(C) a business plan;

(D) an intended course of study;

(E) assurances that the eligible institution will begin operations with not less than 25 students;

(F) assurances that the eligible institution will comply with all applicable requirements of this subtitle; and

(G) a statement that satisfies the requirements of paragraph (2), and paragraphs (4) through (8), of subsection (a).

(2) CERTIFICATION.—Not later than 60 days after the date of receipt of an application described in paragraph (1), the Corporation shall certify in writing the eligible institution's provisional certification to participate in the scholarship program under this subtitle unless the Corporation determines that good cause exists to deny certification.

(3) RENEWAL OF PROVISIONAL CERTIFICATION.—After receipt of an application under paragraph (1) from an eligible institution that includes an audit of the financial statements of the eligible institution by an independent certified public accountant using generally accepted auditing standards completed not earlier than 12 months before the date such application is filed, the Corporation shall renew an eligible institution's provisional certification for the second and third years of the school's participation in the scholarship program under this subtitle unless the Corporation finds—

(A) good cause to deny the renewal, including a finding of a pattern of violation of requirements described in section 2926(a); or

(B) consistent failure of 25 percent or more of the students receiving scholarships under this subtitle and attending such school to make appropriate progress (as determined by the Corporation) in academic achievement.

(4) DENIAL OF CERTIFICATION.—If provisional certification or renewal of provisional certification under this subsection is denied, then the Corporation shall provide a written explanation to the eligible institution of the reasons for such denial.

(d) REVOCATION OF ELIGIBILITY.—

(1) IN GENERAL.—The Corporation, after notice and hearing, may revoke an eligible institution's certification to participate in the scholarship program under this subtitle for a year succeeding the year for which the determination is made for—

(A) good cause, including a finding of a pattern of violation of program requirements described in section 2926(a); or

(B) consistent failure of 25 percent or more of the students receiving scholarships under this subtitle and attending such school to make appropriate progress (as determined by the Corporation) in academic achievement.

(2) EXPLANATION.—If the certification of an eligible institution is revoked, the Corporation shall provide a written explanation of its decision to such eligible institution and require a

pro rata refund of the payments received under this subtitle.

SEC. 2926. PARTICIPATION REQUIREMENTS FOR ELIGIBLE INSTITUTIONS.

(a) REQUIREMENTS.—Each eligible institution participating in the scholarship program under this subtitle shall—

(1) provide to the Corporation not later than June 30 of each year the most recent audit of the financial statements of the eligible institution by an independent certified public accountant using generally accepted auditing standards completed not earlier than 3 years before the date the application is filed; and

(2) charge a student that receives a scholarship under this subtitle the same amounts for the cost of tuition and mandatory fees for, and transportation to attend, such eligible institution as other students who are residents of the District of Columbia and enrolled in such eligible institution.

(b) COMPLIANCE.—The Corporation may require documentation of compliance with the requirements of subsection (a), but neither the Corporation nor any governmental entity may impose additional requirements upon an eligible institution as a condition of participation in the scholarship program under this subtitle.

SEC. 2927. CIVIL RIGHTS.

(a) IN GENERAL.—An eligible institution participating in the scholarship program under this subtitle shall be deemed to be a recipient of Federal financial assistance for the purposes of the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

(b) REVOCATION.—Notwithstanding section 2926(b), if the Secretary of Education determines that an eligible institution participating in the scholarship program under this subtitle is in violation of any of the laws listed in subsection (a), then the Corporation shall revoke such eligible institution's certification to participate in the program.

SEC. 2928. CHILDREN WITH DISABILITIES.

(a) IN GENERAL.—Nothing in this subtitle shall affect the rights of students or the obligations of the District of Columbia public schools under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

(b) PRIVATE OR INDEPENDENT SCHOOL SCHOLARSHIPS.—

(1) DETERMINATION OF ELIGIBLITY FOR SERVICES.—If requested by either a parent of a child with a disability who attends a private or independent school receiving funding under this subtitle or by the private or independent school receiving funding under this subtitle, the Board of Education shall determine the eligibility of such child for services under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

(2) REQUIREMENTS.—If a child is determined eligible for services under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) pursuant to paragraph (1), the Board of Education shall—

(A) develop an individualized education program, as defined in section 602 of the Individuals with Disabilities Education Act (20 U.S.C. 1401), for such child; and

(B) negotiate with the private or independent school to deliver to such child the services described in the individualized education program.

(3) APPEAL.—If the Board of Education determines that a child is not eligible for services under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) pursuant to paragraph (1), such child shall retain the right to appeal such determination under such Act as if such child were attending a District of Columbia public school.

SEC. 2929. CONSTRUCTION PROHIBITION.

No funds under this subtitle may be used for construction of facilities.

SEC. 2930. SCHOLARSHIP PAYMENTS.

(a) IN GENERAL.—

(1) PROPORTIONAL PAYMENT.—The Corporation shall make scholarship payments to participating eligible institutions on a schedule established by the Corporation.

(2) PRO RATA AMOUNTS FOR STUDENT WITHDRAWAL.—

(A) BEFORE PAYMENT.—If a student receiving a scholarship withdraws or is expelled from an eligible institution before a scholarship payment is made, the eligible institution shall receive a pro rata payment based on the amount of the scholarship and the number of days the student was enrolled in the eligible institution.

(B) AFTER PAYMENT.—If a student receiving a scholarship withdraws or is expelled after a scholarship payment is made, the eligible institution shall refund to the Corporation on a pro rata basis the proportion of any scholarship payment received for the remaining days of the school year. Such refund shall occur not later than 30 days after the date of the withdrawal or expulsion of the student.

(b) FUND TRANSFERS.—The Corporation shall make scholarship payments to participating eligible institutions by electronic funds transfer. If such an arrangement is not available, then the eligible institution shall submit an alternative payment proposal to the Corporation for approval.

SEC. 2931. APPLICATION SCHEDULE AND PROCEDURES.

The Corporation shall implement a schedule and procedures for processing applications for awarding student scholarships under this subtitle that includes a list of certified eligible institutions, distribution of information to parents and the general public (including through a newspaper of general circulation), and deadlines for steps in the scholarship application and award process.

SEC. 2932. REPORTING REQUIREMENTS.

(a) IN GENERAL.—An eligible institution participating in the scholarship program under this subtitle shall report not later than July 30 of each year in a manner prescribed by the Corporation, the following data:

(1) Student achievement in the eligible institution's programs.

(2) Grade advancement for scholarship students.

(3) Disciplinary actions taken with respect to scholarship students.

(4) Graduation, college admission test scores, and college admission rates, if applicable for scholarship students.

(5) Types and amounts of parental involvement required for all families of scholarship students.

(6) Student attendance for scholarship and nonscholarship students.

(7) General information on curriculum, programs, facilities, credentials of personnel, and disciplinary rules at the eligible institution.

(8) Number of scholarship students enrolled.

(9) Such other information as may be required by the Corporation for program appraisal.

(b) CONFIDENTIALITY.—No personal identifiers may be used in such report, except that the Corporation may request such personal identifiers solely for the purpose of verification.

SEC. 2933. PROGRAM APPRAISAL.

(a) STUDY.—Not later than 4 years after the date of enactment of this Act, the Department of Education shall provide for an independent evaluation of the scholarship program under this subtitle, including—

(1) a comparison of test scores between scholarship students and District of Columbia public school students of similar backgrounds, taking into account the students' academic achievement at the time of the award of their scholarships and the students' family income level;

(2) a comparison of graduation rates between scholarship students and District of Columbia public school students of similar backgrounds, taking into account the students' academic achievement at the time of the award of their scholarships and the students' family income level; and

(3) the satisfaction of parents of scholarship students with the scholarship program.

(b) PUBLIC REVIEW OF DATA.—All data gathered in the course of the study described in subsection (a) shall be made available to the public upon request except that no personal identifiers shall be made public.

(c) REPORT TO CONGRESS.—Not later than September 1 of each year, the Corporation shall submit a progress report on the scholarship program to the appropriate congressional committees. Such report shall include a review of how scholarship funds were expended, including the initial academic achievement levels of students who have participated in the scholarship program.

(d) AUTHORIZATION.—There are authorized to be appropriated for the study described in subsection (a), $250,000, which shall remain available until expended.

SEC. 2934. JUDICIAL REVIEW.

The United States District Court for the District of Columbia shall have jurisdiction over any constitutional challenges to the scholarship program under this subtitle and shall provide expedited review.

And the Senate agree to the same.

JAMES T. WALSH,
HENRY BONILLA,
JACK KINGSTON,
RODNEY P. FRELINGHUYSEN,
MARK W. NEUMANN,
BOB LIVINGSTON,
Managers on the Part of the House.

JIM JEFFORDS,
BEN NIGHTHORSE CAMPBELL,
MARK O. HATFIELD,
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. 2546) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1996, and for other purposes, submit the following joint statement to the House and Senate in explanation of the effect of the actions agreed upon by the managers and recommended in the accompanying conference report.

The conference agreement on the District of Columbia Appropriations Act, 1996, incorporates some of the provisions of both the House and Senate versions of the bill. The language and allocations set forth in House Report 104–294 and Senate Report 104–144 are to be complied with unless specifically addressed in the accompanying bill and statement of the managers to the contrary. The conference agreement also includes various technical changes to titles, headings and section numbers.

LIMITATION ON OPERATING EXPENDITURES

The conference agreement includes a limitation on operating expenditures of

$4,994,000,000, instead of $4,867,283,000 as proposed by the House and $5,137,083,000 as proposed by the Senate. The conference agreement is $154,347,000 below the District's August 8, 1995 request of $5,148,347,000. Language under "Personal and Nonpersonal Services Adjustments" requires a net reduction of $150,907,000 in personal and nonpersonal services to meet the limitation on operating expenditures. The language also provides that the reduction is to be made by the District's Chief Financial Officer on behalf of the Mayor in accordance with the direction of the District of Columbia Financial Responsibility and Management Assistance Authority.

CONGRESSIONAL CONCERNS REFERRED TO THE AUTHORITY

House Report 104-294 identified 28 items of congressional concern which were referred to the District of Columbia Financial Responsibility and Management Assistance Authority. The conferees request the Authority to resolve those items at the local level and to report to the House and Senate Committees on Appropriations by April 1, 1996 instead of March 1, 1996 as required in the House report, concerning the disposition of those that have been resolved and recommendations to resolve the others. The conferees recognize that between the present and March 1, 1996 the members and staff of the Authority will be focused on fulfilling one of the requirements of title II of the District of Columbia Financial Responsibility and Management Assistance Act pertaining to the consideration and approval of the fiscal year 1997 financial plan and budget. However, the conferees recognize too that an important part of title II, specifically section 222, addresses the need to improve the management and delivery of services of the District government. The conferees believe that both the financial and management problems of the District government must be addressed together as the Authority conducts its work. According to information from the General Accounting Office, a common action taken in cities in financial trouble was an improvement in city management. The conferees believe that the Authority should give equal attention to this area as it does to the financial area in working to remedy the fiscal problems of the District.

CONGRESSIONAL SUPPORT OF THE AUTHORITY

The conferees fully support the Financial Management Authority and its actions and are confident that the Authority will take appropriate actions in the future that are necessary to restore financial stability to the District of Columbia. The financial difficulties encountered by the District government are grave, but by no means insurmountable. The conferees recognize the leadership demonstrated by the Financial Management Authority in challenging the status quo to bring about a profound change in the District's direction which was headed toward financial insolvency and is now being redirected toward financial stability. The conferees are pleased with the actions taken by the Authority and its staff and recognize that even more difficult and unpopular decisions lie ahead. Those decisions, which now rest with the Authority, have been avoided for far too long and have led to disastrous consequences. The conferees recognize the difficulty and strongly support the Authority and its staff in their actions.

CHILDREN'S NATIONAL MEDICAL CENTER

The conferees strongly support the work of Children's National Medical Center's Community Pediatric Health Centers (CPHC) which bring primary health care services to approximately 7,000 low income, high risk children annually in the Shaw and Adams Morgan neighborhoods.

For twenty-eight years, the Community Pediatric Health Centers have contributed services to an underserved population, some of which are third generation clients. This program has succeeded in significantly reducing hospitalization rates and the impact of childhood diseases by providing early intervention and comprehensive primary care and preventive health care services at a cost-savings to the District government in fiscal year 1995 of approximately $146,000 based on 15,000 visits. Only 1 percent of CPHC patients have been hospitalized, and they have a 98 percent immunization rate by age two.

The conferees are aware that the District government has canceled its health services contracts with the Community Pediatric Health Centers effective March 1995. The contract included a subsidy of $18.77 per visit which totaled $262,000 annually. According to information supplied to the conferees, this subsidy, which was made available primarily to the uninsured who have no alternative source for funding, was only a portion of the total direct per visit cost of providing care to these children and has not increased in a decade. The conferees are informed that Children's National Medical Center has used its own operating revenues to subsidize the clinics for years, but the District's actions have threatened the viability of the clinics by doubling their annual operating deficit to $700,000.

It appears that Children's National Medical Center will be forced to close or severely reduce services provided at the clinics unless immediate funding requirements are met to sustain operations. The conferees are concerned about the financial impact to the District government if the closure of these clinics occurs. The conferees therefore expect District officials to immediately reassess their priorities and evaluate the potential additional costs to the District government should these patients be forced to seek alternative medical care, including hospitalization. This reassessment must be reflected in the budget and financial plan for fiscal years 1996 and 1997 submitted to the Financial Management Authority on February 1, 1996.

YCARE 2000 PRIVATE-PUBLIC PARTNERSHIP

The conferees fully support the YCARE 2000 program sponsored by the YMCA of Metropolitan Washington. The program provides work-readiness, conflict resolution training, tutoring, socialization and other skills to at-risk District youth who are in the age range of 5 to 18 years old. The conferees believe that YCARE 2000 is an example of an efficient and well-managed private-public partnership which can provide social services to improve the lives and futures of the city's young people. The conferees note that the Council of the District of Columbia has formally recognized the achievements of the YCARE 2000 initiative in a July 11, 1995 resolution.

In order to provide and facilitate private-public partnerships such as YCARE 2000, the conferees request that the Mayor consult with representatives of private, not-for-profit community organizations with demonstrated experience and expertise in providing services to children and youth in the District and, to the extent financial constraints permit, make funds available to such groups on the condition that the groups themselves provide equal matching amounts.

DISTRICT OF COLUMBIA APPROPRIATIONS

Senate Amendment: The Senate deleted the entire House bill after the enacting clause and inserted the text of the Senate passed bill (S. 1244). The conference agreement includes a revised bill consisting of titles I and II.

A comparative summary showing amounts appropriated by title starting with the fiscal year 1995 approved budget to the fiscal year 1996 recommended level is included at the end of this joint statement.

TITLE I—FISCAL YEAR 1996 APPROPRIATIONS

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA

The conference action inserts a title and fiscal year heading to separate appropriations matter from education reform legislation relative to the District of Columbia public schools which is in Title II. The conference action also appropriates a Federal payment of $660,000,000 as proposed by the House and the Senate.

FEDERAL CONTRIBUTION TO RETIREMENT FUNDS

The conference action appropriates $52,070,000 instead of $52,000,000 as proposed by the House and the Senate. The increase of $70,000 above the House and Senate allowances reflects the amount authorized as well as the amount requested by the District government.

FEDERAL CONTRIBUTION FOR EDUCATION REFORM

The conference action appropriates $14,930,000 for Education Reform for the District of Columbia Public Schools and requires that the amount be placed in an escrow account of the District of Columbia Financial Responsibility and Management Assistance Authority and disbursed by the Authority in accordance with title II of this Act. Language is included in the bill prohibiting the use of these funds for any indirect cost charges by the D.C. Board of Education, the D.C. public school system, or the District government. A detailed explanation on the use of these funds is included in title II of this joint statement. A listing of the allocation follows:

$200,000 for charter schools;

$300,000 for the Public Charter School Board;

$2,000,000 for Even Start programs;

$500,000 for the Federal General Services Administration for engineering plans relative to D.C. public school facilities;

$100,000 to develop plans for a residential school;

$702,000 for the District Education and Learning Technologies Advancement Council which is part of the Partnerships With Business program;

$1,404,000 for the District Employment and Learning Center within the Partnerships With Business program;

$1,000,000 for a professional development program for teachers and administrators which is also within the Partnerships With Business program;

$1,404,000 for Jobs for D.C. Graduates within the Partnerships With Business program;

$70,000 for the Everybody Wins program;

$100,000 for the Fit Kids program;

$250,000 for the operations of the Consensus Commission on Public School Reform; and

$5,000,000 for low-income scholarships.

GOVERNMENTAL DIRECTION AND SUPPORT

The conference action appropriates $149,130,000 and 1,498 full-time equivalent positions including $117,464,000 and 1,158 full-

time equivalent positions from local funds, $2,464,000 and 5 full-time equivalent positions from Federal funds, $4,474,000 and 71 full-time equivalent positions from other funds, and $24,728,000 and 264 full-time equivalent positions from intra-District funds instead of $149,793,000 and 1,465 full-time equivalent positions including $118,167,000 and 1,125 full-time equivalent positions from local funds, $2,464,000 and 5 full-time equivalent positions from Federal funds, $4,474,000 and 71 full-time equivalent positions from other funds, and $24,688,000 and 264 full-time equivalent positions from intra-District funds as proposed by the House and $150,721,000 and 1,465 full-time equivalent positions as proposed by the Senate. The Senate did not allocate the appropriation and full-time equivalent positions by source of funding.

The net decrease of $1,591,000 below the Senate allowance consists of an increase of $889,000 for the Board of Elections and Ethics and a reduction of $2,480,000 associated with the decrease of 160 full-time equivalent positions recommended by the Financial Management Authority as adjusted to reflect the restoration of 5 full-time equivalent positions for the operation of the Contract Appeals Board.

The conferees have included $3,015,000 and 63 full-time equivalent positions for the Board of Elections and Ethics instead of $2,606,000 and 35 full-time equivalent positions as recommended by the Financial Management Authority and proposed by the House and $2,126,000 and 35 full-time equivalent positions as requested by the District government and proposed by the Senate. The increase of $889,000 and 28 full-time equivalent positions above the Senate allowance will provide the funds and positions necessary to conduct the District's two primary elections in fiscal year 1996. This increase is based on correspondence from the Chairman of the Council of the District of Columbia and officials of the Board of Elections and Ethics.

The conference agreement provides $511,000 and 5 full-time equivalent positions for the Contract Appeals Board as requested in the District's revised budget dated August 8, 1995.

The conference action prohibits the use of revenues from Federal sources to support the operations or activities of the Statehood Commission and Statehood Compact Commission and requires the District to identify the sources of funding for Admission to Statehood from its own locally-generated revenues as proposed by the Senate. The House bill had no similar provision.

Capital needs study and new FMS.—The conference agreement provides $29,500,000 for pay-as-you-go capital projects of which $1,500,000 is for a capital needs assessment study and $28,000,000 is for the possible purchase of a new financial management system that would serve all District agencies including those that are considered independent such as the Board of Education and the Courts as proposed by the House and the Senate. The conference action also provides that $2,000,000 of the $28,000,000 shall be made available immediately for the first two phases of the project and that the remaining $26,000,000 be made available after the evaluation and assessment resulting from phases one and two have been reviewed during a 30-day Congressional layover. The House proposal required that the Financial Management Authority submit a report to the General Accounting Office within 90 days after the date of enactment of this Act for a 60-day review period to be followed by a 30-day Congressional layover. The Senate proposal required the Financial Management Authority to give prior approval to the work plan and procurement documents for necessary hardware and software before commencing work on phase 3, as described in the Authority's report dated August 15, 1995.

The conferees note that the present FMS was designed and installed as a state-of-the-art system 15 years ago at which time it was estimated to cost $16,000,000. However, because of various matters that were overlooked or not thoroughly evaluated the cost of the system more than doubled to $38,000,000. The conferees also note that the General Accounting Office reported on June 21, 1995 that: "* * * Millions of dollars of bills are not entered into the Financial Management System until months and sometimes years after they are paid.". The conferees expect such problems to be addressed and corrected as part of the phased approach to evaluate the present system's capabilities.

The conferees expect the evaluation and assessment report to specify the deficiencies in the present financial management system and to recommend improvements to the present system as well as options other than purchasing a new financial management system. To provide the best cost estimates possible and to insure the proper identification of the problems with the present FMS as well as to avoid any delays in installing a new FMS, should one be needed, the General Accounting Office is requested to review and monitor the assessment process closely as it is being performed so that a thorough and completely objective and competent assessment is provided to the Congress.

The following summary shows the allocation of the Governmental Direction and Support appropriation by agency from the fiscal year 1995 approved budget to the fiscal year 1996 conference approved level:

GOVERNMENTAL DIRECTION AND SUPPORT

Agency/Activity	Fiscal year 1995 approved	Budget estimates, fiscal year 1996	Revised request fiscal year 1996	Authority recommended fiscal year 1996	House recommendation	Senate recommendation	Conference allowance [1]
Council of the District of Columbia	$8,848,000	$8,380,000	$8,380,000	$8,284,000	$8,284,000	$8,380,000	$8,380,000
Office of the District of Columbia Auditor	1,029,000	1,057,000	961,000	961,000	961,000	961,000	961,000
Advisory Neighborhood Commissions	1,196,000	572,000	572,000	572,000	572,000	572,000	572,000
Office of the Mayor	1,552,000	1,753,000	1,753,000	1,753,000	1,753,000	1,753,000	1,753,000
Office of the Secretary	2,380,000	2,721,000	2,497,000	2,529,000	2,529,000	2,497,000	2,497,000
Office of Inspector General	1,283,000	792,000	728,000	760,000	760,000	728,000	728,000
Office of Communications	339,000	300,000	300,000	284,000	284,000	300,000	300,000
Office of Intergovernmental Relations	1,528,000	1,831,000	1,735,000	1,623,000	1,623,000	1,735,000	1,735,000
Office of City Administrator/Deputy Mayor of Operations	10,509,000	2,776,000	4,776,000	4,680,000	4,680,000	4,776,000	4,776,000
Office of Personnel	0	12,217,000	11,828,000	11,716,000	11,716,000	11,828,000	11,220,000
Department of Administrative Services	40,720,000	29,621,000	39,496,000	38,496,000	38,496,000	39,168,000	38,288,000
Contract Appeals Board	647,000	607,000	511,000	479,000	479,000	511,000	511,000
Office of the Deputy Mayor for Finance	318,000	320,000	320,000	320,000	320,000	320,000	320,000
Office of the Budget	2,645,000	2,606,000	4,042,000	3,946,000	3,946,000	4,042,000	4,010,000
Office of Financial Management	15,146,000	23,417,000	43,329,000	43,377,000	43,377,000	43,329,000	43,009,000
Department of Finance and Revenue	21,218,000	25,143,000	21,535,000	21,487,000	21,487,000	21,535,000	21,183,000
Board of Elections and Ethics	2,612,000	3,086,000	2,126,000	2,606,000	2,606,000	2,126,000	3,015,000
Office of Campaign Finance	1,018,000	997,000	933,000	805,000	805,000	933,000	773,000
Public Employee Relations Board	502,000	486,000	486,000	470,000	470,000	486,000	470,000
Office of Employee Appeals	1,741,000	1,509,000	1,477,000	1,429,000	1,429,000	1,477,000	1,413,000
D.C. Retirement Board	12,432,000	0	0	0	0	0	0
Metreopolitan Washington Council of Governments	400,000	400,000	400,000	400,000	400,000	400,000	400,000
Statehood Commission	150,000	0	0	0	0	0	0
Office of Grants Management and Development	2,864,000	2,864,000	2,864,000	2,816,000	2,816,000	2,864,000	2,816,000
Total, Government Direction and Support	131,077,000	123,455,000	150,721,000	149,793,000	149,793,000	150,721,000	149,130,000

[1] Does not reflect allocation of Personal and Nonpersonal Services Adjustment of −$150,907,000 to be made by Mayor under the direction of the District of Columbia Financial Responsibility and Management Assistance Authority.

ECONOMIC DEVELOPMENT AND REGULATION

The conference action appropriates $140,983,000 and 1,692 full-time equivalent positions, including $68,203,000 and 698 full-time equivalent positions from local funds, $38,792,000 and 509 full-time equivalent positions from Federal funds, $17,658,000 and 258 full-time equivalent positions from other funds, and $16,330,000 and 227 full-time equivalent positions from intra-District funds instead of $139,285,000 and 1,692 full-time equivalent positions including $66,505,000 and 696 full-time equivalent positions from local funds, $38,792,000 and 509 full-time equivalent positions from Federal funds, $17,658,000 and 260 full-time equivalent positions from other funds, and $16,330,000 and 227 full-time equivalent positions from intra-District funds as proposed by the House and $142,711,000 and 1,692 full-time equivalent positions as proposed by the Senate. The Senate did not allocate the appropriation and full-time equivalent positions by source of funding.

The decrease below the Senate allowance reflects a reduction of $1,728,000 associated with the decrease of 108 full-time equivalent positions as recommended by the Financial Management Authority.

The following summary shows the allocation of the Economic Development and Regulation appropriation by agency from the fiscal year 1995 approved budget to the fiscal year 1996 conference approved level:

ECONOMIC DEVELOPMENT AND REGULATION

Agency/Activity	Fiscal year 1995 approved	Budget estimates, fiscal year 1996	Revised request fiscal year 1996	Authority recommended fiscal year 1996	House recommendation	Senate recommendation	Conference allowance[1]
Assistant City Administrator for Economic Development	$4,531,000	$4,039,000	$4,039,000	$3,847,000	$3,847,000	$4,039,000	$3,943,000
Office of Banking and Financial Institutions	627,000	296,000	296,000	296,000	296,000	296,000	296,000
Office of Tourism and Promotion	463,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000
Office of Planning	3,116,000	2,019,000	2,019,000	1,955,000	1,955,000	2,019,000	1,955,000
Office of Zoning	611,000	653,000	589,000	523,000	523,000	589,000	541,000
Department of Housing and Community Development	17,154,000	16,196,000	16,036,000	15,508,000	15,508,000	16,036,000	15,988,000
Department of Public and Assisted Housing	76,573,000	73,176,000	8,500,000	8,420,000	8,420,000	8,500,000	8,420,000
Department of Employment Services	.....	65,909,000	64,821,000	63,397,000	63,397,000	64,821,000	63,925,000
Board of Appeals and Review	130,000	147,000	147,000	131,000	131,000	147,000	131,000
Board of Real Property Assessments and Appeals	453,000	386,000	370,000	338,000	338,000	370,000	338,000
Department of Consumer and Regulatory Affairs	37,149,000	36,701,000	36,797,000	36,285,000	36,285,000	36,797,000	36,349,000
Public Service Commission	6,192,000	5,600,000	5,600,000	6,080,000	6,080,000	5,600,000	5,600,000
Office of the People's Counsel	2,859,000	2,497,000	2,497,000	1,505,000	1,505,000	2,497,000	2,497,000
Total, Economic Development and Regulation	149,858,000	208,619,000	142,711,000	139,285,000	139,285,000	142,711,000	140,983,000

[1] Does not reflect allocation of Personal and Nonpersonal Services Adjustment of −$150,907,000 to be made by Mayor under the direction of the District of Columbia Financial Responsibility and Management Assistance Authority.

PUBLIC SAFETY AND JUSTICE

The conference action appropriates $963,848,000 and 11,544 full-time equivalent positions, including $940,631,000 and 11,365 full-time equivalent positions from local funds, $8,942,000 and 70 full-time equivalent positions from Federal funds, $5,160,000 and 4 full-time equivalent positions from other funds, and $9,115,000 and 105 full-time equivalent positions from intra-District funds instead of $954,106,000 and 11,544 full-time equivalent positions including $930,889,000 and 11,365 full-time equivalent positions from local funds, $8,942,000 and 70 full-time equivalent positions from Federal funds, $5,160,000 and 4 full-time equivalent positions from other funds, and $9,115,000 and 105 full-time equivalent positions from intra-District funds as proposed by the House and $960,747,000 and 11,544 full-time equivalent positions as proposed by the Senate. The Senate did not allocate the appropriation and full-time equivalent positions by source of funding.

The net increase of $3,101,000 above the Senate allowance reflects an increase of $3,325,000 for the Police and Firefighters Retirement Fund and a reduction of $224,000 associated with the decrease of 14 full-time equivalent positions recommended by the Financial Management Authority.

The conference action provides $220,000,000 for the Police and Firefighters Retirement Fund instead of $216,908,000 as proposed by the House and $216,675,000 as proposed by the Senate. The House allowance is based on the recommendations of the Financial Management Authority and the Senate allowance is based on the District's revised budget request. The conference allowance of $220,000,000 is based on the certification of the D.C. Retirement Board as required by section 142(c)(2) of the D.C. Retirement Reform Act (Public Law 96–122, approved November 17, 1979; 93 Stat. 880). District officials failed to include the statutorily required amount in their budget request.

The conference action allocates funds under the Metropolitan Police Department for the Georgetown Summer Detail ($250,000), East of the River Detail ($200,000), Adams Morgan detail ($100,000), and the Capitol Hill Summer Detail ($100,000) as proposed by the Senate.

The conferees did not approve bill language proposed by the Senate that would have limited the number of inmates housed in District operated or contracted community correctional centers to no more than 1,000 on any given date.

The following summary shows the allocation of the Public Safety and Justice appropriation by agency from the fiscal year 1995 approved budget to the fiscal year 1996 conference approved level:

PUBLIC SAFETY AND JUSTICE

Agency/Activity	Fiscal year 1995 approved	Budget estimates, fiscal year 1996	Revised request fiscal year 1996	Authority recommended fiscal year 1996	House recommendation	Senate recommendation	Conference allowance[1]
Metropolitan Police Department	$231,168,000	$246,357,000	$245,717,000	$246,011,000	$246,011,000	$245,717,000	$245,717,000
Fire and Emergency Medical Services Department	73,149,000	87,292,000	87,292,000	86,860,000	86,860,000	87,292,000	87,292,000
Police and Fire Retirement System	204,900,000	216,675,000	216,675,000	216,908,000	216,908,000	216,675,000	220,000,000
Judges' Retirement System	5,100,000	4,700,000	4,700,000	4,700,000	4,700,000	4,700,000	4,700,000
Court of Appeals	6,041,000	6,390,000	5,974,000	6,182,000	6,182,000	5,974,000	5,974,000
Superior Court	78,095,000	82,135,000	80,919,000	80,372,000	80,327,000	80,919,000	80,919,000
Court System	33,383,000	35,285,000	34,677,000	34,981,000	34,981,000	34,677,000	34,677,000
Office of the Corporation Counsel	17,434,000	18,266,000	16,954,000	17,610,000	17,610,000	16,954,000	16,954,000
Settlements and Judgments	11,000,000	14,800,000	14,800,000	14,800,000	14,800,000	14,800,000	14,800,000
Public Defender Service	7,315,000	7,702,000	7,702,000	0	0	7,702,000	7,702,000
Pretrial Services Agency	4,658,000	4,759,000	4,407,000	4,599,000	4,599,000	4,407,000	4,407,000
Department of Corrections	219,793,000	233,518,000	232,302,000	232,628,000	232,628,000	232,302,000	232,302,000
Board of Parole	5,458,000	5,386,000	5,322,000	5,370,000	5,370,000	5,322,000	5,322,000
National Guard	1,056,000	1,030,000	902,000	742,000	742,000	902,000	678,000
Office of Emergency Preparedness	2,563,000	2,226,000	2,194,000	2,178,000	2,178,000	2,194,000	2,194,000
Commission on Judicial Disabilities and Tenure	127,000	130,000	130,000	130,000	130,000	130,000	130,000
Judicial Nomination Commission	89,000	80,000	80,000	80,000	80,000	80,000	80,000
Civilian Complaint Review Board	1,173,000	0	0	0	0	0	0
Total, Public Safety and Justice	902,466,000	966,731,000	960,747,000	954,106,000	954,106,000	960,747,000	963,848,000

[1] Does not reflect allocation of Personal and Nonpersonal Services Adjustment of −$150,907,000 to be made by Mayor under the direction of the District of Columbia Financial Responsibility and Management Assistance Authority.

PUBLIC EDUCATION SYSTEM

The conference action appropriates $795,201,000 and 11,670 full-time equivalent positions, (including $676,251,000 and 9,996 full-time equivalent positions from local funds, $87,385,000 and 1,227 full-time equivalent positions from Federal funds, $21,719,000 and 234 full-time equivalent positions from other funds, and $9,846,000 and 213 full-time equivalent positions from intra-District funds instead of $788,983,000 and 11,670 full-time equivalent positions including $670,833,000 and 9,996 full-time equivalent positions from local funds, $87,385,000 and 1,227 full-time equivalent positions from Federal funds, $21,719,000 and 234 full-time equivalent positions from other funds, and $9,046,000 and 213 full-time equivalent positions from intra-District funds as proposed by the House and $800,080,000 and 11,670 full-time equivalent positions as proposed by the Senate. The Senate did not allocate the appropriation and full-time equivalent positions by source of funding.

The net decrease of $4,879,000 below the Senate allowance consists of an increase of $2,625,000 for the Teachers' Retirement System and a decrease of $7,504,000 associated with the reduction of 469 full-time equivalent positions recommended by the Financial Management Authority.

The conference action also allocates to the public schools of the District of Columbia $580,996,000 and 10,167 full-time equivalent positions including $498,310,000 and 9,014 full-time equivalent positions from local funds, $75,786,000 and 1,058 full-time equivalent positions from Federal funds, $4,343,000 and 44 full-time equivalent positions from other funds, and $2,557,000 and 51 full-time equivalent positions from intra-District funds instead of $577,242,000 and 10,167 full-time equivalent positions including $494,556,000 and 9,014 full-time equivalent positions from local funds, $75,786,000 and 1,058 full-time equivalent positions from Federal funds, $4,343,000 and 44 full-time equivalent positions from other funds, and $2,557,000 and 51 full-time equivalent positions from intra-District funds as proposed by the House and $585,956,000 and 10,167 full-time equivalent positions as proposed by the Senate. The Senate did not allocate the appropriation and full-time equivalent positions by source of funding.

The conference action provides an additional $14,930,000 in Federal funds appropriated under title I for the District's public schools for Education Reform which are explained in title II of this joint statement.

The conferees urge that as resources permit, every effort be made by District officials to provide funds to support improvements to the Bell Multicultural High School building facility and its academic programs.

The conference action allocates $111,800,000 including $111,000,000 from local funds and $800,000 from intra-District funds for the Teachers' Retirement Fund instead of $109,175,000 allocated by the House and the Senate. The conference allowance of $111,800,000 is based on the certification of the D.C. Retirement Board to the Mayor and Council as required by the D.C. Retirement Reform Act (Public Law 96–122, approved November 17, 1979). District officials failed to include the statutorily required amount in their budget request.

The conference action allocates to the University of the District of Columbia $79,396,000 and 1,079 full-time equivalent positions including $45,377,000 and 572 full-time equivalent positions from local funds, $10,611,000 and 156 full-time equivalent positions from Federal funds, $16,922,000 and 189 full-time equivalent positions from other funds, and $6,486,000 and 162 full-time equivalent positions from intra-District funds instead of $79,269,000 and 1,079 full-time equivalent positions including $45,250,000 and 572 full-time equivalent positions from local funds, $10,611,000 and 156 full-time equivalent positions from Federal funds, $16,922,000 and 189 full-time equivalent positions from other funds, and $6,486,000 and 162 full-time equivalent positions from intra-District funds as proposed by the House and $81,940,000 and 1,079 full-time equivalent positions as proposed by the Senate. The Senate did not allocate the appropriation and full-time equivalent positions by source of funding.

The decrease of $2,544,000 below the Senate allowance reflects the amount associated with the decrease of 159 full-time equivalent positions recommended by the Financial Management Authority.

The conference action allocates to the Public Library $20,742,000 and 415 full-time equivalent positions including $19,839,000 and 408 full-time equivalent positions from local funds, $446,000 and 6 full-time equivalent positions from Federal funds, $454,000 and 1 full-time equivalent positions from other funds, and $3,000 from intra-District funds instead of $21,062,000 and 415 full-time equivalent positions including $20,159,000 and 408 full-time equivalent positions from local funds, $446,000 and 6 full-time equivalent positions from Federal funds, $454,000 and 1 full-time equivalent positions from other funds, and $3,000 from intra-District funds as proposed by the House and $20,742,000 and 415 full-time equivalent positions as proposed by the Senate. The Senate did not allocate the appropriation and full-time equivalent positions by source of funding.

The conference action allocates to the Commission on the Arts and Humanities $2,267,000 and 9 full-time equivalent positions as proposed by the House and the Senate including $1,725,000 and 2 full-time equivalent positions from local funds and $542,000 and 7 full-time equivalent positions from Federal funds as proposed by the House. The Senate did not allocate the appropriation and full-time equivalent positions by source of funding.

The conference action deletes the allocation of $64,000 from local funds for the District of Columbia School of Law and the reduction of $96,000 for the Education Licensure Commission proposed by the House based on the recommendation of the Financial Management Authority and stricken by the Senate.

The following summary shows the allocation of the Public Education System appropriation by agency from the fiscal year 1995 approved budget to the fiscal year 1996 conference approved level:

PUBLIC EDUCATION SYSTEM

Agency/Activity	Fiscal year 1995 approved	Budget estimates, fiscal year 1996	Revised request fiscal year 1996	Authority recommended fiscal year 1996	House recommendation	Senate recommendation	Conference allowance [1]
Board of Education (Public Schools)	$621,100,000	$585,956,000	$585,956,000	$577,242,000	$577,242,000	$585,956,000	$580,996,000
Teachers' Retirement System	87,100,000	109,175,000	109,175,000	109,175,000	109,175,000	109,175,000	111,800,000
University of the District of Columbia	89,768,000	84,820,000	81,940,000	79,269,000	79,269,000	81,940,000	79,396,000
D.C. School of Law	8,288,000	0	0	64,000	64,000	0	0
Educational Licensure Commission	0	320,000	0	(96,000)	(96,000)	0	0
Public Library	22,213,000	21,382,000	20,742,000	21,062,000	21,062,000	20,742,000	20,742,000
Commission on the Arts and Humanities	3,834,000	2,267,000	2,267,000	2,267,000	2,267,000	2,267,000	2,267,000
Total, Public Education System	832,303,000	803,920,000	800,080,000	788,983,000	788,983,000	800,080,000	795,201,000

[1] Does not reflect allocation of Personal and Nonpersonal Services Adjustment of −$150,907,000 to be made by Mayor under the direction of the District of Columbia Financial Responsibility and Management Assistance Authority.

EDUCATION REFORM

The conference action provides $14,930,000 for Education Reform as authorized under title II of this Act. An explanation of the programs involved is included under title II of this joint statement.

HUMAN SUPPORT SERVICES

The conference action appropriates $1,855,014,000 and 6,469 full-time equivalent positions, including $1,076,856,000 and 3,650 full-time equivalent positions from local funds, $726,685,000 and 2,639 full-time equivalent positions from Federal funds, $46,799,000 and 66 full-time equivalent positions from other funds, and $4,674,000 and 114 full-time equivalent positions from intra-District funds instead of $1,845,638,000 and 6,469 full-time equivalent positions including $1,067,516,000 and 3,650 full-time equivalent positions from local funds, $726,685,000 and 2,639 full-time equivalent positions from Federal funds, $46,763,000 and 66 full-time equivalent positions from other funds, and $4,674,000 and 114 full-time equivalent positions from intra-District funds as proposed by the House and $1,859,622,000 and 6,469 full-time equivalent positions as proposed by the Senate. The Senate did not allocate the appropriation and full-time equivalent positions by source of funding.

The decrease of $4,608,000 below the Senate allowance reflects the amount associated with the decrease of 288 full-time equivalent positions as recommended by the Financial Management Authority.

LaShawn General Receivership.—On August 23, 1995, the United States District Court for the District of Columbia issued an order in the matter of *LaShawn A.* v. *Barry*. The court appointed a General Receiver for the District of Columbia child welfare system, including responsibility for programs located in several District agencies, and directed the Receiver to propose a comprehensive annual budget for fiscal year 1996 to the Court and to the District of Columbia Financial Responsibility and Management Assistance Authority. The order further directed the "creation of an independent budget function" and "independent fiduciary mechanism for receipt and disbursement of funds to operate the child welfare system." On November 27, 1995, the Receiver submitted a proposed budget to the Court and the Financial Management Authority in the amount of $130,569,925.

Unlike the receiver controlling the District's public housing program, the LaShawn receiver is responsible for programs and functions that cut across departmental lines. The judge's order identifies child welfare functions in the Department of Human Services, the Department of Administrative Services, the District of Columbia Office of Personnel, and the Department of Consumer and Regulatory Affairs.

As with all court orders, and particularly court-appointed receivers, the LaShawn Receivership reduces the District's ability to set budgets based on local priorities. It also makes the job that Congress has charged the Financial Management Authority with carrying out more difficult. It is that relationship between the receiver and the Financial Management Authority that is potentially most troublesome. Certainly, the conferees agree that the children in the District's foster care program as well as other elements of the child welfare system should be cared for adequately and appropriately. The conferees hope that the receivership and the Financial Management Authority will work together to ensure that adequate resources are available.

Human Support Services Appropriation.—The following summary shows the allocation of the Human Support Services appropriation by agency from the fiscal year 1995 approved budget to the fiscal year 1996 conference approved level:

HUMAN SUPPORT SERVICES

Agency/Activity	Fiscal year 1995 approved	Budget estimates, fiscal year 1996	Revised request, fiscal year 1996	Authority recommended, fiscal year 1996	House recommendation	Senate recommendation	Conference allowance [1]
Department of Human Services	$1,404,633,000	$1,718,211,000	$1,709,827,000	$1,694,979,000	$1,694,979,000	$1,709,827,000	$1,705,427,000

HUMAN SUPPORT SERVICES—Continued

Agency/Activity	Fiscal year 1995 approved	Budget estimates, fiscal year 1996	Revised request, fiscal year 1996	Authority recommended, fiscal year 1996	House recommendation	Senate recommendation	Conference allowance [1]
Department of Recreation and Parks	30,635,000	35,877,000	31,653,000	32,613,000	32,613,000	31,653,000	31,653,000
Office on Aging	19,082,000	19,089,000	19,025,000	19,009,000	19,009,000	19,025,000	19,009,000
D.C. General Hospital Payment	46,735,000	56,735,000	56,735,000	56,735,000	56,735,000	56,735,000	56,735,000
Unemployment Compensation Fund	7,944,000	10,000,000	10,000,000	10,000,000	10,000,000	10,000,000	10,000,000
Disability Compensation Fund	20,800,000	26,000,000	26,000,000	26,000,000	26,000,000	26,000,000	26,000,000
Department of Human Rights and Minority Business Development	1,796,000	1,621,000	1,301,000	1,429,000	1,429,000	1,301,000	1,301,000
Office on Latino Affairs	1,128,000	657,000	657,000	657,000	657,000	657,000	657,000
Commission for Women	282,000	20,000	20,000	20,000	20,000	20,000	20,000
Energy Office	9,613,000	4,404,000	4,404,000	4,196,000	4,196,000	4,404,000	4,212,000
Total, Human Support Services	1,542,648,000	1,872,614,000	1,859,622,000	1,845,638,000	1,845,638,000	1,859,622,000	1,855,014,000

[1] Does not reflect allocation of Personal and Nonpersonal Services Adjustment of −$150,907,000 to be made by Mayor under the direction of the District of Columbia Financial Responsibility and Management Assistance Authority.

PUBLIC WORKS

The conference action appropriates $297,568,000 and 1,914 full-time equivalent positions as proposed by the House and the Senate including $225,915,000 and 1,158 full-time equivalent positions from local funds, $2,682,000 and 32 full-time equivalent positions from Federal funds, $18,342,000 and 68 full-time equivalent positions from other funds, and $50,629,000 and 656 full-time equivalent positions from intra-District funds instead of $297,326,000 and 1,914 full-time equivalent positions including $225,673,000 and 1,158 full-time equivalent positions from local funds, $2,682,000 and 32 full-time equivalent positions from Federal funds, $18,342,000 and 68 full-time equivalent positions from other funds, and $50,629,000 and 656 full-time equivalent positions from intra-District funds as proposed by the House. The Senate did not allocate the appropriation and full-time equivalent positions by source of funding.

D.C. Canine Facility.—The Metropolitan Police Department has had a long-standing need to construct a modernized canine training facility at a location near D.C. Village. The design plan has been finalized, requests for proposal have been issued, construction proposals have been received, and the project is ready to commence but awaits the necessary funds. The funding for this project is available from the Washington Metropolitan Area Transit Authority as a result of earlier agreements but is being withheld until payment by DPW of certain highway trust funds owed to WMATA. The canine program is an integral component of the entire public safety program in the District and the availability of these funds represents an opportunity that should not be ignored. The conferees direct the Department of Public Works and other appropriate authorities to work out the transfer of these funds between DPW and WMATA and expedite this project as quickly as possible. The conferees further direct DPW and WMATA to submit a report on the first of each month to the House and Senate Committees on Appropriations on their efforts to begin the construction of this facility. These reports are to be submitted until a construction contract has been signed with periodic reports thereafter on the status of construction and completion dates.

Washington Metropolitan Area Transit Authority.—The conference action provides $130,899,000 as proposed by the House and the Senate for the District's share of the operating expenses and debt service for Metrorail and Metrobus operations. The conferees expect the District to meet its obligations to the Washington Metropolitan Area Transit Authority on time and in full. The District's obligation to make payments to WMATA is determined through regional agreements and service levels in place and is not discretionary in nature. The conferees strongly urge the District to uphold its regional commitments to avoid the associated adverse impacts for other jurisdictions in the region. Further, the conferees fear that any level of funding below that recommended could jeopardize those regional agreements and result in significant service curtailments in the District, thus impeding the ability of residents to access employment opportunities throughout the region.

A discussion of the D.C. Canine Facility precedes the above paragraph and is called to the attention of WMATA officials. The conferees urge WMATA and DPW officials to expedite the transfer of the necessary funds and to submit monthly reports on their progress until a construction contract is signed, as required above.

Public Works Appropriation.—The following summary shows the allocation of the Public Works appropriation by agency from the fiscal year 1995 approved budget to the fiscal year 1996 conference approved level:

PUBLIC WORKS

Agency/Activity	Fiscal year 1995 approved	Budget estimates, fiscal year 1996	Revised request fiscal year 1996	Authority recommended fiscal year 1996	House recommendation	Senate recommendation	Conference allowance [1]
Department of Public Works	$156,348,000	$164,848,000	$161,227,000	$160,985,000	$160,985,000	$161,227,000	$161,227,000
Pay-as-you-go	0	0	0	288,000	288,000	0	0
Taxicab Commission	1,787,000	1,661,000	1,501,000	1,213,000	1,213,000	1,501,000	1,501,000
Washington Metropolitan Area Transit Commission	96,000	96,000	96,000	96,000	96,000	96,000	96,000
Washington Metropolitan Area Transit Authority (Metro)	117,051,000	126,899,000	130,899,000	130,899,000	130,899,000	130,899,000	130,899,000
School transit subsidy	4,345,000	3,845,000	3,845,000	3,845,000	3,845,000	3,845,000	3,845,000
Total, Public Works	279,627,000	297,349,000	297,568,000	297,326,000	297,326,000	297,568,000	297,568,000

[1] Does not reflect allocation of personal and nonpersonal services adjustment of −$150,907,000 to be made by Mayor under the direction of the District of Columbia Financial Responsibility and Management Assistance Authority.

WASHINGTON CONVENTION CENTER FUND TRANSFER PAYMENT

The conference action revises the heading as proposed by the Senate and appropriates $5,400,000 as proposed by the House and the Senate from local funds as proposed by the House. The Senate did not allocate the appropriation by source of funding.

REPAYMENT OF LOANS AND INTEREST

The conference action appropriates $327,787,000 from local funds as proposed by the House instead of $257,787,000 as proposed by the Senate. The Senate did not allocate the appropriation by source of funding.

REPAYMENT OF GENERAL FUND RECOVERY DEBT

The conference action appropriates $38,678,000 as proposed by the House and the Senate to be derived from local funds as proposed by the House. The Senate did not allocate the appropriation by source of funding.

REPAYMENT OF INTEREST ON SHORT-TERM BORROWING

The conference action changes the heading and appropriating language for Repayment of Interest on Short-Term Borrowing as proposed by the Senate and appropriates $9,698,000 from local funds as proposed by the House and the Senate to be derived from local funds as proposed by the House. The Senate did not allocate the appropriation by source of funding.

PAY RENEGOTIATION OR REDUCTION IN COMPENSATION

The conference action requires a reduction in personal services of $46,409,000 as proposed by the House and the Senate. The reduction is to be derived by reducing the rates of compensation for District government employees, who are subject to collective bargaining agreements, to the extent possible through the renegotiation of existing agreements. The bill language as requested by the District government and proposed by the House and the Senate provides that if a sufficient reduction through renegotiating existing agreements is not realized from employees who are subject to collective bargaining agreements, the Mayor shall decrease rates of compensation for such employees, notwithstanding the provisions of any collective bargaining agreements.

In addition, the conference action includes bill language ratifying and approving legislation enacted during fiscal year 1995 by the Council of the District of Columbia reducing the compensation and benefits of all employees of the District of Columbia government during that fiscal year. Because of the District's fiscal crisis, the Council passed a series of emergency, temporary, and permanent measures during fiscal year 1995 to provide immediate and concrete savings in personal services through reducing the wages of all District government employees in the latter half of fiscal year 1995 and into fiscal

year 1996. These measures affected both union and non-union employees. The terms, nature, and effective dates of these reductions varied, both for those groups of employees who negotiated reduction plans with District representatives and those groups of employees who did not. The reductions were made effective through acts of the Council which were ultimately included in the Omnibus Budget Support Act of 1995, D.C. Law 11-52, effective September 26, 1995, 42 DCR 3684, 5604. Substantial savings were achieved during fiscal year 1995 through these reductions. In ratifying the actions of the Council in enacting these wage reductions, some of which have been challenged in the courts, it is the express intent of the conferees that the savings realized in fiscal year 1995 be preserved and that wage reductions be continued into fiscal year 1996 and future years.

RAINY DAY FUND

The conference action appropriates $4,563,000 for the rainy day fund as proposed by the House and the Senate to be derived from local funds as proposed by the House. The Senate did not allocate the appropriation by source of funding.

INCENTIVE BUYOUT PROGRAM

The conference action appropriates $19,000,000 as proposed by the House and the Senate for costs associated with the incentive buyout program. The Senate did not allocate the appropriation by source of funding.

OUTPLACEMENT SERVICES

The conference action changes the heading and appropriating language for Outplacement Services as proposed by the Senate and appropriates $1,500,000 as proposed by the House and the Senate.

BOARDS AND COMMISSIONS

The conference action requires a reduction of $500,000 as proposed by the House and the Senate to reflect the elimination of stipends for most boards and commissions.

GOVERNMENT RE-ENGINEERING PROGRAM

The conference action requires a reduction of $16,000,000 as proposed by the House and the Senate to be realized by consolidating and eliminating agencies, procurement reform, privatization, and program service re-engineering.

The following summary shows the allocation of the various "Financing and Other Uses" appropriations from the fiscal year 1995 approved budget to the fiscal year 1996 conference approved level:

FINANCING AND OTHER USES

Agency/Activity	Fiscal year 1995 approved	Budget estimates, fiscal year 1996	Revised request fiscal year 1996	Authority recommended fiscal year 1996	House recommendation	Senate recommendation	Conference allowance [1]
Washington Convention Center transfer payment	$12,850,000	$5,400,000	$5,400,000	$5,400,000	$5,400,000	$5,400,000	$5,400,000
Repayment of loans and interest	306,768,000	285,787,000	257,787,000	327,787,000	327,787,000	257,787,000	327,787,000
Repayment of General Fund recovery debt	38,678,000	38,678,000	38,678,000	38,678,000	38,678,000	38,678,000	38,678,000
Short-term borrowing	5,000,000	9,698,000	9,698,000	9,698,000	9,698,000	9,698,000	9,698,000
Optical and dental benefits	3,312,000	0	0	0	0	0	0
Restructure health benefits program	0	0	0	0	0	0	0
Pay adjustment	106,095,000	0	0	0	0	0	0
Pay renegotiation or reduction in compensation	0	(46,409,000)	(46,409,000)	(46,409,000)	(46,409,000)	(46,409,000)	(46,409,000)
Incentive buyout payments	0	8,000,000	19,000,000	19,000,000	19,000,000	19,000,000	19,000,000
Outplacement services	0	0	1,500,000	1,500,000	1,500,000	1,500,000	1,500,000
D.C. General Hospital deficit payment	10,000,000	0	0	0	0	0	0
Rainy day fund	22,508,000	0	4,563,000	4,563,000	4,563,000	4,563,000	4,563,000
Job-producing economic development incentives	22,600,000	0	0	0	0	0	0
Cash reserve fund	3,957,000	0	0	0	0	0	0
Boards and Commissions reduction	0	(500,000)	(500,000)	(500,000)	(500,000)	(500,000)	(500,000)
Government re-engineering program	0	(20,000,000)	(16,000,000)	(16,000,000)	(16,000,000)	(16,000,000)	(16,000,000)
Personal and nonpersonal services adjustment	(13,632,000)	0	0	0	(148,411,000)	(11,264,000)	(150,907,000)
Sec. 138 spending reductions	(140,000,000)	0	0	0	0	0	0
Total, financing and other uses	378,136,000	280,654,000	273,717,000	343,717,000	195,306,000	262,453,000	192,810,000

[1] Does not reflect allocation of personal and nonpersonal services adjustment of −$150,907,000 to be made by Mayor under the direction of the District of Columbia Financial Responsibility and Management Assistance Authority.

CAPITAL OUTLAY

(INCLUDING RESCISSIONS)

The conference action restores "(Including Rescissions)" in the heading as proposed by the House and stricken by the Senate and appropriates $168,222,000 (including $82,850,000 from local funds and $85,372,000 from Federal funds) instead of $168,222,000 as proposed by the House and $82,850,000 proposed by the Senate. The House and Senate did not allocate the appropriation by source of funding. The conference action restores the provisos under capital outlay proposed by the House and stricken by the Senate requiring that each project shall be managed and controlled in accordance with all procedures and limitations of the financial management system (FMS); that all funds provided shall be available only for the specific projects and purposes intended; that authorizations and funds for projects covered by the first sentence of section 23(a) of the Federal-Aid Highway Act of 1968 shall expire on September 30, 1997 unless funds have been obligated in whole or in part prior to September 30, 1997; and provides that funds for expiring projects shall lapse.

WATER AND SEWER ENTERPRISE FUND

The conference action appropriates $242,253,000 and 1,024 full-time equivalent positions, including $237,076,000 and 924 full-time equivalent positions from local funds, $433,000 from other funds, and $4,744,000 and 100 full-time equivalent positions from intra-District funds instead of $193,398,000 and 1,024 full-time equivalent positions including $188,221,000 and 924 full-time equivalent positions from local funds, $433,000 from other funds, and $4,744,000 and 100 full-time equivalent positions from intra-District funds as proposed by the House and $243,853,000 and 1,024 full-time equivalent positions as proposed by the Senate. The Senate did not allocate the appropriation and full-time equivalent positions by source of funding.

The decrease of $1,600,000 below the Senate reflects the reduction associated with the decrease of 100 full-time equivalent positions recommended by the Financial Management Authority.

The conference action appropriates $39,477,000 from Federal funds for capital outlay projects with the necessary bill language as proposed by the House. The House bill did not allocate the appropriation by source of funding. The Senate bill did not include an appropriation or bill language for this purpose.

Language in section 154 establishes two separate accounts within the Water and Sewer Enterprise Fund—one for waste water treatment user charges and the other for EPA grants and other construction appropriations and funds.

The conferees are concerned about reports that District officials have diverted to other programs at least $233 million in user charges and other funds collected for the construction, operation and maintenance of the Blue Plains Wastewater Treatment Facility and waste water treatment works. As a result of this diversion of funds, issues have surfaced concerning the availability of resources necessary to ensure the safe and effective maintenance and operation of the facility. The conferees are also concerned that construction grant funds for wastewater treatment works from the United States Environmental Protection Agency have been used by District officials for other purposes contrary to law. To address these concerns, statutory provisions have been added in section 154 to require that the District government maintain separate accounts or subaccounts for user charges collected and monies paid by user jurisdictions specifically for the operation and maintenance, including debt service and capital costs, of the waste water treatment works and for grant funds received by the District government from EPA for construction of the Blue Plains Wastewater Treatment Facility and related waste water treatment works.

The conferees have learned that the District of Columbia government has failed to pay certain outstanding contractor and vendor invoices for construction and operation and maintenance of the Blue Plains facility. This practice is unacceptable and must be addressed and must be reflected in the budget and financial plan for fiscal years 1996 and 1997 submitted to the Financial Management Authority on February 1, 1996. The conferees direct that the District government submit to the House and Senate Committee on Appropriations a report by April 1, 1996, on the status of the actions taken to resolve these financial issues.

The conferees intend that these statutory provisions not be construed to impede any plans to turn the Blue Plains Wastewater Treatment Plant over to a regional authority or some other entity upon approval of such plans by the appropriate parties. The conferees request that the April 1, 1996 report referred to above provide an update on progress made to establish a regional authority which would be responsible for the overall management of the Blue Plains Wastewater Treatment Facility and related waste water treatment works.

LOTTERY AND CHARITABLE GAMES ENTERPRISE FUND

The conference action appropriates $229,950,000 and 88 full-time equivalent positions as proposed by the Senate including $7,950,000 and 88 full-time equivalent positions for administrative expenses and $222,000,000 for non-administrative expenses from revenue generated by the Lottery Board instead of $229,907,000 and 88 full-time equivalent positions including $8,099,000 and 88 full-time equivalent positions for administrative expenses and $221,808,000 for non-administrative expenses from revenue generated by the Lottery Board as proposed by the House. The Senate did not allocate the appropriation and full-time equivalent positions by source of funding.

The decrease of $192,000 and 12 full-time equivalent positions below the Senate allowance reflects a reduction in the Board's administrative expenses.

CABLE TELEVISION ENTERPRISE FUND

The conference action appropriates $2,351,000 and 8 full-time equivalent positions including $2,019,000 and 8 full-time equivalent positions from local funds and $332,000 from other funds instead of $2,469,000 including $2,137,000 from local funds and $332,000 from other funds as proposed by the House and $2,351,000 and 8 full-time equivalent positions as proposed by the Senate. The Senate did not allocate the appropriation and full-time equivalent positions by source of funding.

The conference action transfers $572,000 to the general fund as proposed by the Senate instead of $690,000 as proposed by the House.

STARPLEX FUND

The conference action appropriates $6,580,000 from other funds instead of $8,637,000 from other funds as proposed by the House and $6,580,000 as proposed by the Senate. The Senate did not allocate the appropriation by source of funding.

D.C. GENERAL HOSPITAL

The conference action appropriates $115,034,000 of which $56,735,000 is to be derived by transfer as intra-District funds from the general fund, $52,684,000 is to be derived from other funds and $5,615,000 is to be derived from intra-District funds instead of a reduction of $2,487,000 and a reduction of 180 full-time equivalent positions as proposed by the House in accordance with the recommendation of the Financial Management Authority and $115,034,000 of which $56,735,000 is to be derived by transfer from the general fund as proposed by the Senate.

D.C. RETIREMENT BOARD

The conference action appropriates $13,440,000 and 11 full-time equivalent positions from the earnings of the applicable retirement funds as proposed by the Senate instead of $13,417,000 and 11 full-time equivalent positions from the earnings of the applicable retirement funds as proposed by the House.

CORRECTIONAL INDUSTRIES FUND

The conference action appropriates $10,516,000 and 66 full-time equivalent positions including $3,415,000 and 22 full-time equivalent positions from other funds and $7,101,000 and 44 full-time equivalent positions from intra-District funds instead of $10,048,000 including $3,415,000 and 22 full-time equivalent positions from other funds and $6,633,000 and 44 full-time equivalent positions from intra-District funds as proposed by the House and $10,516,000 and 66 full-time equivalent positions as proposed by the Senate. The Senate did not allocate the appropriation and full-time equivalent positions by source of funding.

WASHINGTON CONVENTION CENTER ENTERPRISE FUND

The conference action appropriates $37,957,000 of which $5,400,000 shall be derived by transfer from the general fund and $32,557,000 from other funds for the Washington Convention Center Enterprise as proposed by the House and the Senate.

D.C. FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE AUTHORITY

The conference action appropriates $3,500,000 from local funds for the District of Columbia Financial Responsibility and Management Assistance Authority as proposed by the House and the Senate.

PERSONAL AND NONPERSONAL SERVICES ADJUSTMENTS

The conference agreement requires a general net reduction of 165,837,000 in personal and nonpersonal services for fiscal year 1996 instead of $148,411,000 as proposed by the House and $11,264,000 proposed by the Senate. The conference agreement also provides that the net reduction is to be made by the District's Chief Financial Officer on behalf of the Mayor in accordance with the direction of the Financial Management Authority pursuant to section 208 of Public Law 104–8, approved April 17, 1995, as proposed by the House. The Senate language required by the Mayor, in consultation with the Council and the Financial Management Authority, to reduce appropriations and expenditures for personal services costs in the amount of $11,264,000. The conferees direct that the allocation of this reduction to the departments, agencies and programs be made within 30 days after the date of enactment of this Act and reflected in the financial plan that will be transmitted to the Congress by March 1, 1996 with the District's fiscal year 1996 supplemental budget request.

The District's judicial branch of government is one of the better managed entities in the District government. All personnel including those in supervisory roles appear to be well trained and dedicated to excellence. Its financial management and information systems appear to be well designed with state-of-the-art automation. Requests for financial information such as obligations incurred, accounts receivable and payable, and balances are readily available which is not always the case elsewhere in the District government. While the conferees understand the need for independence by the District's judicial branch of government, the conferees also expect its full cooperation with the executive and legislative branches of the District government as well as the Financial Management Authority in addressing the District's financial crisis. The conferees do not expect the judicial branch to make budget reductions that are proportionately greater than those experienced by the executive and legislative branches. However, at a minimum, the judicial branch must meet the level of reductions applied to the executive and legislative branches. The conferees believe the high quality and caliber of all court personnel including the management staff provide the courts with the capability to meet the challenges posed by the current financial crisis without sacrificing standards and public service. Although language in Public Law 104–8, approved April 17, 1995, specifically exempts the courts from oversight by the Financial Management Authority, that exemption applies only to the independence of the courts which are still an integral part of the District government and therefore must share proportionately in all budget and full-time equivalent position reductions as recommended by the Financial Management Authority. The exemption allows the courts to determine how to allocate the reductions; it does not absolve the courts from making them and should not be interpreted otherwise. Section 445 of the Home Rule Act (Public Law 93–198, approved December 24, 1973) requires that the courts' budget as prepared by the courts be transmitted by the Mayor and Council without change but subject to their comments and recommendations. The conferees expect the District's Chief Financial Officer and the Financial Management Authority to likewise comment and make recommendations on the courts' budget.

The following summary shows the allocation of the various appropriations for enterprise funds by agency from the fiscal year 1995 approved budget to the fiscal year 1996 conference approved level:

ENTERPRISE FUNDS

Agency/Activity	Fiscal year 1995 approved	Budget estimates, fiscal year 1996	Revised request, fiscal year 1996	Authority recommended, fiscal year 1996	House recommendation	Senate recommendation	Conference allowance [1]
Department of Public Works (Utility Administration)	254,563,000	204,329,000	204,329,000	193,398,000	193,398,000	204,329,000	202,729,000
Washington Aqueduct	21,013,000	39,524,000	39,524,000	0	0	39,524,000	39,524,000
Total, Water and Sewer Enterprise Fund	275,576,000	243,853,000	243,853,000	193,398,000	193,398,000	243,853,000	242,253,000
Lottery and Charitable Games	192,068,000	229,950,000	229,950,000	229,907,000	229,907,000	229,950,000	229,950,000
Cable Television	2,654,000	2,351,000	2,351,000	2,469,000	2,469,000	2,351,000	2,351,000
Sports Commission (STARPLEX)	6,392,000	6,580,000	6,580,000	8,637,000	8,637,000	6,580,000	6,580,000
D.C. General Hospital	143,920,000	115,034,000	115,034,000	(2,487,000)	(2,487,000)	115,034,000	58,299,000
Retirement Board	0	13,440,000	13,440,000	13,417,000	13,417,000	13,440,000	13,440,000
Correctional Industries Fund	7,642,000	10,516,000	10,516,000	10,048,000	10,048,000	10,516,000	10,516,000
Washington Convention Center	19,541,000	37,957,000	37,957,000	37,957,000	37,957,000	37,957,000	32,557,000
D.C. Financial Responsibility and Management Assistance Authority	0	0	3,500,000	3,500,000	3,500,000	3,500,000	3,500,000
Total, Enterprise Funds	647,793,000	659,681,000	663,181,000	496,846,000	496,846,000	663,181,000	599,446,000

[1] Does not reflect allocation of Personal and Nonpersonal Services Adjustment of −$150,907,000 to be made by Mayor under the direction of the District of Columbia Financial Responsibility and Management Assistance Authority.

GENERAL PROVISIONS

The conference action amends section 110 by requiring that the District's fiscal year 1997 budget be transmitted to Congress "no later than April 15, 1996 or as provided for under the provisions of Public Law 104–8, approved April 17, 1995" instead of by April 15, 1996 as proposed by the House and the Senate. This change allows for additional time that may be required by the Financial Management Authority to review the District's budget as provided in Public Law 104–8.

The conference action amends section 117 to take cognizance of the Financial Management Authority's role in the re-programming process. The Financial Management Authority was established by Public Law 104–8, approved April 17, 1995.

The conference action deletes section 124 proposed by the Senate which would have extended for one year the period of time the District could sell general obligation bonds through a private sale on a negotiated basis rather than on a competitive bid basis.

Section 466 of the Home Rule Act (Public Law 93–198, approved December 24, 1973; 87 Stat. 806) requires that all general obligation bonds be sold at public sale with sealed proposals. To acclimate the District to the bond market, the Home Rule Act was amended in 1981 by Public Law 97–105 to give the District a 3-year grace period when it could sell bonds "at either a public sale or at a private sale on a negotiated basis in such manner as the Mayor may determine to be in the public interest".

The purpose of the grace period was to give the District some exposure or "experience" in the municipal bond market. The District did not enter the bond market until after the grace period had expired. To provide for the 3-year grace period, the District requested one-year extensions for negotiated sales in the appropriations bills. Those requests were approved in each of the last 10 years. The normal 3-year grace period ended in 1988.

The conference action deletes section 131 proposed by the House and deleted by the Senate that would have amended section 602(a) of the Home Rule Charter (Public Law 93–198, approved December 24, 1973) to prohibit the District government from enacting legislation that obligates funds for any abortion or appropriates funds to any facility owned or operated by the District in which any abortion is performed, except where the life of the mother would be endangered if the fetus were carried to term, or in cases of forcible rape reported within 30 days to a law enforcement agency, or cases of incest reported to a law enforcement agency or child abuse agency prior to the performance of the abortion.

The conference action amends section 132 proposed by the Senate by changing the section number to 131 and prohibiting the use of any funds in this Act for any abortion except to save the life of the mother or in cases of rape or incest.

The conference action deletes section 132 proposed by the House and stricken by the Senate which would have prohibited the use of funds appropriated in this Act on any proposed change in either the use or configuration of, or on any improvement to, the Municipal Fish Wharf until the proposed change or improvement had been reviewed and approved by Federal and local authorities.

The conference action deletes section 133 proposed by the House and stricken by the Senate that expressed the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American made.

The conference action deletes section 134 proposed by the House and stricken by the Senate which would have prohibited the use of any funds in the bill to implement or enforce any system of registration of unmarried, cohabiting couples whether they are homosexual, lesbian, or heterosexual, including but not limited to registration for the purpose of extending employment, health, or governmental benefits to such couples on the same basis that such benefits are extended to legally married couples. The language also would have repealed the District's Health Care Benefits Expansion Act (D.C. Law 9–114, D.C. Code, sec. 36–1401 et seq.) commonly referred to as the Domestic Partners Act. Section 132 of this Act reflects section 140 as proposed by the Senate amended to continue current law which prohibits the use of any appropriated funds to (1) implement or enforce any registration system of unmarried, cohabiting couples and (2) implement or enforce the Domestic Partners Act.

The conference action amends section 140 proposed by the Senate by changing the section number to 132 and striking the word "Federal" thereby prohibiting the use of any funds in this Act to implement or enforce (1) the District's Health Care Benefits Expansion Act of 1992 (commonly referred to as the Domestic Partners Act) or (2) any system of registration of unmarried cohabiting couples whether they are homosexual, lesbian, or heterosexual.

The conference action amends section 146 proposed by the House and section 145 proposed by the Senate by changing the section number to 144 and revising the maximum ceiling for full-time equivalent positions funded in this Act to 35,984 instead of 35,771 as proposed by the House and recommended by the Financial Management Authority and 39,778 as proposed by the Senate. The following summary shows the number of full-time equivalent positions by agency from the FY approved budget to the FY 1996 conference allowance:

(The summary referred to follows:)

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1996 (H.R. 2546) SUMMARY FULL-TIME EQUIVALENT POSITIONS BY AGENCY, FISCAL YEAR 1995–1996

	Fiscal year 1995 approved	Fiscal year 1996 original request	Fiscal year 1996 revised request	Fiscal year 1996 authority recom.	Fiscal year 1996 House allowance	Fiscal year 1996 Senate allowance	Fiscal year 1996 conference allowance
Governmental Direction and Support:							
Council of the District of Columbia	170	149	143	143	143	143	143
Office of the D.C. Auditor	15	15	12	12	12	12	12
Office of the Mayor	31	25	25	25	25	25	25
Office of the Secretary	50	46	34	34	34	34	34
Office of Inspector General	18	9	7	7	7	7	7
Office of Communications	7	6	5	5	5	5	5
Office of Intergovernmental Relations	42	35	22	22	22	22	22
Office of the City Administrator/Deputy Mayor for Operations	44	35	29	29	29	29	29
Office of Personnel	0	265	230	192	192	192	192
Department of Administrative Services	434	329	272	217	217	217	217
Contract Appeals Board	8	8	5	0	0	0	5
Office of the Deputy Mayor for Finance	5	5	5	5	5	5	5
Office of the Budget	54	52	44	42	42	42	42
Office of Financial Management	291	279	234	214	214	214	214
Department of Finance and Revenue	507	492	473	451	451	451	451
Board of Elections and Ethics	52	65	35	35	35	35	63
Office of Campaign Finance	22	22	20	10	10	10	10
Public Employee Relations Board	4	4	4	3	3	3	3
Office of Employee Appeals	23	18	17	13	13	13	13
Retirement Board	14	0	0	0	0	0	0
Office of Grants Management	9	9	9	6	6	6	6
Total, Governmental Direction and Support	1,800	1,868	1,625	1,465	1,465	1,465	1,498
Economic Development and Regulation:							
Deputy Mayor for Economic Development	47	37	31	25	25	25	25
Office of Banking and Financial Institutions	8	5	5	5	5	5	5
Office of Tourism and Promotion	6	4	4	4	4	4	4
Office of Planning	42	27	27	23	23	23	23
Office of Zoning	12	10	8	5	5	5	5
Department of Housing and Community Development	219	212	172	169	169	169	169
Department of Public and Assisted Housing	879	923	10	5	5	5	5
Department of Employment Services	0	915	814	730	758	758	758
Board of Appeals and Review	2	2	2	1	1	1	1
Board of Equalization and Review	5	4	3	1	1	1	1
Department of Consumer and Regulatory Affairs	736	658	640	584	612	610	612
Public Service Commission	93	86	60	120	60	60	60
Office of People's Counsel	38	30	24	48	24	24	24
Total, Economic Development and Regulation	2,087	2,913	1,800	1,720	1,692	1,690	1,692
Human Resources Development:							
Assistant City Administrator for Human Resources	24	0	0	0	0	0	0
Office of Personnel	285	0	0	0	0	0	0

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1996 (H.R. 2546) SUMMARY FULL-TIME EQUIVALENT POSITIONS BY AGENCY, FISCAL YEAR 1995–1996—Continued

	Fiscal year 1995 approved	Fiscal year 1996 original request	Fiscal year 1996 revised request	Fiscal year 1996 authority recom.	Fiscal year 1996 House allowance	Fiscal year 1996 Senate allowance	Fiscal year 1996 conference allowance
Department of Employment Services	948	0	0	0	0	0	0
Education Licensure Commission	6	0	0	0	0	0	0
Total, Human Resources Development	1,263	0	0	0	0	0	0
Public Safety and Justice:							
Metropolitan Police Department	5,430	4,564	4,512	4,512	4,512	4,512	4,512
Fire and Emergency Medical Services	1,821	1,817	1,790	1,790	1,790	1,790	1,790
Court of Appeals	97	96	83	83	83	83	83
Superior Court	1,277	1,255	1,142	1,142	1,142	1,142	1,142
D.C. Court System	108	122	103	103	103	103	103
Office of the Corporation Counsel	340	330	289	289	289	289	289
Public Defender Service	152	139	139	0	0	0	0
Pretrial Services Agency	101	104	93	93	93	93	93
Department of Corrections	3,949	3,759	3,369	3,369	3,369	3,369	3,369
Parole Board	125	115	113	113	113	113	113
National Guard	34	30	26	12	12	12	12
Office of Emergency Preparedness	49	38	35	35	35	35	35
Commission on Judicial Disabilities and Tenure	2	2	2	2	2	2	2
Judicial Nomination Commission	1	1	1	1	1	1	1
Civilian Complaint Review Board	24	0	0	0	0	0	0
Total, Public Safety and Justice	13,510	12,372	11,697	11,544	11,544	11,544	11,544
Public Education System:							
Public Schools	12,299	11,559	10,477	10,167	10,167	10,167	10,167
University of the District of Columbia	1,538	1,426	1,238	1,079	1,079	1,079	1,079
District of Columbia School of Law	78	0	0	0	0	0	0
Education Licensure Commission	0	6	0	0	0	0	0
Public Library	469	435	414	415	415	415	415
Commission on the Arts and Humanities	20	9	9	9	9	9	9
Total, Public Education System	14,404	13,435	12,139	11,670	11,670	11,670	11,670
Human Support Services:							
Department of Human Services	7,758	7,529	6,162	5,859	5,887	5,887	5,887
Department of Recreation and Parks	822	719	515	515	515	515	515
Office on Aging	33	31	27	26	26	26	26
Department of Human Rights & Minority Business Development	45	37	25	25	25	25	25
Office on Latino Affairs	13	3	3	3	3	3	3
Commission for Women	7	0	0	0	0	0	0
Energy Office	39	26	25	13	13	13	13
Total, Human Support Services	8,717	8,345	6,757	6,441	6,469	6,469	6,469
Public Works:							
Department of Public Works	2,509	2,219	1,896	1,896	1,896	1,896	1,896
D.C. Taxicab Commission	32	28	18	18	18	18	18
Total, Public Works	2,541	2,247	1,914	1,914	1,914	1,914	1,914
Sec. 141 Limitation on FTEs and Retirement Incentives	(2,000)	0	(1,000)	0	0	0	0
Total, General Fund	42,322	41,180	35,932	34,754	34,754	34,752	34,787
Enterprise Funds:							
Department of Public Works (Utility Administration)	1,711	1,793	1,124	1,024	1,024	1,024	1,024
Washington Aqueduct	267	271	0	0	0	0	0
Lottery and Charitable Games Control Board	124	117	100	88	88	88	88
Office of Cable Television	30	8	8	8	8	8	8
D.C. Retirement Board	0	14	11	11	11	11	11
Correctional Industries	63	106	66	66	66	66	66
D.C. General Hospital	2,562	1,760	0	(180)	(180)	0	0
Total, Enterprise Funds	4,757	4,069	1,309	1,017	1,017	1,197	1,197
Total, Operating Funds	47,079	45,249	36,241	35,771	35,771	35,949	35,984

Excludes 3,083 FTE positions for agencies shifted to off-budget status for FY 1996 that continue to be paid by District Government:

Department of Public and Assisted Housing	913
Public Defender Service	193
Washington Aqueduct	271
D.C. General Hospital	1,760
Total	3,083

The conference action also restores language in subsection (d) of the new section 144 proposed by the House and stricken by the Senate which includes personnel of the District of Columbia Court System in the exemption from Council action for the filling of vacant positions. As noted earlier under the appropriation for "Personal and Nonpersonal Services Adjustments", the conferees recognize the need for independence by the District's judicial branch of government; however, the conferees also expect the judicial branch to meet the level of reductions applied to the executive and legislative branches by the District's Chief Financial Officer and the Financial Management Authority. The conferees expect the judicial branch to allocate the recommended reductions and do not expect those reductions to be proportionately greater than those experienced by the executive and legislative branches.

The conference action amends section 147 proposed by the House and section 146 proposed by the Senate by changing the section number to 148 and by requiring that the reports on capital project employees also be provided to the Financial Management Authority. The language proposed by the Senate required that the reports be provided to the Committees on Appropriations of the House of Representatives and the Senate. The requirement for these reports was included in the District's fiscal year 1996 budget request.

The conference action deletes section 150 proposed by the Senate which would have extended by two years the time for the conveyance of property of Columbia Hospital for Women for the National Women's Health Resource Center. The request for the extension was withdrawn by the Hospital.

The conference action restores section 151 proposed by the House and stricken by the Senate and changes the section number to 150 and places a ceiling of $4,994,000,000 (of which $165,339,000 shall be from intra-District funds) on the total amount available for obligation from all funding sources appropriated for operating expenses for the District of Columbia for fiscal year 1996 under the caption "Division of Expenses" instead of $4,867,283,000 as proposed by the House. The Senate did not have a similar provision. The conference action also amends section 150 by adding language that allows the District government to accept and spend Federal and other grants that are not included in this Act subject to prior approval by the Financial Management Authority with monthly reports to the Council and the House and Senate Committees on Appropriations. The language also prohibits the obligation or expenditure from the general fund or any other fund for grant programs in anticipation of the approval and receipt of a grant. However,

this language is not intended to prohibit the use of any funds for the development of grant proposals and applications.

The conference action restores section 152 proposed by the House and stricken by the Senate and changes the section number to 151 and amends the bill language to require that plans for the Lorton Correctional Complex (1) be submitted by March 15, 1996 rather than February 15, 1996 as proposed by the House and (2) include options other than the closing of the facility. The amended language requires that the options are to include the use of alternative Federal or private arrangements for housing District inmates with an appropriate transition period not to exceed five years. The conferees agree that each option considered for Lorton facility location and management is to be identified and the costs and benefits of each option documented. There should also be a justification supporting the recommendation or rejection of each option. In addition, the plans are to address how and to what extent the District can use the private sector for the operation of correctional facilities to house District inmates, including site selection, design, financing, construction, and operation of the facilities. The conferees agree that each plan is to include a description of any proposed legislation required to implement the plan and an implementation schedule, together with specific performance measures and timetables, and be consistent with the financial plan and budget developed for the District government under subtitle A of title II of the D.C. Financial Responsibility and Management Assistance Act of 1995. The conferees are aware that the National Institute of Corrections, which provides technical assistance, training, and information services to State and local corrections departments, is performing an in-depth study of the District's Department of Corrections as requested by the House and Senate Committees on Appropriations in their report accompanying the fiscal year 1995 appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies. The NIC report should provide a foundation for further actions by the District to address the problems that exist at the Lorton complex.

The conference action amends section 153 proposed by the House and stricken by the Senate by restoring the language proposed by the House prohibiting adoptions by unmarried couples. The conference action adds language that allows unmarried couples to file joint petitions in those cases where the co-petitioner is the natural parent of the child. The conference action also changes the section number to 152.

The conference action amends section 154 proposed by the House and stricken by the Senate by changing the section number to 153 and restoring the language proposed by the House concerning technical corrections to the Financial Responsibility and Management Assistance Act (Public Law 104–8, approved April 17, 1995). These technical corrections were offered as an amendment on the House floor by the committee of jurisdiction with the explanation that the amendment is noncontroversial and conforms to the legislative intent of Public Law 104–8. A brief description of the technical changes is reflected in the following paragraphs.

The conference action restores subsection (a) as proposed by the House which revises section 103(f) of Public Law 104–8 by striking "may provide" and inserting "shall promptly provide". This revision provides the General Services Administration with the appropriate degree of discretion and clarifies that GSA has a duty to provide the administration services requested by the Financial Management Authority in a prompt manner.

The conference action restores subsection (b) as proposed by the House which—

(1) amends section 102(e)(1)(A) of Public Law 104–8 to insure that Federal employees joining the Financial Management Authority's staff may elect to have their service with the Authority treated as if performed within the Federal government for purposes of the thrift savings plan, health insurance, life insurance, and any other Federal benefit program. The statute already provides such persons that election for purposes of the Federal retirement program.

(2) amends section 102(e)(2)(B) of Public Law 104–8 to clarify congressional intent and make clear that an individual electing coverage under the Federal programs referred to in section 102(e)(1)(A) will not be entitled to double coverage under comparable District government programs.

(3) amends section 102(e)(3) of Public Law 104–8 to provide that the Office of Personnel Management, in promulgating regulations authorized by section 102(e) must consult with the Financial Management Authority as well as with the District government. When OPM first promulgated interim regulations as authorized by the statute, it failed to consult with the Authority or even send on its own initiative a copy of the proposed regulations.

(4) adds a new section 102(f) to Public Law 104–8 to carry out the policy mandate created in section 102(e) and clarify that persons employed by the Financial Management Authority have an election to be treated as if they were employees of the Federal government or employees of the District government for purposes of the retirement system, health insurance, and any other employee benefit programs. Section 102(e) deals only with employees of the Authority who come from the Federal government. Several other categories of persons are becoming employees of the Authority, including Federal retirees, District employees, and private sector employees. This new section gives these employees the same options as persons joining the Authority from the Federal government. It will help to insure that qualified employees will not be discouraged from seeking employment with the Authority by clarifying legislative intent so as to provide that such persons would not lose benefits.

The conference action restores subsection (c) as proposed by the House which amends section 104 of Public Law 104–8 to protect the Financial Management Authority and those who act on its behalf from claims arising from their official actions.

The conference action restores subsection (d) as proposed by the House which deletes in its entirety section 203(a)(3)(C) of Public Law 104–8. The language being deleted exempted emergency legislation from review by the Financial Management Authority and, in practice, would have effectively undermined the fundamental responsibilities of the Authority, contrary to the clear legislative intent of the statute as a whole. A significant amount of District legislation is now being enacted on an emergency basis, and since emergency legislation goes into effect immediately, rights could be created or claimed under the emergency legislation and objections asserted to any subsequent disapproval by the Authority if and when the legislation were subsequently submitted as permanent legislation. Emergency legislation can clearly have a substantial fiscal impact while it is in force and effect. Therefore, the current subparagraph (C) is not only an undesirable and significant dilution of the Authority's intended ability to function, but it also casts doubt on the Authority's ability to require that emergency legislation be reviewed, separate and apart from the issue of approval or disapproval.

The conference action inserts a new section 154 to establish two separate accounts within the Water and Sewer Enterprise Fund—one for waste water treatment user charges and the other for EPA grants and other construction appropriations and funds. An explanation concerning the establishment of these accounts can be found under the heading "Water and Sewer Enterprise Fund" earlier in this statement.

The conference action inserts a new section 155 requested by the Mayor in a letter dated December 12, 1995, that allows up to 50 police officers and up to 50 Fire and Emergency Medical Services members with less than 20 years of departmental service who were hired prior to February 14, 1980 and who retire on disability before the end of calendar year 1996 to be excluded from the computation of the rate of disability retirement under subsection 145(a) of the District of Columbia Retirement Reform Act of 1979 (Public Law 96–122, approved November 17, 1979). The conferees have included language in subsection (c) that delays the effective date of section 155 until 30 days after the Mayor transmits the actuarial report required by section 142(d) of Public Law 96–122, approved November 17, 1979. The conferees direct the Mayor to forward all future requests that affect the District's finances and budget through the Financial Management Authority.

The conference action amends title II—District of Columbia School Reform proposed by the House and stricken by the Senate and title II—District of Columbia Schools Improvements Act proposed by the Senate. The following paragraphs contain a brief description of the conference action.

TITLE II—DISTRICT OF COLUMBIA SCHOOL REFORM

The concluding of this conference agreement culminates a year of debate, discussion, and negotiation from the local school level to the Congress regarding the amount, shape and pace of education reform necessary in the District of Columbia. The catalysts for this latest debate include the January 1995 report by the D.C. Committee on Public Education (COPE) entitled "Our Children Are Still Waiting" and a renewed interest by Congress in ensuring greater educational opportunity for D.C. children.

The January 1995 COPE report recounts the lack of real progress in implementing education reform since the first COPE report in June, 1989. The opening line of the 1995 COPE report reads "in 1989, the Committee on Public Education issued a report that described a school system in need of serious reform." The report states that "no progress and setbacks in other areas paint a grim picture." These are not the words of a harsh critic or an unsympathetic observer, instead they represent a concerned community. COPE reported that:

By almost any measure, student academic performance worsened;

No significant progress had been made in improving the teaching workforce;

Problems persist in providing timely and adequate material support to local schools;

School buildings need renovations and repairs (totaling $1.2 billion according to the Superintendent's task force);

Schools are still shackled by an oppressive bureaucracy that hopes to exploit divisions within the Board and between the Board and the Superintendent.

COPE argues that "so little progress has been made because, quite frankly, this community has not really tried reform." COPE cites as reasons the following:

All too many are invested in the status quo;

Serious fragmentation of responsibility and accountability exist in the school governance structure;

The school system does not systematically recognize good teaching, nor does it aggressively weed-out non-performers;

The Board of Education's micromanagement of the schools undermines the Superintendent and his reform efforts; and

There has been a lack of focus and consistent follow-through within the school system.

At the same time as the District of Columbia community was recognizing the need for fundamental and comprehensive education reform, the Members of the Congress became committed to supporting such reform.

Title II of this conference agreement, the "District of Columbia School Reform Act of 1995," goes a long way toward creating the local structure to address the concerns expressed by the community, particularly through local education reform groups such as the Committee on Public Education.

The conference action extends the definition of District-wide assessments to clarify the type of assessments that should be used and the professional standards they need to meet, as proposed by the Senate.

The conference action adds a definition of an electronic data system to be developed by the District of Columbia public schools as proposed by the Senate.

The conference action amends the definition of who is an eligible chartering authority, striking the House proposal designating local universities and adding the charter schools board created in Subtitle B, as proposed by the Senate.

The conference action includes a definition of individual career path, a course of study to prepare older students for the workforce, as proposed by the Senate.

The conference action adds a definition of literacy as proposed by the Senate.

The conference action changes the definition of student with special needs to limit it to a student with a disability.

Subtitle A requires that the Superintendent of Schools, with approval of the Board of Education, develop a long term reform plan for the District of Columbia Public School System. This provision builds on the efforts currently underway by the District. The long term reform plan outlined in the legislation uses the same philosophy outlined by the Schools Board President and the Superintendent in the one-year action plan entitled "Accelerating Education Reform in the District of Columbia: Building on BESST" that was submitted to Congress on July 13, 1995. The agreement requires that the plan be consistent with the financial plan and budget for the District of Columbia required by the District of Columbia Financial Responsibility and Management Assistance Act of 1995 (Public Law 104-8).

The conference action amends the District of Columbia public schools long term reform plan, adding items to be required in the plan, as proposed by the Senate. These items were proposed by the House for inclusion in Subtitle H, Progress Reports and Accountability but the conferees determined that it is only possible to hold the school system accountable for these actions after it is required by this Act to develop a reform plan addressing these issues.

The conference action adds several items to be included in the long term reform plan, including improving students' health and establishment of after-school programs, as proposed by the Senate.

In Subtitle B, the agreement authorizes the establishment of public charter schools. On October 23, 1995, the Education and Libraries Committee of the D.C. Council passed, by a vote of 4-0, very similar legislation authorizing the establishment of independent public charter schools. Prior to that, a recommendation that either the D.C. Council or the Congress enact legislation authorizing independent public charter schools was included in the reform plan submitted by the President of the D.C. Board of Education and the Superintendent to Congress on July 13, 1995.

The conferees find that public charter schools represent a new type of public education, but one that retains essential elements: public charter schools are funded by the public, are open to the public, and are accountable to the public for results. They are different from traditional public schools, however, in that they are not required to be managed by a government bureaucracy. Educators may establish new schools and have an opportunity to establish their vision. Such schools may not charge tuition, except to non-residents, and must be open to students with a broad range of aptitudes. A public charter school may limit admission based on grade levels and may choose to have an instructional focus, such as the arts, science, or advanced technology.

A number of accountability provisions are included. Eligible chartering authorities are responsible for reviewing the quality of a charter applicant's petition, as well as determining whether a school has been effective and its five-year charter should be renewed. Parental choice, informed by a school's performance on the District-wide assessments as well as other factors, constitutes another form of accountability. Further, the charter of a school may be revoked at any time for financial mismanagement.

The conferees find that public charter schools represent a key component of comprehensive reform. They encourage innovation and entrepreneurialism by educators and ensure freedom from the many burdensome rules and regulations that frustrate so many good teachers. Within certain limitations defined in the agreement, public charter schools have full control over their day-to-day operations, including budgeting, personnel, and contracting, but they are nonsectarian and nonprofit.

The conference action adds several items to the petition that applicants to establish public charter schools are required to file, as proposed by the Senate. These include a description of the proposed scope and size of the school, any special area of focus for the proposed school, and the employment relationship between the public charter school and its employees, and assurances that the public charter school will seek accreditation or licensing, as appropriate.

The conference action adds to the criteria that must be considered in approving or disapproving charter petitions whether the applicant can implement the petition, as proposed by the Senate. The conference action leaves to the discretion of the charter-approving entity whether to approve a petition even in cases where it determines that the petition satisfies all of the provisions of this title, as proposed by the Senate.

The conference action includes a provision limiting the number of charters that may be approved in the first year to ten, and limiting the number to five per charter-approving entity in future years, as proposed by the Senate.

The conference action adds a provision applying Part B of the Individuals with Disabilities Act and Section 504 of the Rehabilitation Act to public charter schools, proposed by the Senate. The conference agreement allows each public charter school to determine whether it is to be treated as a regular District of Columbia public school or as a Local Education Agency (LEA), for the purposes of those two laws.

The conference action adds a section establishing a public charter schools board, which would be a charter-approving body in the District of Columbia government, as proposed by the Senate. The agreement calls for the charter schools board to be appointed by the Mayor from nominees provided by the Secretary of Education.

The agreement encourages a number of federal agencies and institutions to explore the feasibility of establishing public charter schools, including the Smithsonian, the National Science Foundation, and others, as proposed by the House. The conference action adds the Department of Education to the list of entities encouraged to consider establishing public charter schools, as proposed by the Senate.

Subtitle C of the agreement creates a District of Columbia Even Start program, expanding the federal Even Start program in the District, as proposed by the House. The inclusion of Even Start as a part of the agreement is a reflection of the conferees' belief in the power of family literacy to ensure positive educational outcomes for young children. In a recent national adult literacy survey there were approximately 40 million adults who scored in the lowest level of the literacy scale. Twenty percent of the population of this country have been found to have minimal basic skills. Even Start is based on the knowledge that children who have parents who can help and support them in their educational endeavors are more likely to succeed than those who have parents with low literacy skills and little knowledge of how to help their children succeed in school.

The District of Columbia Even Start initiative requires programs to be built on the findings of the "National Evaluation of the Even Start Family Literacy Programs," including the provision of intensive services in parent training and adult literacy or adult education. In addition the Chapter 1 Even Start Program is amended through this legislation to include comparable language on intensity of services. It is estimated that a quality Even Start Program requires $225,000 per year to operate. The District of Columbia Program authorization level assumes this level of funding for each program by limiting the number of projects which can be funded in a given year.

The agreement includes the National Center for Family Literacy, a recognized authority in this field, for technical assistance to eligible entities. It is expected that the National Center for Family Literacy will assist in ensuring that funded projects are of high quality and provide the intensity of services necessary for success.

The agreement also includes an independent evaluation of District of Columbia Even Start programs in order to determine their effectiveness in providing high quality family literacy services.

Subtitle D of the conference agreement provides for assistance to the District of Columbia Public Schools in the development of a world-class core curriculum and District-wide student assessments, as proposed by the House, and content standards, as proposed by the Senate. The core of education is the curriculum. There is a need to ensure that students' competence in this core curriculum represent a high level of achievement, in fact that it be world class.

The provisions establishing such a task force originated with a request by the President of the D.C. Board of Education and the Superintendent—as part of the draft reform plan submitted to Congress on July 13, 1995—for approximately $2,000,000 to be used for a new curriculum and assessments.

The conference action deletes the World Class Schools Panel, to have been appointed by Congress, the President, and the Mayor, replacing it with a grant to a nonprofit entity described as the "World Class Schools Task Force," as proposed by the Senate. The "World Class Schools Task Force" must meet several criteria in order to receive the grant (including a national reputation for advocating rigorous core curriculum and experience working with large urban school districts on content standards). The conferees expect that the Council for Basic Education (CBE) will serve as the World Class Schools Task Force.

Because even the formal adoption of a high-quality curriculum constitutes only the first step in enabling students to master such a curriculum, assessments that describe how well students are performing in the new curriculum are also vital. To be of maximum use, assessments need to inform parents of their own child's progress, as well as the progress of the school. Such information needs to be placed in the context of the performance of other schools. In order to judge whether such performance is truly "world class," it must be placed in the context of student achievement in other nations, such as Germany, France, Japan, and South Korea. Tools useful for developing assessments providing such comparisons are becoming increasingly available, such as the Third International Mathematics and Science Study (TIMSS). Further, it is also important that such assessments satisfy professional technical standards, such as validity, reliability and freedom from bias, as established by the American Psychological Association and the American Education Research Association.

The conference action deletes the requirement that information from assessments be comparable with information from other states and the nation as a whole, as proposed by the Senate. The agreement maintains, however, the expectation that assessments, to the extent feasible, provide comparable information with students from other nations.

The establishment of new criteria for grade promotion, taking into account the new curriculum and assessments, was also included in the reform plan submitted by the President of the D.C. Board of Education and the Superintendent to Congress on July 13, 1995. The conference action amends the grades for which criteria for student promotion ("promotion gates") are to established to include at least grades four, eight and twelve, as proposed by the Senate.

Subtitle E of the conference agreement directs the District of Columbia to develop a per pupil formula for funding K–12 education starting in FY 1997. This uniform formula will be used to provide operating budgets on the basis of enrollment for the school system as a whole and for individual public charter schools. According to the January 1995 report by COPE, "Of the 40 largest school systems in the country, the District ranked first in per pupil expenditures."

In the context of low student academic achievement, this information is disturbing and as a result the District of Columbia is directed to establish a uniform and efficient formula for funding public education. The same formula will be used for students enrolled in individual public charter schools authorized in subtitle B of this agreement and the District of Columbia Public School System. The formula may take into account such variations as students at different grade levels and students with special needs. Such a formula will clarify and focus decisions regarding funding for public education around students' needs.

For each of fiscal years 1996 through 2000, funds are authorized to pay for transition costs associated with starting public charter schools. These funds are necessary because the school years begin in September while the fiscal year begins in October, therefore resulting in a one month funding gap for new public charter schools.

The conference action amends a House proposal to direct the General Accounting Office (GAO) to determine the number of students in the District of Columbia Public Schools, instead directing the Board of Education to arrange with the Financial Responsibility and Management Assistance Authority to conduct an independent audit of the school system's count, as proposed by the Senate.

Subtitle F of the conference agreement seeks to begin addressing the facilities problems that plague the District of Columbia Public Schools. On August 14, 1995, the Superintendent received the report of his task force on education infrastructure for the 21st century, "Preliminary Facilities Master Plan 2005." The report describes the physical state of public school facilities and the necessary steps to remedy that state. It sets out in plain terms the current condition of the public schools:

Sixty-two percent of the District's public schools are over forty-five years old but only 8 of the 163 operating schools have ever had total renovations.

There is an inability to accommodate educational programs, initiatives, and technology.

There is no school building able to support a comprehensive vocational or career focus to prepare students for work in the 21st century.

The Superintendent's task force put a price tag of $1.2 billion to restore the buildings to a state of good repair, modernize schools and provide infrastructure support for technology.

The agreement encourages assistance by the private sector and government agencies to bring new life to the bricks and mortar of the school buildings. The Superintendent and the Administrator of the General Services Administration (GSA) are expected to enter into an agreement whereby the GSA will provide technical assistance for donated work from the private sector. The conferees have included $500,000 to offset GSA expenses related to the engineering work.

In addition, the agreement calls on the Mayor and the District of Columbia Council, in consultation with the Administrator, the Financial Responsibility and Management Assistance Authority, the Board of Education and the Superintendent, to design a long-term facilities revitalization program and designate a new or existing agency or to carry out this program.

The conference action gives the District of Columbia Public School system the authority to accept gifts on behalf of the District of Columbia, as proposed by the Senate.

Subtitle G of the conference agreement authorizes funds for the planning and initial capital costs to develop a residential school within the District of Columbia, as proposed by the House.

In a July 13, 1995 reform plan submitted to Congress, the President of the Board of Education and the Superintendent proposed allowing the District of Columbia to establish a public residential school. This amendment provides funds to the District to establish such a school. The District of Columbia Public School System has indicated that it intends for such a school to be designed for highly disruptive or troubled youth and this is the expectation. Several school systems have public residential schools operating, including in Texas and North Carolina. The city of Chicago is experimenting with the idea in a public housing complex.

The conference agreement changes the distribution of the $2 million authorized for a residential school in the House proposal. Instead of the entire amount authorized in FY 1996, there are authorized $100,000 in FY 1996 for developing a comprehensive implementation plan and $1,900,000 in FY 1997 for the capital costs associated with preparing a school facility.

Subtitle H of the conference agreement requires the Superintendent to report by December 1, 1996, on the progress of the District of Columbia Public School system in implementing the long-term reform plan described in subtitle A. Conference action deleted a number of specific items proposed by the House for this report, as proposed by the Senate. These items were moved to subtitle A as items to be addressed in the long-term reform plan. Since the Superintendent is expected to report on the implementation of those goals on December 1, the report should address many of these same issues.

The agreement also requires the Chairperson of the D.C. Council to report, by April 1, 1996, on legislative actions taken or planned by the D.C. Council to support implementation of the goals of the long-term reform plan. Among other topics, the Council Chairperson will also be expected to report on actions taken or planned in response to the Council's responsibility under subtitle G to develop a long-term facilities revitalization program and to designate, or create, an agency or authority to implement such a program.

The conference agreement includes in subtitle I the House proposal for "Partnerships with Business." Within the context of limited public resources and an ever increasing demand for additional and more effective services—this subtitle is intended to facilitate a process and develop an infrastructure under which private sector contributions are effectively leveraged to bring about positive change in the community.

The DELTA Council is designed to be the formal private sector entity that will solicit, organize, and coordinate private sector contributions that would be made available to the D.C. public schools under this initiative. The Council will be particularly important in securing in-kind contributions of technology, equipment, hardware, and software, and pro bono contributions of time and expertise of private sector personnel. An individual is appointed as a member of the Council on the basis of the commitment of the individual, and the private sector entity the

individual is representing, to provide time, energy, and resources to the Council.

The private nonprofit corporation that establishes the DELTA Council under this subtitle will work cooperatively with the Superintendent, school administrators, teachers, parents, and students to devise plans for how private sector resources will be utilized in the schools for maximum impact. The corporation will coordinate plans with the schools for private sector contributions to career academies, school-to-work opportunities, voluntary assistance with repairs and improvements, and other related activities intended to benefit the students of the District.

The private nonprofit corporation will have a number of specified duties to increase private sector assistance for the school system. Such duties and activities would include: devising a short term and long term plan to ensure access to needed technology in the schools; the design and establishment of a model District Employment and Learning Center; promoting the participation of local employers in career academy programs and school-to-work opportunities; voluntary assistance in support of repairs and improvements to schools; establishing a professional development program for teachers and administrators; and developing a program of rewards for student accomplishment in cooperation with participating local businesses.

Most of these duties require on-going cooperation with the Superintendent, school administrators, teachers, parents, students, and the corporate donors. It is expected, therefore, that funds made available to the corporation to carry out its duties under this subtitle may be used for staff expertise and other costs associated with the design, start-up, and administrative responsibilities necessary to accomplish major duties that may not be covered by private sector contributions.

It is expected that the designated nonprofit corporation will solicit the expertise and resources of private sector businesses, universities, nonprofit entities, teachers, and school administrators to help establish a professional development program for teachers and administrators. As with other key initiatives under this subtitle, it is expected that participating entities will donate time, expertise, resources, equipment, and facilities to the success of the professional development program.

This subtitle requires that the professional development program will, at a minimum, provide for: training of teachers in core curriculum subjects; private sector training of teachers in the use, application, and operation of state-of-the-art technology in education; and training for principals in effective private sector management practices. In FY 1996, the focus of curriculum training will be on curriculum for elementary grades in reading and mathematics that have been demonstrated to be effective for students from low-income backgrounds.

As a collaborative venture with the private sector, particularly those businesses contributing technology to the schools, the professional development program is expected to provide teachers with a wide variety of world-class applications for educational technologies. For students to get the maximum benefit from advanced technology, it is important that teachers gain a sophisticated knowledge of technology and understand its role in the modern workplace. As a result, teacher knowledge and principals' management skills are important goals of the professional development program.

The unemployment rate for 18–25 year olds in the District of Columbia is simply too high. There needs to be an effective effort, beyond school reform, to assist these individuals in gaining the skills necessary to obtain and retain employment. This subtitle provides for the District Employment and Learning Center, "DEAL Center". The center will provide the District with a regional institute to provide job training and employment assistance for these individuals. The basic premise behind this programs is that one of the most effective approaches to employment programs is the combination of on-the-job and classroom training. As such, the center will focus on job placement, including temporary work assignments, combined with training opportunities. This training may be supported with needs-based payments in order to make training a viable option for those individuals who may otherwise not be able to afford the time to participate in such a program.

The center will use funds from a variety of sources (beyond what is made available under this section), including funds leveraged through the private sector by the DELTA council and through partnerships with other governmental agencies and appropriate federal employment and training programs.

It is recognized that there are currently efforts in this Congress aimed at streamlining the multitude of Federal job training and employment programs and providing a simpler framework for state and local implementation of such federal program. This subtitle encourages such reforms to be started within the District by the Mayor as soon as possible and further supports full accountability for these funds. The conferees encourage the Mayor and other local officials to coordinate the design and implementation of such reforms with the efforts of the DELTA council and with the efforts of the DEAL Center.

It is recognized that the DEAL Center does not currently exist and must be established. The Congress intends that the Center be established as a demonstration program which may serve as a model to be replicated. It is recognized that it will take considerable effort in the first year to establish the Center, design curriculum, enter into partnership agreements with education providers such as universities and community and technical colleges, enter into agreements with employers, and enroll students. It is expected that a greater portion of the funds appropriated for the Center will be used for start-up costs in the first year than in subsequent years.

It is expected that, in designing the curriculum for programs under the Center, particular attention will be given to identifying sectors where jobs are, or will be, available. As part of the private sector commitment to these youth, it is expected that the wages paid to students during any worksite training experience with employers will be paid for largely with private sector funds. It is expected that employers who engage in training the Center's participants will hire successful graduates of the programs.

As a regional institute, the DEAL Center will draw on a variety of employment and training opportunities throughout the Washington metropolitan area. Training assistance and job opportunities for D.C. youth will be funded from resources provided under this subtitle or from other resources identified by the Center.

This subtitle also recognizes the value of implementing nationally-proven programs. One such example is the Jobs for America's Graduates (JAG) program. According to the 1994 Annual Report issued by JAG, the program has benefited over 175,000 young people in 22 different states and 400 communities. Over 90 percent of them have successfully completed high school and over 80 percent, at the end of nine months after leaving school are either on the job, in the military or enrolled in postsecondary education or training.

This subtitle authorizes funding for a Jobs for D.C. Graduates Program modeled after the JAG program and consistent with Jobs for America's Graduates, Inc. This program would assist schools in workforce preparation initiatives. Specifically, these initiatives assist at-risk and disadvantaged youth in graduating from high school and in finding and maintaining quality jobs thereafter. It is expected that FY 1996 funding would serve approximately half of all 12th grade students and funding authorized in future years would include all interested 12th grade students.

Subtitle J of the conference agreement includes measures that are designed to enhance management and fiscal accountability in the District of Columbia Public School system, some of which had been added to the D.C. budget by the D.C. Council.

The agreement includes a requirement that the Superintendent contract for food and security services unless he determines that it is not feasible.

The agreement includes a requirement that the District of Columbia Public School system work with the Financial Responsibility and Management Assistance Authority to develop management and data systems that are consistent with those being developed across the District of Columbia government. The agreement provides that the Board of Education pay for these upgrades with $1.5 million out of the Board's own budget, which is currently being used to pay for Board members' salaries, Board staff, and other Board expenses.

The agreement requires the Board of Education to report on positions and staff in the District of Columbia public schools.

The agreement requires that the Board of Education develop revised annual budgets that are consistent with the D.C. Appropriations Act, including all staff allocated to each public school, zero-based budgeting, and school-by-school budgets.

Subtitle K of the conference agreement includes provisions that had been added to the D.C. Budget by the D.C. Council. These include protection for school-based personnel in the case of a Reduction In Force (RIF), reforms of personnel laws, and removal of evaluation of teachers from collective bargaining.

Subtitle L of the agreement establishes a seven member Commission on Consensus Reform in the District of Columbia Public School system, as proposed by the Senate. The conference action deletes sections of the Senate proposal that would give a Consensus Reform Commission authority to approve the long-term reform plan to be developed by the District of Columbia Board of Education under subtitle A, or to direct the Board of Education to take specific actions to implement the long-term reform plan, as proposed by the House. The Consensus Commission will play a key role in the implementation of reforms in the District of Columbia public schools as it will monitor the effectuation of the long-term reform plan. As part of that role, the Consensus Commission will identify any obstacles to the realization of the reform plan and suggest ways to remove those

obstacles, up to and including recommending actions to the Financial Responsibility and Management Assistance Authority to remove such obstacles.

In Subtitle M, the conference action removes a House proposal to link federal AFDC benefits to attendance at parent-teacher conferences. The conferees retain language proposed by the House authorizing the Mayor to encourage parents to attend parent-teacher conferences.

In Subtitle N, the conference agreement includes the House proposal to establish a "Low-Income Scholarships" program that, in the context of Title II, the "District of Columbia School Reform Act of 1995," would provide low-income residents of the District of Columbia with greater equality of educational opportunity. The Senate recedes on the "Low-Income Scholarships" program with substantial amendments.

It is widely agreed that adequate improvement in all of the District of Columbia public schools, especially those schools that primarily serve low-income families, will take a number of years. At least until such a time, low-income parents deserve the same opportunity as higher-income parents to seek out the best education for their children. Further, some point out that even after adequate improvement has been made in the public schools, and the Consensus Commission as entities that must be consulted by the non-profit corporation in administering the scholarship program, as proposed by the Senate.

The conference action establishes an account in the District of Columbia General Fund, with the Mayor required to disburse funds to the non-profit corporation.

The conference action limits the federal funds that may be used by the nonprofit corporation for administrative expenses to $250,000, as proposed by the Senate, a reduction from the House proposal of $500,000.

The conference agreement establishes the following nominating process for Presidentially-appointed members of the Board of the scholarship corporation: two will be appointed from nominees submitted by the Speaker, one will be appointed from nominees submitted by the House minority leader, two will be appointed from nominees submitted by the Senate majority leader, and one will be appointed from nominees submitted by the Senate minority leader. The Mayor retains one appointment.

The conference action adds a provision stating that it is the intention of the Congress to turn over to the District of Columbia control of the scholarship program established under this subtitle at the end of five years, as proposed by the Senate.

The conference action strikes a proposal by the House that only U.S. citizens may serve on the Board of the nonprofit corporation, or as staff to, the nonprofit corporation, as proposed by the Senate.

The conference action adds a provision directing the nonprofit corporation to attempt to ensure an equitable distribution of scholarship funds among eligible students with a range of academic achievement, as proposed by the Senate.

The conference action extends from one year to three years the period during which the nonprofit corporation must place a priority on serving students who are either enrolled in the District of Columbia public schools or are preparing to enter kindergarten, as proposed by the Senate.

The conference agreement permits tuition scholarships to be used for the cost of tuition at private religious or non-religious schools in the District.

The conference agreement extends permissible uses for tuition scholarships to include the costs to recipients of mandatory fees and transportation to schools.

The conference agreement authorizes "enhanced achievement" scholarships for the following purposes: the costs of non-sectarian, after-school instruction focused on helping students learn the new core curriculum (established under this Act for the District of Columbia public schools); the costs of non-academic, after-school programs, such as music lessons or athletics, and, tuition, transportation costs, and mandatory fees for vocational and technical training programs for older students.

The conference action increases the maximum amount of scholarships for after-school activities from no more than $500 in the House proposal to no more than $1,500 for students in families whose income is not more than the poverty rate, and no more than $750 for students in families whose income is more than the poverty rate but less than 185% of the poverty rate, as proposed by the Senate.

The conference agreement establishes a process for approval by the District of Columbia Council of the non-profit corporation's allocation of funds between tuition scholarships and enhanced achievement scholarships. The non-profit corporation will submit to the D.C. Council a proposed allocation of federal funds between the two types of scholarships. The D.C. Council will have thirty days to consider the proposed allocation and either approve or disapprove it. If the D.C. Council disapproves it, the non-profit corporation will resubmit a revised allocation. No federal funds may be spent on scholarship assistance to students by the nonprofit corporation until the D.C. Council has approved a proposed allocation between the two scholarships. Before such approval is secured, the non-profit corporation may spend federal funds on administration expenses, but not on direct assistance to students (i.e., through payments on their behalf to service providers).

The conference agreement expands the "provisional" certification process to include eligible institutions serving enhanced achievement scholarship students, as well as "schools." In addition, the conference agreement lengthens the period of time to three years for which schools are required to have been in operation in order to receive permanent (rather than provisional) certification. Thus a brand new school begun with scholarship students would need to apply for provisional certification for each of its first three years of operation before it could receive permanent certification.

The conference agreement requires that private schools and other organizations seeking to participate in the program provide assurances that they will not require students to participate in religious ceremonies or attend religion classes unless their parents provide written approval. This prohibition is only intended to apply to classes or activities whose sole or primary purpose is to encourage sectarian beliefs or practices. It would not apply, for example, to a comparative religion class where the general framework was analytic nor would it apply to passing references to religious or moral tenets in a social studies class.

The conference action requires that private schools and other organizations seeking to participate in the program provide assurances that they will not use federal scholarship funds to pay for religion classes or religious ceremonies, except for teacher salaries in the case where such teachers also teach academic classes, as proposed by the Senate.

The conference agreement requires that private schools and other organizations seeking to participate provide assurances that they will design and implement due process procedures for suspension or expulsion that must include an appeals process.

The conference agreement permits the nonprofit corporation to deny recertification for new schools, or to revoke eligibility for participating schools, for: good cause, including a pattern of violation of program requirements; or for consistent failure of at least twenty-five percent of scholarship students to make appropriate progress in academic achievement.

The conference agreement establishes a section that clarifies that private schools and other organizations that serve scholarship students shall be deemed to be recipients of federal financial assistance for the purpose of triggering application of relevant federal civil rights laws. The enforcement of such civil rights laws, as well as applicable local civil rights laws, is to be handled in the normal manner by the appropriate entities designated such responsibility.

The conference agreement provides that receipt of scholarship funds by a private school will be deemed receipt of Federal funds for purposes of section 504 of the Rehabilitation Act of 1973, ensuring that the section will apply to all such schools. The conference agreement also ensures that students with disabilities are identified for purposes of the Individuals with Disabilities Education Act (IDEA). At the request of the student's parent or the private school, D.C. public schools will be required to evaluate disabled students and develop an Individualized Education Program for qualified students.

The conference agreement requires that private schools and other organizations applying for certification to participate in the program provide assurances that they will abide by all local regulations applicable to such institutions. Primary responsibility for enforcing such compliance will remain with the public entities normally responsible for such enforcement.

The conference agreement prohibits the use of scholarship funds for construction of new facilities, such as school buildings. The use of scholarship funds for repair, renovation, or improvement of existing facilities is permitted.

The conference agreement includes a provision requiring that the evaluation of the scholarship program shall be provided for by the Department of Education and authorizing $250,000 for this purpose. The conference action also requires that the Department make available for public review the data gathered from this evaluation (with appropriate protections for students' privacy), as proposed by the House.

The conference action requires that the nonprofit corporation's annual report to Congress address how scholarship funds were expended, including the initial academic achievement of participating students, as proposed by the Senate.

Fundamental to the concept of this scholarship program—taken in the context of Title II as a whole, including the provision in Subtitle A requiring that the Board of Education's long-term reform plan include greater choice among District of Columbia public schools, as well as Subtitle B, which would allow choice among public charter schools—is the maximization of equality of opportunity for low-income families. Some First Amendment establishment clause concerns have been expressed regarding whether

this subtitle provides direct Federal assistance to sectarian schools. It does not, however, provide direct Federal assistance to any participating schools. Rather, the assistance is to the student. The intent of the bill is to make clear that the students are the primary beneficiaries of the scholarships, and not the schools. This subtitle envisions no discrimination for or against the participation of private schools in this program on the basis of religion, but instead neutrality.

The low-income scholarship program was carefully designed to satisfy Constitutional requirements under the First Amendment. Over the past twelve years, the U.S. Supreme Court consistently has upheld programs that provide assistance for students who attend private schools. In *Mueller* v. *Allen*, 463 U.S. 388 (1983), the Court upheld Minnesota's income tax credits for educational expenses, most of which were incurred in religious schools. In *Witters* v. *Department of Services for the Blind*, 474 U.S. 481 (1986), a program paying for a blind student to pursue training for the ministry at a religious seminary was upheld. In *Zobrest* v. *Catalina Foothills School Dist.*, 113 S. Ct. 2462 (1993), the Court sustained the use of funds under the Individuals with Disabilities Education Act to pay an interpreter for a deaf child attending a Catholic high school.

In these cases, the Court established that such assistance is permissible if: (1) the choice where to use such assistance is made by parents of students, not the government; (2) the program does not create a financial incentive to choose private schools; and (3) it does not involve the government in the school's affairs.

The proposed scholarship program, together with other provisions in the "District of Columbia School Reform Act of 1995", fulfills these criteria. Like the G.I. Bill and federal day-care assistance, the choice of where scholarship funds are expended is made not by the government but by the scholarship recipients. Because the tuition scholarships amount only to the cost of tuition and necessary expenses or some lesser amount, the program does not create a financial incentive to choose private schools. Scholarships are also available to pay the costs of supplemental services for public school students, who already receive a free education. Moreover, the program involves only the most limited regulations necessary to ensure that reasonable educational and public policy objectives are met, and does not create entanglement between the government and religious schools.

The conference action deletes the proposal by the House to establish a "D.C. Desk" in the Department of Education, as proposed by the Senate. The conferees are supportive of the work currently being done by the nonstatutorily authorized D.C. Desk in the Department's Office of Educational Research and Improvement (OERI), as well as the efforts of the Deputy Secretary to support education reform in the District of Columbia, but see no need to enact legislation in this regard at this time. The conferees encourage the Secretary of Education to upgrade activities supporting education reform in the District of Columbia and coordinate them Department-wide, perhaps by establishing a "D.C. Desk" in the Office of the Deputy Secretary.

OTHER GENERAL PROVISIONS

The conference action amends section 301 proposed by the Senate by changing the section number to 147 and restoring the language proposed by the Senate that prohibits the use of any funds in this Act for the renovation of Eastern Market located at 227 7th Street Southeast. The language permits the use of funds in this Act for the regular maintenance and upkeep of the current structure and grounds.

The conference action deletes section 302 proposed by the Senate that would have required the District government to reduce energy costs in facilities used by District agencies.

The conference action deletes section 303 proposed by the Senate that would have prohibited Members of Congress and the President from receiving basic pay because of Federal government shutdowns resulting from (1) a failure to enact a regular appropriations bill or continuing resolution or (2) the Federal government not being able to make payments or meet obligations because the public debt limit had been reached. The language would have also prohibited any retroactive pay.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1996 recommended by the Committee of Conference, with comparisons to the fiscal year 1995 amount, the 1996 budget estimates, and the House and Senate bills for 1996 follow:

Federal funds	
New budget (obligational) authority, fiscal year 1995	$712,070,000
Budget estimates of new (obligational) authority, fiscal year 1996	712,070,000
House bill, fiscal year 1996	712,000,000
Senate bill, fiscal year 1996	712,000,000
Conference agreement, fiscal year 1996	727,000,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1995	+14,930,000
Budget estimates of new (obligational) authority, fiscal year 1996	+14,930,000
House bill, fiscal year 1996	+15,000,000
Senate bill, fiscal year 1996	+15,000,000
District of Columbia funds	
New budget (obligational) authority, fiscal year 1995	$5,069,252.635
Budget estimates of new (obligational) authority, fiscal year 1996	5,250,386,000
House bill, fiscal year 1996	4,969,322,000
Senate bill, fiscal year 1996	5,114,273,000
Conference agreement, fiscal year 1996	5,096,039,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1995	+26,786,365
Budget estimates of new (obligational) authority, fiscal year 1996	−154,347,000
House bill, fiscal year 1996	126,717,000
Senate bill, fiscal year 1996	−18,234,000

JAMES T. WALSH,
HENRY BONILLA,
JACK KINGSTON,
RODNEY P. FRELINGHUYSEN,
MARK W. NEUMANN,
BOB LIVINGSTON,
Managers on the Part of the House.

JIM JEFFORDS,
BEN NIGHTHORSE CAMPBELL,
MARK O. HATFIELD,
Managers on the Part of the Senate.

□ 1530

BOYCOTT FRENCH PRESIDENT CHIRAC'S JOINT ADDRESS BEFORE CONGRESS

The SPEAKER pro tempore (Mr. HAYWORTH). Under a previous order of the House, the gentleman from American Samoa [Mr. FALEOMAVAEGA] is recognized for 60 minutes.

Mr. FALEOMAVAEGA. Mr. Speaker, I would like to premise my remarks this afternoon on a very serious issue, in my humble opinion, for my colleagues and certainly for the American public to be better informed about this very serious issue.

First of all, I hold no personal grudge or animosity toward the President of France, President Chirac, who will be visiting us today and is scheduled to address a joint session of the Congress tomorrow.

Second, I also hold no personal animosity toward the good people and the citizens of France. But, Mr. Speaker, it is out of fundamental principle that I take this special order on behalf of some 200,000 French citizens living in French Polynesia who all oppose President Chirac's ambitious plan to explode now six nuclear explosions in the South Pacific. I take this special order also in behalf of some 28 million men, women, and children who live in the Pacific region, whose lives depend on a good safe environment, especially the marine environment.

I take this special order on behalf of some 167 nations of the world who officially protested to President Chirac not to explode these nuclear bombs. Note also, Mr. Speaker, that 10 of the 15 member-countries of the European Union also protested against France for conducting nuclear explosions in the Pacific. Some have suggested, Mr. Speaker, earlier that the issue now is moot since 5 days ago France and Mr. Chirac has decided to end its nuclear testing program.

Mr. Speaker, on Monday, January 29, 3 short days before he is to arrive in Washington, and I presume he is now in Washington, President Chirac of France announced in a formal news release the end of his nuclear testing program in the South Pacific. Though he makes a pretty speech, just in time to come to Washington posing as a fervent advocate of nuclear disarmament and warm ties with America, I want to point out to my colleagues and to the American people, Mr. Speaker, the height of hypocrisy of Mr. Chirac's conduct and remarks.

Mr. Chirac began his news release with these words, and I quote:

Dear compatriots, I announce to you today the final end to French nuclear tests.

Thanks to the final series that has just taken place, France will have a durable, reliable and modern defense.

Point No. 1, Mr. Speaker. France already has the fourth largest Navy in the world. France also has the world's third largest arsenal of nuclear weapons. Before it even began its final series of nuclear tests, France had already exploded over 200 nuclear bombs in land, air, and water far from the home of enlightenment. In particular, Mr. Speaker, France had already exploded 178 nuclear bombs in the South Pacific.

Were those 200-plus nuclear bomb explosions not enough to ensure a durable, reliable, and modern defense, Mr. Speaker? If those 200 were not enough, why should we now believe that the 6 additional nuclear bombs France has just conducted in the South Pacific will be enough to stay its appetite in the future for an even more modern defense?

Point No. 2, Mr. Speaker. The, quote, final series of French nuclear tests were not even necessary. They were not even necessary. The United States freely offered France the technology it sought to ensure its so-called nuclear weapons reliability.

Why did France not accept the United States offer, I ask, Mr. Speaker? Because of a combination of two basic things, in my opinion: No. 1, French national pride, and I must give them that sense of credit; and, No. 2, there is French suspicion that the United States was withholding the state-of-the-art technology.

Mr. Speaker, Chirac wants to be perceived as promoting nuclear disarmament and expects to have warm ties now with America.

Mr. Speaker, this is the height of hypocrisy. One who defiantly violates a world moratorium and resumes unnecessary nuclear testing cannot and must not be regarded as a promoter of nuclear disarmament. And one who is suspicious of assistance from the U.S. offers cannot be regarded as promoting warm ties with America.

Mr. Speaker, President Chirac continued his speech by saying, and I quote, "The security of our country and our children is assured."

In turn, Mr. Speaker, I say at what price and whose children is President Chirac referring to? The sixth nuclear bomb explosion that France just exploded last Saturday, since violating the world's moratorium on nuclear testing, was over six times more powerful than the bomb that we dropped on Hiroshima 50 years ago. That atom bomb, Mr. Speaker, incidentally vaporized and killed some 150,000 men, women, and children in the city of Hiroshima, and later claimed another 50,000 who died as a result of nuclear contamination and related illnesses.

Mr. Speaker, in response to France's latest nuclear explosion in Fangataufa Atoll, the mayor of Hiroshima, Japan, said these words, and I quote:

I feel renewed anger. Nuclear tests aimed at developing and maintaining nuclear technology will do nothing but increase the risk of putting human beings on the brink of ruin.

Mr. Speaker, I might now ask, what kind of security has France really secured for our children? France's nuclear test sites are leaking cancerous radioactive waste into the swirling waters of the Pacific Ocean which cover one-third of the world's surface. I submit, Mr. Speaker, that France has put not only its children but all of our children on the brink of ruin by exposing them to nuclear contamination through a resulting toxic food chain.

Mr. Speaker, Chirac's reckless actions have also initiated the nuclear arms race all over again. Horrific environmental concerns aside, Chirac's decision to resume unnecessary nuclear testing in the South Pacific has opened a Pandora's box that holds chilling implications for nuclear and non-nuclear nations alike. Prime Minister Keating of Australia recently said, and I quote:

The French government is to be strongly condemned for the latest test at Fangataufa Atoll and for conducting it during negotiations for a comprehensive test ban treaty which are now entering the final stages in Geneva, Switzerland.

What implications, Mr. Speaker, does Chirac's reckless decision to initiate the nuclear arms race all over again hold for the security of the world?

Let me share, Mr. Speaker, the domino effect of Chirac's reckless decision last June. There is now a serious move by India to link the negotiations of a comprehensive test ban treaty in Geneva to its call for negotiations to start this year on removing all nuclear weapons in a specified time. The five nuclear superpowers are, of course, against this move, but joining India in this initiative, ironically, Mr. Speaker, is its archenemy Pakistan.

Adding to this difficulty, Mr. Speaker, India refuses to sign the nuclear nonproliferation treaty on the basis that the nuclear nations are still maintaining their nuclear arsenals, which in effect makes the whole treaty meaingless and discriminatory. India's representative to the current and disarmament conference in Geneva made this observation, and I quote:

We are of the view that to be meaningful, the treaty should be securely anchored in a global disarmament context and be linked through treaty language to the eliminating of all nuclear weapons in a time-bound framework.

In other words, Mr. Speaker, India is pushing for no loopholes in the nuclear nonproliferation treaty. As it currently stands, what assurances do non-nuclear nations have if nuclear nations retain their nuclear arsenals?

I submit, Mr. Speaker, if France's resumption of nuclear tests in the South Pacific is a case in point, non-nuclear nations have next to nothing in assurances from the five-nation nuclear club, comprised of one that is willing to defy world moratoriums at will and four that are willing to act in complicity by looking the other way.

I submit, Mr. Speaker, because of Chirac's reckless and selfish decision, India is now resisting Western pressure to forgo the nuclear option and is now initiating an ambitious ballistic missiles program. India is saying, "If France can defy world moratoriums to assure a durable, reliable and modern defense, then so can we."

Just this week, India successfully launched a new ballistic missile, the improved Prithvi No. 2, that has a range exceeding 150 miles and a capability of being fitted with nuclear warheads. This means, Mr. Speaker, that India has a missile with nuclear capabilities that can reach the capital of Pakistan.

□ 1545

Is it surprising that Pakistan now wants to utilize M–11 ballistic missiles from China? These M–11 missiles are also capable of carrying nuclear warheads, and can hit key cities throughout India.

But the chain reaction Chirac has created does not stop there, Mr. Speaker. India and China have just signed a contract for India to purchase uranium from China. Now, China, in an expression of its own security concerns, is developing warm relations with Russia. China's position is that it cannot depend on Western powers for its security, as renewed apprehension grows between Russia and the NATO powers. Meanwhile, China and Russia may still conduct nuclear tests and have not unconditionally accepted a genuine zero-yield comprehensive test ban treaty. All of this, Mr. Speaker, has been fueled in part by France's defiant violation of the international testing moratorium, which has contributed to a global atmosphere of distrust and paranoia where nations are reluctant to give up their nuclear options.

Australian Prime Minister Keating sums it up this way: "Such irresponsible actions send the worst possible signal to nations that aspire to possess nuclear weapons, and damages efforts to advance nuclear disarmament and nonproliferation. The French Government is to be strongly condemned."

Despite world condemnation, Mr. Speaker, Chirac arrogantly continued his speech of eurocentric rationale by marginalizing Asia-Pacific concerns. President Chirac states: "I know the decision I took last June may have caused worries and emotions." Mr. Speaker, can you believe this? Chirac thinks his decision only caused "worries and emotions." Is he still denying the environmental effects of his unnecessary nuclear bomb explosions in waters conveniently located halfway

around the world from Paris? Is he still claiming that his nuclear bomb explosions have no ecological consequences?

Is he unaware that he has initiated a nuclear arms race all over again? Or does he just take nuclear proliferation lightly, suggesting that it should cause nothing more than a few worries and emotions? What kind of world leader could be so barbaric in his interpretations, Mr. Speaker?

President Chirac continues by claiming that, "While my resolve was not affected, I was not insensitive to those movements of public opinion." How sensitive, Mr. Speaker, was he? Was he sensitive enough to stop nuclear explosions? Was he sensitive enough to consider the 28 million people living in the Pacific region whose lives will be affected for decades to come as a result of the nuclear nightmare Chirac's unaffected resolve created for them?

As Prime Minister Bolger of New Zealand has noted, and I quote, "Despite all suggestions from France that this is a totally safe and benign operation, there is no such thing as a safe nuclear test. They all create massive damage. It is just a matter of how much, when, and what leakage there is."

Even Philippines President Ramos also has this to say, Mr. Speaker, and I quote once again: "I condemn in the strongest terms the latest tests by France. This latest test is a continued defiance of the international communities' appeals to France."

Mr. Speaker, I might also note, this latest test comes shortly after all 10 Southeast Asian countries signed a treaty providing for a nuclear-free zone in that part of the world.

While President Chirac may claim sensitivity, the latest in French nuclear testings are an affront, a slap in the face to Asia-Pacific countries. Since when is a slap in the face, Mr. Speaker, considered to be an expression of sensitivity?

Promoting his propaganda to the hilt, Mr. Speaker, Chirac continues his response to the world's condemnation of French nuclear testing. These "movements," as Chirac likes to describe, "testified to the growing importance the world's inhabitants attach to collective security and safeguarding the environment. I share these concerns."

Mr. Speaker, I am appalled that the world's No. 1 nuclear proliferator, the man responsible for initiating the nuclear arms race all over again, would now try to convince us that he shares our concerns for collective security and safeguarding of the environment. If this were the case, why did he not just accept the technology the United States offered?

Why conduct unnecessary nuclear testing? Why reopen the nuclear arms race? Why create the paranoia? Why pit nuclear nations against nonnuclear nations? Why pit Western powers against non-Western powers? Why, on the one hand, claim that there are no ecological consequences of nuclear testings, but on the other hand, choose to conduct these nuclear tests far from the borders of France?

Whose environment is Chirac really interested in safeguarding, Mr. Speaker? And whose security is he really concerned about?

In a very patronizing way, Mr. Speaker, Chirac also said, and I quote, "I know that nuclear energy can be frightening, but in a world that is still dangerous, our weapon is a deterrent—that means a weapon that can serve peace. Today I have the feeling of having accomplished one of my most important duties by giving France, for decades to come, the capability for its independence and security."

I think that answers the question for us, Mr. Speaker, right there. It is French security and the French environment that Chirac is concerned about. To heck with everyone else's independence and security. France has its own rules. France does its own thing. If it wants to violate world moratoriums, it will. France, after all, comes first.

Mr. Speaker, excuse me, but I thought peace meant working together to create an equitable environment for all citizens of the world, not just French ones.

While I am on the subject, Mr. Speaker, I might question Chirac's use of the word "Independence." Does "Independence" in Chirac's vocabulary include freedom for the native people of French Polynesia who have felt the brunt of French colonial reign since the islands of French Polynesia were what Westerners would call "colonized" by France, after some 500 French soldiers with guns and cannons subdued the Tahitian chiefs and their warriors in the 1840's. Or is independence just a concept, like security, that Chirac applies only to the people of France?

Mr. Speaker, Chirac continued his dramatic monologue by saying, and I quote, "a new chapter is opening. France will play an active and determined role in world disarmament and for a better European defense," end of quote. Mr. Speaker, do I hear Chirac correctly? Do I hear him trying to justify his latest nuclear testings by saying he did it all to stabilize relations in Europe?

For him to suggest that the resumption of French nuclear testing was done to stabilize relations in Europe is ridiculous. When France first presented the idea of "concerted deterrence" and offered to extend its nuclear umbrella to its European partners, there were few takers, Mr. Speaker. In fact, Mr. Speaker, 10 of the 15 European Union countries voted with the United Nations, protesting the resumption of French nuclear testing.

Why, Mr. Speaker, are the European Union members not more anxious to be shielded by the French nuclear umbrella? This is partly because the European Union nations are more comfortable with the protection the United States has provided them for the past 50 years, and partly, Mr. Speaker, because historically, France just cannot be trusted.

Mr. Speaker, in the 1940's France surrendered to Nazi Germany. In 1966, at the height of the cold war, when nuclear missiles were pointed at every major country in Europe, France pulled out of the NATO alliance. Today France has still not officially joined NATO, and as we have clearly seen from September of 1995 to January of this year, France cannot even be trusted to honor a world moratorium it called for and agreed to only 3 short years ago. How can any nation, European or not, be assured of any French position?

Mr. Speaker, Chirac says, and I quote, "I will take intiatives in this direction in the coming weeks. As all of you, dear compatriots, I want peace—solid and durable peace. We all know that peace, like freedom, has to be built each day. That is the purpose of the decision I took and that will be the guideline for my action tomorrow."

Mr. Speaker, can we really put stock in Chirac's guideline for tomorrow? France's own urban minister said about Chirac's decision to explode six additional bombs in the South Pacific, and I quote, "He did what he said he would do, and he did the right thing."

Mr. Speaker, something is rotten in Denmark when world leaders consider that they have done the right thing by violating world moratoriums that they agreed to. Chirac's aide said Chirac will earn international respect for sticking determinedly to a decision almost as unpopular domestically as it was internationally.

Mr. Speaker, if the responses of world leaders from Australia, New Zealand, Japan, the Philippines, the Pacific nations and Europe is any indication of international sentiment, Chirac will be a long time in earning anybody's respect. Anyone with a social conscience, world leader or not, knows that the only interest Chirac considered in resuming nuclear testing was the higher interests of French military industrial lobbyists and their profitable $2.5 billion nuclear program.

Mr. Speaker, now Chirac wants to come to Washington and make a case for peace and act as a spokesperson for the world's poor. But, Mr. Speaker, did you know that France is now the top weapons exporter and weapons supplier in the world? Mr. Speaker, is it with irony or with hypocrisy that President Chirac will promote peace and act as a spokesman for the world's poor when France is the biggest exporter of weapons to developing nations?

Mr. Speaker, while Chirac may script his story for Eurocentric audiences, the people of the Pacific who feel the brunt of colonial reign have their own story to tell. It is a travesty that tomorrow their voices will be made mute in this Chamber by one who so arrogantly and so openly marginalizes not only their concerns, but the concerns of the world community as well.

Mr. Speaker, it is an act devoid of all social conscience that has afforded Mr. Chirac the opportunity of delivering his downright deceptive message from a Chamber that symbolically represents the highest of democratic values.

I urge my colleagues on both sides of the aisle to join together and support the privileged resolution, H.R. 350, introduced by the Honorable PATSY MINK of Hawaii, the distinguished gentleman from Guam, ROBERT UNDERWOOD, the Honorable PATRICIA SCHROEDER from Colorado, and myself, which requests the Speaker to withdraw the invitation to President Chirac to address a joint session of Congress. If the invitation is not revoked, then I urge my colleagues not to attend the joint session of Congress.

To attend the session is to act in complicity, to validate France's position that it is okay to violate world moratoriums, to resume nuclear testings that poison the Pacific, to initiate a nuclear arms race all over again, to place humanity on the brink of destruction.

As a member of both the Pacific island community and the U.S. House of Representatives, and as one who has sailed to the nuclear testing site of Mururoa and been arrested at the hands of French commandos in waters of French Polynesia, as one who has considered the kind of world that I want my children to live in—Mr. Speaker, I urge my colleagues, I cannot in good conscience be a party to such hypocrisy.

Mr. UNDERWOOD. Mr. Speaker, if the gentleman will yield, I thank the gentleman for yielding. I appreciate very much, and I want to recognize the leadership you have taken, I say to the gentleman from American Samoa [Mr. FALEOMAVAEGA], on this particular issue. The kind of research and the kind of energy that you have devoted to this has been remarkable. The fact that you are standing up on behalf of the peoples of the South Pacific is commendable, and I want to stress to those that are hearing this that the representation of the Pacific point of view in this institution as well as other institutions is limited because of the size of the islands that we represent. And I rise to urge, along with you and the other Members that you have mentioned, to urge my colleagues in this House to boycott the President Chirac address to a joint session of Congress tomorrow in protest of his decision to test nuclear weapons in the South Pacific.

I do not think people understand the kind of offense that these series of nuclear tests present for people in the Pacific who have been historically dealt with as if we are some kind of nuclear playground for world powers throughout the world.

□ 1600

A number of tests, over 200 nuclear tests have been conducted in the Pacific, and not in French Polynesia alone. It is this, despite the fact that apparently we all felt secure, that people acknowledged that this was an affront to the small peoples of the world. That a great power like France would insist and continue on this task, is not only an affront to the sensibilities of the world community, but, indeed, in particular to the lives, the peaceful lives, of the people in the Pacific.

Defying international criticism, France carried out six nuclear tests over the past 4 months to verify a new warhead and to perfect simulation technology that will be used to monitor the reliability of its nuclear weapons. As you have so eloquently pointed out, despite diplomatic objections, economic boycotts, world public opinion, and even French public opinion and letters from Members of this body, all were ignored summarily and arrogantly by President Chirac.

France maintained throughout this test that its underground blasts inflicted no damage on the fragile ecology of Mururoa Atoll, and last week we learned otherwise through an article in the Washington Post, something that we had suspected and you have pointed out over the past few months.

After years of denial, France has finally acknowledged that radioactive materials have indeed leaked into the lagoon near the Mururoa test site. The director of France's nuclear tests went so far as to state that radioactive material was usually "vented" into the lagoon when scientists drilled down into the rock to obtain samples after every blast. However, since the French do not allow any independent verification, it is impossible to assess the extent of damage during this testing period.

These latest accounts raise further questions about President Chirac's credibility. According to a confidential French Defense Ministry report, France has been aware, at least since 1979, that Mururoa's underwater foundation is cracked in several places. The report described underwater avalanches that followed the three tests as proof that the growing number of tests posed serious environmental risk to Mururoa Atoll, and, of course, we do not know how this will end up in the entire Pacific Basin, particularly for your area, which is much closer than my own.

Regardless of the environmental consequences, President Chirac arrogantly continued his testing program. Clearly he was not bothered by environmental contamination to the world's largest ocean and its ecosystem, perhaps as you have pointed out because he does not live there, and it begs the question as to whether President Chirac would have been more concerned about the environmental impact of his tests if they were conducted in France proper.

Last October France agreed to sign the protocols to the South Pacific Nuclear Free Zone Treaty. These protocols specifically prohibit nuclear testing within the South Pacific. Unfortunately, France refused to live by its own commitment. Agreeing to signing a treaty, but begging off on obeying it until it completes its own nuclear testing is the height of arrogance. Apparently France thought that by acceding to the protocols it would exonerate their past tests and their future tests for future nuclear blasts.

When I heard, and I am sure you felt the same way, when I heard that France conducted yet another test last Saturday, I knew that they would subsequently announce it as their last test in what is obviously, obviously, a cynical ploy to neutralize whatever objections people may raise to the French nuclear testing program as President Chirac, who is already in this country, comes to the United States.

I would point out what we need to understand is that this is the height of cynicism. This is a political ploy, pure and simple. The Congress should not and needs not be duped by President Chirac's double talk. With the latest acknowledgement of environmental contamination, President Chirac has lost all credibility. With the timing of nuclear tests to coincide with his visit here in the United States, he has lost any shred of credibility on this issue.

By the Members of this institution attending his address to the joint session of Congress tomorrow, Members of Congress will be giving President Chirac an audience that he simply does not deserve.

I urge my colleagues to join me and the distinguished gentleman from American Samoa, and other members of the Congressional Asian Pacific American Caucus, in protesting this address, in bringing attention to this serious problem. If he had perhaps admitted the duplicity of what they had been carrying out all along, perhaps we would be in a more forgiving mood, but he has not done so. By far, this is the most arrogant behavior by any world leader in the Pacific that I have borne witness to in the past 20 years.

I thank the gentleman for his eloquent remarks and for the time yielded to me. I also want to point out and support the comments that point out that France's very behavior on this, begging off, making a commitment but begging off, timing the tests, the whole nature of it simply threatens the whole nuclear nonproliferation treaty process.

Mr. FALEOMAVAEGA. I think one thing that I want to add, and also for our colleagues to know, this is not a Pacific issue. I think this is something that we need to kind of widen our perspectives and think just because you and I are from this region of the world that this makes it somewhat un-American.

The fact of the matter is, the United States is a Pacific Nation. The fact is that we conducted 160 nuclear bomb explosions in the Marshall Islands in the late fifities and early sixties. I might also add that we had to stop doing these tests because what happened was they found strontium 90, a by-product of nuclear contamination, in dairy products in the State of Wisconsin and other States. What happens, all of a sudden, everybody says, "Oh, it is a hazard to our health to conduct these nuclear tests." Despite our efforts to tell France, do not do this, they went right ahead and conducted these tests.

I might also note to the good gentleman's comments about the nuclear tests that were conducted in 1979. They drilled a hole or shaft in this atoll, which was supposed to be 2,600 feet, where the bomb was to explode. The thing went down halfway and got stuck. Guess what? They went right ahead and exploded that bomb, which caused not only a tidal wave, but tons of fish and all forms of marine life totally contaminated in the explosion they conducted in 1979. That is just one incident.

Another point I think my good friend and colleague should know, I think some 12,000 Tahitians, French Polynesians, were exposed directly to nuclear contamination. No records are kept, everything is held in secrecy. I say the issue is not moot. The issue is that our good friend from France, President Chirac, has got to come clean. He has got to tell the world that that Mururoa Atoll, which some scientists estimate is the equivalent of five Chernobyls, 181 nuclear bombs exploded in that one atoll alone, can you imagine what happens if that atoll starts to leak, starts to break apart? What is going to happen to the marine environment in the Pacific?

Oh, perhaps our good citizens from the State of California, maybe from the State of Washington or Oregon, might have something to say about nuclear contamination in the Pacific; of course, our good friends from the State of Hawaii.

I think it is outrageous. It is an outrage that we are going to allow this man to tell us what democracy is about, to tell us that France is a true democracy of the world, when just the opposite, exploding six nuclear bombs that are going to affect the health of these people that live in that part of the world. I think it is an insult to the people that live in the world, and I would surely hope that our colleagues will help us in this boycott.

Mr. UNDERWOOD. I would like to add that unlike the experience that the United States had in the Marshalls in the fifties, there is ample evidence that this is risky. This is something that is occurring some 40 years after the testing in the Marshall Islands, and perhaps we could excuse some of the earlier testing because we were unsure about the consequences. But in this particular instance we are very sure of the consequences, but France proceeded without any respect, without any attention to the kinds of outrage which were expressed in the Pacific.

I would like to commend again the gentleman from American Samoa for his diligent work on this issue and his leadership on this issue.

Mr. FALEOMAVAEGA. I thank my good friend from Guam.

[From the Washington Times, Jan. 31, 1996]

INDIA'S STAND COULD STOP TEST-BAN TREATY

(By Brahma Chellaney)

NEW DELHI.—After the halt to French nuclear testing in the South Pacific this week, India may stand as the biggest obstacle to American hopes for the completion of the Comprehensive Test Ban Treaty this year.

France, having conducted six nuclear tests the past five months, now favors an early conclusion to the CTB talks in Geneva. President Clinton listed the treaty as a priority in his State of the Union address.

China said yesterday it will continue testing until the implementation of the treaty, an outcome that is far from certain.

The CTB negotiations stand in jeopardy of being derailed by Indian Prime Minister P.V. Narasimha Rao's decision, announced in Geneva last week, to insist that the declared nuclear powers first agree to a timetable for total nuclear disarmament.

Analysts say there can be no credible treaty without the participation of India, which exploded a nuclear device in 1974. Pakistan, also on the verge of developing nuclear weapons, would not sign if India did not, and a number of other developing countries could be expected to follow suit.

Despite intense Western diplomatic pressure, India also plans to seek clauses in the treaty to bar the nuclear powers from updating their arsenals through laboratory testing, a move that would sharply raise the political and technical costs of the treaty.

"To be meaningful, the treaty should be securely anchored in the global disarmament context and be linked through treaty language to the elimination of all nuclear weapons in a time-bound framework," the Rao government said.

It said it would insert specific language into the treaty's draft text to prevent it from becoming "another flawed instrument aimed at curbing horizontal proliferation."

China's announcement that it will continue testing was another blow to nonproliferation efforts. Beijing, which is expected to carry out two or three nuclear tests this year, supports a comprehensive test ban but says it will abide by a pact only when it takes effect in international law.

"The position of the Chinese government on nuclear testing is clear-cut and remains unchanged," a Foreign Ministry spokesman said. "China has conducted a very limited number of nuclear tests, and things will continue to be that way".

Mr. Clinton has made the conclusion of a test-ban treaty a priority, renewing his call for a completion of the negotiations in his State of the Union address last week.

"We must end the race to create new nuclear weapons by signing a truly comprehensive nuclear test-ban treaty—this year," he said.

Mr. Clinton also has written to Mr. Rao seeking support for the treaty, but Indian officials said the prime minister has not replied to the letter.

The treaty negotiations are entering a critical phase in Geneva, where this year's session opened Jan. 22.

After a year of talks, there remain some 1,200 unsettled political and technical differences, including all the key provisions. With a number of countries working to influence the 104-page draft text, the final form of the treaty is very much in question.

The conference functions on the basis of consensus, bestowing effective veto power on each of its 37 members.

Although India could block Washington's plans by itself, it is building support among other non-aligned countries. It got a major boost last year when the U.N. General Assembly voted 106-39 to adopt a Burma-sponsored resolution calling for parallel negotiations on complete nuclear disarmament.

Mr. Rao, who is under growing domestic pressure to test and modernize his country's nuclear option, has argued that the permanent extension of the nuclear Non-Proliferation Treaty last May left India with no other way to pursue its goal of total nuclear disarmament.

[From the Washington Times, Jan. 31, 1996]

CHIRAC VISIT SIGNALS RECOGNITION OF U.S. DOMINANCE

(By Andrew Borowiec)

PARIS.—Western strategy in the post-communist era and France's closer links with the North Atlantic Treaty Organization will dominate French President Jacques Chirac's visit to the United States.

Mr. Chirac is to arrive in Washington today. After a stop in Chicago, he returns to France on Friday.

It is more than a routine call on Washington by the conservative French head of state. It signals France's concern about the shape of Europe's new geopolitical map and acknowledges the United States as a power with responsibilities in Europe.

For the time being, there is no question of complete French reintegration into NATO's military structure, from which the late Charles de Gaulle withdrew 30 years ago, officials say.

But the cautious process already has started, with France joining two key NATO military committees in December. Earlier this month, U.S. reconnaissance planes arrived at the French air base of Istres, with a backup unit of about 100 personnel.

Members of the ruling centrist-conservative coalition have called on Mr. Chirac to explain his intentions, or more specifically the contrast between consistent calls for closer European unity with its own defense and France's unquestionable. tendency to regard Washington as the key military power in the world.

According to an analysis by the Center of Strategic Studies in Paris, by seeking closer links with Washington, "France has chosen strategic considerations over political and ideological ones."

Officials close to Mr. Chirac stressed that the events in Bosnia "showed a political will by the United States rather than by Europe. Hence, the French government concluded that the United States is the only world power to be considered."

With few specific indications, it is not clear what shape Mr. Chirac's discussions in Washington will take. Some officials speak of a historic change that might emerge from the visit.

It has been made obvious that, after the initial applause for French-German military cooperation and the creation of the Eurocorps, the French are becoming more and more skeptical and believe that NATO, albeit under U.S. influence, is the best answer to future European security.

News from the presidential Elysee Palace frequently has been cryptic.

France exploded the sixth and last nuclear devise of the current tests Saturday, thus ending the experiments. But the controversy over testing the devices is not over.

Mr. Chirac told his nation the tests were essential to make the French independent nuclear force credible.

Mr. Chirac is scheduled to address a joint session of Congress tomorrow. But a handful of Democratic members, opposed to nuclear testing, are calling for members to boycott the session.

French officials acknowledge that it was reluctant U.S. involvement in the former Yugoslavia that brought the fragile peace to Bosnia and that "we can't do much without Americans."

Presidential palace sources also say that Mr. Chirac wants to build a more solid relationship with President Clinton because he believes strongly in the chances of Mr. Clinton's reelection in November.

Above all, some members of the governing establishment fear that the expansion of the 15-member European Union precludes chances of a unified and credible European defense.

NATO, often described here as a U.S. proxy in Europe, has once more emerged as the most viable formula for joint military action on a continent made more unstable by the Soviet Union's disintegration.

COMMUNICATION FROM THE HONORABLE BARBARA-ROSE COLLINS, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Honorable BARBARA-ROSE COLLINS, Member of Congress:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, January 22, 1996.

Hon. NEWT GINGRICH,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you, pursuant to Rule L (50) of the Rules of the House of Representatives, that Meredith Cooper, my Chief of Staff, Royal Hart, my Deputy Chief of Staff, and the custodian of the records in my Washington office, have all been served with grand jury subpoenas duces tecum issued by the U.S. District Court for the Eastern District of Michigan.

After consultation with the Office of General Counsel, I have determined that compliance with the subpoenas is consistent with the precedents and privileges of the House.

Sincerely,

BARBARA-ROSE COLLINS.

TRIBUTE TO CONGRESSMAN KWEISI MFUME

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland [Mr. CARDIN] is recognized for 5 minutes.

Mr. CARDIN. Mr. Speaker, I take this time to join, I know, all the Members of this House to acknowledge that in the next few days this House will be losing one of its most distinguished Members, a person who has contributed much to this Nation, who will be resigning to take on the presidency of the NAACP. I refer to my colleague and friend, the gentleman from Maryland, KWEISI MFUME.

When Congressman MFUME resigns from Congress, I will be losing one of my closest friends in this House, and one of my closest colleagues. Both of us were elected to Congress at the same time in the 100th Congress. Both of us were elected from Baltimore to represent that community in the Congress of the United States.

He is my seatmate, he is my colleague, he is my advisor and friend, and I will miss him dearly here in the House. We share the same vision for our communities, and we have worked together in order to effectively represent those communities here in the Congress of the United States.

What a record has Congressman MFUME achieved during his now 9 years in the Congress of the United States. He has been an articulate spokesperson for the Nation's cities. As a result of his work, we now have empowerment zone legislation that is working to renew America's cities. Because of Congressman MFUME's role, Baltimore is designated as one of those empowerment zones, and we are already seeing the fruits of that labor in Baltimore, thanks to Congressman MFUME's leadership here in the Congress of the United States.

He serves on the Committee on Banking and Financial Services, and has been a frequent speaker on this floor, to speak out for the needs of our Nation's cities. Of course, I think most of us know him best for the leadership that he displayed as chairman of the Congressional Black Caucus, particularly during the first 2 years of the Clinton administration. He brought forward the vision of so many Americans that we can do better for all of our communities.

He was keenly responsible for much of the progress that we made during those 2 years. He united not just the Black Caucus, but he united all of us who were interested in renewing our commitment to America's urban areas and to all of our people.

But you know what I think KWEISI's greatest legacy will be to this House will be the style in which he conducted his affairs. He brought the highest degree of integrity, hard work, coalition building, and what a communicator. What a way he has with words and can carry out on the floor in a very articulate way and get us all to work together.

I could relate some stories in Baltimore where he brought communities together. He worked with me to build bridges between the African-American community of Baltimore and the Jewish community in Baltimore. We learned from former Congressman Gray of Philadelphia about efforts that he made in Philadelphia, which we copied in Baltimore, known as Operation Understanding, where we arranged for African-American students and Jewish students to travel together to Africa and Israel to better understand each other's roots, an historic reason why we work together on civil rights legislation.

□ 1615

That program succeeded in bringing together children who are now good friends and are spreading, I think, an important message to our community that we must work together in order to move forward on areas such as civil rights and improvement in all ways of life.

Mr. Speaker, the Civil Rights Act of 1991 was another accomplishment in which I know Congressman MFUME is very proud. He had a major part to play in that achievement. In minority businesses having greater opportunity, Congressman MFUME was there with legislation and gaining support throughout the Nation in order to infuse more capital, more dollars, more opportunities, and more jobs in our inner-cities.

In Baltimore, we now see the Columbus Center, which was a dream a few years ago, become a reality where we will become the leader in marine biotech research in this country. It will mean jobs in Baltimore. It is good for this Nation, and it is another achievement that Congressman MFUME can be proud of, a proud legacy that he will leave when he resigns from this institution.

The drug courts and law enforcement area was another idea that he brought forward.

Mr. Speaker, let me say in conclusion that the loss of this Chamber will be the gain to the NAACP. I know I speak for all Members of the House to wish him only the best as he goes forward with this new challenge.

RECESS

The SPEAKER pro tempore (Mr. HAYWORTH). Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair, but not beyond 5 p.m. today.

Accordingly (at 4 o'clock and 16 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 1628

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro

tempore [Mr. HAYWORTH] at 4 o'clock and 28 minutes p.m.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The House will resume special orders without prejudice to the resumption of legislative business at 5 p.m.

TRIBUTE TO THE HONORABLE KWEISI MFUME

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland [Mr. HOYER] is recognized for 5 minutes.

Mr. HOYER. Mr. Speaker, it is a sad occasion for me to rise at this time to note and to lament the leaving of our colleague, the gentleman from Maryland, KWEISI MFUME.

Most of you know that KWEISI MFUME is in many ways the embodiment of the American dream and American ideal. He was a young man, like so many of us when we were young, who had trouble coming to grips with life. I can empathize with that. I am sure many of you can as well. In fact, as a teenager he was, from the perspective of many, a teenager that would not make a positive contribution to his community. The joy of the story is that KWEISI MFUME looked at himself and make a similar conclusion, and decided that that was not the route he wanted to go.

Robert Frost wrote a poem "The Road Not Taken." He said in that poem "I shall be telling this with a smile somewhere ages and ages hence: Two roads diverged in a wood and I, I took the one less traveled by."

The road less traveled by, as all of us knows who go through a woods, has more briars, has more brambles, has more branches in the way of progress. But if one is prepared to overcome those obstacles, one can prevail and be admired for that victory of the spirit.

I am not objective, Mr. Speaker. KWEISI MFUME is my friend. As the dean of the Maryland delegation, I can say with pride and with conviction that KWEISI MFUME has served the citizens of not only his district but of my district and of every district of our State exceedingly well. But more than that, KWEISI MFUME has been a leader in our country. Indeed, he has been a leader on the international scene.

KWEISI MFUME was picked by his African-American colleagues to lead the Black Caucus here in the Congress. Frankly, it was perhaps, one of the high points of the history of the Black Caucus during the 2 years of his leadership, in which he became perceived by the President of the United States, by the Speaker of the House, and by the minority leader as an individual of great consequence and conscience, as an individual prepared to fight for that which he believed, an individual who was in the best tradition of service in this House.

There have been some 10,200 Members, citizens, who have been selected by their communities to serve in this House since 1789. Few have served with such distinction as KWEISI MFUME.

KWEISI MFUME called me a few weeks ago, early on a Saturday morning. He informed me before it was to happen that he was going to be selected as the President and CEO of one of the historic and great institutions in this country, the National Association for the Advancement of Colored People.

That organization has done as much for civil rights as any organization in this country, but that organization, frankly, has fallen on hard times. It was confronted with problems of great magnitude, not just financially but in terms of energy and direction and focus and agenda. The genius of that organization was that they looked around the breadth of America and made what I think was the very best possible selection they could have made.

I am sad that they chose KWEISI MFUME, for myself, for my State, but I am glad that he will have an even broader stage, in some respects, on which to work. I am glad that the character of KWEISI MFUME will be associated with one of the great associations of this country.

KWEISI MFUME is on the floor and stands before me just now, and KWEISI, I say to you as a friend, as a colleague, but as well, as an American concerned about my country, concerned about bringing blacks and whites together, not dividing us, concerned about the rise in racism and the lack of understanding between the white and black communities in America, an understanding which is critical for both communities if we are to be the kind of successful American dream which the rest of the world thinks about and admires.

I want to thank the Speaker for his consideration of my closing with these comments about my brother, the gentleman from Maryland, KWEISI MFUME, who has served his country and his people so well. We wish him Godspeed and great success.

FAREWELL TO THE HONORABLE KWEISI MFUME

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Florida [Mrs. MEEK] is recognized for 5 minutes.

Mr. MFUME. Mr. Speaker, will the gentlewoman yield?

Mrs. MEEK of Florida. I yield to the gentleman from Maryland.

Mr. MFUME. Mr. Speaker, I would like to direct my remarks to the gentleman from Maryland [Mr. HOYER], who spoke earlier, and I recognize the duties of the Chair, having served there for many years.

Mr. Speaker, let me thank the gentleman from Maryland, on the gentlewoman's time, for his kind remarks, for his friendship over the years, for leading the delegation, from all of us who served the State of Maryland, and for extending the first hand toward me shortly after my election in 1986. Both he and former Congressman Tony Coelho came to Baltimore at that particular time to find out what it was they could do for me as an incoming Member. It has been that kind of relationship over the years, STENY, and I really appreciate your kind remarks.

Mrs. MEEK of Florida. Mr. Speaker, I say to the gentleman from Maryland [Mr. MFUME], it is a distinct pleasure to come to the well and tell you how much we are going to miss you, because you have shown the kind of leadership that is seldom seen, not only in the Congress, but throughout this country. The leadership you have demonstrated was one that was fed by character, one that was fed by dignity, one that was fed by knowledge, one that was fed by your strong desire to bring people together and not to separate them, regardless of their views.

Your name stands with the son of kings, and that you are, you are a son of kings. You are a conqueror. You have shown your lineage by your leadership and your example, which you have shown to all of us. You did not lead by talking. You could not say anything about a sermon, because I think from all of your work, you have shown that you would rather be a sermon than to preach one any day.

You have been the hope of all America, but most specifically, you have been the hope of black America. You have been a hero to us, and you still are. I am greatly saddened, at least I was, when you decided to retire and go to the NAACP, because I knew you had more and more to give to us, but God saw it better to send you someplace where you would be needed most. So I was saddened, but I was also encouraged, because they saw the same thing that we saw: The ability to lead, the ability to pull people together, the ability to start initiatives that work.

You were president of the Black Caucus for the first 2 years I was here. I say to you, if it were not for your leadership, we never could have accomplished the things that we accomplished. You even took people in the Caucus who were not directly associated with the idea of the kind of movement that you were trying to make, but you were such a person as to allow everyone a chance and to think of their opportunities.

You are a man of class. You are a cut above, MFUME, quite a bit a cut above, because we will never find a father, a leader, a peacemaker, above you in this Congress. I like the way you work with everybody, white, black, regardless of color or creed. You did not play the

race card at any time. What you did was to play the people card, and you made that card work for us in the Congressional Black Caucus.

Mr. Speaker, I think in the end, MFUME, even though I am saddened by your leaving, that your particular dictum may be and your shibboleth could be: Service is the price you have paid for the space which God has let you occupy.

Mr. MFUME. Mr. Speaker, if the gentlewoman will continue to yield, I could not, obviously, not respond to your heartfelt comments, CARRIE, and the friendship that we have developed over the last several years working on a number of issues, both here in Washington and down in your district in Florida and elsewhere. It is those kinds of words at this kind of moment that really makes the last 10 years worth more than they might have been otherwise.

I know that words are inadequate on my part to tell you how much you mean to me as a person, and why I will miss this institution, not because of the partisan bantering that takes place, but because of the genuine kind of dialog and fellowship that I have learned to develop and I have learned to develop with people like you. I love you very much. Thank you for your kind words.

CONGRATULATIONS TO KWEISI MFUME ON HIS SELECTION AS PRESIDENT OF THE NAACP

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. PAYNE] is recognized for 5 minutes.

Mr. PAYNE of New Jersey. Mr. Speaker, I have had the great privilege of serving as chairman of the Congressional Black Caucus in the 104th Congress, taking over the reins from my good friend, KWEISI MFUME, who served with such distinction during the 103d Congress. He has been tremendously supportive and helpful to me, and I am personally grateful for his friendship and encouragement.

Following his election to the House of Representatives in 1986, Congressman MFUME quickly gained a reputation as one of the most energetic and effective Members of Congress.

As a member of the Banking and Financial Services Committee and the Small Business Committee, he has been active on a wide range of issues, including the development of minority business opportunities. He was successful in adding minority contracting and employment amendments to the Financial Institutions Reform and Recovery Act. He also played a leading role in strengthening the Equal Credit Opportunity Act and the Community Reinvestment Act. In addition, he was actively involved in the passage of the Civil Rights Act of 1991.

Congressman MFUME's election by this colleagues to serve as chairman of the Congressional Black Caucus came at a historic point in time. President Clinton had just been elected along with 110 new Members of the House of Representatives. The Congressional Black Caucus had grown to include 39 House Members and 1 Senator.

Congressman MFUME took on the task of chairing the Congressional Black Caucus with the same enthusiasm and tenacity which he brought to all of his other successful endeavors. He broadened the scope of the Caucus, reaching out to members of the business community, building new coalitions, and seeking the ideas and input of young people.

While Congressman MFUME's presence in Congress will be greatly missed, we are thrilled that he will be using his talent and exceptional leadership ability to re-energize one of our Nation's most prominent civil rights organizations, the NAACP.

Having joined the NAACP myself as a high school student, and later serving as the president of New Jersey youth councils and college chapters of the NAACP, I know the potential the organization has to guide our community through the challenges that lie ahead. In fact, I had the honor of attending the NAACP convention in 1957 when the prestigious Spingarn Award was bestowed on Dr. Martin Luther King, Jr.

As the next leader of the NAACP, Congressman MFUME will be following in the distinguished tradition of such giants as W.E.B. DuBois, Walter White, Roy Wilkins, and Benjamin Hooks. I am certain that he will approach the job with the same passion for justice and equality as these heros of the past. Just as his chosen name indicates, no obstacle will impede this "conquering son of kings" from achieving his goals.

Let me just close by saying that Congressman MFUME has been an inspiration to all of us, and to many people, young and old, throughout this country. His rise from his Baltimore neighborhood to the halls of Congress, his success against the odds and his belief in himself remind us of the immortal words of Rudyard Kipling, that success will come "If you can dream, and not make dreams your master; if you can think, and not make thoughts your aim; if you can meet with Triumph and Disaster, and treat those two imposters just the same * * *. If you can force your heart and nerve and sinew to serve your turn long after they are gone, and so hold on when there is nothing in you except the will which says to them: hold on * * *."

Again, we congratulate Congressman MFUME and look forward to our continued association as he takes on this exciting new challenge.

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

Mr. PAYNE of New Jersey. I yield to the gentleman from Maryland.

□ 1645

Mr. MFUME. First, Mr. Speaker, let me thank the gentleman for his words regarding the time that he and I have shared and many of the things that I have worked on here in the Congress and to say to you, DON, how much I appreciate the way you have also had the opportunity to lead this caucus, as have Congressman TOWNS, Congresswoman COLLINS, and others who are here on the floor.

It is a very difficult task. In fact, it is one I say that everybody ought to have the opportunity to do just once, just once.

But you are a great friend and your words are very heartfelt. I thank you for taking the time to come over here today. I almost feel like I am being memorialized, but I knew it is from your heart, and I appreciate all the time we have spent together here and throughout the country, and I wish the best for both you and your family.

TRIBUTE TO KWEISI MFUME

The SPEAKER pro tempore (Mr. HAYWORTH). Under a previous order of the House, the gentleman from the Virgin Islands [Mr. FRAZER] is recognized for 5 minutes.

Mr. FRAZER. Mr. Speaker, I come to the floor to join my colleagues in the special order honoring Congressman KWEISI MFUME. For the past 8 years Mr. MFUME has served this body with distinction and honor.

He led the fight for fairness and equity in Federal contracting for small and minority businesses. During the 103d Congress Mr. MFUME chaired the House Small Business Subcommittee on Minority Business. Under his leadership the committee investigated Federal agencies who were in noncompliance with Public Law 95–507, the Small Business Act. As a result of that investigation those agencies have established small disadvantage business offices and are meeting their contractual goals for small and minority businesses. Mr. MFUME is a master negotiator. He has the ability to listen, synthesize, and reach compromises when a impasse seem inevitable. He has negotiated with Members on both sides of the aisle, because he is open-minded and does not let ideology prevent him from getting the job done.

The U.S. House of Representatives is a better place because of Mr. MFUME's, leadership. Members who have served with him always respected his ability to build consensus. I know these qualities will be tremendous asset to him as he goes forward to be the chief executive officer of the NAACP.

For those who will ask why would KWEISI MFUME leave one of he safest districts in this body, it is because he is a selfless person.

Mr. Speaker and other Members, there is no doubt in anybody's mind

that KWEISI MFUME would be elected if he chose to run in November and Novembers and Novembers after that, but he is leaving what is obviously, as we said, a safe seat to take on the task of the NAACP at a time when it is most troubled and needs leadership. I, too, applaud the NAACP for choosing the best person to sail the ship out of troubled waters.

Mr. Speaker, KWEISI MFUME has caused many young people, especially black African-American males, to recognize the political side of the country, and because of him, they are coming forward in large numbers and partaking.

KWEISI MFUME, I applaud you for the service to this body. I wish you well, and I thank you for being a friend.

Mr. Speaker, I yield to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I am pleased to add my voice to the chorus of colleagues who are singing the praises of KWEISI MFUME. We both were elected to serve the people of Maryland during the 100th Congress. I have enjoyed his friendship, and I have appreciated his courage and determination to fight for those Americans whose voices are often not heard in the halls of Congress.

KWEISI MFUME grew up on the streets of west Baltimore where he was known as Frizzel Grey. The people who still live there are proud of KWEISI, proud that he made something of himself. The old neighborhood is deteriorating and impoverished, but KWEISI keeps going back there—to his roots. He believes that the work he has been doing in Washington can only be relevant if it has an impact on his old neighborhood.

Although he has been an outspoken advocate of equitable and excellent education for women and minorities, scholarship wasn't always high on KWEISI's agenda. He was a high school dropout who hung out on Baltimore's streets drinking and swapping stories. He turned his life around during the 1970's when he changed his name and worked toward a high school equivalency degree. Then it was on to Morgan State and Johns Hopkins University.

His name is pronounced "Kwah-EE-see Oom-FOO-may," and it hasn't hampered him one bit. He adopted the name during the 1970's because he wanted to embrace his African heritage. It means "conquering son of kings."

During his 9 years in Congress, KWEISI MFUME has distinguished himself with an impressive record of advocacy for human rights and social justice. As the chair of the Congressional Black Caucus, he strengthened and brought national attention to a growing organization, establishing a rapport with African-American communities across the Nation and boosting the organization's reputation and morale.

I could go on and on, and I know I will in my extension of remarks, but I want to say that he has worked also for what he believes in with people on both sides of the aisle. I, for one, can attest to that. As Shakespeare would have said of him, the force of his own merit makes his way; and for me, here is a dear and true industrious friend. I will miss you.

I know that we will be working together as you chair the NAACP, and from the bottom of my heart, you are a good friend, and you have been a great statesman. Thank you.

I thank the gentleman for yielding to me.

TRIBUTE TO KWEISI MFUME

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. TOWNS] is recognized for 5 minutes.

Mr. TOWNS. Mr. Speaker, I yield to the gentleman from Maryland [Mr. MFUME].

Mr. MFUME. Mr. Speaker, I know the time of the gentleman is short, but I do first of all want to thank my colleague from Maryland. We were elected together in 1986, kind of cut our teeth here in this House together and grew to be dear, dear friends. CONNIE, I will miss you very much also, and I thank you for your kind words and for coming here.

VIC, let me thank you also for yielding part of your time that the gentlewoman from Maryland [Mrs. MORELLA] might in fact be recognized. We have a long way to go in this institution, but clearly, individuals, such as yourself, who are coming here with bright ideas and a real commitment for change will make that happen.

Thank you so much for coming out and for being a part of this, and I mean that honestly from the bottom of my heart. I look forward, beyond this point, to working more with you. Thank you.

Mr. TOWNS. Mr. Speaker, as chairman of the Congressional Black Caucus, the voice of Mr. KWEISI MFUME was loud and his message was clear. On the issue of establishing democracy in South Africa and throughout his career, KWEISI has spoken his mind and supported first amendment protection for freedom of speech, even in the face of vile and hateful remarks uttered by others.

Wherever the fight has had to be, KWEISI has been in the thick of it. His vision, strength, and leadership have been vitally needed. He has never wavered in his support of affirmative action, minority small business development, health care reform, community reinvestment, and protection of civil rights.

KWEISI's voice has been one of reason, vision, and principle. He has been a foot soldier on the front line and an able member of the Democratic leadership. He has been effective in the boardroom, courtroom, and the streets of public opinion have been his battleground and pulpit for highlighting causes that are just and necessary.

Those of us who have served in this body have seen an erosion in the confidence of voters regarding public officials and institutions of government.

Mrs. COLLINS of Illinois. Mr. Speaker, will the gentleman yield?

Mr. TOWNS. I yield to the gentlewoman from Illinois.

Mrs. COLLINS of Illinois. Mr. Speaker, I thank the gentleman for yielding, because I too want to pay the highest tribute to our longtime colleague and close friend, former Congressional Black Caucus Chairman, KWEISI MFUME, and to say that he has been a wonderful leader in our Congressional Black Caucus, as well as a premier Member of this body; and I thank you for yielding, because I know your time is short.

Mr. Speaker, I rise today to pay the highest tribute to my long-time colleague, close friend, former CBC chairman, and one of the most outstanding Members of this body, Congressman KWEISI MFUME of Maryland. There is no doubt that he will be sorely missed by this institution as he moves on to his new role as chief executive officer of the NAACP.

Throughout his tenure in Congress, Representative MFUME has been a powerful, articulate, and respected champion of average hard-working Americans, the elderly, our children, and the underprivileged. He has generously lent his time and his talents to the causes of justice, civil rights, and economic and educational empowerment for all citizens of this Nation. In so doing, he has been extremely successful in building coalitions to help advance the needs of those whose voices are least often heard in Washington and in the corridors of the Capitol.

I recall a commercial jingle that I think is a fitting phrase to describe Congressman MFUME's significant presence: "When Kweisi Mfume speaks, people listen."

It is particularly in the area of minority business and community development that Congressman MFUME has been without peer in the House of Representatives. As an active force on the Banking and Financial Services Committee, KWEISI MFUME has tirelessly advocated landmark legislative initiatives to expand access to credit and lending opportunities for small, disadvantaged entrepreneurs and firms. He expertly crafted minority contracting and employment amendments to the Financial Institutions Reform and Recovery Act. In addition, he deftly strengthened the Equal Credit Opportunity Act and amended the Community Reinvestment Act in the interest of minority financial institutions.

But it was in the 103d Congress, as chairman of the Congressional Black Caucus, that KWEISI MFUME's star shined the brightest and America stood up and took notice of this remarkable and truly distinguished gentleman. His term as chairman of the CBC marked the pinnacle of the caucus' power and influence

on Capitol Hill, at the White House, and, yes, across the country. From securing increased funding levels for targeted education, environmental protection, and health care programs in the 1993 budget to negotiating effective prevention initiatives included in the 1994 crime bill, KWEISI MFUME stood firm for the convictions of the caucus, the rights and needs of our constituents, and the principles of equality and liberty for all.

I thank my colleague, Congressman CARDIN, for holding this special order in honor of Representative MFUME. I wish KWEISI all the best in both his personal and professional endeavors. It has been not only a pleasure but also a privilege to serve with him in this august body.

I know for certain that the NAACP will thrive under KWEISI's direction. They are lucky to have someone with his stature, strength, honor, and intellect to lead them forward at this important time in the history of that vital organization and the history of our Nation.

Mr. LEWIS of Georgia. Mr. Speaker, will the gentleman yield?

Mr. TOWNS. I yield to the gentleman from Georgia.

Mr. LEWIS of Georgia. Mr. Speaker, I want to thank the gentleman for yielding and take just a moment, and I will have a much more extensive statement to submit for the RECORD, because I believe that Mr. MFUME represents the very best that this body has to offer. He is the personification of leadership, of vision.

We came here together, elected in 1986 and came here in 1987. He has been a great Member, a good Member. I hate to see him leave this place, but I know he is going on to bigger and better things. He will provide leadership for the NAACP, but in providing leadership for the NAACP, he will be providing leadership for this Nation.

So let me say to Congressman MFUME, my friend, my leader, and my brother, we wish you well, and Godspeed.

Mr. TOWNS. I would be delighted to yield to the gentleman from Ohio, the dean of the Ohio delegation [Mr. STOKES].

Mr. STOKES. I thank my distinguished colleague and friend from New York for yielding to me.

Mr. Speaker, I regret that because of the time constraints today, due to our schedule on the floor, that we will be unable to spend time paying tribute to a man who deserve tribute from so many of us who want to participate. Hopefully, we are going to be able to get additional time, so at this time what I would like to do is just commend Mr. CARDIN and Mr. HOYER and others who have spoken here for providing us the opportunity to pay tribute to this distinguished colleague who will be departing.

I will reserve the balance of my comments, either for submission to the RECORD or for a later Special Order, if we can get additional time.

I just want to say to KWEISI MFUME that we have great respect and admiration and love for you, and all of us wish you Godspeed in your new career.

Miss COLLINS of Michigan. Mr. Speaker, will the gentleman yield?

Mr. TOWNS. I yield to the gentlewoman from Michigan.

Miss COLLINS of Michigan. Mr. Speaker, on a personal level, I want to pay special tribute to Mr. MFUME's contributions to the Congressional Black Caucus. As chairman for 2 years, he energized our membership and inspired our organization to attain new and unprecedented heights.

In closing, not only do I applaud you, Mr. MFUME, for your outstanding political achievements, but I also thank you for your profound contributions in preserving equal rights for all citizens. You have truly emerged as a national leader and one of the most respected voices in the ongoing human rights struggle. Thank you.

I am very pleased today to pay tribute to my distinguished colleague, the Honorable KWEISI MFUME. Mr. MFUME, I first want to congratulate you on your outstanding political career. As we know, Mr. MFUME was elected to Congress 9 years ago to represent the interests of Maryland's Seventh District. And, while he has represented the interests of his constituents with unquestionable excellence, Mr. MFUME's influence extends far beyond the boundaries of Maryland. Indeed, all of here in Congress and across these United States have benefited from Mr. MFUME's exceptional leadership.

During his tenure in the U.S. House of Representatives, Mr. MFUME has been a dedicated advocate of landmark civil rights legislation. Minority businesses across the Nation have particularly benefited from Mr. MFUME's contributions in obtaining favorable amendments to the Financial Institutions Reform and Recovery Act, the Equal Credit Opportunity Act, and Community Reinvestment Act. Impressively, Mr. MFUME also successfully cosponsored the Americans with Disabilities Act, and amended the Civil Rights Act of 1991 to apply to U.S. citizens working abroad.

On a personal level, I want to pay special tribute to Mr. MFUME's contributions to the Congressional Black Caucus. As chairman of the CBC for 2 highly successful years, Mr. MFUME energized the membership and inspired the organization to attain new and unprecedented heights.

In closing, Mr. MFUME, not only do I applaud you for your outstanding political achievements, but I also thank you for your profound contributions in preserving equal rights for all citizens. You have truly emerged as a national leader and one of the most respected voices in the ongoing human rights struggle. I wish you blessings and the best of wishes in your new appointment as chairman of the NAACP, which will undoubtedly benefit from your exceptional leadership.

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

Mr. TOWNS. I yield to the gentleman from California.

Mr. HORN. I thank the gentleman for yielding.

Mr. Speaker, it is with great sadness that I see Mr. MFUME leave this Chamber. He is one of the most respected Members in the House of Representatives. When the Democrats were the majority in the last Congress, he presided with great dignity and great presence over the proceedings of the House of Representatives. But if he has to leave, he could not go to a more worthy organization that the National Association for the Advancement of Colored People.

He and I share in common a friendship with the late Clarence Mitchell. It was Clarence Mitchell and others of the NAACP who were walking the Halls of Congress before any of the more prominent civil rights leaders of the latter part of the 20th century were walking the Halls of Congress. Clarence Mitchell and a few colleagues were the ones that were bringing the cause of the African-American to these doors on a bipartisan basis. I am sure that KWEISI MFUME's presence and leadership in reassembling and restructuring and improving the work of the NAACP will be a great service to this Nation and thus to the provision of equal opportunity for many of our citizens.

Mr. TOWNS. Mr. Speaker, I yield to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. I thank the gentleman from New York, and I will be brief and reserve written comments for the RECORD.

As a freshman, I just could not remain in my office. I call him, still, Chairman MFUME for his 2 years of leadership. I personally want to thank him for the kindness extended to one during her interest and climb in public service. He was never too busy to answer a question, to come and visit with constituents.

Now we will have the same kind of gentle kindness going on at the helm in the leadership of our mother organization, the NAACP, leading America into the 21st century of civil rights. I am gratified that he will do that.

KWEISI, my friend, I thank you for your leadership and your kindness. Congratulations. But most of all, best wishes in your new role and challenge.

Mr. CARDIN. Mr. Speaker, if the gentleman will continue to yield, I want to thank the Speaker for his understanding in making this time available in this unusual process that we have used. You have been very understanding, and we thank you.

It is a real occasion to celebrate KWEISI MFUME's service to his Nation and how we will all miss him. I know tomorrow we are going to have some additional time on the floor, and I would urge those Members who did not have a chance during this opportunity that we will have time tomorrow. I know that the time has passed for today.

Once again, I want to thank the Speaker for his courtesy.

The SPEAKER pro tempore. The Chair thanks all of the speakers during

this special order and would take time also to commend my good friend from Maryland.

Mr. TOWNS. In closing, Mr. Speaker, let me say to the gentleman from Maryland [Mr. MFUME] that you can count on me to be a soldier in your army for justice as you continue to fight on the outside as you have been able to fight on the inside.

One that note, I yield to the gentleman from Maryland [Mr. MFUME].

Mr. MFUME. I appreciate the gentleman yielding. I recognize the time constraints that the House is under, and I appreciate the comments of Mr. CARDIN that perhaps we can conclude this portion of the special order tomorrow or perhaps later today. I know there are a lot of Members that are starting to come over on the floor for that.

Quite frankly, I am honored and flattered by it, and I appreciate their presence here and look forward perhaps to spending some more time on this special order either later today or certainly tomorrow.

Mr. LAFALCE. Mr. Speaker, I am pleased to join with my colleagues today in honoring KWEISI MFUME, an extraordinary legislator and a good friend. KWEISI is leaving the House of Representatives where he has capably represented the people of Maryland's Seventh Congressional District to assume new responsibilities as chief executive officer of the NAACP.

I have had the privilege of working closely with KWEISI since his arrival in Congress in 1987. We have served together on both the Committee on Banking and the Committee on Small Business, where KWEISI held leadership positions as chairman of the Minority Enterprise Subcommittee and, this year, as the ranking Democratic member on the Banking Oversight Subcommittee. In these positions, as well as in his leadership of the Congressional Black Caucus, KWEISI demonstrated outstanding qualities of leadership and unshakable integrity. Throughout his years in Congress, KWEISI has been a champion for people in need, a powerful voice for equal justice and affirmative action and an effective advocate for small business rights and economic opportunity.

With KWEISI's departure, the House of Representatives loses one of its most able Members. But our loss is a tremendous gain for the NAACP and for the cause of equal justice generally. Although we look back to praise KWEISI's many accomplishments in Congress, we also look forward knowing that even greater accomplishments await him in the future. I look forward to working with KWEISI in the future and wish him every success in his new role.

Mrs. KENNELLY. Mr. Speaker, I rise to join my colleagues in honoring one of this body's most distinguished and dedicated Members.

When Congressman KWEISI MFUME takes the helm of the NAACP in February, this body will lose one of its finest leaders. Since entering Congress over a decade ago, Congressman MFUME has stood on the front lines of the battle for equality and opportunity for all Americans.

As chairman of the Congressional Black Caucus during the 103d Congress, he was instrumental in passing legislation to increase opportunities for minority-owned businesses and banks. And this past year, as chairman of the Joint Economic Committee, he has insisted on focusing our attention on those Americans the economy often leaves behind. His efforts have made a real difference in people's lives, from his neighbors in Baltimore to men, women and children a continent away who he has never met but whose plight compels him to act.

Congressman MFUME has amassed an impressive legislative record in the House of Representatives. He could have taken the safe route by staying in Congress; in fact, he would have been reelected easily in November. But doing what is easy or safe has never been Congressman MFUME's way. He has dedicated his entire life to accepting new challenges and pursuing higher goals. Each time, he has met those challenges and achieved those goals.

Leading the NAACP through uncertain times will certainly be a tough challenge, but the organization's unanimous vote to make him their new president and CEO underscores the amount of confidence it has in him to do the job. His talents and commitment will lead the NAACP in its fight to improve educational opportunities, promote personal responsibility and rejuvenate our cities. Congressman MFUME is ready to use life's lessons he learned growing up in Baltimore and the political experiences he gained in Congress to move the NAACP into the 21st century as a proud, vibrant voice for equality and civil rights.

Already, Congressman MFUME is making his presence felt with the NAACP, leading the charge to register 8 million African-Americans to vote in time for the next election.

At a time of dissatisfaction with the political process and those who embody it, I can think of a few better role models than Congressman MFUME, who has chosen to leave the confines of Capitol Hill and a near-certain reelection for a far riskier venture, simply because he believed it is the right thing to do.

I think every one of us recognizes that, come February 15, this body will be less passionate about helping the most vulnerable members of our society, and a measure less vocal about expanding opportunities to all Americans. However, we are comforted by the fact that our loss is the NAACP's gain. And we are inspired to know that, as long as Congressman MFUME plays a role in the affairs of our Nation—whether it is here in Washington, up in Baltimore, or anywhere else in this Nation—the progress we have made over recent years will not be lost.

Mr. CONYERS. Mr. Speaker, I rise today to honor my good friend and colleague, KWEISI MFUME. The gentleman from Maryland will be leaving this body next month to accept the job as president and CEO of the NAACP, the most important civil rights organization in the United States. I also want to thank Mr. CARDIN for convening this special order.

In 1986, KWEISI MFUME was elected to represent Maryland's Seventh Congressional District, a seat that Parren Mitchell had held for 16 years. So, even before he arrived, our expectations of Mr. MFUME were great—filling Mr. Mitchell's shoes would not be easy. But Mr. MFUME has shown us on many occasions that he has been more than able in meeting the challenges of representing his constituents to this body.

Mr. MFUME's lasting mark in Congress will most certainly be his tenure as chairman of the Congressional Black Caucus. Elected chairman for the 103rd Congress, Mr. MFUME shepherded our caucus to become a prominent coalition in shaping legislation during President Clinton's first 2 years in office. Under his leadership, the caucus achieved a critical mass of some 41 members, its largest presence ever. With Mr. MFUME at the helm the caucus played an integral role in assuring that the President's budget passed, and that it included programs to help the urban poor. Among the victories in that budget were an expanded earned-income tax credit, the creation of urban empowerment zones, an expanded Food Stamp Program, and mandatory immunization for all children. The caucus, through Chairman MFUME's leadership, has also been at the forefront of many struggles of particular importance to African-Americans, including the efforts to preserve affirmative action and to restore democracy to Haiti, one of the foreign policy highlights of the Clinton administration.

As a member of the Committee on Banking, Finance and Urban Affairs, Mr. MFUME has worked diligently on issues important to cities, African-Americans, and the urban poor. He has worked hard to assure that banks loan money and offer services in poor neighborhoods to assure that the underserved have the same opportunities as others. In 1990, KWEISI successfully offered an amendment that changes the way public housing tenants pay their rent. Rent payments are now based on actual income, not estimated income.

This year Mr. MFUME, as a member of the Minority Leader GEPHARDT's Policy Committee, has led the fight against attacks on Medicare, Medicaid, welfare, job training, and other important elements of our social safety net. We, certainly, can't afford the cuts the Budget leaders have prescribed, and KWEISI has worked to preserve these important programs.

Mr. MFUME has served his Maryland constituents with dignity and honor throughout his 9-year career. He is now leaving us to manage the largest civil rights organization in our Nation. I must confess that when I first heard of KWEISI's decision to leave Congress I was disappointed. I felt that his exemplary leadership was needed more than ever as Congress grappled with the extraordinary agenda of reactionary legislative initiative now confronting it.

Upon reflection I embrace and salute without reservation Mr. MFUME's decision. He leaves us in order to lead the revitalization of an organization that has a critical, perhaps seminal, role to play in mobilizing millions of African-Americans and progressive Americans of all types to halt this Nation's slide into a reactionary abyss and to move this Nation toward the full realization of justice and the promise of democracy. His decision is one that all Americans, in and out of Congress, committed to the struggle for justice can endorse.

The NAACP is very important to me. I am a lifelong member of the NAACP and my home city boasts this Nation's largest NAACP Chapter. I have no doubt that the NAACP is in good hands and that KWEISI will raise the NAACP to new heights, and will continue to fight for civil rights, social change, and economic justice. I wish him well in his new career. His commitment and passion will be sorely missed in this Congress. It is not often that we are able to work with a more dedicated or honorable individual. We, certainly, could use a few more Members like KWEISI in the U.S. Congress.

Mr. STOKES. Mr. Speaker, earlier today, the gentleman from Maryland, Mr. CARDIN, took time in the well to pay tribute to our colleague, KWEISI MFUME, who is a retiring member of the Maryland delegation. I join Mr. CARDIN, Mr. STENY HOYER, and my colleagues who take time today to pay tribute to Mr. MFUME.

As one who has seen a number of colleagues go and come over the years, I can say that the departure of KWEISI leaves me with mixed emotions. On the one hand, I am proud to see the good judgment shown by the NAACP in selecting KWEISI as its chief executive officer. On the other hand, for those of us who know this institution, his leadership qualities bode a bright future for him as a leader in future Congresses.

As a life member of the NAACP, I salute this organization for what has to be recognized as a coup in getting KWEISI to head up the most important civil rights organization in America. In light of its current financial problems, declining membership, and lack of national focus and direction, I think that KWEISI MFUME is the right man, at the right time, for the right reasons.

He will bring to this organization the type of fresh, new leadership and eloquence that will return it to its stature of greatness.

Mr. Speaker, KWEISI's whole life has been that of a man who accepts challenges head on. In this case, he will be confronted with a formidable challenge in restoring the NAACP to its rightful place of prominence as the preeminent civil rights organization in the history of this Nation.

But everything in his background cries out, indeed screams, that all of these years he has been preparing for the day when a challenge of this magnitude would come. And indeed, he is ready.

A part of his preparation took place in this very body when he was selected by the members of the Congressional Black Caucus to chair our organization for 2 years. This was a daunting challenge, but he undertook it with vigor and determination, and in my opinion, he took the Congressional Black Caucus to a new level of success and stature during his chairmanship.

In that post, he demonstrated a level of commitment that is unsurpassed. He was able to bring to the forefront a wide range of economic and foreign policy issues. He fought hard for the millions of Americans whose voices go unheard in the Halls of Congress.

Mr. Speaker, KWEISI MFUME has also exercised strong leadership as a member of the House Banking Committee. He has fought efforts aimed at increasing rents for the Nation's public housing residents. He has also authored language which would require a commitment from banks to make loans and services available in poor neighborhoods and underserved banking markets. He is a thoughtful and skilled lawmaker who has earned the respect and admiration of his colleagues.

Mr. Speaker, I take special pride in saluting KWEISI MFUME today. In closing, I am reminded of how, a few years ago, shortly after he came to the Hill, that I invited KWEISI to a meeting with some of my constituents from Cleveland. In his speech to the group, he brought the house down by relating a story of how, as a high school student, he had been assigned the task of writing a research paper on me. We still, from time to time, get a laugh out of that story.

Mr. Speaker, KWEISI MFUME will be missed on Capitol Hill. Our loss is certainly the NAACP's gain. We salute KWEISI and look forward to working closely with him in the days ahead.

Mr. MARTINEZ. Mr. Speaker, I rise today to join my colleagues in paying tribute to Congressman KWEISI MFUME, a remarkable man from Maryland who has served his constituents and all Americans with exceptional integrity and distinction. KWEISI MFUME is leaving the House to accept a new and exciting challenge as president and chief executive officer of the NAACP. This historic civil rights organization is indeed fortunate to have such a skilled and highly respected man at its helm.

During his tenure in the U.S. House of Representatives, Congressman MFUME has emerged as a national leader and champion for the most vulnerable Americans. He has consistently been a voice of reason in Congress, never shying from the good fight. KWEISI's eloquence and advocacy for progressive cause have affected the lives of millions of Americans for the better.

So tonight, Mr. Speaker, I salute KWEISI MFUME, conqueror of kings, and wish him nothing but success in all his future endeavors.

Mr. DIXON. Mr. Speaker, I rise to join my colleagues today to recognize the very significant contributions that the gentleman from Maryland has made during his 9 years in the House of Representatives and to wish him great success as he begins a new and very important endeavor.

We know that Congressman MFUME's constituents in the Seventh Congressional District, who have consistently reelected him with over 80 percent of the vote, will miss his representation in the House. We also know that millions of Americans outside the seventh district, who have relied on him to give voice to their needs and aspirations, will sorely miss that voice coming from the Congress of the United States.

Throughout his tenure in the House, Representative MFUME has been a champion for the rights of those denied opportunity in this Nation, and particularly for the expansion of economic opportunity for those denied. He has been one of our most eloquent spokesman for the need for economic empowerment in the Nation's urban and minority communities, focusing his legislative efforts on minority business development.

During his 2 years as chairman of the Congressional Black Caucus [CBC], Congressman MFUME energized the caucus and focused our message, culminating in major legislative achievements in the 104th Congress. Included in those achievements were expansion of the earned-income tax credit for working families, and creation of enterprise zones to spur economic development in inner-cities. As a member of the House Banking Committee he has been an advocate for the needs of low-income housing residents and for greater responsibility on the part of financial institutions to offer services in their communities.

Representative MFUME has been an articulate, forceful, and passionate presence in the House of Representatives. All Americans will benefit as he brings these qualities to his new role as chief executive officer of the NAACP.

Congressman MFUME is uniquely suited to the task of reviving membership and reenergizing the NAACP—particularly among the Nation's African-American youth. The challenges he overcame in his own youth and the accomplishments he has achieved during a distinguished career in Congress bode well for his efforts to recruit a new generation of leaders to the cause of ensuring that all Americans share in the prosperity of this Nation.

I join my colleagues in thanking Representative MFUME for his service to the country as a Member of the House of Representatives and wish him much success as he meets his new challenge at the helm of the NAACP.

Mr. FROST. Mr. Speaker, I would like to take this opportunity to honor Representative KWEISI MFUME, former chairman of the Congressional Black Caucus, on the occasion of his leaving the House in order to head the NAACP.

During his tenure in Congress, KWEISI MFUME, who has represented Maryland's Seventh Congressional District since 1986, has displayed a strong commitment to public service and a stellar record of legislative accomplishment.

Through serving on the Banking and Financial Services Committee, Representative MFUME has been able to focus congressional attention on a variety of issues, including minority businesses, health care, and civil rights legislation.

He authored the minority contracting and employment amendments to the Financial Institutions Reform and Recovery Act, strengthened the Equal Credit Opportunity Act, and amended the Community Reinvestment Act to strengthen the protection of minority financial institutions.

It has been an honor and a privilege to serve in the House with Representative MFUME. Clearly, his hard work and dedication to public service have improved the lives of all Americans.

Mr. SENSENBRENNER. Mr. Speaker, I rise to pay tribute to our departing colleague from Maryland, Congressman KWEISI MFUME.

For the past 10 years, the people of Maryland's Seventh District have benefited from the representation of Congressman MFUME.

Representative MFUME's political career began as a Baltimore City Council member where he promoted the causes of his inner-city constituents. He was elected to the House of Representatives in 1986 and recently served on the Banking and Financial Services and Small Business committees.

His record reflects a dedication of addressing the needs of his district while balancing those with the needs of the Nation. His hard work and legislative ability have earned him the respect of his colleagues on both sides of the aisle.

Representative MFUME's outspoken support of civil rights and other traditional minority concerns lead to his election as Chairman of the Congressional Black Caucus in 1992, where he elevated the level of influence for the caucus to a new level.

I wish Congressman MFUME good luck as he assumes his new responsibilities as chief executive officer of the National Association for the Advancement of Colored People, where he will have a new platform to fight for the causes he believes in. This is an exciting opportunity for him and I know I am joined by my colleagues in wishing him continued success.

Mr. WATTS of Oklahoma. Mr. Speaker, I want to thank the gentleman from Maryland, Mr. CARDIN, for making this time available to recognize our good friend and colleague, KWEISI MFUME. It is a distinct pleasure to have the opportunity to speak about a gentleman who has earned a place of high respect and honor here in the Congress.

We all know that there's often a lot of talk in this Chamber, but there's seldom a lot of listening. KWEISI MFUME is one of those soft-spoken voices that rises above the din, above the crowd—one of those rare voices that Members listen to on both sides of the aisle.

KWEISI has earned our ear, and our respect, not only because of his dedicated work for this great Nation and his effective advocacy for our most disadvantaged citizens—but also because of the hard road he took to Congress—from the troubled neighborhoods of west Baltimore to the heights of Capitol Hill, his is a story of determination. It is a story which teaches our Nation's youth great lessons about dignity and self-respect.

We applaud the NAACP for choosing a leader of the caliber of KWEISI MFUME. Quite sincerely, I can think of no one more qualified and respected to lead that venerable institution into the 21st century. Our only regret is the loss we will feel here in this institution when we lose the reasoned voice and seasoned leadership of KWEISI MFUME.

I wish my friend every success as he confronts the challenges of his new position.

Ms. PELOSI. Mr. Speaker, I rise today with mixed feelings of joy and sadness as we honor our good friend and colleague KWEISI MFUME. I am saddened to lose our esteemed colleague as a relentless advocate in Congress for the poor and disadvantaged, yet I am so pleased and proud that a man of such leadership, courage, dignity, and vision will now guide the NAACP to marvelous new heights.

Congressman MFUME has spent most of the last 10 years representing an area I know very well—the city in which my father, Thomas D'Alesandro, once served as mayor and as Member of Congress. KWEISI and I were both born and raised in Baltimore and had the good fortune to learn at the feet of some of the Nation's finest Democrats. While I moved to San Francisco, Congressman MFUME remained to represent the interests of those living in Maryland's Seventh Congressional District, which includes some of Baltimore's poorest neighborhoods.

KWEISI MFUME is the best possible role model for the youth he has worked to assist because he has experienced the challenges of life's adversity and knows that it is possible to triumph. After surviving difficulties in his childhood, he adopted not only a new name but a new way of life, completing his education, achieving popularity for his outspoken views as a radio talk show host, then winning a seat on the Baltimore City Council to promote the causes of the poor and disadvantaged living in distressed communities. In 1986, he was elected to Congress to continue his good work on Baltimore's behalf.

The limited time we have on the floor today is not nearly enough to list this member's many accomplishments and successes. We all know that Congressman MFUME has been a tireless advocate and a national leader for minority business development and civil rights legislation. His voice is always clearly and eloquently heard in defense of the rights and needs of children, people of color, the poor, the elderly, and the disabled—people who do not often have access to the halls of power.

During his impressive term as the leader of the Congressional Black Caucus, KWEISI's style was to build coalitions, not to tear them down. He was instrumental in shaping the caucus into the formidable force that it is.

At the announcement of his selection as president and CEO of the NAACP, A. Leon Higginbotham said that Congressman MFUME "combined the brilliance of W.E.B. Dubois, the eloquence of Martin Luther King, the toughness of Thurgood Marshall, and the caring of Harriet Tubman." This great and natural leader could receive no more fitting tribute.

The name Kweisi means conquering son of kings. He has conquered everything he has sought to achieve in this Congress. Now he is moving on, not to conquer, but to bring together the people of our Nation and to continue to fight for the causes in which he believes. I join with his many, many friends, family, and colleagues in this body in bidding him farewell and wishing our friend good luck and great success in his new and very important endeavor. We look forward to working with him in his new capacity as president of the NAACP.

Mr. COSTELLO. Mr. Speaker, I want to join my colleagues in honoring our colleague, Congressman KWEISI MFUME, as he prepares to leave Congress to take over the National Association for the Advancement of Colored People [NAACP].

I have had the privilege of serving with KWEISI for many years, and can testify to the fact that he has had an enormously positive impact on the U.S. House of Representatives. He has well represented his constituents in Baltimore, and has been an aggressive advocate for the causes of human rights and urban development.

As the former chairman of the Congressional Black Caucus, KWEISI was successful in raising the profile of the caucus agenda, and speaking for millions of African-Americans who look to the caucus for leadership. By becoming chief executive officer of the NAACP, KWEISI will continue those efforts and represent that organization with the same vigor and competence as he represented his constituents in Maryland's Seventh District.

Mr. Speaker, I know many of my colleagues join me in bidding KWEISI best wishes on his new challenge, and will be working closely with him on issues of concern to all of us in the future.

GENERAL LEAVE

Mr. CARDIN. 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 this special order.

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

There was no objection.

□ 1700

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2546, DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1996

Mr. LINDER, from the Committee on Rules, submitted a privileged report (Rept. No. 104–456) on the resolution (H. Res. 351) waiving points of order against the conference report to accompany the bill (H.R. 2546) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1996, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION AUTHORIZING SPEAKER TO DECLARE RECESSES SUBJECT TO THE CALL OF THE CHAIR

Mr. LINDER, from the Committee on Rules, submitted a privileged report (Rept. No. 104–457) on the resolution (H. Res. 352) authorizing the Speaker to declare recesses subject to the call of the Chair from February 2, 1996, through February 26, 1996, which was referred to the House Calendar and ordered to be printed.

PRIVILEGES OF THE HOUSE—WITHDRAWAL OF INVITATION TO FRENCH PRESIDENT JACQUES CHIRAC AND NOT AGREEING TO FUTURE APPEARANCES TO ADDRESS JOINT MEETINGS OF CONGRESS BY HEADS OF STATE OF NATIONS CONDUCTING NUCLEAR TESTS

Mrs. MINK of Hawaii. Mr. Speaker, I rise to a question of the privileges of the House and offer a privileged resolution that I noticed pursuant to rule IX yesterday, and ask for its immediate consideration.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The Clerk will report the resolution.

The Clerk read the resolution, as follows:

H. RES. 350

Whereas virtually every nation in the world has adhered to a moratorium on nuclear tests since September 1992;

Whereas, on June 13, 1995, President Jacques Chirac of France ended his nation's adherence to the moratorium by ordering a series of nuclear tests in the South Pacific;

Whereas France has since conducted six nuclear tests on the Pacific atolls of Moruroa and Fangataufa in French Polynesia;

Whereas France has acknowledged that radioactive materials from some of the tests have leaked into the ocean;

Whereas, as a result of the tests, the people of the Pacific are extremely concerned about the health and safety of those who live near the test sites, as well as the adverse environmental effects of the tests on the region;

Whereas, in conducting the tests, France has callously ignored world-wide protests and global concern;

Whereas the United States is one of 167 nations that have objected to the tests;

Whereas the tests are inconsistent with the "Principles and Objectives for Disarmament", as adopted by the 1995 Review and Extension Conference of the Parties to the Treaty on Non-Proliferation of Nuclear Weapons;

Whereas, in proceeding with the tests, France has acted contrary to the commitment of the international community to the non-proliferation of nuclear weapons and the moratorium on nuclear testing;

Whereas the President of France, Jacques Chirac, is scheduled to appear before a joint meeting of the Congress on February 1, 1996; and

Whereas, in light of the tests, the appearance of the President of France before the Congress violates the dignity and integrity of the proceedings of the House: Now, therefore, be it

Resolved, That, by reason of the recent nuclear tests conducted by France in the South Pacific, the Speaker of the House shall take such action as may be necessary to withdraw the invitation to the President of France, Jacques Chirac, to address a joint meeting of the Congress, as scheduled to occur on February 1, 1996.

SEC. 2. On and after the date on which this resolution is agreed to, the Speaker of the House may not agree to the appearance before a joint meeting of the Congress by any head of state or head of government whose nation conducts nuclear tests.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Does the gentlewoman request time to discuss the question of privilege?

Mrs. MINK of Hawaii. Yes, I do, Mr. Speaker.

The SPEAKER pro tempore. The gentlewoman from Hawaii is recognized on the question of whether the resolution constitutes a question of privilege.

Mrs. MINK of Hawaii. Mr. Speaker, I offer this question of the privileges of the House because I believe that the invitation to President Jacques Chirac to address the joint session of the Congress on February 1, 1996, violates the integrity of the House.

Despite world wide objection to the resumption of nuclear tests, President Chirac proceeded with callous disregard to the concerns and consequences of his actions.

The House of Representatives Chambers must be reserved to those individuals whose actions and political courage bring dignity to this institutional. Invitations to address joint sessions are reserved to those persons who have demonstrated their leadership and character as deserving of honor and reverence.

I believe that many Members of Congress are as offended as I am by the idea of President Chirac coming to this Chamber to address this Nation. After refusing to listen to the pleas of hundreds of nations, and in particular the people of the Pacific rim, why should the Congress afford him a podium from which to advance his unwelcome views?

This offense is not just against the people of French Polynesia. It is an offense against all the people of the world who believed that there would be an end to the nuclear arms race. For France to resume nuclear tests in the Pacific after previously announcing an end to these tests, is a moral travesty that shakes the very foundation of world governments.

For France to argue that they needed to do these tests to ensure the reliability of their nuclear arsenal is to state that the French Government has repudiated the basis of the Test Ban Treaty which is that nuclear war is impossible and that no government should be planning for such an inevitability.

If those nations who possess the nuclear bomb are allowed with opprobrium to re-test their arsenal, then the appeal to others not to seek nuclear capability is an empty gesture at best. At a critical time when we want to curb the nuclear adventures in China and other countries, how do we justify playing host to a Western Power who has already conducted 192 tests, most of them in the Pacific, 140 of them underground and yet insisted that it needed 8 more tests to prove its reliability, and to perfect its computer based simulation technology.

Sadly President Chirac's decision opens the way for other nations to squander our precious environment for their own purposes. Why is France's national security of greater importance than other nations?

The sixth and last nuclear blast that was set off by the French Government on January 27, 1996, in Fangataufa Atoll in French Polynesia had the equivalency to 120,000 tons of TNT, more than six times the Hiroshima bomb.

This defiance of international policy, and deliberate renunciation of their own government's prior announcement of a test ban moratorium must not be received by this Chamber with regular order.

On the contrary, I believe, as I have stated in this resolution that the invitation should be withdrawn on the basis that his presence in this Chamber would constitute approval of his conduct in this regard.

Other than this resolution we had no opportunity to express our disapproval of this invitation. I urge this House to approve this resolution and serve notice to the world of our solemn adherence to a nuclear free world.

The SPEAKER pro tempore. Does any other Member wish to be heard on this?

Mr. LEWIS of Georgia. Mr. Speaker, I wish to be heard on the privileged resolution.

The SPEAKER pro tempore. The gentleman from Georgia is recognized on the question of privilege.

Mr. LEWIS of Georgia. Mr. Speaker, I want to join with my colleagues to strongly protest France's actions in the South Pacific. I am pleased that France has stopped testing its nuclear weapons. But I must say—it is too late. The damage has been done.

France ignored the pleas of the governments and people of the South Pacific and throughout the world. We live on this planet together. We share its bounty. These are our oceans, our land, our people. We must respect each other.

President Chirac did not listen to the groans and moans, the hopes, the dreams and the aspirations of those who are longing for a planet free of nuclear waste, free of nuclear destruction, free of nuclear poison. This man—this President of France and his government—refused to listen to the community of nations.

And now, he wants to come to our house. To the people's house. President Chirac, our people do not support nuclear testing. Our people do not support radiation in the waters. Our people do not support a government that ignores the community of nations.

Six times, France has poisoned our earth. Six times, nuclear poison has seeped into the waters of this little planet. This poison remains with each and every one of us.

If France truly wants to atone for its wrongs, they must apologize to the people of the South Pacific. They must join with them to right the wrongs, to help heal the environment, to help heal the hurt.

As France's actions demonstrate, nuclear testing should be banned from this planet forever. We must never again engage in this desolate deed. It is time to evolve to another level, to a better world where we lay down the tools of poison and destruction and respect the community of nations.

Nuclear testing is obsolete. Nuclear testing is evil. To paraphrase the words of Mahatma Gandhi, "Noncooperation with evil is as much a moral obligation as cooperation with good."

So I cannot be silent. I cannot close my eyes to France's deeds.

I know France is our ally, but even with our good friends, we must have the courage to say that a wrong is wrong. We must have the courage to do what is right. I don't know about any other Member, but for me and my house, I will not be seated here tomorrow when Mr. Chirac comes to this House.

The SPEAKER pro tempore. Are there other Members that wish to be heard?

Before recognizing the gentlewoman from Texas [Ms. JACKSON-LEE], the Chair would remind Members if they speak on this to confine their remarks to the issue of the question of privilege under rule IX rather than on the pros and cons of the policy they are speaking about, but confine your remarks simply to the question of privilege.

The Chair recognizes the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise to speak on the privileged resolution of the gentlewoman from Hawaii.

Mr. Speaker, I think that rule IX in particular speaks to the integrity and collective impact on this body.

Mr. Speaker, I respect the people of France as I do all of our world citizens, and I also know that there is some good to nuclear testing.

I think, Mr. Speaker, that we recognize that over the past decade, the international community has agreed that nuclear-weapon testing is a practice that must be ceased for the good of both humanity and Mother Earth. As evidence, the nations of the world are currently in Geneva negotiating the Comprehensive Test Ban Treaty. Additionally as early as 1985, the countries of the South Pacific Forum negotiated and signed the Rarotonga Treaty establishing the South Pacific Free Zone.

Mr. Speaker, this body has invited many individuals to be at the helm and provide insight and information to this august body, this Nation, and, of course, the American people. It is a responsibility of this body to ensure that factual information is exuded from this body. And I believe that in allowing this leader to come, it goes against the factual basis of this country's standing on nuclear testing.

In spite of this international effort to end nuclear testing on our planet, the French Government, of which this leader will represent, chose to ignore the interests and the pleas of many Pacific nations and conduct its six full-scale detonations of its TN75.

Mr. Speaker, in light of this singularly egotistical decision, I believe that it is inappropriate for this body to invite President Chirac to speak before it. It is a question of presenting of the facts to the American people. His presence here only serves to defend, however subtly, these deplorable tests. I believe that although this Government did not vigorously speak out against these tests, we can now help to correct that error by giving symbolic support to our Pacific allies. Why should we be party to repairing the credibility of President Chirac when he has marginalized both the Pacific neighbors to these tests and the international community?

Mr. Speaker, I think it is important that we in this body have the responsibility to uphold the laws of this land, the policies of this land, and the policies of this land have been to date that we have not supported nuclear proliferation or the testing of nuclear weapons.

□ 1715

For this body's integrity to stand as under rule IX and privileged resolutions, I would say to you that we have the responsibility to disinvite this President, for this impacts the collective integrity of this body.

It should be noted also, Mr. Speaker, that although President Chirac has decided to stop the nuclear tests, it was hardly due to respect for any nation other than his own. Before the tests even began, he stated France, and France only, would, indeed, conduct six to eight tests, and the gentleman has been good to his word.

Mr. Speaker, this is an honorable institution and under rule IX I think it is our responsibility again to preserve its integrity. I would ask that the privileged resolution be considered and, of course, accepted by this body, and that we uninvite President Chirac in order to maintain the collective responsibility of the United States House of Representatives.

Mr. Speaker, I respect the people of France as I do all of our world citizens. I also know there is some good in nuclear technology. Mr. Speaker, over the past decade, the international community has agreed that nuclear-weapon testing is a practice that must be ceased, for the good of both humanity and Mother Earth. As evidence, the nations of the world are currently in Geneva negotiating the Comprehensive Test Ban Treaty. Additionally, as early as 1985, the countries of the South Pacific Forum negotiated and signed the Rarotonga Treaty, establishing the South Pacific Free Zone.

Yet, in spite of this international effort to end nuclear testing on our planet, the French Government chose to ignore the interests and pleas of many Pacific nations and conducted six full-scale detonations of its TN75 warheads.

Mr. Speaker, in light of this singularly, egotistical decision, I believe that it is inappropriate for this body to invite President Chirac to speak before it. His presence here only serves to defend, however, subtlely, these deplorable tests. I believe that although this Government did not vigorously speak out against these tests, we can now help to correct that error by giving symbolic support to our Pacific allies. Why should we be party to repairing the credibility of President Chirac when he has marginalized both the Pacific neighbors to his tests, and the international community.

It should be noted that although President Chirac has decided to stop the nuclear tests, it was hardly due to his respect for any nation other than his own. Before the tests even began, he stated that France would indeed conduct six to eight tests, and the gentleman has been good to his word.

Mr. Speaker, this is an honorable institution, let us preserve its integrity.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Do other Members wish to be heard?

Mr. FALEOMAVAEGA. Mr. Speaker, I would like to address the issue, the privileged resolution, before the body.

The SPEAKER pro tempore. The gentleman from American Samoa is recognized.

Mr. FALEOMAVAEGA. Mr. Speaker, as I have spoken earlier concerning the issue now before this body, the question of privilege, in terms of the tradition of the House and whether or not the President of France should be honored or be given the privilege of addressing a joint session of Congress tomorrow, as I speak, Mr. Speaker, as it is true with almost every young American learning about civics, the history of our Nation itself, how it was conceived, the fact that this Nation itself has a tradition of being a former colony of the British Empire, the fact that there are some very fundamental traditions that I think I can say without equivocation about what America stands for, the principles of democracy and human rights and all due respect for other human beings to live in their respective areas or regions, as I speak before my colleagues in this body, I notice there are only two murals or two picture frames that are part of the decor of our Chamber, and that of the great President, our first President of the United States, George Washington, and I see on the other corner of this Chamber a great leader, a great French patriot by the name of Marquis de Lafayette, a great patriot who supported wholeheartedly the cause of the American colony for its interests in wanting very much to be free from the shackles of British colonialism, and the fact that representation without taxation, as a principle, simply was not in order, and the fact that our country was conceived in blood, and we fought for those freedoms against British colonialism.

So I think in the spirit of tradition and what we talk about the great Lafayette that came and helped us tells us something about what it means to be a free human being, what it means to go against colonialism, what it means to believe in the principles of democracy, human rights, and the right of human beings to live. I think this is the core of the issue that is now before us, and the privileged resolution expressing this sense, strong sense, among the Members of this Chamber

that the Speaker ought not extend an invitation to the President of France to address us at a joint session tomorrow.

I support wholeheartedly the provisions of this resolution, and I ask my colleagues in this Chamber to help us by making this point. The point is that this man really did not have to permit six nuclear explosions, to do this nuclear testing, despite the fact of protestations of some 167 nations, 28 million people who live in the Pacific region, 200,000 of their own citizens in French Polynesia who also opposed the testing, and ironically of all, Mr. Speaker, 60 percent of the French people themselves did not want President Chirac to conduct this nuclear testing. It is an abomination. It is an outrage.

Mr. Speaker, I ask my colleagues, do not support the Speaker's invitation by allowing this man to address the Chamber tomorrow.

The SPEAKER pro tempore. Do further Members wish to address the question of privilege?

Mr. UNDERWOOD. Yes, I wish to address the privileged resolution.

The SPEAKER pro tempore. The gentleman from Guam is recognized.

Mr. UNDERWOOD. Mr. Speaker, as an American citizen and as a Pacific Islander, I must rise today in strong support of the privileged resolution offered by the gentlewoman from Hawaii [Mrs. MINK].

This resolution speaks to the issue of this body's integrity because of President Chirac's behavior, and in order to argue that President Chirac should, in fact, should be disinvited, we must analyze President Chirac's duplicitous and cynical behavior in the conduct of nuclear testing in the South Pacific.

A speech before a joint session of Congress is President Chirac's way of trying to win back the good graces of this body and of world opinion and to recover some very lost credibility. After he has ignored world opinion for over 4 months by proceeding with these series of tests, he does not deserve the honor of speaking before this body. Just days prior to their final nuclear test, thousands of miles from the French capital, France acknowledged radioactive waste was leaked, and in fact, frequently vented into the lagoon adjacent to the test site. Of course, this did not stop France from finishing their last test.

And now the French President wants this Congress as his audience. With the precedent of inviting someone responsible for a potentially major environmental disaster in the Pacific, you have to wonder who the congressional leadership will invite next. Can we expect to hear a joint session speech by the captain of the Exxon Valdez, the manager of Three Mile Island, or maybe we will have the opportunity to attend a joint session by the director the Chernobyl nuclear power plan.

I ask this body, I implore this body to support the privileged resolution offered by the gentlewoman from Hawaii.

The SPEAKER pro tempore. The Chair is prepared to rule. If there are others, the Chair will hear one more Member speak on this question.

The gentlewoman from North Carolina [Mrs. CLAYTON] is recognized.

Mrs. CLAYTON. Mr. Speaker, I will be brief, and maybe you can hear both of us. I will abbreviate my remarks.

I just want to join in strong support of the privileged resolution that is offered by the gentlewoman from Hawaii [Mrs. MINK] and also to say that the dignity and integrity of who we invite, who speaks from that well says volumes about what is important to us as Americans.

Americans have gone on record of not advocating the proliferation of nuclear testing, and yet the President of France has negated that altogether, although France itself has signed that treaty.

So I implore all of my Members and colleagues that this will say volumes about our integrity when we sign a treaty that we would honor that and certainly we should not give the well to someone who violated the treaty.

The SPEAKER pro tempore. Does the gentlewoman from Illinois desire to be heard on this issue?

Mrs. COLLINS of Illinois. Yes, I do, Mr. Speaker.

The SPEAKER pro tempore. The gentlewoman from Illinois is recognized.

Mrs. COLLINS of Illinois. Mr. Speaker, my concern, as was pointed out a few minutes ago, Lafayette over there was one who believed in justice and the fact that we would have a free country here or should have. I thought it was very interesting that it was the French, indeed, who sent us the Statue of Liberty, you know, the great symbol of freedom for our country.

Yet here is the President of that great country who has decided to do some nuclear testing. You know, we believe in fairness, but we believe in not having nuclear proliferation in our country, and to have that very President of that country to come before us in a joint session sends a message that we endorse what he did. We do not endorse what he did.

I think, therefore, that we should certainly follow and support the privileged resolution offered by the gentlewoman from Hawaii [Mrs. MINK]. I think it makes a great deal of sense to do so.

It seems to me we ought to disinvite the President; in fact, we urge the Speaker to disinvite, if he can, the President of France, because it is something that we do not want to be associated with.

The SPEAKER pro tempore. Do other Members wish to be heard?

The gentlewoman from Florida [Mrs. MEEK] is recognized.

Mrs. MEEK of Florida. Mr. Speaker, first of all, anyone who is within earshort of my words, we should strongly and vehemently oppose any visit by the French President Chirac.

We stand firmly to support the gentlewoman from Hawaii [Mrs. MINK] and her resolution which does not stand for anything extraordinary. It stands up for a clean environment. It stands for the health and safety of the residents of this country. It stands for honor among all the world's peoples, and to think that we are recognizing him as someone to come hear and address a joint meeting of Congress is, to me, really abominable and that we would allow that to happen. He should not be invited. We should put the strength of our voices against this by not even appearing here tomorrow and to show strength behind the resolution offered by the gentlewoman from Hawaii [Mrs. MINK].

Do not be discouraged. The way to take care of this is to boycott his visit. He will address this body. He has not thought about the human rights of this country. We have come a long way in that. He has not thought about our environmental concerns, how far we have come. We will not turn back. He has not thought about health and safety.

So he has been able to say this to the Pacific islanders, well, we will go ahead and run these tests on your shores. Think about it, it may be your shores next.

The SPEAKER pro tempore. Are there further Members who wish to be heard on the question?

The gentleman from New Jersey [Mr. PAYNE] is recognized.

Mr. PAYNE of New Jersey. Mr. Speaker, as a member of the International Relations Committee, I question the invitation to French President Jacques Chirac's address to the joint session of Congress on tomorrow.

I am strongly opposed to any nuclear tests in the South Pacific. The French have already conducted a total of 6 nuclear tests.

They have directly violated international law. The United States has ratified Conventions and Comprehensive Test Ban Treaties. Chirac's tests are contradictory to the codes outlined in the "Principles and Objectives for Disarmament."

This was adopted by the 1995 Review and Extension Conference of the Parties to the Treaty on Non-Proliferation of Nuclear Weapons.

We are living in a post-cold-war era. The United States and its allies have made a commitment to nuclear nonproliferation. France has breached the contract by not adhering to the moratorium.

On June 13, 1995, President Jacques Chirac ordered a series of nuclear tests in the South Pacific. This has outraged members of the international community.

Chirac is endangering the land on and above the French Polynesia's coral atolls. They have conducted approximately 187 nuclear detonations since 1966.

Radioactive materials from their tests have caused environmental damage.

The coral reefs in the sea and the bordering islands have been affected by the nuclear explosions.

Nuclear proliferation will not be tolerated in this post-cold war era. Despite many critical attempts to halt nuclear testing in the Pacific Basin by 166 nations, French nuclear testing remains.

The threat of nuclear exposure is a concern not only to the people of Pacific but to all of us in the international community.

We must curb the nuclear arms race with China, Iran, North Korea, and now even France.

Mr. Speaker, if we allow Chirac to come and speak to the Members of Congress, we will be saying OK to the nuclear arms race. We should not support this measure.

The SPEAKER pro tempore. Does the gentleman from Hawaii wish to address the issue on the question of privilege?

Mr. ABERCROMBIE. Yes, Mr. Speaker, I wish to address the question of privilege under rule IX of our rules.

The SPEAKER pro tempore. The gentleman from Hawaii is recognized.

Mr. ABERCROMBIE. Mr. Speaker, I take very seriously your admonition that we must address the question of privilege, that is to say, within the privileged resolution. That is what we must address here, is this a pertinent resolution to have before this House to be decided, not the merits or demerits of the proposition which may be under question? Am I correct that that is your admonition to us, Mr. Speaker?

The SPEAKER pro tempore. The gentleman is correct.

Mr. ABERCROMBIE. I thank the Chair.

I wish to address that quite directly, Mr. Speaker, because I believe that the issue under consideration as embodied in the privileged resolution most certainly is in order to be discussed, should we pass this privileged resolution, and the decision as to whether or not we should pass the privileged resolution and whether or not we should pass the privileged resolution and whether it is properly before us is yours to make.

I would like to argue, Mr. Speaker, as follows: That in the House rules and manual which the Parliamentarian has been kind enough to provide to me, there are numerous citations in here with respect to precedents as to the question of personal privilege, questions of privilege, in the absence of a quorum, et cetera.

□ 1730

But fundamentally and elementally what is before the Chair is as follows: The question of privilege shall be first those affecting the rights of the House collectively, its safety, dignity, integrity of its proceedings.

I do not think that is necessarily at issue here. Probably a rather abstract argument or intellectual argument could be made it is.

But I rest my case to the Chair on the second part, those affecting the rights, reputation, and conduct of Members individually in their representative capacity only.

Mr. Speaker, we have in the Pacific, aside from the representation with the capacity to vote on this floor existing in Hawaii, Members from Guam and American Samoa. In addition, we have certain jurisdiction over island groupings in the Pacific under the Department of the Interior.

Mr. Speaker, I maintain to the Chair and to the Members that the rights and reputation and conduct of Members individually in their representative capacity is seriously impaired if they cannot succeed in being able to make an argument to the floor Members assembled as to whether or not Mr. Chirac should be able to appear.

I do believe it is well within the boundaries, because those Members cannot vote on this floor. Their representative capacity is solely on the basis of being able to persuade us on behalf of the peoples of the Pacific that there are matters which require our attention. This privileged resolution is directed exactly at that issue. Questions about radioactivity, and so forth, would be discussed under that privileged resolution as to why an affirmative vote is sought.

So, Mr. Speaker, I most sincerely request your favorable ruling with respect to the question of privilege, and ask that it be allowed to be voted on, because this is the only way that the peoples of the Pacific, through their representatives, particularly from Guam and American Samoa, who do not have the right to vote on this floor, will be able to make a representation that they are otherwise obligated and required to do so by virtue of their presence here on the floor.

It is clear, it seems to me, given the massive implications of radioactive leakage in the Pacific with the numerous explosions that have taken place in these tests, that other than through this representation through the privileged motion, the desirability or undesirability of having Mr. Chirac speak will not be able to be adequately addressed, and it seems to me a very powerful argument can be made for that, should we be allowed to proceed.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The Chair is prepared to rule on whether the resolution of the gentlewoman from Hawaii [Mrs. MINK] presents a question of privilege under rule IX.

The Speaker has been authorized to declare a recess by order of the House to accommodate the joint meeting with the Senate in order to receive President Chirac. This standing order was established by unanimous consent on Friday, January 26, 1996. No objection was heard, and the Speaker was authorized to declare a recess to receive President Chirac.

If there had been objection by any Member to the appearance of President Chirac before a joint meeting of Congress, a resolution reported from the Committee on Rules and adopted by the House might have been required to establish the order for the joint meeting. As is customary for all joint meetings to receive foreign dignitaries and heads of state, the letter of invitation to President Chirac was not transmitted until both Houses had agreed to receive the invitee.

Procedures exist within the rules of the House to permit the House to vote on the authorization of joint meetings where objection is made to that arrangement. The Chair does not believe it proper to collaterally challenge such standing order of the House under the guise of a question of privilege.

As recorded on page 362 of the House Rules and Manual, on February 3, 1993, Speaker Foley ruled that a question of privilege could not be used to collaterally challenge the validity or fairness of an adopted rule of the House by delaying its implementation. In addition, as recorded on page 361 in the House Rules and Manual, a question of the privileges of the House may not be invoked to effect a change in the Rules of the House.

The gentlewoman's resolution would, in effect, constitute a new rule of the House restricting the issuance of invitations to future joint meetings, and, therefore, does not constitute a question of the privileges of the House.

Also, no question of personal privilege of individual Members under rule IX is involved at this time.

PARLIAMENTARY INQUIRY

Mr. ABERCROMBIE. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. ABERCROMBIE. Mr. Speaker, I hope I understood the Chair correctly. Did you indicate as part of your ruling that an objection would have had to have been made on January 26 of this year?

The SPEAKER pro tempore. An objection could have been made at that time to the unanimous-consent request.

Mr. ABERCROMBIE. Mr. Speaker, was the House in session? Were Members expected to be assembled or be able to be called to the House at that date? My recollection is we were in recess.

The SPEAKER pro tempore. As is customary, it was done at a time that had been requested for the program to be announced for the next week. When

the program was announced for the next week, that was when the unanimous-consent request was made.

Mr. ABERCROMBIE. Mr. Speaker, further parliamentary inquiry. I maybe did not understand correctly. Did the Chair say in reply to my question that the House was in session on January 26 and that this proposition was presented to the Members for their assent?

The SPEAKER pro tempore. The gentleman is correct.

Mrs. MINK of Hawaii. Mr. Speaker, I appeal the ruling of the Chair.

The SPEAKER pro tempore. The question is, Shall the decision of the Chair stand as the judgment of the House?

Ms. PRYCE. Mr. Speaker, I move to lay the appeal on the table.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Ohio [Ms. PRYCE] to lay on the table the appeal of the ruling of the Chair.

The motion to lay on the table the appeal of the ruling of the Chair was agreed to.

A motion to reconsider was laid on the table.

PARLIAMENTARY INQUIRY

Mr. ABERCROMBIE. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. ABERCROMBIE. Mr. Speaker, my distinct recollection is we were not in session on January 26. I just want to make sure for the record. Were the Members in fact here assembled on January 26? If they were not, I do not wish to get into a dispute with you, Mr. Speaker, but whether or not we could have made an objection or should have made objection I think does rest at least upon the practical possibility that we would have been in attendance here to be able to do that, if that in fact is the basis upon which the initial premise of your ruling was made. I am in no position to state for a fact whether we were here or not, because I am making the inquiry.

The SPEAKER pro tempore. The Chair would remind the gentleman that the House was in session on Friday, but the schedule was laid out on Thursday by the majority leader. The request was made on Friday along with other requests.

Mr. ABERCROMBIE. Mr. Speaker, was it a pro forma session?

The SPEAKER pro tempore. The gentleman is correct.

Mr. ABERCROMBIE. Mr. Speaker, further parliamentary inquiry then. Again, I hold the Speaker in the highest respect in this regard, but my information is that if it is a pro forma session, I receive a piece of paper which says that no business is to be conducted. If no business is to be conducted, I hardly think it is fair for the Chair to then state that I should be or any other Member should be expected to make objection, if that is our intent with respect to this particular issue. If I receive information that no business is to be conducted, I do not see how I could come to the floor then demanding that business be conducted.

The SPEAKER pro tempore. It has been customary in the past for these sorts of requests to be made and these unanimous-consent requests are done even on days when there are pro forma sessions. It has been customary in the past that those requests generally are taken up when the schedule is announced, generally in a colloquy with the minority leader or his designee and the majority leader, which was done on Thursday. These are things that have happened in the past on pro forma days.

Mr. ABERCROMBIE. Mr. Speaker, further parliamentary inquiry. Then it is also in order under the rules to bring a privileged resolution to the floor. Now, if we were not in session, even if I take your word for it, and I will for purposes of our discussion, I would hope you would grant me my good intentions as well. If I could have or someone else could have come to this floor and made such a representation as you indicate, I will accept that.

However, the rules also allow us to bring a privileged resolution to the floor at any time with the proper notice and to have it considered. One of the reasons or the principal reason that the Chair stated for turning down this privileged resolution offered by the gentlewoman from Hawaii [Mrs. MINK] is that it was not presented on January 26. From what the Chair just told me, it does not matter that it was not presented on January 26. It could have been presented on January 26, but it was not imperative that it be presented on January 26. So if that is the only reason, why can it not be presented today?

The SPEAKER pro tempore. The Chair regrets that the request was made on January 26, custom has done that in the past. This has been done, as has been customary in the House for many years.

Mr. ABERCROMBIE. Mr. Speaker, because it is customary does not mean it is within the rules. I made a parliamentary inquiry based upon the rules. It may have been customary, it may have been desirable, but it is not against the rules to present the privileged resolution today. You have not offered a reason then. Simply because it was customary does not mean it is against the rules. There is nothing substantive that you have offered that prevents this privileged resolution from being before us. I believe I am correct.

Mr. SOLOMON. Mr. Speaker, we are going to have to pursue regular order.

Mr. ABERCROMBIE. With all due respect, Mr. SOLOMON, I am doing my level best to maintain regular order.

The SPEAKER pro tempore. The gentleman will suspend. At this point, it is not in order to collaterally challenge the unanimous-consent order that has been entered the previous week, even though it was done on a pro forma day. Again, that was because of custom.

Mr. ABERCROMBIE. Our only recourse is to appeal?

The SPEAKER pro tempore. That has been done. The appeal has been laid on the table.

Mr. ABERCROMBIE. I thank the Speaker very much for replying to me. I find this line of response very, very unfortunate in terms of what the House should be about in terms of its business.

Ms. SLAUGHTER. Mr. Speaker, I rise today to join with my colleagues who have already expressed their concern and distress about France's nuclear testing, and President Chirac's visit to the United States.

With the end of the cold war and the recent ratification of START II, we have high hopes and have made great steps forward in stopping the proliferation of nuclear weapons. And, just when we were making real progress toward a permanent moratorium on nuclear testing, France embarked on a series of nuclear tests in the South Pacific. These tests not only damage the strides we are making to stop nuclear testing, but they have once again endangered the health and safety of Pacific islanders.

As the threat of nuclear proliferation continues, it does not make sense for the leaders of the world to engage in such reckless activities. The free world must lead by example. The example set by France is deplorable, and the United States should not directly, or indirectly, condone such actions.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed on Tuesday, January 30, 1996, in the order in which the motion was entertained.

Votes will be taken in the following order:

House Resolution 349, de novo; and

H.R. 2036, de novo.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

INTERSTATE TRANSPORTATION OF MUNICIPAL SOLID WASTE ACT OF 1995

The SPEAKER pro tempore. The unfinished business is on the question de novo of suspending the rules and agreeing to the resolution, House Resolution 349.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia [Mr. BLILEY] that the House suspend the rules

and agree to the resolution, House Resolution 349.

The question was taken.

Mr. BOUCHER. 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 150, nays 271, not voting 12, as follows:

[Roll No. 20]

YEAS—150

Abercrombie
Ackerman
Andrews
Baker (LA)
Baldacci
Ballenger
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Bono
Brewster
Browder
Bunn
Calvert
Canady
Cardin
Chambliss
Clement
Coble
Collins (GA)
Cramer
Cunningham
Davis
Deal
DeFazio
DeLauro
Deutsch
Diaz-Balart
Doolittle
Dunn
Edwards
Ehlers
Engel
Fields (TX)
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Furse
Gallegly
Ganske
Gejdenson
Gilchrest
Gillmor
Gilman
Goodling
Goss
Gunderson
Gutknecht
Hansen
Hastings (FL)
Hayes
Herger
Hobson
Hoekstra
Houghton
Hunter
Hyde
Jacobs
Johnson (CT)
Johnston
Kelly
Kennedy (RI)
Kennelly
Kim
King
Kleczka
Klug
Lazio
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Longley
Lowey
Luther
Manton
Martini
McCarthy
McCollum
McCrery
McDade
McHugh
McKeon
McNulty
Menendez
Metcalf
Mica
Miller (FL)
Minge
Molinari
Moran
Myrick
Nethercutt
Norwood
Oberstar
Oxley
Packard
Pallone
Pastor
Paxon
Payne (NJ)
Peterson (FL)
Peterson (MN)
Quinn
Ramstad
Rangel
Reed
Riggs
Rogers
Ros-Lehtinen
Roukema
Sabo
Sawyer
Saxton
Schaefer
Schumer
Shaw
Shays
Smith (MI)
Smith (NJ)
Solomon
Stearns
Tauzin
Taylor (NC)
Thomas
Thurman
Torricelli
Upton
Vento
Waldholtz
Walker
Walsh
Weldon (FL)
Weldon (PA)
White
Whitfield
Wilson
Wolf
Wynn
Young (AK)
Zimmer

NAYS—271

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bishop
Blute
Boehner
Bonilla
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bunning
Burr
Burton
Buyer
Callahan
Camp
Campbell
Castle
Chabot
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clinger
Clyburn
Coburn
Coleman
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooley
Costello
Cox
Coyne
Crane
Crapo
Cremeans
Cubin
Danner
de la Garza
Dellums
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Dornan
Doyle
Dreier
Duncan
Durbin
Ehrlich
Emerson
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (LA)
Flanagan
Foglietta
Ford
Frank (MA)
Frost
Funderburk
Gekas
Gephardt
Gibbons
Gonzalez
Goodlatte
Gordon
Graham
Green
Greenwood
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Hancock
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Heineman
Hilleary
Hilliard
Hinchey
Hoke
Holden
Horn
Hostettler
Hoyer
Hutchinson
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kennedy (MA)
Kildee
Kingston
Klink
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Leach
Levin
Lewis (CA)
Lewis (GA)
Lincoln
Lofgren
Lucas
Maloney
Manzullo
Markey
Martinez
Mascara
Matsui
McDermott
McHale
McInnis
McIntosh
McKinney
Meehan
Meek
Meyers
Mfume
Miller (CA)
Mink
Moakley
Mollohan
Montgomery
Moorhead
Murtha
Myers
Nadler
Neal
Neumann
Ney
Nussle
Obey
Olver
Ortiz
Orton
Parker
Payne (VA)
Pelosi
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Radanovich
Rahall
Regula
Richardson
Rivers
Roberts
Roemer
Rohrabacher
Roth
Roybal-Allard
Royce
Rush
Salmon
Sanders
Sanford
Scarborough
Schiff
Schroeder
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (TX)
Smith (WA)
Souder
Spence
Spratt
Stark
Stenholm
Stokes
Studds
Stump
Stupak
Talent
Tanner
Tate
Taylor (MS)
Tejeda
Thompson
Thornberry
Thornton
Tiahrt
Torkildsen
Torres
Towns
Traficant
Velazquez
Visclosky
Volkmer
Vucanovich
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weller
Wicker
Williams
Wise
Woolsey
Yates
Young (FL)
Zeliff

NOT VOTING—12

Bryant (TX)
Chapman
DeLay
Filner
Flake
Geren
Johnson (SD)
Morella
Owens
Rose
Stockman
Wyden

□ 1806

Ms. PRYCE of Ohio, Mrs. VUCANOVICH, and Messrs. GEKAS, ROTH, DICKEY, MOAKLEY, MCDERMOTT, PARKER, WATTS of Oklahoma, COMBEST, ISTOOK, DORNAN, CRANE, BATEMAN, and PAYNE of Virginia changed their vote from "yea" to "nay."

Mrs. LOWEY and Messrs. BEVILL, BAKER of Louisiana, HASTINGS of Florida, ENGEL, HOBSON, YOUNG of Alaska, and WALSH changed their vote from "nay" to "yea."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

LAND DISPOSAL PROGRAM FLEXIBILITY

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The unfinished business is the question de novo of suspending the rules and passing the bill, H.R. 2036, 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 Virginia [Mr. BLILEY] that the House suspend the rules and pass the bill, H.R. 2036, as amended.

The question was taken.

RECORDED VOTE

Mr. MARKEY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 402, noes 19, not voting 12, as follows:

[Roll No. 21]

AYES—402

Abercrombie
Ackerman
Allard
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
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bunn
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (IL)
Combest
Condit
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLauro
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (LA)
Fields (TX)
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary

Hilliard
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Meehan
Meek
Metcalf
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Murtha
Myers
Myrick
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Parker
Pastor
Paxon
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
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
Stokes
Studds
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
Waldholtz
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—19

Andrews
Bunning
Collins (MI)
Conyers
DeFazio
Dellums
Evans
Gejdenson
Hinchey
Johnston
Markey
McKinney
Menendez
Nadler
Pallone
Payne (NJ)
Sanders
Schroeder
Yates

NOT VOTING—12

Bryant (TX)
Chapman
DeLay
Filner
Flake
Geren
Jacobs
Johnson (SD)
Morella
Rose
Stockman
Wyden

□ 1817

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.

PRIVILEGES OF THE HOUSE—KEEPING THE HOUSE IN SESSION TO CONSIDER BILL REGARDING DEBT CEILING TO AVOID DEFAULT OF FULL FAITH AND CREDIT OF THE UNITED STATES

Ms. JACKSON-LEE of Texas. Mr. Speaker, pursuant to clause 2(a)(1) of rule IX, I hereby give notice of my intention to offer a resolution which raises a question of the privileges of the House.

Mr. Speaker, the form of the resolution is as follows:

H. RES. —

Whereas the inability of the House to pass a bill to raise the public debt limit will cause the Federal Government to default on its obligations and affect the dignity and integrity of House proceedings; and

Whereas the inability of the House to pass a bill to raise the public debt limit will cause severe hardship on Federal employees, Federal contractors, and the American people and cause millions of American citizens to hold the House in disrepute: Now, therefore, be it

Resolved, That upon the adoption of this resolution, the Speaker of the House shall take such action to keep the House in session until the House considers a clean bill regarding the debt ceiling to avoid default of the full faith and credit of the United States.

Mr. Speaker, I hereby give notice with some 40 cosponsors from around the Nation for this privileged resolution.

The SPEAKER pro tempore (Mr. HASTINGS). 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 its being properly noticed. That designation will be announced at a later time. In the meantime, the form of the resolution proffered by the gentlewoman from Texas will appear in the RECORD at this point.

The Chair is not at this point making a determination as to whether the resolution constitutes a question of privilege. That determination will be made at the time designated for consideration of the resolution.

PARLIAMENTARY INQUIRY

Mr. FIELDS of Louisiana. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. FIELDS of Louisiana. Mr. Speaker, I was trying to hear the ruling of the Chair, if the Chair would be so kind, because the last two or three sentences of his ruling I did not understand because the House was not in order.

The SPEAKER pro tempore. I will repeat the last part of that for the gentleman.

The Chair is not at this point making a determination as to whether the resolution constitutes a question of privilege. That determination will be made at the time designated for consideration of the resolution.

Mr. FIELDS of Texas. And what time is that, may I ask, Mr. Speaker?

The SPEAKER pro tempore. The Chair will announce that when the Speaker makes his determination.

CONFERENCE REPORT ON H.R. 2546, DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1996

Mr. LINDER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 351 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 351

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 2546) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1996, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore. The gentleman from Georgia [Mr. LINDER] is recognized for 1 hour.

Mr. LINDER. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Texas [Mr. FROST], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 351 provides for consideration of the conference report for H.R. 2546, the District of Columbia appropriations bill for fiscal year 1996, and waives all points of order against this bill. This rule provides for the orderly consideration of this conference agreement and will facilitate its consideration. Normal procedures of the House allow for 1 hour of general debate divided equally between the chairman and ranking minority member of the Committee on Appropriations.

Finally, House rules provide for a motion to recommit with or without instructions as is the right of the minority.

Mr. Speaker, the appropriations process is clearly more difficult when you attempt to pass fiscally responsible legislation. The District of Columbia appropriations conference report will not satisfy everyone and does not cut

as much spending as many of us would have liked, but I am hopeful that the President will sign this commonsense bill which will move us closer to restoring the District's fiscal health.

Mr. Speaker, this bill will stem the fiscal crisis that the District has created. The gentlelady from the District of Columbia has stated that we all have a duty to help raise our Nation's capital out of its fiscal crisis, and I believe that this bill fulfills that obligation. The District must now restore fiscal sanity and create a more efficient and productive Capital City for its residents and all Americans.

The conference report provides a total appropriation of $4.99 billion for fiscal year 1996. In addition, the conferees have included a number of legislative provisions that will ensure that a few specified activities are achieved by the local government.

I am particularly pleased that the bill includes reforms that are imperative to the revival of the D.C. school system. The conference agreed to include low-income scholarships of up to $3,000 that qualified students could use to attend private schools in the District. The conference also designates $15 million dollars in order to repair deteriorating schools and produce an acceptable environment for our children's education. Representative GUNDERSON deserves high praise for his persistent efforts to reform the District's school system.

Mr. Speaker, given the size and population of the District, it is difficult to argue that a bill that provides this city with about $5 billion dollars is not generous. For those who still believe this bill is unfair, consider this: the Federal per capita spending equals about $9,000. I would argue that no other city in America receives so much Federal funding and has so many mismanaged and inefficient services to show for it.

Nonetheless, the District shamelessly comes to us with yet another exorbitant wish list for funding. The House has been very charitable in preserving home rule, but we have a constitutional duty to keep the District's budget in balance. To fulfill this obligation, Congress will appropriate funds for the District and set the fiscal and policy parameters. The Financial Authority will then provide guidance for a sound financial operation. We are giving the District a golden opportunity with this bill to prove that it can control spending in a disciplined and competent manner. It is a fiscally responsible solution that is more than generous and the District cannot expect any better.

I certainly hope that the District will be held accountable for the expenditure of this funding by the District Financial Management Assistance Authority which has been tasked to quickly implement commonsense money management. We are all aware of the apprehension that remains about the District's ability to govern itself competently, and I hope that we can agree that this bill is a proper vehicle to drive the District into an era of financial stability.

This is a city that has been wasting other people's money for an awfully long time and has wanted unconditional freedom in doing it. The city has reached a point where it cannot pay its bills, protect its streets, or even plow its streets, for that matter. While the bill may not go as far as many would like, the House needs to pass an appropriations bill to keep the District going.

The conferees, under the leadership of Chairman JIM WALSH, have worked well to balance an assortment of concerns, including home rule, and made difficult choices with the limited funding available this year. As is the case with the other appropriations bills, the product of their work reflects the Nation's new budget realities. While we currently do not have a Balanced Budget Act with tax relief and entitlement reform, we will continue to move toward our goal as a Nation to spend within our means.

This fiscal emergency requires drastic action, and the conference report is designed to insure, once and for all, that the available funding is spent efficiently and where it is needed most.

Mr. Speaker, this rule was favorably reported by the Rules Committee. I urge my colleagues to support the rule so that we may complete our work on the District's 1996 funding and start the process of restoring the District's financial health.

□ 1820

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

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

Mr. Speaker, I rise in strong opposition to this rule and to this conference report. I oppose this rule because the text of this conference report has only a few minutes ago been made available to the Members of this body. I do not think it would be too much to ask to allow interested Members the opportunity to fully study the conference report, especially if it still contains far-reaching language relating to the creation of a multimillon-dollar school-voucher program in the District of Columbia.

Mr. Speaker, we are scheduled to be here tomorrow, so why not take up this bill at that time? Is our schedule so full tomorrow that we cannot fit an hour's debate on this conference report into the floor schedule for Thursday? It seems that if we are going to consider this conference report at all before the month of March, we must do it today since the Republican leadership is so bent on taking a 3-week vacation starting tomorrow afternoon. Mr. Speaker, this procedure is not fair to the residents of the District of Columbia and it is not a responsible way to legislate.

But, in addition to my opposition to considering this conference report before the Members have had an opportunity to study its contents, I am opposed to the conference report itself. If the information that is available to me is correct, this report still contains language which creates a school voucher program. I have been and I remain opposed to the use of Federal funds for school vouchers. While the conferees have attempted to cloak the creation of a voucher program in the District of Columbia in a veil of respectability, the fact is that these provisions would ultimately allow the use of Federal funds to pay tuition at private schools. Mr. Speaker, that is a provision I cannot support and for that reason I will oppose this conference report.

Mr. Speaker, this appropriation is not a place to practice the social engineering of the Republican right. Instead, what this appropriation is for is to provide the District with critically needed funds that will allow the city to serve its citizens. It is time that the Republican majority stop trying to impose its social agenda on this city and to act in the best interests of its residents. I urge my colleagues to oppose this rule and to oppose this conference report.

Mr. MOAKLEY. Mr. Speaker, on January 25, 1996, during the debate on House Resolution 342, Representative HOYER asked me, in reference to "martial-law" rules, whether or not this kind of rule has ever been proposed prior to June 30 of any legislative year in the history of the Congress. My response was, no, it has never been proposed before June 30. Martial-law rules are multipurpose rules clearing the way for the House to act quickly on a broad range of legislative measures by stating that certain of the standing rules will not apply for a specified period of time, usually the few remaining days at the end of a session. If this were the end of the session, House Resolution 342 would be a typical example of a martial-law rule.

At one point late in the debate, Representative MCINNIS, who managed the rule for the majority, recited a list of rules that waived clause 4(b) of rule XI—requiring a two-thirds vote to consider a rule on the same day it is reported from the Committee on Rules—and that were reported prior to June 30 by the Rules Committee during the 103d Congress. He made the statement that these rules were all reported before June 30 of each session of the Congress and were no different from House Resolution 342. He is correct in his statement only with regard to the fact that these rules were reported before June 30 in each session and that each contained a two-thirds waiver but that is where the similarities end. There are indeed major differences between the resolutions he cited and House Resolution 342.

I believe my friend, the gentleman from Colorado, can clearly see the differences between the rules on his list and House Resolution 342. Those on his list are single purpose rules

waiving the two-thirds requirement for same-day consideration for one specifically identified measure and the waiver usually lasted 1 day and never more than 2 days. Representative HOYER was referring to martial-law rules when he spoke of House Resolution 342 as "a rule which allows for 1 day of consideration of matters." The word "matters" is plural. The 103d Congress never waived the two-thirds rule against a rule that covered multiple bills before June 30 in either year. House consideration of this rule is indeed setting history or a new precedent because it has never been done before. Having reviewed the Rules Committee surveys of activities from the 98th Congress through the 103d, I can say with assurance, the House has not once considered a martial-law rule this early in the session. I also made clear in my response to the gentleman from Colorado that we were referring to multiple bill waivers—martial-law rules—and not single purpose rules like those he recited.

The following summary and accompanying chart will clarify and shed further light on the distinct and important differences between those single-purpose rules and House Resolution 342.

First, House Resolution 342 provides for consideration of an unlimited number of separate and distinct bills or resolutions within three subject categories. The rules, recited by Mr. MCINNIS, were all single issue resolutions providing in each instance for only one specific bill or resolution. The authority granted by each of the rules could be used only one time and not over and over as is the case with House Resolution 342.

Second, the duration of the authority provided in each of these rules was for only 1 day in six of the rules and not longer than 2 days in the other two rules. House Resolution 342 provides authority for the extremely long and unnecessary period of 51 days, from January 25 through March 15.

Third, of those rules that were reported before June 30 during each of the two sessions of the 103d Congress, only four: House Resolution 61, House Resolution 142, House Resolution 395, and House Resolution 441 were considered by the House. The other four rules were either tabled—House Resolution 111, House Resolution 150, House Resolution 153—or not used by the effective date contained in the rule—House Resolution 356. All four rules considered by the House were effective for 1 day only. In one of the rules, House Resolution 395, the waiver of the two-thirds rule was combined with a general debate provision for the bill so the House could continue its consideration of the bill the following day.

Finally, in all four instances where the House considered and voted on the two-thirds waiver, my colleagues on the other side of the aisle opposed the waiver and voted against the rule. Now that they are responsible for conducting the business of the House they embrace the idea and are willing to take it to new and historic levels. The House has passed five martial-law rules since November 15, 1995, and will be operating under the authority of these five rules with regard to budgetary legislation for a period of 4 months, from November 15, 1995 until March 16, 1996. The combined result of this prolonged authority makes the long standing House rule against same-day consideration of rules of little effect. The purpose of the two-thirds rule is to allow for adequate notice to Members before a bill comes to the floor. A review of all the budgetary bills considered by the House during this period reveals a disturbing trend. Almost all have been considered under the martial-law authority. I only hope that this rule will be the last instance of martial-law and that this type of rule does not become the management tool of choice for the majority during the remainder of the second session.

RESOLUTIONS WAIVING CLAUSE 4(B) OF RULE XI REPORTED BEFORE JUNE 30

H.R. 61.—Family and Medical Leave Act.—reported from Rules 2/3/93; adopted 2/4/93 (239–155); no limit on duration. (However, H.Res. 71, the rule providing for consideration of H.R. 1, Family and Medical Leave Act, was considered and adopted on 2/4/93 making the effective duration only one day.)

H.R. 111.—Emergency Unemployment Compensation—reported from Rules 3/3/93; tabled 3/9/93; effective one day (3/4/93). NOT USED

H.Res. 142—H.Con.Res. 64—Concurrent Resolution on the Budget—reported from Rules 3/30/93; adopted 3/31/93 (248–171); effective one day (3/31/93).

H.Res. 150.—H.R. 1335—Emergency Supplemental Appropriations—reported from Rules 4/1/93; tabled 10/27/93; effective two days (4/2/93–4/3/93). NOT USED

H.Res. 153.—H.R. 1335—Emergency Supplemental Appropriations—reported from Rules 4/21/93; tabled 10/27/93; effective one day (4/22/93). NOT USED

H.Res. 356.—H.R. 3759—Emergency Supplemental Appropriations—reported from Rules 2/9/94; pending; effective two days (2/10/94–2/11/94). NOT USED

H.Res. 395.—H.R. 4092—Violent Crime Control and Law Enforcement Act—reported from Rules 3/22/94; adopted 3/23/94 (240–174); effective one day (3/23/94). This rule provided for general debate and next day consideration of a subsequent rule for H.R. 4092.

H.Res. 441.—H.R. 4426—Foreign Operations Appropriations—reported from Rules 5/24/94; adopted 5/25/94 (246–174); effective one day (5/25/94).

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

Mr. LINDER. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. WALSH. Mr. Speaker, pursuant to House Resolution 351, I call up the conference report on the bill (H.R. 2546) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1996, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Pursuant to House Resolution 351, the conference report is considered as having been read.

(For conference report and statement, see prior proceedings of the House of today.)

The SPEAKER pro tempore. The gentleman from New York [Mr. WALSH] and the gentleman from California [Mr. DIXON] each will be recognized for 30 minutes.

The Chair recognizes the gentleman from New York [Mr. WALSH].

GENERAL LEAVE

Mr. WALSH. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on the conference report on the bill, H.R. 2546, and the amendment in disagreement, and that I be permitted to include a tabulation summarizing the conference agreement.

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

There was no objection.

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

Mr. Speaker, this evening we have before the House the conference agreement on H.R. 2546, the District of Columbia Appropriations Act for Fiscal Year 1996. The bill passed the other body on September 22, and passed this House on November 2. We had five meetings with our Senate counterparts, including one at 10 o'clock this morning, as well as numerous other meetings in our efforts to work out the differences between the House and Senate versions of this bill.

In the meantime, we provided funding to the District government through continuing resolutions under which a portion of the Federal payment was paid to the city. Under these CR's, $441 million of the $660 million annual Federal payment has been disbursed. These funds were placed in the Control Board's hands with half of the money going back to the U.S. Treasury to repay last year's loan to the District.

On January 3, I introduced a CR that allows the District to continue operating through September 30 using its own local funds. That CR passed the Congress and was signed by the President on January 4. Even though this bill has been pending in conference, the District and Control Board have had the authority as well as a substantial part of the Federal payment to continue operations.

Mr. Speaker, this conference agreement provides the District government with a budget of $4.994 billion—that is an enormous sum of money for a population of 554,000—over $9,000 for every resident. For that kind of money the District residents should be receiving the highest quality city services in America.

The latest revenue estimates for fiscal 1996 made by the District's new chief financial officer are now $4.848 billion, which is $150 million below our conference agreement on expenditures of $4.994 billion. Our amount is only a cap on spending, so we are expecting that the Control Board will make the

necessary reductions in expenditures to match that revenue estimate. Had we accepted the city's budget of $5.148 billion, we would now be looking at a $300 million deficit.

The Financial Control Board has been in place for about 7 months and I am confident they are headed in the proper direction to bring the District government back from the brink of financial insolvency brought about by 20 years of home rule and 15 years of unrestrained spending. I fully support what they are doing and look forward to the 4-year financial plan and recommendations they will be sending to the Congress.

Mr. Speaker, there were numerous items that we resolved early in the conference—but some of the issues were extremely difficult.

First, on the abortion issue, the conference agreement provides that no Federal or local funds shall be used to perform abortions except to save the life of the mother or in cases of rape or incest. This language has been signed into law by the President in the continuing resolutions that have passed this Congress over the past few months. The Senate bill reflected current law which restricted the use of Federal funds only.

On domestic partners, the Senate language prohibited the use of only Federal funds to implement or enforce the District's Domestic Partners Act. The conference agreement continues current law which prohibits the use of both Federal and local funds.

In the past few months there has been a great deal of discussion about local efforts to reform city operations. The school board is considering reducing their generous salaries and even introducing some privatization to their operations and management. The local governments are considering making Blue Plains Wastewater Treatment Plant a regional authority. City departments involved with economic development and planning are looking to consolidate and eliminate duplication. These initiatives were set in motion by this year's appropriations bill and our strong encouragement.

In order to bring about additional change in the District, our committee identified 28 items of concern which were referred to the Control Board. We have asked the Control Board to resolve those items and report back by April 1, 1996. I believe that both the financial and management problems of this city must be addressed in tandem. Improving city management is a No. 1 priority. For example, we have requested management assessment studies to improve the delivery of services especially in the areas of trash collection, school and office maintenance, and police, fire and ambulance maintenance, and deployment.

What is needed is action and results now.

The District government spends over $5 billion a year for city services. The city's per capita cost for education, safety, trash collection, aid-to-families with dependent children, job training, homelessness, and substance abuse appear to be the highest in the Nation. We have asked the Control Board to seek out the best management and operating practices of other cities and introduce them into the District government to improve operations.

So Mr. Speaker, the most contentious issues discussed at our conference meetings involved reforming the District of Columbia's failing public school system. This conference agreement culminates a year of debate, discussion, and negotiation from the local school level to the Congress regarding the amount, shape, and pace of education reform necessary in the District of Columbia.

One of the items I am most proud of is the low-income scholarship program. This program will provide many of the District's most needy children with the opportunity to receive a first-rate education. I believe we need to begin educating tomorrow's city leaders today. The scholarship program provides up to $3,000 that can be used by students to attend private schools in the District as well as public or private schools in the surrounding jurisdictions. It will give these kids and their parents a choice they have never had. This will also, in my opinion, be the catalyst that is needed to transform the District's public schools into better educational institutions. To meet the early objections posed by the other body to the school reform proposals, we have provided the city council with final approval of the program, but I am confident the city council will support this program. In fact, the council's committee on education unanimously supported parent choice. I quote from a letter the council's committee sent to our colleague from Wisconsin:

> The Committee embraces the creation of a federally funded scholarship program that would assist low-income parents in enrolling their children in * * * the school of their choice in the District of Columbia.

So Mr. Speaker, I would urge all Members including our colleagues on the other side of the aisle to pass this conference report and help the residents of this District.

I would like to thank the members of the subcommittee for their hard work on this bill.

I want to especially thank the full committee chairman, the gentleman from Louisiana [Mr. LIVINGSTON] for his extraordinary efforts on this bill. He took time to participate in our markups and meetings while still tending to other important appropriation matters.

Each of these members is to be commended. I also want to thank the House and Senate staff as well as my personal staff for their hard work and their assistance.

Mr. Speaker, at this point in the RECORD, I will insert a tabulation summarizing the conference action.

FY 1996 DISTRICT OF COLUMBIA APPROPRIATIONS BILL (H.R. 2546)

	FY 1995 Enacted	FY 1996 Estimate	House	Senate	Conference	Conference compared with enacted
TITLE I						
FISCAL YEAR 1996 APPROPRIATIONS						
FEDERAL FUNDS						
Federal payment to the District of Columbia	660,000,000	660,000,000	660,000,000	660,000,000	660,000,000	
Federal contribution to retirement funds	52,070,000	52,070,000	52,000,000	52,000,000	52,070,000	
Federal contribution for education reform					14,930,000	+14,930,000
Total, Federal funds to the District of Columbia	712,070,000	712,070,000	712,000,000	712,000,000	727,000,000	+14,930,000
DISTRICT OF COLUMBIA FUNDS						
Operating Expenses						
Governmental direction and support	(131,077,000)	(150,721,000)	(149,793,000)	(150,721,000)	(149,130,000)	(+18,053,000)
Economic development and regulation	(149,858,000)	(142,711,000)	(139,285,000)	(142,711,000)	(140,983,000)	(-8,875,000)
Human resources development	(87,752,000)					(-87,752,000)
Public safety and justice	(902,466,000)	(960,747,000)	(954,106,000)	(960,747,000)	(963,848,000)	(+61,382,000)
Public education system	(832,303,000)	(800,080,000)	(788,983,000)	(800,080,000)	(795,201,000)	(-37,102,000)
Education reform					(14,930,000)	(+14,930,000)
Human support services	(1,542,648,000)	(1,859,622,000)	(1,845,638,000)	(1,859,622,000)	(1,855,014,000)	(+312,366,000)
Public works	(279,627,000)	(297,568,000)	(297,326,000)	(297,568,000)	(297,568,000)	(+17,941,000)
Financing and other		(269,654,000)				
Washington Convention Center Fund	(12,850,000)		(5,400,000)	(5,400,000)	(5,400,000)	(-7,450,000)
Repayment of loans and interest	(306,768,000)		(327,787,000)	(257,787,000)	(327,787,000)	(+21,019,000)
Repayment of general fund recovery debt	(38,678,000)		(38,678,000)	(38,678,000)	(38,678,000)	
Short-term borrowing	(5,000,000)		(9,698,000)	(9,698,000)	(9,698,000)	(+4,698,000)
Pay renegotiation or reduction in compensation			(-46,409,000)	(-46,409,000)	(-46,409,000)	(-46,409,000)
Optical and dental benefits	(3,312,000)					(-3,312,000)
Pay adjustment	(106,095,000)					(-106,095,000)
D.C. General Hospital deficit payment	(10,000,000)					(-10,000,000)
Rainy day fund	(22,508,000)	(4,563,000)	(4,563,000)	(4,563,000)	(4,563,000)	(-17,945,000)
Job-producing economic development incentives	(22,600,000)					(-22,600,000)
Cash reserve fund	(3,957,000)					(-3,957,000)
Incentive buyout program			(19,000,000)	(19,000,000)	(19,000,000)	(+19,000,000)
Outplacement			(1,500,000)	(1,500,000)	(1,500,000)	(+1,500,000)
Boards and Commissions		(-500,000)	(-500,000)	(-500,000)	(-500,000)	(-500,000)
Government reengineering program			(-16,000,000)	(-16,000,000)	(-16,000,000)	(-16,000,000)
Personal and nonpersonal services adjustments	(-13,632,000)		(-148,411,000)	(-11,264,000)	(-165,837,000)	(-152,205,000)
Sec. 138(a) reduction in FY 1995 expenses	(-140,000,000)					(+140,000,000)
Total, operating expenses, general fund	(4,303,867,000)	(4,485,166,000)	(4,370,437,000)	(4,473,902,000)	(4,394,554,000)	(+90,687,000)
Capital Outlay						
General fund	(94,238,000)	(62,562,000)	(62,562,000)	(-22,810,000)	(62,562,000)	(-31,676,000)
Enterprise Funds						
Water and Sewer Enterprise Fund:						
Operating expenses	(275,576,000)	(243,853,000)	(193,398,000)	(243,853,000)	(242,253,000)	(-33,323,000)
Capital outlay	(23,354,635)	(39,477,000)	(39,477,000)		(39,477,000)	(+16,122,365)
Total, Water and Sewer Enterprise Fund	(298,930,635)	(283,330,000)	(232,875,000)	(243,853,000)	(281,730,000)	(-17,200,635)
Lottery and Charitable Games Enterprise Fund	(192,068,000)	(229,950,000)	(229,907,000)	(229,950,000)	(229,950,000)	(+37,882,000)
Cable Television Enterprise Fund	(2,654,000)	(2,351,000)	(2,469,000)	(2,351,000)	(2,351,000)	(-303,000)
Sports Commission (STARPLEX)	(6,392,000)	(6,580,000)	(8,637,000)	(6,580,000)	(6,580,000)	(+188,000)
D.C. General Hospital	(143,920,000)	(115,034,000)	(-2,487,000)	(115,034,000)	(58,299,000)	(-85,621,000)
D.C. Retirement Board		(13,440,000)	(13,417,000)	(13,440,000)	(13,440,000)	(+13,440,000)
Correctional Industries	(7,642,000)	(10,516,000)	(10,048,000)	(10,516,000)	(10,516,000)	(+2,874,000)
Washington Conventional Center Enterprise Fund	(19,541,000)	(37,957,000)	(37,957,000)	(37,957,000)	(32,557,000)	(+13,016,000)
D.C. Financial Responsibility and Management Assistance Authority		(3,500,000)	(3,500,000)	(3,500,000)	(3,500,000)	(+3,500,000)
Total, Enterprise Funds	(671,147,635)	(702,658,000)	(536,323,000)	(663,181,000)	(638,923,000)	(-32,224,635)
Total, District of Columbia funds	(5,069,252,635)	(5,250,386,000)	(4,969,322,000)	(5,114,273,000)	(5,096,039,000)	(+26,786,365)
Total, title I, fiscal year 1996 appropriations:						
Federal Funds to the District of Columbia	712,070,000	712,070,000	712,000,000	712,000,000	727,000,000	+14,930,000
District of Columbia funds	(5,069,252,635)	(5,250,386,000)	(4,969,322,000)	(5,114,273,000)	(5,096,039,000)	(+26,786,365)

□ 1845

But I am confident the city council will support it. In fact, the council's committee on education unanimously supported parental choice in schools, and I quote from a letter from the council's committee to our colleague from Wisconsin, the gentleman from Wisconsin, Mr. GUNDERSON: "The committee embraces the creation of a federally funded scholarship program that would assist low-income parents in enrolling their children in the school of their choice in the District of Columbia."

So, Mr. Speaker, I would urge all Members, including our colleagues on the other side of the aisle, to pass this conference report, to help the residents of this District.

I would like to thank the members of the subcommittee for their hard work on this bill, and I would remind my colleagues that this is going to be very difficult, a very difficult bill to pass. There is enough in this bill to make everybody angry. It is a compromise bill, but overall, it is the best bill we could bring to the floor. It is a good bill, in my estimation, and it begins the reforms that are needed in this most important of all American cities.

There is a special relationship here between the Congress and the city, and we need to enhance that relationship. We are spending a little bit more money this year than we did last year, about $15 million, but it is for one purpose, to reform these schools. Most of the money will go to the private school system, but it will also provide for educational choice and for charter schools.

Mr. Speaker, lastly, let me commend my colleagues on the subcommittee and my distinguished ranking member, the former chairman of the subcommittee, the gentleman from California [Mr. DIXON], for working through this very, very difficult bill.

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

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

Mr. Speaker, first of all, I too would like to commend the chairman of the subcommittee for doing what I consider a good job under extraordinary circumstances, and thank the staff of the subcommittee for their fine efforts.

Mr. Speaker, let me give the body a little bit of history here as to what is really happening with the D.C. bill. First of all, it is no secret that it is the smallest of the 13 appropriation bills, and when the District got home rule there was a Federal payment that was worked out in lieu of the District paying property taxes. This year that amounts to $660 million.

At the same time that we provide this Federal payment, there has been a philosophical move nationally to provide vouchers or, as some people would describe it, to make it a purr word instead of the snarl word scholarships, and the majority of this House have decided they would try this out on the District of Columbia.

On the other side of the Capitol in the Senate, the Senate would not go along with this issue, and since both Houses have passed the bill, and for some 65 or 70 days it has been the issue of vouchers that has held this up. Because we did not have a bill for the District, there was a continuing resolution, and one way to put pressure on this issue was to dribble out the Federal payment so that at some point in time the District would have to say "uncle."

As a matter of fact, the last continuing resolution that passed here, the chairman of the committee saw fit not to include any of the $250 million that is still owed the District in the Federal payment, because you see, that puts more pressure on to get this bill out so they can get the money and, therefore, in fact the voucher system stands a better chance.

Now, as it relates to my participation in any of the negotiations, I do not think anyone on the committee would disagree that I have had none, zero. And when the chairman of the committee says that, in fact, they have reached an agreement, what he means is that the House majority, the Republicans, and the Senate majority under Mr. JEFFORDS, that they have reached an agreement, and as a matter of fact, when we met at 10 o'clock this morning, the agreement that was presented to us was not in its final version until such time as we took a vote. The chairman on the Senate side was kind enough to wait until the document arrived in the room before we took a vote on it.

When I began to raise questions about some of the things that I had been informed that had been agreed to last night, the chairman of the committee, Mr. JEFFORDS, informed me that that part, part of that, had been changed this morning. Now, I point that out to say that I think the chairman of the subcommittee spoke incorrectly as he related to describing the vouchers.

It is my understanding, Mr. Speaker, of the vouchers, that the $5 million that is dedicated to the vouchers, that that voucher proposal, and I am really asking at this point because I am not sure, that that voucher proposal, one, would allow for vouchers to be used only in the District of Columbia, but what I would describe as the tutorial program, the bill is silent as to where those people would go for tutorial services and, therefore, it is my understanding at this point that the voucher itself cannot be used outside of the District, contrary to what you made in your State.

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

Mr. DIXON. I yield to the gentleman from New York.

Mr. WALSH. Mr. Speaker, I thank the gentleman for yielding.

It is my understanding that the priority, the priority for spending of the vouchers is within the District, and I might add that the priority for spending is in the District. There may be, it may be used outside of the District, but the priority is within the District, but the scholarship board will work with the District council to determine how much of that is used for tutorial and remedial programs and how much of it is used for vouchers.

Mr. DIXON. Reclaiming my time, I thoroughly understand that the scholarship corporation would, in fact, disburse the money in a manner it saw fit. But I think that Members that are watching can see that the gentleman from Wisconsin [Mr. GUNDERSON] is not clear on it. I do not think the staff is clear on it.

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

Mr. DIXON. I yield to the gentleman from Wisconsin.

Mr. GUNDERSON. Mr. Speaker, I appreciate the gentleman yielding.

What I was trying to do was find the exact bill language that I might read to you.

Under the conference agreement, the scholarship board shall propose the allocation of scholarships.

Mr. DIXON. I understand that.

Mr. GUNDERSON. That shall be approved by the council, so the scholarship board has no authority to disburse this money as they see fit.

Mr. DIXON. I say to the gentleman from Wisconsin [Mr. GUNDERSON], it is my time. I understand all of that. I am asking the question: Can a voucher be used outside of the District of Columbia?

Mr. GUNDERSON. It can be, but there is a priority within the District. The reason we did not totally exclude it is because there are going to be some kind of special needs students that are already served outside of the District.

Mr. DIXON. Let me reclaim my time and say to the gentleman that I certainly admire the hard work and energy that he has put into this. Obviously the gentlewoman from the District is on the floor. That was not her understanding of it at the beginning. But since we are on the voucher system, let me say that probably since it allows for the voucher outside of the District, that most of the vouchers would be applied outside of the District.

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

Mr. DIXON. I yield to the gentleman from New York.

Mr. WALSH. Just briefly, there are, as I think my colleague is aware, there are a number of children in the District with special needs, and the District, it is necessary for the District to have these kids taken outside of the District

so that those special needs can be met. They cannot meet them within the public school system of the District. So we have to keep these available for those children.

Mr. DIXON. Is the gentleman saying, and I hope since we are having this dialogue that you will be kind enough to yield me some time, are you saying then, is it only the kids that have special needs, that is, a categorical group that will take the voucher outside the District?

Mr. WALSH. If the gentleman will yield further, as I understand it, no.

Mr. DIXON. So my point is that with the voucher system, I dare say that most of the vouchers would be exercised outside the District.

The reason I say that, Mr. Speaker and Members, is because according to the information that I have obtained, there are only 51 private schools in the District, as I indicated in the Committee on Rules. The maximum that a person with 185 percent above the poverty level could receive is $3,000, unless they had some other supplemental help, and I do not know at this point where that would come from. That would mean that there are only seven schools in the District that have tuition of $3,000 or less. The average is from $6,000 to $12,000. Six of those seven are religious schools.

So I would guess from that, since it allows the person to take the voucher anywhere they want to, that because there are very few schools in the District that have the low tuition, then most of that would be used outside the District. But most importantly, as it relates to this voucher system, there are some 80,000 children in the school district, and I am not here defending the District of Columbia School System, but I know for a fact that 50,000 students would be eligible for some form of scholarship, and if you take half of that money and apply it to scholarships and the other half to tutorial programs, it would work out that 1,500 to 2,000 students would probably be helped in one form or another if they could find a school that would take their voucher.

But what about the 97 percent of the rest of the schools? We are putting $5,000 of Federal money in here to demonstrate what, I do not know. Private schools, under certain circumstances, can do a good job. Those circumstances are usually a strong parental support for a zest for education. As a matter of fact, the State of Wisconsin has a voucher system, and the testing has shown that those kids that have received the voucher, that this is no substantial difference in the testing of the ones in the public schools and the ones in private schools under the voucher. But there is a substantial difference between those students that voluntarily went to the school, and I would suggest to you that it has a lot to do with the kind the family support, the kind of transportation, the kind of environment that that person lives in, and, yes, under certain conditions, you can do very well.

So for this first year in putting $5 million of Federal money into it for 1,500 to 2,000 people, in my estimation, does not prove a thing, and so I am going to oppose this conference report this evening.

I understand that those people who want to vote for it, who feel that the District needs the money, I understand that. It has been the level that has been applied here for Federal payment that on its merits the District deserves and should be provided to them without this kind of blackmail.

There is no doubt that there is a financial crisis, and unfortunately that works to the benefit of those who would hold this as a lever over their head.

But I would ask Members to vote "no" on this conference report, for as hard as the gentleman from Wisconsin, Mr. GUNDERSON, has worked and the good things that Mr. JEFFORDS feels about the Commission and the activities of this chairman, they too, I would suggest to you, do not have the key in the 2 or 3 months in putting together legislation that is going to cure the deplorable conditions of this school district.

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

Mr. WALSH. Mr. Speaker, I yield 3 minutes to the distinguished chairman of the authorizing subcommittee of the Committee on Government Reform and Oversight.

Mr. DAVIS. Mr. Speaker, first of all, I just want to thank the appropriations subcommittee chairman, the gentleman from New York [Mr. WALSH], and the gentleman from California [Mr. DIXON], the chief minority member of the committee, for their work on this, working with the Senate.

This has been one of the more difficult appropriation bills this year. It has had a lot of contention in it. It is not a perfect bill as it comes here, but it is a bill that I can stand up here and proudly support.

It is going to give the District of Columbia the money needed. They have been faced with shutdowns and no Federal payment, and the result of that has been that a number of vendors who have been performing in good faith contractual obligations to the city have been stiffed for payments, sometimes delayed for months, because the city has not had the money to pay them.

This will help free that up. This will help allow the city to go ahead with its plans for its reinventing government proposals and put them, for the rest of the fiscal year, on a fair and even basis.

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I congratulate the fiscal restraint that is shown in this bill by the gentleman from New York [Mr. WALSH] in writing this. I think it strikes a delicate but essential balance between what the city's obligations are and what they ought to be able to pay with a reasonable appropriation.

Let me also say that the act brings some reforms that are needed to the District of Columbia Government. We talked about some of the restrictions in spending. You have heard the discussion center on education.

Let me say right now the District of Columbia today is sending literally thousands of kids out to the suburbs to private schools to be educated. Many of these, as my colleague from New York noted, are individuals and students with special needs. This will expand that opportunity now to the poorest citizens in the District of Columbia, those who are below the poverty line, who would like to have the same kind of educational opportunities that are offered throughout the rest of this country, the same kind of educational opportunities, if you will, that Members of Congress and the President and the Vice President are able to offer their kids who have the opportunity to send their kids to the District of Columbia public schools, but decline to do so, and in lieu of that send their kids to private schools.

The poorest of the poor, those below the poverty line, there is a pool of money here that will allow those parents to operate for private schools in some cases and have some seed money, up to $3,000 annually to be able to do that. The city currently is spending over $9,000 per year per student, yet the output in terms of the number who are graduating, their test scores, going on to college, I think you could deem the public school system in the city today a miserable failure.

This proposal also calls for the establishment of charter schools. I think this is very, very important, because it will allow groups like the Smithsonian and other groups to set up charter schools which will offer opportunities to citizens from the District of Columbia to come in and get other options for education to encourage them to move up. If we really want to help this city, bring the city out of poverty, reduce crime, education is the key to doing that. The current educational system is not doing that.

This bill does not solve that problem, but it goes a long way toward that goal by starting some innovation and some competition within the public sector. I think that is essential.

I would finally add it is not a perfect bill in many ways, but this is a good bill, and one that I am proud to support at this point. I urge my colleagues to do the same.

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

Mr. Speaker, I do not want to belabor the point. The gentleman from Virginia [Mr. DAVIS] says this is a good

bill. I honestly do not know how he knows that, because I do not think he knows what is in it.

But I would like to ask the chairman of the subcommittee, it is my understanding that there are two classes of scholarships in this bill. One is called a tuition scholarship, and the other is called an enhancement scholarship.

My question was whether you could take the tuition scholarship outside of the District? I thought the gentleman said yes, you could, and he used the example of children with special needs as one example. Then I questioned is it only that class that could, and the gentleman's response was no. Then I went on talking about I thought that most of them would go outside the District then. Is that in essence it?

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

Mr. DIXON. I yield to the gentleman from New York.

Mr. WALSH. Mr. Speaker, I strongly would disagree with that. As I understand the way the bill is written, there is priority for use of all these funds within the District of Columbia first. If all of the spaces available are taken up within the District of Columbia, after that is accomplished, then the money would be available outside.

Mr. DIXON. Mr. Speaker, reclaiming my time, calling attention to page 160 of the bill on line 10, which indicates tuition scholarships, a tuition scholarship may be used only for payment of the cost of tuition and mandatory fees and transportation to attend an eligible institution, emphasis added, located within the geographic boundaries of the District of Columbia.

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

Mr. DIXON. I yield to the gentleman from Wisconsin.

Mr. GUNDERSON. Mr. Speaker, what we tried to point out earlier is that the scholarships generally do both have a priority for District of Columbia. There are two kinds of scholarships, a tuition scholarship and an enhancement scholarship.

Mr. DIXON. I said that a moment ago.

Mr. GUNDERSON. Mr. Speaker, if the gentleman will continue to yield, the tuition scholarships, as the gentleman read, can only go within the boundaries of the District of Columbia under the conference agreement. The other scholarships can go anywhere. But those are public school scholarships.

Mr. DIXON. Mr. Speaker, reclaiming my time, that was just my point. I asked the chairman of the subcommittee whether one could take the tuition scholarships and send that scholarship outside the District. He said yes, and he gave the illustration of one of the examples, a kid with special needs. I asked him was that the only example, and he said no.

My only point is that there is a great deal of confusion as to what is in this bill. Contrary to what everyone is talking about that it is a good bill and it has all this in it, I do not think anybody really knows, including the chairman, who I think his statement was wrong.

Mr. WALSH. Mr. Speaker, if the gentleman will yield further, there was a good deal of effort in the drawing up of this bill to make sure that the District had some local control. There is leeway within the legislation for the District and the Scholarship Board.

Mr. DIXON. Mr. Speaker, reclaiming my time, this is not leeway. This is very clearly that you cannot take, which is good, the voucher out of the District when you are dealing with what you call a tuition scholarship. The tutorial thing, after school, you can take it any place. But if you are to get a voucher to go to school, you can only use it in the District. I think that is good. But it has been misstated here on the floor, plus the people who drafted the bill, they do not know what is in it. That is my only point.

Mr. Speaker, I yield 4 minutes to the gentleman from Wisconsin, Mr. OBEY the distinguished minority member of the committee.

Mr. OBEY. Mr. Speaker, first of all, let me simply say I have heard many a time Members take the floor of this House and object to the fact that the District of Columbia Government often did not seem to know what it was doing. At times I certainly have shared that perception. I know that imitation is the sincerest form of flattery. But with all due respect, I think certainly on something which is such a major departure from existing law, the Congress ought to know what it is doing. Very frankly, on this issue, it does not.

I walked into the meeting of the conference this morning. We voted on this package. But up until the moment that we voted, I had not seen a single page of the legislative language, and neither had the gentleman from California. I think that is a quaint way to do business.

I have several objections to this bill. First of all, I am going to vote no because I do not believe that we should be adopting 168 pages of new language without at least having had the opportunity to analyze it, and we certainly did not.

Second, this bill is going to be used as a national precedent. And as soon as this bill is passed we are then going to see organizations with an ideological agenda who will begin to pressure each and every school district in the country to follow the same model. With all due respect, I think if we are going to create that kind of a precedent, at least again we ought to know what it is we are doing. I doubt that many Members do tonight.

Third, this Congress has already cut well over $6 million in Federal funds for the District of Columbia school system in the Labor-HEW bill. Yet, despite the fact we are squeezing down that money, we are asking that $5 million from a reduced budget level be set aside for this new experiment. As the gentleman from California has already indicated, even though there are about 50,000 youngsters who will be eligible for this experiment, less than 2,000 will probably be able to participate.

I think the precedent which is going to be set and the pressures which will then be brought upon State legislatures and Members of Congress to apply this all over the country, I think is a very high price to pay based on the kind of tokenism which this provision provides.

So while I have a great deal of respect for many of the people involved, and I have full confidence they are trying to do the right thing, I would simply suggest that this is a very high price for each of our school districts to pay to begin this tiny experiment here in the District of Columbia, and certainly the process which has been followed in bringing this product to the floor tonight does a disservice to each and every Member in this House and to the public we are supposed to represent.

Mr. Speaker, I would respectfully urge a "no" vote on the proposition when we get to the vote.

Mr. WALSH. Mr. Speaker, I yield myself 1 minute to respond to some of the other comments made earlier.

Mr. Speaker, we have worked on this bill now since almost a year ago this time. We had at least a dozen hearings. We had four or five meetings on the conference itself. The gentleman from California says he was not included in any of the discussion. That is not entirely true. He made some suggestions in other aspects of the bill that were heard and in fact actually compromised in honor.

But the issue of education here, what in God's name are you afraid of? The kids in this school system are being abused. We are trying to create some options for parents who do not have them now. Rich people can afford to go to private schools. Middle-class people who save their money can have that choice, too. Poor people do not have that choice. This is about providing kids a hand up and a handout and an opportunity to become leaders in this community, a community sorely in need of leaders.

Mr. Speaker, I yield 5 minutes to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Speaker, let me begin by thanking the gentleman from New York [Mr. WALSH] and his staff for their cooperation, and the gentleman from California [Mr. DIXON], and his staff, and the gentlewoman from the District of Columbia [Ms. NORTON], for their patience.

Let me begin by saying the confusion you heard about the tuition versus the enhanced educational scholarships is my fault. To Mr. WALSH's credit, he looked at me for assurance, and I miscommunicated with him. I want everybody to understand, blame me for that.

Having said that, I want to also make it clear that Mr. WALSH, for the first time in this debate, just mentioned the words "school children." Somehow in this whole debate we have lost sight of the very purpose we are here for, which is to try to help the children of the District of Columbia.

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

Mr. GUNDERSON. I yield to the gentleman from California.

Mr. DIXON. Mr. Speaker, first of all, as I indicated to the gentleman, I have the greatest respect for the gentleman and his activities in this area. I just think the gentleman is off on the wrong foot.

More importantly, I mentioned the school kids very clearly. I said there were 80,000, 50,000 of whom would be eligible, but only about 1,500 to 2,000 could be funded. Do not characterize the debate as no one talking about the kids.

Mr. GUNDERSON. Mr. Speaker, reclaiming my time, I would say the gentleman mentioned the word "children" and would also say the gentleman from New York [Mr. WALSH] is the only one that said let us talk about what is good for the children of District of Columbia rather than what is good for the bureaucracy or the teacher's union or somebody else.

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The gentleman from Wisconsin [Mr. OBEY], my colleague and friend, suggested that what we are going to establish here today is a national precedent. Know what? I hope he is right. I hope he is right, because I would suggest this is the first time in America where we have sat down and, first and foremost, at the request of the gentlewoman from the District of Columbia [Ms. NORTON] we have gone to the community and listened to those people and asked them what they thought we ought to do. Based upon their suggestions, literally hundreds if not thousands of them, we put together what I would like to believe is the most comprehensive education reform initiative that Congress has ever considered.

First and foremost, it is the first time that I know of where we have designed a system, a delivery system recognizing we do not have the public resources. We do not have them in this Congress, and they do not have them in the District of Columbia to pay for everything that needs to be done to help these children. So we have designed a system that gets the private sector to come in and provide additional money, additional scholarship money, additional foundation money, additional help to fix the school buildings, additional help to provide the technology.

The fact is, under this education reform initiative, what my colleagues are going to vote for tonight is a proposal that provides $96 million in new Federal funds for the D.C. school system at a time in which we are balancing the budget. It also is going to result in a foundation matching that $96 million over 5 years with 96 million additional dollars. We project that the private sector will provide $36 million in new technology assistance grants to provide the computers and the technology equipment these students from these schools need to learn.

Then we project that there will be $100 million in bona fide donations to the District of Columbia schools repairing those facilities and making them workable and learnable again. Add all of that up, and what do we have? We have 328 million new dollars for D.C. children over the next 5 years.

Know what? At a maximum, if the D.C. Council approves it, up to 10 percent of that money could end up in private schools. Not a penny could be used for religious instruction.

So tonight, the Republicans are bringing those who support increased funds for public schools, increased resources for public schools, we are bringing a proposal that not only does real comprehensive reform, but it does so through the public schools of D.C. for the children of D.C. I encourage its support and its approval.

Mr. WALSH. Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

Mr. DIXON. Mr. Speaker, may I inquire as to how much time I have remaining?

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The gentleman from California [Mr. DIXON] has 11 minutes remaining, and the gentleman from New York [Mr. WALSH] has 13½ minutes remaining.

Mr. DIXON. Mr. Speaker, I yield 6 minutes to the gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Speaker, as we approach the fifth month of the fiscal year, the appropriation of the District has finally come to the floor. This is the first time in more than 200 years that the D.C. appropriation has been so late. The subcommittee was prepared to move much sooner, but a disagreement on vouchers has held the bill up until now. Because of the District's dire financial condition, I hope all will agree that we must do whatever is necessary to avoid similar delay in the future.

Mr. Speaker, I want to work even more closely with the gentleman from New York [Mr. WALSH], chairman, and the gentleman from California [Mr. DIXON], ranking member, on next year's appropriations to try to help prevent any similar delay.

Mr. Speaker, I want to thank the gentleman from Louisiana [Mr. LIVINGSTON] and the gentleman from Wisconsin [Mr. OBEY] for the extra hours of work this bill has required of them. I thank the gentleman from New York [Mr. WALSH], the chairman, and the gentleman from California [Mr. DIXON], the ranking member, who had the major responsibility for the hard work that has been done on this bill.

Very special thanks are due to Senator JEFFORDS, who worked hard for a compromise and is himself a volunteer in the D.C. public schools. The gentleman from Wisconsin [Mr. GUNDERSON], who is the author of the entire education reform package attached to this bill, of which vouchers is only a tiny part, deserves to be congratulated for exceptional service beyond the call of duty. The gentleman could not have spent more time or effort on the education package if his next election depended on it. Unfortunately, the gentleman from Wisconsin has decided to retire, taking with him his special talent and effectiveness for making real changes in a collegial fashion, the only way to assure that change sticks.

The original package of the gentleman from Wisconsin [Mr. GUNDERSON] was the result of countless hours of work with D.C. residents and officials. The gentleman's tough package of reforms and benefits demonstrates that real changes can indeed be produced on a home rule basis. The voucher provision that has held this bill up for 4 months was not in the original package designed in cooperation with District residents.

Mr. Speaker, this bill puts me in an awkward position because I do not support many of its provisions. At the same time, it is impossible for me to oppose the appropriation bill for my own city 4 months into the appropriation year, after consultation with the mayor.

I should note first that among the improvements in the bill are the domestic partners restriction and the abortion restriction. I do not support these provisions, but each has been improved over prior provisions that actually changed DC law.

The abortion provision was especially onerous. Its restrictions were worse than were placed on other jurisdictions. I appreciate that, however unacceptable, these two provisions are at least no worse than the strictures under which the District has historically suffered.

Like me, the mayor does not support the voucher provision that has been the subject of most of the contention. If I am in an awkward position, he of course is in an impossible position. Only 2-weeks ago, the District's financial position left residents, businesses and the Federal Government itself snowed in when the District could not get vendors in the midst of a blizzard.

The Congress shut down the District for a full week in November. During 4 months without an appropriation, the District's financial position has deteriorated.

The negotiations between the gentleman from Wisconsin, [Mr. GUNDERSON], and Senator JEFFORDS have improved the bill and left open the possibility that no tuition vouchers will occur.

If the scholarship board and the council cannot agree, no voucher program can go forward. This provision, vesting authority with local authorities, is cited by Mayor Barry in indicating his support for passage, if not for the specific provisions of this bill.

I am doubtful that the voucher program will go into effect at all. A court suit challenging the constitutionality of the voucher proposal is inevitable. For the first time in more than 200 years that we have been a nation, this bill would allow direct tuition payments to religious schools. The provision allowing for the vouchers to be vetoed at the city council does not cure the problem. For a court, the issue would be, is the voucher proposal allowing for the funding of religious schools unconstitutional on its face? I believe that it is.

Ironically, the voucher provision respects home rule with one hand and disrespects it with the other. The DC council has to approve the plan. Indeed, the council could approve programs, such as afterschool programs in private schools that are in keeping with existing law and practices, allowing public school funds to follow children to private schools for special purposes.

At the same time the scholarship board is anti-home rule. It is a Federal board with a token appointment by the mayor. The Speaker, minority leader and majority and minority leaders of the Senate are the appointing authorities for a local school entity. How is that for devaluation of power back to the localities?

Ultimately, the appropriations bill is perhaps the ultimate home rule bill. I have, therefore, consulted with District officials. Both the mayor and I, I repeat, oppose the voucher provision. He believes that the way to address that provision is through the home rule council provision in the bill.

The position of the District, therefore, is that the only way to bring any relief to the District, which is insolvent at this time, after months of great suffering, is to free its appropriation.

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

Mr. Speaker, I would like to thank the gentlewoman from the District of Columbia [Ms. NORTON] for her summation of this bill. No one knows how important this bill is to the District more than she does. She knows that the money is needed. She knows that the District is hard-pressed.

Mr. Speaker, I am sure I understand the difficult position that the gentlewoman is in, because there may be an issue or two in the bill with which she has a philosophical problem. But overall, I think she has some sympathy for us supporting this bill. She did not support it, I do not want to put words in her mouth, but I understand the dilemma that she has. I would say to my colleague, I am deeply concerned that if we do not get an appropriation conference report passed today, I think it would be very, very difficult for us to come back with a continuing resolution that authorized or appropriated any of this Federal money, at least for the foreseeable future. I know that would be a difficulty for the District.

We have to move on. The status quo is not acceptable. It is not defensible. I see this conference report as progress.

While, again, there are issues in here that everyone may not agree with, it is needed and it is necessary.

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

Mr. DIXON. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. COLEMAN], a member of the Committee on Appropriations.

Mr. COLEMAN. Mr. Speaker, I think it should come as no surprise to anyone when the gentleman says there are two classes of children. We have two classes of women in the bill: the rich, who can afford an abortion for a young teenager, and the poor, who, of course, cannot get one because if they need Federal help they cannot get it because of this bill.

So we recognize there is a difference there for young women. So we should not be surprised about the fact that the gentleman from Wisconsin [Mr. GUNDERSON] stands up and says that he hopes that this will be the new national thing that we are going to do.

Mr. Speaker, I want to know this. How many of the private schools are going to accept vouchers and take kids with learning disabilities, physical impairments, mental problems? How many of those private schools are going to take these special kinds of cases and special children that the public school are required to take? Are they going to take all of those?

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

Mr. COLEMAN. I yield to the gentleman from Wisconsin.

Mr. GUNDERSON. Mr. Speaker, I am glad the gentleman asked that question. We have total prohibition on any kind of discrimination, and we require that any private school has to take an academically representative group of students that apply.

Mr. COLEMAN. Mr. Speaker, reclaiming my time, academically representative. The gentleman has not answered the question.

The reality is that what we are doing here is picking and choosing and leaving all the rest of the children in the public school, and I know that is the goal of the Republican agenda. I am not too worried, I will tell the gentleman from Wisconsin [Mr. OBEY] that the rest of the country will follow this example because it will not work.

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

Mr. Speaker, I would say to the gentleman from Wisconsin [Mr. GUNDERSON], I am informed that the bill, as a matter of fact, allows private schools to screen out and deny admission to students on the basis of religion, disability, test scores, and behavior. That, in fact, the corporation encourages the private school not to do that. After the gentleman from Maryland [Mr. HOYER] speaks, we will come back and look at the specific language that says that.

Mr. Speaker, I yield 3 minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I rise today in reluctant opposition to this bill. However, I am pleased the conference report language contains language I offered during full committee markup. The language requests the District of Columbia Financial Responsibility and Management Assistance Authority to address in its March 1996 financial report and plan, first, how the District plans to restore funds removed from the Blue Plains budget and second, the timing for that restoration.

During fiscal year 1994, over $80 million dollars was transferred from the Water and Sewer Enterprise Fund. The Blue Plains budget falls within this fund. This substantial loss of funds had led to serious maintenance and plant operations problems at the facility.

According to the Environmental Protection Agency which recently inspected the facility, the plant is short of staff, maintenance, and chemicals. These shortages could potentially lead to a real threat of sewage flowing into the Potomac River. This can cause a serious threat to the ratepayers and suburban jurisdictions and have a devastating environmental impact on the region.

During its inspection, EPA found failure to pay vendors and contractors in a timely manner has resulted in contractors walking off their jobs at Blue Plains and vendors failing to make deliveries of chemicals or supply spare parts. This further hampers the plant's ability to operate and maintain plant equipment. Moreover, lack of preventive maintenance of and replacement parts for essential treatment process units has resulted in many units becoming inoperable and/or inaccurate.

According to EPA, the current level of staff has had a deleterious effect on plant operations: Shortages in the required number of engineers has restricted use of the plants ability to monitor the large number of environmentally sensitive processes, plan for necessary maintenance, and oversee ongoing construction projects.

In turn, EPA required the District to submit a short and long action plan demonstrating the city's ability to address current problems and how the city plans to meet its long term obligations.

The District submitted its plan to EPA on October 13. After a brief review of the plan, early indications are that the plans lay out proper activities, yet it is still uncertain how the District will be able to finance these activities and how the transferred funds will be returned in a timely fashion.

Current conditions at Blue Plains pose a health and safety threat to the sewage rate payers and residents of the metropolitan area who live downstream from the flow of untreated sewage. It poses a serious threat to the fragile environmental conditions of the Potomac, Chesapeake Bay, Anacostia, and Patuxent Rivers and the water life they support.

In order to prevent danger to life or environment, swift return of the funds is necessary so that the Blue Plains facility can return to operating in a more safe and efficient manner.

□ 1930

Mr. WALSH. Mr. Speaker, I yield 1 minute to the gentleman from Louisiana [Mr. LIVINGSTON], the distinguished chairman of the Committee on Appropriations.

Mr. LIVINGSTON. Mr. Speaker, I just want to take this opportunity to commend the distinguished chairman of the subcommittee, the distinguished ranking minority member, the gentleman from California, and all of the members of the subcommittee. I realize that my friend, the gentleman from California, is not entirely happy with this bill, but this, for my friends on the Republican side, is a good bill.

Members can always find reasons to vote against this bill: they do not represent the District of Columbia, they are back in California or the Midwest or the Northwest or the Northeast or wherever. The fact is, we are not going to get a better bill than this. This has gone through the process, through the hoops. There are reasons for conservatives to be happy, and there are reasons for moderates and liberals to be happy. The most important thing is that we are paying the bills for the District, and we are getting the District on a track toward downsizing their ever-increasing demands for more taxpayers' dollars.

This is a good bill. Let us put this to rest, and frankly, this will bring us closer to completing our appropriations process for fiscal year 1996. When this passes it will mean we only have four more bills on the appropriation cycle.

I urge my colleagues on both sides to vote for this bill.

Mr. WALSH. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia [Mr. KINGSTON], a member of the subcommittee.

Mr. KINGSTON. Mr. Speaker, I thank the gentleman from New York for yielding time to me.

Mr. Speaker, I will not speak to the details of this bill. We have been batting it around enough. I do want to speak to the spirit of the bill and the compromise that went into it.

We all knew when we went into this bill that Washington, DC, was in financial trouble. We all knew that Washington, DC, had to change. We all knew that the estimates that we had for revenues and taxes and savings based on past legislation never came through quite the way we guessed they would. We knew it would be difficult. Yet, somehow through this process, we have a bill together. Now it appears that folks on one side of the aisle do not like it because it is too conservative and folks on the other side of the aisle do not like it because it is too liberal.

Mr. Speaker, this bill gives $1.4 billion as a budget for the District. That is a lot of money for a city of 554,000 people, which is about 50,000 lower than it had 10 years ago. Because of the many problems they have had, people have moved out of it.

This bill reduces their spending about $150 million. We know on the committee we actually passed a bill at one time that had $260 million in savings, but we were unable to get that through the Senate and we were unable to move it through the floor. In anticipation of being unable to move it through the floor, we have changed that amount of money.

We have the Financial Control Board. It is something that I think is going to take many, many years to change the city around, but I have here a list of folks who are going to vote "no" because the spending level is too high and the changes do not go far enough. Yet, as I hear from this side of the aisle, you have a list of people who are going to vote "no" because the cuts are too much.

Mr. Speaker, I think in order to keep this process going, in order to not go through the continuing resolution route, this bill represents the best compromise. We will never have a perfect Washington, DC, bill. It is never going to be the way the liberals would write it, it is never going to be the way the conservatives would write it, but this is our best shot for a reasonable bill. I urge my colleagues on both sides of the aisle to vote "yes."

Mr. WALSH. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. RIGGS].

Mr. RIGGS. Mr. Speaker, first of all, I rise to salute my colleagues, the gentleman from New York [Mr. WALSH] and the gentleman from Wisconsin [Mr. GUNDERSON], for their excellent work on this legislation, and to urge my Democrat colleagues to support the conference report on the District of Columbia appropriations bill.

This is a good opportunity to put your vote where your rhetoric has been. In fact, we have heard repeatedly claims from this side of the aisle during this session of Congress that we Republicans are somehow antieducation. The District of Columbia appropriations bill, which includes the Gunderson package of educational reforms, is a very proeducation bill.

We are all part-time residents of the Washington, DC, area because of our congressional duties, so we have heard the horror stories about the District of Colombia public schools. For example, we have heard stories regarding the restrooms at the schools, so unsanitary that the kids refuse to use them. We have heard stories about classrooms going without textbooks, about students going without teachers or having to face a succession of teachers who are in the schools on a temporary or substitute basis.

Listen to what the Gunderson bill does. First of all, it creates public charter schools. It would allow the District of Columbia public schools to align with other educational facilities in the District of Columbia such as the National Science Foundation, the National Gallery of Art, the Library of Congress, to help establish these charter schools.

In addition, these charter schools would help restructure the existing public schools, allowing innovative principals and teachers to work with parents, students, and academic associations to overhaul a system that is failing our kids. Make no doubt about it, the District of Columbia public schools are failing our kids. They have the worst test scores of any school district, any urban inner city school district in the country, and only 56 percent of the kids in the District of Columbia public schools actually graduate. This is a good bill that brings education innovation and progress to the District of Columbia public schools.

You say you are for education. You say we are antieducation. Here is an opportunity to join together in a bipartisan fashion to improve these schools, and give all students in these schools some educational opportunity and a new lease on life.

Mr. WALSH. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Speaker, I just want to respond to the concerns of the ranking member, the gentleman from California [Mr. DIXON], earlier about where the scholarship money would go.

First of all, on page 160 of the bill, we require on line 8 that the corporation shall ensure an equitable distribution of scholarship funds to students at diverse academic achievement levels. On

page 172 of the bill, section 2927, we require that all eligible institutions participating in the scholarship program must be participating in all civil rights acts, including section 504 of the rehabilitation act.

Then we go on, on page 173, section 2928, children with disabilities, that any private school that participates in the scholarship program must meet all of the idea requirements here as determined by the District of Columbia Board of Education.

Finally, I would point out on page 177, the Department of Education at the end of 4 years must do a comparison, which includes a comparison of test scores between scholarship students and D.C. public school students of similar backgrounds and academic achievement.

Mr. WALSH. Mr. Speaker, I have no more requests for time, and I reserve the balance of my time to close.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The gentleman from California [Mr. DIXON] has 2 minutes remaining.

Mr. DIXON. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I will have a motion to recommit to strike the voucher section. Let me speak very fast. The gentleman from Wisconsin [Mr. GUNDERSON] says on page 160, line 6, he reads, and he reads part of the paragraph. The paragraph reads: "The corporation," now this is the person giving the scholarship, "The corporation shall attempt to ensure an equitable distribution of funds to students of diverse academic backgrounds," "shall attempt."

The other side of it is the recipient and the school. He reads, I guess, part of the section on page 172. Keep in mind that I said that a person could be turned down for religion, disability, test scores, or behavior. In short, the Civil Rights Act and the AIDS Discrimination Act say nothing about a kid being turned away for behavior or for test scores. I am correct, a school can turn down somebody for behavior. They can turn them down for test scores. Yes, the corporation shall attempt to make a distribution.

At the appropriate time I will be asking to return this bill for the purpose of striking this section. Perhaps we can write a better voucher plan. I am interested in the kids of this District, too. From one through six, I went to school here. I am interested in all of the kids, not the 1,500 that this voucher system would serve. At the appropriate time I will ask Members to vote aye on a motion to recommit.

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

Mr. Speaker, I will be brief. We stand here and fiddle while Rome burns all around us. It is time for action. The status quo that is the District of Columbia is no longer defendable. We need to move and we need to move now. You can see how difficult any change is. We are talking about minimal change, but this is all we could get, and it is a fight, but it is a worthy fight. The future of the kids of this city, is at stake.

We have an opportunity here to give them some positive options, give them some opportunity in life that they did not have before, and I just cannot understand why we would not take that action.

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

Mr. WALSH. I yield to the gentleman from California.

Mr. RIGGS. For a point of clarification, Mr. Speaker, I do not know if the ranking member is following our conversation, but I would like to clarify one more time for our colleagues that under the gentleman's proposal, and in particular the Gunderson provisions, it would permit low-income parents to choose a private school if they are dissatisfied with their child's public school.

So under that scenario, if a low-income family is dissatisfied with the education, the performance of the public school their child is attending, then they would have another option available to them. They would be able to choose a private school through the use of the scholarships or vouchers that are in the gentleman's bill?

Mr. WALSH. That is correct. That is what this is about, providing some choice to the parents.

Mr. Speaker, in conclusion, let me say, in our relationship with the District of Columbia, we need to pay them what we have promised. We need to make that formula payment. Basically, it is paying our rent for being in this district. This is the vehicle to do it. If we do not do it with this vehicle, I do not know if we will get it done.

Mr. METCALF. Mr. Speaker, I rise to address the House for 1 minute and ask permission to extend and revise my remarks.

It is time for Congress to recognize that school choice is a viable and legitimate option. This is not an issue of preferring either private or public schools, but who should have the fundamental right to choose what is best for their children.

For those who can afford it, school choice is already an option. In fact, an increasing number of parents, including the President, are sending their children to private schools. Unfortunately, this option is not available for the rest of us.

In the end, this is really about who is more capable of caring for children. If you believe government cares more about your children than yourself, then we should keep the status quo and make minor changes. However, if you have the best in mind for your children, why can't you determine what school your child attends?

School choice is about giving parents and their children access to quality education. In a time when many schools are deteriorating, we need to reform our education system and give parents choice.

Mr. SAWYER. Mr. Speaker, I rise today in opposition to the conference report. As a former mayor, I sympathize with the need for a city to have a set budget to work from. I greatly regret that Washington, DC, has had to wait this long. However, the conferees have made it impossible for me to support this legislation by including a voucher proposal that represents a radical shift in Federal education policy.

This voucher proposal poses as a locally controlled program, while it really holds hostage millions of dollars that could be used for children in the District schools to force the city council to accept vouchers that they have said they do not want. I see many problems with this voucher program. However, the one that I find most objectionable is the lack of provisions for an unbiased, scientific evaluation of the effects of this experiment.

This legislation is unclear on who evaluates the program. In one place the legislation seems to state that the corporation administering the voucher program evaluates itself. In another, the department evaluates the program, but only after 4 years, and is only required to take into account a limited amount of data. Test scores, graduation rates, and parental satisfaction are mentioned as criteria for evaluation, but not the education levels of the parents or information about the families. There is no provision that the schools that accept the scholarships must administer the same tests so as to provide comparable data. This bill does not even specify the need to examine the overall effect this program has on the D.C. public schools. I thought that was the whole reason for reform.

This is a broad-based experiment in children's lives and yet we are not even going to evaluate the results properly. That is unconscionable. For these reasons, and for all of the others mentioned by my colleagues, I must oppose this conference report.

Mr. CLAY. Mr. Speaker, with some reluctance, I rise to oppose the D.C. appropriations bill and to urge my colleagues to support the motion to recommit that will prevent the use of Federal funds for private school vouchers.

Here we are again, on the floor of the House debating an appropriations bill that should have been passed 4 months ago. But the Republican majority continues to mismanage the people's business, seeking to bootstrap their radical ideas to regular spending bills. And this D.C. appropriations bill is the latest egregious example of their scheme of legislative blackmail.

I commend my colleague from Wisconsin, Mr. GUNDERSON, for his good faith attempt to help the District of Columbia improve its public schools. The citizens of this city and their elected officials have embraced many of his ideas. But, they have categorically rejected the idea that public dollars should be siphoned off to finance private school education. And, yet this conference report ignores the expressed will of D.C. citizens because radical elements in the Republican Party insist that its their way or the highway. Those same elements have made clear their intent to destroy public education, and they are wiling to trample on the democratic rights of over one-half million U.S. citizens in order to gain a foothold in their war against public education. While this Capitol

Building is the seat of national Government, it is not the "big house" and the District of Columbia is not Jerry Falwell's plantation.

Isn't it ironic that the very people who complain about Federal intrusion into the affairs of local school districts, and other aspects of modern life for that matter, are fighting to impose a federally funded, federally mandated private school voucher plan on the District of Columbia? Rest assured, if they try to force that idea on my constituents they will be in for the fight of their political lives.

Mr. Speaker, by substantial margins the American people rate improvement of public education as their No. 1 priority. I urge my colleagues to reject this attempt to highjack Federal tax dollars that instead should address that priority.

The SPEAKER pro tempore. All time has expired. Without objection, the previous question is ordered.

There was no objection.

MOTION TO RECOMMIT OFFERED BY MR. DIXON

Mr. DIXON. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the conference report?

Mr. DIXON. I am, in its present form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. DIXON moves to recommit the conference report on the bill (H.R. 2546) to the committee of the conference with the instruction that the conferees amend the conference report to delete the following provisions: $5,000,000 for low-income scholarships under the heading "Federal Contribution for Education Reform", $5,000,000 for the District of Columbia Scholarship Corporation under the heading "Education Reform", and the entire text of "Subtitle N—Low-Income Scholarships" of Title II authorizing scholarships for low-income students.

The SPEAKER pro tempore. Under the rule, there is no debate on this motion. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. DIXON. 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 180, nays 232, not voting 21, as follows:

[Roll No. 22]

YEAS—180

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bishop
Boehlert
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Danner
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
English
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Horn
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)
Lincoln
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McHugh
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Minge
Mink
Moakley
Mollohan
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Ramstad
Rangel
Reed
Richardson
Rivers
Roemer
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stokes
Studds
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Wise
Woolsey
Wynn
Yates

NAYS—232

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehner
Bonilla
Bono
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
de la Garza
Deal
Diaz-Balart
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
Ensign
Everett
Ewing
Fawell
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Laughlin
Lazio
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McInnis
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Moran
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—21

Bryant (TX)
Chapman
DeLay
Dickey
Fields (TX)
Filner
Flake
Gephardt
Geren
Hayes
Largent
Leach
McIntosh
Oxley
Rose
Roukema
Smith (WA)
Stockman
Williams
Wilson
Wyden

□ 2003

Mr. GUTKNECHT and Mr. RADANOVICH changed their vote from "yea" to "nay."

Mr. BAESLER and Mr. PETERSON of Minnesota changed their vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). 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 211, nays 201, not voting 22, as follows:

[Roll No. 23]

YEAS—211

Abercrombie
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Christensen
Chrysler
Clement
Clinger
Collins (GA)
Cox
Crane
Crapo
Cremeans
Cubin
Davis
de la Garza
Deal
Diaz-Balart
Doolittle
Dornan
Dreier
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Ensign
Ewing
Fawell
Flanagan
Foley
Forbes
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk

Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gingrich
Gonzalez
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Heineman
Herger
Hobson
Hoekstra
Hoke
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Laughlin
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Manton
Manzullo
Martini
Matsui
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
McNulty
Metcalf
Mica
Miller (FL)
Minge
Molinari
Moorhead
Moran
Morella
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Packard
Parker
Pastor
Paxon
Pombo
Porter
Portman
Pryce
Quinn
Radanovich
Regula
Richardson
Riggs
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Shadegg
Shaw
Shays
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Solomon
Souder
Spence
Stearns
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (NC)
Thomas
Torres
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff

NAYS—201

Ackerman
Allard
Andrews
Baesler
Baldacci
Barr
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Boehlert
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Campbell
Cardin
Chenoweth
Clay
Clayton
Clyburn
Coble
Coburn
Coleman
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooley
Costello
Coyne
Cramer
Cunningham
Danner
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Duncan
Durbin
Engel
English
Eshoo
Evans
Everett
Farr
Fattah
Fazio
Fields (LA)
Foglietta
Ford
Fowler
Frank (MA)
Frost
Furse
Gejdenson
Gibbons
Gilman
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Hancock
Harman
Hastings (FL)
Hilleary
Hilliard
Hinchey
Holden
Horn
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
Klug
LaFalce
Lantos
Lazio
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney
Markey
Martinez
Mascara
McCarthy
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Meyers
Mfume
Miller (CA)
Mink
Moakley
Mollohan
Montgomery
Murtha
Myers
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pomeroy
Poshard
Quillen
Rahall
Ramstad
Rangel
Reed
Rivers
Roberts
Roemer
Roybal-Allard
Rush
Sabo
Salmon
Sanders
Sawyer
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Sisisky
Skaggs
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stump
Taylor (MS)
Tejeda
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Wise
Woolsey
Wynn
Yates
Zimmer

NOT VOTING—22

Bryant (TX)
Chapman
DeLay
Dickey
Fields (TX)
Filner
Flake
Gephardt
Geren
Hansen
Hayes
Largent
Leach
McIntosh
Oxley
Rose
Roukema
Smith (WA)
Stockman
Williams
Wilson
Wyden

□ 2021

Mr. ROBERTS changed his vote from "yea" to "nay."

Messrs. ZELIFF, BROWNBACK, and SCARBOROUGH changed their vote from "nay" to "yea."

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.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. HASTINGS of Washington). 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.

WHAT WOULD HAPPEN IF THE UNITED STATES OF AMERICA DEFAULTED?

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from the District of Columbia [Ms. NORTON] is recognized for 5 minutes.

Ms. NORTON. Mr. Speaker, the D.C. appropriation has just passed this House after 4 very arduous months. The concern that I have had all along relates to the financial condition of the District.

As I have seen what has happened to this city, I have not been able to keep from analyzing the situation of the District to the situation that the United States of America could find itself. The District, Mr. Speaker, courted default as it was running out of money. It did not know what to do or could not do what had to be done, and so a financial authority was appointed, and that authority was necessary in order for the District to be able to borrow.

As one contemplates the problems facing this body with a debt limit, one wonders what would happen if the United States of America got close to default.

I can say this to you, Mr. Speaker, there would not be any higher authority to take over the United States of America. We are the ultimate authority, and so I would hope that we all try to figure out how to make sure that we do not get any closer to the threat of default.

I wanted to talk about the threat of default for a moment. The District, for example, has heard in the last couple of days from the bond ratings that they still do not believe that the District will rise again, and they are considering lowering the District's bond rating yet again. What trembles and shakes that has sent through the District of Columbia. In effect, Moody's did the same thing to the United States of America this very week when it threatened to downgrade our credit, the best credit in the world for over 200 years.

I want, therefore, to ask this body to consider not default but what the threat of default can do to interest rates, to confidence, how it can ripple through our country and through the world.

□ 2030

I want, therefore, to ask this body to consider not default, but what the threat of default can do to interest rates, to confidence, and how it can ripple through our country and the world.

I recognize the United States of America and the District of Columbia are different. Yet the fact is that there have been only a few large jurisdictions that have ever been threatened with default, and, for all of those, the results have been catastrophic.

So I would ask this body in the next few weeks to try to consider what is at stake. History will remember us for how we handle the first threat of default in the history of the United States. The threat of default is as bad in a very real sense as default itself. Who can forget what led to the budget agreement under which we now operate? What led to that agreement, of course, was a crash on Wall Street that came one day, absolutely unexpected, that came one day without warning. It is the possibility that the credit of the United States could be affected without warning that I hope this body will take into account in deciding what to do with the debt limit.

I am asking this body to respect the long record of the United States and to pass a clean debt limit bill. We must not allow the shutdown experience to be born again in the debt limit bill. The only way to respond to the experience we have had in the last couple of

months with the shutdown experience is to make sure we do not repeat bad history. If we are ever to repeat that history, we certainly should not repeat it with the full faith and credit of the United States.

I know what it is to lose your credit. I am from the District of Columbia, which today does not have credit. I ask my country then to look at its Capital City and to make sure that its credit in no way resembles that of its fallen city. I appreciate that there is a great difference. I hope that difference will continue to be great, and I hope that we will return to this body, not to have 4 days of haggling about what to do about the debt limit or what to attach to the debt limit, but that we will march forward together in a bipartisan way and pass, finally, one clean debt limit bill.

BUDGET MATTERS

The SPEAKER pro tempore (Mr. CHRYSLER). Under a previous order of the House, the gentleman from Hawaii [Mr. ABERCROMBIE] is recognized for 5 minutes.

Mr. ABERCROMBIE. Mr. Speaker, in light of Ms. NORTON's just-delivered remarks, I would like to say as someone coming from the last State to be admitted to the Union, the State of Hawaii, that I recognize only too fully what the implications are when you find yourself without representation, when you find yourself having to look to the good will of others.

In this particular instance, Mr. Speaker, I think that we need to pay some final attention before we leave the building, before we leave the floor, and pay some particular attention to the proposition, is this actually what we should be doing?

I do not mean tonight, Mr. Speaker. I think that the majority party, the Republican Party, and the House, have the opportunity to reconsider in the next day or two whether we want to go home, whether we need to go home bearing the burden of not having resolved the question of the debt limit.

Now, we have had arguments made, we can show headlines and present charts indicating that there was ostensibly a breakdown in the budget negotiations. The budget negotiations, I submit, Mr. Speaker, are separate and apart from those negotiations that might occur or should be occurring with respect to the extension of the debt limit.

In that regard, Mr. Speaker, I do not think they should be connected.

I have listened with care. I have listened with intensity today to the arguments being made. As you know, earlier today, in the absence of immediate legislative business, there was quite an extensive discussion of some hours' length on the floor by various Members with respect to the question of debt limitation, balancing of the budget, and the implications for tax credits or tax cuts.

Mr. Speaker, you may recall that I finished a special order just the other day, if you will, paraphrasing the title of an editorial to which I was referring in the Washington Post, the title being "Who won the budget battle?" I finished by saying the real question, Mr. Speaker, was who might lose in the budget battle? That is what really counts.

We do not want anybody to lose in that budget battle, because we are talking about not only the future, which has been brought up many times by speakers on both sides of the aisle, children, grandchildren, great grandchildren, who will pay, but, rather, what will be lost in terms of what has been referred to over and over again as the full faith and credit of the United States with respect to paying its debts.

Mr. Speaker, I submit there are two separate issues here that you and I, either individually, as Members of this body, or as representatives of positions in both caucuses can have, of fruitful discussion on this floor and in the context of the House of Representatives, institutionally speaking, as to what the best course of action is or should be with respect either to the budget or the debt limit.

But to argue or make the debt limit extension part of that discussion at the present time I think advances no one's agenda, Mr. Speaker. Not mine. I do not come down to the floor to try and make a political game, rhetorically or otherwise, over arguing this issue. It is much too important, bigger than you or I.

So I would hope that there would be consideration in the Republican Conference in the hours and immediate days to come, or, if we do leave without resolving the issue, that there would be a consideration that at least as far as the debt limit is concerned, that for now we set that aside as not being relevant to resolving the very real differences that may be between us politically or otherwise in terms of policy, and that we put the health and welfare literally of the Nation ahead of or at the top of all our priority lists, of all political parties concerned; that we separate that out, and that we have a full and fair discussion, not about the credit standing of the United States, but what kind of credit we can bring to ourselves as Members of this body, and what kind of credibility we can bring to the arguments that we are able to make about the budget: How we balance it, what we do about that, what we do about tax credits, what we do about whether or not there should be tax cuts; and that we argue this thing in a manner and in a context that establishes for the people of the United States, our colleagues, and those who may be viewing or observing our deliberations, that we do it in such a manner and in a context that reflects well not just on us, but on the seriousness of the issues at hand.

With that, Mr. Speaker, I close by reiterating my plea that we do not utilize the debt limit extension as one of the fundamental blocks in the building of whatever political stance we may take with respect to balancing the budget or any other aspect of the political discussion that has been under way in these last days.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 8 o'clock and 40 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 2113

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. CHRYSLER] at 9 o'clock and 13 minutes p.m.

CONFERENCE REPORT ON S. 652, TELECOMMUNICATIONS ACT OF 1996

Mr. BLILEY submitted the following conference report and statement on the Senate bill (S. 652) to provide for a pro-competitive, deregulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition, and for other purposes:

CONFERENCE REPORT (H. REPT. 104-458)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 652), to provide for a pro-competitive, de-regulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

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

SECTION 1. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the "Telecommunications Act of 1996".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other

provision, the reference shall be considered to be made to a section or other provision of the Communications Act of 1934 (47 U.S.C. 151 et seq.).

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title; references.
Sec. 2. Table of contents.
Sec. 3. Definitions.

TITLE I—TELECOMMUNICATION SERVICES

Subtitle A—Telecommunications Services

Sec. 101. Establishment of part II of title II.
"PART II—DEVELOPMENT OF COMPETITIVE MARKETS
"Sec. 251. Interconnection.
"Sec. 252. Procedures for negotiation, arbitration, and approval of agreements.
"Sec. 253. Removal of barriers to entry.
"Sec. 254. Universal service.
"Sec. 255. Access by persons with disabilities.
"Sec. 256. Coordination for interconnectivity.
"Sec. 257. Market entry barriers proceeding.
"Sec. 258. Illegal changes in subscriber carrier selections.
"Sec. 259. Infrastructure sharing.
"Sec. 260. Provision of telemessaging service.
"Sec. 261. Effect on other requirements."
Sec. 102. Eligible telecommunications carriers.
Sec. 103. Exempt telecommunications companies.
Sec. 104. Nondiscrimination principle.

Subtitle B—Special Provisions Concerning Bell Operating Companies

Sec. 151. Bell operating company provisions.
"PART III—SPECIAL PROVISIONS CONCERNING BELL OPERATING COMPANIES
"Sec. 271. Bell operating company entry into interLATA services.
"Sec. 272. Separate affiliate; safeguards.
"Sec. 273. Manufacturing by Bell operating companies.
"Sec. 274. Electronic publishing by Bell operating companies.
"Sec. 275. Alarm monitoring services.
"Sec. 276. Provision of payphone service."

TITLE II—BROADCAST SERVICES

Sec. 201. Broadcast spectrum flexibility.
"Sec. 336. Broadcast spectrum flexibility."
Sec. 202. Broadcast ownership.
Sec. 203. Term of licenses.
Sec. 204. Broadcast license renewal procedures.
Sec. 205. Direct broadcast satellite service.
Sec. 206. Automated ship distress and safety systems.
"Sec. 365. Automated ship distress and safety systems."
Sec. 207. Restrictions on over-the-air reception devices.

TITLE III—CABLE SERVICES

Sec. 301. Cable Act reform.
Sec. 302. Cable service provided by telephone companies.
"PART V—VIDEO PROGRAMMING SERVICES PROVIDED BY TELEPHONE COMPANIES
"Sec. 651. Regulatory treatment of video programming services.
"Sec. 652. Prohibition on buy outs.
"Sec. 653. Establishment of open video systems."
Sec. 303. Preemption of franchising authority regulation of telecommunications services.
Sec. 304. Competitive availability of navigation devices.
"Sec. 629. Competitive availability of navigation devices."
Sec. 305. Video programming accessibility.
"Sec. 713. Video programming accessibility."

TITLE IV—REGULATORY REFORM

Sec. 401. Regulatory forbearance.
"Sec. 10. Competition in provision of telecommunications service."
Sec. 402. Biennial review of regulations; regulatory relief.
"Sec. 11. Regulatory reform."
Sec. 403. Elimination of unnecessary Commission regulations and functions.

TITLE V—OBSCENITY AND VIOLENCE

Subtitle A—Obscene, Harassing, and Wrongful Utilization of Telecommunications Facilities

Sec. 501. Short title.
Sec. 502. Obscene or harassing use of telecommunications facilities under the Communications Act of 1934.
Sec. 503. Obscene programming on cable television.
Sec. 504. Scrambling of cable channels for nonsubscribers.
"Sec. 640. Scrambling of cable channels for nonsubscribers."
Sec. 505. Scrambling of sexually explicit adult video service programming.
"Sec. 641. Scrambling of sexually explicit adult video service programming."
Sec. 506. Cable operator refusal to carry certain programs.
Sec. 507. Clarification of current laws regarding communication of obscene materials through the use of computers.
Sec. 508. Coercion and enticement of minors.
Sec. 509. Online family empowerment.
"Sec. 230. Protection for private blocking and screening of offensive material."

Subtitle B—Violence

Sec. 551. Parental choice in television programming.
Sec. 552. Technology fund.

Subtitle C—Judicial Review

Sec. 561. Expedited review.

TITLE VI—EFFECT ON OTHER LAWS

Sec. 601. Applicability of consent decrees and other law.
Sec. 602. Preemption of local taxation with respect to direct-to-home services.

TITLE VII—MISCELLANEOUS PROVISIONS

Sec. 701. Prevention of unfair billing practices for information or services provided over toll-free telephone calls.
Sec. 702. Privacy of customer information.
"Sec. 222. Privacy of customer information."
Sec. 703. Pole attachments.
Sec. 704. Facilities siting; radio frequency emission standards.
Sec. 705. Mobile services direct access to long distance carriers.
Sec. 706. Advanced telecommunications incentives.
Sec. 707. Telecommunications Development Fund.
"Sec. 714. Telecommunications Development Fund."
Sec. 708. National Education Technology Funding Corporation.
Sec. 709. Report on the use of advanced telecommunications services for medical purposes.
Sec. 710. Authorization of appropriations.

SEC. 3. DEFINITIONS.

(a) ADDITIONAL DEFINITIONS.—Section 3 (47 U.S.C. 153) is amended—

(1) in subsection (r)—

(A) by inserting "(A)" after "means"; and

(B) by inserting before the period at the end the following: ", or (B) comparable service provided through a system of switches, transmission equipment, or other facilities (or combination thereof) by which a subscriber can originate and terminate a telecommunications service"; and

(2) by adding at the end thereof the following:

"(33) AFFILIATE.—The term 'affiliate' means a person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person. For purposes of this paragraph, the term 'own' means to own an equity interest (or the equivalent thereof) of more than 10 percent.

"(34) AT&T CONSENT DECREE.—The term 'AT&T Consent Decree' means the order entered August 24, 1982, in the antitrust action styled United States v. Western Electric, Civil Action No. 82-0192, in the United States District Court for the District of Columbia, and includes any judgment or order with respect to such action entered on or after August 24, 1982.

"(35) BELL OPERATING COMPANY.—The term 'Bell operating company'—

"(A) means any of the following companies: Bell Telephone Company of Nevada, Illinois Bell Telephone Company, Indiana Bell Telephone Company, Incorporated, Michigan Bell Telephone Company, New England Telephone and Telegraph Company, New Jersey Bell Telephone Company, New York Telephone Company, U S West Communications Company, South Central Bell Telephone Company, Southern Bell Telephone and Telegraph Company, Southwestern Bell Telephone Company, The Bell Telephone Company of Pennsylvania, The Chesapeake and Potomac Telephone Company, The Chesapeake and Potomac Telephone Company of Maryland, The Chesapeake and Potomac Telephone Company of Virginia, The Chesapeake and Potomac Telephone Company of West Virginia, The Diamond State Telephone Company, The Ohio Bell Telephone Company, The Pacific Telephone and Telegraph Company, or Wisconsin Telephone Company; and

"(B) includes any successor or assign of any such company that provides wireline telephone exchange service; but

"(C) does not include an affiliate of any such company, other than an affiliate described in subparagraph (A) or (B).

"(36) CABLE SERVICE.—The term 'cable service' has the meaning given such term in section 602.

"(37) CABLE SYSTEM.—The term 'cable system' has the meaning given such term in section 602.

"(38) CUSTOMER PREMISES EQUIPMENT.—The term 'customer premises equipment' means equipment employed on the premises of a person (other than a carrier) to originate, route, or terminate telecommunications.

"(39) DIALING PARITY.—The term 'dialing parity' means that a person that is not an affiliate of a local exchange carrier is able to provide telecommunications services in such a manner that customers have the ability to route automatically, without the use of any access code, their telecommunications to the telecommunications services provider of the customer's designation from among 2 or more telecommunications services providers (including such local exchange carrier).

"(40) EXCHANGE ACCESS.—The term 'exchange access' means the offering of access to telephone exchange services or facilities for the purpose of the origination or termination of telephone toll services.

"(41) INFORMATION SERVICE.—The term 'information service' means the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications, and includes electronic publishing, but does not include any use of any such capability for the

management, control, or operation of a telecommunications system or the management of a telecommunications service.

"(42) INTERLATA SERVICE.—The term 'interLATA service' means telecommunications between a point located in a local access and transport area and a point located outside such area.

"(43) LOCAL ACCESS AND TRANSPORT AREA.—The term 'local access and transport area' or 'LATA' means a contiguous geographic area—

"(A) established before the date of enactment of the Telecommunications Act of 1996 by a Bell operating company such that no exchange area includes points within more than 1 metropolitan statistical area, consolidated metropolitan statistical area, or State, except as expressly permitted under the AT&T Consent Decree; or

"(B) established or modified by a Bell operating company after such date of enactment and approved by the Commission.

"(44) LOCAL EXCHANGE CARRIER.—The term 'local exchange carrier' means any person that is engaged in the provision of telephone exchange service or exchange access. Such term does not include a person insofar as such person is engaged in the provision of a commercial mobile service under section 332(c), except to the extent that the Commission finds that such service should be included in the definition of such term.

"(45) NETWORK ELEMENT.—The term 'network element' means a facility or equipment used in the provision of a telecommunications service. Such term also includes features, functions, and capabilities that are provided by means of such facility or equipment, including subscriber numbers, databases, signaling systems, and information sufficient for billing and collection or used in the transmission, routing, or other provision of a telecommunications service.

"(46) NUMBER PORTABILITY.—The term 'number portability' means the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another.

"(47) RURAL TELEPHONE COMPANY.—The term 'rural telephone company' means a local exchange carrier operating entity to the extent that such entity—

"(A) provides common carrier service to any local exchange carrier study area that does not include either—

"(i) any incorporated place of 10,000 inhabitants or more, or any part thereof, based on the most recently available population statistics of the Bureau of the Census; or

"(ii) any territory, incorporated or unincorporated, included in an urbanized area, as defined by the Bureau of the Census as of August 10, 1993;

"(B) provides telephone exchange service, including exchange access, to fewer than 50,000 access lines;

"(C) provides telephone exchange service to any local exchange carrier study area with fewer than 100,000 access lines; or

"(D) has less than 15 percent of its access lines in communities of more than 50,000 on the date of enactment of the Telecommunications Act of 1996.

"(48) TELECOMMUNICATIONS.—The term 'telecommunications' means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

"(49) TELECOMMUNICATIONS CARRIER.—The term 'telecommunications carrier' means any provider of telecommunications services, except that such term does not include aggregators of telecommunications services (as defined in section 226). A telecommunications carrier shall be treated as a common carrier under this Act only to the extent that it is engaged in providing telecommunications services, except that the Commission shall determine whether the provision of fixed and mobile satellite service shall be treated as common carriage.

"(50) TELECOMMUNICATIONS EQUIPMENT.—The term 'telecommunications equipment' means equipment, other than customer premises equipment, used by a carrier to provide telecommunications services, and includes software integral to such equipment (including upgrades).

"(51) TELECOMMUNICATIONS SERVICE.—The term 'telecommunications service' means the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.".

(b) COMMON TERMINOLOGY.—Except as otherwise provided in this Act, the terms used in this Act have the meanings provided in section 3 of the Communications Act of 1934 (47 U.S.C. 153), as amended by this section.

(c) STYLISTIC CONSISTENCY.—Section 3 (47 U.S.C. 153) is amended—

(1) in subsections (e) and (n), by redesignating clauses (1), (2) and (3), as clauses (A), (B), and (C), respectively;

(2) in subsection (w), by redesignating paragraphs (1) through (5) as subparagraphs (A) through (E), respectively;

(3) in subsections (y) and (z), by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(4) by redesignating subsections (a) through (ff) as paragraphs (1) through (32);

(5) by indenting such paragraphs 2 em spaces;

(6) by inserting after the designation of each such paragraph—

(A) a heading, in a form consistent with the form of the heading of this subsection, consisting of the term defined by such paragraph, or the first term so defined if such paragraph defines more than one term; and

(B) the words "The term";

(7) by changing the first letter of each defined term in such paragraphs from a capital to a lower case letter (except for "United States", "State", "State commission", and "Great Lakes Agreement"); and

(8) by reordering such paragraphs and the additional paragraphs added by subsection (a) in alphabetical order based on the headings of such paragraphs and renumbering such paragraphs as so reordered.

(d) CONFORMING AMENDMENTS.—The Act is amended—

(1) in section 225(a)(1), by striking "section 3(h)" and inserting "section 3";

(2) in section 332(d), by striking "section 3(n)" each place it appears and inserting "section 3"; and

(3) in sections 621(d)(3), 636(d), and 637(a)(2), by striking "section 3(v)" and inserting "section 3".

TITLE I—TELECOMMUNICATION SERVICES

Subtitle A—Telecommunications Services

SEC. 101. ESTABLISHMENT OF PART II OF TITLE II.

(a) AMENDMENT.—Title II is amended by inserting after section 229 (47 U.S.C. 229) the following new part:

"PART II—DEVELOPMENT OF COMPETITIVE MARKETS

"SEC. 251. INTERCONNECTION.

"(a) GENERAL DUTY OF TELECOMMUNICATIONS CARRIERS.—Each telecommunications carrier has the duty—

"(1) to interconnect directly or indirectly with the facilities and equipment of other telecommunications carriers; and

"(2) not to install network features, functions, or capabilities that do not comply with the guidelines and standards established pursuant to section 255 or 256.

"(b) OBLIGATIONS OF ALL LOCAL EXCHANGE CARRIERS.—Each local exchange carrier has the following duties:

"(1) RESALE.—The duty not to prohibit, and not to impose unreasonable or discriminatory conditions or limitations on, the resale of its telecommunications services.

"(2) NUMBER PORTABILITY.—The duty to provide, to the extent technically feasible, number portability in accordance with requirements prescribed by the Commission.

"(3) DIALING PARITY.—The duty to provide dialing parity to competing providers of telephone exchange service and telephone toll service, and the duty to permit all such providers to have nondiscriminatory access to telephone numbers, operator services, directory assistance, and directory listing, with no unreasonable dialing delays.

"(4) ACCESS TO RIGHTS-OF-WAY.—The duty to afford access to the poles, ducts, conduits, and rights-of-way of such carrier to competing providers of telecommunications services on rates, terms, and conditions that are consistent with section 224.

"(5) RECIPROCAL COMPENSATION.—The duty to establish reciprocal compensation arrangements for the transport and termination of telecommunications.

"(c) ADDITIONAL OBLIGATIONS OF INCUMBENT LOCAL EXCHANGE CARRIERS.—In addition to the duties contained in subsection (b), each incumbent local exchange carrier has the following duties:

"(1) DUTY TO NEGOTIATE.—The duty to negotiate in good faith in accordance with section 252 the particular terms and conditions of agreements to fulfill the duties described in paragraphs (1) through (5) of subsection (b) and this subsection. The requesting telecommunications carrier also has the duty to negotiate in good faith the terms and conditions of such agreements.

"(2) INTERCONNECTION.—The duty to provide, for the facilities and equipment of any requesting telecommunications carrier, interconnection with the local exchange carrier's network—

"(A) for the transmission and routing of telephone exchange service and exchange access;

"(B) at any technically feasible point within the carrier's network;

"(C) that is at least equal in quality to that provided by the local exchange carrier to itself or to any subsidiary, affiliate, or any other party to which the carrier provides interconnection; and

"(D) on rates, terms, and conditions that are just, reasonable, and nondiscriminatory, in accordance with the terms and conditions of the agreement and the requirements of this section and section 252.

"(3) UNBUNDLED ACCESS.—The duty to provide, to any requesting telecommunications carrier for the provision of a telecommunications service, nondiscriminatory access to network elements on an unbundled basis at any technically feasible point on rates, terms, and conditions that are just, reasonable, and nondiscriminatory in accordance with the terms and conditions of the agreement and the requirements of this section and section 252. An incumbent local exchange carrier shall provide such unbundled network elements in a manner that allows requesting carriers to combine such elements in order to provide such telecommunications service.

"(4) RESALE.—The duty—

"(A) to offer for resale at wholesale rates any telecommunications service that the carrier provides at retail to subscribers who are not telecommunications carriers; and

"(B) not to prohibit, and not to impose unreasonable or discriminatory conditions or limitations on, the resale of such telecommunications

service, except that a State commission may, consistent with regulations prescribed by the Commission under this section, prohibit a reseller that obtains at wholesale rates a telecommunications service that is available at retail only to a category of subscribers from offering such service to a different category of subscribers.

"(5) NOTICE OF CHANGES.—The duty to provide reasonable public notice of changes in the information necessary for the transmission and routing of services using that local exchange carrier's facilities or networks, as well as of any other changes that would affect the interoperability of those facilities and networks.

"(6) COLLOCATION.—The duty to provide, on rates, terms, and conditions that are just, reasonable, and nondiscriminatory, for physical collocation of equipment necessary for interconnection or access to unbundled network elements at the premises of the local exchange carrier, except that the carrier may provide for virtual collocation if the local exchange carrier demonstrates to the State commission that physical collocation is not practical for technical reasons or because of space limitations.

"(d) IMPLEMENTATION.—

"(1) IN GENERAL.—Within 6 months after the date of enactment of the Telecommunications Act of 1996, the Commission shall complete all actions necessary to establish regulations to implement the requirements of this section.

"(2) ACCESS STANDARDS.—In determining what network elements should be made available for purposes of subsection (c)(3), the Commission shall consider, at a minimum, whether—

"(A) access to such network elements as are proprietary in nature is necessary; and

"(B) the failure to provide access to such network elements would impair the ability of the telecommunications carrier seeking access to provide the services that it seeks to offer.

"(3) PRESERVATION OF STATE ACCESS REGULATIONS.—In prescribing and enforcing regulations to implement the requirements of this section, the Commission shall not preclude the enforcement of any regulation, order, or policy of a State commission that—

"(A) establishes access and interconnection obligations of local exchange carriers;

"(B) is consistent with the requirements of this section; and

"(C) does not substantially prevent implementation of the requirements of this section and the purposes of this part.

"(e) NUMBERING ADMINISTRATION.—

"(1) COMMISSION AUTHORITY AND JURISDICTION.—The Commission shall create or designate one or more impartial entities to administer telecommunications numbering and to make such numbers available on an equitable basis. The Commission shall have exclusive jurisdiction over those portions of the North American Numbering Plan that pertain to the United States. Nothing in this paragraph shall preclude the Commission from delegating to State commissions or other entities all or any portion of such jurisdiction.

"(2) COSTS.—The cost of establishing telecommunications numbering administration arrangements and number portability shall be borne by all telecommunications carriers on a competitively neutral basis as determined by the Commission.

"(f) EXEMPTIONS, SUSPENSIONS, AND MODIFICATIONS.—

"(1) EXEMPTION FOR CERTAIN RURAL TELEPHONE COMPANIES.—

"(A) EXEMPTION.—Subsection (c) of this section shall not apply to a rural telephone company until (i) such company has received a bona fide request for interconnection, services, or network elements, and (ii) the State commission determines (under subparagraph (B)) that such request is not unduly economically burdensome, is technically feasible, and is consistent with section 254 (other than subsections (b)(7) and (c)(1)(D) thereof).

"(B) STATE TERMINATION OF EXEMPTION AND IMPLEMENTATION SCHEDULE.—The party making a bona fide request of a rural telephone company for interconnection, services, or network elements shall submit a notice of its request to the State commission. The State commission shall conduct an inquiry for the purpose of determining whether to terminate the exemption under subparagraph (A). Within 120 days after the State commission receives notice of the request, the State commission shall terminate the exemption if the request is not unduly economically burdensome, is technically feasible, and is consistent with section 254 (other than subsections (b)(7) and (c)(1)(D) thereof). Upon termination of the exemption, a State commission shall establish an implementation schedule for compliance with the request that is consistent in time and manner with Commission regulations.

"(C) LIMITATION ON EXEMPTION.—The exemption provided by this paragraph shall not apply with respect to a request under subsection (c) from a cable operator providing video programming, and seeking to provide any telecommunications service, in the area in which the rural telephone company provides video programming. The limitation contained in this subparagraph shall not apply to a rural telephone company that is providing video programming on the date of enactment of the Telecommunications Act of 1996.

"(2) SUSPENSIONS AND MODIFICATIONS FOR RURAL CARRIERS.—A local exchange carrier with fewer than 2 percent of the Nation's subscriber lines installed in the aggregate nationwide may petition a State commission for a suspension or modification of the application of a requirement or requirements of subsection (b) or (c) to telephone exchange service facilities specified in such petition. The State commission shall grant such petition to the extent that, and for such duration as, the State commission determines that such suspension or modification—

"(A) is necessary—

"(i) to avoid a significant adverse economic impact on users of telecommunications services generally;

"(ii) to avoid imposing a requirement that is unduly economically burdensome; or

"(iii) to avoid imposing a requirement that is technically infeasible; and

"(B) is consistent with the public interest, convenience, and necessity.

The State commission shall act upon any petition filed under this paragraph within 180 days after receiving such petition. Pending such action, the State commission may suspend enforcement of the requirement or requirements to which the petition applies with respect to the petitioning carrier or carriers.

"(g) CONTINUED ENFORCEMENT OF EXCHANGE ACCESS AND INTERCONNECTION REQUIREMENTS.—On and after the date of enactment of the Telecommunications Act of 1996, each local exchange carrier, to the extent that it provides wireline services, shall provide exchange access, information access, and exchange services for such access to interexchange carriers and information service providers in accordance with the same equal access and nondiscriminatory interconnection restrictions and obligations (including receipt of compensation) that apply to such carrier on the date immediately preceding the date of enactment of the Telecommunications Act of 1996 under any court order, consent decree, or regulation, order, or policy of the Commission, until such restrictions and obligations are explicitly superseded by regulations prescribed by the Commission after such date of enactment. During the period beginning on such date of enactment and until such restrictions and obligations are so superseded, such restrictions and obligations shall be enforceable in the same manner as regulations of the Commission.

"(h) DEFINITION OF INCUMBENT LOCAL EXCHANGE CARRIER.—

"(1) DEFINITION.—For purposes of this section, the term 'incumbent local exchange carrier' means, with respect to an area, the local exchange carrier that—

"(A) on the date of enactment of the Telecommunications Act of 1996, provided telephone exchange service in such area; and

"(B)(i) on such date of enactment, was deemed to be a member of the exchange carrier association pursuant to section 69.601(b) of the Commission's regulations (47 C.F.R. 69.601(b)); or

"(ii) is a person or entity that, on or after such date of enactment, became a successor or assign of a member described in clause (i).

"(2) TREATMENT OF COMPARABLE CARRIERS AS INCUMBENTS.—The Commission may, by rule, provide for the treatment of a local exchange carrier (or class or category thereof) as an incumbent local exchange carrier for purposes of this section if—

"(A) such carrier occupies a position in the market for telephone exchange service within an area that is comparable to the position occupied by a carrier described in paragraph (1);

"(B) such carrier has substantially replaced an incumbent local exchange carrier described in paragraph (1); and

"(C) such treatment is consistent with the public interest, convenience, and necessity and the purposes of this section.

"(i) SAVINGS PROVISION.—Nothing in this section shall be construed to limit or otherwise affect the Commission's authority under section 201.

"SEC. 252. PROCEDURES FOR NEGOTIATION, ARBITRATION, AND APPROVAL OF AGREEMENTS.

"(a) AGREEMENTS ARRIVED AT THROUGH NEGOTIATION.—

"(1) VOLUNTARY NEGOTIATIONS.—Upon receiving a request for interconnection, services, or network elements pursuant to section 251, an incumbent local exchange carrier may negotiate and enter into a binding agreement with the requesting telecommunications carrier or carriers without regard to the standards set forth in subsections (b) and (c) of section 251. The agreement shall include a detailed schedule of itemized charges for interconnection and each service or network element included in the agreement. The agreement, including any interconnection agreement negotiated before the date of enactment of the Telecommunications Act of 1996, shall be submitted to the State commission under subsection (e) of this section.

"(2) MEDIATION.—Any party negotiating an agreement under this section may, at any point in the negotiation, ask a State commission to participate in the negotiation and to mediate any differences arising in the course of the negotiation.

"(b) AGREEMENTS ARRIVED AT THROUGH COMPULSORY ARBITRATION.—

"(1) ARBITRATION.—During the period from the 135th to the 160th day (inclusive) after the date on which an incumbent local exchange carrier receives a request for negotiation under this section, the carrier or any other party to the negotiation may petition a State commission to arbitrate any open issues.

"(2) DUTY OF PETITIONER.—

"(A) A party that petitions a State commission under paragraph (1) shall, at the same time as it submits the petition, provide the State commission all relevant documentation concerning—

"(i) the unresolved issues;

"(ii) the position of each of the parties with respect to those issues; and

"(iii) any other issue discussed and resolved by the parties.

"(B) A party petitioning a State commission under paragraph (1) shall provide a copy of the petition and any documentation to the other party or parties not later than the day on which the State commission receives the petition.

"(3) OPPORTUNITY TO RESPOND.—A non-petitioning party to a negotiation under this section may respond to the other party's petition and provide such additional information as it wishes within 25 days after the State commission receives the petition.

"(4) ACTION BY STATE COMMISSION.—

"(A) The State commission shall limit its consideration of any petition under paragraph (1) (and any response thereto) to the issues set forth in the petition and in the response, if any, filed under paragraph (3).

"(B) The State commission may require the petitioning party and the responding party to provide such information as may be necessary for the State commission to reach a decision on the unresolved issues. If any party refuses or fails unreasonably to respond on a timely basis to any reasonable request from the State commission, then the State commission may proceed on the basis of the best information available to it from whatever source derived.

"(C) The State commission shall resolve each issue set forth in the petition and the response, if any, by imposing appropriate conditions as required to implement subsection (c) upon the parties to the agreement, and shall conclude the resolution of any unresolved issues not later than 9 months after the date on which the local exchange carrier received the request under this section.

"(5) REFUSAL TO NEGOTIATE.—The refusal of any other party to the negotiation to participate further in the negotiations, to cooperate with the State commission in carrying out its function as an arbitrator, or to continue to negotiate in good faith in the presence, or with the assistance, of the State commission shall be considered a failure to negotiate in good faith.

"(c) STANDARDS FOR ARBITRATION.—In resolving by arbitration under subsection (b) any open issues and imposing conditions upon the parties to the agreement, a State commission shall—

"(1) ensure that such resolution and conditions meet the requirements of section 251, including the regulations prescribed by the Commission pursuant to section 251;

"(2) establish any rates for interconnection, services, or network elements according to subsection (d); and

"(3) provide a schedule for implementation of the terms and conditions by the parties to the agreement.

"(d) PRICING STANDARDS.—

"(1) INTERCONNECTION AND NETWORK ELEMENT CHARGES.—Determinations by a State commission of the just and reasonable rate for the interconnection of facilities and equipment for purposes of subsection (c)(2) of section 251, and the just and reasonable rate for network elements for purposes of subsection (c)(3) of such section—

"(A) shall be—

"(i) based on the cost (determined without reference to a rate-of-return or other rate-based proceeding) of providing the interconnection or network element (whichever is applicable), and

"(ii) nondiscriminatory, and

"(B) may include a reasonable profit.

"(2) CHARGES FOR TRANSPORT AND TERMINATION OF TRAFFIC.—

"(A) IN GENERAL.—For the purposes of compliance by an incumbent local exchange carrier with section 251(b)(5), a State commission shall not consider the terms and conditions for reciprocal compensation to be just and reasonable unless—

"(i) such terms and conditions provide for the mutual and reciprocal recovery by each carrier of costs associated with the transport and termination on each carrier's network facilities of calls that originate on the network facilities of the other carrier; and

"(ii) such terms and conditions determine such costs on the basis of a reasonable approximation of the additional costs of terminating such calls.

"(B) RULES OF CONSTRUCTION.—This paragraph shall not be construed—

"(i) to preclude arrangements that afford the mutual recovery of costs through the offsetting of reciprocal obligations, including arrangements that waive mutual recovery (such as bill-and-keep arrangements); or

"(ii) to authorize the Commission or any State commission to engage in any rate regulation proceeding to establish with particularity the additional costs of transporting or terminating calls, or to require carriers to maintain records with respect to the additional costs of such calls.

"(3) WHOLESALE PRICES FOR TELECOMMUNICATIONS SERVICES.—For the purposes of section 251(c)(4), a State commission shall determine wholesale rates on the basis of retail rates charged to subscribers for the telecommunications service requested, excluding the portion thereof attributable to any marketing, billing, collection, and other costs that will be avoided by the local exchange carrier.

"(e) APPROVAL BY STATE COMMISSION.—

"(1) APPROVAL REQUIRED.—Any interconnection agreement adopted by negotiation or arbitration shall be submitted for approval to the State commission. A State commission to which an agreement is submitted shall approve or reject the agreement, with written findings as to any deficiencies.

"(2) GROUNDS FOR REJECTION.—The State commission may only reject—

"(A) an agreement (or any portion thereof) adopted by negotiation under subsection (a) if it finds that—

"(i) the agreement (or portion thereof) discriminates against a telecommunications carrier not a party to the agreement; or

"(ii) the implementation of such agreement or portion is not consistent with the public interest, convenience, and necessity; or

"(B) an agreement (or any portion thereof) adopted by arbitration under subsection (b) if it finds that the agreement does not meet the requirements of section 251, including the regulations prescribed by the Commission pursuant to section 251, or the standards set forth in subsection (d) of this section.

"(3) PRESERVATION OF AUTHORITY.—Notwithstanding paragraph (2), but subject to section 253, nothing in this section shall prohibit a State commission from establishing or enforcing other requirements of State law in its review of an agreement, including requiring compliance with intrastate telecommunications service quality standards or requirements.

"(4) SCHEDULE FOR DECISION.—If the State commission does not act to approve or reject the agreement within 90 days after submission by the parties of an agreement adopted by negotiation under subsection (a), or within 30 days after submission by the parties of an agreement adopted by arbitration under subsection (b), the agreement shall be deemed approved. No State court shall have jurisdiction to review the action of a State commission in approving or rejecting an agreement under this section.

"(5) COMMISSION TO ACT IF STATE WILL NOT ACT.—If a State commission fails to act to carry out its responsibility under this section in any proceeding or other matter under this section, then the Commission shall issue an order preempting the State commission's jurisdiction of that proceeding or matter within 90 days after being notified (or taking notice) of such failure, and shall assume the responsibility of the State commission under this section with respect to the proceeding or matter and act for the State commission.

"(6) REVIEW OF STATE COMMISSION ACTIONS.—In a case in which a State fails to act as described in paragraph (5), the proceeding by the Commission under such paragraph and any judicial review of the Commission's actions shall be the exclusive remedies for a State commission's failure to act. In any case in which a State commission makes a determination under this section, any party aggrieved by such determination may bring an action in an appropriate Federal district court to determine whether the agreement or statement meets the requirements of section 251 and this section.

"(f) STATEMENTS OF GENERALLY AVAILABLE TERMS.—

"(1) IN GENERAL.—A Bell operating company may prepare and file with a State commission a statement of the terms and conditions that such company generally offers within that State to comply with the requirements of section 251 and the regulations thereunder and the standards applicable under this section.

"(2) STATE COMMISSION REVIEW.—A State commission may not approve such statement unless such statement complies with subsection (d) of this section and section 251 and the regulations thereunder. Except as provided in section 253, nothing in this section shall prohibit a State commission from establishing or enforcing other requirements of State law in its review of such statement, including requiring compliance with intrastate telecommunications service quality standards or requirements.

"(3) SCHEDULE FOR REVIEW.—The State commission to which a statement is submitted shall, not later than 60 days after the date of such submission—

"(A) complete the review of such statement under paragraph (2) (including any reconsideration thereof), unless the submitting carrier agrees to an extension of the period for such review; or

"(B) permit such statement to take effect.

"(4) AUTHORITY TO CONTINUE REVIEW.—Paragraph (3) shall not preclude the State commission from continuing to review a statement that has been permitted to take effect under subparagraph (B) of such paragraph or from approving or disapproving such statement under paragraph (2).

"(5) DUTY TO NEGOTIATE NOT AFFECTED.—The submission or approval of a statement under this subsection shall not relieve a Bell operating company of its duty to negotiate the terms and conditions of an agreement under section 251.

"(g) CONSOLIDATION OF STATE PROCEEDINGS.—Where not inconsistent with the requirements of this Act, a State commission may, to the extent practical, consolidate proceedings under sections 214(e), 251(f), 253, and this section in order to reduce administrative burdens on telecommunications carriers, other parties to the proceedings, and the State commission in carrying out its responsibilities under this Act.

"(h) FILING REQUIRED.—A State commission shall make a copy of each agreement approved under subsection (e) and each statement approved under subsection (f) available for public inspection and copying within 10 days after the agreement or statement is approved. The State commission may charge a reasonable and nondiscriminatory fee to the parties to the agreement or to the party filing the statement to cover the costs of approving and filing such agreement or statement.

"(i) AVAILABILITY TO OTHER TELECOMMUNICATIONS CARRIERS.—A local exchange carrier shall make available any interconnection, service, or network element provided under an

agreement approved under this section to which it is a party to any other requesting telecommunications carrier upon the same terms and conditions as those provided in the agreement.

"(j) DEFINITION OF INCUMBENT LOCAL EXCHANGE CARRIER.—For purposes of this section, the term 'incumbent local exchange carrier' has the meaning provided in section 251(h).

"SEC. 253. REMOVAL OF BARRIERS TO ENTRY.

"(a) IN GENERAL.—No State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service.

"(b) STATE REGULATORY AUTHORITY.—Nothing in this section shall affect the ability of a State to impose, on a competitively neutral basis and consistent with section 254, requirements necessary to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers.

"(c) STATE AND LOCAL GOVERNMENT AUTHORITY.—Nothing in this section affects the authority of a State or local government to manage the public rights-of-way or to require fair and reasonable compensation from telecommunications providers, on a competitively neutral and nondiscriminatory basis, for use of public rights-of-way on a nondiscriminatory basis, if the compensation required is publicly disclosed by such government.

"(d) PREEMPTION.—If, after notice and an opportunity for public comment, the Commission determines that a State or local government has permitted or imposed any statute, regulation, or legal requirement that violates subsection (a) or (b), the Commission shall preempt the enforcement of such statute, regulation, or legal requirement to the extent necessary to correct such violation or inconsistency.

"(e) COMMERCIAL MOBILE SERVICE PROVIDERS.—Nothing in this section shall affect the application of section 332(c)(3) to commercial mobile service providers.

"(f) RURAL MARKETS.—It shall not be a violation of this section for a State to require a telecommunications carrier that seeks to provide telephone exchange service or exchange access in a service area served by a rural telephone company to meet the requirements in section 214(e)(1) for designation as an eligible telecommunications carrier for that area before being permitted to provide such service. This subsection shall not apply—

"(1) to a service area served by a rural telephone company that has obtained an exemption, suspension, or modification of section 251(c)(4) that effectively prevents a competitor from meeting the requirements of section 214(e)(1); and

"(2) to a provider of commercial mobile services.

"SEC. 254. UNIVERSAL SERVICE.

"(a) PROCEDURES TO REVIEW UNIVERSAL SERVICE REQUIREMENTS.—

"(1) FEDERAL-STATE JOINT BOARD ON UNIVERSAL SERVICE.—Within one month after the date of enactment of the Telecommunications Act of 1996, the Commission shall institute and refer to a Federal-State Joint Board under section 410(c) a proceeding to recommend changes to any of its regulations in order to implement sections 214(e) and this section, including the definition of the services that are supported by Federal universal service support mechanisms and a specific timetable for completion of such recommendations. In addition to the members of the Joint Board required under section 410(c), one member of such Joint Board shall be a State-appointed utility consumer advocate nominated by a national organization of State utility consumer advocates. The Joint Board shall, after notice and opportunity for public comment, make its recommendations to the Commission 9 months after the date of enactment of the Telecommunications Act of 1996.

"(2) COMMISSION ACTION.—The Commission shall initiate a single proceeding to implement the recommendations from the Joint Board required by paragraph (1) and shall complete such proceeding within 15 months after the date of enactment of the Telecommunications Act of 1996. The rules established by such proceeding shall include a definition of the services that are supported by Federal universal service support mechanisms and a specific timetable for implementation. Thereafter, the Commission shall complete any proceeding to implement subsequent recommendations from any Joint Board on universal service within one year after receiving such recommendations.

"(b) UNIVERSAL SERVICE PRINCIPLES.—The Joint Board and the Commission shall base policies for the preservation and advancement of universal service on the following principles:

"(1) QUALITY AND RATES.—Quality services should be available at just, reasonable, and affordable rates.

"(2) ACCESS TO ADVANCED SERVICES.—Access to advanced telecommunications and information services should be provided in all regions of the Nation.

"(3) ACCESS IN RURAL AND HIGH COST AREAS.—Consumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.

"(4) EQUITABLE AND NONDISCRIMINATORY CONTRIBUTIONS.—All providers of telecommunications services should make an equitable and nondiscriminatory contribution to the preservation and advancement of universal service.

"(5) SPECIFIC AND PREDICTABLE SUPPORT MECHANISMS.—There should be specific, predictable and sufficient Federal and State mechanisms to preserve and advance universal service.

"(6) ACCESS TO ADVANCED TELECOMMUNICATIONS SERVICES FOR SCHOOLS, HEALTH CARE, AND LIBRARIES.—Elementary and secondary schools and classrooms, health care providers, and libraries should have access to advanced telecommunications services as described in subsection (h).

"(7) ADDITIONAL PRINCIPLES.—Such other principles as the Joint Board and the Commission determine are necessary and appropriate for the protection of the public interest, convenience, and necessity and are consistent with this Act.

"(c) DEFINITION.—

"(1) IN GENERAL.—Universal service is an evolving level of telecommunications services that the Commission shall establish periodically under this section, taking into account advances in telecommunications and information technologies and services. The Joint Board in recommending, and the Commission in establishing, the definition of the services that are supported by Federal universal service support mechanisms shall consider the extent to which such telecommunications services—

"(A) are essential to education, public health, or public safety;

"(B) have, through the operation of market choices by customers, been subscribed to by a substantial majority of residential customers;

"(C) are being deployed in public telecommunications networks by telecommunications carriers; and

"(D) are consistent with the public interest, convenience, and necessity.

"(2) ALTERATIONS AND MODIFICATIONS.—The Joint Board may, from time to time, recommend to the Commission modifications in the definition of the services that are supported by Federal universal service support mechanisms.

"(3) SPECIAL SERVICES.—In addition to the services included in the definition of universal service under paragraph (1), the Commission may designate additional services for such support mechanisms for schools, libraries, and health care providers for the purposes of subsection (h).

"(d) TELECOMMUNICATIONS CARRIER CONTRIBUTION.—Every telecommunications carrier that provides interstate telecommunications services shall contribute, on an equitable and nondiscriminatory basis, to the specific, predictable, and sufficient mechanisms established by the Commission to preserve and advance universal service. The Commission may exempt a carrier or class of carriers from this requirement if the carrier's telecommunications activities are limited to such an extent that the level of such carrier's contribution to the preservation and advancement of universal service would be de minimis. Any other provider of interstate telecommunications may be required to contribute to the preservation and advancement of universal service if the public interest so requires.

"(e) UNIVERSAL SERVICE SUPPORT.—After the date on which Commission regulations implementing this section take effect, only an eligible telecommunications carrier designated under section 214(e) shall be eligible to receive specific Federal universal service support. A carrier that receives such support shall use that support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. Any such support should be explicit and sufficient to achieve the purposes of this section.

"(f) STATE AUTHORITY.—A State may adopt regulations not inconsistent with the Commission's rules to preserve and advance universal service. Every telecommunications carrier that provides intrastate telecommunications services shall contribute, on an equitable and nondiscriminatory basis, in a manner determined by the State to the preservation and advancement of universal service in that State. A State may adopt regulations to provide for additional definitions and standards to preserve and advance universal service within that State only to the extent that such regulations adopt additional specific, predictable, and sufficient mechanisms to support such definitions or standards that do not rely on or burden Federal universal service support mechanisms.

"(g) INTEREXCHANGE AND INTERSTATE SERVICES.—Within 6 months after the date of enactment of the Telecommunications Act of 1996, the Commission shall adopt rules to require that the rates charged by providers of interexchange telecommunications services to subscribers in rural and high cost areas shall be no higher than the rates charged by each such provider to its subscribers in urban areas. Such rules shall also require that a provider of interstate interexchange telecommunications services shall provide such services to its subscribers in each State at rates no higher than the rates charged to its subscribers in any other State.

"(h) TELECOMMUNICATIONS SERVICES FOR CERTAIN PROVIDERS.—

"(1) IN GENERAL.—

"(A) HEALTH CARE PROVIDERS FOR RURAL AREAS.—A telecommunications carrier shall, upon receiving a bona fide request, provide telecommunications services which are necessary for the provision of health care services in a State, including instruction relating to such services, to any public or nonprofit health care

provider that serves persons who reside in rural areas in that State at rates that are reasonably comparable to rates charged for similar services in urban areas in that State. A telecommunications carrier providing service under this paragraph shall be entitled to have an amount equal to the difference, if any, between the rates for services provided to health care providers for rural areas in a State and the rates for similar services provided to other customers in comparable rural areas in that State treated as a service obligation as a part of its obligation to participate in the mechanisms to preserve and advance universal service.

"(B) EDUCATIONAL PROVIDERS AND LIBRARIES.—All telecommunications carriers serving a geographic area shall, upon a bona fide request for any of its services that are within the definition of universal service under subsection (c)(3), provide such services to elementary schools, secondary schools, and libraries for educational purposes at rates less than the amounts charged for similar services to other parties. The discount shall be an amount that the Commission, with respect to interstate services, and the States, with respect to intrastate services, determine is appropriate and necessary to ensure affordable access to and use of such services by such entities. A telecommunications carrier providing service under this paragraph shall—

"(i) have an amount equal to the amount of the discount treated as an offset to its obligation to contribute to the mechanisms to preserve and advance universal service, or

"(ii) notwithstanding the provisions of subsection (e) of this section, receive reimbursement utilizing the support mechanisms to preserve and advance universal service.

"(2) ADVANCED SERVICES.—The Commission shall establish competitively neutral rules—

"(A) to enhance, to the extent technically feasible and economically reasonable, access to advanced telecommunications and information services for all public and nonprofit elementary and secondary school classrooms, health care providers, and libraries; and

"(B) to define the circumstances under which a telecommunications carrier may be required to connect its network to such public institutional telecommunications users.

"(3) TERMS AND CONDITIONS.—Telecommunications services and network capacity provided to a public institutional telecommunications user under this subsection may not be sold, resold, or otherwise transferred by such user in consideration for money or any other thing of value.

"(4) ELIGIBILITY OF USERS.—No entity listed in this subsection shall be entitled to preferential rates or treatment as required by this subsection, if such entity operates as a for-profit business, is a school described in paragraph (5)(A) with an endowment of more than $50,000,000, or is a 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.).

"(5) DEFINITIONS.—For purposes of this subsection:

"(A) ELEMENTARY AND SECONDARY SCHOOLS.—The term 'elementary and secondary schools' means elementary schools and secondary schools, as defined in paragraphs (14) and (25), respectively, of section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

"(B) HEALTH CARE PROVIDER.—The term 'health care provider' means—

"(i) post-secondary educational institutions offering health care instruction, teaching hospitals, and medical schools;

"(ii) community health centers or health centers providing health care to migrants;

"(iii) local health departments or agencies;

"(iv) community mental health centers;

"(v) not-for-profit hospitals;

"(vi) rural health clinics; and

"(vii) consortia of health care providers consisting of one or more entities described in clauses (i) through (vi).

"(C) PUBLIC INSTITUTIONAL TELECOMMUNICATIONS USER.—The term 'public institutional telecommunications user' means an elementary or secondary school, a library, or a health care provider as those terms are defined in this paragraph.

"(i) CONSUMER PROTECTION.—The Commission and the States should ensure that universal service is available at rates that are just, reasonable, and affordable.

"(j) LIFELINE ASSISTANCE.—Nothing in this section shall affect the collection, distribution, or administration of the Lifeline Assistance Program provided for by the Commission under regulations set forth in section 69.117 of title 47, Code of Federal Regulations, and other related sections of such title.

"(k) SUBSIDY OF COMPETITIVE SERVICES PROHIBITED.—A telecommunications carrier may not use services that are not competitive to subsidize services that are subject to competition. The Commission, with respect to interstate services, and the States, with respect to intrastate services, shall establish any necessary cost allocation rules, accounting safeguards, and guidelines to ensure that services included in the definition of universal service bear no more than a reasonable share of the joint and common costs of facilities used to provide those services.

"SEC. 255. ACCESS BY PERSONS WITH DISABILITIES.

"(a) DEFINITIONS.—As used in this section—

"(1) DISABILITY.—The term 'disability' has the meaning given to it by section 3(2)(A) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102(2)(A)).

"(2) READILY ACHIEVABLE.—The term 'readily achievable' has the meaning given to it by section 301(9) of that Act (42 U.S.C. 12181(9)).

"(b) MANUFACTURING.—A manufacturer of telecommunications equipment or customer premises equipment shall ensure that the equipment is designed, developed, and fabricated to be accessible to and usable by individuals with disabilities, if readily achievable.

"(c) TELECOMMUNICATIONS SERVICES.—A provider of telecommunications service shall ensure that the service is accessible to and usable by individuals with disabilities, if readily achievable.

"(d) COMPATIBILITY.—Whenever the requirements of subsections (b) and (c) are not readily achievable, such a manufacturer or provider shall ensure that the equipment or service is compatible with existing peripheral devices or specialized customer premises equipment commonly used by individuals with disabilities to achieve access, if readily achievable.

"(e) GUIDELINES.—Within 18 months after the date of enactment of the Telecommunications Act of 1996, the Architectural and Transportation Barriers Compliance Board shall develop guidelines for accessibility of telecommunications equipment and customer premises equipment in conjunction with the Commission. The Board shall review and update the guidelines periodically.

"(f) NO ADDITIONAL PRIVATE RIGHTS AUTHORIZED.—Nothing in this section shall be construed to authorize any private right of action to enforce any requirement of this section or any regulation thereunder. The Commission shall have exclusive jurisdiction with respect to any complaint under this section.

"SEC. 256. COORDINATION FOR INTERCONNECTIVITY.

"(a) PURPOSE.—It is the purpose of this section—

"(1) to promote nondiscriminatory accessibility by the broadest number of users and vendors of communications products and services to public telecommunications networks used to provide telecommunications service through—

"(A) coordinated public telecommunications network planning and design by telecommunications carriers and other providers of telecommunications service; and

"(B) public telecommunications network interconnectivity, and interconnectivity of devices with such networks used to provide telecommunications service; and

"(2) to ensure the ability of users and information providers to seamlessly and transparently transmit and receive information between and across telecommunications networks.

"(b) COMMISSION FUNCTIONS.—In carrying out the purposes of this section, the Commission—

"(1) shall establish procedures for Commission oversight of coordinated network planning by telecommunications carriers and other providers of telecommunications service for the effective and efficient interconnection of public telecommunications networks used to provide telecommunications service; and

"(2) may participate, in a manner consistent with its authority and practice prior to the date of enactment of this section, in the development by appropriate industry standards-setting organizations of public telecommunications network interconnectivity standards that promote access to—

"(A) public telecommunications networks used to provide telecommunications service;

"(B) network capabilities and services by individuals with disabilities; and

"(C) information services by subscribers of rural telephone companies.

"(c) COMMISSION'S AUTHORITY.—Nothing in this section shall be construed as expanding or limiting any authority that the Commission may have under law in effect before the date of enactment of the Telecommunications Act of 1996.

"(d) DEFINITION.—As used in this section, the term 'public telecommunications network interconnectivity' means the ability of two or more public telecommunications networks used to provide telecommunications service to communicate and exchange information without degeneration, and to interact in concert with one another.

"SEC. 257. MARKET ENTRY BARRIERS PROCEEDING.

"(a) ELIMINATION OF BARRIERS.—Within 15 months after the date of enactment of the Telecommunications Act of 1996, the Commission shall complete a proceeding for the purpose of identifying and eliminating, by regulations pursuant to its authority under this Act (other than this section), market entry barriers for entrepreneurs and other small businesses in the provision and ownership of telecommunications services and information services, or in the provision of parts or services to providers of telecommunications services and information services.

"(b) NATIONAL POLICY.—In carrying out subsection (a), the Commission shall seek to promote the policies and purposes of this Act favoring diversity of media voices, vigorous economic competition, technological advancement, and promotion of the public interest, convenience, and necessity.

"(c) PERIODIC REVIEW.—Every 3 years following the completion of the proceeding required by subsection (a), the Commission shall review and report to Congress on—

"(1) any regulations prescribed to eliminate barriers within its jurisdiction that are identified under subsection (a) and that can be prescribed consistent with the public interest, convenience, and necessity; and

"(2) the statutory barriers identified under subsection (a) that the Commission recommends be eliminated, consistent with the public interest, convenience, and necessity.

"SEC. 258. ILLEGAL CHANGES IN SUBSCRIBER CARRIER SELECTIONS.

"(a) PROHIBITION.—No telecommunications carrier shall submit or execute a change in a subscriber's selection of a provider of telephone exchange service or telephone toll service except in accordance with such verification procedures as the Commission shall prescribe. Nothing in this section shall preclude any State commission from enforcing such procedures with respect to intrastate services.

"(b) LIABILITY FOR CHARGES.—Any telecommunications carrier that violates the verification procedures described in subsection (a) and that collects charges for telephone exchange service or telephone toll service from a subscriber shall be liable to the carrier previously selected by the subscriber in an amount equal to all charges paid by such subscriber after such violation, in accordance with such procedures as the Commission may prescribe. The remedies provided by this subsection are in addition to any other remedies available by law.

"SEC. 259. INFRASTRUCTURE SHARING.

"(a) REGULATIONS REQUIRED.—The Commission shall prescribe, within one year after the date of enactment of the Telecommunications Act of 1996, regulations that require incumbent local exchange carriers (as defined in section 251(h)) to make available to any qualifying carrier such public switched network infrastructure, technology, information, and telecommunications facilities and functions as may be requested by such qualifying carrier for the purpose of enabling such qualifying carrier to provide telecommunications services, or to provide access to information services, in the service area in which such qualifying carrier has requested and obtained designation as an eligible telecommunications carrier under section 214(e).

"(b) TERMS AND CONDITIONS OF REGULATIONS.—The regulations prescribed by the Commission pursuant to this section shall—

"(1) not require a local exchange carrier to which this section applies to take any action that is economically unreasonable or that is contrary to the public interest;

"(2) permit, but shall not require, the joint ownership or operation of public switched network infrastructure and services by or among such local exchange carrier and a qualifying carrier;

"(3) ensure that such local exchange carrier will not be treated by the Commission or any State as a common carrier for hire or as offering common carrier services with respect to any infrastructure, technology, information, facilities, or functions made available to a qualifying carrier in accordance with regulations issued pursuant to this section;

"(4) ensure that such local exchange carrier makes such infrastructure, technology, information, facilities, or functions available to a qualifying carrier on just and reasonable terms and conditions that permit such qualifying carrier to fully benefit from the economies of scale and scope of such local exchange carrier, as determined in accordance with guidelines prescribed by the Commission in regulations issued pursuant to this section;

"(5) establish conditions that promote cooperation between local exchange carriers to which this section applies and qualifying carriers;

"(6) not require a local exchange carrier to which this section applies to engage in any infrastructure sharing agreement for any services or access which are to be provided or offered to consumers by the qualifying carrier in such local exchange carrier's telephone exchange area; and

"(7) require that such local exchange carrier file with the Commission or State for public inspection, any tariffs, contracts, or other arrangements showing the rates, terms, and conditions under which such carrier is making available public switched network infrastructure and functions under this section.

"(c) INFORMATION CONCERNING DEPLOYMENT OF NEW SERVICES AND EQUIPMENT.—A local exchange carrier to which this section applies that has entered into an infrastructure sharing agreement under this section shall provide to each party to such agreement timely information on the planned deployment of telecommunications services and equipment, including any software or upgrades of software integral to the use or operation of such telecommunications equipment.

"(d) DEFINITION.—For purposes of this section, the term 'qualifying carrier' means a telecommunications carrier that—

"(1) lacks economies of scale or scope, as determined in accordance with regulations prescribed by the Commission pursuant to this section; and

"(2) offers telephone exchange service, exchange access, and any other service that is included in universal service, to all consumers without preference throughout the service area for which such carrier has been designated as an eligible telecommunications carrier under section 214(e).

"SEC. 260. PROVISION OF TELEMESSAGING SERVICE.

"(a) NONDISCRIMINATION SAFEGUARDS.—Any local exchange carrier subject to the requirements of section 251(c) that provides telemessaging service—

"(1) shall not subsidize its telemessaging service directly or indirectly from its telephone exchange service or its exchange access; and

"(2) shall not prefer or discriminate in favor of its telemessaging service operations in its provision of telecommunications services.

"(b) EXPEDITED CONSIDERATION OF COMPLAINTS.—The Commission shall establish procedures for the receipt and review of complaints concerning violations of subsection (a) or the regulations thereunder that result in material financial harm to a provider of telemessaging service. Such procedures shall ensure that the Commission will make a final determination with respect to any such complaint within 120 days after receipt of the complaint. If the complaint contains an appropriate showing that the alleged violation occurred, the Commission shall, within 60 days after receipt of the complaint, order the local exchange carrier and any affiliates to cease engaging in such violation pending such final determination.

"(c) DEFINITION.—As used in this section, the term 'telemessaging service' means voice mail and voice storage and retrieval services, any live operator services used to record, transcribe, or relay messages (other than telecommunications relay services), and any ancillary services offered in combination with these services.

"SEC. 261. EFFECT ON OTHER REQUIREMENTS.

"(a) COMMISSION REGULATIONS.—Nothing in this part shall be construed to prohibit the Commission from enforcing regulations prescribed prior to the date of enactment of the Telecommunications Act of 1996 in fulfilling the requirements of this part, to the extent that such regulations are not inconsistent with the provisions of this part.

"(b) EXISTING STATE REGULATIONS.—Nothing in this part shall be construed to prohibit any State commission from enforcing regulations prescribed prior to the date of enactment of the Telecommunications Act of 1996, or from prescribing regulations after such date of enactment, in fulfilling the requirements of this part, if such regulations are not inconsistent with the provisions of this part.

"(c) ADDITIONAL STATE REQUIREMENTS.—Nothing in this part precludes a State from imposing requirements on a telecommunications carrier for intrastate services that are necessary to further competition in the provision of telephone exchange service or exchange access, as long as the State's requirements are not inconsistent with this part or the Commission's regulations to implement this part.".

(b) DESIGNATION OF PART I.—Title II of the Act is further amended by inserting before the heading of section 201 the following new heading:

"PART I—COMMON CARRIER REGULATION"

(c) STYLISTIC CONSISTENCY.—The Act is amended so that—

(1) the designation and heading of each title of the Act shall be in the form and typeface of the designation and heading of this title of this Act; and

(2) the designation and heading of each part of each title of the Act shall be in the form and typeface of the designation and heading of part I of title II of the Act, as amended by subsection (a).

SEC. 102. ELIGIBLE TELECOMMUNICATIONS CARRIERS.

(a) IN GENERAL.—Section 214 (47 U.S.C. 214) is amended by adding at the end thereof the following new subsection:

"(e) PROVISION OF UNIVERSAL SERVICE.—

"(1) ELIGIBLE TELECOMMUNICATIONS CARRIERS.—A common carrier designated as an eligible telecommunications carrier under paragraph (2) or (3) shall be eligible to receive universal service support in accordance with section 254 and shall, throughout the service area for which the designation is received—

"(A) offer the services that are supported by Federal universal service support mechanisms under section 254(c), either using its own facilities or a combination of its own facilities and resale of another carrier's services (including the services offered by another eligible telecommunications carrier); and

"(B) advertise the availability of such services and the charges therefor using media of general distribution.

"(2) DESIGNATION OF ELIGIBLE TELECOMMUNICATIONS CARRIERS.—A State commission shall upon its own motion or upon request designate a common carrier that meets the requirements of paragraph (1) as an eligible telecommunications carrier for a service area designated by the State commission. Upon request and consistent with the public interest, convenience, and necessity, the State commission may, in the case of an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier for a service area designated by the State commission, so long as each additional requesting carrier meets the requirements of paragraph (1). Before designating an additional eligible telecommunications carrier for an area served by a rural telephone company, the State commission shall find that the designation is in the public interest.

"(3) DESIGNATION OF ELIGIBLE TELECOMMUNICATIONS CARRIERS FOR UNSERVED AREAS.—If no common carrier will provide the services that are supported by Federal universal service support mechanisms under section 254(c) to an unserved community or any portion thereof that requests such service, the Commission, with respect to interstate services, or a State commission, with respect to intrastate services, shall determine which common carrier or carriers are best able to provide such service to the requesting unserved community or portion thereof and shall order such carrier or carriers to provide such service for that unserved community or portion thereof. Any carrier or carriers ordered to provide such service under this paragraph shall meet the requirements of paragraph (1)

and shall be designated as an eligible telecommunications carrier for that community or portion thereof.

"(4) RELINQUISHMENT OF UNIVERSAL SERVICE.—A State commission shall permit an eligible telecommunications carrier to relinquish its designation as such a carrier in any area served by more than one eligible telecommunications carrier. An eligible telecommunications carrier that seeks to relinquish its eligible telecommunications carrier designation for an area served by more than one eligible telecommunications carrier shall give advance notice to the State commission of such relinquishment. Prior to permitting a telecommunications carrier designated as an eligible telecommunications carrier to cease providing universal service in an area served by more than one eligible telecommunications carrier, the State commission shall require the remaining eligible telecommunications carrier or carriers to ensure that all customers served by the relinquishing carrier will continue to be served, and shall require sufficient notice to permit the purchase or construction of adequate facilities by any remaining eligible telecommunications carrier. The State commission shall establish a time, not to exceed one year after the State commission approves such relinquishment under this paragraph, within which such purchase or construction shall be completed.

"(5) SERVICE AREA DEFINED.—The term 'service area' means a geographic area established by a State commission for the purpose of determining universal service obligations and support mechanisms. In the case of an area served by a rural telephone company, 'service area' means such company's 'study area' unless and until the Commission and the States, after taking into account recommendations of a Federal-State Joint Board instituted under section 410(c), establish a different definition of service area for such company.".

SEC. 103. EXEMPT TELECOMMUNICATIONS COMPANIES.

The Public Utility Holding Company Act of 1935 (15 U.S.C. 79 and following) is amended by redesignating sections 34 and 35 as sections 35 and 36, respectively, and by inserting the following new section after section 33:

"SEC. 34. EXEMPT TELECOMMUNICATIONS COMPANIES.

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

"(1) EXEMPT TELECOMMUNICATIONS COMPANY.—The term 'exempt telecommunications company' means any person determined by the Federal Communications Commission to be engaged directly or indirectly, wherever located, through one or more affiliates (as defined in section 2(a)(11)(B)), and exclusively in the business of providing—

"(A) telecommunications services;

"(B) information services;

"(C) other services or products subject to the jurisdiction of the Federal Communications Commission; or

"(D) products or services that are related or incidental to the provision of a product or service described in subparagraph (A), (B), or (C).

No person shall be deemed to be an exempt telecommunications company under this section unless such person has applied to the Federal Communications Commission for a determination under this paragraph. A person applying in good faith for such a determination shall be deemed an exempt telecommunications company under this section, with all of the exemptions provided by this section, until the Federal Communications Commission makes such determination. The Federal Communications Commission shall make such determination within 60 days of its receipt of any such application filed after the enactment of this section and shall notify the Commission whenever a determination is made under this paragraph that any person is an exempt telecommunications company. Not later than 12 months after the date of enactment of this section, the Federal Communications Commission shall promulgate rules implementing the provisions of this paragraph which shall be applicable to applications filed under this paragraph after the effective date of such rules.

"(2) OTHER TERMS.—For purposes of this section, the terms 'telecommunications services' and 'information services' shall have the same meanings as provided in the Communications Act of 1934.

"(b) STATE CONSENT FOR SALE OF EXISTING RATE-BASED FACILITIES.—If a rate or charge for the sale of electric energy or natural gas (other than any portion of a rate or charge which represents recovery of the cost of a wholesale rate or charge) for, or in connection with, assets of a public utility company that is an associate company or affiliate of a registered holding company was in effect under the laws of any State as of December 19, 1995, the public utility company owning such assets may not sell such assets to an exempt telecommunications company that is an associate company or affiliate unless State commissions having jurisdiction over such public utility company approve such sale. Nothing in this subsection shall preempt the otherwise applicable authority of any State to approve or disapprove the sale of such assets. The approval of the Commission under this Act shall not be required for the sale of assets as provided in this subsection.

"(c) OWNERSHIP OF ETCS BY EXEMPT HOLDING COMPANIES.—Notwithstanding any provision of this Act, a holding company that is exempt under section 3 of this Act shall be permitted, without condition or limitation under this Act, to acquire and maintain an interest in the business of one or more exempt telecommunications companies.

"(d) OWNERSHIP OF ETCS BY REGISTERED HOLDING COMPANIES.—Notwithstanding any provision of this Act, a registered holding company shall be permitted (without the need to apply for, or receive, approval from the Commission, and otherwise without condition under this Act) to acquire and hold the securities, or an interest in the business, of one or more exempt telecommunications companies.

"(e) FINANCING AND OTHER RELATIONSHIPS BETWEEN ETCS AND REGISTERED HOLDING COMPANIES.—The relationship between an exempt telecommunications company and a registered holding company, its affiliates and associate companies, shall remain subject to the jurisdiction of the Commission under this Act: Provided, That—

"(1) section 11 of this Act shall not prohibit the ownership of an interest in the business of one or more exempt telecommunications companies by a registered holding company (regardless of activities engaged in or where facilities owned or operated by such exempt telecommunications companies are located), and such ownership by a registered holding company shall be deemed consistent with the operation of an integrated public utility system;

"(2) the ownership of an interest in the business of one or more exempt telecommunications companies by a registered holding company (regardless of activities engaged in or where facilities owned or operated by such exempt telecommunications companies are located) shall be considered as reasonably incidental, or economically necessary or appropriate, to the operations of an integrated public utility system;

"(3) the Commission shall have no jurisdiction under this Act over, and there shall be no restriction or approval required under this Act with respect to (A) the issue or sale of a security by a registered holding company for purposes of financing the acquisition of an exempt telecommunications company, or (B) the guarantee of a security of an exempt telecommunications company by a registered holding company; and

"(4) except for costs that should be fairly and equitably allocated among companies that are associate companies of a registered holding company, the Commission shall have no jurisdiction under this Act over the sales, service, and construction contracts between an exempt telecommunications company and a registered holding company, its affiliates and associate companies.

"(f) REPORTING OBLIGATIONS CONCERNING INVESTMENTS AND ACTIVITIES OF REGISTERED PUBLIC-UTILITY HOLDING COMPANY SYSTEMS.—

"(1) OBLIGATIONS TO REPORT INFORMATION.—Any registered holding company or subsidiary thereof that acquires or holds the securities, or an interest in the business, of an exempt telecommunications company shall file with the Commission such information as the Commission, by rule, may prescribe concerning—

"(A) investments and activities by the registered holding company, or any subsidiary thereof, with respect to exempt telecommunications companies, and

"(B) any activities of an exempt telecommunications company within the holding company system,

that are reasonably likely to have a material impact on the financial or operational condition of the holding company system.

"(2) AUTHORITY TO REQUIRE ADDITIONAL INFORMATION.—If, based on reports provided to the Commission pursuant to paragraph (1) of this subsection or other available information, the Commission reasonably concludes that it has concerns regarding the financial or operational condition of any registered holding company or any subsidiary thereof (including an exempt telecommunications company), the Commission may require such registered holding company to make additional reports and provide additional information.

"(3) AUTHORITY TO LIMIT DISCLOSURE OF INFORMATION.—Notwithstanding any other provision of law, the Commission shall not be compelled to disclose any information required to be reported under this subsection. Nothing in this subsection shall authorize the Commission to withhold the information from Congress, or prevent the Commission from complying with a request for information from any other Federal or State department or agency requesting the information for purposes within the scope of its jurisdiction. For purposes of section 552 of title 5, United States Code, this subsection shall be considered a statute described in subsection (b)(3)(B) of such section 552.

"(g) ASSUMPTION OF LIABILITIES.—Any public utility company that is an associate company, or an affiliate, of a registered holding company and that is subject to the jurisdiction of a State commission with respect to its retail electric or gas rates shall not issue any security for the purpose of financing the acquisition, ownership, or operation of an exempt telecommunications company. Any public utility company that is an associate company, or an affiliate, of a registered holding company and that is subject to the jurisdiction of a State commission with respect to its retail electric or gas rates shall not assume any obligation or liability as guarantor, endorser, surety, or otherwise by the public utility company in respect of any security of an exempt telecommunications company.

"(h) PLEDGING OR MORTGAGING OF ASSETS.—Any public utility company that is an associate company, or affiliate, of a registered holding company and that is subject to the jurisdiction of a State commission with respect to its retail electric or gas rates shall not pledge, mortgage, or otherwise use as collateral any assets of the

public utility company or assets of any subsidiary company thereof for the benefit of an exempt telecommunications company.

"(i) PROTECTION AGAINST ABUSIVE AFFILIATE TRANSACTIONS.—A public utility company may enter into a contract to purchase services or products described in subsection (a)(1) from an exempt telecommunications company that is an affiliate or associate company of the public utility company only if—

"(1) every State commission having jurisdiction over the retail rates of such public utility company approves such contract; or

"(2) such public utility company is not subject to State commission retail rate regulation and the purchased services or products—

"(A) would not be resold to any affiliate or associate company; or

"(B) would be resold to an affiliate or associate company and every State commission having jurisdiction over the retail rates of such affiliate or associate company makes the determination required by subparagraph (A).

The requirements of this subsection shall not apply in any case in which the State or the State commission concerned publishes a notice that the State or State commission waives its authority under this subsection.

"(j) NONPREEMPTION OF RATE AUTHORITY.—Nothing in this Act shall preclude the Federal Energy Regulatory Commission or a State commission from exercising its jurisdiction under otherwise applicable law to determine whether a public utility company may recover in rates the costs of products or services purchased from or sold to an associate company or affiliate that is an exempt telecommunications company, regardless of whether such costs are incurred through the direct or indirect purchase or sale of products or services from such associate company or affiliate.

"(k) RECIPROCAL ARRANGEMENTS PROHIBITED.—Reciprocal arrangements among companies that are not affiliates or associate companies of each other that are entered into in order to avoid the provisions of this section are prohibited.

"(l) BOOKS AND RECORDS.—(1) Upon written order of a State commission, a State commission may examine the books, accounts, memoranda, contracts, and records of—

"(A) a public utility company subject to its regulatory authority under State law;

"(B) any exempt telecommunications company selling products or services to such public utility company or to an associate company of such public utility company; and

"(C) any associate company or affiliate of an exempt telecommunications company which sells products or services to a public utility company referred to in subparagraph (A),

wherever located, if such examination is required for the effective discharge of the State commission's regulatory responsibilities affecting the provision of electric or gas service in connection with the activities of such exempt telecommunications company.

"(2) Where a State commission issues an order pursuant to paragraph (1), the State commission shall not publicly disclose trade secrets or sensitive commercial information.

"(3) Any United States district court located in the State in which the State commission referred to in paragraph (1) is located shall have jurisdiction to enforce compliance with this subsection.

"(4) Nothing in this section shall—

"(A) preempt applicable State law concerning the provision of records and other information; or

"(B) in any way limit rights to obtain records and other information under Federal law, contracts, or otherwise.

"(m) INDEPENDENT AUDIT AUTHORITY FOR STATE COMMISSIONS.—

"(1) STATE MAY ORDER AUDIT.—Any State commission with jurisdiction over a public utility company that—

"(A) is an associate company of a registered holding company; and

"(B) transacts business, directly or indirectly, with a subsidiary company, an affiliate or an associate company that is an exempt telecommunications company,

may order an independent audit to be performed, no more frequently than on an annual basis, of all matters deemed relevant by the selected auditor that reasonably relate to retail rates: Provided, That such matters relate, directly or indirectly, to transactions or transfers between the public utility company subject to its jurisdiction and such exempt telecommunications company.

"(2) SELECTION OF FIRM TO CONDUCT AUDIT.—(A) If a State commission orders an audit in accordance with paragraph (1), the public utility company and the State commission shall jointly select, within 60 days, a firm to perform the audit. The firm selected to perform the audit shall possess demonstrated qualifications relating to—

"(i) competency, including adequate technical training and professional proficiency in each discipline necessary to carry out the audit; and

"(ii) independence and objectivity, including that the firm be free from personal or external impairments to independence, and should assume an independent position with the State commission and auditee, making certain that the audit is based upon an impartial consideration of all pertinent facts and responsible opinions.

"(B) The public utility company and the exempt telecommunications company shall cooperate fully with all reasonable requests necessary to perform the audit and the public utility company shall bear all costs of having the audit performed.

"(3) AVAILABILITY OF AUDITOR'S REPORT.—The auditor's report shall be provided to the State commission not later than 6 months after the selection of the auditor, and provided to the public utility company not later than 60 days thereafter.

"(n) APPLICABILITY OF TELECOMMUNICATIONS REGULATION.—Nothing in this section shall affect the authority of the Federal Communications Commission under the Communications Act of 1934, or the authority of State commissions under State laws concerning the provision of telecommunications services, to regulate the activities of an exempt telecommunications company.".

SEC. 104. NONDISCRIMINATION PRINCIPLE.

Section 1 (47 U.S.C. 151) is amended by inserting after "to all the people of the United States" the following: ", without discrimination on the basis of race, color, religion, national origin, or sex,".

Subtitle B—Special Provisions Concerning Bell Operating Companies

SEC. 151. BELL OPERATING COMPANY PROVISIONS.

(a) ESTABLISHMENT OF PART III OF TITLE II.—Title II is amended by adding at the end of part II (as added by section 101) the following new part:

"PART III—SPECIAL PROVISIONS CONCERNING BELL OPERATING COMPANIES

"SEC. 271. BELL OPERATING COMPANY ENTRY INTO INTERLATA SERVICES.

"(a) GENERAL LIMITATION.—Neither a Bell operating company, nor any affiliate of a Bell operating company, may provide interLATA services except as provided in this section.

"(b) INTERLATA SERVICES TO WHICH THIS SECTION APPLIES.—

"(1) IN-REGION SERVICES.—A Bell operating company, or any affiliate of that Bell operating company, may provide interLATA services originating in any of its in-region States (as defined in subsection (i)) if the Commission approves the application of such company for such State under subsection (d)(3).

"(2) OUT-OF-REGION SERVICES.—A Bell operating company, or any affiliate of that Bell operating company, may provide interLATA services originating outside its in-region States after the date of enactment of the Telecommunications Act of 1996, subject to subsection (j).

"(3) INCIDENTAL INTERLATA SERVICES.—A Bell operating company, or any affiliate of a Bell operating company, may provide incidental interLATA services (as defined in subsection (g)) originating in any State after the date of enactment of the Telecommunications Act of 1996.

"(4) TERMINATION.—Nothing in this section prohibits a Bell operating company or any of its affiliates from providing termination for interLATA services, subject to subsection (j).

"(c) REQUIREMENTS FOR PROVIDING CERTAIN IN-REGION INTERLATA SERVICES.—

"(1) AGREEMENT OR STATEMENT.—A Bell operating company meets the requirements of this paragraph if it meets the requirements of subparagraph (A) or subparagraph (B) of this paragraph for each State for which the authorization is sought.

"(A) PRESENCE OF A FACILITIES-BASED COMPETITOR.—A Bell operating company meets the requirements of this subparagraph if it has entered into one or more binding agreements that have been approved under section 252 specifying the terms and conditions under which the Bell operating company is providing access and interconnection to its network facilities for the network facilities of one or more unaffiliated competing providers of telephone exchange service (as defined in section 3(47)(A), but excluding exchange access) to residential and business subscribers. For the purpose of this subparagraph, such telephone exchange service may be offered by such competing providers either exclusively over their own telephone exchange service facilities or predominantly over their own telephone exchange service facilities in combination with the resale of the telecommunications services of another carrier. For the purpose of this subparagraph, services provided pursuant to subpart K of part 22 of the Commission's regulations (47 C.F.R. 22.901 et seq.) shall not be considered to be telephone exchange services.

"(B) FAILURE TO REQUEST ACCESS.—A Bell operating company meets the requirements of this subparagraph if, after 10 months after the date of enactment of the Telecommunications Act of 1996, no such provider has requested the access and interconnection described in subparagraph (A) before the date which is 3 months before the date the company makes its application under subsection (d)(1), and a statement of the terms and conditions that the company generally offers to provide such access and interconnection has been approved or permitted to take effect by the State commission under section 252(f). For purposes of this subparagraph, a Bell operating company shall be considered not to have received any request for access and interconnection if the State commission of such State certifies that the only provider or providers making such a request have (i) failed to negotiate in good faith as required by section 252, or (ii) violated the terms of an agreement approved under section 252 by the provider's failure to comply, within a reasonable period of time, with the implementation schedule contained in such agreement.

"(2) SPECIFIC INTERCONNECTION REQUIREMENTS.—

"(A) AGREEMENT REQUIRED.—A Bell operating company meets the requirements of this paragraph if, within the State for which the authorization is sought—

"(i)(I) such company is providing access and interconnection pursuant to one or more agreements described in paragraph (1)(A), or

"(II) such company is generally offering access and interconnection pursuant to a statement described in paragraph (1)(B), and

"(ii) such access and interconnection meets the requirements of subparagraph (B) of this paragraph.

"(B) COMPETITIVE CHECKLIST.—Access or interconnection provided or generally offered by a Bell operating company to other telecommunications carriers meets the requirements of this subparagraph if such access and interconnection includes each of the following:

"(i) Interconnection in accordance with the requirements of sections 251(c)(2) and 252(d)(1).

"(ii) Nondiscriminatory access to network elements in accordance with the requirements of sections 251(c)(3) and 252(d)(1).

"(iii) Nondiscriminatory access to the poles, ducts, conduits, and rights-of-way owned or controlled by the Bell operating company at just and reasonable rates in accordance with the requirements of section 224.

"(iv) Local loop transmission from the central office to the customer's premises, unbundled from local switching or other services.

"(v) Local transport from the trunk side of a wireline local exchange carrier switch unbundled from switching or other services.

"(vi) Local switching unbundled from transport, local loop transmission, or other services.

"(vii) Nondiscriminatory access to—

"(I) 911 and E911 services;

"(II) directory assistance services to allow the other carrier's customers to obtain telephone numbers; and

"(III) operator call completion services.

"(viii) White pages directory listings for customers of the other carrier's telephone exchange service.

"(ix) Until the date by which telecommunications numbering administration guidelines, plan, or rules are established, nondiscriminatory access to telephone numbers for assignment to the other carrier's telephone exchange service customers. After that date, compliance with such guidelines, plan, or rules.

"(x) Nondiscriminatory access to databases and associated signaling necessary for call routing and completion.

"(xi) Until the date by which the Commission issues regulations pursuant to section 251 to require number portability, interim telecommunications number portability through remote call forwarding, direct inward dialing trunks, or other comparable arrangements, with as little impairment of functioning, quality, reliability, and convenience as possible. After that date, full compliance with such regulations.

"(xii) Nondiscriminatory access to such services or information as are necessary to allow the requesting carrier to implement local dialing parity in accordance with the requirements of section 251(b)(3).

"(xiii) Reciprocal compensation arrangements in accordance with the requirements of section 252(d)(2).

"(xiv) Telecommunications services are available for resale in accordance with the requirements of sections 251(c)(4) and 252(d)(3).

"(d) ADMINISTRATIVE PROVISIONS.—

"(1) APPLICATION TO COMMISSION.—On and after the date of enactment of the Telecommunications Act of 1996, a Bell operating company or its affiliate may apply to the Commission for authorization to provide interLATA services originating in any in-region State. The application shall identify each State for which the authorization is sought.

"(2) CONSULTATION.—

"(A) CONSULTATION WITH THE ATTORNEY GENERAL.—The Commission shall notify the Attorney General promptly of any application under paragraph (1). Before making any determination under this subsection, the Commission shall consult with the Attorney General, and if the Attorney General submits any comments in writing, such comments shall be included in the record of the Commission's decision. In consulting with and submitting comments to the Commission under this paragraph, the Attorney General shall provide to the Commission an evaluation of the application using any standard the Attorney General considers appropriate. The Commission shall give substantial weight to the Attorney General's evaluation, but such evaluation shall not have any preclusive effect on any Commission decision under paragraph (3).

"(B) CONSULTATION WITH STATE COMMISSIONS.—Before making any determination under this subsection, the Commission shall consult with the State commission of any State that is the subject of the application in order to verify the compliance of the Bell operating company with the requirements of subsection (c).

"(3) DETERMINATION.—Not later than 90 days after receiving an application under paragraph (1), the Commission shall issue a written determination approving or denying the authorization requested in the application for each State. The Commission shall not approve the authorization requested in an application submitted under paragraph (1) unless it finds that—

"(A) the petitioning Bell operating company has met the requirements of subsection (c)(1) and—

"(i) with respect to access and interconnection provided pursuant to subsection (c)(1)(A), has fully implemented the competitive checklist in subsection (c)(2)(B); or

"(ii) with respect to access and interconnection generally offered pursuant to a statement under subsection (c)(1)(B), such statement offers all of the items included in the competitive checklist in subsection (c)(2)(B);

"(B) the requested authorization will be carried out in accordance with the requirements of section 272; and

"(C) the requested authorization is consistent with the public interest, convenience, and necessity.

The Commission shall state the basis for its approval or denial of the application.

"(4) LIMITATION ON COMMISSION.—The Commission may not, by rule or otherwise, limit or extend the terms used in the competitive checklist set forth in subsection (c)(2)(B).

"(5) PUBLICATION.—Not later than 10 days after issuing a determination under paragraph (3), the Commission shall publish in the Federal Register a brief description of the determination.

"(6) ENFORCEMENT OF CONDITIONS.—

"(A) COMMISSION AUTHORITY.—If at any time after the approval of an application under paragraph (3), the Commission determines that a Bell operating company has ceased to meet any of the conditions required for such approval, the Commission may, after notice and opportunity for a hearing—

"(i) issue an order to such company to correct the deficiency;

"(ii) impose a penalty on such company pursuant to title V; or

"(iii) suspend or revoke such approval.

"(B) RECEIPT AND REVIEW OF COMPLAINTS.—The Commission shall establish procedures for the review of complaints concerning failures by Bell operating companies to meet conditions required for approval under paragraph (3). Unless the parties otherwise agree, the Commission shall act on such complaint within 90 days.

"(e) LIMITATIONS.—

"(1) JOINT MARKETING OF LOCAL AND LONG DISTANCE SERVICES.—Until a Bell operating company is authorized pursuant to subsection (d) to provide interLATA services in an in-region State, or until 36 months have passed since the date of enactment of the Telecommunications Act of 1996, whichever is earlier, a telecommunications carrier that serves greater than 5 percent of the Nation's presubscribed access lines may not jointly market in such State telephone exchange service obtained from such company pursuant to section 251(c)(4) with interLATA services offered by that telecommunications carrier.

"(2) INTRALATA TOLL DIALING PARITY.—

"(A) PROVISION REQUIRED.—A Bell operating company granted authority to provide interLATA services under subsection (d) shall provide intraLATA toll dialing parity throughout that State coincident with its exercise of that authority.

"(B) LIMITATION.—Except for single-LATA States and States that have issued an order by December 19, 1995, requiring a Bell operating company to implement intraLATA toll dialing parity, a State may not require a Bell operating company to implement intraLATA toll dialing parity in that State before a Bell operating company has been granted authority under this section to provide interLATA services originating in that State or before 3 years after the date of enactment of the Telecommunications Act of 1996, whichever is earlier. Nothing in this subparagraph precludes a State from issuing an order requiring intraLATA toll dialing parity in that State prior to either such date so long as such order does not take effect until after the earlier of either such dates.

"(f) EXCEPTION FOR PREVIOUSLY AUTHORIZED ACTIVITIES.—Neither subsection (a) nor section 273 shall prohibit a Bell operating company or affiliate from engaging, at any time after the date of enactment of the Telecommunications Act of 1996, in any activity to the extent authorized by, and subject to the terms and conditions contained in, an order entered by the United States District Court for the District of Columbia pursuant to section VII or VIII(C) of the AT&T Consent Decree if such order was entered on or before such date of enactment, to the extent such order is not reversed or vacated on appeal. Nothing in this subsection shall be construed to limit, or to impose terms or conditions on, an activity in which a Bell operating company is otherwise authorized to engage under any other provision of this section.

"(g) DEFINITION OF INCIDENTAL INTERLATA SERVICES.—For purposes of this section, the term 'incidental interLATA services' means the interLATA provision by a Bell operating company or its affiliate—

"(1)(A) of audio programming, video programming, or other programming services to subscribers to such services of such company or affiliate;

"(B) of the capability for interaction by such subscribers to select or respond to such audio programming, video programming, or other programming services;

"(C) to distributors of audio programming or video programming that such company or affiliate owns or controls, or is licensed by the copyright owner of such programming (or by an assignee of such owner) to distribute; or

"(D) of alarm monitoring services;

"(2) of two-way interactive video services or Internet services over dedicated facilities to or for elementary and secondary schools as defined in section 254(h)(5);

"(3) of commercial mobile services in accordance with section 332(c) of this Act and with the regulations prescribed by the Commission pursuant to paragraph (8) of such section;

"(4) of a service that permits a customer that is located in one LATA to retrieve stored information from, or file information for storage in, information storage facilities of such company that are located in another LATA;

"(5) of signaling information used in connection with the provision of telephone exchange services or exchange access by a local exchange carrier; or

"(6) of network control signaling information to, and receipt of such signaling information from, common carriers offering interLATA services at any location within the area in which such Bell operating company provides telephone exchange services or exchange access.

"(h) LIMITATIONS.—The provisions of subsection (g) are intended to be narrowly construed. The interLATA services provided under subparagraph (A), (B), or (C) of subsection (g)(1) are limited to those interLATA transmissions incidental to the provision by a Bell operating company or its affiliate of video, audio, and other programming services that the company or its affiliate is engaged in providing to the public. The Commission shall ensure that the provision of services authorized under subsection (g) by a Bell operating company or its affiliate will not adversely affect telephone exchange service ratepayers or competition in any telecommunications market.

"(i) ADDITIONAL DEFINITIONS.—As used in this section—

"(1) IN-REGION STATE.—The term 'in-region State' means a State in which a Bell operating company or any of its affiliates was authorized to provide wireline telephone exchange service pursuant to the reorganization plan approved under the AT&T Consent Decree, as in effect on the day before the date of enactment of the Telecommunications Act of 1996.

"(2) AUDIO PROGRAMMING SERVICES.—The term 'audio programming services' means programming provided by, or generally considered to be comparable to programming provided by, a radio broadcast station.

"(3) VIDEO PROGRAMMING SERVICES; OTHER PROGRAMMING SERVICES.—The terms 'video programming service' and 'other programming services' have the same meanings as such terms have under section 602 of this Act.

"(j) CERTAIN SERVICE APPLICATIONS TREATED AS IN-REGION SERVICE APPLICATIONS.—For purposes of this section, a Bell operating company application to provide 800 service, private line service, or their equivalents that—

"(1) terminate in an in-region State of that Bell operating company, and

"(2) allow the called party to determine the interLATA carrier,

shall be considered an in-region service subject to the requirements of subsection (b)(1).

"SEC. 272. SEPARATE AFFILIATE; SAFEGUARDS.

"(a) SEPARATE AFFILIATE REQUIRED FOR COMPETITIVE ACTIVITIES.—

"(1) IN GENERAL.—A Bell operating company (including any affiliate) which is a local exchange carrier that is subject to the requirements of section 251(c) may not provide any service described in paragraph (2) unless it provides that service through one or more affiliates that—

"(A) are separate from any operating company entity that is subject to the requirements of section 251(c); and

"(B) meet the requirements of subsection (b).

"(2) SERVICES FOR WHICH A SEPARATE AFFILIATE IS REQUIRED.—The services for which a separate affiliate is required by paragraph (1) are:

"(A) Manufacturing activities (as defined in section 273(h)).

"(B) Origination of interLATA telecommunications services, other than—

"(i) incidental interLATA services described in paragraphs (1), (2), (3), (5), and (6) of section 271(g);

"(ii) out-of-region services described in section 271(b)(2); or

"(iii) previously authorized activities described in section 271(f).

"(C) InterLATA information services, other than electronic publishing (as defined in section 274(h)) and alarm monitoring services (as defined in section 275(e)).

"(b) STRUCTURAL AND TRANSACTIONAL REQUIREMENTS.—The separate affiliate required by this section—

"(1) shall operate independently from the Bell operating company;

"(2) shall maintain books, records, and accounts in the manner prescribed by the Commission which shall be separate from the books, records, and accounts maintained by the Bell operating company of which it is an affiliate;

"(3) shall have separate officers, directors, and employees from the Bell operating company of which it is an affiliate;

"(4) may not obtain credit under any arrangement that would permit a creditor, upon default, to have recourse to the assets of the Bell operating company; and

"(5) shall conduct all transactions with the Bell operating company of which it is an affiliate on an arm's length basis with any such transactions reduced to writing and available for public inspection.

"(c) NONDISCRIMINATION SAFEGUARDS.—In its dealings with its affiliate described in subsection (a), a Bell operating company—

"(1) may not discriminate between that company or affiliate and any other entity in the provision or procurement of goods, services, facilities, and information, or in the establishment of standards; and

"(2) shall account for all transactions with an affiliate described in subsection (a) in accordance with accounting principles designated or approved by the Commission.

"(d) BIENNIAL AUDIT.—

"(1) GENERAL REQUIREMENT.—A company required to operate a separate affiliate under this section shall obtain and pay for a joint Federal/State audit every 2 years conducted by an independent auditor to determine whether such company has complied with this section and the regulations promulgated under this section, and particularly whether such company has complied with the separate accounting requirements under subsection (b).

"(2) RESULTS SUBMITTED TO COMMISSION; STATE COMMISSIONS.—The auditor described in paragraph (1) shall submit the results of the audit to the Commission and to the State commission of each State in which the company audited provides service, which shall make such results available for public inspection. Any party may submit comments on the final audit report.

"(3) ACCESS TO DOCUMENTS.—For purposes of conducting audits and reviews under this subsection—

"(A) the independent auditor, the Commission, and the State commission shall have access to the financial accounts and records of each company and of its affiliates necessary to verify transactions conducted with that company that are relevant to the specific activities permitted under this section and that are necessary for the regulation of rates;

"(B) the Commission and the State commission shall have access to the working papers and supporting materials of any auditor who performs an audit under this section; and

"(C) the State commission shall implement appropriate procedures to ensure the protection of any proprietary information submitted to it under this section.

"(e) FULFILLMENT OF CERTAIN REQUESTS.—A Bell operating company and an affiliate that is subject to the requirements of section 251(c)—

"(1) shall fulfill any requests from an unaffiliated entity for telephone exchange service and exchange access within a period no longer than the period in which it provides such telephone exchange service and exchange access to itself or to its affiliates;

"(2) shall not provide any facilities, services, or information concerning its provision of exchange access to the affiliate described in subsection (a) unless such facilities, services, or information are made available to other providers of interLATA services in that market on the same terms and conditions;

"(3) shall charge the affiliate described in subsection (a), or impute to itself (if using the access for its provision of its own services), an amount for access to its telephone exchange service and exchange access that is no less than the amount charged to any unaffiliated interexchange carriers for such service; and

"(4) may provide any interLATA or intraLATA facilities or services to its interLATA affiliate if such services or facilities are made available to all carriers at the same rates and on the same terms and conditions, and so long as the costs are appropriately allocated.

"(f) SUNSET.—

"(1) MANUFACTURING AND LONG DISTANCE.—The provisions of this section (other than subsection (e)) shall cease to apply with respect to the manufacturing activities or the interLATA telecommunications services of a Bell operating company 3 years after the date such Bell operating company or any Bell operating company affiliate is authorized to provide interLATA telecommunications services under section 271(d), unless the Commission extends such 3-year period by rule or order.

"(2) INTERLATA INFORMATION SERVICES.—The provisions of this section (other than subsection (e)) shall cease to apply with respect to the interLATA information services of a Bell operating company 4 years after the date of enactment of the Telecommunications Act of 1996, unless the Commission extends such 4-year period by rule or order.

"(3) PRESERVATION OF EXISTING AUTHORITY.—Nothing in this subsection shall be construed to limit the authority of the Commission under any other section of this Act to prescribe safeguards consistent with the public interest, convenience, and necessity.

"(g) JOINT MARKETING.—

"(1) AFFILIATE SALES OF TELEPHONE EXCHANGE SERVICES.—A Bell operating company affiliate required by this section may not market or sell telephone exchange services provided by the Bell operating company unless that company permits other entities offering the same or similar service to market and sell its telephone exchange services.

"(2) BELL OPERATING COMPANY SALES OF AFFILIATE SERVICES.—A Bell operating company may not market or sell interLATA service provided by an affiliate required by this section within any of its in-region States until such company is authorized to provide interLATA services in such State under section 271(d).

"(3) RULE OF CONSTRUCTION.—The joint marketing and sale of services permitted under this subsection shall not be considered to violate the nondiscrimination provisions of subsection (c).

"(h) TRANSITION.—With respect to any activity in which a Bell operating company is engaged on the date of enactment of the Telecommunications Act of 1996, such company shall have one year from such date of enactment to comply with the requirements of this section.

"SEC. 273. MANUFACTURING BY BELL OPERATING COMPANIES.

"(a) AUTHORIZATION.—A Bell operating company may manufacture and provide telecommunications equipment, and manufacture customer premises equipment, if the Commission authorizes that Bell operating company or any Bell operating company affiliate to provide interLATA services under section 271(d), subject

to the requirements of this section and the regulations prescribed thereunder, except that neither a Bell operating company nor any of its affiliates may engage in such manufacturing in conjunction with a Bell operating company not so affiliated or any of its affiliates.

"(b) COLLABORATION; RESEARCH AND ROYALTY AGREEMENTS.—

"(1) COLLABORATION.—Subsection (a) shall not prohibit a Bell operating company from engaging in close collaboration with any manufacturer of customer premises equipment or telecommunications equipment during the design and development of hardware, software, or combinations thereof related to such equipment.

"(2) CERTAIN RESEARCH ARRANGEMENTS; ROYALTY AGREEMENTS.—Subsection (a) shall not prohibit a Bell operating company from—

"(A) engaging in research activities related to manufacturing, and

"(B) entering into royalty agreements with manufacturers of telecommunications equipment.

"(c) INFORMATION REQUIREMENTS.—

"(1) INFORMATION ON PROTOCOLS AND TECHNICAL REQUIREMENTS.—Each Bell operating company shall, in accordance with regulations prescribed by the Commission, maintain and file with the Commission full and complete information with respect to the protocols and technical requirements for connection with and use of its telephone exchange service facilities. Each such company shall report promptly to the Commission any material changes or planned changes to such protocols and requirements, and the schedule for implementation of such changes or planned changes.

"(2) DISCLOSURE OF INFORMATION.—A Bell operating company shall not disclose any information required to be filed under paragraph (1) unless that information has been filed promptly, as required by regulation by the Commission.

"(3) ACCESS BY COMPETITORS TO INFORMATION.—The Commission may prescribe such additional regulations under this subsection as may be necessary to ensure that manufacturers have access to the information with respect to the protocols and technical requirements for connection with and use of telephone exchange service facilities that a Bell operating company makes available to any manufacturing affiliate or any unaffiliated manufacturer.

"(4) PLANNING INFORMATION.—Each Bell operating company shall provide, to interconnecting carriers providing telephone exchange service, timely information on the planned deployment of telecommunications equipment.

"(d) MANUFACTURING LIMITATIONS FOR STANDARD-SETTING ORGANIZATIONS.—

"(1) APPLICATION TO BELL COMMUNICATIONS RESEARCH OR MANUFACTURERS.—Bell Communications Research, Inc., or any successor entity or affiliate—

"(A) shall not be considered a Bell operating company or a successor or assign of a Bell operating company at such time as it is no longer an affiliate of any Bell operating company; and

"(B) notwithstanding paragraph (3), shall not engage in manufacturing telecommunications equipment or customer premises equipment as long as it is an affiliate of more than 1 otherwise unaffiliated Bell operating company or successor or assign of any such company.

Nothing in this subsection prohibits Bell Communications Research, Inc., or any successor entity, from engaging in any activity in which it is lawfully engaged on the date of enactment of the Telecommunications Act of 1996. Nothing provided in this subsection shall render Bell Communications Research, Inc., or any successor entity, a common carrier under title II of this Act. Nothing in this subsection restricts any manufacturer from engaging in any activity in which it is lawfully engaged on the date of enactment of the Telecommunications Act of 1996.

"(2) PROPRIETARY INFORMATION.—Any entity which establishes standards for telecommunications equipment or customer premises equipment, or generic network requirements for such equipment, or certifies telecommunications equipment or customer premises equipment, shall be prohibited from releasing or otherwise using any proprietary information, designated as such by its owner, in its possession as a result of such activity, for any purpose other than purposes authorized in writing by the owner of such information, even after such entity ceases to be so engaged.

"(3) MANUFACTURING SAFEGUARDS.—(A) Except as prohibited in paragraph (1), and subject to paragraph (6), any entity which certifies telecommunications equipment or customer premises equipment manufactured by an unaffiliated entity shall only manufacture a particular class of telecommunications equipment or customer premises equipment for which it is undertaking or has undertaken, during the previous 18 months, certification activity for such class of equipment through a separate affiliate.

"(B) Such separate affiliate shall—

"(i) maintain books, records, and accounts separate from those of the entity that certifies such equipment, consistent with generally acceptable accounting principles;

"(ii) not engage in any joint manufacturing activities with such entity; and

"(iii) have segregated facilities and separate employees with such entity.

"(C) Such entity that certifies such equipment shall—

"(i) not discriminate in favor of its manufacturing affiliate in the establishment of standards, generic requirements, or product certification;

"(ii) not disclose to the manufacturing affiliate any proprietary information that has been received at any time from an unaffiliated manufacturer, unless authorized in writing by the owner of the information; and

"(iii) not permit any employee engaged in product certification for telecommunications equipment or customer premises equipment to engage jointly in sales or marketing of any such equipment with the affiliated manufacturer.

"(4) STANDARD-SETTING ENTITIES.—Any entity that is not an accredited standards development organization and that establishes industry-wide standards for telecommunications equipment or customer premises equipment, or industry-wide generic network requirements for such equipment, or that certifies telecommunications equipment or customer premises equipment manufactured by an unaffiliated entity, shall—

"(A) establish and publish any industry-wide standard for, industry-wide generic requirement for, or any substantial modification of an existing industry-wide standard or industry-wide generic requirement for, telecommunications equipment or customer premises equipment only in compliance with the following procedure:

"(i) such entity shall issue a public notice of its consideration of a proposed industry-wide standard or industry-wide generic requirement;

"(ii) such entity shall issue a public invitation to interested industry parties to fund and participate in such efforts on a reasonable and nondiscriminatory basis, administered in such a manner as not to unreasonably exclude any interested industry party;

"(iii) such entity shall publish a text for comment by such parties as have agreed to participate in the process pursuant to clause (ii), provide such parties a full opportunity to submit comments, and respond to comments from such parties;

"(iv) such entity shall publish a final text of the industry-wide standard or industry-wide generic requirement, including the comments in their entirety, of any funding party which requests to have its comments so published; and

"(v) such entity shall attempt, prior to publishing a text for comment, to agree with the funding parties as a group on a mutually satisfactory dispute resolution process which such parties shall utilize as their sole recourse in the event of a dispute on technical issues as to which there is disagreement between any funding party and the entity conducting such activities, except that if no dispute resolution process is agreed to by all the parties, a funding party may utilize the dispute resolution procedures established pursuant to paragraph (5) of this subsection;

"(B) engage in product certification for telecommunications equipment or customer premises equipment manufactured by unaffiliated entities only if—

"(i) such activity is performed pursuant to published criteria;

"(ii) such activity is performed pursuant to auditable criteria; and

"(iii) such activity is performed pursuant to available industry-accepted testing methods and standards, where applicable, unless otherwise agreed upon by the parties funding and performing such activity;

"(C) not undertake any actions to monopolize or attempt to monopolize the market for such services; and

"(D) not preferentially treat its own telecommunications equipment or customer premises equipment, or that of its affiliate, over that of any other entity in establishing and publishing industry-wide standards or industry-wide generic requirements for, and in certification of, telecommunications equipment and customer premises equipment.

"(5) ALTERNATE DISPUTE RESOLUTION.—Within 90 days after the date of enactment of the Telecommunications Act of 1996, the Commission shall prescribe a dispute resolution process to be utilized in the event that a dispute resolution process is not agreed upon by all the parties when establishing and publishing any industry-wide standard or industry-wide generic requirement for telecommunications equipment or customer premises equipment, pursuant to paragraph (4)(A)(v). The Commission shall not establish itself as a party to the dispute resolution process. Such dispute resolution process shall permit any funding party to resolve a dispute with the entity conducting the activity that significantly affects such funding party's interests, in an open, nondiscriminatory, and unbiased fashion, within 30 days after the filing of such dispute. Such disputes may be filed within 15 days after the date the funding party receives a response to its comments from the entity conducting the activity. The Commission shall establish penalties to be assessed for delays caused by referral of frivolous disputes to the dispute resolution process.

"(6) SUNSET.—The requirements of paragraphs (3) and (4) shall terminate for the particular relevant activity when the Commission determines that there are alternative sources of industry-wide standards, industry-wide generic requirements, or product certification for a particular class of telecommunications equipment or customer premises equipment available in the United States. Alternative sources shall be deemed to exist when such sources provide commercially viable alternatives that are providing such services to customers. The Commission shall act on any application for such a determination within 90 days after receipt of such application, and shall receive public comment on such application.

"(7) ADMINISTRATION AND ENFORCEMENT AUTHORITY.—For the purposes of administering this subsection and the regulations prescribed thereunder, the Commission shall have the same remedial authority as the Commission has in administering and enforcing the provisions of this

title with respect to any common carrier subject to this Act.

"(8) DEFINITIONS.—For purposes of this subsection:

"(A) The term 'affiliate' shall have the same meaning as in section 3 of this Act, except that, for purposes of paragraph (1)(B)—

"(i) an aggregate voting equity interest in Bell Communications Research, Inc., of at least 5 percent of its total voting equity, owned directly or indirectly by more than 1 otherwise unaffiliated Bell operating company, shall constitute an affiliate relationship; and

"(ii) a voting equity interest in Bell Communications Research, Inc., by any otherwise unaffiliated Bell operating company of less than 1 percent of Bell Communications Research's total voting equity shall not be considered to be an equity interest under this paragraph.

"(B) The term 'generic requirement' means a description of acceptable product attributes for use by local exchange carriers in establishing product specifications for the purchase of telecommunications equipment, customer premises equipment, and software integral thereto.

"(C) The term 'industry-wide' means activities funded by or performed on behalf of local exchange carriers for use in providing wireline telephone exchange service whose combined total of deployed access lines in the United States constitutes at least 30 percent of all access lines deployed by telecommunications carriers in the United States as of the date of enactment of the Telecommunications Act of 1996.

"(D) The term 'certification' means any technical process whereby a party determines whether a product, for use by more than one local exchange carrier, conforms with the specified requirements pertaining to such product.

"(E) The term 'accredited standards development organization' means an entity composed of industry members which has been accredited by an institution vested with the responsibility for standards accreditation by the industry.

"(e) BELL OPERATING COMPANY EQUIPMENT PROCUREMENT AND SALES.—

"(1) NONDISCRIMINATION STANDARDS FOR MANUFACTURING.—In the procurement or awarding of supply contracts for telecommunications equipment, a Bell operating company, or any entity acting on its behalf, for the duration of the requirement for a separate subsidiary including manufacturing under this Act—

"(A) shall consider such equipment, produced or supplied by unrelated persons; and

"(B) may not discriminate in favor of equipment produced or supplied by an affiliate or related person.

"(2) PROCUREMENT STANDARDS.—Each Bell operating company or any entity acting on its behalf shall make procurement decisions and award all supply contracts for equipment, services, and software on the basis of an objective assessment of price, qualify, delivery, and other commercial factors.

"(3) NETWORK PLANNING AND DESIGN.—A Bell operating company shall, to the extent consistent with the antitrust laws, engage in joint network planning and design with local exchange carriers operating in the same area of interest. No participant in such planning shall be allowed to delay the introduction of new technology or the deployment of facilities to provide telecommunications services, and agreement with such other carriers shall not be required as a prerequisite for such introduction or deployment.

"(4) SALES RESTRICTIONS.—Neither a Bell operating company engaged in manufacturing nor a manufacturing affiliate of such a company shall restrict sales to any local exchange carrier of telecommunications equipment, including software integral to the operation of such equipment and related upgrades.

"(5) PROTECTION OF PROPRIETARY INFORMATION.—A Bell operating company and any entity it owns or otherwise controls shall protect the proprietary information submitted for procurement decisions from release not specifically authorized by the owner of such information.

"(f) ADMINISTRATION AND ENFORCEMENT AUTHORITY.—For the purposes of administering and enforcing the provisions of this section and the regulations prescribed thereunder, the Commission shall have the same authority, power, and functions with respect to any Bell operating company or any affiliate thereof as the Commission has in administering and enforcing the provisions of this title with respect to any common carrier subject to this Act.

"(g) ADDITIONAL RULES AND REGULATIONS.—The Commission may prescribe such additional rules and regulations as the Commission determines are necessary to carry out the provisions of this section, and otherwise to prevent discrimination and cross-subsidization in a Bell operating company's dealings with its affiliate and with third parties.

"(h) DEFINITION.—As used in this section, the term 'manufacturing' has the same meaning as such term has under the AT&T Consent Decree.

"SEC. 274. ELECTRONIC PUBLISHING BY BELL OPERATING COMPANIES.

"(a) LIMITATIONS.—No Bell operating company or any affiliate may engage in the provision of electronic publishing that is disseminated by means of such Bell operating company's or any of its affiliates' basic telephone service, except that nothing in this section shall prohibit a separated affiliate or electronic publishing joint venture operated in accordance with this section from engaging in the provision of electronic publishing.

"(b) SEPARATED AFFILIATE OR ELECTRONIC PUBLISHING JOINT VENTURE REQUIREMENTS.—A separated affiliate or electronic publishing joint venture shall be operated independently from the Bell operating company. Such separated affiliate or joint venture and the Bell operating company with which it is affiliated shall—

"(1) maintain separate books, records, and accounts and prepare separate financial statements;

"(2) not incur debt in a manner that would permit a creditor of the separated affiliate or joint venture upon default to have recourse to the assets of the Bell operating company;

"(3) carry out transactions (A) in a manner consistent with such independence, (B) pursuant to written contracts or tariffs that are filed with the Commission and made publicly available, and (C) in a manner that is auditable in accordance with generally accepted auditing standards;

"(4) value any assets that are transferred directly or indirectly from the Bell operating company to a separated affiliate or joint venture, and record any transactions by which such assets are transferred, in accordance with such regulations as may be prescribed by the Commission or a State commission to prevent improper cross subsidies;

"(5) between a separated affiliate and a Bell operating company—

"(A) have no officers, directors, and employees in common after the effective date of this section; and

"(B) own no property in common;

"(6) not use for the marketing of any product or service of the separated affiliate or joint venture, the name, trademarks, or service marks of an existing Bell operating company except for names, trademarks, or service marks that are owned by the entity that owns or controls the Bell operating company;

"(7) not permit the Bell operating company—

"(A) to perform hiring or training of personnel on behalf of a separated affiliate;

"(B) to perform the purchasing, installation, or maintenance of equipment on behalf of a separated affiliate, except for telephone service that it provides under tariff or contract subject to the provisions of this section; or

"(C) to perform research and development on behalf of a separated affiliate;

"(8) each have performed annually a compliance review—

"(A) that is conducted by an independent entity for the purpose of determining compliance during the preceding calendar year with any provision of this section; and

"(B) the results of which are maintained by the separated affiliate or joint venture and the Bell operating company for a period of 5 years subject to review by any lawful authority; and

"(9) within 90 days of receiving a review described in paragraph (8), file a report of any exceptions and corrective action with the Commission and allow any person to inspect and copy such report subject to reasonable safeguards to protect any proprietary information contained in such report from being used for purposes other than to enforce or pursue remedies under this section.

"(c) JOINT MARKETING.—

"(1) IN GENERAL.—Except as provided in paragraph (2)—

"(A) a Bell operating company shall not carry out any promotion, marketing, sales, or advertising for or in conjunction with a separated affiliate; and

"(B) a Bell operating company shall not carry out any promotion, marketing, sales, or advertising for or in conjunction with an affiliate that is related to the provision of electronic publishing.

"(2) PERMISSIBLE JOINT ACTIVITIES.—

"(A) JOINT TELEMARKETING.—A Bell operating company may provide inbound telemarketing or referral services related to the provision of electronic publishing for a separated affiliate, electronic publishing joint venture, affiliate, or unaffiliated electronic publisher, provided that if such services are provided to a separated affiliate, electronic publishing joint venture, or affiliate, such services shall be made available to all electronic publishers on request, on nondiscriminatory terms.

"(B) TEAMING ARRANGEMENTS.—A Bell operating company may engage in nondiscriminatory teaming or business arrangements to engage in electronic publishing with any separated affiliate or with any other electronic publisher if (i) the Bell operating company only provides facilities, services, and basic telephone service information as authorized by this section, and (ii) the Bell operating company does not own such teaming or business arrangement.

"(C) ELECTRONIC PUBLISHING JOINT VENTURES.—A Bell operating company or affiliate may participate on a nonexclusive basis in electronic publishing joint ventures with entities that are not a Bell operating company, affiliate, or separated affiliate to provide electronic publishing services, if the Bell operating company or affiliate has not more than a 50 percent direct or indirect equity interest (or the equivalent thereof) or the right to more than 50 percent of the gross revenues under a revenue sharing or royalty agreement in any electronic publishing joint venture. Officers and employees of a Bell operating company or affiliate participating in an electronic publishing joint venture may not have more than 50 percent of the voting control over the electronic publishing joint venture. In the case of joint ventures with small, local electronic publishers, the Commission for good cause shown may authorize the Bell operating company or affiliate to have a larger equity interest, revenue share, or voting control but not to exceed 80 percent. A Bell operating company participating in an electronic publishing joint venture may provide promotion, marketing, sales, or

advertising personnel and services to such joint venture.

"(d) BELL OPERATING COMPANY REQUIREMENT.—A Bell operating company under common ownership or control with a separated affiliate or electronic publishing joint venture shall provide network access and interconnections for basic telephone service to electronic publishers at just and reasonable rates that are tariffed (so long as rates for such services are subject to regulation) and that are not higher on a per-unit basis than those charged for such services to any other electronic publisher or any separated affiliate engaged in electronic publishing.

"(e) PRIVATE RIGHT OF ACTION.—

"(1) DAMAGES.—Any person claiming that any act or practice of any Bell operating company, affiliate, or separated affiliate constitutes a violation of this section may file a complaint with the Commission or bring suit as provided in section 207 of this Act, and such Bell operating company, affiliate, or separated affiliate shall be liable as provided in section 206 of this Act; except that damages may not be awarded for a violation that is discovered by a compliance review as required by subsection (b)(7) of this section and corrected within 90 days.

"(2) CEASE AND DESIST ORDERS.—In addition to the provisions of paragraph (1), any person claiming that any act or practice of any Bell operating company, affiliate, or separated affiliate constitutes a violation of this section may make application to the Commission for an order to cease and desist such violation or may make application in any district court of the United States of competent jurisdiction for an order enjoining such acts or practices or for an order compelling compliance with such requirement.

"(f) SEPARATED AFFILIATE REPORTING REQUIREMENT.—Any separated affiliate under this section shall file with the Commission annual reports in a form substantially equivalent to the Form 10–K required by regulations of the Securities and Exchange Commission.

"(g) EFFECTIVE DATES.—

"(1) TRANSITION.—Any electronic publishing service being offered to the public by a Bell operating company or affiliate on the date of enactment of the Telecommunications Act of 1996 shall have one year from such date of enactment to comply with the requirements of this section.

"(2) SUNSET.—The provisions of this section shall not apply to conduct occurring after 4 years after the date of enactment of the Telecommunications Act of 1996.

"(h) DEFINITION OF ELECTRONIC PUBLISHING.—

"(1) IN GENERAL.—The term 'electronic publishing' means the dissemination, provision, publication, or sale to an unaffiliated entity or person, of any one or more of the following: news (including sports); entertainment (other than interactive games); business, financial, legal, consumer, or credit materials; editorials, columns, or features; advertising; photos or images; archival or research material; legal notices or public records; scientific, educational, instructional, technical, professional, trade, or other literary materials; or other like or similar information.

"(2) EXCEPTIONS.—The term 'electronic publishing' shall not include the following services:

"(A) Information access, as that term is defined by the AT&T Consent Decree.

"(B) The transmission of information as a common carrier.

"(C) The transmission of information as part of a gateway to an information service that does not involve the generation or alteration of the content of information, including data transmission, address translation, protocol conversion, billing management, introductory information content, and navigational systems that enable users to access electronic publishing services, which do not affect the presentation of such electronic publishing services to users.

"(D) Voice storage and retrieval services, including voice messaging and electronic mail services.

"(E) Data processing or transaction processing services that do not involve the generation or alteration of the content of information.

"(F) Electronic billing or advertising of a Bell operating company's regulated telecommunications services.

"(G) Language translation or data format conversion.

"(H) The provision of information necessary for the management, control, or operation of a telephone company telecommunications system.

"(I) The provision of directory assistance that provides names, addresses, and telephone numbers and does not include advertising.

"(J) Caller identification services.

"(K) Repair and provisioning databases and credit card and billing validation for telephone company operations.

"(L) 911–E and other emergency assistance databases.

"(M) Any other network service of a type that is like or similar to these network services and that does not involve the generation or alteration of the content of information.

"(N) Any upgrades to these network services that do not involve the generation or alteration of the content of information.

"(O) Video programming or full motion video entertainment on demand.

"(i) ADDITIONAL DEFINITIONS.—As used in this section—

"(1) The term 'affiliate' means any entity that, directly or indirectly, owns or controls, is owned or controlled by, or is under common ownership or control with, a Bell operating company. Such term shall not include a separated affiliate.

"(2) The term 'basic telephone service' means any wireline telephone exchange service, or wireline telephone exchange service facility, provided by a Bell operating company in a telephone exchange area, except that such term does not include—

"(A) a competitive wireline telephone exchange service provided in a telephone exchange area where another entity provides a wireline telephone exchange service that was provided on January 1, 1984, or

"(B) a commercial mobile service.

"(3) The term 'basic telephone service information' means network and customer information of a Bell operating company and other information acquired by a Bell operating company as a result of its engaging in the provision of basic telephone service.

"(4) The term 'control' has the meaning that it has in 17 C.F.R. 240.12b–2, the regulations promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) or any successor provision to such section.

"(5) The term 'electronic publishing joint venture' means a joint venture owned by a Bell operating company or affiliate that engages in the provision of electronic publishing which is disseminated by means of such Bell operating company's or any of its affiliates' basic telephone service.

"(6) The term 'entity' means any organization, and includes corporations, partnerships, sole proprietorships, associations, and joint ventures.

"(7) The term 'inbound telemarketing' means the marketing of property, goods, or services by telephone to a customer or potential customer who initiated the call.

"(8) The term 'own' with respect to an entity means to have a direct or indirect equity interest (or the equivalent thereof) of more than 10 percent of an entity, or the right to more than 10 percent of the gross revenues of an entity under a revenue sharing or royalty agreement.

"(9) The term 'separated affiliate' means a corporation under common ownership or control with a Bell operating company that does not own or control a Bell operating company and is not owned or controlled by a Bell operating company and that engages in the provision of electronic publishing which is disseminated by means of such Bell operating company's or any of its affiliates' basic telephone service.

"(10) The term 'Bell operating company' has the meaning provided in section 3, except that such term includes any entity or corporation that is owned or controlled by such a company (as so defined) but does not include an electronic publishing joint venture owned by such an entity or corporation.

"SEC. 275. ALARM MONITORING SERVICES.

"(a) DELAYED ENTRY INTO ALARM MONITORING.—

"(1) PROHIBITION.—No Bell operating company or affiliate thereof shall engage in the provision of alarm monitoring services before the date which is 5 years after the date of enactment of the Telecommunications Act of 1996.

"(2) EXISTING ACTIVITIES.—Paragraph (1) does not prohibit or limit the provision, directly or through an affiliate, of alarm monitoring services by a Bell operating company that was engaged in providing alarm monitoring services as of November 30, 1995, directly or through an affiliate. Such Bell operating company or affiliate may not acquire any equity interest in, or obtain financial control of, any unaffiliated alarm monitoring service entity after November 30, 1995, and until 5 years after the date of enactment of the Telecommunications Act of 1996, except that this sentence shall not prohibit an exchange of customers for the customers of an unaffiliated alarm monitoring service entity.

"(b) NONDISCRIMINATION.—An incumbent local exchange carrier (as defined in section 251(h)) engaged in the provision of alarm monitoring services shall—

"(1) provide nonaffiliated entities, upon reasonable request, with the network services it provides to its own alarm monitoring operations, on nondiscriminatory terms and conditions; and

"(2) not subsidize its alarm monitoring services either directly or indirectly from telephone exchange service operations.

"(c) EXPEDITED CONSIDERATION OF COMPLAINTS.—The Commission shall establish procedures for the receipt and review of complaints concerning violations of subsection (b) or the regulations thereunder that result in material financial harm to a provider of alarm monitoring service. Such procedures shall ensure that the Commission will make a final determination with respect to any such complaint within 120 days after receipt of the complaint. If the complaint contains an appropriate showing that the alleged violation occurred, as determined by the Commission in accordance with such regulations, the Commission shall, within 60 days after receipt of the complaint, order the incumbent local exchange carrier (as defined in section 251(h)) and its affiliates to cease engaging in such violation pending such final determination.

"(d) USE OF DATA.—A local exchange carrier may not record or use in any fashion the occurrence or contents of calls received by providers of alarm monitoring services for the purposes of marketing such services on behalf of such local exchange carrier, or any other entity. Any regulations necessary to enforce this subsection shall be issued initially within 6 months after the date of enactment of the Telecommunications Act of 1996.

"(e) DEFINITION OF ALARM MONITORING SERVICE.—The term 'alarm monitoring service' means

a service that uses a device located at a residence, place of business, or other fixed premises—

"(1) to receive signals from other devices located at or about such premises regarding a possible threat at such premises to life, safety, or property, from burglary, fire, vandalism, bodily injury, or other emergency, and

"(2) to transmit a signal regarding such threat by means of transmission facilities of a local exchange carrier or one of its affiliates to a remote monitoring center to alert a person at such center of the need to inform the customer or another person or police, fire, rescue, security, or public safety personnel of such threat,

but does not include a service that uses a medical monitoring device attached to an individual for the automatic surveillance of an ongoing medical condition.

"SEC. 276. PROVISION OF PAYPHONE SERVICE.

"(a) NONDISCRIMINATION SAFEGUARDS.—After the effective date of the rules prescribed pursuant to subsection (b), any Bell operating company that provides payphone service—

"(1) shall not subsidize its payphone service directly or indirectly from its telephone exchange service operations or its exchange access operations; and

"(2) shall not prefer or discriminate in favor of its payphone service.

"(b) REGULATIONS.—

"(1) CONTENTS OF REGULATIONS.—In order to promote competition among payphone service providers and promote the widespread deployment of payphone services to the benefit of the general public, within 9 months after the date of enactment of the Telecommunications Act of 1996, the Commission shall take all actions necessary (including any reconsideration) to prescribe regulations that—

"(A) establish a per call compensation plan to ensure that all payphone service providers are fairly compensated for each and every completed intrastate and interstate call using their payphone, except that emergency calls and telecommunications relay service calls for hearing disabled individuals shall not be subject to such compensation;

"(B) discontinue the intrastate and interstate carrier access charge payphone service elements and payments in effect on such date of enactment, and all intrastate and interstate payphone subsidies from basic exchange and exchange access revenues, in favor of a compensation plan as specified in subparagraph (A);

"(C) prescribe a set of nonstructural safeguards for Bell operating company payphone service to implement the provisions of paragraphs (1) and (2) of subsection (a), which safeguards shall, at a minimum, include the nonstructural safeguards equal to those adopted in the Computer Inquiry-III (CC Docket No. 90-623) proceeding;

"(D) provide for Bell operating company payphone service providers to have the same right that independent payphone providers have to negotiate with the location provider on the location provider's selecting and contracting with, and, subject to the terms of any agreement with the location provider, to select and contract with, the carriers that carry interLATA calls from their payphones, unless the Commission determines in the rulemaking pursuant to this section that it is not in the public interest; and

"(E) provide for all payphone service providers to have the right to negotiate with the location provider on the location provider's selecting and contracting with, and, subject to the terms of any agreement with the location provider, to select and contract with, the carriers that carry intraLATA calls from their payphones.

"(2) PUBLIC INTEREST TELEPHONES.—In the rulemaking conducted pursuant to paragraph (1), the Commission shall determine whether public interest payphones, which are provided in the interest of public health, safety, and welfare, in locations where there would otherwise not be a payphone, should be maintained, and if so, ensure that such public interest payphones are supported fairly and equitably.

"(3) EXISTING CONTRACTS.—Nothing in this section shall affect any existing contracts between location providers and payphone service providers or interLATA or intraLATA carriers that are in force and effect as of the date of enactment of the Telecommunications Act of 1996.

"(c) STATE PREEMPTION.—To the extent that any State requirements are inconsistent with the Commission's regulations, the Commission's regulations on such matters shall preempt such State requirements.

"(d) DEFINITION.—As used in this section, the term 'payphone service' means the provision of public or semi-public pay telephones, the provision of inmate telephone service in correctional institutions, and any ancillary services.".

(b) REVIEW OF ENTRY DECISIONS.—Section 402(b) (47 U.S.C. 402(b)) is amended—

(1) in paragraph (6), by striking "(3), and (4)" and inserting "(3), (4), and (9)"; and

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

"(9) By any applicant for authority to provide interLATA services under section 271 of this Act whose application is denied by the Commission.".

TITLE II—BROADCAST SERVICES

SEC. 201. BROADCAST SPECTRUM FLEXIBILITY.

Title III is amended by inserting after section 335 (47 U.S.C. 335) the following new section:

"SEC. 336. BROADCAST SPECTRUM FLEXIBILITY.

"(a) COMMISSION ACTION.—If the Commission determines to issue additional licenses for advanced television services, the Commission—

"(1) should limit the initial eligibility for such licenses to persons that, as of the date of such issuance, are licensed to operate a television broadcast station or hold a permit to construct such a station (or both); and

"(2) shall adopt regulations that allow the holders of such licenses to offer such ancillary or supplementary services on designated frequencies as may be consistent with the public interest, convenience, and necessity.

"(b) CONTENTS OF REGULATIONS.—In prescribing the regulations required by subsection (a), the Commission shall—

"(1) only permit such licensee or permittee to offer ancillary or supplementary services if the use of a designated frequency for such services is consistent with the technology or method designated by the Commission for the provision of advanced television services;

"(2) limit the broadcasting of ancillary or supplementary services on designated frequencies so as to avoid derogation of any advanced television services, including high definition television broadcasts, that the Commission may require using such frequencies;

"(3) apply to any other ancillary or supplementary service such of the Commission's regulations as are applicable to the offering of analogous services by any other person, except that no ancillary or supplementary service shall have any rights to carriage under section 614 or 615 or be deemed a multichannel video programming distributor for purposes of section 628;

"(4) adopt such technical and other requirements as may be necessary or appropriate to assure the quality of the signal used to provide advanced television services, and may adopt regulations that stipulate the minimum number of hours per day that such signal must be transmitted; and

"(5) prescribe such other regulations as may be necessary for the protection of the public interest, convenience, and necessity.

"(c) RECOVERY OF LICENSE.—If the Commission grants a license for advanced television services to a person that, as of the date of such issuance, is licensed to operate a television broadcast station or holds a permit to construct such a station (or both), the Commission shall, as a condition of such license, require that either the additional license or the original license held by the licensee be surrendered to the Commission for reallocation or reassignment (or both) pursuant to Commission regulation.

"(d) PUBLIC INTEREST REQUIREMENT.—Nothing in this section shall be construed as relieving a television broadcasting station from its obligation to serve the public interest, convenience, and necessity. In the Commission's review of any application for renewal of a broadcast license for a television station that provides ancillary or supplementary services, the television licensee shall establish that all of its program services on the existing or advanced television spectrum are in the public interest. Any violation of the Commission rules applicable to ancillary or supplementary services shall reflect upon the licensee's qualifications for renewal of its license.

"(e) FEES.—

"(1) SERVICES TO WHICH FEES APPLY.—If the regulations prescribed pursuant to subsection (a) permit a licensee to offer ancillary or supplementary services on a designated frequency—

"(A) for which the payment of a subscription fee is required in order to receive such services, or

"(B) for which the licensee directly or indirectly receives compensation from a third party in return for transmitting material furnished by such third party (other than commercial advertisements used to support broadcasting for which a subscription fee is not required),

the Commission shall establish a program to assess and collect from the licensee for such designated frequency an annual fee or other schedule or method of payment that promotes the objectives described in subparagraphs (A) and (B) of paragraph (2).

"(2) COLLECTION OF FEES.—The program required by paragraph (1) shall—

"(A) be designed (i) to recover for the public a portion of the value of the public spectrum resource made available for such commercial use, and (ii) to avoid unjust enrichment through the method employed to permit such uses of that resource;

"(B) recover for the public an amount that, to the extent feasible, equals but does not exceed (over the term of the license) the amount that would have been recovered had such services been licensed pursuant to the provisions of section 309(j) of this Act and the Commission's regulations thereunder; and

"(C) be adjusted by the Commission from time to time in order to continue to comply with the requirements of this paragraph.

"(3) TREATMENT OF REVENUES.—

"(A) GENERAL RULE.—Except as provided in subparagraph (B), all proceeds obtained pursuant to the regulations required by this subsection shall be deposited in the Treasury in accordance with chapter 33 of title 31, United States Code.

"(B) RETENTION OF REVENUES.—Notwithstanding subparagraph (A), the salaries and expenses account of the Commission shall retain as an offsetting collection such sums as may be necessary from such proceeds for the costs of developing and implementing the program required by this section and regulating and supervising advanced television services. Such offsetting collections shall be available for obligation subject to the terms and conditions of the receiving appropriations account, and shall be deposited in such accounts on a quarterly basis.

"(4) REPORT.—Within 5 years after the date of enactment of the Telecommunications Act of

1996, the Commission shall report to the Congress on the implementation of the program required by this subsection, and shall annually thereafter advise the Congress on the amounts collected pursuant to such program.

"(f) EVALUATION.—Within 10 years after the date the Commission first issues additional licenses for advanced television services, the Commission shall conduct an evaluation of the advanced television services program. Such evaluation shall include—

"(1) an assessment of the willingness of consumers to purchase the television receivers necessary to receive broadcasts of advanced television services;

"(2) an assessment of alternative uses, including public safety use, of the frequencies used for such broadcasts; and

"(3) the extent to which the Commission has been or will be able to reduce the amount of spectrum assigned to licensees.

"(g) DEFINITIONS.—As used in this section:

"(1) ADVANCED TELEVISION SERVICES.—The term 'advanced television services' means television services provided using digital or other advanced technology as further defined in the opinion, report, and order of the Commission entitled 'Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service', MM Docket 87–268, adopted September 17, 1992, and successor proceedings.

"(2) DESIGNATED FREQUENCIES.—The term 'designated frequency' means each of the frequencies designated by the Commission for licenses for advanced television services.

"(3) HIGH DEFINITION TELEVISION.—The term 'high definition television' refers to systems that offer approximately twice the vertical and horizontal resolution of receivers generally available on the date of enactment of the Telecommunications Act of 1996, as further defined in the proceedings described in paragraph (1) of this subsection.".

SEC. 202. BROADCAST OWNERSHIP.

(a) NATIONAL RADIO STATION OWNERSHIP RULE CHANGES REQUIRED.—The Commission shall modify section 73.3555 of its regulations (47 C.F.R. 73.3555) by eliminating any provisions limiting the number of AM or FM broadcast stations which may be owned or controlled by one entity nationally.

(b) LOCAL RADIO DIVERSITY.—

(1) APPLICABLE CAPS.—The Commission shall revise section 73.3555(a) of its regulations (47 C.F.R. 73.3555) to provide that—

(A) in a radio market with 45 or more commercial radio stations, a party may own, operate, or control up to 8 commercial radio stations, not more than 5 of which are in the same service (AM or FM);

(B) in a radio market with between 30 and 44 (inclusive) commercial radio stations, a party may own, operate, or control up to 7 commercial radio stations, not more than 4 of which are in the same service (AM or FM);

(C) in a radio market with between 15 and 29 (inclusive) commercial radio stations, a party may own, operate, or control up to 6 commercial radio stations, not more than 4 of which are in the same service (AM or FM); and

(D) in a radio market with 14 or fewer commercial radio stations, a party may own, operate, or control up to 5 commercial radio stations, not more than 3 of which are in the same service (AM or FM), except that a party may not own, operate, or control more than 50 percent of the stations in such market.

(2) EXCEPTION.—Notwithstanding any limitation authorized by this subsection, the Commission may permit a person or entity to own, operate, or control, or have a cognizable interest in, radio broadcast stations if the Commission determines that such ownership, operation, control, or interest will result in an increase in the number of radio broadcast stations in operation.

(c) TELEVISION OWNERSHIP LIMITATIONS.—

(1) NATIONAL OWNERSHIP LIMITATIONS.—The Commission shall modify its rules for multiple ownership set forth in section 73.3555 of its regulations (47 C.F.R. 73.3555)—

(A) by eliminating the restrictions on the number of television stations that a person or entity may directly or indirectly own, operate, or control, or have a cognizable interest in, nationwide; and

(B) by increasing the national audience reach limitation for television stations to 35 percent.

(2) LOCAL OWNERSHIP LIMITATIONS.—The Commission shall conduct a rulemaking proceeding to determine whether to retain, modify, or eliminate its limitations on the number of television stations that a person or entity may own, operate, or control, or have a cognizable interest in, within the same television market.

(d) RELAXATION OF ONE-TO-A-MARKET.—With respect to its enforcement of its one-to-a-market ownership rules under section 73.3555 of its regulations, the Commission shall extend its waiver policy to any of the top 50 markets, consistent with the public interest, convenience, and necessity.

(e) DUAL NETWORK CHANGES.—The Commission shall revise section 73.658(g) of its regulations (47 C.F.R. 658(g)) to permit a television broadcast station to affiliate with a person or entity that maintains 2 or more networks of television broadcast stations unless such dual or multiple networks are composed of—

(1) two or more persons or entities that, on the date of enactment of the Telecommunications Act of 1996, are "networks" as defined in section 73.3613(a)(1) of the Commission's regulations (47 C.F.R. 73.3613(a)(1)); or

(2) any network described in paragraph (1) and an English-language program distribution service that, on such date, provides 4 or more hours of programming per week on a national basis pursuant to network affiliation arrangements with local television broadcast stations in markets reaching more than 75 percent of television homes (as measured by a national ratings service).

(f) CABLE CROSS OWNERSHIP.—

(1) ELIMINATION OF RESTRICTIONS.—The Commission shall revise section 76.501 of its regulations (47 C.F.R. 76.501) to permit a person or entity to own or control a network of broadcast stations and a cable system.

(2) SAFEGUARDS AGAINST DISCRIMINATION.—The Commission shall revise such regulations if necessary to ensure carriage, channel positioning, and nondiscriminatory treatment of nonaffiliated broadcast stations by a cable system described in paragraph (1).

(g) LOCAL MARKETING AGREEMENTS.—Nothing in this section shall be construed to prohibit the origination, continuation, or renewal of any television local marketing agreement that is in compliance with the regulations of the Commission.

(h) FURTHER COMMISSION REVIEW.—The Commission shall review its rules adopted pursuant to this section and all of its ownership rules biennially as part of its regulatory reform review under section 11 of the Communications Act of 1934 and shall determine whether any of such rules are necessary in the public interest as the result of competition. The Commission shall repeal or modify any regulation it determines to be no longer in the public interest.

(i) ELIMINATION OF STATUTORY RESTRICTION.—Section 613(a) (47 U.S.C. 533(a)) is amended—

(1) by striking paragraph (1);

(2) by redesignating paragraph (2) as subsection (a);

(3) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively;

(4) by striking "and" at the end of paragraph (1) (as so redesignated);

(5) by striking the period at the end of paragraph (2) (as so redesignated) and inserting "; and"; and

(6) by adding at the end the following new paragraph:

"(3) shall not apply the requirements of this subsection to any cable operator in any franchise area in which a cable operator is subject to effective competition as determined under section 623(l).".

SEC. 203. TERM OF LICENSES.

Section 307(c) (47 U.S.C. 307(c)) is amended to read as follows:

"(c) TERMS OF LICENSES.—

"(1) INITIAL AND RENEWAL LICENSES.—Each license granted for the operation of a broadcasting station shall be for a term of not to exceed 8 years. Upon application therefor, a renewal of such license may be granted from time to time for a term of not to exceed 8 years from the date of expiration of the preceding license, if the Commission finds that public interest, convenience, and necessity would be served thereby. Consistent with the foregoing provisions of this subsection, the Commission may by rule prescribe the period or periods for which licenses shall be granted and renewed for particular classes of stations, but the Commission may not adopt or follow any rule which would preclude it, in any case involving a station of a particular class, from granting or renewing a license for a shorter period than that prescribed for stations of such class if, in its judgment, the public interest, convenience, or necessity would be served by such action.

"(2) MATERIALS IN APPLICATION.—In order to expedite action on applications for renewal of broadcasting station licenses and in order to avoid needless expense to applicants for such renewals, the Commission shall not require any such applicant to file any information which previously has been furnished to the Commission or which is not directly material to the considerations that affect the granting or denial of such application, but the Commission may require any new or additional facts it deems necessary to make its findings.

"(3) CONTINUATION PENDING DECISION.—Pending any hearing and final decision on such an application and the disposition of any petition for rehearing pursuant to section 405, the Commission shall continue such license in effect.".

SEC. 204. BROADCAST LICENSE RENEWAL PROCEDURES.

(a) RENEWAL PROCEDURES.—

(1) AMENDMENT.—Section 309 (47 U.S.C. 309) is amended by adding at the end thereof the following new subsection:

"(k) BROADCAST STATION RENEWAL PROCEDURES.—

"(1) STANDARDS FOR RENEWAL.—If the licensee of a broadcast station submits an application to the Commission for renewal of such license, the Commission shall grant the application if it finds, with respect to that station, during the preceding term of its license—

"(A) the station has served the public interest, convenience, and necessity;

"(B) there have been no serious violations by the licensee of this Act or the rules and regulations of the Commission; and

"(C) there have been no other violations by the licensee of this Act or the rules and regulations of the Commission which, taken together, would constitute a pattern of abuse.

"(2) CONSEQUENCE OF FAILURE TO MEET STANDARD.—If any licensee of a broadcast station fails to meet the requirements of this subsection, the Commission may deny the application for renewal in accordance with paragraph (3), or grant such application on terms and conditions as are appropriate, including renewal for a term less than the maximum otherwise permitted.

"(3) STANDARDS FOR DENIAL.—If the Commission determines, after notice and opportunity for a hearing as provided in subsection (e), that a licensee has failed to meet the requirements specified in paragraph (1) and that no mitigating factors justify the imposition of lesser sanctions, the Commission shall—

"(A) issue an order denying the renewal application filed by such licensee under section 308; and

"(B) only thereafter accept and consider such applications for a construction permit as may be filed under section 308 specifying the channel or broadcasting facilities of the former licensee.

"(4) COMPETITOR CONSIDERATION PROHIBITED.—In making the determinations specified in paragraph (1) or (2), the Commission shall not consider whether the public interest, convenience, and necessity might be served by the grant of a license to a person other than the renewal applicant.".

(2) CONFORMING AMENDMENT.—Section 309(d) (47 U.S.C. 309(d)) is amended by inserting after "with subsection (a)" each place it appears the following: "(or subsection (k) in the case of renewal of any broadcast station license)".

(b) SUMMARY OF COMPLAINTS ON VIOLENT PROGRAMMING.—Section 308 (47 U.S.C. 308) is amended by adding at the end the following new subsection:

"(d) SUMMARY OF COMPLAINTS.—Each applicant for the renewal of a commercial or noncommercial television license shall attach as an exhibit to the application a summary of written comments and suggestions received from the public and maintained by the licensee (in accordance with Commission regulations) that comment on the applicant's programming, if any, and that are characterized by the commentor as constituting violent programming.".

(c) EFFECTIVE DATE.—The amendments made by this section apply to applications filed after May 1, 1995.

SEC. 205. DIRECT BROADCAST SATELLITE SERVICE.

(a) DBS SIGNAL SECURITY.—Section 705(e)(4) (47 U.S.C. 605(e)(4)) is amended by inserting "or direct-to-home satellite services," after "programming,".

(b) FCC JURISDICTION OVER DIRECT-TO-HOME SATELLITE SERVICES.—Section 303 (47 U.S.C. 303) is amended by adding at the end thereof the following new subsection:

"(v) Have exclusive jurisdiction to regulate the provision of direct-to-home satellite services. As used in this subsection, the term 'direct-to-home satellite services' means the distribution or broadcasting of programming or services by satellite directly to the subscriber's premises without the use of ground receiving or distribution equipment, except at the subscriber's premises or in the uplink process to the satellite.".

SEC. 206. AUTOMATED SHIP DISTRESS AND SAFETY SYSTEMS.

Part II of title III is amended by inserting after section 364 (47 U.S.C. 362) the following new section:

"SEC. 365. AUTOMATED SHIP DISTRESS AND SAFETY SYSTEMS.

"Notwithstanding any provision of this Act or any other provision of law or regulation, a ship documented under the laws of the United States operating in accordance with the Global Maritime Distress and Safety System provisions of the Safety of Life at Sea Convention shall not be required to be equipped with a radio telegraphy station operated by one or more radio officers or operators. This section shall take effect for each vessel upon a determination by the United States Coast Guard that such vessel has the equipment required to implement the Global Maritime Distress and Safety System installed and operating in good working condition.".

SEC. 207. RESTRICTIONS ON OVER-THE-AIR RECEPTION DEVICES.

Within 180 days after the date of enactment of this Act, the Commission shall, pursuant to section 303 of the Communications Act of 1934, promulgate regulations to prohibit restrictions that impair a viewer's ability to receive video programming services through devices designed for over-the-air reception of television broadcast signals, multichannel multipoint distribution service, or direct broadcast satellite services.

TITLE III—CABLE SERVICES

SEC. 301. CABLE ACT REFORM.

(a) DEFINITIONS.—

(1) DEFINITION OF CABLE SERVICE.—Section 602(6)(B) (47 U.S.C. 522(6)(B)) is amended by inserting "or use" after "the selection".

(2) CHANGE IN DEFINITION OF CABLE SYSTEM.—Section 602(7) (47 U.S.C. 522(7)) is amended by striking "(B) a facility that serves only subscribers in 1 or more multiple unit dwellings under common ownership, control, or management, unless such facility or facilities uses any public right-of-way;" and inserting "(B) a facility that serves subscribers without using any public right-of-way;".

(b) RATE DEREGULATION.—

(1) UPPER TIER REGULATION.—Section 623(c) (47 U.S.C. 543(c)) is amended—

(A) in paragraph (1)(B), by striking "subscriber, franchising authority, or other relevant State or local government entity" and inserting "franchising authority (in accordance with paragraph (3))";

(B) in paragraph (1)(C), by striking "such complaint" and inserting "the first complaint filed with the franchising authority under paragraph (3)"; and

(C) by striking paragraph (3) and inserting the following:

"(3) REVIEW OF RATE CHANGES.—The Commission shall review any complaint submitted by a franchising authority after the date of enactment of the Telecommunications Act of 1996 concerning an increase in rates for cable programming services and issue a final order within 90 days after it receives such a complaint, unless the parties agree to extend the period for such review. A franchising authority may not file a complaint under this paragraph unless, within 90 days after such increase becomes effective it receives subscriber complaints.

"(4) SUNSET OF UPPER TIER RATE REGULATION.—This subsection shall not apply to cable programming services provided after March 31, 1999.".

(2) SUNSET OF UNIFORM RATE STRUCTURE IN MARKETS WITH EFFECTIVE COMPETITION.—Section 623(d) (47 U.S.C. 543(d)) is amended by adding at the end thereof the following: "This subsection does not apply to (1) a cable operator with respect to the provision of cable service over its cable system in any geographic area in which the video programming services offered by the operator in that area are subject to effective competition, or (2) any video programming offered on a per channel or per program basis. Bulk discounts to multiple dwelling units shall not be subject to this subsection, except that a cable operator of a cable system that is not subject to effective competition may not charge predatory prices to a multiple dwelling unit. Upon a prima facie showing by a complainant that there are reasonable grounds to believe that the discounted price is predatory, the cable system shall have the burden of showing that its discounted price is not predatory.".

(3) EFFECTIVE COMPETITION.—Section 623(l)(1) (47 U.S.C. 543(l)(1)) is amended—

(A) by striking "or" at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph (C) and inserting "; or"; and

(C) by adding at the end the following:

"(D) a local exchange carrier or its affiliate (or any multichannel video programming distributor using the facilities of such carrier or its affiliate) offers video programming services directly to subscribers by any means (other than direct-to-home satellite services) in the franchise area of an unaffiliated cable operator which is providing cable service in that franchise area, but only if the video programming services so offered in that area are comparable to the video programming services provided by the unaffiliated cable operator in that area."

(c) GREATER DEREGULATION FOR SMALLER CABLE COMPANIES.—Section 623 (47 U.S.C 543) is amended by adding at the end thereof the following:

"(m) SPECIAL RULES FOR SMALL COMPANIES.—

"(1) IN GENERAL.—Subsections (a), (b), and (c) do not apply to a small cable operator with respect to—

"(A) cable programming services, or

"(B) a basic service tier that was the only service tier subject to regulation as of December 31, 1994,

in any franchise area in which that operator services 50,000 or fewer subscribers.

"(2) DEFINITION OF SMALL CABLE OPERATOR.—For purposes of this subsection, the term 'small cable operator' means a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.".

(d) MARKET DETERMINATIONS.—

(1) MARKET DETERMINATIONS; EXPEDITED DECISIONMAKING.—Section 614(h)(1)(C) (47 U.S.C. 534(h)(1)(C)) is amended—

(A) by striking "in the manner provided in section 73.3555(d)(3)(i) of title 47, Code of Federal Regulations, as in effect on May 1, 1991," in clause (i) and inserting "by the Commission by regulation or order using, where available, commercial publications which delineate television markets based on viewing patterns,"; and

(B) by striking clause (iv) and inserting the following:

"(iv) Within 120 days after the date on which a request is filed under this subparagraph (or 120 days after the date of enactment of the Telecommunications Act of 1996, if later), the Commission shall grant or deny the request.".

(2) APPLICATION TO PENDING REQUESTS.—The amendment made by paragraph (1) shall apply to—

(A) any request pending under section 614(h)(1)(C) of the Communications Act of 1934 (47 U.S.C. 534(h)(1)(C)) on the date of enactment of this Act; and

(B) any request filed under that section after that date.

(e) TECHNICAL STANDARDS.—Section 624(e) (47 U.S.C. 544(e)) is amended by striking the last two sentences and inserting the following: "No State or franchising authority may prohibit, condition, or restrict a cable system's use of any type of subscriber equipment or any transmission technology.".

(f) CABLE EQUIPMENT COMPATIBILITY.—Section 624A (47 U.S.C. 544A) is amended—

(1) in subsection (a) by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting "; and"; and by adding at the end the following new paragraph:

"(4) compatibility among televisions, video cassette recorders, and cable systems can be assured with narrow technical standards that mandate a minimum degree of common design and operation, leaving all features, functions, protocols, and other product and service options for selection through open competition in the market.";

(2) in subsection (c)(1)—

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

(B) by inserting before such redesignated subparagraph (B) the following new subparagraph:

"(A) the need to maximize open competition in the market for all features, functions, protocols, and other product and service options of converter boxes and other cable converters unrelated to the descrambling or decryption of cable television signals;"; and

(3) in subsection (c)(2)—

(A) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively; and

(B) by inserting after subparagraph (C) the following new subparagraph:

"(D) to ensure that any standards or regulations developed under the authority of this section to ensure compatibility between televisions, video cassette recorders, and cable systems do not affect features, functions, protocols, and other product and service options other than those specified in paragraph (1)(B), including telecommunications interface equipment, home automation communications, and computer network services;".

(g) SUBSCRIBER NOTICE.—Section 632 (47 U.S.C. 552) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c) SUBSCRIBER NOTICE.—A cable operator may provide notice of service and rate changes to subscribers using any reasonable written means at its sole discretion. Notwithstanding section 623(b)(6) or any other provision of this Act, a cable operator shall not be required to provide prior notice of any rate change that is the result of a regulatory fee, franchise fee, or any other fee, tax, assessment, or charge of any kind imposed by any Federal agency, State, or franchising authority on the transaction between the operator and the subscriber.".

(h) PROGRAM ACCESS.—Section 628 (47 U.S.C. 548) is amended by adding at the end the following:

"(j) COMMON CARRIERS.—Any provision that applies to a cable operator under this section shall apply to a common carrier or its affiliate that provides video programming by any means directly to subscribers. Any such provision that applies to a satellite cable programming vendor in which a cable operator has an attributable interest shall apply to any satellite cable programming vendor in which such common carrier has an attributable interest. For the purposes of this subsection, two or fewer common officers or directors shall not by itself establish an attributable interest by a common carrier in a satellite cable programming vendor (or its parent company).".

(i) ANTITRAFFICKING.—Section 617 (47 U.S.C. 537) is amended—

(1) by striking subsections (a) through (d); and

(2) in subsection (e), by striking "(e)" and all that follows through "a franchising authority" and inserting "A franchising authority".

(j) AGGREGATION OF EQUIPMENT COSTS.—Section 623(a) (47 U.S.C. 543(a)) is amended by adding at the end the following new paragraph:

"(7) AGGREGATION OF EQUIPMENT COSTS.—

"(A) IN GENERAL.—The Commission shall allow cable operators, pursuant to any rules promulgated under subsection (b)(3), to aggregate, on a franchise, system, regional, or company level, their equipment costs into broad categories, such as converter boxes, regardless of the varying levels of functionality of the equipment within each such broad category. Such aggregation shall not be permitted with respect to equipment used by subscribers who receive only a rate regulated basic service tier.

"(B) REVISION TO COMMISSION RULES; FORMS.—Within 120 days of the date of enactment of the Telecommunications Act of 1996, the Commission shall issue revisions to the appropriate rules and forms necessary to implement subparagraph (A).".

(k) TREATMENT OF PRIOR YEAR LOSSES.—

(1) AMENDMENT.—Section 623 (48 U.S.C. 543) is amended by adding at the end thereof the following:

"(n) TREATMENT OF PRIOR YEAR LOSSES.—Notwithstanding any other provision of this section or of section 612, losses associated with a cable system (including losses associated with the grant or award of a franchise) that were incurred prior to September 4, 1992, with respect to a cable system that is owned and operated by the original franchisee of such system shall not be disallowed, in whole or in part, in the determination of whether the rates for any tier of service or any type of equipment that is subject to regulation under this section are lawful.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of enactment of this Act and shall be applicable to any rate proposal filed on or after September 4, 1993, upon which no final action has been taken by December 1, 1995.

SEC. 302. CABLE SERVICE PROVIDED BY TELEPHONE COMPANIES.

(a) PROVISIONS FOR REGULATION OF CABLE SERVICE PROVIDED BY TELEPHONE COMPANIES.—Title VI (47 U.S.C. 521 et seq.) is amended by adding at the end the following new part:

"PART V—VIDEO PROGRAMMING SERVICES PROVIDED BY TELEPHONE COMPANIES

"SEC. 651. REGULATORY TREATMENT OF VIDEO PROGRAMMING SERVICES.

"(a) LIMITATIONS ON CABLE REGULATION.—

"(1) RADIO-BASED SYSTEMS.—To the extent that a common carrier (or any other person) is providing video programming to subscribers using radio communication, such carrier (or other person) shall be subject to the requirements of title III and section 652, but shall not otherwise be subject to the requirements of this title.

"(2) COMMON CARRIAGE OF VIDEO TRAFFIC.—To the extent that a common carrier is providing transmission of video programming on a common carrier basis, such carrier shall be subject to the requirements of title II and section 652, but shall not otherwise be subject to the requirements of this title. This paragraph shall not affect the treatment under section 602(7)(C) of a facility of a common carrier as a cable system.

"(3) CABLE SYSTEMS AND OPEN VIDEO SYSTEMS.—To the extent that a common carrier is providing video programming to its subscribers in any manner other than that described in paragraphs (1) and (2)—

"(A) such carrier shall be subject to the requirements of this title, unless such programming is provided by means of an open video system for which the Commission has approved a certification under section 653; or

"(B) if such programming is provided by means of an open video system for which the Commission has approved a certification under section 653, such carrier shall be subject to the requirements of this part, but shall be subject to parts I through IV of this title only as provided in 653(c).

"(4) ELECTION TO OPERATE AS OPEN VIDEO SYSTEM.—A common carrier that is providing video programming in a manner described in paragraph (1) or (2), or a combination thereof, may elect to provide such programming by means of an open video system that complies with section 653. If the Commission approves such carrier's certification under section 653, such carrier shall be subject to the requirements of this part, but shall be subject to parts I through IV of this title only as provided in 653(c).

"(b) LIMITATIONS ON INTERCONNECTION OBLIGATIONS.—A local exchange carrier that provides cable service through an open video system or a cable system shall not be required, pursuant to title II of this Act, to make capacity available on a nondiscriminatory basis to any other person for the provision of cable service directly to subscribers.

"(c) ADDITIONAL REGULATORY RELIEF.—A common carrier shall not be required to obtain a certificate under section 214 with respect to the establishment or operation of a system for the delivery of video programming.

"SEC. 652. PROHIBITION ON BUY OUTS.

"(a) ACQUISITIONS BY CARRIERS.—No local exchange carrier or any affiliate of such carrier owned by, operated by, controlled by, or under common control with such carrier may purchase or otherwise acquire directly or indirectly more than a 10 percent financial interest, or any management interest, in any cable operator providing cable service within the local exchange carrier's telephone service area.

"(b) ACQUISITIONS BY CABLE OPERATORS.—No cable operator or affiliate of a cable operator that is owned by, operated by, controlled by, or under common ownership with such cable operator may purchase or otherwise acquire, directly or indirectly, more than a 10 percent financial interest, or any management interest, in any local exchange carrier providing telephone exchange service within such cable operator's franchise area.

"(c) JOINT VENTURES.—A local exchange carrier and a cable operator whose telephone service area and cable franchise area, respectively, are in the same market may not enter into any joint venture or partnership to provide video programming directly to subscribers or to provide telecommunications services within such market.

"(d) EXCEPTIONS.—

"(1) RURAL SYSTEMS.—Notwithstanding subsections (a), (b), and (c) of this section, a local exchange carrier (with respect to a cable system located in its telephone service area) and a cable operator (with respect to the facilities of a local exchange carrier used to provide telephone exchange service in its cable franchise area) may obtain a controlling interest in, management interest in, or enter into a joint venture or partnership with the operator of such system or facilities for the use of such system or facilities to the extent that—

"(A) such system or facilities only serve incorporated or unincorporated—

"(i) places or territories that have fewer than 35,000 inhabitants; and

"(ii) are outside an urbanized area, as defined by the Bureau of the Census; and

"(B) in the case of a local exchange carrier, such system, in the aggregate with any other system in which such carrier has an interest, serves less than 10 percent of the households in the telephone service area of such carrier.

"(2) JOINT USE.—Notwithstanding subsection (c), a local exchange carrier may obtain, with the concurrence of the cable operator on the rates, terms, and conditions, the use of that part of the transmission facilities of a cable system extending from the last multi-user terminal to the premises of the end user, if such use is reasonably limited in scope and duration, as determined by the Commission.

"(3) ACQUISITIONS IN COMPETITIVE MARKETS.—Notwithstanding subsections (a) and (c), a local exchange carrier may obtain a controlling interest in, or form a joint venture or other partnership with, or provide financing to, a cable system (hereinafter in this paragraph referred to as 'the subject cable system'), if—

"(A) the subject cable system operates in a television market that is not in the top 25 markets, and such market has more than 1 cable system

operator, and the subject cable system is not the cable system with the most subscribers in such television market;

"(B) the subject cable system and the cable system with the most subscribers in such television market held on May 1, 1995, cable television franchises from the largest municipality in the television market and the boundaries of such franchises were identical on such date;

"(C) the subject cable system is not owned by or under common ownership or control of any one of the 50 cable system operators with the most subscribers as such operators existed on May 1, 1995; and

"(D) the system with the most subscribers in the television market is owned by or under common ownership or control of any one of the 10 largest cable system operators as such operators existed on May 1, 1995.

"(4) EXEMPT CABLE SYSTEMS.—Subsection (a) does not apply to any cable system if—

"(A) the cable system serves no more than 17,000 cable subscribers, of which no less than 8,000 live within an urban area, and no less than 6,000 live within a nonurbanized area as of June 1, 1995;

"(B) the cable system is not owned by, or under common ownership or control with, any of the 50 largest cable system operators in existence on June 1, 1995; and

"(C) the cable system operates in a television market that was not in the top 100 television markets as of June 1, 1995.

"(5) SMALL CABLE SYSTEMS IN NONURBAN AREAS.—Notwithstanding subsections (a) and (c), a local exchange carrier with less than $100,000,000 in annual operating revenues (or any affiliate of such carrier owned by, operated by, controlled by, or under common control with such carrier) may purchase or otherwise acquire more than a 10 percent financial interest in, or any management interest in, or enter into a joint venture or partnership with, any cable system within the local exchange carrier's telephone service area that serves no more than 20,000 cable subscribers, if no more than 12,000 of those subscribers live within an urbanized area, as defined by the Bureau of the Census.

"(6) WAIVERS.—The Commission may waive the restrictions of subsections (a), (b), or (c) only if—

"(A) the Commission determines that, because of the nature of the market served by the affected cable system or facilities used to provide telephone exchange service—

"(i) the affected cable operator or local exchange carrier would be subjected to undue economic distress by the enforcement of such provisions;

"(ii) the system or facilities would not be economically viable if such provisions were enforced; or

"(iii) the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served; and

"(B) the local franchising authority approves of such waiver.

"(e) DEFINITION OF TELEPHONE SERVICE AREA.—For purposes of this section, the term 'telephone service area' when used in connection with a common carrier subject in whole or in part to title II of this Act means the area within which such carrier provided telephone exchange service as of January 1, 1993, but if any common carrier after such date transfers its telephone exchange service facilities to another common carrier, the area to which such facilities provide telephone exchange service shall be treated as part of the telephone service area of the acquiring common carrier and not of the selling common carrier.

"SEC. 653. ESTABLISHMENT OF OPEN VIDEO SYSTEMS.

"(a) OPEN VIDEO SYSTEMS.—

"(1) CERTIFICATES OF COMPLIANCE.—A local exchange carrier may provide cable service to its cable service subscribers in its telephone service area through an open video system that complies with this section. To the extent permitted by such regulations as the Commission may prescribe consistent with the public interest, convenience, and necessity, an operator of a cable system or any other person may provide video programming through an open video system that complies with this section. An operator of an open video system shall qualify for reduced regulatory burdens under subsection (c) of this section if the operator of such system certifies to the Commission that such carrier complies with the Commission's regulations under subsection (b) and the Commission approves such certification. The Commission shall publish notice of the receipt of any such certification and shall act to approve or disapprove any such certification within 10 days after receipt of such certification.

"(2) DISPUTE RESOLUTION.—The Commission shall have the authority to resolve disputes under this section and the regulations prescribed thereunder. Any such dispute shall be resolved within 180 days after notice of such dispute is submitted to the Commission. At that time or subsequently in a separate damages proceeding, the Commission may, in the case of any violation of this section, require carriage, award damages to any person denied carriage, or any combination of such sanctions. Any aggrieved party may seek any other remedy available under this Act.

"(b) COMMISSION ACTIONS.—

"(1) REGULATIONS REQUIRED.—Within 6 months after the date of enactment of the Telecommunications Act of 1996, the Commission shall complete all actions necessary (including any reconsideration) to prescribe regulations that—

"(A) except as required pursuant to section 611, 614, or 615, prohibit an operator of an open video system from discriminating among video programming providers with regard to carriage on its open video system, and ensure that the rates, terms, and conditions for such carriage are just and reasonable, and are not unjustly or unreasonably discriminatory;

"(B) if demand exceeds the channel capacity of the open video system, prohibit an operator of an open video system and its affiliates from selecting the video programming services for carriage on more than one-third of the activated channel capacity on such system, but nothing in this subparagraph shall be construed to limit the number of channels that the carrier and its affiliates may offer to provide directly to subscribers;

"(C) permit an operator of an open video system to carry on only one channel any video programming service that is offered by more than one video programming provider (including the local exchange carrier's video programming affiliate), provided that subscribers have ready and immediate access to any such video programming service;

"(D) extend to the distribution of video programming over open video systems the Commission's regulations concerning sports exclusivity (47 C.F.R. 76.67), network nonduplication (47 C.F.R. 76.92 et seq.), and syndicated exclusivity (47 C.F.R. 76.151 et seq.); and

"(E)(i) prohibit an operator of an open video system from unreasonably discriminating in favor of the operator or its affiliates with regard to material or information (including advertising) provided by the operator to subscribers for the purposes of selecting programming on the open video system, or in the way such material or information is presented to subscribers;

"(ii) require an operator of an open video system to ensure that video programming providers or copyright holders (or both) are able suitably and uniquely to identify their programming services to subscribers;

"(iii) if such identification is transmitted as part of the programming signal, require the carrier to transmit such identification without change or alteration; and

"(iv) prohibit an operator of an open video system from omitting television broadcast stations or other unaffiliated video programming services carried on such system from any navigational device, guide, or menu.

"(2) CONSUMER ACCESS.—Subject to the requirements of paragraph (1) and the regulations thereunder, nothing in this section prohibits a common carrier or its affiliate from negotiating mutually agreeable terms and conditions with over-the-air broadcast stations and other unaffiliated video programming providers to allow consumer access to their signals on any level or screen of any gateway, menu, or other program guide, whether provided by the carrier or its affiliate.

"(c) REDUCED REGULATORY BURDENS FOR OPEN VIDEO SYSTEMS.—

"(1) IN GENERAL.—Any provision that applies to a cable operator under—

"(A) sections 613 (other than subsection (a) thereof), 616, 623(f), 628, 631, and 634 of this title, shall apply,

"(B) sections 611, 614, and 615 of this title, and section 325 of title III, shall apply in accordance with the regulations prescribed under paragraph (2), and

"(C) sections 612 and 617, and parts III and IV (other than sections 623(f), 628, 631, and 634), of this title shall not apply,

to any operator of an open video system for which the Commission has approved a certification under this section.

"(2) IMPLEMENTATION.—

"(A) COMMISSION ACTION.—In the rulemaking proceeding to prescribe the regulations required by subsection (b)(1), the Commission shall, to the extent possible, impose obligations that are no greater or lesser than the obligations contained in the provisions described in paragraph (1)(B) of this subsection. The Commission shall complete all action (including any reconsideration) to prescribe such regulations no later than 6 months after the date of enactment of the Telecommunications Act of 1996.

"(B) FEES.—An operator of an open video system under this part may be subject to the payment of fees on the gross revenues of the operator for the provision of cable service imposed by a local franchising authority or other governmental entity, in lieu of the franchise fees permitted under section 622. The rate at which such fees are imposed shall not exceed the rate at which franchise fees are imposed on any cable operator transmitting video programming in the franchise area, as determined in accordance with regulations prescribed by the Commission. An operator of an open video system may designate that portion of a subscriber's bill attributable to the fee under this subparagraph as a separate item on the bill.

"(3) REGULATORY STREAMLINING.—With respect to the establishment and operation of an open video system, the requirements of this section shall apply in lieu of, and not in addition to, the requirements of title II.

"(4) TREATMENT AS CABLE OPERATOR.—Nothing in this Act precludes a video programming provider making use of a open video system from being treated as an operator of a cable system for purposes of section 111 of title 17, United States Code.

"(d) DEFINITION OF TELEPHONE SERVICE AREA.—For purposes of this section, the term 'telephone service area' when used in connection with a common carrier subject in whole or in part to title II of this Act means the area

within which such carrier is offering telephone exchange service.".

(b) CONFORMING AND TECHNICAL AMENDMENTS.—

(1) REPEAL.—Subsection (b) of section 613 (47 U.S.C. 533(b)) is repealed.

(2) DEFINITIONS.—Section 602 (47 U.S.C. 531) is amended—

(A) in paragraph (7), by striking ", or (D)" and inserting the following: ", unless the extent of such use is solely to provide interactive on-demand services; (D) an open video system that complies with section 653 of this title; or (E)";

(B) by redesignating paragraphs (12) through (19) as paragraphs (13) through (20), respectively; and

(C) by inserting after paragraph (11) the following new paragraph:

"(12) the term 'interactive on-demand services' means a service providing video programming to subscribers over switched networks on an on-demand, point-to-point basis, but does not include services providing video programming prescheduled by the programming provider;".

(3) TERMINATION OF VIDEO-DIALTONE REGULATIONS.—The Commission's regulations and policies with respect to video dialtone requirements issued in CC Docket No. 87-266 shall cease to be effective on the date of enactment of this Act. This paragraph shall not be construed to require the termination of any video-dialtone system that the Commission has approved before the date of enactment of this Act.

SEC. 303. PREEMPTION OF FRANCHISING AUTHORITY REGULATION OF TELECOMMUNICATIONS SERVICES.

(a) PROVISION OF TELECOMMUNICATIONS SERVICES BY A CABLE OPERATOR.—Section 621(b) (47 U.S.C. 541(b)) is amended by adding at the end thereof the following new paragraph:

"(3)(A) If a cable operator or affiliate thereof is engaged in the provision of telecommunications services—

"(i) such cable operator or affiliate shall not be required to obtain a franchise under this title for the provision of telecommunications services; and

"(ii) the provisions of this title shall not apply to such cable operator or affiliate for the provision of telecommunications services.

"(B) A franchising authority may not impose any requirement under this title that has the purpose or effect of prohibiting, limiting, restricting, or conditioning the provision of a telecommunications service by a cable operator or an affiliate thereof.

"(C) A franchising authority may not order a cable operator or affiliate thereof—

"(i) to discontinue the provision of a telecommunications service, or

"(ii) to discontinue the operation of a cable system, to the extent such cable system is used for the provision of a telecommunications service, by reason of the failure of such cable operator or affiliate thereof to obtain a franchise or franchise renewal under this title with respect to the provision of such telecommunications service.

"(D) Except as otherwise permitted by sections 611 and 612, a franchising authority may not require a cable operator to provide any telecommunications service or facilities, other than institutional networks, as a condition of the initial grant of a franchise, a franchise renewal, or a transfer of a franchise.".

(b) FRANCHISE FEES.—Section 622(b) (47 U.S.C. 542(b)) is amended by inserting "to provide cable services" immediately before the period at the end of the first sentence thereof.

SEC. 304. COMPETITIVE AVAILABILITY OF NAVIGATION DEVICES.

Part III of title VI is amended by inserting after section 628 (47 U.S.C. 548) the following new section:

"SEC. 629. COMPETITIVE AVAILABILITY OF NAVIGATION DEVICES.

"(a) COMMERCIAL CONSUMER AVAILABILITY OF EQUIPMENT USED TO ACCESS SERVICES PROVIDED BY MULTICHANNEL VIDEO PROGRAMMING DISTRIBUTORS.—The Commission shall, in consultation with appropriate industry standard-setting organizations, adopt regulations to assure the commercial availability, to consumers of multichannel video programming and other services offered over multichannel video programming systems, of converter boxes, interactive communications equipment, and other equipment used by consumers to access multichannel video programming and other services offered over multichannel video programming systems, from manufacturers, retailers, and other vendors not affiliated with any multichannel video programming distributor. Such regulations shall not prohibit any multichannel video programming distributor from also offering converter boxes, interactive communications equipment, and other equipment used by consumers to access multichannel video programming and other services offered over multichannel video programming systems, to consumers, if the system operator's charges to consumers for such devices and equipment are separately stated and not subsidized by charges for any such service.

"(b) PROTECTION OF SYSTEM SECURITY.—The Commission shall not prescribe regulations under subsection (a) which would jeopardize security of multichannel video programming and other services offered over multichannel video programming systems, or impede the legal rights of a provider of such services to prevent theft of service.

"(c) WAIVER.—The Commission shall waive a regulation adopted under subsection (a) for a limited time upon an appropriate showing by a provider of multichannel video programming and other services offered over multichannel video programming systems, or an equipment provider, that such waiver is necessary to assist the development or introduction of a new or improved multichannel video programming or other service offered over multichannel video programming systems, technology, or products. Upon an appropriate showing, the Commission shall grant any such waiver request within 90 days of any application filed under this subsection, and such waiver shall be effective for all service providers and products in that category and for all providers of services and products.

"(d) AVOIDANCE OF REDUNDANT REGULATIONS.—

"(1) COMMERCIAL AVAILABILITY DETERMINATIONS.—Determinations made or regulations prescribed by the Commission with respect to commercial availability to consumers of converter boxes, interactive communications equipment, and other equipment used by consumers to access multichannel video programming and other services offered over multichannel video programming systems, before the date of enactment of the Telecommunications Act of 1996 shall fulfill the requirements of this section.

"(2) REGULATIONS.—Nothing in this section affects section 64.702(e) of the Commission's regulations (47 C.F.R. 64.702(e)) or other Commission regulations governing interconnection and competitive provision of customer premises equipment used in connection with basic common carrier communications services.

"(e) SUNSET.—The regulations adopted under this section shall cease to apply when the Commission determines that—

"(1) the market for the multichannel video programming distributors is fully competitive;

"(2) the market for converter boxes, and interactive communications equipment, used in conjunction with that service is fully competitive; and

"(3) elimination of the regulations would promote competition and the public interest.

"(f) COMMISSION'S AUTHORITY.—Nothing in this section shall be construed as expanding or limiting any authority that the Commission may have under law in effect before the date of enactment of the Telecommunications Act of 1996.".

SEC. 305. VIDEO PROGRAMMING ACCESSIBILITY.

Title VII is amended by inserting after section 712 (47 U.S.C. 612) the following new section:

"SEC. 713. VIDEO PROGRAMMING ACCESSIBILITY.

"(a) COMMISSION INQUIRY.—Within 180 days after the date of enactment of the Telecommunications Act of 1996, the Federal Communications Commission shall complete an inquiry to ascertain the level at which video programming is closed captioned. Such inquiry shall examine the extent to which existing or previously published programming is closed captioned, the size of the video programming provider or programming owner providing closed captioning, the size of the market served, the relative audience shares achieved, or any other related factors. The Commission shall submit to the Congress a report on the results of such inquiry.

"(b) ACCOUNTABILITY CRITERIA.—Within 18 months after such date of enactment, the Commission shall prescribe such regulations as are necessary to implement this section. Such regulations shall ensure that—

"(1) video programming first published or exhibited after the effective date of such regulations is fully accessible through the provision of closed captions, except as provided in subsection (d); and

"(2) video programming providers or owners maximize the accessibility of video programming first published or exhibited prior to the effective date of such regulations through the provision of closed captions, except as provided in subsection (d).

"(c) DEADLINES FOR CAPTIONING.—Such regulations shall include an appropriate schedule of deadlines for the provision of closed captioning of video programming.

"(d) EXEMPTIONS.—Notwithstanding subsection (b)—

"(1) the Commission may exempt by regulation programs, classes of programs, or services for which the Commission has determined that the provision of closed captioning would be economically burdensome to the provider or owner of such programming;

"(2) a provider of video programming or the owner of any program carried by the provider shall not be obligated to supply closed captions if such action would be inconsistent with contracts in effect on the date of enactment of the Telecommunications Act of 1996, except that nothing in this section shall be construed to relieve a video programming provider of its obligations to provide services required by Federal law; and

"(3) a provider of video programming or program owner may petition the Commission for an exemption from the requirements of this section, and the Commission may grant such petition upon a showing that the requirements contained in this section would result in an undue burden.

"(e) UNDUE BURDEN.—The term 'undue burden' means significant difficulty or expense. In determining whether the closed captions necessary to comply with the requirements of this paragraph would result in an undue economic burden, the factors to be considered include—

"(1) the nature and cost of the closed captions for the programming;

"(2) the impact on the operation of the provider or program owner;

"(3) the financial resources of the provider or program owner; and

"(4) the type of operations of the provider or program owner.

"(f) VIDEO DESCRIPTIONS INQUIRY.—Within 6 months after the date of enactment of the Telecommunications Act of 1996, the Commission shall commence an inquiry to examine the use of video descriptions on video programming in order to ensure the accessibility of video programming to persons with visual impairments, and report to Congress on its findings. The Commission's report shall assess appropriate methods and schedules for phasing video descriptions into the marketplace, technical and quality standards for video descriptions, a definition of programming for which video descriptions would apply, and other technical and legal issues that the Commission deems appropriate.

"(g) VIDEO DESCRIPTION.—For purposes of this section, 'video description' means the insertion of audio narrated descriptions of a television program's key visual elements into natural pauses between the program's dialogue.

"(h) PRIVATE RIGHTS OF ACTIONS PROHIBITED.—Nothing in this section shall be construed to authorize any private right of action to enforce any requirement of this section or any regulation thereunder. The Commission shall have exclusive jurisdiction with respect to any complaint under this section.".

TITLE IV—REGULATORY REFORM

SEC. 401. REGULATORY FORBEARANCE.

Title I is amended by inserting after section 9 (47 U.S.C. 159) the following new section:

"SEC. 10. COMPETITION IN PROVISION OF TELECOMMUNICATIONS SERVICE.

"(a) REGULATORY FLEXIBILITY.—Notwithstanding section 332(c)(1)(A) of this Act, the Commission shall forbear from applying any regulation or any provision of this Act to a telecommunications carrier or telecommunications service, or class of telecommunications carriers or telecommunications services, in any or some of its or their geographic markets, if the Commission determines that—

"(1) enforcement of such regulation or provision is not necessary to ensure that the charges, practices, classifications, or regulations by, for, or in connection with that telecommunications carrier or telecommunications service are just and reasonable and are not unjustly or unreasonably discriminatory;

"(2) enforcement of such regulation or provision is not necessary for the protection of consumers; and

"(3) forbearance from applying such provision or regulation is consistent with the public interest.

"(b) COMPETITIVE EFFECT TO BE WEIGHED.—In making the determination under subsection (a)(3), the Commission shall consider whether forbearance from enforcing the provision or regulation will promote competitive market conditions, including the extent to which such forbearance will enhance competition among providers of telecommunications services. If the Commission determines that such forbearance will promote competition among providers of telecommunications services, that determination may be the basis for a Commission finding that forbearance is in the public interest.

"(c) PETITION FOR FORBEARANCE.—Any telecommunications carrier, or class of telecommunications carriers, may submit a petition to the Commission requesting that the Commission exercise the authority granted under this section with respect to that carrier or those carriers, or any service offered by that carrier or carriers. Any such petition shall be deemed granted if the Commission does not deny the petition for failure to meet the requirements for forbearance under subsection (a) within one year after the Commission receives it, unless the one-year period is extended by the Commission. The Commission may extend the initial one-year period by an additional 90 days if the Commission finds that an extension is necessary to meet the requirements of subsection (a). The Commission may grant or deny a petition in whole or in part and shall explain its decision in writing.

"(d) LIMITATION.—Except as provided in section 251(f), the Commission may not forbear from applying the requirements of section 251(c) or 271 under subsection (a) of this section until it determines that those requirements have been fully implemented.

"(e) STATE ENFORCEMENT AFTER COMMISSION FORBEARANCE.—A State commission may not continue to apply or enforce any provision of this Act that the Commission has determined to forbear from applying under subsection (a).".

SEC. 402. BIENNIAL REVIEW OF REGULATIONS; REGULATORY RELIEF.

(a) BIENNIAL REVIEW.—Title I is amended by inserting after section 10 (as added by section 401) the following new section:

"SEC. 11. REGULATORY REFORM.

"(a) BIENNIAL REVIEW OF REGULATIONS.—In every even-numbered year (beginning with 1998), the Commission—

"(1) shall review all regulations issued under this Act in effect at the time of the review that apply to the operations or activities of any provider of telecommunications service; and

"(2) shall determine whether any such regulation is no longer necessary in the public interest as the result of meaningful economic competition between providers of such service.

"(b) EFFECT OF DETERMINATION.—The Commission shall repeal or modify any regulation it determines to be no longer necessary in the public interest.".

(b) REGULATORY RELIEF.—

(1) STREAMLINED PROCEDURES FOR CHANGES IN CHARGES, CLASSIFICATIONS, REGULATIONS, OR PRACTICES.—

(A) Section 204(a) (47 U.S.C. 204(a)) is amended—

(i) by striking "12 months" the first place it appears in paragraph (2)(A) and inserting "5 months";

(ii) by striking "effective," and all that follows in paragraph (2)(A) and inserting "effective."; and

(iii) by adding at the end thereof the following:

"(3) A local exchange carrier may file with the Commission a new or revised charge, classification, regulation, or practice on a streamlined basis. Any such charge, classification, regulation, or practice shall be deemed lawful and shall be effective 7 days (in the case of a reduction in rates) or 15 days (in the case of an increase in rates) after the date on which it is filed with the Commission unless the Commission takes action under paragraph (1) before the end of that 7-day or 15-day period, as is appropriate.".

(B) Section 208(b) (47 U.S.C. 208(b)) is amended—

(i) by striking "12 months" the first place it appears in paragraph (1) and inserting "5 months"; and

(ii) by striking "filed," and all that follows in paragraph (1) and inserting "filed.".

(2) EXTENSIONS OF LINES UNDER SECTION 214; ARMIS REPORTS.—The Commission shall permit any common carrier—

(A) to be exempt from the requirements of section 214 of the Communications Act of 1934 for the extension of any line; and

(B) to file cost allocation manuals and ARMIS reports annually, to the extent such carrier is required to file such manuals or reports.

(3) FORBEARANCE AUTHORITY NOT LIMITED.—Nothing in this subsection shall be construed to limit the authority of the Commission to waive, modify, or forbear from applying any of the requirements to which reference is made in paragraph (1) under any other provision of this Act or other law.

(4) EFFECTIVE DATE OF AMENDMENTS.—The amendments made by paragraph (1) of this subsection shall apply with respect to any charge, classification, regulation, or practice filed on or after one year after the date of enactment of this Act.

(c) CLASSIFICATION OF CARRIERS.—In classifying carriers according to section 32.11 of its regulations (47 C.F.R. 32.11) and in establishing reporting requirements pursuant to part 43 of its regulations (47 C.F.R. part 43) and section 64.903 of its regulations (47 C.F.R. 64.903), the Commission shall adjust the revenue requirements to account for inflation as of the release date of the Commission's Report and Order in CC Docket No. 91-141, and annually thereafter. This subsection shall take effect on the date of enactment of this Act.

SEC. 403. ELIMINATION OF UNNECESSARY COMMISSION REGULATIONS AND FUNCTIONS.

(a) MODIFICATION OF AMATEUR RADIO EXAMINATION PROCEDURES.—Section 4(f)(4) (47 U.S.C. 154(f)(4)) is amended—

(1) in subparagraph (A)—

(A) by inserting "or administering" after "for purposes of preparing";

(B) by inserting "of" after "than the class"; and

(C) by inserting "or administered" after "for which the examination is being prepared";

(2) by striking subparagraph (B);

(3) in subparagraph (H), by striking "(A), (B), and (C)" and inserting "(A) and (B)";

(4) in subparagraph (J)—

(A) by striking "or (B)"; and

(B) by striking the last sentence; and

(5) by redesignating subparagraphs (C) through (J) as subparagraphs (B) through (I), respectively.

(b) AUTHORITY TO DESIGNATE ENTITIES TO INSPECT.—Section 4(f)(3) (47 U.S.C. 154(f)(3)) is amended by inserting before the period at the end the following: ": And provided further, That, in the alternative, an entity designated by the Commission may make the inspections referred to in this paragraph".

(c) EXPEDITING INSTRUCTIONAL TELEVISION FIXED SERVICE PROCESSING.—Section 5(c)(1) (47 U.S.C. 155(c)(1)) is amended by striking the last sentence and inserting the following: "Except for cases involving the authorization of service in the instructional television fixed service, or as otherwise provided in this Act, nothing in this paragraph shall authorize the Commission to provide for the conduct, by any person or persons other than persons referred to in paragraph (2) or (3) of section 556(b) of title 5, United States Code, of any hearing to which such section applies.".

(d) REPEAL SETTING OF DEPRECIATION RATES.—The first sentence of section 220(b) (47 U.S.C. 220(b)) is amended by striking "shall prescribe for such carriers" and inserting "may prescribe, for such carriers as it determines to be appropriate,".

(e) USE OF INDEPENDENT AUDITORS.—Section 220(c) (47 U.S.C. 220(c)) is amended by adding at the end thereof the following: "The Commission may obtain the services of any person licensed to provide public accounting services under the law of any State to assist with, or conduct, audits under this section. While so employed or engaged in conducting an audit for the Commission under this section, any such person shall have the powers granted the Commission under this subsection and shall be subject to subsection (f) in the same manner as if that person were an employee of the Commission.".

(f) DELEGATION OF EQUIPMENT TESTING AND CERTIFICATION TO PRIVATE LABORATORIES.—Section 302 (47 U.S.C. 302) is amended by adding at the end the following:

"(e) The Commission may—

"(1) authorize the use of private organizations for testing and certifying the compliance of devices or home electronic equipment and systems with regulations promulgated under this section;

"(2) accept as prima facie evidence of such compliance the certification by any such organization; and

"(3) establish such qualifications and standards as it deems appropriate for such private organizations, testing, and certification.".

(g) MAKING LICENSE MODIFICATION UNIFORM.—Section 303(f) (47 U.S.C. 303(f)) is amended by striking "unless, after a public hearing," and inserting "unless".

(h) ELIMINATE FCC JURISDICTION OVER GOVERNMENT-OWNED SHIP RADIO STATIONS.—

(1) Section 305 (47 U.S.C. 305) is amended by striking subsection (b) and redesignating subsections (c) and (d) as (b) and (c), respectively.

(2) Section 382(2) (47 U.S.C. 382(2)) is amended by striking "except a vessel of the United States Maritime Administration, the Inland and Coastwise Waterways Service, or the Panama Canal Company,".

(i) PERMIT OPERATION OF DOMESTIC SHIP AND AIRCRAFT RADIOS WITHOUT LICENSE.—Section 307(e) (47 U.S.C. 307(e)) is amended to read as follows:

"(e)(1) Notwithstanding any license requirement established in this Act, if the Commission determines that such authorization serves the public interest, convenience, and necessity, the Commission may by rule authorize the operation of radio stations without individual licenses in the following radio services: (A) the citizens band radio service; (B) the radio control service; (C) the aviation radio service for aircraft stations operated on domestic flights when such aircraft are not otherwise required to carry a radio station; and (D) the maritime radio service for ship stations navigated on domestic voyages when such ships are not otherwise required to carry a radio station.

"(2) Any radio station operator who is authorized by the Commission to operate without an individual license shall comply with all other provisions of this Act and with rules prescribed by the Commission under this Act.

"(3) For purposes of this subsection, the terms 'citizens band radio service', 'radio control service', 'aircraft station' and 'ship station' shall have the meanings given them by the Commission by rule.".

(j) EXPEDITED LICENSING FOR FIXED MICROWAVE SERVICE.—Section 309(b)(2) (47 U.S.C. 309(b)(2)) is amended by striking subparagraph (A) and redesignating subparagraphs (B) through (G) as subparagraphs (A) through (F), respectively.

(k) FOREIGN DIRECTORS.—Section 310(b) (47 U.S.C. 310(b)) is amended—

(1) in paragraph (3), by striking "of which any officer or director is an alien or"; and

(2) in paragraph (4), by striking "of which any officer or more than one-fourth of the directors are aliens, or".

(l) LIMITATION ON SILENT STATION AUTHORIZATIONS.—Section 312 (47 U.S.C. 312) is amended by adding at the end the following:

"(g) If a broadcasting station fails to transmit broadcast signals for any consecutive 12-month period, then the station license granted for the operation of that broadcast station expires at the end of that period, notwithstanding any provision, term, or condition of the license to the contrary.".

(m) MODIFICATION OF CONSTRUCTION PERMIT REQUIREMENT.—Section 319(d) is amended by striking the last two sentences and inserting the following: "With respect to any broadcasting station, the Commission shall not have any authority to waive the requirement of a permit for construction, except that the Commission may by regulation determine that a permit shall not be required for minor changes in the facilities of authorized broadcast stations. With respect to any other station or class of stations, the Commission shall not waive the requirement for a construction permit unless the Commission determines that the public interest, convenience, and necessity would be served by such a waiver.".

(n) CONDUCT OF INSPECTIONS.—Section 362(b) (47 U.S.C. 362(b)) is amended to read as follows:

"(b) Every ship of the United States that is subject to this part shall have the equipment and apparatus prescribed therein inspected at least once each year by the Commission or an entity designated by the Commission. If, after such inspection, the Commission is satisfied that all relevant provisions of this Act and the station license have been complied with, the fact shall be so certified on the station license by the Commission. The Commission shall make such additional inspections at frequent intervals as the Commission determines may be necessary to ensure compliance with the requirements of this Act. The Commission may, upon a finding that the public interest could be served thereby—

"(1) waive the annual inspection required under this section for a period of up to 90 days for the sole purpose of enabling a vessel to complete its voyage and proceed to a port in the United States where an inspection can be held; or

"(2) waive the annual inspection required under this section for a vessel that is in compliance with the radio provisions of the Safety Convention and that is operating solely in waters beyond the jurisdiction of the United States, provided that such inspection shall be performed within 30 days of such vessel's return to the United States.".

(o) INSPECTION BY OTHER ENTITIES.—Section 385 (47 U.S.C. 385) is amended—

(1) by inserting "or an entity designated by the Commission" after "The Commission"; and

(2) by adding at the end thereof the following: "In accordance with such other provisions of law as apply to Government contracts, the Commission may enter into contracts with any person for the purpose of carrying out such inspections and certifying compliance with those requirements, and may, as part of any such contract, allow any such person to accept reimbursement from the license holder for travel and expense costs of any employee conducting an inspection or certification.".

TITLE V—OBSCENITY AND VIOLENCE

Subtitle A—Obscene, Harassing, and Wrongful Utilization of Telecommunications Facilities

SEC. 501. SHORT TITLE.

This title may be cited as the "Communications Decency Act of 1996".

SEC. 502. OBSCENE OR HARASSING USE OF TELECOMMUNICATIONS FACILITIES UNDER THE COMMUNICATIONS ACT OF 1934.

Section 223 (47 U.S.C. 223) is amended—

(1) by striking subsection (a) and inserting in lieu thereof:

"(a) Whoever—

"(1) in interstate or foreign communications—

"(A) by means of a telecommunications device knowingly—

"(i) makes, creates, or solicits, and

"(ii) initiates the transmission of,

any comment, request, suggestion, proposal, image, or other communication which is obscene, lewd, lascivious, filthy, or indecent, with intent to annoy, abuse, threaten, or harass another person;

"(B) by means of a telecommunications device knowingly—

"(i) makes, creates, or solicits, and

"(ii) initiates the transmission of,

any comment, request, suggestion, proposal, image, or other communication which is obscene or indecent, knowing that the recipient of the communication is under 18 years of age, regardless of whether the maker of such communication placed the call or initiated the communication;

"(C) makes a telephone call or utilizes a telecommunications device, whether or not conversation or communication ensues, without disclosing his identity and with intent to annoy, abuse, threaten, or harass any person at the called number or who receives the communications;

"(D) makes or causes the telephone of another repeatedly or continuously to ring, with intent to harass any person at the called number; or

"(E) makes repeated telephone calls or repeatedly initiates communication with a telecommunications device, during which conversation or communication ensues, solely to harass any person at the called number or who receives the communication; or

"(2) knowingly permits any telecommunications facility under his control to be used for any activity prohibited by paragraph (1) with the intent that it be used for such activity,

shall be fined under title 18, United States Code, or imprisoned not more than two years, or both."; and

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

"(d) Whoever—

"(1) in interstate or foreign communications knowingly—

"(A) uses an interactive computer service to send to a specific person or persons under 18 years of age, or

"(B) uses any interactive computer service to display in a manner available to a person under 18 years of age,

any comment, request, suggestion, proposal, image, or other communication that, in context, depicts or describes, in terms patently offensive as measured by contemporary community standards, sexual or excretory activities or organs, regardless of whether the user of such service placed the call or initiated the communication; or

"(2) knowingly permits any telecommunications facility under such person's control to be used for an activity prohibited by paragraph (1) with the intent that it be used for such activity,

shall be fined under title 18, United States Code, or imprisoned not more than two years, or both.

"(e) In addition to any other defenses available by law:

"(1) No person shall be held to have violated subsection (a) or (d) solely for providing access or connection to or from a facility, system, or network not under that person's control, including transmission, downloading, intermediate storage, access software, or other related capabilities that are incidental to providing such access or connection that does not include the creation of the content of the communication.

"(2) The defenses provided by paragraph (1) of this subsection shall not be applicable to a person who is a conspirator with an entity actively involved in the creation or knowing distribution of communications that violate this section, or who knowingly advertises the availability of such communications.

"(3) The defenses provided in paragraph (1) of this subsection shall not be applicable to a person who provides access or connection to a facility, system, or network engaged in the violation of this section that is owned or controlled by such person.

"(4) No employer shall be held liable under this section for the actions of an employee or agent unless the employee's or agent's conduct is within the scope of his or her employment or

agency and the employer (A) having knowledge of such conduct, authorizes or ratifies such conduct, or (B) recklessly disregards such conduct.

"(5) It is a defense to a prosecution under subsection (a)(1)(B) or (d), or under subsection (a)(2) with respect to the use of a facility for an activity under subsection (a)(1)(B) that a person—

"(A) has taken, in good faith, reasonable, effective, and appropriate actions under the circumstances to restrict or prevent access by minors to a communication specified in such subsections, which may involve any appropriate measures to restrict minors from such communications, including any method which is feasible under available technology; or

"(B) has restricted access to such communication by requiring use of a verified credit card, debit account, adult access code, or adult personal identification number.

"(6) The Commission may describe measures which are reasonable, effective, and appropriate to restrict access to prohibited communications under subsection (d). Nothing in this section authorizes the Commission to enforce, or is intended to provide the Commission with the authority to approve, sanction, or permit, the use of such measures. The Commission shall have no enforcement authority over the failure to utilize such measures. The Commission shall not endorse specific products relating to such measures. The use of such measures shall be admitted as evidence of good faith efforts for purposes of paragraph (5) in any action arising under subsection (d). Nothing in this section shall be construed to treat interactive computer services as common carriers or telecommunications carriers.

"(f)(1) No cause of action may be brought in any court or administrative agency against any person on account of any activity that is not in violation of any law punishable by criminal or civil penalty, and that the person has taken in good faith to implement a defense authorized under this section or otherwise to restrict or prevent the transmission of, or access to, a communication specified in this section.

"(2) No State or local government may impose any liability for commercial activities or actions by commercial entities, nonprofit libraries, or institutions of higher education in connection with an activity or action described in subsection (a)(2) or (d) that is inconsistent with the treatment of those activities or actions under this section: Provided, however, That nothing herein shall preclude any State or local government from enacting and enforcing complementary oversight, liability, and regulatory systems, procedures, and requirements, so long as such systems, procedures, and requirements govern only intrastate services and do not result in the imposition of inconsistent rights, duties or obligations on the provision of interstate services. Nothing in this subsection shall preclude any State or local government from governing conduct not covered by this section.

"(g) Nothing in subsection (a), (d), (e), or (f) or in the defenses to prosecution under (a) or (d) shall be construed to affect or limit the application or enforcement of any other Federal law.

"(h) For purposes of this section—

"(1) The use of the term 'telecommunications device' in this section—

"(A) shall not impose new obligations on broadcasting station licensees and cable operators covered by obscenity and indecency provisions elsewhere in this Act; and

"(B) does not include an interactive computer service.

"(2) The term 'interactive computer service' has the meaning provided in section 230(e)(2).

"(3) The term 'access software' means software (including client or server software) or enabling tools that do not create or provide the content of the communication but that allow a user to do any one or more of the following:

"(A) filter, screen, allow, or disallow content;

"(B) pick, choose, analyze, or digest content; or

"(C) transmit, receive, display, forward, cache, search, subset, organize, reorganize, or translate content.

"(4) The term 'institution of higher education' has the meaning provided in section 1201 of the Higher Education Act of 1965 (20 U.S.C. 1141).

"(5) The term 'library' means a library eligible for participation in State-based plans for funds under title III of the Library Services and Construction Act (20 U.S.C. 355e et seq.).".

SEC. 503. OBSCENE PROGRAMMING ON CABLE TELEVISION.

Section 639 (47 U.S.C. 559) is amended by striking "not more than $10,000" and inserting "under title 18, United States Code,".

SEC. 504. SCRAMBLING OF CABLE CHANNELS FOR NONSUBSCRIBERS.

Part IV of title VI (47 U.S. C. 551 et seq.) is amended by adding at the end the following:

"SEC. 640. SCRAMBLING OF CABLE CHANNELS FOR NONSUBSCRIBERS.

"(a) SUBSCRIBER REQUEST.—Upon request by a cable service subscriber, a cable operator shall, without charge, fully scramble or otherwise fully block the audio and video programming of each channel carrying such programming so that one not a subscriber does not receive it.

"(b) DEFINITION.—As used in this section, the term 'scramble' means to rearrange the content of the signal of the programming so that the programming cannot be viewed or heard in an understandable manner.".

SEC. 505. SCRAMBLING OF SEXUALLY EXPLICIT ADULT VIDEO SERVICE PROGRAMMING.

(a) REQUIREMENT.—Part IV of title VI (47 U.S.C. 551 et seq.), as amended by this Act, is further amended by adding at the end the following:

"SEC. 641. SCRAMBLING OF SEXUALLY EXPLICIT ADULT VIDEO SERVICE PROGRAMMING.

"(a) REQUIREMENT.—In providing sexually explicit adult programming or other programming that is indecent on any channel of its service primarily dedicated to sexually-oriented programming, a multichannel video programming distributor shall fully scramble or otherwise fully block the video and audio portion of such channel so that one not a subscriber to such channel or programming does not receive it.

"(b) IMPLEMENTATION.—Until a multichannel video programming distributor complies with the requirement set forth in subsection (a), the distributor shall limit the access of children to the programming referred to in that subsection by not providing such programming during the hours of the day (as determined by the Commission) when a significant number of children are likely to view it.

"(c) DEFINITION.—As used in this section, the term 'scramble' means to rearrange the content of the signal of the programming so that the programming cannot be viewed or heard in an understandable manner.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 30 days after the date of enactment of this Act.

SEC. 506. CABLE OPERATOR REFUSAL TO CARRY CERTAIN PROGRAMS.

(a) PUBLIC, EDUCATIONAL, AND GOVERNMENTAL CHANNELS.—Section 611(e) (47 U.S.C. 531(e)) is amended by inserting before the period the following: ", except a cable operator may refuse to transmit any public access program or portion of a public access program which contains obscenity, indecency, or nudity".

(b) CABLE CHANNELS FOR COMMERCIAL USE.—Section 612(c)(2) (47 U.S.C. 532(c)(2)) is amended by striking "an operator" and inserting "a cable operator may refuse to transmit any leased access program or portion of a leased access program which contains obscenity, indecency, or nudity and".

SEC. 507. CLARIFICATION OF CURRENT LAWS REGARDING COMMUNICATION OF OBSCENE MATERIALS THROUGH THE USE OF COMPUTERS.

(a) IMPORTATION OR TRANSPORTATION.—Section 1462 of title 18, United States Code, is amended—

(1) in the first undesignated paragraph, by inserting "or interactive computer service (as defined in section 230(e)(2) of the Communications Act of 1934)" after "carrier"; and

(2) in the second undesignated paragraph—

(A) by inserting "or receives," after "takes";

(B) by inserting "or interactive computer service (as defined in section 230(e)(2) of the Communications Act of 1934)" after "common carrier"; and

(C) by inserting "or importation" after "carriage".

(b) TRANSPORTATION FOR PURPOSES OF SALE OR DISTRIBUTION.—The first undesignated paragraph of section 1465 of title 18, United States Code, is amended—

(1) by striking "transports in" and inserting "transports or travels in, or uses a facility or means of,";

(2) by inserting "or an interactive computer service (as defined in section 230(e)(2) of the Communications Act of 1934) in or affecting such commerce" after "foreign commerce" the first place it appears;

(3) by striking ", or knowingly travels in" and all that follows through "obscene material in interstate or foreign commerce," and inserting "of".

(c) INTERPRETATION.—The amendments made by this section are clarifying and shall not be interpreted to limit or repeal any prohibition contained in sections 1462 and 1465 of title 18, United States Code, before such amendment, under the rule established in United States v. Alpers, 338 U.S. 680 (1950).

SEC. 508. COERCION AND ENTICEMENT OF MINORS.

Section 2422 of title 18, United States Code, is amended—

(1) by inserting "(a)" before "Whoever knowingly"; and

(2) by adding at the end the following:

"(b) Whoever, using any facility or means of interstate or foreign commerce, including the mail, or within the special maritime and territorial jurisdiction of the United States, knowingly persuades, induces, entices, or coerces any individual who has not attained the age of 18 years to engage in prostitution or any sexual act for which any person may be criminally prosecuted, or attempts to do so, shall be fined under this title or imprisoned not more than 10 years, or both.".

SEC. 509. ONLINE FAMILY EMPOWERMENT.

Title II of the Communications Act of 1934 (47 U.S.C. 201 et seq.) is amended by adding at the end the following new section:

"SEC. 230. PROTECTION FOR PRIVATE BLOCKING AND SCREENING OF OFFENSIVE MATERIAL.

"(a) FINDINGS.—The Congress finds the following:

"(1) The rapidly developing array of Internet and other interactive computer services available to individual Americans represent an extraordinary advance in the availability of educational and informational resources to our citizens.

"(2) These services offer users a great degree of control over the information that they receive, as well as the potential for even greater control in the future as technology develops.

"(3) The Internet and other interactive computer services offer a forum for a true diversity

of political discourse, unique opportunities for cultural development, and myriad avenues for intellectual activity.

"(4) The Internet and other interactive computer services have flourished, to the benefit of all Americans, with a minimum of government regulation.

"(5) Increasingly Americans are relying on interactive media for a variety of political, educational, cultural, and entertainment services.

"(b) POLICY.—It is the policy of the United States—

"(1) to promote the continued development of the Internet and other interactive computer services and other interactive media;

"(2) to preserve the vibrant and competitive free market that presently exists for the Internet and other interactive computer services, unfettered by Federal or State regulation;

"(3) to encourage the development of technologies which maximize user control over what information is received by individuals, families, and schools who use the Internet and other interactive computer services;

"(4) to remove disincentives for the development and utilization of blocking and filtering technologies that empower parents to restrict their children's access to objectionable or inappropriate online material; and

"(5) to ensure vigorous enforcement of Federal criminal laws to deter and punish trafficking in obscenity, stalking, and harassment by means of computer.

"(c) PROTECTION FOR 'GOOD SAMARITAN' BLOCKING AND SCREENING OF OFFENSIVE MATERIAL.—

"(1) TREATMENT OF PUBLISHER OR SPEAKER.—No provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider.

"(2) CIVIL LIABILITY.—No provider or user of an interactive computer service shall be held liable on account of—

"(A) any action voluntarily taken in good faith to restrict access to or availability of material that the provider or user considers to be obscene, lewd, lascivious, filthy, excessively violent, harassing, or otherwise objectionable, whether or not such material is constitutionally protected; or

"(B) any action taken to enable or make available to information content providers or others the technical means to restrict access to material described in paragraph (1).

"(d) EFFECT ON OTHER LAWS.—

"(1) NO EFFECT ON CRIMINAL LAW.—Nothing in this section shall be construed to impair the enforcement of section 223 of this Act, chapter 71 (relating to obscenity) or 110 (relating to sexual exploitation of children) of title 18, United States Code, or any other Federal criminal statute.

"(2) NO EFFECT ON INTELLECTUAL PROPERTY LAW.—Nothing in this section shall be construed to limit or expand any law pertaining to intellectual property.

"(3) STATE LAW.—Nothing in this section shall be construed to prevent any State from enforcing any State law that is consistent with this section. No cause of action may be brought and no liability may be imposed under any State or local law that is inconsistent with this section.

"(4) NO EFFECT ON COMMUNICATIONS PRIVACY LAW.—Nothing in this section shall be construed to limit the application of the Electronic Communications Privacy Act of 1986 or any of the amendments made by such Act, or any similar State law.

"(e) DEFINITIONS.—As used in this section:

"(1) INTERNET.—The term 'Internet' means the international computer network of both Federal and non-Federal interoperable packet switched data networks.

"(2) INTERACTIVE COMPUTER SERVICE.—The term 'interactive computer service' means any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the Internet and such systems operated or services offered by libraries or educational institutions.

"(3) INFORMATION CONTENT PROVIDER.—The term 'information content provider' means any person or entity that is responsible, in whole or in part, for the creation or development of information provided through the Internet or any other interactive computer service.

"(4) ACCESS SOFTWARE PROVIDER.—The term 'access software provider' means a provider of software (including client or server software), or enabling tools that do any one or more of the following:

"(A) filter, screen, allow, or disallow content;

"(B) pick, choose, analyze, or digest content; or

"(C) transmit, receive, display, forward, cache, search, subset, organize, reorganize, or translate content.".

Subtitle B—Violence

SEC. 551. PARENTAL CHOICE IN TELEVISION PROGRAMMING.

(a) FINDINGS.—The Congress makes the following findings:

(1) Television influences children's perception of the values and behavior that are common and acceptable in society.

(2) Television station operators, cable television system operators, and video programmers should follow practices in connection with video programming that take into consideration that television broadcast and cable programming has established a uniquely pervasive presence in the lives of American children.

(3) The average American child is exposed to 25 hours of television each week and some children are exposed to as much as 11 hours of television a day.

(4) Studies have shown that children exposed to violent video programming at a young age have a higher tendency for violent and aggressive behavior later in life than children not so exposed, and that children exposed to violent video programming are prone to assume that acts of violence are acceptable behavior.

(5) Children in the United States are, on average, exposed to an estimated 8,000 murders and 100,000 acts of violence on television by the time the child completes elementary school.

(6) Studies indicate that children are affected by the pervasiveness and casual treatment of sexual material on television, eroding the ability of parents to develop responsible attitudes and behavior in their children.

(7) Parents express grave concern over violent and sexual video programming and strongly support technology that would give them greater control to block video programming in the home that they consider harmful to their children.

(8) There is a compelling governmental interest in empowering parents to limit the negative influences of video programming that is harmful to children.

(9) Providing parents with timely information about the nature of upcoming video programming and with the technological tools that allow them easily to block violent, sexual, or other programming that they believe harmful to their children is a nonintrusive and narrowly tailored means of achieving that compelling governmental interest.

(b) ESTABLISHMENT OF TELEVISION RATING CODE.—

(1) AMENDMENT.—Section 303 (47 U.S.C. 303) is amended by adding at the end the following:

"(w) Prescribe—

"(1) on the basis of recommendations from an advisory committee established by the Commission in accordance with section 551(b)(2) of the Telecommunications Act of 1996, guidelines and recommended procedures for the identification and rating of video programming that contains sexual, violent, or other indecent material about which parents should be informed before it is displayed to children, provided that nothing in this paragraph shall be construed to authorize any rating of video programming on the basis of its political or religious content; and

"(2) with respect to any video programming that has been rated, and in consultation with the television industry, rules requiring distributors of such video programming to transmit such rating to permit parents to block the display of video programming that they have determined is inappropriate for their children.".

(2) ADVISORY COMMITTEE REQUIREMENTS.—In establishing an advisory committee for purposes of the amendment made by paragraph (1) of this subsection, the Commission shall—

(A) ensure that such committee is composed of parents, television broadcasters, television programming producers, cable operators, appropriate public interest groups, and other interested individuals from the private sector and is fairly balanced in terms of political affiliation, the points of view represented, and the functions to be performed by the committee;

(B) provide to the committee such staff and resources as may be necessary to permit it to perform its functions efficiently and promptly; and

(C) require the committee to submit a final report of its recommendations within one year after the date of the appointment of the initial members.

(c) REQUIREMENT FOR MANUFACTURE OF TELEVISIONS THAT BLOCK PROGRAMS.—Section 303 (47 U.S.C. 303), as amended by subsection (a), is further amended by adding at the end the following:

"(x) Require, in the case of an apparatus designed to receive television signals that are shipped in interstate commerce or manufactured in the United States and that have a picture screen 13 inches or greater in size (measured diagonally), that such apparatus be equipped with a feature designed to enable viewers to block display of all programs with a common rating, except as otherwise permitted by regulations pursuant to section 330(c)(4).".

(d) SHIPPING OF TELEVISIONS THAT BLOCK PROGRAMS.—

(1) REGULATIONS.—Section 330 (47 U.S.C. 330) is amended—

(A) by redesignating subsection (c) as subsection (d); and

(B) by adding after subsection (b) the following new subsection (c):

"(c)(1) Except as provided in paragraph (2), no person shall ship in interstate commerce or manufacture in the United States any apparatus described in section 303(x) of this Act except in accordance with rules prescribed by the Commission pursuant to the authority granted by that section.

"(2) This subsection shall not apply to carriers transporting apparatus referred to in paragraph (1) without trading in it.

"(3) The rules prescribed by the Commission under this subsection shall provide for the oversight by the Commission of the adoption of standards by industry for blocking technology. Such rules shall require that all such apparatus be able to receive the rating signals which have been transmitted by way of line 21 of the vertical blanking interval and which conform to the signal and blocking specifications established by industry under the supervision of the Commission.

"(4) As new video technology is developed, the Commission shall take such action as the Commission determines appropriate to ensure that blocking service continues to be available to

consumers. If the Commission determines that an alternative blocking technology exists that—

"(A) enables parents to block programming based on identifying programs without ratings,

"(B) is available to consumers at a cost which is comparable to the cost of technology that allows parents to block programming based on common ratings, and

"(C) will allow parents to block a broad range of programs on a multichannel system as effectively and as easily as technology that allows parents to block programming based on common ratings,

the Commission shall amend the rules prescribed pursuant to section 303(x) to require that the apparatus described in such section be equipped with either the blocking technology described in such section or the alternative blocking technology described in this paragraph.".

(2) CONFORMING AMENDMENT.—Section 330(d), as redesignated by subsection (d)(1)(A), is amended by striking "section 303(s), and section 303(u)" and inserting in lieu thereof "and sections 303(s), 303(u), and 303(x)".

(e) APPLICABILITY AND EFFECTIVE DATES.—

(1) APPLICABILITY OF RATING PROVISION.—The amendment made by subsection (b) of this section shall take effect 1 year after the date of enactment of this Act, but only if the Commission determines, in consultation with appropriate public interest groups and interested individuals from the private sector, that distributors of video programming have not, by such date—

(A) established voluntary rules for rating video programming that contains sexual, violent, or other indecent material about which parents should be informed before it is displayed to children, and such rules are acceptable to the Commission; and

(B) agreed voluntarily to broadcast signals that contain ratings of such programming.

(2) EFFECTIVE DATE OF MANUFACTURING PROVISION.—In prescribing regulations to implement the amendment made by subsection (c), the Federal Communications Commission shall, after consultation with the television manufacturing industry, specify the effective date for the applicability of the requirement to the apparatus covered by such amendment, which date shall not be less than two years after the date of enactment of this Act.

SEC. 552. TECHNOLOGY FUND.

It is the policy of the United States to encourage broadcast television, cable, satellite, syndication, other video programming distributors, and relevant related industries (in consultation with appropriate public interest groups and interested individuals from the private sector) to—

(1) establish a technology fund to encourage television and electronics equipment manufacturers to facilitate the development of technology which would empower parents to block programming they deem inappropriate for their children and to encourage the availability thereof to low income parents;

(2) report to the viewing public on the status of the development of affordable, easy to use blocking technology; and

(3) establish and promote effective procedures, standards, systems, advisories, or other mechanisms for ensuring that users have easy and complete access to the information necessary to effectively utilize blocking technology and to encourage the availability thereof to low income parents.

Subtitle C—Judicial Review

SEC. 561. EXPEDITED REVIEW.

(a) THREE-JUDGE DISTRICT COURT HEARING.—Notwithstanding any other provision of law, any civil action challenging the constitutionality, on its face, of this title or any amendment made by this title, or any provision thereof, shall be heard by a district court of 3 judges convened pursuant to the provisions of section 2284 of title 28, United States Code.

(b) APPELLATE REVIEW.—Notwithstanding any other provision of law, an interlocutory or final judgment, decree, or order of the court of 3 judges in an action under subsection (a) holding this title or an amendment made by this title, or any provision thereof, unconstitutional shall be reviewable as a matter of right by direct appeal to the Supreme Court. Any such appeal shall be filed not more than 20 days after entry of such judgment, decree, or order.

TITLE VI—EFFECT ON OTHER LAWS

SEC. 601. APPLICABILITY OF CONSENT DECREES AND OTHER LAW.

(a) APPLICABILITY OF AMENDMENTS TO FUTURE CONDUCT.—

(1) AT&T CONSENT DECREE.—Any conduct or activity that was, before the date of enactment of this Act, subject to any restriction or obligation imposed by the AT&T Consent Decree shall, on and after such date, be subject to the restrictions and obligations imposed by the Communications Act of 1934 as amended by this Act and shall not be subject to the restrictions and the obligations imposed by such Consent Decree.

(2) GTE CONSENT DECREE.—Any conduct or activity that was, before the date of enactment of this Act, subject to any restriction or obligation imposed by the GTE Consent Decree shall, on and after such date, be subject to the restrictions and obligations imposed by the Communications Act of 1934 as amended by this Act and shall not be subject to the restrictions and the obligations imposed by such Consent Decree.

(3) MCCAW CONSENT DECREE.—Any conduct or activity that was, before the date of enactment of this Act, subject to any restriction or obligation imposed by the McCaw Consent Decree shall, on and after such date, be subject to the restrictions and obligations imposed by the Communications Act of 1934 as amended by this Act and subsection (d) of this section and shall not be subject to the restrictions and the obligations imposed by such Consent Decree.

(b) ANTITRUST LAWS.—

(1) SAVINGS CLAUSE.—Except as provided in paragraphs (2) and (3), nothing in this Act or the amendments made by this Act shall be construed to modify, impair, or supersede the applicability of any of the antitrust laws.

(2) REPEAL.—Subsection (a) of section 221 (47 U.S.C. 221(a)) is repealed.

(3) CLAYTON ACT.—Section 7 of the Clayton Act (15 U.S.C. 18) is amended in the last paragraph by striking "Federal Communications Commission,".

(c) FEDERAL, STATE, AND LOCAL LAW.—

(1) NO IMPLIED EFFECT.—This Act and the amendments made by this Act shall not be construed to modify, impair, or supersede Federal, State, or local law unless expressly so provided in such Act or amendments.

(2) STATE TAX SAVINGS PROVISION.—Notwithstanding paragraph (1), nothing in this Act or the amendments made by this Act shall be construed to modify, impair, or supersede, or authorize the modification, impairment, or supersession of, any State or local law pertaining to taxation, except as provided in sections 622 and 653(c) of the Communications Act of 1934 and section 602 of this Act.

(d) COMMERCIAL MOBILE SERVICE JOINT MARKETING.—Notwithstanding section 22.903 of the Commission's regulations (47 C.F.R. 22.903) or any other Commission regulation, a Bell operating company or any other company may, except as provided in sections 271(e)(1) and 272 of the Communications Act of 1934 as amended by this Act as they relate to wireline service, jointly market and sell commercial mobile services in conjunction with telephone exchange service, exchange access, intraLATA telecommunications service, interLATA telecommunications service, and information services.

(e) DEFINITIONS.—As used in this section:

(1) AT&T CONSENT DECREE.—The term "AT&T Consent Decree" means the order entered August 24, 1982, in the antitrust action styled United States v. Western Electric, Civil Action No. 82-0192, in the United States District Court for the District of Columbia, and includes any judgment or order with respect to such action entered on or after August 24, 1982.

(2) GTE CONSENT DECREE.—The term "GTE Consent Decree" means the order entered December 21, 1984, as restated January 11, 1985, in the action styled United States v. GTE Corp., Civil Action No. 83-1298, in the United States District Court for the District of Columbia, and any judgment or order with respect to such action entered on or after December 21, 1984.

(3) MCCAW CONSENT DECREE.—The term "McCaw Consent Decree" means the proposed consent decree filed on July 15, 1994, in the antitrust action styled United States v. AT&T Corp. and McCaw Cellular Communications, Inc., Civil Action No. 94-01555, in the United States District court for the District of Columbia. Such term includes any stipulation that the parties will abide by the terms of such proposed consent decree until it is entered and any order entering such proposed consent decree.

(4) ANTITRUST LAWS.—The term "antitrust laws" has the meaning given it in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)), except that such term includes the Act of June 19, 1936 (49 Stat. 1526; 15 U.S.C. 13 et seq.), commonly known as the Robinson-Patman Act, and section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent that such section 5 applies to unfair methods of competition.

SEC. 602. PREEMPTION OF LOCAL TAXATION WITH RESPECT TO DIRECT-TO-HOME SERVICES.

(a) PREEMPTION.—A provider of direct-to-home satellite service shall be exempt from the collection or remittance, or both, of any tax or fee imposed by any local taxing jurisdiction on direct-to-home satellite service.

(b) DEFINITIONS.—For the purposes of this section—

(1) DIRECT-TO-HOME SATELLITE SERVICE.—The term "direct-to-home satellite service" means only programming transmitted or broadcast by satellite directly to the subscribers' premises without the use of ground receiving or distribution equipment, except at the subscribers' premises or in the uplink process to the satellite.

(2) PROVIDER OF DIRECT-TO-HOME SATELLITE SERVICE.—For purposes of this section, a "provider of direct-to-home satellite service" means a person who transmits, broadcasts, sells, or distributes direct-to-home satellite service.

(3) LOCAL TAXING JURISDICTION.—The term "local taxing jurisdiction" means any municipality, city, county, township, parish, transportation district, or assessment jurisdiction, or any other local jurisdiction in the territorial jurisdiction of the United States with the authority to impose a tax or fee, but does not include a State.

(4) STATE.—The term "State" means any of the several States, the District of Columbia, or any territory or possession of the United States.

(5) TAX OR FEE.—The terms "tax" and "fee" mean any local sales tax, local use tax, local intangible tax, local income tax, business license tax, utility tax, privilege tax, gross receipts tax, excise tax, franchise fees, local telecommunications tax, or any other tax, license, or fee that is imposed for the privilege of doing business, regulating, or raising revenue for a local taxing jurisdiction.

(c) PRESERVATION OF STATE AUTHORITY.—This section shall not be construed to prevent taxation of a provider of direct-to-home satellite service by a State or to prevent a local taxing jurisdiction from receiving revenue derived from a tax or fee imposed and collected by a State.

TITLE VII—MISCELLANEOUS PROVISIONS

SEC. 701. PREVENTION OF UNFAIR BILLING PRACTICES FOR INFORMATION OR SERVICES PROVIDED OVER TOLL-FREE TELEPHONE CALLS.

(a) PREVENTION OF UNFAIR BILLING PRACTICES.—

(1) IN GENERAL.—Section 228(c) (47 U.S.C. 228(c)) is amended—

(A) by striking out subparagraph (C) of paragraph (7) and inserting in lieu thereof the following:

"(C) the calling party being charged for information conveyed during the call unless—

"(i) the calling party has a written agreement (including an agreement transmitted through electronic medium) that meets the requirements of paragraph (8); or

"(ii) the calling party is charged for the information in accordance with paragraph (9); or";

(B)(i) by striking "or" at the end of subparagraph (C) of such paragraph;

(ii) by striking the period at the end of subparagraph (D) of such paragraph and inserting a semicolon and "or"; and

(iii) by adding at the end thereof the following:

"(E) the calling party being assessed, by virtue of being asked to connect or otherwise transfer to a pay-per-call service, a charge for the call."; and

(C) by adding at the end the following new paragraphs:

"(8) SUBSCRIPTION AGREEMENTS FOR BILLING FOR INFORMATION PROVIDED VIA TOLL-FREE CALLS.—

"(A) IN GENERAL.—For purposes of paragraph (7)(C)(i), a written subscription does not meet the requirements of this paragraph unless the agreement specifies the material terms and conditions under which the information is offered and includes—

"(i) the rate at which charges are assessed for the information;

"(ii) the information provider's name;

"(iii) the information provider's business address;

"(iv) the information provider's regular business telephone number;

"(v) the information provider's agreement to notify the subscriber at least one billing cycle in advance of all future changes in the rates charged for the information; and

"(vi) the subscriber's choice of payment method, which may be by direct remit, debit, prepaid account, phone bill, or credit or calling card.

"(B) BILLING ARRANGEMENTS.—If a subscriber elects, pursuant to subparagraph (A)(vi), to pay by means of a phone bill—

"(i) the agreement shall clearly explain that the subscriber will be assessed for calls made to the information service from the subscriber's phone line;

"(ii) the phone bill shall include, in prominent type, the following disclaimer:

'Common carriers may not disconnect local or long distance telephone service for failure to pay disputed charges for information services.'; and

"(iii) the phone bill shall clearly list the 800 number dialed.

"(C) USE OF PINS TO PREVENT UNAUTHORIZED USE.—A written agreement does not meet the requirements of this paragraph unless it—

"(i) includes a unique personal identification number or other subscriber-specific identifier and requires a subscriber to use this number or identifier to obtain access to the information provided and includes instructions on its use; and

"(ii) assures that any charges for services accessed by use of the subscriber's personal identification number or subscriber-specific identifier be assessed to subscriber's source of payment elected pursuant to subparagraph (A)(vi).

"(D) EXCEPTIONS.—Notwithstanding paragraph (7)(C), a written agreement that meets the requirements of this paragraph is not required—

"(i) for calls utilizing telecommunications devices for the deaf;

"(ii) for directory services provided by a common carrier or its affiliate or by a local exchange carrier or its affiliate; or

"(iii) for any purchase of goods or of services that are not information services.

"(E) TERMINATION OF SERVICE.—On receipt by a common carrier of a complaint by any person that an information provider is in violation of the provisions of this section, a carrier shall—

"(i) promptly investigate the complaint; and

"(ii) if the carrier reasonably determines that the complaint is valid, it may terminate the provision of service to an information provider unless the provider supplies evidence of a written agreement that meets the requirements of this section.

"(F) TREATMENT OF REMEDIES.—The remedies provided in this paragraph are in addition to any other remedies that are available under title V of this Act.

"(9) CHARGES BY CREDIT, PREPAID, DEBIT, CHARGE, OR CALLING CARD IN ABSENCE OF AGREEMENT.—For purposes of paragraph (7)(C)(ii), a calling party is not charged in accordance with this paragraph unless the calling party is charged by means of a credit, prepaid, debit, charge, or calling card and the information service provider includes in response to each call an introductory disclosure message that—

"(A) clearly states that there is a charge for the call;

"(B) clearly states the service's total cost per minute and any other fees for the service or for any service to which the caller may be transferred;

"(C) explains that the charges must be billed on either a credit, prepaid, debit, charge, or calling card;

"(D) asks the caller for the card number;

"(E) clearly states that charges for the call begin at the end of the introductory message; and

"(F) clearly states that the caller can hang up at or before the end of the introductory message without incurring any charge whatsoever.

"(10) BYPASS OF INTRODUCTORY DISCLOSURE MESSAGE.—The requirements of paragraph (9) shall not apply to calls from repeat callers using a bypass mechanism to avoid listening to the introductory message, provided that information providers shall disable such a bypass mechanism after the institution of any price increase and for a period of time determined to be sufficient by the Federal Trade Commission to give callers adequate and sufficient notice of a price increase.

"(11) DEFINITION OF CALLING CARD.—As used in this subsection, the term 'calling card' means an identifying number or code unique to the individual, that is issued to the individual by a common carrier and enables the individual to be charged by means of a phone bill for charges incurred independent of where the call originates.".

(2) REGULATIONS.—The Federal Communications Commission shall revise its regulations to comply with the amendment made by paragraph (1) not later than 180 days after the date of enactment of this Act.

(3) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on the date of enactment of this Act.

(b) CLARIFICATION OF "PAY-PER-CALL SERVICES".—

(1) TELEPHONE DISCLOSURE AND DISPUTE RESOLUTION ACT.—Section 204(1) of the Telephone Disclosure and Dispute Resolution Act (15 U.S.C. 5714(1)) is amended to read as follows:

"(1) The term 'pay-per-call services' has the meaning provided in section 228(i) of the Communications Act of 1934, except that the Commission by rule may, notwithstanding subparagraphs (B) and (C) of section 228(i)(1) of such Act, extend such definition to other similar services providing audio information or audio entertainment if the Commission determines that such services are susceptible to the unfair and deceptive practices that are prohibited by the rules prescribed pursuant to section 201(a).".

(2) COMMUNICATIONS ACT.—Section 228(i)(2) (47 U.S.C. 228(i)(2)) is amended by striking "or any service the charge for which is tariffed,".

SEC. 702. PRIVACY OF CUSTOMER INFORMATION.

Title II is amended by inserting after section 221 (47 U.S.C. 221) the following new section:

"SEC. 222. PRIVACY OF CUSTOMER INFORMATION.

"(a) IN GENERAL.—Every telecommunications carrier has a duty to protect the confidentiality of proprietary information of, and relating to, other telecommunication carriers, equipment manufacturers, and customers, including telecommunication carriers reselling telecommunications services provided by a telecommunications carrier.

"(b) CONFIDENTIALITY OF CARRIER INFORMATION.—A telecommunications carrier that receives or obtains proprietary information from another carrier for purposes of providing any telecommunications service shall use such information only for such purpose, and shall not use such information for its own marketing efforts.

"(c) CONFIDENTIALITY OF CUSTOMER PROPRIETARY NETWORK INFORMATION.—

"(1) PRIVACY REQUIREMENTS FOR TELECOMMUNICATIONS CARRIERS.—Except as required by law or with the approval of the customer, a telecommunications carrier that receives or obtains customer proprietary network information by virtue of its provision of a telecommunications service shall only use, disclose, or permit access to individually identifiable customer proprietary network information in its provision of (A) the telecommunications service from which such information is derived, or (B) services necessary to, or used in, the provision of such telecommunications service, including the publishing of directories.

"(2) DISCLOSURE ON REQUEST BY CUSTOMERS.—A telecommunications carrier shall disclose customer proprietary network information, upon affirmative written request by the customer, to any person designated by the customer.

"(3) AGGREGATE CUSTOMER INFORMATION.—A telecommunications carrier that receives or obtains customer proprietary network information by virtue of its provision of a telecommunications service may use, disclose, or permit access to aggregate customer information other than for the purposes described in paragraph (1). A local exchange carrier may use, disclose, or permit access to aggregate customer information other than for purposes described in paragraph (1) only if it provides such aggregate information to other carriers or persons on reasonable and nondiscriminatory terms and conditions upon reasonable request therefor.

"(d) EXCEPTIONS.—Nothing in this section prohibits a telecommunications carrier from using, disclosing, or permitting access to customer proprietary network information obtained from its customers, either directly or indirectly through its agents—

"(1) to initiate, render, bill, and collect for telecommunications services;

"(2) to protect the rights or property of the carrier, or to protect users of those services and other carriers from fraudulent, abusive, or unlawful use of, or subscription to, such services; or

"(3) to provide any inbound telemarketing, referral, or administrative services to the customer

for the duration of the call, if such call was initiated by the customer and the customer approves of the use of such information to provide such service.

"(e) SUBSCRIBER LIST INFORMATION.—Notwithstanding subsections (b), (c), and (d), a telecommunications carrier that provides telephone exchange service shall provide subscriber list information gathered in its capacity as a provider of such service on a timely and unbundled basis, under nondiscriminatory and reasonable rates, terms, and conditions, to any person upon request for the purpose of publishing directories in any format.

"(f) DEFINITIONS.—As used in this section:

"(1) CUSTOMER PROPRIETARY NETWORK INFORMATION.—The term 'customer proprietary network information' means—

"(A) information that relates to the quantity, technical configuration, type, destination, and amount of use of a telecommunications service subscribed to by any customer of a telecommunications carrier, and that is made available to the carrier by the customer solely by virtue of the carrier-customer relationship; and

"(B) information contained in the bills pertaining to telephone exchange service or telephone toll service received by a customer of a carrier;

except that such term does not include subscriber list information.

"(2) AGGREGATE INFORMATION.—The term 'aggregate customer information' means collective data that relates to a group or category of services or customers, from which individual customer identities and characteristics have been removed.

"(3) SUBSCRIBER LIST INFORMATION.—The term 'subscriber list information' means any information—

"(A) identifying the listed names of subscribers of a carrier and such subscribers' telephone numbers, addresses, or primary advertising classifications (as such classifications are assigned at the time of the establishment of such service), or any combination of such listed names, numbers, addresses, or classifications; and

"(B) that the carrier or an affiliate has published, caused to be published, or accepted for publication in any directory format.".

SEC. 703. POLE ATTACHMENTS.

Section 224 (47 U.S.C. 224) is amended—

(1) in subsection (a)(1), by striking the first sentence and inserting the following: "The term 'utility' means any person who is a local exchange carrier or an electric, gas, water, steam, or other public utility, and who owns or controls poles, ducts, conduits, or rights-of-way used, in whole or in part, for any wire communications.";

(2) in subsection (a)(4), by inserting after "system" the following: "or provider of telecommunications service";

(3) by inserting after subsection (a)(4) the following:

"(5) For purposes of this section, the term 'telecommunications carrier' (as defined in section 3 of this Act) does not include any incumbent local exchange carrier as defined in section 251(h).";

(4) by inserting after "conditions" in subsection (c)(1) a comma and the following: "or access to poles, ducts, conduits, and rights-of-way as provided in subsection (f),";

(5) in subsection (c)(2)(B), by striking "cable television services" and inserting "the services offered via such attachments";

(6) by inserting after subsection (d)(2) the following:

"(3) This subsection shall apply to the rate for any pole attachment used by a cable television system solely to provide cable service. Until the effective date of the regulations required under subsection (e), this subsection shall also apply to the rate for any pole attachment used by a cable system or any telecommunications carrier (to the extent such carrier is not a party to a pole attachment agreement) to provide any telecommunications service."; and

(7) by adding at the end thereof the following:

"(e)(1) The Commission shall, no later than 2 years after the date of enactment of the Telecommunications Act of 1996, prescribe regulations in accordance with this subsection to govern the charges for pole attachments used by telecommunications carriers to provide telecommunications services, when the parties fail to resolve a dispute over such charges. Such regulations shall ensure that a utility charges just, reasonable, and nondiscriminatory rates for pole attachments.

"(2) A utility shall apportion the cost of providing space on a pole, duct, conduit, or right-of-way other than the usable space among entities so that such apportionment equals two-thirds of the costs of providing space other than the usable space that would be allocated to such entity under an equal apportionment of such costs among all attaching entities.

"(3) A utility shall apportion the cost of providing usable space among all entities according to the percentage of usable space required for each entity.

"(4) The regulations required under paragraph (1) shall become effective 5 years after the date of enactment of the Telecommunications Act of 1996. Any increase in the rates for pole attachments that result from the adoption of the regulations required by this subsection shall be phased in equal annual increments over a period of 5 years beginning on the effective date of such regulations.

"(f)(1) A utility shall provide a cable television system or any telecommunications carrier with nondiscriminatory access to any pole, duct, conduit, or right-of-way owned or controlled by it.

"(2) Notwithstanding paragraph (1), a utility providing electric service may deny a cable television system or any telecommunications carrier access to its poles, ducts, conduits, or rights-of-way, on a non-discriminatory basis where there is insufficient capacity and for reasons of safety, reliability and generally applicable engineering purposes.

"(g) A utility that engages in the provision of telecommunications services or cable services shall impute to its costs of providing such services (and charge any affiliate, subsidiary, or associate company engaged in the provision of such services) an equal amount to the pole attachment rate for which such company would be liable under this section.

"(h) Whenever the owner of a pole, duct, conduit, or right-of-way intends to modify or alter such pole, duct, conduit, or right-of-way, the owner shall provide written notification of such action to any entity that has obtained an attachment to such conduit or right-of-way so that such entity may have a reasonable opportunity to add to or modify its existing attachment. Any entity that adds to or modifies its existing attachment after receiving such notification shall bear a proportionate share of the costs incurred by the owner in making such pole, duct, conduit, or right-of-way accessible.

"(i) An entity that obtains an attachment to a pole, conduit, or right-of-way shall not be required to bear any of the costs of rearranging or replacing its attachment, if such rearrangement or replacement is required as a result of an additional attachment or the modification of an existing attachment sought by any other entity (including the owner of such pole, duct, conduit, or right-of-way).".

SEC. 704. FACILITIES SITING; RADIO FREQUENCY EMISSION STANDARDS.

(a) NATIONAL WIRELESS TELECOMMUNICATIONS SITING POLICY.—Section 332(c) (47 U.S.C. 332(c)) is amended by adding at the end the following new paragraph:

"(7) PRESERVATION OF LOCAL ZONING AUTHORITY.—

"(A) GENERAL AUTHORITY.—Except as provided in this paragraph, nothing in this Act shall limit or affect the authority of a State or local government or instrumentality thereof over decisions regarding the placement, construction, and modification of personal wireless service facilities.

"(B) LIMITATIONS.—

"(i) The regulation of the placement, construction, and modification of personal wireless service facilities by any State or local government or instrumentality thereof—

"(I) shall not unreasonably discriminate among providers of functionally equivalent services; and

"(II) shall not prohibit or have the effect of prohibiting the provision of personal wireless services.

"(ii) A State or local government or instrumentality thereof shall act on any request for authorization to place, construct, or modify personal wireless service facilities within a reasonable period of time after the request is duly filed with such government or instrumentality, taking into account the nature and scope of such request.

"(iii) Any decision by a State or local government or instrumentality thereof to deny a request to place, construct, or modify personal wireless service facilities shall be in writing and supported by substantial evidence contained in a written record.

"(iv) No State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission's regulations concerning such emissions.

"(v) Any person adversely affected by any final action or failure to act by a State or local government or any instrumentality thereof that is inconsistent with this subparagraph may, within 30 days after such action or failure to act, commence an action in any court of competent jurisdiction. The court shall hear and decide such action on an expedited basis. Any person adversely affected by an act or failure to act by a State or local government or any instrumentality thereof that is inconsistent with clause (iv) may petition the Commission for relief.

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) the term 'personal wireless services' means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services;

"(ii) the term 'personal wireless service facilities' means facilities for the provision of personal wireless services; and

"(iii) the term 'unlicensed wireless service' means the offering of telecommunications services using duly authorized devices which do not require individual licenses, but does not mean the provision of direct-to-home satellite services (as defined in section 303(v)).".

(b) RADIO FREQUENCY EMISSIONS.—Within 180 days after the enactment of this Act, the Commission shall complete action in ET Docket 93-62 to prescribe and make effective rules regarding the environmental effects of radio frequency emissions.

(c) AVAILABILITY OF PROPERTY.—Within 180 days of the enactment of this Act, the President or his designee shall prescribe procedures by which Federal departments and agencies may make available on a fair, reasonable, and nondiscriminatory basis, property, rights-of-way,

and easements under their control for the placement of new telecommunications services that are dependent, in whole or in part, upon the utilization of Federal spectrum rights for the transmission or reception of such services. These procedures may establish a presumption that requests for the use of property, rights-of-way, and easements by duly authorized providers should be granted absent unavoidable direct conflict with the department or agency's mission, or the current or planned use of the property, rights-of-way, and easements in question. Reasonable fees may be charged to providers of such telecommunications services for use of property, rights-of-way, and easements. The Commission shall provide technical support to States to encourage them to make property, rights-of-way, and easements under their jurisdiction available for such purposes.

SEC. 705. MOBILE SERVICES DIRECT ACCESS TO LONG DISTANCE CARRIERS.

Section 332(c) (47 U.S.C. 332(c)) is amended by adding at the end the following new paragraph:

"(8) MOBILE SERVICES ACCESS.—A person engaged in the provision of commercial mobile services, insofar as such person is so engaged, shall not be required to provide equal access to common carriers for the provision of telephone toll services. If the Commission determines that subscribers to such services are denied access to the provider of telephone toll services of the subscribers' choice, and that such denial is contrary to the public interest, convenience, and necessity, then the Commission shall prescribe regulations to afford subscribers unblocked access to the provider of telephone toll services of the subscribers' choice through the use of a carrier identification code assigned to such provider or other mechanism. The requirements for unblocking shall not apply to mobile satellite services unless the Commission finds it to be in the public interest to apply such requirements to such services.".

SEC. 706. ADVANCED TELECOMMUNICATIONS INCENTIVES.

(a) IN GENERAL.—The Commission and each State commission with regulatory jurisdiction over telecommunications services shall encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans (including, in particular, elementary and secondary schools and classrooms) by utilizing, in a manner consistent with the public interest, convenience, and necessity, price cap regulation, regulatory forbearance, measures that promote competition in the local telecommunications market, or other regulating methods that remove barriers to infrastructure investment.

(b) INQUIRY.—The Commission shall, within 30 months after the date of enactment of this Act, and regularly thereafter, initiate a notice of inquiry concerning the availability of advanced telecommunications capability to all Americans (including, in particular, elementary and secondary schools and classrooms) and shall complete the inquiry within 180 days after its initiation. In the inquiry, the Commission shall determine whether advanced telecommunications capability is being deployed to all Americans in a reasonable and timely fashion. If the Commission's determination is negative, it shall take immediate action to accelerate deployment of such capability by removing barriers to infrastructure investment and by promoting competition in the telecommunications market.

(c) DEFINITIONS.—For purposes of this subsection:

(1) ADVANCED TELECOMMUNICATIONS CAPABILITY.—The term "advanced telecommunications capability" is defined, without regard to any transmission media or technology, as high-speed, switched, broadband telecommunications capability that enables users to originate and receive high-quality voice, data, graphics, and video telecommunications using any technology.

(2) ELEMENTARY AND SECONDARY SCHOOLS.—The term "elementary and secondary schools" means elementary and secondary schools, as defined in paragraphs (14) and (25), respectively, of section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

SEC. 707. TELECOMMUNICATIONS DEVELOPMENT FUND.

(a) DEPOSIT AND USE OF AUCTION ESCROW ACCOUNTS.—Section 309(j)(8) (47 U.S.C. 309(j)(8)) is amended by adding at the end the following new subparagraph:

"(C) DEPOSIT AND USE OF AUCTION ESCROW ACCOUNTS.—Any deposits the Commission may require for the qualification of any person to bid in a system of competitive bidding pursuant to this subsection shall be deposited in an interest bearing account at a financial institution designated for purposes of this subsection by the Commission (after consultation with the Secretary of the Treasury). Within 45 days following the conclusion of the competitive bidding—

"(i) the deposits of successful bidders shall be paid to the Treasury;

"(ii) the deposits of unsuccessful bidders shall be returned to such bidders; and

"(iii) the interest accrued to the account shall be transferred to the Telecommunications Development Fund established pursuant to section 714 of this Act.".

(b) ESTABLISHMENT AND OPERATION OF FUND.—Title VII is amended by inserting after section 713 (as added by section 305) the following new section:

"SEC. 714. TELECOMMUNICATIONS DEVELOPMENT FUND.

"(a) PURPOSE OF SECTION.—It is the purpose of this section—

"(1) to promote access to capital for small businesses in order to enhance competition in the telecommunications industry;

"(2) to stimulate new technology development, and promote employment and training; and

"(3) to support universal service and promote delivery of telecommunications services to underserved rural and urban areas.

"(b) ESTABLISHMENT OF FUND.—There is hereby established a body corporate to be known as the Telecommunications Development Fund, which shall have succession until dissolved. The Fund shall maintain its principal office in the District of Columbia and shall be deemed, for purposes of venue and jurisdiction in civil actions, to be a resident and citizen thereof.

"(c) BOARD OF DIRECTORS.—

"(1) COMPOSITION OF BOARD; CHAIRMAN.—The Fund shall have a Board of Directors which shall consist of 7 persons appointed by the Chairman of the Commission. Four of such directors shall be representative of the private sector and three of such directors shall be representative of the Commission, the Small Business Administration, and the Department of the Treasury, respectively. The Chairman of the Commission shall appoint one of the representatives of the private sector to serve as chairman of the Fund within 30 days after the date of enactment of this section, in order to facilitate rapid creation and implementation of the Fund. The directors shall include members with experience in a number of the following areas: finance, investment banking, government banking, communications law and administrative practice, and public policy.

"(2) TERMS OF APPOINTED AND ELECTED MEMBERS.—The directors shall be eligible to serve for terms of 5 years, except of the initial members, as designated at the time of their appointment—

"(A) 1 shall be eligible to service for a term of 1 year;

"(B) 1 shall be eligible to service for a term of 2 years;

"(C) 1 shall be eligible to service for a term of 3 years;

"(D) 2 shall be eligible to service for a term of 4 years; and

"(E) 2 shall be eligible to service for a term of 5 years (1 of whom shall be the Chairman).

Directors may continue to serve until their successors have been appointed and have qualified.

"(3) MEETINGS AND FUNCTIONS OF THE BOARD.—The Board of Directors shall meet at the call of its Chairman, but at least quarterly. The Board shall determine the general policies which shall govern the operations of the Fund. The Chairman of the Board shall, with the approval of the Board, select, appoint, and compensate qualified persons to fill the offices as may be provided for in the bylaws, with such functions, powers, and duties as may be prescribed by the bylaws or by the Board of Directors, and such persons shall be the officers of the Fund and shall discharge all such functions, powers, and duties.

"(d) ACCOUNTS OF THE FUND.—The Fund shall maintain its accounts at a financial institution designated for purposes of this section by the Chairman of the Board (after consultation with the Commission and the Secretary of the Treasury). The accounts of the Fund shall consist of—

"(1) interest transferred pursuant to section 309(j)(8)(C) of this Act;

"(2) such sums as may be appropriated to the Commission for advances to the Fund;

"(3) any contributions or donations to the Fund that are accepted by the Fund; and

"(4) any repayment of, or other payment made with respect to, loans, equity, or other extensions of credit made from the Fund.

"(e) USE OF THE FUND.—All moneys deposited into the accounts of the Fund shall be used solely for—

"(1) the making of loans, investments, or other extensions of credits to eligible small businesses in accordance with subsection (f);

"(2) the provision of financial advice to eligible small businesses;

"(3) expenses for the administration and management of the Fund (including salaries, expenses, and the rental or purchase of office space for the fund);

"(4) preparation of research, studies, or financial analyses; and

"(5) other services consistent with the purposes of this section.

"(f) LENDING AND CREDIT OPERATIONS.—Loans or other extensions of credit from the Fund shall be made available in accordance with the requirements of the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.) and any other applicable law to an eligible small business on the basis of—

"(1) the analysis of the business plan of the eligible small business;

"(2) the reasonable availability of collateral to secure the loan or credit extension;

"(3) the extent to which the loan or credit extension promotes the purposes of this section; and

"(4) other lending policies as defined by the Board.

"(g) RETURN OF ADVANCES.—Any advances appropriated pursuant to subsection (d)(2) shall be disbursed upon such terms and conditions (including conditions relating to the time or times of repayment) as are specified in any appropriations Act providing such advances.

"(h) GENERAL CORPORATE POWERS.—The Fund shall have power—

"(1) to sue and be sued, complain and defend, in its corporate name and through its own counsel;

"(2) to adopt, alter, and use the corporate seal, which shall be judicially noticed;

"(3) to adopt, amend, and repeal by its Board of Directors, bylaws, rules, and regulations as may be necessary for the conduct of its business;

"(4) to conduct its business, carry on its operations, and have officers and exercise the power granted by this section in any State without regard to any qualification or similar statute in any State;

"(5) to lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with any property, real, personal, or mixed, or any interest therein, wherever situated, for the purposes of the Fund;

"(6) to accept gifts or donations of services, or of property, real, personal, or mixed, tangible or intangible, in aid of any of the purposes of the Fund;

"(7) to sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of its property and assets;

"(8) to appoint such officers, attorneys, employees, and agents as may be required, to determine their qualifications, to define their duties, to fix their salaries, require bonds for them, and fix the penalty thereof; and

"(9) to enter into contracts, to execute instruments, to incur liabilities, to make loans and equity investment, and to do all things as are necessary or incidental to the proper management of its affairs and the proper conduct of its business.

"(i) ACCOUNTING, AUDITING, AND REPORTING.—The accounts of the Fund shall be audited annually. Such audits shall be conducted in accordance with generally accepted auditing standards by independent certified public accountants. A report of each such audit shall be furnished to the Secretary of the Treasury and the Commission. The representatives of the Secretary and the Commission shall have access to all books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Fund and necessary to facilitate the audit.

"(j) REPORT ON AUDITS BY TREASURY.—A report of each such audit for a fiscal year shall be made by the Secretary of the Treasury to the President and to the Congress not later than 6 months following the close of such fiscal year. The report shall set forth the scope of the audit and shall include a statement of assets and liabilities, capital and surplus or deficit; a statement of surplus or deficit analysis; a statement of income and expense; a statement of sources and application of funds; and such comments and information as may be deemed necessary to keep the President and the Congress informed of the operations and financial condition of the Fund, together with such recommendations with respect thereto as the Secretary may deem advisable.

"(k) DEFINITIONS.—As used in this section:

"(1) ELIGIBLE SMALL BUSINESS.—The term 'eligible small business' means business enterprises engaged in the telecommunications industry that have $50,000,000 or less in annual revenues, on average over the past 3 years prior to submitting the application under this section.

"(2) FUND.—The term 'Fund' means the Telecommunications Development Fund established pursuant to this section.

"(3) TELECOMMUNICATIONS INDUSTRY.—The term 'telecommunications industry' means communications businesses using regulated or unregulated facilities or services and includes broadcasting, telecommunications, cable, computer, data transmission, software, programming, advanced messaging, and electronics businesses.".

SEC. 708. NATIONAL EDUCATION TECHNOLOGY FUNDING CORPORATION.

(a) FINDINGS; PURPOSE.—

(1) FINDINGS.—The Congress finds as follows:

(A) CORPORATION.—There has been established in the District of Columbia a private, nonprofit corporation known as the National Education Technology Funding Corporation which is not an agency or independent establishment of the Federal Government.

(B) BOARD OF DIRECTORS.—The Corporation is governed by a Board of Directors, as prescribed in the Corporation's articles of incorporation, consisting of 15 members, of which—

(i) five members are representative of public agencies representative of schools and public libraries;

(ii) five members are representative of State government, including persons knowledgeable about State finance, technology and education; and

(iii) five members are representative of the private sector, with expertise in network technology, finance and management.

(C) CORPORATE PURPOSES.—The purposes of the Corporation, as set forth in its articles of incorporation, are—

(i) to leverage resources and stimulate private investment in education technology infrastructure;

(ii) to designate State education technology agencies to receive loans, grants or other forms of assistance from the Corporation;

(iii) to establish criteria for encouraging States to—

(I) create, maintain, utilize and upgrade interactive high capacity networks capable of providing audio, visual and data communications for elementary schools, secondary schools and public libraries;

(II) distribute resources to assure equitable aid to all elementary schools and secondary schools in the State and achieve universal access to network technology; and

(III) upgrade the delivery and development of learning through innovative technology-based instructional tools and applications;

(iv) to provide loans, grants and other forms of assistance to State education technology agencies, with due regard for providing a fair balance among types of school districts and public libraries assisted and the disparate needs of such districts and libraries;

(v) to leverage resources to provide maximum aid to elementary schools, secondary schools and public libraries; and

(vi) to encourage the development of education telecommunications and information technologies through public-private ventures, by serving as a clearinghouse for information on new education technologies, and by providing technical assistance, including assistance to States, if needed, to establish State education technology agencies.

(2) PURPOSE.—The purpose of this section is to recognize the Corporation as a nonprofit corporation operating under the laws of the District of Columbia, and to provide authority for Federal departments and agencies to provide assistance to the Corporation.

(b) DEFINITIONS.—For the purpose of this section—

(1) the term "Corporation" means the National Education Technology Funding Corporation described in subsection (a)(1)(A);

(2) the terms "elementary school" and "secondary school" have the same meanings given such terms in section 14101 of the Elementary and Secondary Education Act of 1965; and

(3) the term "public library" has the same meaning given such term in section 3 of the Library Services and Construction Act.

(c) ASSISTANCE FOR EDUCATION TECHNOLOGY PURPOSES.—

(1) RECEIPT BY CORPORATION.—Notwithstanding any other provision of law, in order to carry out the corporate purposes described in subsection (a)(1)(C), the Corporation shall be eligible to receive discretionary grants, contracts, gifts, contributions, or technical assistance from any Federal department or agency, to the extent otherwise permitted by law.

(2) AGREEMENT.—In order to receive any assistance described in paragraph (1) the Corporation shall enter into an agreement with the Federal department or agency providing such assistance, under which the Corporation agrees—

(A) to use such assistance to provide funding and technical assistance only for activities which the Board of Directors of the Corporation determines are consistent with the corporate purposes described in subsection (a)(1)(C);

(B) to review the activities of State education technology agencies and other entities receiving assistance from the Corporation to assure that the corporate purposes described in subsection (a)(1)(C) are carried out;

(C) that no part of the assets of the Corporation shall accrue to the benefit of any member of the Board of Directors of the Corporation, any officer or employee of the Corporation, or any other individual, except as salary or reasonable compensation for services;

(D) that the Board of Directors of the Corporation will adopt policies and procedures to prevent conflicts of interest;

(E) to maintain a Board of Directors of the Corporation consistent with subsection (a)(1)(B);

(F) that the Corporation, and any entity receiving the assistance from the Corporation, are subject to the appropriate oversight procedures of the Congress; and

(G) to comply with—

(i) the audit requirements described in subsection (d); and

(ii) the reporting and testimony requirements described in subsection (e).

(3) CONSTRUCTION.—Nothing in this section shall be construed to establish the Corporation as an agency or independent establishment of the Federal Government, or to establish the members of the Board of Directors of the Corporation, or the officers and employees of the Corporation, as officers or employees of the Federal Government.

(d) AUDITS.—

(1) AUDITS BY INDEPENDENT CERTIFIED PUBLIC ACCOUNTANTS.—

(A) IN GENERAL.—The Corporation's financial statements shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants who are certified by a regulatory authority of a State or other political subdivision of the United States. The audits shall be conducted at the place or places where the accounts of the Corporation are normally kept. All books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Corporation and necessary to facilitate the audit shall be made available to the person or persons conducting the audits, and full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians shall be afforded to such person or persons.

(B) REPORTING REQUIREMENTS.—The report of each annual audit described in subparagraph (A) shall be included in the annual report required by subsection (e)(1).

(2) RECORDKEEPING REQUIREMENTS; AUDIT AND EXAMINATION OF BOOKS.—

(A) RECORDKEEPING REQUIREMENTS.—The Corporation shall ensure that each recipient of assistance from the Corporation keeps—

(i) separate accounts with respect to such assistance;

(ii) such records as may be reasonably necessary to fully disclose—

(I) the amount and the disposition by such recipient of the proceeds of such assistance;

(II) the total cost of the project or undertaking in connection with which such assistance is given or used; and

(III) the amount and nature of that portion of the cost of the project or undertaking supplied by other sources; and

(iii) such other records as will facilitate an effective audit.

(B) AUDIT AND EXAMINATION OF BOOKS.—The Corporation shall ensure that the Corporation, or any of the Corporation's duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of any recipient of assistance from the Corporation that are pertinent to such assistance. Representatives of the Comptroller General shall also have such access for such purpose.

(e) ANNUAL REPORT; TESTIMONY TO THE CONGRESS.—

(1) ANNUAL REPORT.—Not later than April 30 of each year, the Corporation shall publish an annual report for the preceding fiscal year and submit that report to the President and the Congress. The report shall include a comprehensive and detailed evaluation of the Corporation's operations, activities, financial condition, and accomplishments under this section and may include such recommendations as the Corporation deems appropriate.

(2) TESTIMONY BEFORE CONGRESS.—The members of the Board of Directors, and officers, of the Corporation shall be available to testify before appropriate committees of the Congress with respect to the report described in paragraph (1), the report of any audit made by the Comptroller General pursuant to this section, or any other matter which any such committee may determine appropriate.

SEC. 709. REPORT ON THE USE OF ADVANCED TELECOMMUNICATIONS SERVICES FOR MEDICAL PURPOSES.

The Secretary of Commerce, in consultation with the Secretary of Health and Human Services and other appropriate departments and agencies, shall submit a report to the Committee on Commerce of the House of Representatives and the Committee on Commerce, Science and Transportation of the Senate concerning the activities of the Joint Working Group on Telemedicine, together with any findings reached in the studies and demonstrations on telemedicine funded by the Public Health Service or other Federal agencies. The report shall examine questions related to patient safety, the efficacy and quality of the services provided, and other legal, medical, and economic issues related to the utilization of advanced telecommunications services for medical purposes. The report shall be submitted to the respective Committees by January 31, 1997.

SEC. 710. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—In addition to any other sums authorized by law, there are authorized to be appropriated to the Federal Communications Commission such sums as may be necessary to carry out this Act and the amendments made by this Act.

(b) EFFECT ON FEES.—For the purposes of section 9(b)(2) (47 U.S.C. 159(b)(2)), additional amounts appropriated pursuant to subsection (a) shall be construed to be changes in the amounts appropriated for the performance of activities described in section 9(a) of the Communications Act of 1934.

(c) FUNDING AVAILABILITY.—Section 309(j)(8)(B) (47 U.S.C. 309(j)(8)(B)) is amended by adding at the end the following new sentence: "Such offsetting collections are authorized to remain available until expended.".

And the House agree to the same.

From the Committee on Commerce, for consideration of the Senate bill, and the House amendment, and modifications committed to conference:

TOM BLILEY,
JACK FIELDS,
MICHAEL G. OXLEY,
RICK WHITE,
JOHN D. DINGELL,
EDWARD J. MARKEY,
RICK BOUCHER,
ANNA G. ESHOO,
BOBBY L. RUSH,

Provided, Mr. Pallone is appointed in lieu of Mr. Boucher solely for consideration of sec. 205 of the Senate bill:

FRANK PALLONE, JR.,

As additional conferees, for consideration of secs. 1–6, 101–04, 106–07, 201, 204–05, 221–25, 301–05, 307–11, 401–02, 405–06, 410, 601–06, 703, and 705 of the Senate bill, and title I of the House amendment, and modifications committed to conference:

DAN SCHAEFER,
JOE BARTON,
J. DENNIS HASTERT,
BILL PAXON,
SCOTT KLUG,
DAN FRISA,
CLIFF STEARNS,
SHERROD BROWN,
BART GORDON,
BLANCHE LAMBERT LINCOLN,

As additional conferees, for consideration of secs. 102, 202–03, 403, 407–09, and 706 of the Senate bill, and title II of the House amendment, and modifications committed to conference:

DAN SCHAEFER,
J. DENNIS HASTERT,
DAN FRISA,

As additional conferees, for consideration of secs. 105, 206, 302, 306, 312, 501–05, and 701–02 of the Senate bill, and title III of the House amendment, and modifications committed to conference:

CLIFF STEARNS,
BILL PAXON,
SCOTT KLUG,

As additional conferees, for consideration of secs. 7–8, 226, 404, and 704 of the Senate bill, and titles IV–V of the House amendment, and modifications committed to conference:

DAN SCHAEFER,
J. DENNIS HASTERT,
SCOTT KLUG,

As additional conferees, for consideration of title VI of the House amendment, and modifications committed to conference:

DAN SCHAEFER,
JOE BARTON,
SCOTT KLUG,

As additional conferees from the Committee on the Judiciary, for consideration of the Senate bill (except secs. 1–6, 101–04, 106–07, 201, 204–05, 221–25, 301–05, 307–11, 401–02, 405–06, 410, 601–06, 703, and 705), and of the House amendment (except title I), and modifications committed to conference:

HENRY HYDE,
CARLOS J. MOORHEAD,
BOB GOODLATTE,
STEVE BUYER,
MIKE FLANAGAN,

As additional conferees, for consideration of secs. 1–6, 101–04, 106–07, 201, 204–05, 221–25, 301–05, 307–11, 401–02, 405–06, 410, 601–06, 703, and 705 of the Senate bill, and title I of the House amendment, and modifications committed to conference:

HENRY HYDE,
CARLOS J. MOORHEAD,
BOB GOODLATTE,
STEVE BUYER,
MIKE FLANAGAN,
ELTON GALLEGLY,
BOB BARR,
MARTIN R. HOKE,
HOWARD L. BERMAN,

Managers on the Part of the House.

LARRY PRESSLER,
TED STEVENS,
SLADE GORTON,
TRENT LOTT,
FRITZ HOLLINGS,
DANIEL K. INOUYE,
WENDELL FORD,
J.J. EXON,
JAY ROCKEFELLER,

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 amendments of the House to the bill S. 652, to provide for a procompetitive, de-regulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition, 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 House amendment to the text of the bill struck all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment that is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

SECTION 1—SHORT TITLE AND SECTION 2—TABLE OF CONTENTS

Senate bill

Section 1 provides that the bill may be cited as the "Telecommunications Competition and Deregulation Act of 1995." Section 2 contains a table of contents for the Senate bill.

House amendment

Section 1 designates the short title as the "Communications Act of 1995." Section 2 contains a table of contents for the House amendment.

Conference agreement

Section 1 designates the title of the bill as the "Telecommunications Act of 1996." Section 2 contains a table of contents for the conference agreement.

SECTION 3—DEFINITIONS

Senate bill

Section 8(a) includes definitions of the Modification of the Final Judgment (MFJ), the GTE Consent Decree, and an "integrated telecommunications service provider." An "integrated telecommunications service provider" means a person engaged in the provision of multiple services, such as voice, data, image, graphics, and video services, which make common use of all or part of the same transmission facilities, switches, signaling, or control devices.

Section 8(b) adds several definitions to section 3 of the Communications Act of 1934 (47 U.S.C. 153) ("the Communications Act") including definitions for "local exchange carrier," "telecommunications" "telecommunications service," "telecommunications carrier," "telecommunications number portability." "information service," "rural telephone company," and "service area."

New subsection (kk) defines "local exchange carrier" to mean a provider of telephone exchange service or exchange access service. "Telephone exchange service" is already defined in section 3 of the Communications Act.

"Telecommunications" is defined in new subsection (ll) to mean the transmission, between or among points specified by the user, of information of the user's choosing including voice, data, image, graphics, and video, without change in the form or content of the information, as sent and received, with or without benefit of any closed transmission medium.

The term "telecommunications service" defined in new subsection (mm) of section 3 of the communications Act means the offering of telecommunications for a fee directly to the public or to such classes of users as to be effectively available to the public, regardless of the facilities used to transmit the telecommunications service. This definition is intended to include commercial mobile service ("CMS"), competitive access service, and alternative local telecommunications services to the extent they are offered to the public or to such classes of users as to be effectively available to the public.

Subsection (nn) defines "telecommunications carrier" to mean any provider of telecommunications service, except that the term does not include aggregator of telecommunications services as defined in section 226 of the Communications Act. The definition amends the Communications Act to explicitly provide that a "telecommunications carrier" shall be treated as a common carrier for purposes of the Communications Act, but only to the extent that it is engaged in providing telecommunications services.

New subsection (oo) defines "telecommunications number portability" to mean the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another. Number portability allows consumers remaining at the same location to retain their existing telephone number when switching from one telecommunications carrier to another.

New subsection (pp) defines "information service" similar to the Federal Communications Commission's ("the Commission") definition of "enhanced services." The Senate intends that the Commission would have the continued flexibility to modify its definition and rules pertaining to enhanced services as technology changes

Subsection (rr) adds a definition of "rural telephone company" that includes companies that (i) do not serve areas containing any part of an incorporated place of 10,000 or more inhabitants, or any incorporated or unincorporated territory in an urbanized area, or (ii) have fewer than 100,000 access lines in a State.

New subsection (ss) adds to the Communications Act a definition of "service area." "Service area" means a geographic area established by the Commission and the State for the purpose of determining universal service obligations and support mechanisms. The Service are of a rural telephone company means such company's study are until the Commission and State, based on a recommendation of a Federal-State Joint Board, establish a different definition.

House amendment

Subsection (a) of section 501 adds new definitions, including for "information service" "telecommunications." "telecommunications service," "telecommunications equipment," "local exchange carrier," "affiliate," "customer premises equipment," "electronic publishing," "exchange area," and "rural telephone company." "Information service" and "telecommunications" are defined based on the definition used in the Modification of Final Judgment. The definition of "telecommunications" refers to transmission "by means of an electromagnetic transmission medium.

The term "local exchange carrier" does not include a person insofar as such person is engaged in the provision of CMS under section 332(c) of the Communications Act, except to the extent that the Commission finds that such service as provided by such persons in State is a replacement for a substantial portion of the wireless telephone exchange service within such State.

The term "telecommunication service" is defined as those services and facilities offered on a "common carrier" basis, recognizing the distinction between common carrier offerings that are provided to the public or to such classes of users as to be effectively available to a substantial portion of the public, and private services.

This section defines the term "rural telephone company" to means a local exchange carrier (LEC) to the extent that such carrier services an unincorporated area of less than 10,000 residents, or any territory defined by the Bureau of the Census as a rural area; or if such carrier has fewer than 50,000 access lines; or if such carrier provides telephone exchange service to a local study area with fewer than 100,000 access lines; or if such carrier has less than 15 percent of the access lines in communities of more than 50,000 residents.

The definition of a "Bell Operating Company" does not include an entity that owns a former Bell Operating Company's wireless operations that are no longer affiliated with a Bell Operating Company's wireline exchange facilities.

Conference agreement

Section 3(a) of the conference agreement both amends and adds definitions to section 3 of the Communications Act. The Senate recedes to the House with respect to the definitions of "cable system," "customer premises equipment," "dialing parity," "interLATA service," "LATA," "rural telephone company," and "telecommunications equipment," as well as on the House amendment to the existing definition of "telephone exchange service." The Senate recedes to the House with amendments regarding the definitions of "Bell Operating Company," "exchange access," "information service," and "local exchange carrier."

The Senate definition of "Bell Operating Company" was included; however, the conference agreement included the language in the House amendment clarifying that the term the "successor and assign" is limited to those providing wireline telephone exchange service so that Airtouch Communications, a former affiliate of Pacific Telesis that does not provide wireline telephone exchange service, or any other similarly situated former affiliate of a Bell Operating Company ("BOC"), is not included in that definition. The Senate definition of "local exchange carrier" was included to ensure that the Commission could, if future circumstances warrant, include CMS providers which provide telephone exchange service or exchange access in the definition of "local exchange carrier."

The House recedes to the Senate with respect to the definitions of "affiliate" and "cable service." The House recedes to the Senate with amendments with respect to the definitions of "number portability," "telecommunications," "telecommunications carrier," and "telecommunications service."

The conference agreement includes two new definitions to clarify certain provisions in the Senate bill and the House amendment. The term "AT&T Consent Decree" was substituted for "Modification of Final Judgment" in order to characterize more accurately the intent of the Senate bill and House amendment with respect to the supersession issues addressed in title VI. The term "network element" was included to describe the facilities, such as local loops, equipment, such as switching, and the features, functions, and capabilities that a local exchange carrier must provide for certain purposes under other sections of the conference agreement.

The House recedes to the Senate with an amendment with respect to new subsection 3(b) of the conference agreement, which provides that, except where otherwise provided, the terms used in the conference agreement have the same meaning as those terms have in the Communications Act.

The Senate recedes to the House amendment with respect to new subsection 3(c) of the conference agreement, which amends section 3 of the Communications Act to reorder the definitions in that section alphabetically and to make other stylistic changes.

TITLE I—TELECOMMUNICATIONS SERVICES

SUBTITLE A—TELECOMMUNICATIONS SERVICES

SECTION 101—INTERCONNECTION

Senate bill

The Senate bill creates new sections of the Communications Act to create competitive markets.

House amendment

The House amendment creates new sections of the Communications Act to create competitive markets.

Conference agreement

Section 101 of the conference agreement establishes a new "Part II" of title II of the Communications Act. Part II contains new sections 251–261 of the Communications Act to create competitive communications markets.

NEW SECTION 251—INTERCONNECTION

Senate bill

New subsection 251(a) imposes a duty on local exchange carriers possessing market power in the provision of telephone exchange service or exchange access service in a particular local area to negotiate in good faith and to provide interconnection with other telecommunications carriers that have requested interconnection for the purpose of providing telephone exchange service or exchange access service. The obligations and procedures prescribed in this section do not apply to interconnection arrangements between local exchange carriers and telecommunications carriers under section 201 of the Communications Act for the purpose of providing interexchange service, and nothing in this section is intended to affect the Commission's access charge rules. Local exchange carriers with market power are required to provide interconnection at reasonable and nondiscriminatory rates.

The Commission will determine which local exchange carriers have market power for purposes of this section. In determining market power, the relevant market shall include all providers of telephone exchange

service or exchange access service in a local service area, regardless of the technology used to provide such service.

The obligation to negotiate interconnection shall apply to a local exchange carrier or a class of local exchange carriers that are determined by the Commission to have market power in providing exchange services. The references to a "class" of carriers are intended to relieve the Commission of the need to make a separate market power determination for each individual carrier. These references are not intended to require the local exchange carriers to engage in negotiations as a class, although subsection 251(a)(2) provides that multilateral negotiations are permitted. However, a local exchange carrier that chooses to participate in multilateral negotiations will be subject to an individual obligation to negotiate in good faith and will remain subject to the time limitations contained in this and other provisions of section 251.

New section 251 provides two alternative methods for reaching interconnection agreements.

New subsection 251(b) provides a list of minimum standards relating to types of interconnection the local exchange carrier must agree to provide, if sought by the telecommunications carrier requesting interconnection. The minimum standards include unbundled access to the network functions and services of the local exchange carrier's network, and unbundled access to the local exchange carrier's telecommunications facilities and information, including databases and signaling, that are necessary for transmission and routing and the interoperability of both carriers' networks. The negotiation process established by this section is intended to resolve questions of economic reasonableness with respect to the interconnection requirements. That is, either the parties resolve the issue or the State will impose conditions for interconnection consistent with section 251 and the Commission's rules.

The minimum standards also require interconnection to the local exchange carrier's network that is at least equal in type, quality, and price to the interconnection the carrier provides to any other party, including itself or affiliated companies. At a minimum, the Senate intends that any technically feasible point would be any point at which the local exchange carrier provides access to any other party, including itself or any affiliated entry. Access to poles, ducts, conduits, and rights-of-way owned or controlled by the local exchange carrier is also a minimum standard.

Number portability and local dialing parity are included in the minimum standards of subsection 251(b). If requested, a local exchange carrier must take any action under its control to provide interim or final number portability as soon as it is technically feasible. Section 307 of the bill adds new section 261 of the Communications Act which establishes a neutral telecommunications numbering administration and defines interim and final number portability. The Commission will determine when final number portability is technically feasible. A similar requirement applies to local dialing parity.

The minimum standards also cover resale or sharing of the local exchange carrier's unbundled telecommunications services and network functions. The carrier is not permitted to attach unreasonable conditions to the resale or sharing of those services or functions. Subsection 251(b) provides certain circumstances where it would not be unreasonable for a State to limit the resale of services included within the definition of universal service.

Additional minimum standards relate to reciprocal compensation arrangements, including in-kind exchange of traffic or traffic balance measures, reasonable notice of changes in the information necessary for transmission and routing of services over the carrier's network, and schedules of itemized charges and conditions.

Subsection 251(i) requires the Commission to promulgate rules to implement section 251 within 6 months after enactment. If a State fails to carry out its responsibilities under section 251 in accordance with the rules promulgated by the Commission, the Senate intends that the Commission assume the responsibilities of the State in the applicable proceeding or matter.

Subsection 251(i) also requires the Commission or a State to waive or modify the requirements of the minimum standards of subsection 251(b) in the case of a rural telephone company, and allows the Commission or a State to waive or modify those requirements in the case of a local exchange carrier with fewer than two percent of the nation's subscriber lines installed in the aggregate nationwide. In order to waive or modify the requirements of subsection 251(b) for such companies or carriers, the Commission or a State must determine that the application of such requirements would result in unfair competition, impose a significant adverse economic impact on users of telecommunications services, be technically infeasible, or otherwise not be in the public interest. The Senate intends that the Commission or a State shall, consistent with the protection of consumers and allowing for competition, use this authority to provide a level playing field, particularly when a company or carrier to which this subsection applies faces competition from a telecommunications carrier that is a large global or nationwide entity that has financial or technological resources that are significantly greater than the resources of the company or carrier.

New subsection 251(j) provides that nothing in section 251 precludes a State from imposing requirements on telecommunications carriers with respect to intrastate services that the State determines are necessary to further competition in the provision of telephone exchange service or exchange access service, so long as any such requirements are not inconsistent with the Commission's rules to implement section 251.

New subsection 251(k) provides that nothing in section 251 is intended to change or modify the Commission's rules at 47 CFR 69 et seq. regarding the charges that an interexchange carrier pays to local exchange carriers for access to the local exchange carrier's network. The Senate also does not intend that section 251 should affect regulations implemented under section 201 with respect to interconnection between interexchange carriers and local exchange carriers.

Section 307 of the bill adds a new section 261 to the Communications Act. New section 261 requires local exchange carriers to provide for number portability and also requires the neutral administration of a nationwide telephone numbering system.

Subsection 261(a) requires that, as of the date of enactment, interconnection agreements reached under section 251 must, if requested, provide for interim number portability.

Interim number portability may require that calls to or from the subscriber be routed through the local exchange carrier's switch. Some method of call forwarding or similar arrangement could be used to satisfy this requirement. The method of providing interim number portability and the amount of compensation, if any, for providing such service is subject to the negotiated interconnection agreement, pursuant to section 251.

Subsection 261(b) provides that final number portability shall be made available, upon request, when the Commission determines that final telecommunications portability is technically feasible. Subsection 261(d) states that the cost of such number portability shall be borne by all providers on a competitively neutral basis.

Subsection 261(c) of new section 261 requires that all providers of telephone exchange service or exchange access service comply with the guidelines, rules, or plans, of the entity or entities responsible for administering a nationwide neutral number system. This provision is not intended to affect the Commission's ongoing proceeding on numbering administration.

Subsection 261(c)(2) requires that all telecommunications carriers which provide local exchange or exchange access service in the same telephone service area be assigned the same numbering plan area code.

House amendment

Section 241 of section 101 of the House amendment restates the obligation contained in section 201(a) of the Communications Act on all common carriers to interconnect with the facilities and equipment of other providers of telecommunications services and information services.

Section 242(a)(1) sets out the specific requirements of openness and accessibility that apply to LECs as competitors enter the local market and seek access to, and interconnection with, the incumbent's network facilities. Under section 242(a)(2), LECs have the duty to offer unbundled services, elements, features, functions, and capabilities whenever technically feasible. Section 242(a)(3) imposes the duty to offer resale at wholesale rates, which are defined as retail, less the avoided costs. Section 242(a)(4) sets out the duty to provide number portability, to the extent technically feasible. Section 242(a)(5) sets out the duty to provide dialing parity. Section 242(a)(6) sets out the duty to afford access to the poles, ducts, conduits, and rights-of-way of the incumbent carrier, as provided under the pole attachment provisions of the Communications Act. Section 242(a)(7) places the responsibility on local telephone companies not to install network features, functions, and capabilities that violate the requirement of network functionality and accessibility. Section 242(a)(8) places a duty on both parties to negotiate in good faith on all requirements relating to interconnection agreements.

Section 242(b)(1) describes the specific terms and conditions for interconnection, compensation, and equal access, which are integral to a competing provider seeking to offer local telephone services over its own facilities. Under section 242(b)(2), any interconnection agreement entered into must provide for mutual and reciprocal recovery of costs, and may include a range of compensation schemes, such as an in-kind exchange of traffic without cash payment (known as bill-and-keep arrangements). Under section 242(b)(3), the LEC has a responsibility to offer reasonable and nondiscriminatory access on an unbundled basis "that is equal in type and quality" to that which it affords itself or any other person. Section 242(b)(4) directs the Commission to establish regulations requiring actual collocation, or

physicial collocation, of equipment necessary for interconnection at the premises of a LEC, except that virtual collocation is permitted where the LEC demonstrates that actual collocation is not practical for technical reasons or because of space limitations.

This section also directs the Commission to establish regulations requiring full compensation to the LEC for costs of providing services to equal access, interconnection, number portability, and unbundling and requires a carrier, to the extent it provides a telecommunications service or an information service over its own network, to impute to itself the charge for access and interconnection that it charges other persons for providing such services. Subsection 242(c) mandates the manner in which number portability and dialing parity must be provided. This section does not require intraLATA toll dialing parity until a BOC is authorized to offer long distance service.

Section 242(d)(1) prohibits a provider from joint marketing of local and interLATA toll service until the BOC in that State is authorized to provide long distance service pursuant to section 245. Section 242(d)(2) grandfathers joint marketing arrangements in place before the date of enactment. Section 242(e) grants to the Commission the authority to waive or modify, in whole or in part, the requirements of section 242 for any carrier that has, in the aggregate nationwide, fewer than 500,000 access lines installed, to the extent that the Commission determines the effect of the requirements would be economically burdensome, or technologically infeasible. Section 242(f) gives State commissions the authority to waive section 242 requirements with respect to rural telephone companies, and subsection 242(g) sets out the time and manner for compliance if the State determines that the exemption should not apply.

Conference agreement

The conference agreement adopts a new model for interconnection that incorporates provisions from both the Senate bill and House amendment in a new section 251 of the Communications Act. New section 251(a) imposes a general duty to interconnect directly or indirectly between all telecommunications carriers and the duty not to install network features and functions that do not comply with the guidelines and standards established under new sections 255 and 256 of the Communications Act.

New section 251(b) imposes several duties on all local exchange carriers, including the "new entrants" into the local exchange market. These include the duties: (1) not to prohibit resale of their service; (2) to provide number portability; (3) to provide dialing parity; (4) to afford access to poles, ducts, conduits, and rights-of-way consistent with the pole attachment provisions in section 224 of the Communications Act; and (5) to establish reciprocal compensation arrangements for the transport and termination of traffic. The conferees note that the duties imposed under new section 251(b) make sense only in the context of a specific request from another telecommunications carrier or any other person who actually seeks to connect with or provide services using the LEC's network.

New section 251(c) imposes several additional obligations on incumbent LECs. These include the duties: (1) to negotiate in good faith, subject to the provisions of section 252, binding agreements to provide all of the obligations imposed in new sections 251(b) and 251(c); (2) to provide interconnection at any technically feasible point of the same type and quality it provides to itself, on just, reasonable, and nondiscriminatory terms and conditions; (3) to provide access to network elements on an unbundled basis; (4) to offer resale of its telecommunications services at wholesale rates; (5) to provide reasonable public notice of changes to its network; and (6) to provide physical collocation, or virtual collocation if physical collocation is not practical.

New section 251(d) requires the Commission to adopt regulations to implement new section 251 within 6 months, and states that nothing precludes the enforcement of State regulations that are consistent with the requirements of new section 251. New section 251(e) clarifies the Commission's authority for numbering administration. The costs for numbering administration and number portability shall be borne by all providers on a competitively neutral basis.

New section 251(f)(1) provides for the exemption of rural telephone companies from the requirements of new subsection (c) until a bona fide request is received that the State commission determines is not unduly economically burdensome, is technically feasible, and is consistent with the universal service provisions of new section 254, except the specific public interest determinations thereunder. The State commission receiving notice of a bona fide request must rule on it within 120 days and, if no exemption is granted, shall establish a schedule for compliance with the request. The exemption is not available where an incumbent cable operator makes a request to an incumbent telephone company providing video programming in the same service area, except where rural telephone companies offer video programming directly to subscribers on the date of enactment.

New section 251(f)(2) allows a local exchange carrier with less than 2% of the subscribed access lines nationwide to petition for a suspension or modification of the requirements under new sections 251(b) and 251(c) for the telephone exchange service facilities specified in the petition. The State commission shall grant the petition to the extent that it is necessary to avoid significant adverse impacts on consumers, imposing an undue economic burden or a technically infeasible requirement on the incumbent, and provided that the modification or suspension is in the public interest.

The approach of both the Senate bill and the House amendment assumed that Bell Operating Companies ("BOCs") would be required to continue to provide equal access and nondiscrimination to interexchange carriers and information service providers under those parts of the AT&T Consent Decree that would have remained in effect under either approach. Because the new approach completely eliminates the prospective effect of the AT&T Consent Decree, some provision is necessary to keep these requirements in place. By the same token, although not specifically addressed in either the Senate bill or the House amendment, some provision is also needed to ensure that the GTE Operating Companies that provide local exchange services continue to provide equal access and nondiscrimination to interexchange carriers and information service providers.

Accordingly, the conference agreement includes a new section 251(g). This section provides that, on and after the date of enactment, each local exchange carrier, to the extent that it provides wireline services, shall have a statutory duty to provide equal access and nondiscrimination to interexchange carriers and information service providers. In the interim, between the date of enactment and the date the Commission promulgate new regulations under this section, the substance of this new statutory duty shall be the equal access and nondiscrimination restrictions and obligations, including receipt of compensation, that applied to the local exchange carrier immediately prior to the date of enactment, regardless of the source. When the Commission promulgates its new regulations, the conferees expect that the commission will explicitly identify those parts of the interim restrictions and obligations that it is superseding so that there is no confusion as to what restrictions and obligations remain in effect. These interim restrictions and obligations shall be enforceable in the same manner as Commission regulations.

Even though the substance of the interim restrictions and obligations on the BOCs and GTE Operating Companies will be taken from the respective consent decrees, these restrictions and obligations shall not be enforceable under either consent decree because the provisions of section 601(a) of the bill eliminate the prospective effect of both consent decrees. The use of the provisions of the respective consent decrees to provide, on an interim basis, the substance of the new statutory duty in no way revives the consent decrees. In particular, the use of the provisions of the GTE consent decree relating to equal access and nondiscrimination on this interim basis should not be construed in any way as recreating or continuing the GTE Consent Decree's prohibition on GTE's or the GTE Operating Companies' entry into the interexchange market.

The old consent decree obligations no longer exist with respect to post-enactment conduct, and the new obligations flow only from the statute. These new statutory obligations shall be enforceable only through the means provided under law for the enforcement of Commission regulations. Nothing in this section should be construed as providing any authority for the enforcement of these statutory obligations under either of the consent decrees from which their substance will be taken. Nothing in this section should be construed as requiring any parties to renegotiate any agreements currently in existence unless the new Commission regulations under this section require such renegotiation.

New subsection 251(h) provides the definition of "incumbent local telephone carrier."

New subsection 251(i) makes clear the conferees' intent that the provisions of new section 251 are in addition to, and in no way limit or affect, the Commission's existing authority regarding interconnection under section 201 of the Communications Act.

NEW SECTION 252—PROCEDURES FOR NEGOTIATION, ARBITRATION, AND APPROVAL OF AGREEMENTS

Senate bill

Section 251(c) makes clear that a local exchange carrier may meet its section 251 interconnection obligations by negotiating and entering into a binding agreement that does not reflect the minimum standards listed in section 251(b). Each such negotiated interconnection agreement must include a schedule of itemized charges for each service, facility, or function included in the agreement, and must be submitted to a State under section 251(e).

Section 251(d) provides procedures under which any party negotiating an interconnection agreement may ask the State to participate in the negotiations and to arbitrate any differences arising in the negotiations. A

State may be asked to arbitrate at any point in the negotiations.

In addition to the possibility of arbitration by the State, section 251(d) provides a more formal remedy under which any party may petition the State to intervene in the negotiations. If issues remain unresolved more than 135 days after the date the local exchange carrier received the request to negotiate, any party to the negotiations may petition the State to intervene for the purpose of resolving any issues that remain open in the negotiation. Requests to the State to intervene must be made during the 25 day period that begins 135 days after the local exchange carrier received the negotiation request. The State is required to resolve any open issues and conduct its review of the agreement under section 251(e) not later than 10 months after the date the local exchange carrier received the request to negotiate. In resolving any open issues the solution imposed by a State must be consistent with the Commission's rules to implement this section, the minimum standards required under section 251(b) and the provisions of section 351(d)(6) with respect to any charges imposed.

Section 251(e) requires that any interconnection agreement under section 251 must be submitted to the State for approval. The State must approve or reject the agreement and make written findings as to any deficiencies in the agreement. An agreement successfully negotiated under subsection (c) by the parties without regard to the minimum standards set forth in section 251(b) may only be rejected if the State finds the agreement discriminates against a telecommunications carrier that is not a party to the agreement. The State may reject interconnection agreements negotiated under subsection (d) if the State finds the agreement does not meet the minimum standards set forth in subsection 251(b), or if the State finds that implementation of the agreement is not in the public interest.

Section 251(f) requires a State to make a copy of each agreement approved by the State under section 251(e) available for public inspection and copying within 10 days after the agreement is approved.

Section 251(g) requires a local exchange carrier to make available any service, facility, or function provided under an interconnection agreement to which that local exchange carrier is a party to any other telecommunications carrier that requests such service, facility, or function on the same terms and conditions as are provided in that agreement.

Section 251(i) provides that if a State fails to carry out its responsibilities under section 251 in accordance with the rules promulgated by the Commission, the Commission shall assume the responsibilities of the State in the applicable proceeding or matter.

House amendment

Section 244 of the House amendment requires, within eighteen months, an exchange carrier to file with the State commission in that State in which it is offering service, and with the Commission for interstate services, a statement of terms and conditions confirming that it is in compliance with the section 242 requirements.

Section 244(b)(1) provides for State commission review of an exchange carrier's statement and permits a State to impose its own intrastate service standards. Paragraph (2) requires the Commission to conduct a similar review. Under section 244(c), both reviews must be completed within 60 days of the submission of statements to the respective regulatory authorities, or simply be allowed to take effect, as commonly occurs at present with most tariffs. Section 244(c)(2) clarifies that the authority to review the statements does not terminate once they take effect.

Section 244(d) allows an exchange carrier to file an agreement as a statement of services under section 244(a). It also permits exchange carriers to enter into subsequent agreements on different terms and conditions, but with two caveats. First, the subsequent agreement must undergo the same review process, and second, it may not be discriminatory with respect to other agreements it has entered into.

Finally, subsection (e) sunsets the requirement of filing statements of terms and conditions once the local exchange market is deemed competitive.

Conference agreement

In new section 252(a), the House recedes to the Senate with an amendment to provide that any party may ask the State to participate during a voluntary negotiation period in the mediation of agreements. Agreements arrived at voluntarily do not need to meet the requirements of new section 251 (b) and (c).

The House recedes to the Senate on new section 252(b), with an amendment to clarify the role of a State commission in arbitrating and resolving agreements at the request of any of the parties.

New section 252(c) requires a State commission to ensure that any resolution of unresolved issues in a negotiation meets the requirements of new section 251 and any regulations to implement that section. To the extent that a State establishes the rates for specific provisions of an agreement, it must do so according to new section 252(d). In addition, a State must provide a schedule for implementation of the terms of the agreement.

New section 252(d) combines the pricing standards in the Senate bill and the House amendment. Charges for interconnection under new section 251(c)(2) and for network elements under new section 251(c)(3) are to be determined based on cost and may include a reasonable profit. Charges for transport and termination of traffic pursuant to new section 251(b)(5) are to be based on reciprocal compensation. The wholesale rate for resold telecommunications services under new section 251(c)(4) is to be determined by the State commission on the basis of the retail rate charged to subscribers of such telecommunications services, excluding costs that will be avoided by the incumbent carrier.

The House recedes to the Senate on new section 252(e). Agreements arrived at through voluntary negotiation or compulsory arbitration must be approved by the State commission under new section 252(e), which provides a specific timetable for State action, provides Commission authority to act if a State does not, and preserves State authority to enforce State law requirements in agreements approved under this section.

The Senate recedes to the House with an amendment to new section 252(f), which permits a BOC to file a statement of the terms and conditions under which it generally offers interconnection and access to network elements. Any such statement must be approved by the State commission.

New section 252(g) was included by the conferees to permit a State commission, to the extent practical, to consolidate certain proceedings required under the Communications Act to promote administrative efficiency.

New section 252(h) requires that all agreements or statements approved by a State commission be available from such commission for public inspection and copying.

New section 252(i) requires a local exchange carrier to make available on the same terms and conditions to any telecommunications carrier that requests it any interconnection, service, or network element that the local exchange carrier provides to any other party under an approved agreement or statement.

New section 252(j) states that the term "incumbent local exchange carrier" has the same meaning as that term has in new section 251(h).

NEW SECTION 253—REMOVAL OF BARRIERS TO ENTRY

Senate bill

Section 201(a) adds a new section 254 to the Communications Act and is intended to remove all barriers to entry in the provision of telecommunications services.

Subsection (a) of new section 254 preempts any State and local statutes and regulations, or other State and local legal requirements, that may prohibit or have the effect of prohibiting any entity from providing interstate or intrastate telecommunications services.

Subsection (b) of section 254 preserves a State's authority to impose, on a competitively neutral basis and consistent with universal service provisions, requirements necessary to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers. States may not exercise this authority in a way that has the effect of imposing entry barriers or other prohibitions preempted by new section 254(a).

Subsection (c) of new section 254 provides that nothing in new section 254 affects the authority of States or local governments to manage the public rights-of-way or to require, on a competitively neutral and nondiscriminatory basis, fair and reasonable compensation for the use of public rights-of-way, on a nondiscriminatory basis, provided any compensation required is publicly disclosed.

Subsection (d) requires the Commission, after notice and an opportunity for public comment, to preempt the enforcement of any State or local statutes, regulations or legal requirements that violate or are inconsistent with the prohibition on entry barriers contained in subsections (a) or (b) of section 254.

Subsection (e) of new section 254 simply clarifies that new section 254 does not affect the application of section 332(c)(3) of the Communications Act to CMS providers.

Section 309 adds a new section 263 to the Communications Act and is intended to permit States to adopt certain statutes or regulations regarding the provision of service by competing telecommunications carriers in rural markets. Such statutes or regulations may be no more restrictive than the criteria set forth in section 309. The Commission is authorized to preempt any State statute or regulation that is inconsistent with the Commission's regulations implementing this section.

House amendment

The House provisions are identical or similar to subsections 254 (a), (b) and (c). The House amendment does not have a similar provision (d) requiring the Commission to preempt State or local barriers to entry, if it makes a determination that they have been erected.

Conference agreement

The conference agreement adopts the Senate provisions.

New section 253(b) clarifies that nothing in this section shall affect the ability of a State to safeguard the rights of consumers. In addition to consumers of telecommunications services, the conferees intend that this includes the consumers of electric, gas, water or steam utilities, to the extent such utilities choose to provide telecommunications services. Existing State laws or regulations that reasonably condition telecommunications activities of a monopoly utility and are designed to protect captive utility ratepayers from the potential harms caused by such activities are not preempted under this section. However, explicit prohibitions on entry by a utility into telecommunications are preempted under this section.

The rural markets provision in section 309 of the Senate bill is simplified and moved to this section. The modification clarifies that, without violating the prohibition on barriers to entry, a State may require a competitor seeking to provide service in a rural market to meet the requirements for designation as an eligible telecommunications carrier. That is, the State may require the competitor to offer service and advertise throughout the service area served by a rural telephone company. The provision would not apply if the rural telephone company has obtained an exemption, suspension, or modification under new section 251(f) that effectively prevents a competitor from meeting the eligible telecommunications carrier requirements. In addition, the provision would not apply to providers of CMS.

NEW SECTION 254—UNIVERSAL SERVICE

Senate bill

Section 103 of the bill establishes a Federal-State Joint Board to review existing universal service support mechanisms and make recommendations regarding steps necessary to preserve and advance this fundamental communications policy goal. Section 103 also adds a new section 253, entitled "Universal Service," to the Communications Act. As new section 253 explicitly provides, the Senate intends that States shall continue to have the primary role in implementing universal service for intrastate services, so long as the level of universal service provided by each State meets the minimum definition of universal service established under new section 253(b) and a State does not take any action inconsistent with the obligation for all telecommunications carriers to contribute to the preservation and advancement of universal service under new section 253(c).

Section 103(a) of the bill requires the Commission to institute a Federal-State Joint Board under section 410(c) of the Communications Act to recommend within 9 months of the date of enactment new rules regarding implementation of universal service.

Section 103(a) also provides that at least once every four years the Commission is required to institute a new Joint Board proceeding to review the implementation of new section 253 regarding universal service, and to make recommendations regarding any changes that are needed.

Section 103(b) of the bill requires the Commission to complete any proceeding to implement the recommendations of the initial Joint Board within one year of the date of enactment of the bill, any other Joint Board on universal service matters within one year of receiving such recommendations.

Section 103(c) of the bill simply clarifies that the amendments to the Communications Act made by the Senate bill do not necessarily affect the Commission's existing separations rules for local exchange or interexchange carriers. However, this subsection does not prohibit or restrict the Commission's ability to change those separations rules through an appropriate proceeding.

Section 103(d) establishes new section 253 in the Communications Act. New section 253(a) establishes seven principles on which the Joint Board and the Commission shall base policies for the preservation and advancement of universal service.

Subsection (b) of new section 253 provides that the Commission shall define universal service, based on recommendations from the public, Congress, and the Joint Board. To ensure that the definition of universal service evolves over time to keep pace with modern life, the subsection requires the Commission to include, at a minimum, any telecommunications service that is subscribed to by a substantial majority of residential customers.

Subsection (c) of new section 253 requires all telecommunications carriers to contribute on an equitable and nondiscriminatory basis to the preservation and advancement of universal service. The Commission or a State may require any other telecommunications provider, such as private telecommunications providers, to contribute to the preservation and advancement of universal service, if the public interest so requires.

Subsection (d) of new section 253 provides that a State may adopt additional definitions, mechanisms, and standards to preserve and advance universal service within such State, provided that they are not inconsistent with the regulations of the Commission. A State must adopt separate support mechanisms for any additional standards or definitions required by the State.

Subsection (e) of new section 253 provides that only telecommunications carriers that are designated as essential telecommunications carriers under new section 214(d) shall be eligible to receive support payments, if any, established by the Commission or a State to preserve and advance universal service. Any such support payment must accurately reflect the amount reasonably necessary to preserve and advance universal service.

Subsection (e) is not intended to prohibit support mechanisms that directly help individuals afford universal service.

Subsection (f) of new section 253 directs the Commission and the States to make universal service support explicit and to ensure that essential telecommunications carriers are able to provide universal service at just, reasonable and affordable rates. Carriers receiving such support must use it to provide service in the area for which the support was received.

Subsection (g) of new section 253 simply incorporates in the Communications Act the existing practice of geographic rate averaging and rate integration for interexchange, or long distance, telecommunications rates to ensure that rural customers continue to receive such service at rates that are comparable to those charged to urban customers. States shall continue to be responsible for enforcing this subsection with respect to intrastate interexchange services, so long as the State rules are not inconsistent with Commission rules and policies on rate averaging.

Subsection (h) of new section 253 prohibits telecommunications carriers from subsidizing competitive services with revenues from non-competitive services. The Commission and the States are required to establish any necessary cost allocation rules, accounting safeguards, and other guidelines to ensure that universal service bears no more than a reasonable share (and may bear less than a reasonable share) of the joint and common costs of facilities used to provide both competitive and noncompetitive services.

Subsection (i) of new section 253 requires the Commission to submit a report to Congress prior to increasing support for universal service or requiring increased participation by telecommunications carriers. Any such increase cannot take effect until 120 days after the report is submitted to Congress.

Subsection (j) of new section 253 states that nothing in new section 253 limits or expands the Commission's authority with respect to universal service.

Subsection (k) of new section 253 states that the subsections that provide that all telecommunications carriers shall contribute to universal service, preserve the States' authority to adopt their own definitions and mechanisms, establish eligibility for universal service support, and control the level of universal service support shall take effect one year after the date of enactment of this bill.

Section 310 of the Senate bill, known as the Snowe-Rockefeller-Exon-Kerrey Amendment, provides for preferential rates to schools, libraries and rural health care facilities.

House amendment

Section 247(a) establishes a Federal-State Joint Board, pursuant to section 410(c) of the Communications Act, for the purpose of recommending actions the Commission and the States should take to preserve universal service.

Section 247(b) sets forth six principles upon which the Board shall base its policies for the preservation of universal service.

Section 247(b)(1) states that any plan adopted should maintain just and reasonable rates. Section 247(b)(2) states that the Joint Board should recommend a definition of the nature and extent of services included within the carriers' obligations to provide universal service. Section 247(b) (3) and (4) state that the plan should provide adequate and sustainable support mechanisms and require equitable and non-discriminatory contributions from all providers to support the plan. The plan should also seek to promote access to advanced telecommunications services and reasonably comparable services between rural and urban areas. Section 247(b)(5) directs that the plan include recommendations to ensure access to advanced telecommunications services for students in elementary and secondary schools.

Section 247(c) requires the Joint Board, in defining carrier obligations with respect to universal service pursuant to subsection (b)(2), to consider several factors: (1) the extent to which a telecommunications service has been subscribed to by customers; (2) whether such service is essential to public health, safety, or the public interest; (3) whether such service is deployed in the public switched network; and (4) whether inclusion of such service is otherwise consistent with the public interest, convenience, and necessity.

Section 247(d) requires that the Joint Board be convened and report its recommendations within 270 days after enactment. The Commission is required to act on the recommendations within one year.

Section 247(e) makes clear that States are free to adopt regulations imposing universal service obligations on intrastate services.

Section 247(f) sunsets the Joint Board created by this section five years after enactment.

Conference agreement

The conference agreement amends the Communications Act to add a new section 254 entitled "Universal Service." The House recedes to the Senate with modifications. New section 254(a) incorporates the provisions of section 103(a) of the Senate bill, with the addition of a State-appointed utility consumer advocate to the Joint Board. The conferees intend that, in making its recommendations to the Commission, the Joint Board will thoroughly review the existing system of Federal universal service support.

To the extent possible, the conferees intend that any support mechanisms continued or created under new section 254 should be explicit, rather than implicit as many support mechanisms are today. In addition, the conferees do not view the existing proceeding under Common Carrier Docket 80–286 (regarding Amendment of Part 36 of the Commission's Rules and appointment of a Joint Board) as an appropriate foundation on which to base the proceeding required by new section 254(a).

New section 254(b) combines the principles found in both the Senate bill and the House amendment, with the addition of "insular areas" (such as the Pacific Island territories) and "low-income consumers" to the list of consumers to whom access to telecommunications and information services should be provided.

New section 254(c) defines universal service as "an evolving level of telecommunications services" established periodically by the Commission. The definition is to take into account advances in telecommunications and information technology, and should be based on a consideration of the four criteria set forth in the subsection. The Commission is given specific authority to alter the definition from time to time, and to provide a different definition for schools, libraries, and health care facilities.

New section 254(d) requires that all telecommunications carriers providing interstate telecommunications services shall contribute to the preservation and advancement of universal service. The Commission is given specific authority to exempt a telecommunications carrier or class of telecommunications carriers from this requirement if their contribution would be "de minimis." The conferees intend that this authority would only be used in cases where the administrative cost of collecting contributions from a carrier or carriers would exceed the contribution that carrier would otherwise have to make under the formula for contributions selected by the Commission. This section preserves the Commission's authority to require all providers of intestate telecommunications to contribute, if the public interest requires it, to preserve and advance universal service.

New section 254(e) provides that only eligible telecommunications carriers designated under new section 214(e) shall be eligible to receive specific Federal universal service support. Any eligible telecommunications carrier that receives such support shall only use that support to provide, maintain, and upgrade facilities and services for universal service in the area for which the support is received. In keeping with the conferees' intent that all universal service support should be clearly identified, this subsection states that such support should be made explicit and should be sufficient to achieve the purposes of new section 254. The conferees intend that only eligible telecommunications carriers should receive support from specific Federal universal service support mechanisms; however, this restriction should not be construed to prohibit any telecommunications carrier from using any particular method to establish rates or charges for its services to other telecommunications carriers, to the extent such rates or charges are otherwise permissible under the Communications Act or other law.

State authority with respect to universal service is specifically preserved under new section 254(f). A State may adopt any measure with respect to universal service that is not inconsistent with the Commission's rules. This subsection also requires all providers of intrastate telecommunications to contribute to universal service within a State in an equitable and non-discriminatory manner, as determined by the State. A State may adopt additional requirements with respect to universal service in that State, so long as those additional requirements do not rely upon or burden Federal universal service support mechanisms.

New section 254(g) is intended to incorporate the policies of geographic rate averaging and rate integration of interexchange services in order to ensure that subscribers in rural and high cost areas throughout the Nation are able to continue to receive both intrastate and interstate interexchange services at rates no higher than those paid by urban subscribers. The conferees intend the Commission's rules to require geographic rate averaging and rate integration, and to incorporate the policies contained in the Commission's proceeding entitled "Integration of Rates and Services for the Provision of Communications by Authorized Common Carriers between the United States Mainland and the Offshore Points of Hawaii, Alaska and Puerto Rico/Virgin Islands (61 FCC2d 380 (1976)). The conferees are aware that the Commission has permitted interexchange providers to offer non-averaged rates for specific services in limited circumstances (such as services offered under Tariff 12 contracts), and intend that the Commission, where appropriate, could continue to authorize limited exceptions to the general geographic rate averaging policy using the authority provided by new section 10 of the Communications Act. Further, the conferees expect that the Commission will continue to require that geographically averaged and rate integrated services, and any services for which an exception is granted, be generally available in the area served by a particular provider. In addition, the conferees do not intend that this subsection would require the renegotiation of existing contracts for the provision of telecommunications services.

New subsection 254(h) incorporates, with modifications, the provisions of section 310 of the Senate bill. New subsection (h) of section 254 is intended to ensure that health care providers for rural areas, elementary and secondary school classrooms, and libraries have affordable access to modern telecommunications services that will enable them to provide medical and educational services to all parts of the Nation.

The ability of K–12 classrooms, libraries and rural health care providers to obtain access to advanced telecommunications services is critical to ensuring that these services are available on a universal basis. The provisions of subsection (h) will help open new worlds of knowledge, learning and education to all Americans—rich and poor, rural and urban. They are intended, for example, to provide the ability to browse library collections, review the collections of museums, or find new information on the treatment of an illness, to Americans everywhere via schools and libraries. This universal access will assure that no one is barred from benefiting from the power of the Information Age.

New subsection (h)(1)(A) provides that any telecommunications carrier shall, upon a bona fide request, provide telecommunications services necessary for the provision of health care services to any health care provider serving persons who reside in rural areas. The rates charged for the service shall be rates that are reasonably comparable to rates charged for similar services in urban areas. It is intended that the rural health care provider receive an affordable rate for the services necessary for the purposes of telemedicine and instruction relating to such services.

New subsection (h)(1)(B) requires that any telecommunications carrier shall, upon a bona fide request, provide services for educational purposes included in the definition of universal service under new subsection (c)(3) for elementary and secondary schools and libraries at rates that are less than the amounts charged for similar services to other parties, and are necessary to ensure affordable access to and use of such telecommunications services.

A telecommunications carrier providing service under new subsection (h)(1)(B) is permitted either to have the amount of the discount treated as an offset to its obligation to contribute to the mechanisms to preserve and advance universal service; or, to receive reimbursement utilizing the support mechanisms to preserve and advance universal service.

Pursuant to new subsection (c)(3), the Commission is authorized to designate a separate definition of universal service applicable only to public institutional telecommunications users. In so doing, the conferees expect the Commission and the Joint Board to take into account the particular needs of hospitals, K–12 schools and libraries.

New subsection (h)(2) requires the Commission to establish rules to enhance the availability of advanced telecommunications and information services to public institutional telecommunications users. For example, the Commission could determine that telecommunications and information services that constitute universal service for classrooms and libraries shall include dedicated data links and the ability to obtain access to educational materials, research information, statistics, information on Government services, reports developed by Federal, State, and local governments, and information services which can be carried over the Internet. The Commission also is required to determine under what circumstances a telecommunications carrier may be required to connect public institutional telecommunications users to its network.

New subsection (h)(3) clarifies that telecommunications services and network capacity provided to health care providers, schools and libraries may not be resold or transferred for monetary gain.

New subsection (h)(4) specifies that the following entities are not eligible to receive discounted rates under this section: for-profit businesses, elementary and secondary schools with endowments of more than $50,000,000, and libraries that are not eligible to participate in Statebased applications for Library Services and Technology Funds.

New subsection (h)(5) defines the terms "elementary and secondary schools,"

"health care provider." and "public institutional telecommunications user" as used throughout this subsection. The conferees intend that consortiums of educational institutions providing distance learning to elementary and secondary schools be considered an educational provider for purposes of this section.

New subsection (i) states that the Commission and the States should ensure that universal service is available at rates that are just, reasonable and affordable.

New subsection 254(j) has been added to clarify that this section is not intended to alter the existing provision of Lifeline Service to needy consumers.

The House recedes to the Senate with minor technical modifications on new subsection 254(k), which prohibits cross-subsidization and permits the Commission and the States to establish cost allocation rules for facilities used in the provision of services supported through Federal universal support mechanisms.

NEW SECTION 255—ACCESS BY PERSONS WITH DISABILITIES

Senate bill

Section 308(a) of the Senate bill adds a new section 262 to the Communications Act to require that manufacturers of telecommunications equipment and customer premises equipment ensure that equipment is designed, developed, and fabricated to be accessible and usable by individuals with disabilities, if readily achievable.

Similarly, providers of telecommunications services must ensure that telecommunications services are accessible to and usable by individuals with disabilities, if readily achievable. In addition, the Commission is required to undertake a study of closed captioning and to promulgate rules to implement section 262. Section 308(b) adds a Commission study of video description.

Section 262(a) defines the terms used in this section.

New section 262(b) requires manufacturers of telecommunications and customer premises equipment to ensure that such equipment is designed, developed, and fabricated to be accessible to and usable by individuals with disabilities, if readily achievable.

New section 262(c) requires providers of telecommunications service to ensure that such service be accessible to and usable by individuals with disabilities, if readily achievable.

New section 262(d) requires that whenever the provisions of subsections (b) and (c) are not readily achievable, the manufacturer of telecommunications and customer premises equipment, or the provider of telecommunications service, shall ensure that such equipment or service is compatible with existing peripheral devices or specialized customer premises equipment commonly used by individuals with disabilities to achieve access, if readily achievable.

New section 262(e) requires the Architectural and Transportation Barriers Compliance Board ("Board") to develop guidelines for accessibility of telecommunications and customer premises equipment and telecommunication service, as lead agency in consultation with the National Telecommunications and Information Administration (NTIA) and the National Institute of Standards and Technology (NIST), within 1 year of enactment of this Act. The Board shall periodically review and update such guidelines. The Senate has elsewhere assigned responsibility for promulgating regulations for this new section to the Commission.

House amendment

Section 249(c) of section 101 directs the Commission within one year to establish regulations designed to make network capabilities and services accessible to individuals with disabilities. Section 249(d) prohibits private rights of action, and mandates that all remedies are available only through the Communications Act.

Conference agreement

The conferees adopt the Senate provisions with several modifications as a new section 255 of the Communications Act. Specifically, the conferees adopted the provisions of subsections (a), (b), (c), (d) and (e) of new section 262 of the Communications Act, as added by the Senate bill. The conferees deleted the provision in subsection (e) of the Senate bill creating roles for NTIA and NIST. In addition, the conferees adopted the provisions of section 249(d) of the House amendment, which states that nothing in this section authorizes any private rights of action. The remedies available under the Communications Act, including the provisions of sections 207 and 208, are available to enforce compliance with the provisions of section 255.

NEW SECTION 256—COORDINATION FOR INTERCONNECTIVITY

Senate bill

Section 107 of the Senate bill concerns the coordination for telecommunications network-level interoperability. The provision permits the Commission to participate, in a manner consistent with its authority and practice prior to the date of enactment of this Act in the development of voluntary industry standards-setting organizations to promote interoperability. The purpose of the provision is to promote nondiscriminatory access to telecommunications networks by the broadest number of users and vendors of communications products and services.

House amendment

Section 249(a) reaffirms the duty of all common carriers to ensure network functionality. Section 249(b) directs the Commission to establish procedures for Commission oversight of coordinated network planning by common carriers and other providers of telecommunications services. However, the Commission is not given authority to set standards for interconnection. Instead, voluntary industry standard-setting organizations shall establish any standards. The standard-setting process described in this provision applies to interconnection of the public's switched telecommunications networks. It is not intended to apply to telephone equipment or other customer premises equipment (CPE). Nothing in section 249(b) should be construed as limiting or superseding these interconnectivity requirements or the existing authority and responsibilities of the Commission in enforcing them.

Conference agreement

The conference agreement adopts the Senate provision with minor modifications as a new section 256 of the Communications Act.

NEW SECTION 257—MARKET ENTRY BARRIERS PROCEEDING

Senate bill

No provision.

House amendment

Section 250 requires the Commission to adopt rules that identify and eliminate market entry barriers for entrepreneurs and small businesses in the provision and ownership of telecommunications and information services. The Commission must review these rules and report to Congress every three years on how it might prescribe or eliminate rules to promote the purposes of this section.

Conference agreement

The conference agreement adopts the House provisions with minor modifications as a new section 257 of the Communications Act.

NEW SECTION 258—ILLEGAL CHANGES IN SUBSCRIBER CARRIER SELECTIONS

Senate bill

No provision.

House amendment

Section 251 requires the Commission to adopt rules to prevent illegal changes in subscriber selections, a practice known as "slamming." The Commission has adopted rules to address problems in the long distance industry of unauthorized changes of a consumer's long distance carrier. The House provision is designed to extend the protections of the current rule to local exchange carriers as well.

Conference agreement

The conferees adopt the House provision as a new section 258 of the Communications Act. It is the understanding of the conferees that in addition to requiring that the carrier violating the Commission's procedures must reimburse the original carrier for forgone revenues, the Commission's rules should also provide that consumers are made whole. Specifically, the Commission's rules should require that carriers guilty of "slamming" should be held liable for premiums, including travel bonuses, that would otherwise have been earned by telephone subscribers but were not earned due to the violation of the Commission's rules under this section.

NEW SECTION 259—INFRASTRUCTURE SHARING

Senate bill

Section 106(a) of the Senate bill requires that within one year of the date of enactment, the Commission shall prescribe rules requiring local exchange carriers that were subject to Part 69 of the Commission's rules on the date of enactment to share network facilities, technology, and information with qualifying carriers. The qualifying carrier may request such sharing for the purpose of providing telecommunications services or access to information services in areas where the carrier is designated as an essential telecommunications carrier under new section 214(d). The bill does not grant immunity from the antitrust laws for activities undertaken pursuant to this section.

Section 106(b) establishes the terms and conditions of the Commission's regulations. Such regulations shall:

(1) not require a local exchange carrier to take any action that is economically unreasonable or contrary to public interest;

(2) permit, but not require, joint ownership of facilities among local exchange carriers and qualifying carriers;

(3) ensure that the local exchange carrier not be treated as a common carrier for hire with respect to technology, information or facilities shared with the qualifying carrier under this section;

(4) ensure that qualifying carriers benefit fully from sharing;

(5) establish conditions to promote cooperation;

(6) not require a local exchange carrier to share in areas where the local exchange carrier provides telephone exchange service or exchange access service; and

(7) require the local exchange carrier to file with the Commission or State, any tariffs, contract or other arrangement showing

the rate, terms, and conditions under which such local exchange carrier is complying with the sharing requirements of this section.

Subsection (c) requires that local exchange carriers sharing infrastructure must provide information to sharing parties about deployment of services and equipment, including software.

Subsection (d) defines those carriers eligible to request infrastructure sharing under this section.

House amendment

No provision.

Conference agreement

The conference agreement adopts the Senate provisions as a new section 259 of the Communications Act.

NEW SECTION 260—PROVISION OF TELEMESSAGING SERVICE

Senate bill

Section 311 of the Senate bill adds a new section 265 to the Communications Act, to address certain practices of the BOCs with regard to telemessaging. This section is designed to prohibit cross-subsidization between a BOC's telephone exchange or exchange access services and its telemessaging services.

This section prohibits a BOC from discriminating between affiliated and nonaffiliated telemessaging services, under rules set forth by the Commission. If, however, the Commission finds that these safeguards are insufficient, the Commission may require the BOC's to provide telemessaging services through a separate subsidiary.

New section 265 directs the Commission to complete, within 18 months after the date of enactment of the bill, a rulemaking proceeding to prescribe regulations to carry out this new section. The Commission also is directed to determine whether, in order to enforce the requirements of section 265, it is appropriate to require the BOCs to provide telemessaging services through a separate subsidiary that meets the requirements of new section 252, as added to the Communications Act by section 102 of the bill.

House amendment

Section 273(b) prohibits discrimination by a telephone company in the provision of telemessaging services, either by refusing to provide its competitors with the same network services it provides itself, or by cross-subsidizing from its local telephone service.

Section 273(c) establishes procedures for expedited consideration of complaints of violations of subsection (b), requiring the Commission to make a final determination within 120 days after the receipt of a complaint. If a violation is found, the Commission is required to issue a cease and desist order within 60 days.

Section 601 establishes a new complaint procedure for violations of the Communications Act and Commission rules and regulations for providers of telemessaging service, or other small businesses providing information or telecommunications services. This section defines a small business as any business entity, including any affiliate or subsidiary, with fewer than 300 employees.

Conference agreement

The conference agreement creates a new section 260 in the Communications Act relating specifically to the provision of telemessaging services. This section prohibits local exchange carriers subject to new section 251(c) that are engaged in telemessaging from subsidizing their telemessaging services, either directly or indirectly, from telephone exchange service operations or revenues. It also prohibits such carriers from discriminating against nonaffiliated entities with respect to the terms and conditions of any network services they provide to their own telemessaging operations. This section requires the Commission to establish procedures or regulations thereunder for the expedited receipt and review of complaints alleging discrimination or cross-subsidization that result in material financial harm to providers of telemessaging services. Such procedures shall ensure that the Commission makes a determination regarding any such complaint within 120 days. If the complaint contains an appropriate showing that the alleged violation occurred, the Commission shall, within 60 days of receipt, order such local exchange carrier to cease engaging in such violation.

NEW SECTION 261—EFFECT ON OTHER REQUIREMENTS

Senate bill

The Senate bill contains several savings clauses.

House amendment

The House amendment contains several savings clauses.

Conference agreement

The conferees included new section 261 of the Communications Act to consolidate savings clauses found in both the Senate bill and the House amendment. New section 261(a) makes clear that the Commission may continue to enforce its existing regulations in fulfilling new part II of title II of the Communications Act, provided they are not inconsistent with that part. New sections 261(b) and (c) preserve State authority to enforce existing regulations and to prescribe additional requirements, so long as those regulations and requirements are not inconsistent with the Communications Act.

SECTION 102—ELIGIBLE TELECOMMUNICATIONS CARRIERS

Senate bill

Section 104 of the Senate bill amends section 214(d) of the Communications Act by designating the existing text of section 214(d) as paragraph (1) and by adding seven new paragraphs regarding designation of essential telecommunications carriers. The bill provides that the Commission shall designate essential telecommunications carriers for interstate services and the States shall designate such carriers for intrastate services.

New paragraph (2) of section 214(d) makes explicit the implicit authority of the Commission or a State to require a common carrier to provide service to any community or portion of a community that requests such service. In the event that more than one common carrier provides service in an area, and none of the carrier will provide service to a community or portion thereof in that area which requests service, this paragraph gives the Commission or a State the authority to decide which common carrier is best suited to provide such service. If the Commission or a State orders a carrier to provide service to a community or portion thereof under this paragraph, it shall designate such carrier an essential telecommunications carrier.

Paragraph (3) of section 214(d) provides that the Commission or a State may designate a common carrier as an essential telecommunications carrier for a particular service area, thus making that carrier eligible for support payments to preserve and advance universal service, if any such payments are established under new section 253 of the Communications Act. Any carrier designated as an essential telecommunications carrier must provide universal service and any additional services specified by the Commission or a State throughout the service area for which the designation is made. In addition, these services must be offered throughout that service area at nondiscriminatory rates established by the Commission or a State, and the carrier must advertise those rates using media of general distribution.

New paragraph (4) of section 214(d) allows the Commission to designate more than one common carrier as a communications carrier for a particular service area. In addition, the bill requires a State to make additional findings before designating more than one carrier as an essential telecommunications carrier.

To the extent that more than one common carrier is designated as an essential telecommunications carrier, each additional carrier so designated must meet the same requirements with respect to service throughout the same service area at nondiscriminatory rates established by the Commission or a State, as well as the advertisement of those rates.

New paragraph (5) of section 214(d) requires the Commission and States to establish rules governing the use of resale by a carrier to meet the requirements for designation as an essential telecommunications carrier, as well as rules to permit a carrier that has been designated as an essential telecommunications carrier to relinquish that designation so long as at least one other carrier also has been designated as an essential telecommunications carrier for that area. Paragraph (5) also requires the Commission and the States to provide appropriate rules to govern how quickly an essential telecommunications carrier whose services are to be resold may cease service to an area, in order to provide other essential telecommunications carriers adequate notice to extend facilities or to arrange for the purchase of replacement facilities or services.

New paragraph (6) of section 214(d) sets forth the penalties applicable to an essential telecommunications carrier with respect to a Commission or State order to provide universal service within a reasonable period of time. In determining what constitutes a reasonable period of time, the bill provides that the Commission or a State must consider the nature of the construction required to provide such service, the time interval that normally would attend such construction and the time needed to obtain regulatory or financial approval.

New paragraph (7) of section 214(d) of the Communications Act requires the Commission or a State to designate an essential telecommunications carrier for interexchange services for any unserved community or portion thereof that requests such service. An essential telecommunications carrier designated under this paragraph must provide service at nationwide geographically averaged rates, in the case of interstate services, and geographically averaged rates in the case of intrastate services. The Commission or a State may allow a carrier designated under this paragraph to receive support payments, if any, that may be provided under section 253.

New paragraph (8) of section 214(d) grants the Commission authority to promulgate guidelines for the States to implement this section.

House amendment

No provision.

Conference agreement

The House recedes to the Senate with an amendment. The conference agreement amends section 214 of the Communications Act by adding a new subsection (e) regarding the provision of universal service and the designation of carriers which are eligible to receive support through the specific Federal universal support mechanisms established under new section 254 of the Communications Act.

New section 214(e)(1) states that a common carrier designated as an "eligible telecommunications carrier" shall offer the services included in the definition of universal service throughout the area specified by the State commission, and that such services must be advertised generally throughout that area. Upon designation, a carrier is eligible for any specific support provided under new section 254 for the provision of universal service in the area for which that carrier is designated.

Upon its own motion or upon request, a State commission is required under new section 214(e)(2) to designate a common carrier that meets the requirements of new section 214(e)(1) as an eligible telecommunications carrier. If more than one common carrier that meets the requirements of new section 214(e)(1) requests designation as an eligible telecommunications carrier in a particular area, the State commission shall, in the case of areas not served by a rural telephone company, designate all such carriers as eligible. If the area for which a second carrier requests designation as an eligible telecommunications carrier is served by a rural telephone company, then the State commission may only designate an additional carrier as an eligible telecommunications carrier if the State commission first determines that such additional designation is in the public interest.

If no common carrier will provide universal service to a community or portion of a community that requests such service, new section 214(e)(3) makes explicit the implicit authority of the Commission, with respect to interstate services, and a State, with respect to intrastate services, to order a common carrier to provide such service. If more than one common carrier provides service in an area and none of those carriers will provide service to a community or portion thereof, this provision gives the Commission or a State the authority to decide which common carrier is best suited to provide service. Any carrier required to provide service under this paragraph shall be designated as an eligible telecommunications carrier under new section 214(e)(1) for the community or portion thereof such carrier is required to serve. For purposes of new section 214(e)(1), the conferees intend that the service area for a carrier designated by the Commission or a State under section 214(e)(3) shall be the community or portion thereof that requests service and for which that carrier is ordered to provide service.

New section 214(e)(4) establishes rules for the relinquishment by a carrier of its designation as an eligible telecommunications carrier. A state commission must permit an eligible telecommunications carrier to relinquish that designation if more than one eligible telecommunications carrier serves an area, and must require that the remaining eligible telecommunications carrier or carriers continue to offer universal service to all consumers in that area. The conferees note that a carrier must be permitted to relinquish the designation within one year after the State commission approves the request, and expect that the Commission and the States will adopt appropriate mechanisms to ensure that any additional carrier designated as an eligible telecommunications carrier will be able to acquire or construct any necessary facilities for that area within the time limit set in new section 214(e)(4).

New Section 214(e)(5) provides the definition of "service area," which in general is determined by a State commission.

SECTION 103—EXEMPT TELECOMMUNICATIONS COMPANIES

Senate bill

Sections 102 and 205 contained provisions pertaining to the entry by utility companies into telecommunications and related businesses, and exempting the telecommunications activities of registered holding companies from the Public Utility Holding Company Act (PUHCA).

House amendment

No provision.

Conference agreement

The conference agreement amends PUHCA to allow registered holding companies to divesify into telecommunications, information and related services and products. The Commission must determine that a registered holding company is providing telecommunications services, information services and other related services through a single purpose subsidiary, designated an "exempt telecommunications company" (ETC). Prior State approval is required before any utility that is associated with a registered holding company may sell to an ETC any asset in the retail rates of that utility as of December 19, 1995. State approval is also required for a contract when a public utility company seeks to purchase telecommunications products or services from an ETC that is an associate company or affiliate of such public utility unless the State or State commission waives such requirement.

The financing and other relationships between ETCs and registered holding companies shall not be subject to prior approval or other restriction by the Securities and Exchange Commission (SEC). However, the SEC shall continue to have jurisdiction to find violations of the federal securities laws (including PUHCA) and to bring enforcement actions related to such violations. The section provides reporting requirements concerning investments and activities of registered public utility holding company systems. Public utility companies are prohibited from assuming the liabilities of an ETC and from pledging or mortgaging the assets of a utility for the benefit of an ETC. State commissions may examine the books and records of the ETC and any public utility company, associate company or affiliate in the registered holding company system as they relate to the activities of the ETC. States may also order an audit of a public utility company that is an associate of an ETC. Nothing in this section affects the ability of the FCC or a State commission to regulate the activities of an ETC. Nothing in PUHCA shall preclude the rate review authority of the Federal Energy Regulatory Commission or a State commission with respect to purchases from or sale to an ETC.

The relevant portion of section 102 of the Senate bill is deleted from the conference agreement.

SECTION 104—NONDISCRIMINATION PRINCIPLE

Senate bill

Subsection 103(f) adds new section 253A to the Communications Act concerning exclusion of telecommunications services. New subsection (a) directs the Commission to prohibit any telecommunications carrier from excluding from its services any high-cost area, any rural location or any resident based on the person's income, provided that a carrier may exclude an area if the carrier demonstrates that there will be insufficient demand for the carrier to earn a return over the long term and that providing a service to such area will be less profitable for the carrier than providing the service in areas to which the carrier is already providing or has proposed to provide service. New subsection (b) would direct the Commission to provide for public comment on the adequacy of the carrier's proposed service area.

House amendment

Section 201 of the House amendment adds new section 653(b)(1) to the Communications Act concerning safeguards on video platforms. Subparagraph (G) of that section prohibits a common carrier from excluding areas from its video platform service area on the basis of the ethnicity, race, or income of the residents of that area, and provides for public comments on the adequacy of the proposed service area on the basis of the standards.

Conference agreement

The conference agreement in section 104 amends section 1 of the Communications Act by adding a new provision to make clear that a purpose of the Communications Act is to make available service to all the people of the United States "without discrimination on the basis of race, color, religion, national origin, or sex." This amendment to section 1 applies to all entities covered by the Communications Act.

SUBTITLE B—SPECIAL PROVISIONS CONCERNING BELL OPERATING COMPANIES

SECTION 151—BELL OPERATING COMPANY PROVISIONS

Senate bill

The Senate bill creates new sections of the Communications Act with respect to special provisions applicable to BOCs.

House amendment

The House amendment creates new sections of the Communications Act with respect to special provisions applicable to BOCs.

Conference agreement

Section 151 of the conference agreement establishes a new "Part III" of title II of the Communications Act. Part III contains new sections 271–276 of the Communications Act with respect to special provisions applicable to BOCs.

NEW SECTION 271—BELL OPERATING COMPANY ENTRY INTO INTERLATA SERVICES

Senate bill

Section 221(a) of the Senate bill adds a new section 255 to the Communications Act. Subsection (a) of new section 255 establishes the general requirements for the three different categories of service: in region interLATA; out of region interLATA; and incidental services.

New section 255(b) establishes specific interLATA interconnection requirements that must be fully implemented in order for the Commission to provide authorization for a BOC to provide in region interLATA services. The Commission is specifically prohibited from limiting or extending the terms of the "competitive checklist" contained in subsection (b)(2). The competitive checklist is not intended to be a limitation on the interconnection requirements contained in

section 251, but rather, at a minimum, be provided by a BOC in any interconnection agreement approved under section 251 to which that company is a party (assuming the other party or parties to that agreement have requested the items included in the checklist) before the Commission may authorize the BOC to provide in region interLATA services.

Finally, section 255(b) includes a restriction on the ability of telecommunications carriers that serve greater than five percent of the nation's presubscribed access lines to jointly market local exchange service purchased from a BOC and interLATA service offered by the telecommunications carrier until such time as the BOC is authorized to provide interLATA services in that telephone exchange area or until three years after the date of enactment, whichever is earlier. New subsection 255(c) provides the process for application by a BOC to provide in region interLATA services, as well as the process for approval or rejection of that application by the Commission and for review by the courts. The application by the BOC must state with particularity the nature and scope of the activity and each product market or service market, as well as the geographic market for which in region interLATA authorization is sought. Within 90 days of receiving an application, the Commission must issue a written determination, after notice and opportunity for a hearing on the record, granting or denying the application in whole or in part. The Commission is required to consult with the Attorney General regarding the application during that 90 day period. The Attorney General may analyze a BOC application under any legal standard (including the Clayton Act, Sherman Act, other antitrust laws, section VIII(C) of the MFJ, Robinson-Patman Act or any other standard).

The Commission may only grant an application, or any part of an application, if the Commission finds that the petitioning BOC has fully implemented the competitive checklist in new section 255(b)(2), that the interLATA services will be provided through a separate subsidiary that meets the requirements of new section 252, and that the provision of the requested interLATA services is consistent with the public interest, convenience, and necessity. As noted earlier, the Commission is specifically prohibited from limiting or extending the terms used in the competitive checklist, and the Senate intends that the determination of whether the checklist has been fully implemented should be a straightforward analysis based on ascertainable facts. Likewise, the Senate believes that the Commission should be able to readily determine if the requested services will or will not be provided through a separate subsidiary that meets all of the requirements of section 252. Finally, the Senate notes that the Commission's determination of whether the provision of the requested interLATA services is consistent with the public interest, convenience, and necessity must be based on substantial evidence on the record as a whole.

Subsection (c) also requires a BOC which is authorized to provide interLATA services under this subsection to provide intraLATA toll dialing parity throughout the market in which that company is authorized to provide interLATA service. In the event that the Commission finds that the BOC has not provided the required intraLATA toll dialing parity, or fails to continue to provide that parity (except for inadvertent interruptions that are beyond the control of the BOC), then the Commission shall suspend the authorization to provide interLATA services in that market until that company provides or restores the required intraLATA toll dialing parity. Lastly, subsection (c) provides that a State may not order a BOC to provide intraLATA toll dialing parity before the company is authorized to provide interLATA services in that area or until three years after the date of enactment, whichever is earlier. However, this restriction does not apply to single LATA States or States that have ordered intraLATA toll dialing in that State prior to June 1, 1995.

BOC's (including any subsidiary or affiliate) are permitted under new section 255(d) to provide interLATA telecommunications services immediately upon the date of enactment of the bill if those services originate in any area in which that BOC is not the dominant provider of wireline telephone exchange service or exchange access service.

New subsection 255(e) establishes the rules for the provision by a BOC of in-region interLATA services that are incidental to the provision of specific services listed in paragraph (1) of subsection (e). This list of specific services is intended to be narrowly construed by the Commission. A BOC must first obtain authorization under new section 255(c) before it may provide any in region InterLATA services not listed in subsection (e)(1). In addition, the BOC may only provide the services specified in subparagraphs (C) and (D) of subsection (e)(1), which in general are information storage and retrieval services, through the use of telecommunications facilities that are leased from an unaffiliated provider of those services until the BOC receives authority to provide InterLATA services under subsection (c). Finally, subsection (e) requires that the provision of incidental services by the BOC shall not adversely affect telephone exchange ratepayers or competition in any telecommunications market. The Senate intends that the Commission will ensure that these requirements are met.

New section 255(f) provides that a BOC may provide interLATA service in connection with CMS upon the date of enactment.

The terms "interLATA," "audio programming services," "video programming services," and "other programming services" are defined in new section 255(g).

House amendment

Section 245 provides the method by which a BOC may seek entry to offer interLATA or long distance, service on a State-by-State basis. Section 245(a) provides that a BOC may file a verification of access and interconnection compliance anytime after six months after the date of enactment. The verification must include, under section 245(a)(1), a State certification of "openness" or the so-called "checklist" requirements, and under section 245(a)(2), either of the following pursuant to section 245(a)(2)(A), the presence of a facilities-based competitor; or pursuant to section 245(a)(2)(B), a statement of the terms and conditions the BOC would make available under section 244, if no provider had requested access and interconnection within three (3) months prior to the BOC filing under section 245. For purposes of section 245(a)(2)(B), a BOC shall not be considered to have received a request for access and interconnection if a requesting provider failed to bargain in good faith, as required under section 242(a)(8), or if the provider failed to comply, within a reasonable time period, with the requirements under section 242(a)(1) to implement the schedule contained in its access and interconnection agreement.

Section 245(b) sets out the "checklist" requirements that must be included in the State certification that the BOC files with the Commission as part of its verification. These checklist requirements include the following: (1) interconnection; (2) unbundling of network elements; (3) resale; (4) number portability; (5) dialing parity; (6) access to conduits and rights-of-way; (7) no State or local barriers to entry; (8) network functionality and accessibility; and (9) good faith negotiations by the BOC. Section 245(c)(1) sets out the Commission review process for interLATA authorization on a Statewide, permanent basis. Under section 245(c)(2), the Commission may conduct a *de nova* review only if a State commission lacks, under relevant State law, the jurisdiction or authority to make the required certification, fails to act within ninety (90) days of receiving a BOC request for certification, or has attempted to impose a term or condition that exceeds its authority, as limited in section 243. Under section 245(c)(3), the Commission has ninety (90) days to approve, disapprove, or approve with conditions the BOC request, unless the BOC consents to a longer period of time. Under Section 245(c)(4), the Commission must determine that the BOC has complied with each and every one of the requirements. As mandated in section 245(d), the Commission has continuing authority after approving a BOC's application for entry into long distance to review a BOC's compliance with the certification requirements under this section.

Section 245(f) prohibits a BOC from providing interLATA service, unless authorized by the Commission. Section 245(f) grandfathers any activity authorized by court order or pending before the court prior to the date of enactment. Section 245(g) creates exceptions for the provision of incidental services.

Section 245(g)(1) permits a BOC to engage in interLATA activities related to the provision of cable services. Section 245(g)(2) permits a BOC to offer interLATA services over cable system facilities located outside the BOC's region. Section 245(g)(3) allows a BOC to offer CMS, as defined in section 332(d)(1) of the Communications Act. Section 245(g)(4) allows a BOC to engage in interLATA services relevant to the provision of information services from a central computer. Section 245(g)(5) and (6) allow a BOC to engage in interLATA services related to signaling information integral to the internal operation of the telephone network.

Notwithstanding the dialing parity requirements of section 242(a)(5), as provided in section 245(i), a BOC is not required to provide dialing parity for intraLATA toll service ("short haul" long distance) before the BOC is authorized to provide long distance service in that State. Section 245(j) prohibits the Commission from exercising the general authority to forbear from regulation granted to the Commission under section 230 until five years after the date of enactment. Section 245(k) sunsets this section once the Commission and State commission, in the relevant local exchange market, determine that the BOC has become subject to full and open competition.

Conference agreement

The conference agreement adds a new section 271 to the Communications Act relating to BOC entry into the interLATA market. New section 271(b)(1) requires a BOC to obtain Commission authorization prior to offering interLATA services within its region unless those services are previously authorized, as defined in new section 271(f), or "incidental" to the provision of another service,

as defined in new section 271(g), in which case, the interLATA service may be offered after the date of enactment. New section 271(b)(2) permits a BOC to offer out-of-region services immediately after the date of enactment.

New section 271(c) sets out the requirements for a BOC's provision of interLATA services originating in an in-region State (as defined in new section 271(i)). In addition to complying with the specific interconnection requirements under new section 271(c)(2), a BOC must satisfy the "in-region" test by virtue of the presence of a facilities-based competitor or competitors under new section 271(c)(1)(A), or by the failure of a facilities-based competitor to request access or interconnection (under new section 251) as required under new section 271(c)(1)(B). This test that the conference agreement adopts comes virtually verbatim from the House amendment.

With respect to the facilities-based competitor requirement, the presence of a competitor offering the following services specifically does *not* suffice to meet the requirement: (1) exchange access; (2) telephone exchange service offered exclusively through the resale of the BOC's telephone exchange service; and (3) cellular service. The competitor must offer telephone exchange service either exclusively over its own facilities or predominantly over its own facilities in combination with the resale of another carrier's service.

This conference agreement recognizes that it is unlikely that competitors will have a fully redundant network in place when they initially offer local service, because the investment necessary is so significant. Some facilities and capabilities (*e.g.*, central office switching) will likely need to be obtained from the incumbent local exchange carrier as network elements pursuant to new section 251. Nonetheless, the conference agreement includes the "predominantly over their own telephone exchange service facilities" requirement to ensure a competitor offering service exclusively through the resale of the BOC's telephone exchange service does not qualify, and that an unaffiliated competing provider is present in the market.

The House has specifically considered how to describe the facilities-based competitor in new subsection 271(c)(1)(A). While the definition of facilities-based competition has evolved through the legislative process in the House, the Commerce Committee Report (House Report 104–204 part I) that accompanied H.R. 1555 pointed out that meaningful facilities-based competition is possible, given that cable services are available to more than 95% of United States homes. Some of the initial forays of cable companies into the field of local telephony therefore hold the promise of providing the sort of local residential competition that has consistently been contemplated. For example, large, well established companies such as Time Warner and Jones Intercable are actively pursuing plans to offer local telephone service in significant markets. Similarly, Cablevision has recently entered into an interconnection agreement with New York Telephone with the goal of offering telephony on Long Island to its 650,000 cable subscribers.

For purposes of new section 271(c)(1)(A), the BOC must have entered into one or more binding agreements under which it is providing access and interconnection to one or more competitors providing telephone exchange service to residential and business subscribers. The requirement that the BOC "is providing access and interconnection" means that the competitor has implemented the agreement and the competitor is operational. This requirement is important because it will assist the appropriate State commission in providing its consultation and in the explicit factual determination by the Commission under new section 271(d)(2)(B) that the requesting BOC has fully implemented the interconnection agreement elements set out in the "checklist" under new section 271(c)(2).

New section 271(c)(1)(B) also is adopted from the House amendment, and it is intended to ensure that a BOC is not effectively prevented from seeking entry into the interLATA services market simply because no facilities-based competitor that meets the criteria set out in new section 271(c)(1)(A) has sought to enter the market. The conference agreement stipulates that a BOC may seek entry under new section 271(c)(1)(B) at any time following 10 months after the date of enactment, provided no qualifying facilities-based competitor has requested access and interconnection under new section 251 by the date that is 3 months prior to the date that the BOC seeks interLATA authorization. Consequently, it is important that the Commission rules to implement new section 251 be promulgated within 6 months after the date of enactment, so that potential competitors will have the benefit of being informed of the Commission rules in requesting access and interconnection before the statutory window in new section 271(c)(1)(B) shuts.

New section 271(c)(2) sets out the specific interconnection requirements that comprise the "checklist" that a BOC must satisfy as part of its entry test.

New section 271(d), the conference agreement adopts the basic structure of the Senate bill concerning authorization of BOC entry by the Commission, with a modification to permit the BOC to apply on a State-by-State basis.

New section 271(d) sets forth administrative provisions regarding applications for BOC entry under this section. In making an evaluation, the Attorney General may use any appropriate standard, including: (1) the standard included in the House amendment, whether there is a dangerous probability that the BOC or its affiliates would successfully use market power to substantially impede competition in the market such company seeks to enter; (2) the standard contained in section VIII(C) of the AT&T Consent Decree, whether there is no substantial possibility that the BOC or its affiliates could use monopoly power to impede competition in the market such company seeks to enter; or (3) any other standard the Attorney General deems appropriate.

New section 271(e)(1) prohibits joint marketing of local services obtained from the BOC under new section 251(c)(4) and long distance service within a State by telecommunications carriers with more than five percent of the Nation's presubscribed access lines for three years after the date of enactment, or until a BOC is authorized to offer interLATA services within that State, whichever is earlier.

New section 271(e)(2) requires any BOC authorized to offer interLATA services to provide intraLATA toll dialing parity coincident with its exercise of that interLATA authority. States may not order a BOC to implement toll dialing parity prior to its entry into interLATA service. Any single-LATA State or any State that has issued an order by December 19, 1995, requiring a BOC to implement intraLATA toll dialing parity is grandfathered under this Act. The prohibition against "non-grandfathered" States expires three years after the date of enactment.

The conference agreement in new section 271(f) adopts the House provision grandfathering activities under existing waivers. Both the House and Senate bill included separate grandfather provisions for manufacturing in the manufacturing section. The conference agreement combines these separate provisions into one provision covering both interLATA services and manufacturing, and that provision is included in the interLATA section. Because of the new approach to the supersession of the AT&T Consent Decree described below, this section was modified to clarify that requests for waivers pending with the court on the date of enactment are no longer included within this section. Instead, only those waiver requests that have been acted on before the date of enactment will be included. All conduct occurring after the date of enactment will no longer be subject to the AT&T Consent Decree and will be subject to the Communications Act, as amended by the conference agreement.

New section 271(g) sets out the "incidental" interLATA activities that the BOCs are permitted to provide upon the date of enactment.

NEW SECTION 272—SEPARATE AFFILIATE; SAFEGUARDS

Senate bill

Section 102 of the Senate bill amends the Communications Act to add a new section 252 to impose separate subsidiary and other safeguards on certain activities of the BOCs. Section 102 requires that to the extent a BOC engages in certain businesses, it must do so through an entity that is separate from any entities that provide telephone exchange service. Subsection 252(b) spell out the structural and transactional requirements that apply to the separate subsidiary, section 252(c) details the nondiscrimination safeguards, section 252(d) requires a biennial audit of compliance with the separate subsidiary requirements, sections 252(e) imposes restrictions on joint marketing, and subsection 252(f) sets forth additional requirements with respect to the provision of interLATA services.

The activities that must be separated from the entity providing telephone exchange service include telecommunications equipment manufacturing and interLATA telecommunications services, except out-of-region and incidental services (not including information services) and interLATA services that have been authorized by the MFJ court. A BOC also would have to provide alarm monitoring services and certain information services through a separate subsidiary, including cable services and information services which the company was not permitted to offer before July 24, 1991. In a related provision, section 203 of the bill provides that a BOC need not use a separate affiliate to provide video programming services over a common carrier video platform if it complies with certain obligations.

Under section 252(e) of this section the BOC entity that provides telephone exchange service may not jointly market the services required to be provided through a separate subsidiary with telephone exchange service in an area until that company is authorized to provide interLATA service under new section 255. In addition, a separate subsidiary required under this section may not jointly market its services with the telephone exchange service provided by its affiliated BOC

entity unless such entity allows other unaffiliated entities that offer the same or similar services to those that are offered by the separate subsidiary to also market its telephone exchange services.

Additional requirements for the provision of interLATA services are included in new section 252(f). These provisions are intended to reduce litigation by establishing in advance the standard to which a BOC entity that provides telephone exchange service or exchange access service must comply in providing interconnection to an unaffiliated entity.

Section 252(g) establishes rules to ensure that the BOC protect the confidentiality of proprietary information they receive and to prohibit the sharing of such information in aggregate form with any subsidiary or affiliate unless that information is available to all other persons on the same terms and conditions. In general, a BOC may not share with anyone customer-specific proprietary information without the consent of the person to whom it relates. Exceptions to this general rule permit disclosure in response to a court order or to initiate, render, bill and collect for telecommunications services.

New subsection 252(h) provides that the Commission may grant exceptions to the requirements of section 252 upon a showing that granting of such exception is necessary for the public interest, convenience, and necessity. The Senate intends this exception authority to be used whenever a requirement of this section is not necessary to protect consumers or to prevent anti-competitive behavior. However, the Senate does not intend that the Commission would grant an exception to the basic separate subsidiary requirements of this section for any service prior to authorizing the provision of linterLATA service under section 255 by the BOC seeking the exception to a requirement of this section.

Public utility holding companies that engage in the provision of telecommunications services are required to do so through a separate subsidiary under new section 252(i). In addition, a State may require a public utility company that provides telecommunications services to do so through a separate subsidiary. The separate subsidiary for public utility holding companies is required to meet some, but not all, of the structural separation and nondiscriminatory safeguard provisions that are applicable to BOC subsidiaries. Section 252(i) provides that a public utility holding company shall be treated as a BOC for the purpose of those provisions of section 252 that subsection (i) applies to those holding companies.

Subsection (b) of section 102 requires the Commission to promulgate any regulations necessary to implement new section 252 of the Communications Act within nine months of the date of enactment of this bill. The subsection also provides that any separate subsidiary established or designated by a BOC for purposes of complying with new section 252(a) prior to the issuance of the regulations shall be required to comply with the regulations when they are issued.

Section 102(c) provides that the amendment to the Communications Act made by this section takes effect on the date of enactment of this bill.

House amendment

Section 246(a) creates a separate subsidiary requirement for the BOC provision of interLATA telecommunications or information services. Section 246(b) requires transactions between a BOC and its subsidiary to be on an arm's length basis. Sections 246(c) and (d) mandates fully separate operations and property, including books, records, and accounts between the BOC and its subsidiary. Sections 246(e) and (f) prohibit discrimination and cross-subsidies, respectively. Under section 246(k), this provision sunsets eighteen months after the date of enactment.

Conference agreement

The conference agreement adopts the Senate provisions with several modifications. New section 272 of the Communications Act does not contain the provision in the Senate bill requiring that alarm monitoring services, and the interLATA services that are incidental thereto, be provided through the separate affiliate required by this section. The conferees also accepted the provision in the House amendment that requires a separate affiliate for interLATA information services, other than electronic publishing and alarm monitoring, which permit a customer located in one LATA to retrieve stored information from, or file information for storage in, information storage facilities of such company that are located in another LATA.

The conferees deleted the Senate provision providing for Commission exceptions to the requirements of this section. Instead, the conferees adopted a three year "sunset" of the separate affiliate requirement for interLATA services and manufacturing activities. The three year period commences on the date on which the BOC is authorized to offer interLATA services. In addition, the conference agreement provides that the separate affiliate requirement for interLATA information services "sunsets" four years after the date of enactment of the Telecommunications Act of 1996.

In any case, the Commission is given authority to extend the separate affiliate requirement by rule or order.

New section 272(g)(1) permits the separate affiliate required by this section to jointly market any of its services in conjunction with the telephone exchange services and other services of the BOC so long as the BOC permits other entities offering the same or similar services to sell and market the BOC's telephone exchange services.

New section 272(g)(2) permits a BOC, once it has been authorized to provide interLATA service pursuant to new section 271(d), to jointly market its telephone exchange services in conjunction with the interLATA service being offered by the separate affiliate in that State required by this section.

New section 272(g)(3) provides that the joint marketing authorized by new sections 272(g)(1) and (g)(2) does not violate the nondiscrimination safeguards in new subsection (e).

NEW SECTION 273—MANUFACTURING BY BELL OPERATING COMPANIES

Senate bill

Section 222 of the Senate bill adds a new section 256 to the Communications Act to remove the restrictions on manufacturing imposed by the MFJ on the BOCs under certain conditions, and allows those companies to engage in manufacturing subject to certain safeguards.

New section 256(a) permits a BOC, through a separate subsidiary that meets the requirements of new section 252, to engage in the manufacture and provision of telecommunications equipment and the manufacture of customer premises equipment (CPE) as soon as that company receives authorization to provide in region interLATA services under new section 255(c).

Subsection (b) of new section 256 requires that a BOC engaged in manufacturing may only do so through a separate subsidiary that meets the requirements of new section 252.

New section 256(c) requires that a BOC make available to local exchange carriers telecommunications equipment and any software integral to that equipment that is manufactured by the BOC's affiliate under certain conditions. The manufacturing subsidiary has the obligation to sell telecommunications equipment to an unaffiliated local telephone exchange carrier. This obligation may only be enforced on the manufacturing subsidiary if the local telephone company either does not manufacture equipment (by itself or through an affiliated entity), or it agrees to make available to the BOC any telecommunications equipment (including software integral to such equipment) that the local telephone company manufactures (by itself or through an affiliated entity) without discrimination or self-preference as to price, delivery, germs, or conditions.

In addition, subsection (c) prohibits a BOC from discriminating with respect to bids for services or equipment, establishing standards or certifying equipment, or the sale of telecommunications equipment and software. A BOC and any entity that the company owns or controls also is required to protect any proprietary information submitted to it with contract bids or with respect to establishing standards or certifying equipment, and may not release that information to anyone unless specifically authorized to do so by the owner of the proprietary information.

New section 256(d) permits a BOC or its subsidiaries or affiliates to engage in close collaboration with any manufacturer of customer premises equipment or telecommunications equipment not affiliated with the BOC during the design and development of hardware, software, equipment.

Subsection (e) requires the Commission to prescribe regulations to require each BOC to file information concerning technical requirements concerning its telephone exchange facilities.

Subsection (f) of new section 256 simply authorizes the Commission to prescribe such additional rules and regulations as the Commission determines necessary to carry out the provisions and purposes of section 256.

Administration and enforcement of new section 256 are provided for in subsection (g) of that section. Paragraph (1) of new subsection 256(g) makes clear that the Commission has the same authority, power, and functions with respect to the BOC as it has with respect to enforcement or administration of title II for any other common carrier subject to the Communications Act. Paragraph (2) allows any injured party by an act or omission of the BOC or its manufacturing subsidiary which violates the requirements of new section 256 to bring a civil action in any U.S. District Court to recover the full amount of any damages and to obtain any appropriate court order to remedy the violation. In the alternative, the party may seek relief from the Commission pursuant to sections 206 through 209 of the Communications Act.

New section 256(h) makes clear that nothing in new section 256 is intended to change the status of Bell Communications Research (Bellcore). Subsection (h) specifically states that nothing in this section permits Bellcore or any successor entity that is jointly owned by any of the BOCs to manufacture or provide telecommunications equipment or manufacture CPE.

Subsection (b) of section 222 of the bill permits the BOCs to continue to engage in activities in which they were authorized to engage prior to the date of enactment of the bill.

House amendment

Section 271(a) allows a BOC to engage in equipment manufacturing when the Commission has approved verifications that a parent BOC, and each BOC within the parent company's region, are in compliance with the access and interconnection requirements of section 242. A BOC may engage in manufacturing only through a separate subsidiary for the first eighteen months after it is authorized.

Section 271(b) allows a BOC to engage in close collaboration with manufacturers during the design and development of hardware and software. Notwithstanding subsection (a), a BOC may engage in research and enter royalty agreements.

Section 271(c) requires a BOC to file at the Commission all protocol and technical requirements relating to connection with and proposed changes to the network. The BOCs must provide access to this information on a non-discriminatory basis.

Section 271(d) prohibits Bell Communications Research, or "Bellcore," from engaging in manufacturing so long as Bellcore is owned by one or more BOC or is involved in equipment standard setting or product certification activities.

Section 271(e) requires BOCs to make equipment procurement decisions based on objective commercial criteria, such as price, quality, delivery, and other commercial factors.

Section 271(e)(2) prohibits each BOC from restricting sales to any other local telephone company. Section 271(e)(3) requires that the proprietary information which vendors share with BOCs as their transactions are carried out is protected from release not specifically authorized by the owner of such information.

Section 271(f) provides the Commission with the same enforcement authority with respect to a BOC as with any common carrier.

Section 271(g) grandfathers all previously authorized manufacturing related activities.

Conference agreement

The conference agreement adopts the Senate provisions with modifications as a new section 273 of the Communications Act. The agreement permits a BOC to engage in manufacturing after the Commission authorizes the company to provide interLATA services under new section 271(d) in any in-region State. A BOC and its affiliates may not engage in manufacturing in conjunction with another unaffiliated BOC or any of its affiliates. BOCs may engage in research and enter royalty agreements.

The conference agreement includes provisions governing a standards-setting organization such as Bellcore. Additionally, the overall intent of establishing a dispute resolution provision, as contained in new subsection 273(d)(5), is to enable all interested parties to influence the final resolution of the dispute without significantly impairing the efficiency, timeliness, and technical quality of the activity.

Further, under new section 273, a BOC may not discriminate in favor of equipment produced or supplied by an affiliate for the duration of a requirement for a manufacturing separate subsidiary under this Act. Each BOC shall make procurement decisions on the basis of an objective assessment of price, quality, delivery, and other commercial factors.

NEW SECTION 274—ELECTRONIC PUBLISHING BY BELL OPERATING COMPANIES

Senate bill

The Senate bill included electronic publishing in the provisions applicable to information services under the separate affiliate requirements of section 252 of the Senate bill.

House amendment

Section 272 sets forth regulatory requirements for BOC participation in electronic publishing. Subsection (a) of this section states generally that a BOC or any affiliate may only engage in electronic publishing through a separate affiliate or an electronic publishing joint venture.

Subsection (b)(1) requires the separate affiliate or electronic publishing joint venture to maintain books, records, and accounts separately from those of the BOC. Under subsection (b)(2), the affiliate is prohibited from incurring debt in a manner that would permit a creditor upon default to have recourse to the assets of the BOC. Subsections (b)(3) and (b)(4) govern the manner in which transactions by the affiliate must be carried out, so as to ensure that they are fully auditable. These subsections also govern the valuation of assets transferred to the affiliate to prevent cross subsidies. Subsection (b)(5) prohibits the affiliate and the BOC from having corporate officers or property in common.

Under subsection (b)(6), the affiliate is prohibited from using the name or trademarks of the affiliated BOC except where used in common with the entity that owns or controls the BOC. Subsection (b)(7) prohibits a BOC from performing a number of activities on behalf of the affiliate, including the hiring or training of personnel, the provision of equipment, and research and development (R&D). Subsection (b)(8) and (b)(9) require the separate affiliate to have an annual compliance review performed for five years and to file a report of any exceptions and the corrective action taken. These reviews are to be conducted by an independent entity.

Subsection (c)(1) prohibits a BOC from engaging in joint marketing of any promotion, marketing, sales or advertising with its affiliate, with certain exceptions. Subsection (c)(2) permits three types of joint activities between a BOC and its electronic publishing affiliate, under specified conditions. Subsection (c)(2)(A) permits a BOC to provide inbound telemarketing or referral services related to the provision of electronic publishing, if the BOC provides the same service on the same terms and conditions, and prices to non-affiliates as to its affiliates. The term "inbound telemarketing or referral services" is defined in subsection (i)(7) to mean "the marketing of property, goods, or services by telephone to a customer or potential customer who initiated the call." Subsection (c)(2)(B) permits a BOC to engage in nondiscriminatory teaming or business arrangements. Subsection (c)(2)(C) permits a BOC to participate in electronic publishing joint ventures, provided that the BOC or affiliate has not more than a 50% (or for small publishers, 80%) direct or indirect equity interest in the publishing joint venture.

Subsection (d) provides that a BOC that enters the electronic publishing business through a separated affiliate or joint venture must provide network access and interconnection to electronic publishers at just and reasonable rates that are not higher on a per-unit basis than those charged to any other electronic publisher or any separated affiliate engaged in electronic publishing. Subsection (e) entitles a person claiming a violation of this section to file a complaint with the Commission or to bring a suit as provided in section 207 of the Communications Act. The BOC, affiliate, or separate affiliate is liable for damages for any violation found, unless it is discovered first through the internal compliance review process and corrected within 90 days of such discovery. A person may apply for a cease and desist order, or apply to a district court of the United States for an injunction. Subsection (f) requires separated affiliates to file annual reports with the Commission similar to Form 10-K. Subsection (g)(1) gives the BOC one year from the date of enactment to comply with the requirements of this section. Subsection (g)(2) provides that the provisions of this section cease to apply after June 30, 2000.

Conference agreement

The conference agreement adopts the House provisions with modifications as a new section 274 of the Communications Act. Subsection (b)(6) of the House provisions, relating to use of trademarks, was modified to make it clear that the separate affiliate or electronic publishing joint venture may not use for marketing the name, trademarks, or service marks of an existing BOC except for names, trademarks, or service marks that are owned by the entity that owns or controls the BOC. Subsection (g)(2) was modified so that the sunset date will be four years after the date of enactment rather than June 30, 2000.

NEW SECTION 275—ALARM MONITORING SERVICES

Senate bill

Section 225 of the Senate bill adds a new section 258 to the Communications Act authorizing a BOC to provide alarm monitoring services four years after the date of enactment if the BOC has been authorized by the Commission to provide in-region interLATA service unless the Commission finds that such provision is not in the public interest. It requires the Commission to establish rules governing the provision of alarm services by a BOC. It provides for expedited consideration of complaints and allows the Commission to use title V remedies.

The one exception to this general rule is contained in section 258(f). It provides that the limitations of subsections (a) and (b) do not apply to any alarm monitoring services provided by a BOC that was in that business as of June 1, 1995, as long as certain conditions specified in that subsection are met.

House amendment

Section 273(a) prohibits a BOC from offering alarm service until six (6) years after the date of enactment, unless a BOC was already providing such service on January 1, 1995.

Section 273(b) prohibits discrimination by a telephone company in the provision of alarm services, either by refusing to provide its competitors with the same network services it provides itself, or by cross-subsidizing from its local telephone service.

Section 273(c) establishes procedures for expedited consideration of complaints of violations of subsection (b), requiring the Commission to make a final determination within 120 days after the receipt of a complaint. If a violation is found, the Commission is required to issue a cease and desist order within 60 days.

Conference agreement

The conference agreement adopts the House provisions with modifications as a new section 275 of the Communications Act. The prohibition on BOC entry is shortened to 5 years. The grandfather provision is modified to clarify that new subsection (a) does

not prohibit or limit the provision, directly or through an affiliate, of alarm monitoring services by a BOC that was engaged in providing alarm monitoring services as of November 30, 1995, directly or through an affiliate. However, such a BOC may not acquire an equity interest in or obtain financial control of any unaffiliated alarm monitoring services entities from November 30, 1995, until five years after the date of enactment. This section further provides that nothing in the language prohibiting acquisitions or control should be construed to prevent the exchange of customer accounts and related assets with unaffiliated alarm monitoring services entities.

The House nondiscrimination provisions are adopted with the clarification that they apply to incumbent local exchange carriers rather than all common carriers. The House provisions on expedited consideration of complaints are adopted with the clarification that they apply to incumbent local telephone carriers rather than all common carriers. The Senate provisions on the use of data by local exchange carriers are adopted with the clarification that they apply to all local exchange carriers. The House definition of "alarm monitoring service" is adopted with the clarification that the definition applies to the transmission of signals by means of the facilities of any local exchange carrier rather than just those of a BOC.

NEW SECTION 276—PROVISION OF PAYPHONE SERVICES

Senate bill

Section 311 of the Senate bill adds a new section 265 to the Communications Act, to address certain practices of the BOCs with regard to telemessaging and payphone services. This section is designed to prohibit cross-subsidization between a BOC's telephone exchange or exchange access services and its payphone and telemessaging services. Existing joint-cost rules are not adequate to prevent such activities.

This section prohibits a BOC from discriminating between affiliated and nonaffiliated payphone and telemessaging services, under rules set forth by the Commission. If, however, the Commission finds that these safeguards are insufficient, the Commission may require the BOCs to provide telemessaging services through a separate subsidiary.

New section 265 directs the Commission to complete, within 18 months after the date of enactment of the bill, a rulemaking proceeding to prescribe regulations to carry out this new section. The Commission also is directed to determine whether, in order to enforce the requirements of section 265, it is appropriate to require the BOCs to provide payphone service or telemessaging services through a separate subsidiary that meets the requirements of new section 252.

Payphone services are defined to include the provision of telecommunications service through public or semipublic pay telephones, and includes the provision of inmate phone service in correctional institutions. Semipublic payphones are also included within the definition of payphone services.

New section 265 prohibits the BOCs from cross-subsidizing and from preferring or discriminating in favor of their own payphone operations. The Commission is directed to conduct rulemaking proceedings to implement new section 265.

Nothing in section 265 is intended to limit the authority of the commission to address these structural issues, or other payphone related issues, under the existing provisions of the Communications Act.

House amendment

Section 274 directs the Commission to adopt rules that eliminate all discrimination between BOC and independent payphones and all subsidies or cost recovery for BOC payphones from regulated interstate or intrastate exchange or exchange access revenue. The BOC payphone operations will be transferred, at an appropriate valuation, from the regulated accounts associated with local exchange services to the BOC's unregulated books. The Commission's implementing safeguards must be at least equal to those adopted in the Commission's *Computer III* proceedings. In place of the existing regulatory structure, the Commission is directed to establish a new system whereby all payphone service providers are fairly compensated for every interstate and intrastate call made using their payphones, including, for example, "toll-free" calls to subscribers to 800 and new 888 services and calls dialed by means of carrier access codes. In crafting implementing rules, the commission is not bound to adhere to existing mechanisms or procedures established for general regulatory purposes in other provisions of the Communications Act.

Section 274(b)(1)(D) also makes it possible for independent payphone service providers, as well as BOCs, in all jurisdictions, to select the intraLATA carriers service their payphones. However, existing contracts and agreements between location providers and payphone service providers, interLATA, or intraLATA carriers are grandfathered. Location providers prospectively also have control over the ultimate choice of interLATA and intraLATA carriers in connection with their choice of payphone service providers.

Section 274(b)(2) directs the Commission to determine whether it is necessary to support the maintenance of "public interest payphones." This term refers to payphones at locations where payphone service would not otherwise be available as a result of the operation of the market. Thus, the term does not apply to a payphone located near other payphones, or to a payphone that, even though unprofitable by itself, is provided for a location provider with whom the payphone provider has a contract.

Section 274(c) authorizes the Commission to preempt State regulations that are inconsistent with the commission's regulations under section 274.

Conference agreement

The conference agreement adopts the House provision with some modifications and a clarification as a new section 276 of the Communications Act. The conferees added to subsection (b)(1)(D) the phrase "unless the Commission determines in the rulemaking that it is not in the public interest." This modification would allow the Commission, if it determines that it is in the public interest, *not* to allow the BOCs to have the same rights as independent payphone providers in negotiating with the interLATA carriers for their payphones. In addition, the conferees clarify in subsection (b)(1)(E) that the location provider has the ultimate decision-making authority in determining interLATA services in connection with the choice of payphone providers.

TITLE II—BROADCAST SERVICES

SECTION 201—BROADCASTER SPECTRUM FLEXIBILITY

Senate bill

If the Commission, by rule, permits a licensee to provide advanced television services, subsection (a) of section 207 of the Senate bill requires the Commission to adopt rules to permit broadcasters flexibility to use the advanced television spectrum for ancillary or supplementary services. The broadcaster must provide at least one free, over-the-air advanced television broadcast service on that spectrum. Similar rules for existing broadcast spectrum must also be adopted.

Paragraph (2) requires that if the licensee offers ancillary or supplementary service for which payment of a subscription fee is required, or is compensated for transmitting material furnished by a third party, then the Commission will collect an annual fee from the licensee. The fee shall be based, in part, on the licensee's total amount of spectrum, and the amount of spectrum used and the amount of time the spectrum is used for those ancillary and supplementary services. The fee, however, cannot exceed the amount, on an annualized basis, paid by licensees providing competing services on spectrum subject to auction.

Paragraph (3) states that licensees are not relieved of their public interest requirements. Paragraph (4) defines "advanced television services" as a television service using digital or other advanced technology to enhance audio quality and visual resolution. The paragraph also defines "existing" spectrum as that spectrum used for television broadcast purposes as of the date of enactment.

House amendment

Section 301 of the House amendment directs the Commission, if the Commission issues licenses for advanced television services, to limit the initial eligibility for such licenses to incumbent broadcast licensees and permittees and authorizes the Commission to adopt regulations that would permit broadcasters to use such spectrum for ancillary or supplementary services. Apart from the restrictions contained herein, this section leaves the final determination of the uses of spectrum assigned to the broadcasters. This section restricts any potential use of spectrum apart from the main channel signal to "ancillary and supplementary" uses, provided the use of a designated frequency for such services is consistent with the technology or method designated by the Commission for the provision of advanced television services.

Paragraph (b)(2) requires the Commission to prescribe regulations that avoid the derogation of any advanced television services, including high definition television (HDTV) services.

Paragraph (b)(3) clarifies the regulation of ancillary and supplementary services. It requires that Commission regulations that are applicable to such services be applicable to the offering of analogous services by any other person. This section, however, specifically does not confer "must carry" status on any of these ancillary or supplementary services.

Paragraph (b)(4) requires the Commission to adopt any technical or other requirements necessary to assure signal quality for ATV services and provides, inter alia, that the Commission may review and update its requirements concerning minimum broadcast hours for television broadcasters for both NTSC and ATV services.

Subsection (c) provides that if the Commission issues licenses for advanced television services, it shall precondition such issuance on the requirement that one or the other of the licenses be surrendered to the Commission pursuant to its regulations. Subsection (c) also requires that any license surrendered must be reassigned through

competitive bidding. This provision is designed to ensure that licensees' use of 12 megahertz would be for temporary simulcast purposes only, and that, in due course, one of the licensed channels will revert to the Commission for assignment by competitive bidding. Subsection (c) also requires that the Commission must base its decision regarding the surrender of the license on public acceptance of the new technology through obtaining television receivers capable of receiving an ATV signal or on the potential loss of reception for a substantial portion of the public.

Subsection (d) requires the Commission to establish a fee program for any ancillary or supplementary services if subscription fees or any other compensation fees apart from commercial advertisements are required in order to receive such services.

Subsecion (e) requires the Commission to conduct an evaluation within 10 years after the date it issues its licenses for advanced television services.

In subsection (f), the House adopts the Commission's definition of high definition television

Conference agreement

The conference agreement adopts the House amendment with modifications. The conference agreement retains the requirement in the House amendment that the Commission condition the issuance of a new license of the return, after some period, of either the original broadcast license or the new license. However, the conference agreement leaves to the Commission the determination of when such licenses shall be returned and how to reallocate returned spectrum. With respect to paragraph (b)(3), the conferees do not intend this paragraph to confer must carry status on advanced television or other video services offered on designated frequencies. Under the 1992 Cable Act, that issue is to be the subject of a Commission proceeding under section 614(b)(4)(B) of the Communications Act. Further, the conference agreement also adopts the Senate language that the Act's public interest obligations extend to the new licenses and services. The conference agreement modifies the House amendment to provide that if the Commission decides to issue additional licenses for ATV services, it should limit the initial eligibility to broadcast licensees.

SECTION 202—BROADCAST OWNERSHIP

Senate bill

Section 207(b) of the Senate bill requires the Commission to change its rules regarding the amount of national audience a single broadcast licensee may reach. The current cap is 25% of the nation's television households. The Senate bill raises that to 35%. Section 207 directs the Commission to eliminate its rules regarding the number of radio stations one entity may own, either nationally or within a particular market. The Commission may refuse a transfer of a radio license if it would result in an undue concentration of control or would thereby harm competition. Section 207(b)(3) grandfathers existing television local marketing agreements (LMAs). Section 207(b)(4) eliminates the cable-broadcast crossownership ban in section 613(a) of the Communications Act, and the Commission is also required to review its ownership rules biennially, as part of its overall regulatory review required by new section 259 of the Communications Act. This provision is effective upon enactment.

House amendment

Section 302 of the House amendment adds a new section 337 to the Communications Act addressing broadcast ownership. Section 337, subject to specified restrictions and consistent with the cross-ownership restrictions of section 613(a) of the Communications Act, prohibits the Commission from prescribing or enforcing any regulation which prohibits or limits, on a national or local basis, a licensee from holding any form of ownership or other interest in two or more broadcast stations or in a broadcast station and any other medium of mass communication. This section also prohibits the Commission from prescribing or enforcing any regulation which prohibits a person or entity from owning, operating, or controlling two or more networks of broadcast stations or from owning, operating, or controlling a network of broadcast stations and any other medium of mass communications. Section 337(b)(1) eliminates current limits placed on television audience nationwide and places new limits on ownership of television stations by a single entity at a national audience reach exceeding 35 percent for the year following enactment of this section. This section directs the Commission to conduct a study of the operation of these national ownership limitations and to submit a report to Congress on the development of competition in the television marketplace and the need, if any, to revisit these limitations.

Section 337(b)(2) sets forth the circumstances under which one entity may own or operate two television stations in a local market. Subparagraph (B) creates a presumption in favor of UHF/UHF and UHF/VHF combinations. Subparagraph (C) clarifies that the Commission may also permit VHF/VHF combinations where it determines that doing so will not harm competition and diversity.

Subsection (c) permits the Commission, under certain circumstances, to consider concentrations of local media interests in proceedings to grant, renew or authorize the assignment of station licenses. In a proceeding to grant, renew, or authorize the assignment of any station license under this title, the Commission may deny the application if the Commission determines that the combination of such station and more than one other non-broadcast media of mass communication would result in an undue concentration of media voices in the respective local market. The Commission shall not grant applications that would result in two or fewer persons or entities controlling all the media of mass communications in the market. There is no requirement that any existing interests be divested, but the Commission may condition the grant of an application to acquire additional media interests.

Subsection (d) clarifies that any Commission rule prescribed prior to the date of enactment of this legislation that is inconsistent with the requirements of this section is repealed on the date of enactment. Nothing in subsection (d) is to be construed to prohibit the continuation or renewal of any television local marketing agreement in effect on the date of enactment.

Conference agreement

Section 202(a) of the conference agreement directs the Commission to modify its multiple ownership rules to eliminate its limitations on the number of radio stations which may be owned or controlled nationally. New subsection (b) directs the Commission to further modify its rules with respect to the radio stations a party may own, operate or control in a local market. Subsection (b)(2) provides an exception to the local market limits, where the acquisition or interest in a radio station will result in an increase in the number of radio stations.

Subsection 202(c)(1) directs the Commission to modify its multiple ownership rules to eliminate the number of television stations which may be owned or controlled nationally and to increase the national audience reach limitation for television stations to 35 percent. Subsection (c)(2) directs the Commission to conduct a rulemaking proceeding to determine whether its rules restricting ownership of more than one television station in a local market should be retained, modified or eliminated. It is the intention of conferees that, if the Commission revises the multiple ownership rules, it shall permit VHF–VHF combinations only in compelling circumstances.

Section 202(d) directs the Commission to extend its waiver policy with respect to its one to a market ownership rules to any of the top fifty markets. The Commission now generally bans crossownerships of radio and television stations in the same market, but has implemented a waiver policy which recognizes the potential for public interest benefits of such combinations when bedrock diversity interested are not threatened. The conferees in adopting subsection (d), intend to extend the benefits of this policy to the top fifty markets. Also, in the Commission's proceeding to review its television ownership rules generally, the Commission is considering whether generally to allow such local crossownerships, including combinations of a television station and more than one radio station in the same service. The conferees expect that the Commission's future implementation of its current radio-television waiver policy, as well as any changes to its rules it may adopt in its pending review, will take into account the increased competition and the need for diversity in today's radio marketplace that is the rationale for subsection (d).

Subsection (e) directs the Commission to revise its rules at 47 CFR 73.658(g) to permit a television station to affiliate with a person or entity that maintains two or more networks unless such dual or multiple networks are composed of (1) two or more of the four existing networks (ABC, CBS, NBC, FOX) or, (2) any of the four existing networks and one of the two emerging networks, (WBTN, UPN). The conferees do not intend these limitations to apply if such networks are not operated simultaneously, or if there is no substantial overlap in the territory served by the group of stations comprising each such networks.

Subsection (f) directs the Commission to revise its rules to permit crossownership interests between a broadcast network and a cable system. If necessary, the Commission is directed to revise its rules to ensure carriage, channel positioning and nondiscriminatory treatment of non-affiliated broadcast stations by cable systems affiliated with a broadcast network.

Subsection (g) grandfathers LMAs currently in existence upon enactment of this legislation and allows LMAs in the future, consistent with the Commission's rules. The conferees note the positive contributions of television LMAs and this subsection assures that this legislation does not deprive the public of the benefits of existing LMAs that were otherwise in compliance with Commission regulations on the date of enactment.

Subsection (h) directs the Commission to review its rules adopted under section 202 and all of its ownership rules biennially. In its review, the Commission shall determine whether any of its ownership rules, including those adopted pursuant to this section, are necessary in the public interest as the result

of competition. Based on its findings in such a review, the Commission is directed to repeal or modify any regulation it determines is no longer in the public interest. Apart from the biennial review required by subsection (h), the conferees are aware that the Commission already has several broadcast deregulation proceedings underway. It is the intention of the conferees that the Commission continue with these proceedings and conclude them in a timely manner.

Subsection (i) amends section 613(a) of the Communications Act by repealing the restriction on broadcast-cable crossownership. The conferees do not intend that this repeal of the statutory prohibition should prejudge the outcome of any review by the Commission of its rules. Subsection (i) also amends 613(a) by revising the cable-MMDS crossownership restriction so that it does not apply in any franchise area in which a cable operator faces effective competition.

SECTION 203—TERMS OF LICENSES

Senate bill

Section 207 of the Senate bill amends section 307(c) of the Communications Act to increase the term of license renewal for television licenses from five to ten years and for radio licenses from seven to ten years.

House amendment

Section 306 of the House amendment contains a similar provision but amends section 307(c) of the Communications Act to provide for a seven year license term for all broadcast licenses.

Conference agreement

The conference agreement adopts the House provisions but extends the license term for broadcast licensees to eight years for both television and radio.

SECTION 204—BROADCAST LICENSE RENEWAL PROCEDURES

Senate bill

Subsection (d) of section 207 amends the broadcast license renewal procedures. This subsection amends section 309 of the Communications Act by adding a new subsection (k) which gives the incumbent broadcaster the ability to apply for its license renewal without competing applications. A broadcaster would apply for its renewal, and the Commission would grant such a renewal, if, during the preceding term of its license the station has served the public interest, convenience, and necessity, has not made any serious violations of the Communications Act or of the Commission's rules, and has not, through other violations, shown a pattern of abuse.

The Commission may not consider whether the granting of a license to a person other than the renewal applicant might serve the public interest, convenience, and necessity prior to its decision to approve or deny the renewal application. Under this section, the Commission has discretion to consider what is a serious violation of the Communications Act. If a licensee does not meet those criteria, the Commission may either deny the renewal, or impose conditions on the renewal. Once the Commission, after conducting a hearing on the record, denies an application for renewal, it is then able to accept applications for a construction permit for the channel or facilities of the former licensee.

Subparagraph (4) would require broadcast licensees to attach a summary of comments regarding violent programming to its renewal application.

House amendment

Section 305 of the House amendment similarly amends section 309 of the Communications Act by adding a new subsection (k) mandating a change in the manner in which broadcast license renewal applications are processed. Subsection (k) allows for Commission consideration of the renewal application of the incumbent broadcast licensee without the contemporaneous consideration of competing applications. Under this subsection, the Commission would grant a renewal application if it finds that the station, during its term, had served the public interest, convenience, and necessity; there had been no serious violations by the licensee of the Communications Act or Commission rules; and there had been no other violations of the Communications Act or Commission rules which, taken together, indicate a pattern of abuse. If the Commission finds that the licensee has failed to meet these requirements, it could deny the renewal application or grant a conditional approval, including renewal for a lesser term. Only after denying a renewal application could the Commission accept and consider competing applications for the license.

Conference agreement

The conference agreement adopts the House provisions with modifications to include the Senate provision requiring a renewal applicant to attach to its application a summary of comments regarding violent programming. The conference agreement sets the effective date for this section at May 1, 1995.

SECTION 205—DIRECT BROADCAST SATELLITE SERVICE

Senate bill

Section 312(a) of the Senate bill amends section 705(e)(4) of the Communications Act to extend the current legal protection against signal piracy to direct-broadcast services.

Section 312(b) amends section 303 of the Communications Act to clarify that the Commission has exclusive jurisdiction over the regulation of direct broadcast satellite (DBS) service.

House amendment

The House has identical provisions in sections 308 and 311 of the House amendment.

Conference agreement

The conference agreement adopts the Senate provision with a conforming change to the definition of "direct-to-home."

SECTION 206—AUTOMATED SHIP DISTRESS AND SAFETY SYSTEMS

Senate bill

Section 306 of the Senate bill provides that notwithstanding any other provision of the Communications Act, any ship documented under the laws of the United States operating in accordance with the Global Maritime Distress and Safety System provisions of the Safety of Life at Sea Convention is not required to be equipped with a radio telegraphy station operated by one or more radio officers or operators.

House amendment

This House provision is identical.

Conference agreement

The conference agreement adopts the Senate provision with a modification placing the provision as an amendment to section 364 of the Communications Act. This provision permits a ship that fully complies with the Global Maritime Distress and Safety System (GMDSS) provisions of the Safety of Life at Sea Convention to be exempted from requirements to carry a radio telegraph station operated by one or more radio operators. Due to the conferees' concern about the proper implementation of the GMDSS, the provision specifies that this exemption shall only take effect upon the United States Coast Guard's determination that the system is fully installed, maintained, and is operating properly on each vessel.

SECTION 207—RESTRICTIONS ON OVER-THE-AIR RECEPTION DEVICES

Senate bill

No provision.

House amendment

Section 308 of the House amendment directs the Commission to promulgate rules prohibiting restrictions which inhibit a viewer's ability to receive video programming from over-the-air broadcast stations or direct broadcast satellite services.

Conference agreement

The conference agreement adopts the House provision with modifications to extend the prohibition to devices that permit reception of multichannel multipoint distribution services.

TITLE III—CABLE SERVICES

SECTION 301—CABLE ACT REFORM

Senate bill

Section 203(a) of the Senate bill amends the definition of "cable system" in section 602 of the Communications Act.

Section 203(b) of section 204 of the bill limits the rate regulations currently imposed by the 1992 Cable Act.

Paragraph (1) amends the rate regulation provisions of section 623 of the Communications Act for the expanded tier. First, it eliminates the ability of a single subscriber to initiate a rate complaint proceeding at the Commission. Franchising authorities are the relevant State and local government entities that still retain the ability to initiate a rate proceeding. Second, rates for cable programming services will only be considered unreasonable, and subject to regulation, if the rates substantially exceed the national average for comparable cable programming services.

Paragraph (2) amends the definition of effective competition in section 623(l)(1) to allow the provision of video services by a local exchange carrier either through a common carrier video platform, or as a cable operator, in an unaffiliated cable operator's franchise area to satisfy the effective competition test.

Section 203(c) eliminates cable rate regulation for small cable operators serving areas of 35,000 or fewer subscribers.

Section 203(d) provides that any programming access rules that apply to a cable operator under section 628 of the Communications Act also apply to a telecommunications carrier or its affiliate that provides video programming directly to subscribers.

Section 203(e) provides for expedited decisions by the Commission regarding market determinations under section 614 of the Communications Act.

Section 203(f) provides that the provisions of this section take effect on the date of enactment.

House amendment

Section 307(a) of the House amendment amends the definition of "cable service" in section 602(6) of the Communications Act by adding "or use" to the definition, reflecting the evolution of video programming toward interactive services.

Subsection (b) prohibits the Commission from requiring the divestiture of, or preventing or restricting the acquisition of, any

cable system based solely on the geographic location of the system.

Subsection (c) amends section 623(a) of the Communications Act to deregulate equipment, installations, and additional connections furnished to subscribers that receive more than basic cable service when a cable system has effective competition pursuant to section 623(l)(1)(b).

Subsection (d) amends section 623(a) of the Communications Act to limit basic tier rate increases by a cable operator to once every six months and permits cable operators to implement such increases after 30 days notice. Subsection (d) limits the franchising authority's scope of review to the incremental change in the basic tier rate effected by a rate increase.

Subsection (e) amends section 623(a) of the Communications Act to promote the development of a broadband, two-way telecommunications infrastructure. Under this paragraph, cable operators are permitted to aggregate equipment costs broadly. However, subsection (e) does not permit averaging for equipment used by consumers that subscribe only to basic service tier. Subsection (e) directs the Commission to complete its revisions to current rules necessary to implement this subsection within 120 days.

Subsection (f) amends section 623(c) of the Communications Act governing review of complaints by inserting a new paragraph (3) requiring that the Commission receive complaints from three percent of a system's subscribers, or 10 subsecribers, whichever is greater, before it initiates a rate case.

Subsection (f) extends from 45 days to 90 days the amount of time after a cable programming service rate increase goes into effect that during which subscribers may file a complaint. Pending rate cases will be subject to the new complaint threshold and complaining parties are granted a 90-day extension to bring complaints into conformance with the new complaint threshold requirement. Subsection (f) clarifies that the Commission's scope of review is limited to the last incremental consumer programming service rate increase consistent with the intent of the 1992 Cable Act.

Subsection (g) clarifies that a cable operator must comply with the uniform rate structure requirement in section 623(d) of the 1992 Cable Act only with respect to regulated services. Subsection (g) also amends section 623(d) of the Communications Act to exempt bulk discounts to multiple dwelling units ("MDUs") from the uniform rate requirement.

Subsection (h) amends section 623(l)(1) of the Communications Act by adding a fourth effective competition test. Under this new test, effective competition for cable programming service tier and subscriber equipment (other than that necessary for receiving the basic service tier) is present: (1) where a common carrier has been authorized to provide video dialtone service in the cable franchise area; (2) where a common carrier has been authorized by the Commission or pursuant to a franchise to provide video programming directly to subscribers in the cable franchise area; or (3) when the Commission completes all actions necessary to prescribe the video platform rules pursuant to section 653(b)(1). When any of these events occurs, the rates for a cable system's cable programming services, as well as equipment, installations, and additional television connections are deregulated.

Subsection (h) does not apply to basic cable service. Basic service, including all equipment, additional television connections, and installations furnished to basic-only subscribers, remains subject to regulation until the cable operator meets one of the effective competition tests contained in section 623(l)(1)(A), (B), and (C) of the Communications Act.

Subsection (i) amends section 623 of the Communications Act to deregulate the rates for the cable programming service tiers of small companies and the rates for the basic service tier of small company systems that offered only a single tier of service as of December 31, 1994. Subsection (i) does not deregulate the basic tier of small cable systems that offer multiple tiers of cable service.

In order to qualify as a "small cable operator," a cable operator must: (1) directly, or through an affiliate, serve in the aggregate fewer than one percent of all cable subscribers nationwide; and (2) not be affiliated with any entity whose annual gross revenues in the aggregate exceed $250,000,000.

Subsection (j) amends section 624(e) of the Communications Act by prohibiting States or franchising authorities from regulating in the areas of technical standards, customer equipment, and transmission technologies.

Subsection (k) amends section 624A(b)(2) of the Communications Act and directs that no Federal agency, State, or franchising authority may prohibit a cable operator's use of any security system, including scrambling, but permits the Commission to prohibit scrambling of video programming on the broadcast-basic service tier unless scrambling is necessary to prevent signal piracy.

Subsection (l) amends section 624A of the Communications Act to direct the Commission to set only minimal standards when implementing regulations to assure compatibility between cable "set-top" boxes, televisions, and video cassette recorders, and to rely on the marketplace for other features, services, and functions to ensure basic compatibility. This subsection clarifies section 624(c)(1)(A) further to ensure that Commission efforts with respect to cable compatibility do not affect unrelated markets, such as computers or home automation communications, or result in a preference for one home automation protocol over another.

Subsection (m) amends section 625(d) of the Communications Act by clarifying that a cable operator may move any service off the basic service tier at its discretion, other than the local broadcast signals and access channels required to be carried on the basic service tier under section 623(b)(7)(A) of the Communications Act.

Subsection (n) amends section 632 of the Communications Act to provide cable operators with flexibility to use "reasonable" written means to convey rate and service changes to consumers. Notice need not be inserted in the subscriber's bill.

Subsection (n) also provides that prior notice is not required for any rate change that is the result of a regulatory fee, franchise fee, or any other fee, tax, assessment or change of any kind imposed by the Government on the transaction between a cable operator and a subscriber.

Subsection (o) amends section 623 of the Communications Act to clarify that losses incurred prior to the enactment of the 1992 Cable Act by a cable system owned and operated by the original franchisee may not be disallowed in determination of rate regulation.

Conference agreement

The conference agreement adopts the House provisions with modifications. It adopts the House provision amending the definition of cable service. The conferees intend the amendment to reflect the evolution of cable to include interactive services such as game channels and information services made available to subscribers by the cable operator, as well as enhanced services. This amendment is not intended to affect Federal or State regulation of telecommunications service offered through cable system facilities, or to cause dial-up access to information services over telephone lines to be classified as a cable service. The conference agreement adopts the Senate provision amending the definition of cable system to clarify that the term does not include a facility that serves subscribers without using any public right-of-way.

The conference agreement sunsets regulation of the cable programming services tier on March 31, 1999. The agreement directs the Commission to review a rate increase for an operator's cable programming services tier within 90 days of a complaint.

The conference agreement amends the Communications Act's requirements for a uniform rate structure to clarify that such requirements do not apply to (1) a cable operator with respect to the provision of cable service over its cable system in any geographic area in which the video programming services offered by the operator in that area are subject to effective competition, or (2) any video programming offered on a per channel or per program basis. Bulk discounts to multiple dwelling units shall not be subject to the uniform rate requirement except that a cable operator may not charge predatory prices to a multiple dwelling unit. Upon a prima facie showing by a complainant that there are reasonable grounds to believe that the discounted price is predatory, the cable system shall have the burden of showing that its discounted price is not predatory.

The conference agreement adopts an amendment to section 623(l) of the Communications Act to expand the effective competition test for deregulating both basic and cable programming service tiers. The test provides that effective competition exists when a telephone company or any multichannel video programming distributor is offering video programming services directly to subscribers by any means in the franchise area of an unaffiliated cable operator. "By any means," includes any medium (other than direct-to-home satellite service) for the delivery of comparable programming, including MMDS, LMDS, an open video system, or a cable system. For purposes of section 623(l)(1)(D) of the Communications Act, "offer" has the same meaning given that term in the Commission's rules as in effect on the date of enactment of the bill. *See* 47 CFR 76.905(e). The conferees intend that "comparable" requires that the video programming services should include access to at least 12 channels of programming, at least some of which are television broadcasting signals. *See* 47 CFR 76.905(g).

The conference agreement adopts the Senate provision with respect to deregulation of small cable systems with the modification that the franchise area served by such system must reach 50,000 or fewer subscribers. The agreement adopts the House provisions on market determinations, technical standards, cable equipment compatibility, and subscriber notices. The agreement amends section 628 of the Communications Act to extend the program access requirements to satellite cable programming vendors in which a common carrier providing video programming by any means has an attributable interest. This provision clarifies that such

common carrier shall not be deemed to have an attributable interest in such programming vendor (or its parent company) solely as a result of the common carrier's holding, or having the right to appoint or elect, two or fewer common officers or directors. The conference agreement amends section 617 of the Communications Act to repeal the anti-trafficking restrictions. The conference agreement adopts the House provisions on equipment aggregation and treatment of prior year losses.

The conference agreement also adopts the House provision on cable equipment compatibility. As used in section 624A of the Communications Act, the term "affect" means to produce a material influence upon, or alteration in, such features, functions, protocols, and other product and service options. The conferees intend that the Commission should promptly complete its pending rulemaking on cable equipment compatibility, but not at the risk that premature or overbroad Government standards may interfere in the market-driven process of standardization in technology intensive markets.

SECTION 302—CABLE SERVICE PROVIDED BY TELEPHONE COMPANIES

Senate bill

The Senate bill creates new sections of the Communications Act to provide for the provision of video programming by telephone companies.

House amendment

The House amendment creates new sections of the Communications Act to provide for the provision of video programming by telephone companies.

Conference agreement

Section 302 of the conference agreement establishes a new "Part V" of title VI of the Communications Act. Part V contains new sections 651–653 to provide for the provision of video programming by telephone companies.

NEW SECTION 651—REGULATORY TREATMENT OF VIDEO PROGRAMMING SERVICES

Senate bill

Section 202 of the Senate bill eliminates the cable/telephone cross ownership restriction and grants telephone companies the option of providing video programming to subscribers over a cable system or over a video platform. It also states that a BOC need not use a separate affiliate if it provides facilities, services or information to all programmers on the same terms and conditions as it provides to its own operations, and if it does not use telecommunications services to subsidize the provision of video programming. In addition, it states that when a BOC provides cable service as a cable operator, it must do so through a separate affiliate, except that if the cable service is provided using the company's own telephone exchange facilities, it is not required to make capacity available on a nondiscriminatory basis to other video service providers because of such use.

House amendment

Section 201 of the House amendment permits a common carrier that provides video programming directly to subscribers in its telephone service area, to do so either over a video platform or over a cable system. In addition, it requires the carrier to provide notice to programming providers and to submit detailed information to the Commission concerning its intention to establish capacity for the provision of video programming. Carriers are required to establish channel capacity sufficient to meet all bona fide demand and to expand capacity in response to demand for additional capacity.

Conference agreement

New section 651 of the Communications Act specifically addresses the regulatory treatment of video programming services provided by telephone companies. Recognizing that there can be different strategies, services and technologies for entering video markets, the conferees agree to multiple entry options to promote competition, to encourage investment in new technologies and to maximize consumer choice of services that best meet their information and entertainment needs.

New section 651(a)(1) states that common carriers, or other persons, that use radio communication to provide video programming will be regulated under title III of the Communications Act, and are subject to the requirements of new section 652 of the Communications Act but are not otherwise subject to the requirements of title VI. This will create parity among providers of services using radio communication.

New section 651(a)(2) states that when common carriers provide only video transmission on a common carrier basis, they are subject only to title II and to new section 652, and are not otherwise subject to the requirements of title VI merely by engaging in common carrier transport of video programming.

New section 651(a)(3) states that common carriers providing video programming to subscribers by any means other than those described in new section 651(a)(1) or (a)(2), are subject to the requirements of title VI, unless such programming is provided by means of an open video system that has been certified by the Commission. New section 651(a)(3) also states that carriers that provide programming using a certified open video system are subject to the requirements of part V, and only those provisions of parts I through IV of title VI as are specifically provided in new section 653(c). Open video systems are not subject to the requirements of title II for the provision of video programming or cable services.

Common carriers that provide video programming using radio communication or using common carriage transmission, or a combination of those services, also may choose to provide an open video system. New section 651(a)(4) provides that such systems are subject to the same requirements as other open video systems.

New section 651(b) states that a local exchange carrier that provides cable service by means of an open video system, or by means of an integrated cable system utilizing its own telephone exchange facilities, is not required by title II to also make transmission capacity and related services available on a nondiscriminatory basis to any other person for the provision of cable service or video programming directly to subscribers. This provision clarifies that the open video system operator's obligation to provide system capacity and facilities to others is limited to, and governed by, part V and the other requirements specifically provided in new section 653(c). Likewise, a local exchange carrier that utilizes its own telephone exchange facilities and services to provide cable services other than through an open video system is required by such use only to make cable and video programming capacity and facilities available to others for the provision of cable service to the extent provided in parts I through IV of title VI, regardless of whether those facilities also are used to provide telephone exchange service under title II. Similarly, under new section 651(c) common carriers that establish video delivery systems, including cable and open video systems, are not required to obtain section 214 authority prior to establishing or operating such systems. This requirement has served as an obstacle to competitive entry and has disproportionately disadvantaged new competitors. Eliminating this barrier to entry will hasten the development of video competition and will provide consumers with increased program choice.

NEW SECTION 652—PROHIBITION ON BUYOUTS

Senate bill

Section 202 of the Senate bill adds to section 613(b) of the Communications Act several provisions restricting the ability of a local exchange carrier to acquire more than a 10 percent financial interest or any management interest in a cable operator in its telephone service area and restricting the ability of a cable operator to acquire similar interests in a local exchange carrier in the cable operator's franchise area. It includes certain exceptions for acquisitions in nonurban areas with less than 50,000 inhabitants, and it authorizes the Commission to grant waivers for economic distress, economic viability of the cable system, or where any anticompetitive effects of the proposed transaction are clearly outweighed by the public interest, and where the local franchising authority approves the waiver. The bill directs the Commission to act on such waiver requests within 180 days of filing. The Senate provisions also permit a local exchange carrier, if certain conditions are met, to use excess capacity of a cable company for that portion of the transmission facilities of the cable operator from the last multi-user terminal to the premises of the end user.

Section 706 of the Senate bill authorizes a local exchange carrier or any of its affiliates to purchase or otherwise acquire more than 10 percent of the financial interest or any management interest in any cable system in its telephone service area so long as (1) the cable system serves no more than 20,000 cable subscribers and (2) no more than 12,000 of those cable subscribers live in an urbanized area

House amendment

Section 655 of the House amendment contains a general prohibition on buy-outs by a common carrier of a cable system within its service territory. Subsection (b) provides exceptions that would permit a common carrier to purchase a cable system or systems under circumstances including the following: (1) the cable system serves a rural area; (2) the total number of subscribers served by such systems adds up to less than ten percent of the households served by the carrier in the telephone service area, and no such system or systems serve a franchise area with more than 35,000 inhabitants for an affiliated system, or more than 50,000 inhabitants for any system that is not affiliated with any system whose franchise area is contiguous; and (3) the exemption would permit a carrier to obtain, by contract with a cable operator, use of the "drop" from the curb to the home that is controlled by the cable company, if such use was reasonably limited in scope and duration as determined by the Commission.

The exception under subparagraph (4) is intended to address a market situation where a dominant cable operator that is a large multiple systems operator (MSO) shares a market with a small independent cable system.

Subsection (c) also contains the waiver process for the buy-out provision under

which the Commission may grant a waiver upon a showing of undue economic distress by the owner of the cable system if a sale to a telephone company is blocked. The Commission is directed to act on a waiver application within 180 days after it is filed.

Conference agreement

The conference agreement adopts the provisions of the Senate bill limiting acquisitions and prohibiting joint ventures between local exchange companies and cable operators that operate in the same market to provide video programming to subscribers or to provide telecommunications services in such market. Such carriers or cable operators may enter into a joint venture or partnership for other purposes, including the construction of facilities for the provision of such programming or services. With respect to exceptions to these general rules contained in new section 652(a), (b), and (c), the conferees agreed, in general, to take the most restrictive provisions of both the Senate bill and the House amendment in order to maximize competition between local exchange carriers and cable operators within local markets.

In new section 652(d)(1) the conference agreement allows a local exchange carrier to obtain a controlling interest in, management interest in, or a joint venture or partnership with a cable system operator for the use of such system located within its telephone service area to the extent that such system or facilities only serve places or territories that have fewer than 35,000 inhabitants and are outside urbanized areas. The agreement further stipulates that such systems in the aggregate serve less than 10 percent of the households in the telephone service area of such local exchange carrier. New section 652(d)(1) also permits a cable operator to obtain a controlling interest in, management interest in, or a joint venture or partnership with a local exchange carrier for the use of such carrier's facilities if such facilities serve places or territories that have fewer than 35,000 inhabitants and are outside of urbanized areas. The agreement contains other very limited exceptions to the general rules contained in new section 652 (a), (b), and (c). In new section 652(d)(3) acquisitions would be permitted in competitive markets where a local exchange carrier seeking to obtain a controlling interest or form a joint venture with a cable system may do so if narrowly drawn requirements are met. New section 652(d)(4) provides that new section 652(a) shall not apply to certain cable systems serving less than 17,000 subscribers outside of the top television markets. New section 652(d)(5) of the conference agreement allows a non-Tier I local exchange carrier to obtain more than a ten percent interest in, or to form a joint venture or partnership with, a small cable system that serves no more than 20,000 cable subscribers within the telephone company's service territory, provided that no more than 12,000 of those subscribers live within an urbanized area.

The conference agreement also allows for limited joint use of certain cable system facilities. In new section 652(d)(2) the agreement adopts language from the Senate bill that will allow a local exchange carrier to obtain, with the concurrence of the cable operator on the rates, terms and conditions, the use of that part of the transmission facilities of a cable system extending from the last multi-user terminal to the premises of the end user. The agreement stipulates that such joint use is permitted if such use is reasonably limited in scope and duration as determined by the Commission.

The conferees also provided for the establishment of a waiver process of the statutory rules. In new section 652(d)(6), the conferees give specific guidance to the Commission with respect to granting waivers. In that regard, the conferees allow the Commission to waive the various restrictions in this section if: the cable company or telephone company would be subjected to undue economic stress, the cable system of local exchange facilities would not be economically viable, the anticompetitive effects of the proposed transaction are clearly outweighed by the public interest, and the local franchising authority approves of such waiver.

Finally, new section 652(e) contains a definition of telephone service area for the purposes of this section.

NEW SECTION 653—ESTABLISHMENT OF OPEN VIDEO SYSTEMS

Senate bill

Section 202 of the Senate bill amends section 613(b) of the Communications Act to state that nothing precludes a telecommunications carrier from carrying video programming provided by others directly to subscribers over a common carrier video platform. It also states that nothing precludes a video program provider that makes use of a common carrier video platform from being treated as an operator of a cable system for purposes of section 111 of title 17, U.S.C.

It also requires providers of common carrier video platform services to provide local broadcast stations, and public, educational and governmental entities, access to platforms for the purpose of transmission of television broadcast programming at rates no higher than the incremental-cost-based rates of providing such access.

It states that video program providers may be required to pay fees in lieu of franchise fees, if the fees are competitively neutral and are separately identified in consumer billing. It also states that common carriers are not required to obtain certificates under section 214 in order to construct facilities to provide video programming services. Within 1 year after enactment, the Commission must prescribe regulations that set forth a number of safeguards. Finally, it specifies that the amendment made by subsection (a) takes effect on the date enactment, while the amendment made by subsection (b) (which states that no section 214 is required to build platform facilities) takes effect 1 year after enactment.

House amendment

Section 201 of the House amendment adds new section 653 to the Communications Act. Section 653 permits common carriers to establish video platforms but requires them to notify the Commission of their intent to do so; it also specifies the information that must be included in such notification. Carriers establishing platforms are required to establish channel capacity for the provision of video programming in response to bona fide requests for capacity and must notify the Commission if there is a delay in or denial of capacity and are required to construct additional capacity to meet excess demand. The Commission is required to resolve disputes arising from requests for capacity within 180 days of notice of such a dispute.

The Commission is given 6 months from the date of enactment to complete all actions necessary (including any reconsideration) to prescribe regulations that—prohibit carriers from discriminating among video programming providers with regard to carriage on the platform; determine what constitutes a bona fide request for capacity; permit channel sharing; extend regulations concerning sports exclusivity, network nonduplication and syndicated exclusivity to video platforms; require platforms to provide service, transmission and interconnection to unaffiliated programmers that is equivalent to that provided to the common carrier's video affiliate; prohibit unreasonable discrimination in favor of the common carrier's video affiliate concerning material or information needed to select programming; and, prohibit a common carrier from excluding areas from its video platform service area on the basis of ethnicity, race or income.

Section 656, as added by the House amendment, set forth the applicability of parts I through IV of title VI to any video programming affiliate established by a common carrier in accordance with the requirements of part V. Subsection (a) states that, in general, any provision that applies to a cable operator under the following sections also applies to such affiliate—section 613 (other than subsection (a)(2)), 616, 617, 628, 631, 632 and 643 of title VI. Sections 611, 612, 614 and 615 of title VI and section 325 of title III also apply to such affiliates in accordance with the regulations prescribed under subsection (b). Parts III and IV (other than sections 628, 631, 632 and 634) of title VI to apply to such affiliates.

Subsection (b) addresses implementation. The Commission is required to prescribe regulations to ensure that common carriers that operate video platforms provide: capacity, services, facilities and equipment for public, educational and governmental use; capacity for commercial use; capacity for broadcast television stations; and, an opportunity for commercial broadcast stations to choose between mandatory carriage and reimbursement for retransmission. It also directs the Commission to impose obligations that are no greater or lesser than the corresponding cable operator obligations referenced in subsection (a)(2) of section 656.

Finally, this subsection also states that video programming affiliates of common carriers that establish platforms, and multichannel video programming distributors that use such platforms to offer competing service, are subject to the payment of local franchise fees. It adds that such fees are in lieu of fees imposed under section 622 and that the rate of such fees may not exceed the rate at which franchise fees are imposed on cable operators in the same franchise area.

Conference agreement

The conference agreement adds a new section 653 to the Communications Act. The conferees recognize that telephone companies need to be able to choose from among multiple video entry options to encourage entry, and so systems under this section allowed to tailor services to meet the unique competitive and consumer needs of individual markets. New section 653(a) focuses on the establishment of open video systems by local exchange carriers and provides for reduced regulatory burdens subject to compliance with the provisions of new section 653(b) and Commission certification of a carrier's intent to comply. New section 653(a) also gives the Commission authority to resolve disputes (and award damages), but requires such resolution to occur within 180 days after notice of the dispute is submitted to the Commission.

New section 653(b) gives the Commission six months from the date of enactment to complete all actions necessary, including any reconsideration, to prescribe regulations to accomplish the following—

except as required by section 611, 614 or 615, to prohibit open video system operators from

discriminating among video programmers with regard to carriage, and ensure that the rates, terms and conditions for carriage are just and reasonable and are not unjustly or unreasonably discriminatory;

if demand exceeds channel capacity, to prohibit an open video system operator and its affiliates from selecting the video programming services that occupy more than one-third of the activated channel capacity of the system; but this limitation does not in any way limit the number of channels a carrier and its affiliates may offer to provide directly to subscribers;

to permit an open video system operator to require channel sharing; that is, to carry only one channel of any video programming service that is offered by more than one video programming provider (including the local exchange carrier's video programming affiliate), provided that subscribers have ready and immediate access to any such video programming service;

to extend the Commission's regulations concerning sports exclusivity, network nonduplication and syndicated exclusivity to the distribution of video programming over open video systems, must carry for commercial and noncommercial broadcast stations, and retransmission content; and,

to prohibit an open video system operator from unreasonably discriminating in favor of itself and its affiliates with regard to material or information provided for the purpose of selecting programming or presenting information to subscribers; to require an open video system operator to ensure that video programming providers or copyright holders are able to identify their programming services to subscribers; to require the operator to transmit such identification without change or alteration; and to prohibit an open video system operator from omitting television broadcasters or other unaffiliated video programming services from carriage on any navigational device, guide, or menu.

New section 653(c) sets forth the reduced regulatory burdens imposed on open video systems. There are several reasons for streamlining the regulatory obligations of such systems. First, the conferees hope that this approach will encourage common carriers to deploy open video systems and introduce vigorous competition in entertainment and information markets. Second, the conferees recognize that common carriers that deploy open systems will be "new" entrants in established markets and deserve lighter regulatory burdens to level the playing field. Third, the development of competition and the operation of market forces mean that government oversight and regulation can and should be reduced.

New section 653(c)(1)(A) states that the following provisions that apply to cable operators also apply to certified operators of open video systems—sections 613 (other than subsection (a)(2) thereof), 616, 623(f), 628, 631, and 634; new section 653(c)(1)(B) states that the following sections—611, 612, 614, and 615, and section 325 of title III—apply in accordance with regulations prescribed under paragraph (2); and, new section 653(c)(1)(C) states that sections 612 and 617, and parts III and IV (other than sections 623(f), 628, 631, and 634), of this title do not apply.

With respect to the rulemaking proceeding required by new section 653(b)(1), new section 653(c)(2)(A) requires that the Commission shall, to the extent possible, impose obligations that are no greater or lesser than the obligations contained in the provisions described in new section 653(c)(1)(B).

New section 653(c)(2)(B) states that open video system operators may be subject to fees imposed by local franchising authorities, but that such fees are in lieu of fees required under section 622. A State governmental authority could also impose taxes, fees or other assessments in lieu of franchise or franchise-like fees imposed by municipalities. In another effort to ensure parity among video providers, the conferees state that such fees may only be assessed on revenues derived from comparable cable services and the rate at which such fees are imposed on operators of open video systems may not exceed the rate at which franchise fees are imposed on any cable operator in the corresponding franchise area. Open system operators would have the same flexibility as their cable operator competitors to state separately these fees on their customer bills.

The conferees intend that an operator of an open video system under this part shall be subject, to the extent permissible under State and local law, to the authority of a local government to manage its public rights-of-way in a nondiscriminatory and competitively neutral manner.

New section 653(c)(3) is a further attempt to ensure that operators of open video systems are not burdened with unreasonable regulatory obligations. It states that the requirements of new section 653 are intended to operate in lieu of, and not in addition to, the requirements of title II. The conferees do not intend that the Commission impose title II-like regulation under the authority of this section.

Rules and regulations adopted by the Commission pursuant to its jurisdiction under title II should not be merged with or added to the rules and regulations governing open video systems, which will be subject to new section 653, not title II. Section 302(b)(3) of the conference agreement specifically repeals the Commission's video dialtone rules. Those rules implemented a rigid common carrier regime, including the Commission's customer premises equipment and *Computer III* rules, and thereby created substantial obstacles to the actual operation of open video systems.

New section 653(c)(4) provides that nothing in the Communications Act precludes a video programming provider making use of an open video system from being treated as an operator of a cable system for purposes of section 111 of title 17, United States Code.

New section 653(d) contains the definition of the term "telephone service area" to be used in conjunction with the provisions of new section 653.

Section 302(b) of the conference agreement contains technical and conforming amendments. Paragraph (1) repeals subsection (b) of section 613 of the Communications Act (47 U.S.C. 533(b)). Paragraph (2) amends paragraph (7) of section 602 of the Communications Act to clarify that the provision solely of interactive on-demand services over a common carrier facility or the provision of an open video system does not render the facility a cable system and redesignates paragraphs (12) through (19) as (13) through (20) and, inserts paragraph (12), defining "interactive on-demand services." Paragraph (3), as noted previously, provides that the Commission's video dialtone regulations, adopted in CC Docket No. 87-266, are repealed on the date of enactment and shall not apply to the operation of an open video system. Repeal of the Commission's video dialtone regulations is not intended to alter the status of any video dialtone service offered before the regulations required by this section become effective.

SECTION 303—PREEMPTION OF FRANCHISING AUTHORITY REGULATION OF TELECOMMUNICATIONS SERVICES

Senate bill

Subsection 201(b) of the Senate bill establishes the principles applicable to the provision of telecommunications by a cable operator. Paragraph (1) of this subsection adds a news paragraph 3(A) to section 62 1(b) of the Communications Act, which sets forth the jurisdiction of and limitations on franchising authorities over cable operators engaged in the provision of telecommunications services. Specifically, a cable operator or affiliate engaged in the provision of telecommunications services is not required to obtain a franchise under title VI of the Communications Act, nor do the provisions of title VI apply to a cable operator or affiliate to the extent they are engaged in the provision of telecommunications services. Franchising authorities are prohibited from ordering a cable operator or affiliate to discontinue the provision of telecommunications service, requiring cable operators to obtain a franchise to provide telecommunications services, or requiring a cable operator to provide telecommunications services or facilities as a condition of initial grant of franchise, franchise renewal, or transfer of a franchise. However, the Senate intends that telecommunications services provided by a cable company shall be subject to the authority of a local government to manage its public rights of way in a non-discriminatory and competitively neutral manner and to charge fair and reasonable fees for its use. These changes do not affect existing Federal or State authority with respect to telecommunications services.

House amendment

Section 106 of the House amendment creates a new section 621(b)(3)(A) of the Communications Act that provides that, to the extent a cable operator is engaged in providing a telecommunications service other than cable service, it shall not be required to obtain a franchise, and the provisions of title VI of the Communications Act shall not apply. Subparagraph (B) provides that a franchising authority may not impose any requirement that has the effect of prohibiting or limiting the provision of telecommunications service by a cable operator.

Subparagraph (C) provides that a franchising authority may not terminate an operator's offering of a telecommunications service or cable service because of the failure of the operator to obtain a franchise for the provision of telecommunications services. Subparagraph (D) establishes that franchising authorities may not require a cable operator to provide any telecommunications service or facilities, other than intergovernmental services, as a condition of the initial grant of a franchise or renewal.

Subsection (b) amends section 622(b) of the Communications Act by inserting the phrase "to provide cable services." This amendment makes clear that the franchise fee provision is not intended to reach revenues that a cable operator derives for providing new telecommunications services over its system, but only the operators cable-related revenues.

Conference agreement

The conference agreement adopts the House provision with some minor, technical modifications. The conferees intend that, to the extent permissible under State and local law, telecommunications services, including those provided by a cable company, shall be subject to the authority of a local government to, in a nondiscriminatory and competitively neutral way, manage its public

rights-of-way and charge fair and reasonable fees.

SECTION 304—COMPETITIVE AVAILABILITY OF NAVIGATION DEVICES

Senate bill

No provision.

House amendment

Section 203 of the House amendment directs the Commission to adopt regulations to assure the competitive availability to consumers of converter boxes, interactive communications devices, and other customer premises equipment from manufacturers, retailers, and other vendors not affiliated with a telecommunications operator. Section 203 does not prohibit telecommunications system operators from also offering navigation devices and other customer premise equipment to customers provided that the system operators' charges for navigation devices and equipment are separately stated, and are not subsidized by the charges for the network service.

Section 203 specifically recognizes that cable and other telecommunications system operators have a valid interest, which the Commission should continue to protect, in system or signal security and in preventing theft of service and, therefore, the Commission may not prescribe regulations which would jeopardize signal security or impede the legal rights of a provision to preempt theft of service.

Section 203 directs the Commission to waive a regulation for a limited time where the telecommunications system operator has shown that the waiver is necessary to the introduction of a new telecommunications subscription service.

Section 203(f) sunsets the regulations adopted pursuant to this section when the Commission determines that the market for customer premises equipment, including navigation devises, has become competitive.

Conference agreement

The conference agreement adopts the House provision with modifications as a new section 629 of the Communications Act. The scope of the regulations are narrowed to include only equipment used to access services provided by multichannel video programming distributors. In prescribing regulations to ensure the commercial availability of such equipment to consumers, the Commission is directed to consult with private standard-setting organizations, such as IEEE, DAVIC (Digital Audio Video Council), MPEG, ANSI and other appropriate bodies. The conferees intend that the Commission avoid actions which could have the effect of freezing or chilling the development of new technologies and services. One purpose of this section is to help ensure that consumers are not forced to purchase or lease a specific, proprietary converter box, interactive device or other equipment from the cable system or network operator. Thus, in implementing this section, the Commission should take cognizance of the current state of the marketplace and consider the results of private standards setting activities.

The conference agreement also directs the Commission to act on waiver requests within 90 days. The agreement sunsets the regulations when the Commission determines the following: the market for the multichannel video programming distributors is competitive, the market for equipment used in conjunction with the services is competitive; and elimination of the regulations are in the public interest and would promote competition. The agreement makes clear that nothing in this section expands or limits current Commission authority.

SECTION 305—VIDEO PROGRAMMING ACCESSIBILITY

Senate bill

Section 308 of the Senate bill adds a new section 262 to the Communications Act in part to require the Commission to ensure that video programming is accessible through closed captions and that video programming providers or owners maximize the accessibility of video programming previously published or exhibited through the provision of closed captions. New section 262(f) further provides the Commission with authority to exempt various program and providers of video programs from this requirement. In addition, a provider of video programming or program owner may petition the Commission for an exemption from the requirements of this subsection.

Section 252(f) also requires the Commission to undertake a study of the current extent of closed captioning of video programming and of previously published video programming; providers of video programming; the cost and market for closed captioning; strategies to improve competition and innovation in the provision of closed captioning; and such other matters as the Commission considers relevant.

New section 262(g) requires the Commission to prescribe regulations to implement all provisions of this new section, not later than eighteen (18) months after the date of enactment of this Act. As noted above, such regulations shall be consistent with the standards developed by the Board in accordance with section 262(e) of this new section.

New section 262(h) authorizes the Commission to enforce this new section. The Commission shall resolve, by final order, a complaint alleging a violation of this section within 180 days after the date such complaint is filed.

Subsection (b) section 308 requires that the Commission undertake within 6 months of enactment of this Act a study of the feasibility of requiring the use of video descriptions on video programming in order to ensure the accessibility of video programming to individuals with visual impairments.

House amendment

Section 204 of the House amendment is designed to ensure that video services are accessible to hearing impaired and visually impaired individuals. Subsection (a) requires the Commission to complete an inquiry within 180 days of enactment of this section to ascertain the level at which video programming is closed captioned. In its inquiry, the Commission should examine the level of closed captioning for live and prerecorded programming, the extent to which existing or previously published programming is closed captioned, the type and size of the provider or owner providing the closed captioning, the size of the markets served, the relative audience shares achieved, and any other relevant factors. The Commission also should examine the quality of closed captioning and the style and standards which are appropriate for the particular type of programming. Finally, the Commission should examine the costs of closed captioning to programs and program providers.

Subsection (b) provides that, consistent with the results of its inquiry, the Commission is instructed to establish an appropriate schedule of deadlines and technical requirements regarding closed captioning of programming. Accordingly, the Commission shall establish reasonable timetables and exceptions for implementing this section. Such schedules should not be economically burdensome on program providers, distributors or the owners of such programs.

Section 204(d) allows the Commission to exempt specific programs, or classes of programs, or entire services from captioning requirements. Any exemption should be granted using the information collected during the inquiry, and should be based on a finding that the provision of closed captioning would be economically burdensome to the provider or owner of such programs.

The term "provider" contained throughout section 204(d) refers to the specific television station, cable operator, cable network or other service that provides programming to the public. When considering such exemptions, the Commission should focus on the individual outlet and not on the financial conditions of that outlet's corporate parent, nor on the resources of other business units within the parent's corporate structure.

When considering exemptions under paragraph (d)(1), the Commission shall consider several factors, including but not limited to: (1) the nature and cost of providing closed captions; (2) the impact on the operations of the program provider, distributor, or owner; (3) the financial resources of the program provider, distributor, or owner and the financial impact of the program; (4) the cost of the captioning, considering the relative size of the market served or the audience share; (5) the cost of the captioning, considering whether the program is locally or regionally produced and distributed; (6) the non-profit status of the provider; and (7) the existence of alternative means of providing access to the hearing impaired, such as signing.

Paragraph (d)(2) recognizes that closed captioning should not be required where it would be inconsistent with programming contracts between program owners, distributors, or providers, already in effect as of the date of enactment of this section, or inconsistent in effect as of the date of enactment of this section, or inconsistent with copyright law. In addition, cable operators and common carriers establishing video platforms may not refuse to carry programming or services which are required to be carried under the carriage provisions of title VI of the Communications Act or pursuant to retransmission consent obligations due to closed captioning requirements.

Paragraph (d)(3) authorizes the Commission to grant additional exemptions, on a case-by-case basis, where providing closed captions would constitute an undue burden. In making such determinations, the Commission shall balance the need for closed captioned programming against the potential for hindering the production and distribution of programming.

Subsection (f) directs the Commission to initiate an inquiry within six months of the date of enactment, regarding the use of video descriptions on video programming in order to ensure the accessibility of video programming to persons with visual impairments. The Commission shall report to Congress on its findings. The report shall assess appropriate methods for phasing video descriptions into the marketplace, technical and quality standards for video descriptions, a definition of programming for which video descriptions would apply, and other technical and legal issues. Following the completion of this inquiry the Commission may adopt regulations it deems necessary to promote the accessibility of video programming to persons with visual impairments. It is the goal of the House to ensure that all Americans ultimately have access to video services and programs, particularly as video programming becomes an increasingly important part of the home, school and workplace.

Subparagraph (h) makes clear that the Commission has exclusive jurisdiction over complaints arising under this section.

Conference agreement

The conference agreement adopts the House provision with modifications which are incorporated as new section 713 of the Communications Act. The agreement deletes the House provision referencing a Commission rulemaking with respect to video description. The remedies available under the Communications Act, including the provisions of sections 207 and 208, are available to enforce compliance with the provisions of section 713.

TITLE IV—REGULATORY REFORM

SECTION 401—REGULATORY FORBEARANCE

Senate bill

Section 303 of the Senate bill adds a new section 260 of the Communications Act, under which the Commission must forbear from regulation of a carrier or a service if it determines that enforcement is not necessary to ensure that charges are just and reasonable and not unjustly or unreasonably discriminatory or to protect consumers, and that forbearance is consistent with the public interest. In making the determination to forbear, the Commission shall consider whether forbearance would promote competition. This section allows a carrier to petition the Commission to request that the Commission exercise the authority granted by this section, and such petition shall be deemed granted if the Commission does not deny the petition within 90 days (unless extended for an additional 60 day period). The Commission may grant the petition in whole or in part, and must justify its decision in writing.

House amendment

Section 103 of the House amendment adds new section 230 to the Communications Act. Section 230 requires that the Commission forbear from applying regulation from part I or part II of title II (except for sections 201, 202, 208, 243, and 248) to a common carrier or service unless it determines that enforcement is necessary to ensure that the charges are reasonable and not unjustly or unreasonably discriminatory or to protect consumers, or that forbearance is inconsistent with the public interest. In making the determination to forbear, the Commission shall consider whether forbearance would promote competition.

Section 230 allows joint marketing of mobile services in connection with telephone exchange service, exchange access, intra- and interLATA telecommunication service and information services.

Conference agreement

The conferees agree to create a new section 10 in title I of the Communications Act. New subsection (a) of section 10 requires the Commission to forbear from applying any provision of the Communications Act or from applying any of its regulations to a telecommunications carrier or telecommunications service, if the Commission determines that enforcement is not necessary to:

ensure that charges, practices, classifications or regulations for such carrier or service are just and reasonable, and not unjustly or unreasonably discriminatory;

protect consumers; and

protect the public interest.

In making its public interest determinations, the Commission under new subsection (b) of section 10 shall consider whether or not forbearance will promote competition.

New subsection (c) permits carriers to petition for forbearance and these petitions shall be deemed granted if the Commission does not deny such petition within one year of the Commission's receipt of the petition. The Commission may only extend this one-year time period for 90 days. The Commission can also approve or deny the petition in whole or in part.

New subsection (d) provides that the Commission may not forbear from applying the requirements of new sections 251(c) or 271 until the Commission determines that those requirements have been fully implemented.

New subsection (e) provides that a State may not continue to apply or enforce any provision of the Communications Act that the Commission has determined to forbear from applying under new subsection (a). This new subsection is not intended to limit or preempt State enforcement of State statutes or regulations.

SECTION 402—BIENNIAL REVIEW OF REGULATIONS; REGULATORY RELIEF

Senate bill

Section 302 of the Senate bill adds a new section 259 of the Communications Act, under which every two years the Commission and a Federal-State Joint Board must review all regulations issued under the Communications Act or any State legislation to determine whether they are still necessary in the public interest as a result of meaningful competition. The Commission is required to repeal any of its regulations found to be no longer necessary.

House amendment

No provision.

Conference agreement

The conferees agree to create a new section 11 in title I of the Communications Act. New subsection (a) of section 11 requires the Commission, beginning in 1998 and in every even numbered year thereafter, to review all of its regulations that apply to the operations and activities of providers of telecommunications services and determine whether any of these regulations are no longer in the public interest because competition between providers renders the regulation no longer meaningful.

New subsection (b) of section 11 requires the Commission to eliminate the regulations that it determines are no longer in the public interest.

New subsection (b) of section 402 of the conference agreement addresses regulatory relief that streamlines the procedures for revision by local exchange carriers of charges, classifications and practices under section 204 of the Communications Act. New subsection (b) of section 402 also eliminates the section 214 approval requirement for extension of lines and permits carriers to file ARMIS reports annually.

New subsection (c) of section 402 of the conference agreement requires the Commission in classifying carriers according to 47 CFR 32.11, and in establishing reporting requirements pursuant to 47 CFR part 43 and 47 CFR 64.903, to adjust revenue requirements to account for inflation as of the date the Commission's Report and Order on Docket No. CC 91-141 was released, and annually thereafter.

SECTION 403—ELIMINATION OF UNNECESSARY COMMISSION REGULATIONS AND FUNCTIONS

Senate bill

Section 302(b) of the Senate bill is intended to eliminate unnecessary Commission regulations and functions. Subsection (b)(1) repeals the current requirement that the Commission set depreciation rates for common carriers, thus allowing the Commission flexibility to assess whether doing so would serve the public interest.

Subsection (b)(2) authorizes the Commission to hire outside, independent licensed CPA's to audit telecommunications carriers and vests those outsiders with the same authority as Commission staff auditors.

Subsection (b)(3) streamlines the Federal-State coordination process by allowing states and the Commission to select the least formal method appropriate in revolving specific regulatory issues.

Subsection (b)(4) allows for inspection of ship radio stations by private entities and provides the Commission with authority to waive the current mandatory annual inspection while providing greater flexibility in scheduling ship inspections.

Subsection (b)(5) would give the Commission flexibility in determining whether broadcast construction permits are required where the likelihood of interference is minimal or does not exist.

Subsection (b)(6) allows automatic cancellation of a broadcaster's license if the station does not transmit for 12 consecutive months.

Subsection (b)(7) provides Commission staff with authority to process routine comparative ITFS applications.

Subsection (b)(8) permits the Commission to delegate, subject to established Commission standards, testing and certification of telecommunications devices and home electronics equipment to private laboratories.

Subsection (b)(9) eliminates the requirement that a public hearing be held for a station to make routine changes in frequency, hours of operation, and authorized power.

Section (b)(10) also eliminates the individual licensing requirement currently imposed on domestic ships and aircraft, citizens band radio and personal radio services, if the Commission determines it is in the public interest.

Subsection (b)(11) expedites the licensing of fixed microwave service by eliminating the requirement that 30 days public notice be given prior to granting these licenses.

Subsection (b)(12) also ends redundant Commission jurisdiction over ship radios owned by other government agencies.

Subsection (b)(13) broadens the number of individuals authorized to administer amateur radio examinations and reduces the amount of paperwork that must be kept.

Subsection (b)(14) authorizes the Commission to streamline and reduce its renewal procedures for non-broadcast radio license renewal applicants such as cellular licensees.

House amendment

The House has no comparable provisions, except for the provision delegating equipment testing authority.

Conference agreement

The conference agreement adopts the Senate provisions, except for subsection (b)(3), with modifications. Specifically, subsections (b)(4), (b)(7), (b)(10) and (b)(11) of the Senate bill have been modified to incorporate provisions as passed in the House budget reconciliation legislation (House Report 104-280).

The conference agreement also amends section 310(b) of the Communications Act to remove the restrictions on corporations having foreign officers or directors.

TITLE V—OBSCENITY AND VIOLENCE

SUBTITLE A—OBSCENE, HARASSING, AND WRONGFUL UTILIZATION OF TELECOMMUNICATIONS FACILITIES

SECTION 502—OBSCENE OR HARASSING USE OF TELECOMMUNICATIONS FACILITIES UNDER THE COMMUNICATIONS ACT OF 1934

Senate bill

Section 401 of the Senate bill updates section 223(a) of the Communications Act by using the term "telecommunications service" as a replacement for or in addition to "telephone" references in the present law. The term "communication" is added to current law references to "conversation." An intent requirement is added to section 223(a)(1)(A) that liability is incurred for "obscene, lewd, lascivious, filthy, or indecent" communications with the intent to "annoy, abuse, threaten, or harass another person."

Current law "Dial-a-Porn" provisions (sections 223 (b) and (c)) are untouched by the Senate bill.

A new section 223(e) is added to prohibit the use of a telecommunications device to make or make available an obscene communication.

A new section 223(e) is added to prohibit the use of a telecommunications device to make or make available an indecent communication to minors.

New defenses are provided to assure that the mere provision of access to an interactive computer service does not create liability. The access providers provision is not available to one who provides access to a system with which they conspire or own or control. Employers are provided a defense for actions by employees unless the employee's conduct is within the scope of employment and is known, authorized, or ratified by the employer. A good faith defense is provided for "reasonable, effective, and appropriate" measures to restrict access to prohibited communications. The word "effective" is given its common meaning and does not require an absolute 100 percent restriction of access to be judged "effective."

Nothing in the defenses to section 223 are intended to narrow or effect the application of the existing dial-a-porn law or other Federal criminal law or to provide a defense for the person who created and sent a prohibited communication.

The use of the good faith defenses which are otherwise legal shall not expose an individual to liability and the States may not impose obligations for commercial activities which are inconsistent with the treatment of activities or actions described in this section.

House amendment

No provision.

Conference agreement

The conference agreement adopts the Senate provisions with modifications. New subsection 223(d)(1) applies to content providers who send prohibited material to a specific person or persons under 18 years of age. Its "display" prohibition applies to content providers who post indecent material for online display without taking precautions that shield that material from minors.

New section 223(d)(1) codifies the definition of indecency from *FCC* v. *Pacifica Foundation*, 438 U.S. 726 (1978). Defenses to violations of the new sections assure that attention is focused on bad actors and not those who lack knowledge of a violation or whose actions are equivalent to those of common carriers.

The conferees intend that the term indecency (and the rendition of the definition of that term in new section 502) has the same meaning as established in *FCC* v. *Pacifica Foundation*, 438 U.S. 726 (1978), and *Sable Communications of California, Inc.* v. *FCC*, 492 U.S. 115 (1989). These cases clearly establish the principle that the federal government has a compelling interest in shielding minors from indecency. Moreover, these cases firmly establish the principle that the indecency standard is fully consistent with the Constitution and specifically limited in its reach so that the term is not unconstitutionally vague. See also *Action for Children's Television* v. *FCC*, 58 F. 3d 654, 662-63 (en banc) (D.C. Cir. 1995), cert. denied, 64 U.S.L.W. 3465 (1996); *Alliance For Community Media* v. *FCC*, 56 F. 3d 105, 1124-25 (D.C. Cir. 1995) cert. granted sub. nom., *Denver Area Education Telecommunications Consortium* v. *FCC*, 116 S.CT. 471 (1995), *Dial Information Services Corp. of New York* v. *Thornburgh*, 938 F.2d 1535, 1540-41 (2d Cir. 1991) cert. denied sub. nom., *Dial Information Services Corp. of New York* v. *Barr*, 502 U.S. 1072 (1992); *Action for Children's Television* v. *FCC*, 932 F. 2d 1504, 1508 (D.C. Cir. 1991).

The precise contours of the definition of indecency have varied slightly depending on the communications medium to which it has been applied. The essence of the phrase—patently offensive descriptions of sexual and excretory activities—has remained constant, however. At the time of this writing, the Supreme Court will consider at least one constitutional challenge to federal indecency statutes. Importantly, the question whether indecency is overly broad or unconstitutionally vague is not seriously at issue in that challenge. See Alliance for Community Media, supra, (whether State action exists as to private decisions by cable operators). There is little doubt that indecency can be applied to computer-mediated communications consistent with constitutional strictures, insofar as it has already been applied without rejection in other media contexts, including telephone, cable, and broadcast radio.

The conferees considered, but rejected, the so-called "harmful to minors" standard. See *Ginsberg* v. *New York*, 390 U.S. 629, 641-43 (1968). The proponents of the "harmful to minors" standard contended that that standard contains an exemption for material with "serious literary, artistic, political, and scientific value," and therefore was the better of the two alternative standards. ("Harmful to minors" laws use the "variable obscenity" test and prohibit the sale, and sometimes the display, of certain sexually explicit material to minors.) This assertion misapprehends the indecency standard itself, and disregards the Supreme Court's various rulings on this issue. See Pacifica, 438 U.S. at 743, n. 18, and its progeny.

The gravamen of the indecency concept is "patent offensiveness." Such a determination cannot be made without a consideration of the context of the description or depiction at issue. It is the understanding of the conferees that, as applied, the patent offensiveness inquiry involves two distinct elements: the intention to be patently offensive, and a patently offensive result. In the Matter of Sagittarius Broadcasting Corp. et al, 7 FCC Rcd. 6873, 6875, (1992); In the Matter of Audio Enterprises, Inc., 3 FCC Rcd. 930, 932 (1987). Material with serious redeeming value is quite obviously intended to edify and educate, not to offend. Therefore, it will be imperative to consider the context and the nature of the material in question when determining its "patent offensiveness."

In view of the solid constitutional pedigree of the indecency standard (see Pacifica), 438 U.S. at 743 (describing indecency as low value and marginally protected by the First Amendment)), use of the indecency standard poses no significant risk to the free-wheeling and vibrant nature of discourse or to serious, literary, and artistic works that currently can be found on the Internet, and which is expected to continue and grow. As the Supreme Court itself noted when upholding the constitutionality of indecency prohibitions, prohibiting indecency merely focuses speakers to re-cast their message into less offensive terms, but does not prohibit or disfavor the essential meaning of the communication. Pacifica, 438 U.S. at 743, n. 18. Likewise, requiring that access restrictions be imposed to protect minors from exposure to indecent material does not prohibit or disfavor the essential meaning of the indecent communication, it merely puts it in its appropriate place: away from children.

Violators of this section shall be fined under title 18, U.S. Code, or imprisoned not more than two years, or both.

Each intentional act of posting indecent content for display shall be considered a separate violation of this subsection, rather than each occasion upon which indecent material is accessed or downloaded from an interactive computer service or posted without the content provider's knowledge on such a service. New subsection 223(d)(2) sets forth the standard of liability for facilities providers who intentionally permit their facilities to be used for an activity prohibited by new subsection 223(d)(1).

New subsection 223(e) includes statutory defenses for violations of new sections 223 (a) and (d) that supplement other defenses available at law, such as common law defenses. New subsections 223(e)(1), (e)(2) and (e)(3) set forth the "access provider" defense. The defense protects entities from liability for providing access or connection to or from a facility, network or system not under their control. The defense covers provision of related capabilities incidental to providing access, such as server and software functions, that do not involve the creation of content.

The defense does not apply to entities that conspire with entities actively involved in the creation of content prohibited by this section, or who advertise that they offer access to prohibited content. Nor does it apply to provision of access or connection to a facility, system or network that engages in violations of this section and that is owned or controlled by the access provider. In the absence of these conditions, commercial and non-profit Internet operators who provide access to the Internet and other interactive computer services shall not be liable for indecent material accessed by means of their services. This provision is designed to target the criminal penalties of new sections 223(a) and (d) at content providers who violate this section and persons who conspire with such content providers, rather than entities that simply offer general access to the Internet and other online content. The conferees intend that this defense be construed broadly to avoid impairing the growth of online communications through a regime of vicarious liability.

New subsection 223(e)(4) provides a defense to employers whose employees or agents make unauthorized use of office communications systems. This defense is intended to limit vicarious or imputed liability of employers for actions of their employees or agents. To be outside the defense, the prohibited action must be within the scope of the employee's or agent's employment. In addition, the employer must either have knowledge of the prohibited action and affirmately

act to authorize or ratify it, or recklessly disregard the action. Both conditions must be met in order for employers to be held liable for the actions of an employee or agent.

The good faith defenses set forth in new subsection 223(e)(5) are provided for "reasonable, effective, and appropriate" measures to restrict access to prohibited communications. The word "effective" is given its common meaning and does not require an absolute 100% restriction of access to be judged effective. The managers acknowledge that content selection standards, and other technologies that enable restriction of minors from prohibited communications, which are currently under development, might qualify as reasonable, effective, and appropriate access restriction devices if they are effective at protecting minors from exposure to indecent material via the Internet.

New subsection 223(e)(6) permits the Commission to describe its view of what constitute "reasonable, effective and appropriate" measures and provides that use of such measures shall be admissible as evidence that the defendant qualifies for the good faith defense. This new subsection grants no further authority to the Commission over interactive computer services and should be narrowly construed.

New subsection 223(f)(1) supplements, without in any way limiting, the "Good Samaritan" liability protections of new section 230.

New subsection 223(f)(2) preempts inconsistent State and local regulations of activities and actions described in new subsections 223(a)(2) and (d). This provision is intended to establish a uniform national standard of content regulation for a national, and indeed a global, medium, in which content is transmitted instantaneously in point-to-point, and point-to-multipoint communications. As originally passed by the Senate, this subsection excluded non-commercial content providers. The conferees have expanded this section to provide for consistent national and State and local content regulation of both commercial and non-commercial providers. The conferees recognize and wish to protect the important work of nonprofit libraries and higher educational institutions in providing the public with both access to electronic communications networks like the Internet, and valuable content which they are uniquely well-positioned to provide. Accordingly, nonprofit libraries and educational institutions, like commercial entities, are assured by this provision that they will not be subjected to liability at the State or local level in a manner inconsistent with the treatment of their activities or actions under this legislation.

The conferees also recognize the critical importance of access software in making the Internet and other interactive computer services accessible to Americans who are not computer experts. Accordingly, provisions of "access software" is included within the access provider defense. As defined in new subsection 223(h)(3), in term includes software that enables a user to do any of an enumerated list of functions that are set forth in technical language. It includes client and server software, such as proxy server software that downloads and caches popular web pages to reduce the load of traffic on the Internet and to permit faster retrieval. The definition distinguishes between software that actually creates or includes prohibited content and software that allows the user to access content provided by others.

SECTION 503—OBSCENE PROGRAMMING ON CABLE TELEVISION

Senate bill

Section 403 of the Senate bill amends section 639 of the Communications Act to increase the maximum fine for transmitting obscene programming on cable television from $10,000 to $100,000.

House amendment

No provision.

Conference agreement

The conference agreement adopts the Senate provision with modifications, $10,000 is struck from the current law and "under title 18, United States Code" is inserted.

SECTION 504—SCRAMBLING OF CABLE CHANNELS FOR NONSUBSCRIBERS

Senate bill

Section 407 of the Senate bill adds a new section 640 to the Communications Act requiring cable television operators to fully scramble or otherwise block upon subscriber request and at no charge to the subscriber, the audio and video portions of programming not specifically subscribed to by a household and unsuitable for children in the judgment of the subscriber.

House amendment

No provision.

Conference agreement.

The conference agreement adopts the Senate provision with modifications as a new section 640 of the Communications Act. The "unsuitable for children" standard is dropped. Programming not subscribed to by a household shall be blocked on request without charge.

SECTION 505—SCRAMBLING OF SEXUALLY EXPLICIT ADULT VIDEO SERVICE PROGRAMMING

Senate bill

Section 408 of the Senate bill requires that cable operators offering sexually explicit adult programming or other programming that is indecent on any channel of its service primarily dedicated to sexually-oriented programming fully scramble or block the video and audio portions of such channel or channels so that one not a subscriber does not receive it.

House amendment

No provision.

Conference agreement

The conference agreement adopts the Senate provision with modifications as a new section 641 of the Communications Act.

SECTION 506—CABLE OPERATOR REFUSAL TO CARRY CERTAIN PROGRAMS

Senate bill

Section 408 of the Senate bill amends title VI of the Communications Act to allow cable operators to refuse to transmit any public access or leased access program or portion of a program which contains obscenity, indecency, or nudity.

House amendment

No provision.

Conference agreement

The conference agreement adopts the Senate provision.

SECTION 507—PROTECTION OF MINORS AND CLARIFICATION OF CURRENT LAWS REGARDING COMMUNICATION OF OBSCENE MATERIALS THROUGH THE USE OF COMPUTERS.

Senate bill

No provision.

House amendment

Section 403(a)(2) of the House amendment made conforming and clarifying amendments to sections 1462, 1467, and 1469 of title 18, United States Code. Those statutes currently prohibit the interstate transportation of obscenity for the purpose of sale or distribution, whether commercial or non-commercial in nature. These statutes outlaw the importation of obscenity, by whatever means. These provisions were intended to simply clarify sections 1462, 1465, and 1467 of title 18, U.S. Code.

Confernce agreement

The Senate recedes to the House with modifications. Section 507 simply clarifies that the current obscenity statutes, in fact, do prohibit using a computer to import and receive an importation of, and transport to sell or distribute, "obscene" material.

The amendments made by this section are clarifying and shall not be interpreted to limit or repeal any prohibition contained in sections 1462 or 1465 of title 18, United States Code, before such amendment, sunder the rule established in *United States v. Alpers*, 338 U.S. 680 (1950).

SECTION 508—COERCION AND ENTICEMENT OF MINORS

Senate bill

Several provisions of the Senate bill protect children from harassing, indecent or obscene communications.

House amendment

Several provisions of the House amendment protect children from obscene or indecent communications.

Confernce agreement

Section 508 would amend section 2422 of title 18 to prohibit the use of a facility of interstate commerce which includes telecommunications devices and other forms of communication for the purpose of luring, enticing, or coercing a minor into prostitution or a sexual crime for which a person could be held criminally liable, or attempt to do so. On July 24, 1995, the Senate Judiciary Committee held a hearing on online indecency, obscenity, and child endangerment. The record of this hearing supports the need for Congress to take effective action to protect children and families from online harm.

SECTION 509—ONLINE FAMILY EMPOWERMENT

Senate bill

No provision.

House amendment

Section 104 of the House amendment protects from civil liability those providers and users of interactive computer services for actions to restrict or to enable restriction of access to objectionable online material.

Conference agreement

The conference agreement adopts the House provision with minor modifications as a new section 230 of the Communications Act. This section provides "Good Samaritan" protections from civil liability for providers or users of an interactive computer service for actions to restrict or to enable restriction of access to objectionable online material. One of the specific purposes of this section is to overrule *Stratton-Oakmont* v. *Prodigy* and any other similar decisions which have treated such providers and users as publishers or speakers of content that is not their own because they have restricted access to objectionable material. The conferees believe that such decisions create serious obstacles to the important federal policy of empowering parents to determine the content of communications their children receive through interactive computer services.

These protections apply to all interactive computer services, as defined in new subsection 230(e)(2), including non-subscriber

systems such as those operated by many businesses for employee use. They also apply to all access software providers, as defined in new section 230(e)(5), including providers of proxy server software.

The conferees do not intend, however, that these protections from civil liability apply to so-called "cancelbotting," in which recipients of a message respond by deleting the message from the computer systems of others without the consent of the originator or without having the right to do so.

SUBTITLE B—VIOLENCE

SECTION 551—PARENTAL CHOICE IN TELEVISION PROGRAMMING

Senate bill

Sections 501-505 of Senate bill gives the industry one year to voluntarily develop a ratings system for TV programs. If the industry fails to do so, a Federal TV Ratings Commission would set the ratings. The Commission would be appointed by the President, subject to confirmation by the Senate and would establish rules for rating the level of violence and other objectionable content in programs. The Board would also establish rules for TV broadcasters and cable systems to transmit the ratings to viewers. The Commission would be authorized funds necessary to carry out its duties. The Senate bill requires TV manufacturers to equip all 13 inch or greater TV sets with circuitry to block rated shows.

House amendment

Section 305 of the House amendment gives the cable and broadcast industries one year to develop voluntary ratings for video programming containing violence, sex and other indecent materials and to agree voluntarily to broadcast signals containing such ratings. If the industry fails to come up with an acceptance plan, the Commission must develop guidelines for rating programs based on recommendations from an advisory committee that is fairly balanced politically. If a program is rated, the broadcasters must transmit the signal of the rating. The House amendment requires TV manufacturers to equip 13 inch or greater sets with circuitry that will enable the set to block out all programs with a common rating.

Conference agreement

The conference agreement adopts the House provisions with modifications. In subsection (a), Congress makes findings concerning the adverse impact of violent and indecent video programming on children, the compelling interest of the government in addressing this problem, and the promise of technological tools that allow parents to protect their children by blocking harmful programming on their television sets.

In subsection (b), Congress provides the Commission the authority to set up an advisory committee to recommend a system for rating video programming that contains sexual, violent or other indecent material about which parents should be informed before it is displayed to children. It also provides the Commission with authority to prescribe rules requiring a distributor to transmit a rating if the distributor has decided to rate a video program. However, in subsection (e), Congress delays the Commission's exercise of this authority to no sooner than one year after the date of enactment, and only if it determines that distributors of video programming have not established an acceptable voluntary system for rating programming nor agreed voluntarily to broadcast signals that contain ratings of such programming.

In subsection (b)(1), the Commission is authorized to prescribe guidelines and recommended procedures for a rating system based on the recommendations from the advisory committee. Nothing in this language is intended to preclude publishing the rating in print advertisements or on the air, but under this subsection the distributor must include the electronic transmission of the rating as an additional method of empowering parents to block programming carrying the rating.

The rules prescribed for transmitting a rating are requirements. In contrast, the guidelines and recommended procedures for a rating system are not rules and do not include requirements. They are intended to provide industry with a carefully considered and practical system for rating programs if industry does not develop such a system itself. However, nothing in subsection (b)(1) authorizes, and the conferees do not intend that, the Commission require the adoption of the recommended rating system nor that any particular program be rated.

In subsection (b)(2), Congress directs the Commission to ensure that the advisory committee is composed of representatives from the private sector and be fairly balanced in terms of political affiliation, the points of view represented, and the functions to be performed by the committee. It also direct the Commission to provide to the committee such staff and resources as may be necessary and require the committee to submit a final report no later than one year after the appointment of its members.

In new subsections (c) and (d), the conferees have removed language from the House amendment concerning the importation of televisions, and clarified that the requirements of these subsections apply to all televisions above a certain size shipped in interstate commerce (regardless of where they were manufactured) or televisions manufactured in the United States. Such sets are required by these two subsections to include a feature designed to enable viewers to block display of programs carrying a common rating in compliance with rules prescribed by the Commission. Under subsection (c)(4), the Commission is authorized to amend these rules as appropriate to allow set manufacturers to comply with this subsection using alternative technology that meets certain standards of cost, effectiveness and ease of use.

Under subsection (e)(1), the effective date for subsection (b) (regarding the appointment of an advisory committee to recommend a rating system and the rules for transmitting a rating) is no less than one year after the date of enactment. The actual effective date has also been made contingent on a determination by the Commission that distributors of video programming have not, by such date, established a voluntary system for rating video programming and such programming is acceptable to the Commission and have also agreed to include ratings in the transmission of signals to television sets for blocking.

Under subsection (e)(2), the effective date for subsection (c) (regarding the rules for the manufacture of television sets capable of blocking) is no less than two years after the date of enactment. The conferees intend that the actual effective date be specified by the Commission after consultation with the television manufacturing industry.

SECTION 552—TECHNOLOGY FUND

Senate bill

No provision.

House amendment

Section 304 of the House amendment encourages broadcast, cable, satellite, syndication, and other video programming distributors to establish a technology fund to encourage TV and electronics equipment manufacturers to facilitate the development of blocking technology that would empower parents to block TV programming they deem inappropriate for their children.

Conference agreement

The conference agreement adopts the House provision with modifications to encourage the availability of blocking technology to low income families.

SUBTITLE C—JUDICIAL REVIEW

SECTION 561—EXPEDITED REVIEW

Conference agreement

The conference agreement adds new language to provide for expedited judicial review of the indecency, obscenity and violence provisions of this title. In any civil action in which a party makes a facial challenge to these provisions, the challenge shall be heard by a three-judge district court convened under 28 U.S.C. §2284. Any decision of the three-judge district court holding a provision unconstitutional shall be directly appealable to the Supreme Court as a matter of right. However, the direct right of appeal provided in subsection (b) in this limited circumstance does not limit any appeal rights applicable to other circumstances under general statutes.

The conferees emphasize that these provisions are limited in several ways. They apply only in civil actions. If a party makes a facial challenge in a criminal context, that party would not be able to use the procedures provided in this section. These provisions apply only to facial challenges. These provisions do not apply to actions in which the party only challenges the provision as applied to the particular party involved. However, the three-judge district court could hear both a facial challenge and an "as applied" challenge if they were combined in the same action, and facial validity had not yet been determined. Thus, the conferees intend that these provisions should be invoked in only the limited number of cases necessary to determine the facial validity of these provisions. If that facial validity is upheld by the courts, these provisions may not be used in every "as applied" challenge brought thereafter.

TITLE VI—EFFECT ON OTHER LAWS

SECTION 601—APPLICABILITY OF CONSENT DECREES AND OTHER LAW

Senate bill

Section 7(a) of the Senate bill provides that except for the supersession of the Modification of Final Judgment, nothing in the Communications Act shall be construed to modify, impair, or supersede the applicability of any antitrust law. Section 7(b) provides that the Communications Act shall supersede the Modification of Final Judgment to the extent that it is inconsistent with the Communications Act. Section 7(c) of the bill transfers jurisdiction of any parts of the Modification of Final Judgment which are not superseded to the Commission. Section 7(d) supersedes the GTE consent decree.

Section 201(c) of the Senate bill provides that except as provided in section 202, nothing in the Communications Act shall be construed to modify, impair, or supersede any State or local tax law.

Section 226 of the Senate bill provides that notwithstanding any other provision of law or any judicial order, no person shall be subject to the provisions of the Modification of Final Judgment solely by reason by having acquired CMS or private mobile service assets or operations previously owned by a BOC or an affiliate of a BOC.

House amendment

Section 401(a) of the House amendment provides that certain specified sections of the Modification of Final Judgment are superseded. Section 401(b) provides that nothing in the Communications Act or the amendments made by the conference agreement shall be construed to modify, impair, or supersede any of the antitrust laws. Section 401(c)(1) provides that parts II and III of title II of the Communications Act shall not be construed to modify, impair, or supersede Federal, State, or local law unless expressly so provided in such part. Section 401(c)(2) provides that notwithstanding section 401(c)(1), nothing in the Communications Act or the amendments made by the conference agreement shall be construed to modify, impair, or supersede any State or local tax law except as provided in sections 243(e) and 622 of the Communications Act and section 402 of this Act.

Section 401(d) of the House amendment provides that the GTE consent decree is superseded. Section 401(e) provides that no person shall be considered an affiliate, successor, or an assign of a BOC under section III of the Modification of Final Judgment by reason of having acquired wireless exchange assets or operations previously owned by a BOC or an affiliate of a BOC. Section 401(f) defines the term "antitrust laws" as used in section 401. Section 401(g) provides that for the purposes of this section, the terms "Modification of Final Judgment" and "Bell Operating Company" have the same meanings provided such terms in section 3 of the Communications Act.

Conference agreement

The conference agreement adopts a new approach to the supersession of the Modification of Final Judgment (now called the AT&T Consent Decree in the conference agreement) and the GTE consent decree, and it adds language superseding the AT&T-McCaw Consent Decree ("McCaw Consent Decree"). The conferees sought to avoid any possibility that the language in the conference agreement might be interpreted as impinging on the judicial power. Congress may not by legislation retroactively overturn a final judgment. *Plaut* v. *Spendthrift Farm, Inc.*, 115 S.Ct. 1447 (1995). On the other hand, Congress may by legislation modify or eliminate the prospective effect of a continuing injunction. *Robertson* v. *Seattle Audubon Society*, 503 U.S. 429 (1992); *Plaut*, 115 S.Ct. 1447; *Pennsylvania* v. *Wheeling & Belmont Bridge Co.*, 59 U.S. 421 (1856).

The conferees believe that the AT&T Consent Decree, the GTE Consent Decree, and the McCaw Consent Decree are continuing injunctions rather than final judgments. The Committee has chosen to use the term "AT&T Consent Decree" rather than "Modification of Final Judgment" to emphasize that point.

To avoid any possible constitutional problem, the conferees adopted the following new approach. Rather than "superseding" all or part of these continuing injunctions, the conference agreement simply provides that all conduct or activities that are currently subject to these consent decrees shall, on and after the date of enactment, become subject to the requirements and obligations of the Communications Act and shall no longer be subject to the restrictions and obligations of the respective consent decrees.

The conferees intend that the court shall retain jurisdiction over the three consent decrees for the limited purpose of dealing with any conduct or activity occurring before the date of enactment. Nothing in the language eliminating the prospective effect of the three consent decrees should be construed as eliminating the jurisdiction of the Court to deal with preenactment conduct or activities under the consent decrees.

At the time of the divestiture of AT&T under the AT&T Consent Decree, AT&T and the BOCs entered into a number of long-term contracts that dealt with pensions, contingent liabilities, and the like. These contracts are not incorporated by reference in the AT&T Consent Decree, and nothing in the language eliminating the prospective effect of the AT&T Consent Decree should be construed as affecting these contracts.

By eliminating the prospective effect of the GTE Consent Decree, this language removes entirely the GTE Consent Decree's prohibition on GTE's and the GTE Operating Companies' entry into the interexchange market. No provision in the Communications Act should be construed as creating or continuing in any way the GTE Consent Decree's prohibition on GTE or its operating companies' entry into the interexchange market.

Language explicitly overturning the McCaw Consent Decree was not included in either bill. However, the new approach to the AT&T and GTE Consent Decrees, as well as intervening events, justify the overturning of the McCaw Consent Decree in the conference agreement.

The McCaw Consent Decree includes three major elements: (1) equal access and interconnection requirements for AT&T's cellular business, (2) restrictions on AT&T's manufacturing business, and (3) a separate subsidiary requirement for AT&T's cellular business. Both bills contained language that would have overturned the equal access and interconnection requirements for all cellular businesses, and that language is included in the conference agreement. Since the passage of the original bills in both the House and Senate, AT&T has announced that it will spin off its manufacturing business, and so the manufacturing aspects of the decrees will soon become moot. Finally, a recent decision of the Sixth Circuit, *Cincinnati Bell Tel. Co.*, v. *FCC*, 69 F.3d 752 (6th Cir. 1995), may lead to the removal of the separate subsidiary requirement for other cellular businesses. Accordingly, there is little reason to keep the McCaw Consent Decree in place.

The McCaw Consent Decree presents a slightly different problem than the other two consent decrees because it has not yet been formally entered by the court. The parties agreed to the McCaw Consent Decree and filed it with the court on July 15, 1994. AT&T entered into a stipulation to abide by the proposed consent decree until the court completed its review under the Tunney Act. That review is still continuing. Nonetheless, the conferees believe that the same basic principles of law set forth above relating to modifying the prospective effect of injunctions apply to the McCaw Consent Decree, which is defined to include the stipulation.

The new approach adopted in the Committee required that several new provisions be added to the conference agreement. Two of these provisions are described below. Two other provisions, relating to equal access and nondiscrimination for interexchange carriers and existing activities under consent decree waivers, are also related to this change and they are described in the appropriate sections of this Joint Statement.

Both the Senate bill and the House amendment specifically provided that a company would not be considered a successor to a BOC or otherwise subject to restrictions imposed on BOCs solely because the company acquired (by spinoff, transfer, or any other manner) wireless exchange assets or operations from a BOC. The language of these provisions provided this protection under the AT&T Consent Decree. Because of the new approach to the AT&T Consent Decree, the language in the bills no longer worked to provide the protection that was intended. For that reason, those specific provisions in both bills are omitted from the conference agreement.

In lieu of those provisions, the conference agreement modifies the definition of BOC so that successors or assigns of the listed BOC's fall within the definition only if they provide wireline telephone exchange service. This change of definition is intended to provide the same protection that the provisions in the two bills provided—that a successor to a BOC's wireless assets shall not be treated as a BOC simply because of the acquisition of those assets.

The conference agreement adopts the House antitrust savings clause with modifications. The antitrust savings clause provides that except as provided in paragraphs two and three, nothing in this Act or the amendments made by the conference agreement shall be construed to modify, impair, or supersede the applicability of any of the antitrust laws. The clause was modified to include the repeal of section 221(a) of the Communications Act (47 U.S.C. §221(a)). Congress enacted section 221(a) in the days when local telephone service was viewed as a natural monopoly. Its purpose was to allow competing local telephone companies to merge without facing antitrust scrutiny. Thus, the statute provides that when any two telephone companies merge, the Commission should determine whether the merger will be "of advantage to the persons to whom service is to be rendered and in the public interest." If so, the Commission can render the transaction immune from "any Act or Acts of Congress making the proposed transaction unlawful." In a world of regulated monopolies, this idea made sense.

However, section 221(a) could inadvertently undercut several of the provisions of the Telecommunciations Act of 1996. The problem arises for at least two reasons. First, the critical term "telephone company" is not defined. In the old world of regulated monopolies, a definition probably was not necessary. However, in the new world of competition, many companies will be able to argue plausibly that they are telephone companies.

Second, section 221(a) allows the Commission to confer immunity from any Act of Congress (including the Telecommunications Act of 1996) after performing a public interest review. Section 221(a) could be used to avoid the cable-telco buyout provisions of the Telecommunications Act of 1996. Any cable company that owned any telephone assets could become a telephone company and be bought out by a BOC by applying for immunity under this section.

In addition, if immunity were conferred under section 221(a), it would allow mergers between telecommunications giants to go forward without any antitrust or securities review. In the old world, the statute was usually used to confer immunity on mergers between non-competing Bell operating subsidiaries or mergers between Bells and small independents within their territories. Neither of these situations involved competitive considerations.

However, in the future, the conferees anticipate that cable companies will be providing local telephone service and the BOCs will

be providing cable service. Mergers between these kinds of companies should not be allowed to go through without a thorough antitrust review under the normal Hart-Scott-Rodino process. The new language contains a conforming change to clarify that these mergers will now be subject to Hart-Scott-Rodino review. By returning review of mergers in a competitive industry to the DOJ, this repeal would be consistent with one of the underlying themes of the bill—to get both agencies back to their proper roles and to end government by consent decree. The Commission should be carrying out the policies of the Communications Act, and the DOJ should be carrying out the policies of the antitrust laws. The repeal would not affect the Commission's ability to conduct any review of a merger for Communications Act purposes, e.g. transfer of licenses. Rather, it would simply end the Commission's ability to confer antitrust immunity.

The conference agreement adopts the House provision stating that the bill does not have any effect on any other Federal, State, or local law unless the bill expressly so provides. This provision prevents affected parties from asserting that the bill impliedly preempts other laws.

The conference agreement adopts the House version of the State tax savings clause with a modification to clarify that fees for open video systems are excluded from the savings clause.

SECTION 602—PREEMPTION OF LOCAL TAXATION WITH RESPECT TO DIRECT-TO-HOME SERVICES

Senate bill

No provision.

House amendment

Section 402 of the House amendment preempts local taxation on the provision of direct-to-home (DTH) satellite services. This section exempts DTH satellite service providers and their sales and distribution agents and representatives from collecting and remitting local taxes on satellite-delivered programming services. Section 402 does not preempt local taxes on the sale of the equipment needed to receive these services.

Conference agreement

The conference agreement adopts the House provisions with modifications. This section exempts DTH satellite service providers from collecting and remitting local taxes and fees on DTH satellite services. DTH satellite service is programming delivered via satellite directly to subscribers equipped with satellite receivers at their premises; it does not require the use of public rights-of-way or the physical facilities or services of a community.

The conferees adopt the House language, but narrow the language to ensure that the exemption is only provided for the actual sale of the programming delivered by the direct-to-home satellite service. The conference agreement amends the House provisions to clarify that the exemption applies to taxes "on" direct-to-home satellite service rather than "with respect to the provision of" such service. The conference agreement deletes the language specifying that the sale of equipment was not within the exemption. The conference agreement amends the definition of "direct-to-home satellite service" so that it includes only programming transmitted or broadcast by satellite.

The intent of these amendments is to clarify that the exemption applies only to the programming provided by the direct-to-home satellite service. To give two illustrative examples, the exemption does not apply to the sale of equipment; that language was deleted only because it could have created a negative implication that the exemption was broader than intended. In addition, the exemption does not apply to real estate taxes that are otherwise applicable when the provider owns or leases real estate in a jurisdiction. Also, States are free to tax the sale of the service and they may rebate some or all of those monies to localities if they so desire.

TITLE VII—MISCELLANEOUS PROVISIONS

SECTION 701—PREVENTION OF UNFAIR BILLING PRACTICES FOR INFORMATION OR SERVICES PROVIDED OVER TOLL-FREE TELEPHONE CALLS

Senate bill

Section 406 of the Senate bill amends section 228(c) of the Communications Act to add protection against the use of toll free telephone numbers to connect an individual to a "pay-per-call" service. Published reports have indicated that toll free numbers have been used to defeat the blocking of "pay-per-call" numbers by connecting a caller to a "pay-per-call" service after a toll free connection has been made. Households, businesses and other institutions have been billed for "pay-per-call" charges even though "pay-per-call" blocking techniques were used. This provision is intended to stop that practice.

Section 703 of the Senate bill also amends section 228(c) of the Communications Act to clarify that subscribers who call an 800 number or other toll-free numbers shall not be charged for the calls unless the calling party agrees to be charged under a written subscription agreement or other appropriate means. Section 703(a) enumerates findings made by Congress concerning the prevention of unfair billing practices for information or services provided over toll-free telephone calls.

House amendment

Section 110 protects unsuspecting caller from being charged for 800 calls that they expect to be toll-free—thereby preserving the toll-free status and integrity of the 800 number exchange and $8 billion industry—by requiring strict cost disclosure requirements to ensure that consumers clearly know when there is a charge for a call, how much the charge will be, and how they will be billed.

Pursuant to the provisions of this section, information providers must obtain legal, informed consent from a caller through either a written pre-authorized contract between the information providers and the caller, or through the use of an instructive preamble at the start of all non-free 800 calls. Both of these options ensure that consumers know there is a charge for the information service and that they are giving their consent to be charged.

Conference agreement

The conference agreement adopts the Senate provisions with modifications. The conferees agreed to close a loophole in current law, which permits information providers to evade the restrictions of section 228 by filing tariffs for the provision of information services. Many information providers have taken advantage of this exemption by filing tariffs—especially for 1-500, 1-700 and 10XXX numbers—and charging customers high prices for the services. This exemption has proven to be a problem because consumers have none of the protections that were enacted as part of the Telephone Disclosure and Dispute Resolution Act (P.L. 102-556). Section 701(b) of the conference agreement closes that loophole.

SECTION 702—PRIVACY OF CUSTOMER INFORMATION

Senate bill

Section 102 of the Senate bill amends the Communications Act to add a new section 252 to impose separate affiliate and other safeguards on certain activities of the BOCs. Subsection (g) of new section 252 establishes rules to ensure that the BOCs protect the confidentiality of proprietary information they receive and to prohibit the sharing of such information in aggregate form with any subsidiary or affiliate unless that information is a vaialble to all other persons on the same terms and conditions. In general, a BOC may not share with anyone customer-specific proprietary information without the consent of the person to whom it relates. Exceptions to this general rule permit disclosure in response to a court order or to initiate, render, bill and collect for telecommunications services. For purposes of this subsection the term "customer proprietary information" does not include subscriber list information.

Subsection 301(c) of the Senate bill defines the term "subscriber list information" and requires local exchange carriers to provide subscriber list information on a timely and unbundled basis and at nondiscriminatory and reasonable rates, terms and conditions to anyone upon request for the purpose of publishing directories in any format.

Subsection 301(d) provides that telecommunications carriers have a duty to protect the confidentiality of proprietary information of other common carriers and customers, including resellers. A telecommunications carrier that receives such from another carrier may not use such information for its own marketing efforts.

House amendment

Section 105 of the House amendment adds a new section 222 to the Communications Act. Section 222 establishes privacy protections for customer proprietary network information (CPNI). Section 222(a) imposes on carriers a statutory duty to provide subscriber list information on a timely basis, under nondiscriminatory and reasonable rates, terms and conditions, to any publisher of directories upon request.

Section 222(b)(1)(B) prohibits the use of CPNI "in the identifications or solicitation of potential customers for any service other than the service from which such information is derived."

With respect to section 222(b)(2), the House recognizes that carriers are likely to incur some costs in complying with the customer-requested disclosures contemplated by this section. This section does not preclude a carrier from being reimbursed by the customers of third parties for the costs associated with making such disclosures. In addition, the disclosures described in this section include only the information provided to the carrier by the customer. A carrier is not required to disclose any of its work product based on such information.

In section 222(b)(3), the term "aggregate information" should not be construed as a mechanism whereby carriers are forced to disclose sensitive information to their competitors. Indeed, the key component of "aggregate information" is that such information would have to be able to be disclosed only to those persons who have the approval of the customer. Thus, the House intends that the use of "aggregate information" would be rather limited or restricted

Section 222(c) states that this section shall not prevent the use of CPNI to combat toll

fraud or to bill and collect for services requested by the customers.

Section 222(d) allows the Commission to exempt from its requirements of subsection (b) carriers with fewer than 500,000 access lines, if the Commission determines either that such an exemption is in the public interest or that compliance would impose an undue burden.

Section 222(e) defines terms used in this section.

Section 104(b) directs the Commission to review the impact of converging communications technologies on customer privacy. This section requires the Commission to commence a proceeding within one year after the date of enactment to examine the impact of converging technologies and globalization of communications networks has on the privacy rights of consumers and possible remedies to protect them. This section also directs changes in the Commission's regulations to ensure that customer privacy rights are considered in the introduction of new telecommunications service and directs the Commission to correct any defects in its privacy regulations that are identified pursuant to this section. The Commission is also directed to make any recommendations to Congress for any legislative changes required to correct such defects within 18 months after the date of enactment of this Act.

This section defines three fundamental principles to protect all consumers. These principles are: (1) the right of consumers to know the specific information that is being collected about them; (2) the right of consumers to have proper notice that such information is being used for other purposes; and (3) the right of consumers to stop the reuse or sale of that information.

Conference agreement

The conference agreement adopts the Senate provisions with modifications. Section 702 of the conference agreement amends title II of the Communications Act by adding a new section 222.

In general, the new section 222 strives to balance both competitive and consumer privacy interests with respect to CPNI. New subsection 222(a) stipulates that it is the duty of every telecommunications carrier to protect the confidentiality of proprietary information of and relating to other carriers, equipment manufacturers and customers, including carriers reselling telecommunications services provided by a telecommunications carrier.

New subsection 222(b) provides that a telecommunications carrier that receives or obtains proprietary information from another carrier for purposes of providing any telecommunications service shall use such information only for such purpose and shall not use such information for its own marketing efforts.

In new subsection 222(c) use of CPNI by telecommunications carriers is limited, except as provided by law or with the approval of the customer. New subsection (c) specifies that telecommunications carriers shall only use, disclose, or permit access to individually identifiable CPNI in its provision of the telecommunications service for which such information is derived or in its provision of services necessary to or used in the provision of such telecommunications service, including directory services. The conferees also agreed upon a provision that will require disclosure of CPNI by a telecommunications carrier upon affirmative written request by the customer, to any person designated by the customer.

The conference agreement also asserts carriers' rights in new subsection 222(d) to use CPNI to initiate, render, bill, and collect for telecommunications service. New subsection (d) also allows use of CPNI to protect the rights or property of the carrier. The conferees intend new subsection 222(d)(2) to allow carriers to use CPNI in limited fashion for credit evaluation to protect themselves from fraudulent operators who subscribe to telecommunications services, run up large bills, and then change carriers without payment.

New subsection 222(e) stipulates that subscriber list information shall be made available by telecommunications carriers that provide telephone exchange service on a timely and unbundled basis to any person upon request for the purpose of publishing directories in any format. The subscriber list information provision guarantees independent publishers access to subscriber list information at reasonable and nondiscriminatory rates, terms and conditions from any provider of local telephone service.

New subsection 222(f) contains definitions of CPNI, aggregate information and subscriber list information.

SECTON 703—POLE ATTACHMENTS

Senate bill

Section 204 of the Senate bill amends section 224 of the Communications Act. Section 204 requires that poles, ducts, conduits and rights-of-way controlled by utilities are made available to cable television systems at the rates, terms and conditions that are just and reasonable regardless of whether the cable system is providing cable television services or telecommunications services. Section 204 further requires the Commission to prescribe additional regulations to establish rates for attachments by telecommunications carriers. Such rates will take effect five years from date of enactment and be phased in over a five year period.

House amendment

Section 105 of the House amendment is intended to remedy the inequity of charges for pole attachments among providers of telecommunications services. First, it expands the scope of the coverage of section 224 of the Communications Act. Under current law, section 224(a)(4) currently defines "pole attachment" to mean any attachment by a cable television system to a pole, conduit, or right of way owned or controlled by a utility. This section expands the definition of "pole attachment" to include attachments by all providers of telecommunications services.

Second, it amends section 224 to direct the Commission, no later than one year after the date of enactment of the Communications Act of 1995, to prescribe regulations for ensuring that utilities charge just and reasonable and nondiscriminatory rates for pole attachments to all providers of telecommunications services, including such attachments used by cable television systems to provide telecommunications services.

The new provision directs the Commission to regulate pole attachment rates based on a "fully allocated cost" formula. In prescribing pole attachment rates, the Commission shall: (1) recognize that the entire pole, duct, conduit, or right-of-way other than the usable space is of equal benefit to all entities attaching to the pole and therefore apportion the cost of the space other than the usable space equally among all such attachments; (2) recognize that the usable space is of proportional benefit to all entities attaching to the pole, duct, conduit, or right-of-way and therefore apportion the cost of the usable space according to the percentage of usable space required for each entity; and (3) allow for reasonable terms and conditions relating to health, safety, and the provision of reliable utility service.

This new provision further provides that, to the extent that a company seeks pole attachment for a wire used solely to provide cable television services (as defined by section 602(6) of the Communications Act), that cable company will continue to pay the rate authorized under current law (as set forth in subparagraph (d)(1) of the 1978 Act). If, however, a cable television system also provides telecommunications services, then that company shall instead pay the pole attachment rate prescribed by the Commission pursuant to the fully allocated cost formula.

Finally, the new provision requires that whenever the owner of a conduit or right-of-way intends to modify or to alter such conduit or right-of-way, the owner shall provide written notification of such action to any entity that has obtained an attachment so that such entity may have a reasonable opportunity to add to or modify its existing attachment. Any entity that adds to or modifies its existing attachment after receiving such notification shall bear a proportionate share of the costs incurred by the owner in making such conduit or right-of-way accessible.

Conference agreement

The conference agreement adopts the Senate provision with modifications. The conference agreement section 224 of the Communications Act by adding new subsection (e)(1) to allow parties to negotiate the rates, terms, and conditions for attaching to poles, ducts, conduits, and rights-of-way owned or controlled by utilities. New subsection 224(e)(2) establishes a new rate formula charged to telecommunications carriers for the non-useable space of each pole. Such rate shall be based upon the number of attaching entities. The conferees also agree to three additional provisions from the House amendment. First, subsection (g) requires utilities that engage in the provision of telecommunications services or cable services to impute to its costs of providing such service an equal amount to the pole attachment rate for which such company would be liable under section 224. Second, new subsection 224(h) requires utilities to provide written notification to attaching entities of any plans to modify or alter its poles, ducts, conduit, or rights-of-way. New subsection 224(h) also requires any attaching entity that takes advantage of such opportunity to modify its own attachments shall bear a proportionate share of the costs of such alterations. Third, new subsection 224(i) prevents a utility from imposing the cost of rearrangements to other attaching entities if done solely for the benefit of the utility.

SECTION 704—FACILITIES SITING; RADIO FREQUENCY EMISSION STANDARDS

Senate bill

No provision.

House amendment

Section 108 of the House amendment required the Commission to issue regulations within 180 days of enactment for siting of CMS. A negotiated rulemaking committee comprised of State and local governments, public safety agencies and the affected industries were to have attempted to develop a uniform policy to propose to the Commission for the siting of wireless tower sites.

The House amendment also required the Commission to complete its pending Radio Frequency (RF) emission exposure standards within 180 days of enactment. The siting of

facilities could not be denied on the basis of RF emission levels for facilities that were in compliance with the Commission standard.

The House amendment also required that to the greatest extent possible the Federal government make available the use of Federal property, rights-of-way, easements and any other physical instruments in the siting of wireless telecommunications facilities.

Conference agreement

The conference agreement creates a new section 704 which prevents Commission preemption of local and State land use decisions and preserves the authority of State and local governments over zoning and land use matters except in the limited circumstances set forth in the conference agreement. The conference agreement also provides a mechanism for judicial relief from zoning decisions that fail to comply with the provisions of this section. It is the intent of the conferees that other than under section 332(c)(7)(B)(iv) of the Communications Act of 1934 as amended by this Act and section 704 of the Telecommunications Act of 1996 the courts shall have exclusive jurisdiction over all other disputes arising under this section. Any pending Commission rulemaking concerning the preemption of local zoning authority over the placement, construction or modification of CMS facilities should be terminated.

When utilizing the term "functionally equivalent services" the conferees are referring only to personal wireless services as defined in this section that directly compete against one another. The intent of the conferees is to ensure that a State or local government does not in making a decision regarding the placement, construction and modification of facilities of personal wireless services described in this section unreasonably favor one competitor over another. The conferees also intend that the phrase "unreasonably discriminate among providers of functionally equivalent services" will provide localities with the flexibility to treat facilities that create different visual, aesthetic, or safety concerns differently to the extent permitted under generally applicable zoning requirements even if those facilities provide functionally equivalent services. For example, the conferees do not intend that if a State or local government grants a permit in a commercial district, it must also grant a permit for a competitor's 50-foot tower in a residential district.

Actions taken by State or local governments shall not prohibit or have the effect of prohibiting the placement, construction or modification of personal wireless services. It is the intent of this section that bans or policies that have the effect of banning personal wireless services or facilities not be allowed and that decisions be made on a case-by-case basis.

Under subsection (c)(7)(B)(ii), decisions are to be rendered in a reasonable period of time, taking into account the nature and scope of each request. If a request for placement of a personal wireless service facility involves a zoning variance or a public hearing or comment process, the time period for rendering a decision will be the usual period under such circumstances. It is not the intent of this provision to give preferential treatment to the personal wireless service industry in the processing of requests, or to subject their requests to any but the generally applicable time frames for zoning decision.

The phrase "substantial evidence contained in a written record" is the traditional standard used for judicial review of agency actions.

The conferees intend section 332(c)(7)(B)(iv) to prevent a State or local government or its instrumentalities from basing the regulation of the placement, construction or modification of CMS facilities directly or indirectly on the environmental effects of radio frequency emissions if those facilities comply with the Commission's regulations adopted pursuant to section 704(b) concerning such emissions.

The limitations on the role and powers of the Commission under this subparagraph relate to local land use regulations and are not intended to limit or affect the Commission's general authority over radio telecommunications, including the authority to regulate the construction, modification and operation of radio facilities.

The conferees intend that the court to which a party appeals a decision under section 332(c)(7)(B)(v) may be the Federal district court in which the facilities are located or a State court of competent jurisdiction, at the option of the party making the appeal, and that the courts act expeditiously in deciding such cases. The term "final action" of that new subparagraph means final administrative action at the State or local government level so that a party can commence action under the subparagraph rather than waiting for the exhaustion of any independent State court remedy otherwise required.

With respect to the availability of Federal property for the use of wireless telecommunications infrastructure sites under section 704(c), the conferees generally adopt the House provisions, but substitute the President or his designee for the Commission.

It should be noted that the provisions relating to telecommunications facilities are not limited to commercial mobile radio licensees, but also will include other Commission licensed wireless common carriers such as point to point microwave in the extremely high frequency portion of the electromagnetic spectrum which rely on line of sight for transmitting communication services.

SECTION 705—MOBILE SERVICE DIRECT ACCESS TO LONG DISTANCE CARRIERS

Senate bill

Subsection (b) of section 221 of the Senate bill, as passed, states that notwithstanding the MFJ or any other consent decree, no CMS provider will be required by court order or otherwise to provide long distance equal access. The Commission may only order equal access if a CMS provider is subject to the interconnection obligations of section 251 and if the Commission finds that such a requirement is in the public interest. CMS providers shall ensure that its subscribers can obtain unblocked access to the interexchange carrier of their choice through the use of interexchange carrier identification codes, except that the unblocking requirement shall not apply to mobile satellite services unless the Commission finds it is in the public interest.

House amendment

Under section 109 of the House amendment, the Commission shall require providers of two-way switched voice CMS to allow their subscribers to access the telephone toll services provider of their choice through the use of carrier identification codes. The Commission rules will supersede the equal access, balloting and prescription requirements imposed by the MFJ and the AT&T-McCaw consent decree. The Commission may exempt carriers or classes of carriers from the requirements of this section if it is consistent with the public interest, convenience, and necessity, and the provision of mobile services by satellite is specifically exempt from this section.

Conference agreement

The conference agreement adopts the House provision with modifications as a new paragraph (8) of section 332 of the Communications Act. Specifically, no CMS provider is required to provide equal access to common carriers providing telephone toll services. However, the Commission may impose rules to require unblocked access through the use of mechanisms such as carrier identification codes or toll-free numbers, if it determines that customers are being denied access to the telephone toll service provider of their choice, and such denial is contrary to the public interest, convenience, and necessity. The requirements for unblocked access to providers of telephone toll service shall not apply to mobile satellite services unless the Commission finds it to be in the public interest.

SECTION 706—ADVANCED TELECOMMUNICATIONS INCENTIVES

Senate bill

Section 304 of the Senate bill ensures that advanced telecommunications capability is promptly deployed by requiring the Commission to initiate and complete regular inquiries to determine whether advanced telecommunications capability, particularly to schools and classrooms, is being deployed in a "reasonable and timely fashion." Such determinations shall include an assessment by the Commission of the availability, at reasonable cost, of equipment needed to deliver advanced broadband capability. If the Commission makes a negative determination, it is required to take immediate action to accelerate deployment. Measures to be used include: price cap regulation, regulatory forbearance, and other methods that remove barriers and provide the proper incentives for infrastructure investment. The Commission may preempt State commissions if they fail to act to ensure reasonable and timely access.

House amendment

No provision.

Conference agreement

The conference agreement adopts the Senate provision with a modification.

SECTION 707—TELECOMMUNICATIONS DEVELOPMENT FUND

Senate bill

No provision.

House amendment

Section 112 creates the Telecommunications Development Fund (TDF). The TDF is an organization to provide funds for small businesses involved in telecommunications application. The TDF is formulated to serve as a quasi-governmental entity that will provide low interest loans as well as financial guarantees. The capital for the Fund will be derived from the deposit of up-front payments for spectrum auctions into an interest bearing account.

Businesses with gross assets of less that $50 million will be eligible to receive loans, based upon an assessment of their loan application. The fund will be administered as a not-for-profit organization, and funds will be disbursed on a race and gender neutral basis. The board of directors will consist of seven members: four from the private sector, and one from three Federal agencies (the Commission, Department of Treasury, and the Small Business Administration).

The fund will provide for reinvestment, create jobs, and promote technological innovation in the telecommunications industry.

A unique aspect of the Fund is that it will promote public/private sector partnerships to enhance fund assets, and promote technology development and transfer.

Conference agreement

The conference agreement adopts the House provision as a new section 714 of the Communications Act.

SECTION 708—NATIONAL EDUCATION TECHNOLOGY FUNDING CORPORATION

Senate bill

Title VI of the Senate bill adds the National Education Technology Funding Corporation Act of 1995. The provisions of this title authorize a corporation, established in the District of Columbia as a private, nonprofit corporation which is not an agency or independent establishment of the Federal Government, to receive financial assistance from Federal departments and agencies. The Corporation will receive such assistance to leverage resources and stimulate private investment in education technology infrastructure, to encourage States to create and upgrade interactive high capacity networks for elementary schools, secondary schools and public libraries, to provide loans, grants and other forms of assistance to State education technology agencies, and other educational purposes. The Corporation's financial statements shall be audited annually, and the Corporation shall publish an annual report to the President and the Congress.

House amendment

No provision.

Conference agreement

The conference agreement adopts the Senate provision.

SECTION 709—REPORT ON THE USE OF ADVANCED TELECOMMUNICATIONS SERVICES FOR MEDICAL PURPOSES

Senate bill

No provision.

House amendment

The House amendment directs the Assistant Secretary of Commerce for Communications and Information, in consultation with the Secretary of Health and Human Services, to submit a report on telemedicine grant programs conducted by the government.

Conference agreement

The conference agreement adopts the House provision.

SECTION 710—AUTHORIZATION OF APPROPRIATIONS

Senate bill

No provision.

House amendment

This section authorizes appropriations for the Commission of such sums as may be necessary to carry out this Act, and provides that additional amounts appropriated to carry out this Act shall be construed to be changes in the amounts appropriated for the performance of the activities described in section 9(a) of the Communications Act.

Conference agreement

The conference agreement adopts the House provision with a technical modification to section 309(j)(8)(B) of the Communications Act.

From the Committee on Commerce, for consideration of the Senate bill, and the House amendment, and modifications committed to conference:

TOM BLILEY,
JACK FIELDS,
MICHAEL G. OXLEY,
RICK WHITE,
JOHN D. DINGELL,
EDWARD J. MARKEY,
RICK BOUCHER,
ANNA G. ESHOO,
BOBBY L. RUSH,

Provided, Mr. Pallone is appointed in lieu of Mr. Boucher solely for consideration of sec. 205 of the Senate bill:

FRANK PALLONE, JR.,

As additional conferees, for consideration of secs. 1–6, 101–04, 106–07, 201, 204–05, 221–25, 301–05, 307–11, 401–02, 405–06, 410, 601–06, 703, and 705 of the Senate bill, and title I of the House amendment, and modifications committed to conference:

DAN SCHAEFER,
JOE BARTON,
J. DENNIS HASTERT,
BILL PAXON,
SCOTT KLUG,
DAN FRISA,
CLIFF STEARNS,
SHERROD BROWN,
BART GORDON,
BLANCHE LAMBERT LINCOLN,

As additional conferees, for consideration of secs. 102, 202–03, 403, 407–09, and 706 of the Senate bill, and title II of the House amendment, and modifications committed to conference:

DAN SCHAEFER,
J. DENNIS HASTERT,
DAN FRISA,

As additional conferees, for consideration of secs. 105, 206, 302, 306, 312, 501–05, and 701–02 of the Senate bill, and title III of the House amendment, and modifications committed to conference:

CLIFF STEARNS,
BILL PAXON,
SCOTT KLUG,

As additional conferees, for consideration of secs. 7–8, 226, 404, and 704 of the Senate bill, and titles IV–V of the House amendment, and modifications committed to conference:

DAN SCHAEFER,
J. DENNIS HASTERT,
SCOTT KLUG,

As additional conferees, for consideration of title IV of the House amendment, and modifications committed to conference:

DAN SCHAEFER,
JOE BARTON,
SCOTT KLUG,

As additional conferees from the Committee on the Judiciary, for consideration of the Senate bill (except secs. 1–6, 101–04, 106–07, 201, 204–05, 221–25, 301–05, 307–11, 401–02, 405–06, 410, 601–06, 703, and 705), and of the House amendment (except title I), and modifications committed to conference:

HENRY HYDE,
CARLOS J. MOORHEAD,
BOB GOODLATTE,
STEVE BUYER,
MIKE FLANAGAN,

As additional conferees, for consideration of secs. 1–6, 101–04, 106–07, 201, 204–05, 221–25, 301–05, 307–11, 401–02, 405–06, 410, 601–06, 703, and 705 of the Senate bill, and title I of the House amendment, and modifications committed to conference:

HENRY HYDE,
CARLOS J. MOORHEAD,
BOB GOODLATTE,
STEVE BUYER,
MIKE FLANAGAN,
ELTON GALLEGLY,
BOB BARR,
MARTIN R. HOKE,
HOWARD L. BERMAN,

Managers on the Part of the House.

LARRY PRESSLER,
TED STEVENS,
SLADE GORTON,
TRENT LOTT,
FRITZ HOLLINGS,
DANIEL K. INOUYE,
WENDELL FORD,
J.J. EXON,
JAY ROCKEFELLER,

Managers on the Part of the Senate.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 9 o'clock and 14 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 2202

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. GOSS] at 10 o'clock and 2 minutes p.m.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON S. 652, TELECOMMUNICATIONS ACT OF 1996

Mr. LINDER, from the Committee on Rules, submitted a privileged report (Rept. No. 104–459) on the resolution (H. Res. 353) waiving points of order against the conference report to accompany the Senate bill (S. 652) to provide for a pro-competitive, deregulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition, and for other purposes, which was referred to the House Calendar and ordered to be printed.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. DELAY (at the request of Mr. ARMEY) for today, 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. TOWNS, for 5 minutes, today.

Mr. UNDERWOOD, for 5 minutes, today.

Mr. CARDIN, for 5 minutes, today.

Mr. HOYER, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.
Mr. WYNN, for 5 minutes, today.
Mr. FIELDS of Louisiana, for 5 minutes, today.
Mr. FLAKE, for 5 minutes, today.
Miss COLLINS of Michigan, for 5 minutes, today.
Mr. CONYERS, for 5 minutes, today.
Ms. JACKSON-LEE of Texas, for 5 minutes, today.
(The following Members (at the request of Mrs. MORELLA) to revise and extend their remarks and include extraneous material:)
Mrs. SEASTRAND, for 5 minutes, today.
Mr. MCCOLLUM, for 5 minutes, today.
Mrs. MORELLA, for 5 minutes, today.
Mr. MICA, for 5 minutes, today.
(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)
Mr. BROWN of Ohio, for 5 minutes, today.
(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)
Mrs. SCHROEDER, for 5 minutes, today.
Mr. ROHRABACHER, for 5 minutes, today.
(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)
Mr. GILMAN, for 5 minutes, today.
Mrs. LOWEY, for 5 minutes, today.
Mr. DINGELL, for 5 minutes, today.
(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)
Mr. MILLER of California.
(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)
Mr. BOEHNER.
(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)
Mr. SMITH of Michigan, for 5 minutes, today.
Mr. HOKE, for 5 minutes, today.
Mr. DOGGETT, for 5 minutes, today.
(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)
Mr. VOLKMER, for 5 minutes, today.
(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)
Mr. PALLONE, for 5 minutes, today.
(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)
Mr. JONES, for 5 minutes, today.
(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)
Mr. SCHUMER, for 5 minutes, today.
(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)
Mrs. MEEK of Florida, for 5 minutes, today.
Mr. FRAZER, for 5 minutes, today.
(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)
Mrs. MEEK of Florida, for 5 minutes, today.
Mr. PAYNE of New Jersey, for 5 minutes, today.
Mr. FRAZER, for 5 minutes, today.
(The following Member (at his own request) to revise and extend their remarks and include extraneous material:)
Mr. ABERCROMBIE, for 5 minutes, today.
(The following Members (at the request of Mr. HAYWORTH) to revise and extend their remarks and include extraneous material:)
Mrs. MORELLA, for 5 minutes, on February 1.
Mr. HUNTER, for 5 minutes, today.
Mr. HORN, for 5 minutes, on February 1.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:
(The following Members (at the request of Ms. NORTON) and to include extraneous matter:)
Mr. LANTOS.
Mr. DELLUMS.
Ms. WOOLSEY.
Mr. ACKERMAN.
Mr. HAMILTON in five instances.
Mr. SCHUMER.
Mr. WILSON in two instances.
Mr. KLECZKA.
Mr. KILDEE in two instances.
Mr. FROST.
Mr. HOYER.
Mr. POSHARD.
Mr. GEPHARDT in two instances.
Mr. UNDERWOOD.
Mr. MANTON.
Mr. MORAN.
Mr. RUSH.
Mr. MCDERMOTT.
Mr. KENNEDY of Rhode Island.
Mrs. MEEK of Florida in two instances.
Mr. SABO.
Mr. MENENDEZ.
Ms. NORTON.
Mr. HASTINGS of Florida.
Mr. LAFALCE.
Mr. MARTINEZ.
Mr. STUPAK.
Mr. ENGEL.
Mr. VENTO.
Mr. REED.
Mr. RICHARDSON.
Mr. DEFAZIO.
(The following Members (at the request of Mr. HAYWORTH) and to include extraneous matter:)
Mr. BAKER of California in two instances.
Mr. WALSH.
Mr. PACKARD.
Mr. RADANOVICH.
Mr. NORWOOD in two instances.
Mr. GREENWOOD.
Mr. QUINN.
Mr. LAZIO.
Mr. BURTON.
Mr. CRANE in two instances.
Mrs. SEASTRAND.
Mr. GILMAN.
Mr. DUNCAN in two instances.
Mr. FRELINGHUYSEN.
Mr. FRANKS of New Jersey.
(The following Members (at the request of Mr. LINDER) and to include extraneous matter:)
Mr. SOLOMON.
Mr. POSHARD.

ENROLLED BILL SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 2353. An act to amend title 38, United States Code, to extend the authority of the Secretary of Veterans Affairs to carry out certain programs and activities, to require certain reports from the Secretary of Veterans Affairs, and for other purposes.

ADJOURNMENT

Mr. LINDER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 3 minutes p.m.), under its previous order, the House adjourned until tomorrow, Thursday, February 1, 1996, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1988. A letter from the Director of Defense Research and Engineering, Department of Defense, transmitting the annual report to Congress describing the activities of the Defense Production Act fund, pursuant to 50 U.S.C. app. 2094; to the Committee on Banking and Financial Services.

1989. A communication from the President of the United States, transmitting a copy of Presidential Determination No. 95-45: Exempting the U.S. Air Force's operating location near Groom Lake, NV, from any Federal State, interstate, or local hazardous or solid waste laws that might require the disclosure of classified information concerning that operating location to unauthorized persons, pursuant to 42 U.S.C. 6961(a); to the Committee on Commerce.

1990. A letter from the Secretary of Energy, transmitting the Department's annual report on Federal Government energy management and conservation programs during fiscal year 1994, pursuant to 42 U.S.C. 6361(c); to the Committee on Commerce.

1991. A letter from the Chairman, United States Merit Systems Merit Protection Board, transmitting the 1995 annual report in compliance with the Inspector General Act Amendments of 1988, pursuant to Public Law 100–504, section 104(a) (102 Stat. 2525); to the Committee on Government Reform and Oversight.

1992. A letter from the Secretary of Energy, transmitting the Department's report entitled "Coal Research, Development, Demonstration, and Commercial Application Programs," pursuant to Public Law 102–486, section 1301(d) (106 Stat. 2972); to the Committee on Science.

1993. A letter from the Secretary of Defense, transmitting a report on proposed obligations of $5 million of unobligated funds remaining from fiscal year 1994 cooperative threat reduction [CTR] funds to complete defense conversion/housing activities in Ukraine and to obligate $5 million of unobligated funds remaining from fiscal year 1995 CTR defense military contracts funds to support strategic offensive arms elimination [SOAE] in Belarus, pursuant to 22 U.S.C. 5955; jointly, to the Committees on National Security and International Relations.

1994. A letter from the Secretary of Health and Human Services, transmitting the Department's first annual report to the Congress on tribal program services and expenditures for the child care and development block grant [CCDBG], pursuant to Public Law 101–508, section 5082 (104 Stat. 1388–244); jointly, to the Committees on Economic and Educational Opportunities and Resources.

1995. A letter from the Director, Audit Oversight and Liaison, General Accounting Office, transmitting a report entitled "Financial Audit: Expenditures by Six Independent Counsels for the Six Months Ended March 31, 1995" (GOA/AIMD–95–233), pursuant to 28 U.S.C. 591 note; jointly, to the Committees on the Judiciary and Government Reform and Oversight.

1996. A letter from the Secretaries of the Army and Agriculture, transmitting notification of the intention of the Departments of the Army and Agriculture to interchange jurisdiction of civil works and national forest lands at the Sam Rayburn Dam and reservoir project and Angelina and Sabine National Forest, TX, pursuant to 16 U.S.C. 505a; jointly, to the Committees on Transportation and Infrastructure and Agriculture.

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. WALSH: Committee of Conference. Conference report on H.R. 2546. A bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1996, and for other purposes (Rept. 104–455). Ordered to be printed.

Mr. LINDER: Committee on Rules. House Resolution 351. Resolution waiving points of order against the conference report to accompany the bill (H.R. 2546) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1996, and for other purposes (Rept. 104–456). Referred to the House Calendar.

Mrs. WALDHOLTZ: Committee on Rules. House Resolution 352. Resolution authorizing the Speaker to declare recesses subject to the call of the Chair from February 2, 1996, through February 26, 1996 (Rept. 104–457). Referred to the House Calendar.

Mr. BLILEY: Committee of Conference. Conference report on S. 652. An act to provide for a pro-competitive, deregulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition, and for other purposes (Rept. 104–458). Ordered to be printed.

Mr. LINDER: Committee on Rules. House Resolution 353. Resolution waiving points of order against the conference report to accompany the bill (S. 652) to provide for a pro-competitive, deregulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition, and for other purposes (Rept. 104–459). Referred to the House Calendar.

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. HASTINGS of Washington:

H.R. 2908. A bill to promote international trade and interstate commerce in the broodstock and seedstock of domesticated salmonid by authorizing the Secretary of Agriculture to provide diagnostic and certification services to reduce the risk of transmission of diseases associated with domesticated salmonid; to the Committee on Resources, and in addition to the Committee on Agriculture, 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. BASS:

H.R. 2909. A bill 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; to the Committee on Resources.

By Mr. CRANE (for himself and Mr. RANGEL):

H.R. 2910. A bill to amend the Internal Revenue Code of 1986 to clarify the restrictions on the lobbying and campaign activities of churches; to the Committee on Ways and Means.

By Mr. CRANE:

H.R. 2911. A bill to amend the Internal Revenue Code of 1986 to limit the tax rate for certain small businesses, and for other purposes; to the Committee on Ways and Means.

By Mr. DEUTSCH (for himself, Mr. GONZALEZ, Mr. HEINEMAN, Mr. LIPINSKI, and Mr. FROST):

H.R. 2912. A bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to require a 33 percent reduction in certain assistance to a State under such title unless public safety officers who retire as a result of injuries sustained in the line of duty continue to receive health insurance benefits; to the Committee on the Judiciary.

By Mr. ENGLISH of Pennsylvania (for himself, Mr. CLINGER, Mr. WATTS of Oklahoma, and Mr. TAYLOR of North Carolina):

H.R. 2913. A bill to amend title 38, United States Code, to provide that amounts collected with respect to the provision of health care at a Department of Veterans Affairs medical center may be retained by that medical center; to the Committee on Veterans' Affairs.

By Mr. FRANK of Massachusetts:

H.R. 2914. A bill to amend the Higher Education Act of 1965 to clarify the authority of the Secretary of Education with respect to eligibility standards for short term educational programs; to the Committee on Economic and Educational Opportunities.

By Mr. HAYES:

H.R. 2915. A bill to enhance support and work opportunities for families with children, reduce welfare dependence, and control welfare spending; to the Committee on Ways and Means, and in addition to the Committees on Agriculture, Economic and Educational Opportunities, Banking and Financial Services, Government Reform and Oversight, Commerce, the Judiciary, 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. KENNEDY of Rhode Island (for himself and Mr. REED):

H.R. 2916. A bill to amend title 46, United States Code, to ensure the safety of towing vessels; to the Committee on Transportation and Infrastructure.

By Ms. NORTON:

H.R. 2917. A bill to authorize the Chief of Engineers of the Army Corps of Engineers to make capital improvements for the Washington Aqueduct, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. OWENS:

H.R. 2918. A bill to deny funds to educational programs that allow corporal punishment; to the Committee on Economic and Educational Opportunities.

By Mr. QUINN (for himself, Mr. MCHALE, Mr. FRANKS of New Jersey, Mr. MEEHAN, and Mr. BLUTE):

H.R. 2919. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to provide for the development and use of brownfields, and for other purposes; to the Committee on Commerce, and in addition to the Committees on Transportation and Infrastructure, and 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. SMITH of Michigan (for himself, Mr. SOLOMON, and Mr. SHAYS):

H.R. 2920. A bill to limit the issuance of public debt obligations after December 31, 2001, and to impose maximum limits on the amount of the public debt limit; to the Committee on Ways and Means.

By Mrs. THURMAN (for herself, Mr. FOLEY, Mr. CANADY, Ms. BROWN of Florida, Mr. DIAZ-BALART, Mr. DEUTSCH, Mrs. FOWLER, Mr. GOSS, Mr. JOHNSTON of Florida, Mrs. MEEK of Florida, Mr. MICA, Mr. PETERSON of Florida, Ms. ROS-LEHTINEN, Mr. SHAW, Mr. STEARNS, and Mr. WELDON of Florida):

H.R. 2921. A bill to amend the Agricultural Adjustment Act to provide that imported tomatoes are subject to packing standards contained in marketing orders issued by the Secretary of Agriculture, and for other purposes; to the Committee on Agriculture, 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. TRAFICANT:

H.R. 2922. A bill to amend part Q of title I of the Omnibus Crime Control and Safe Streets Act of 1968 to ensure that Federal funds made available to hire or rehire law enforcement officers are used in a manner that produces a net gain of the number of law enforcement officers who perform nonadministrative public safety services; to the Committee on the Judiciary.

By Ms. WATERS:

H.R. 2923. A bill to extend for 4 additional years the waiver granted to the Watts Health Foundation from the membership mix requirement for health maintenance organizations participating in the Medicare Program; 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. FARR (for himself, Mr. HALL of Ohio, Mr. WARD, Mr. WALSH, Mr. PETRI, and Mr. SHAYS):

H.J. Res. 158. Joint resolution to recognize the Peace Corps on the occasion of its 35th anniversary and the Americans who have served as Peace Corps volunteers; to the Committee on International Relations.

By Mr. MINGE (for himself, Mr. BLUTE, Mr. BROWDER, Mr. CRAMER, Mr. KLUG, Mr. LIPINSKI, Ms. MCKINNEY, and Mr. QUINN):

H. Con. Res. 137. Concurrent resolution expressing the sense of Congress that mediators should be used in discussions between Congress and the President to produce a balanced budget; to the Committee on Government Reform and Oversight.

By Mr. SOLOMON (for himself, Mr. GILMAN, Mr. LANTOS, Mr. ROYCE, Mr. ROHRABACHER, Mr. COX, and Mr. ACKERMAN):

H. Con. Res. 138. Concurrent resolution expressing the sense of the Congress regarding the movement toward democracy by the 21 million people of the Republic of China (Taiwan), and addressing the increasingly dangerous behavior of the People's Republic of China; to the Committee on International Relations.

By Mr. STEARNS:

H. Con. Res. 139. Concurrent resolution expressing the sense of the Congress that the George Washington University is important to the Nation and urging that the importance of the university be recognized and celebrated through regular ceremonies; to the Committee on Economic and Educational Opportunities.

By Mr. TORRICELLI (for himself, Mr. DEUTSCH, Mr. LANTOS, Mr. ACKERMAN, Mr. ANDREWS, and Mr. BROWN of Ohio):

H. Con. Res. 140. Concurrent resolution expressing the sense of the Congress with respect to the peace and security of Taiwan; to the Committee on International Relations.

By Ms. JACKSON-LEE (for herself, Mr. BONIOR, Mrs. CLAYTON, Mrs. COLLINS of Illinois, Ms. PELOSI, Mr. JACKSON, Mr. WISE, Mr. RICHARDSON, Mr. FAZIO of California, Mr. STUDDS, Mrs. MINK of Hawaii, Ms. MCKINNEY, Mr. LEWIS of Georgia, Mr. EDWARDS, Mr. GENE GREEN of Texas, Mr. MCNULTY, Mr. DURBIN, Mr. GEJDENSON, Mr. MILLER of California, Mr. REED, Mr. STUPAK, Mrs. LINCOLN, Ms. DELAURO, Mr. HEFNER, Mr. HASTINGS of Florida, Mr. GIBBONS, Mr. DELLUMS, Ms. LOFGREN, Mrs. SCHROEDER, Ms. MCCARTHY, Ms. BROWN of Florida, Mrs. MEEK of Florida, Mr. PAYNE of New Jersey, Mr. OWENS, Mr. ENGEL, Mr. BARRETT of Wisconsin, Mr. WYNN, Ms. WATERS, Mr. BERMAN, Ms. WOOLSEY, Mr. DOGGETT, and Mr. LUTHER):

H. Res. 354. Resolution relating to a question of the privileges of the House; to the Committee on Rules.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 240: Mr. PARKER and Mr. SAXTON.

H.R. 447: Mr. FRAZER, Mr. FOGLIETTA, Mr. ACKERMAN, Mr. BEREUTER, and Mr. LEWIS of Georgia.

H.R. 598: Mr. SHADEGG.

H.R. 619: Mr. FOGLIETTA, Mr. OLVER, and Mr. MEEHAN.

H.R. 620: Mr. FOGLIETTA.

H.R. 784: Mrs. MYRICK, Mr. SCARBOROUGH, and Mr. BUNNING of Kentucky.

H.R. 820: Mr. LARGENT and Mr. BAESLER.

H.R. 995: Mr. GUNDERSON.

H.R. 1023: Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 1078: Mr. JOHNSTON of Florida.

H.R. 1202: Ms. LOFGREN and Mr. MCNULTY.

H.R. 1325: Mr. GENE GREEN of Texas, Mr. JOHNSTON of Florida, and Ms. NORTON.

H.R. 1400: Mr. HASTINGS of Florida and Mr. LIPINSKI.

H.R. 1402: Mr. FATTAH.

H.R. 1484: Mr. MENENDEZ.

H.R. 1610: Mr. POMEROY.

H.R. 1625: Mr. BARCIA of Michigan, Mr. SOUDER, and Mr. FORBES.

H.R. 1627: Mr. BARCIA of Michigan.

H.R. 1776: Mr. HEFNER.

H.R. 1856: Mr. CAMPBELL, Mr. HUNTER, Mr. HEFNER, Mr. BACHUS, Mr. WELDON of Florida, and Mr. BEVILL.

H.R. 1900: Mr. CRAPO.

H.R. 1955: Ms. JACKSON-LEE.

H.R. 1963: Mrs. MINK of Hawaii.

H.R. 2003: Mr. STARK and Mr. VOLKMER.

H.R. 2009: Mr. BROWN of Ohio.

H.R. 2019: Mr. ANDREWS and Mr. DUNCAN.

H.R. 2181: Mr. PORTER.

H.R. 2190: Mr. ORTON and Mr. ISTOOK.

H.R. 2200: Mr. HAMILTON, Mr. SHADEGG, and Mr. HALL of Texas.

H.R. 2246: Mr. HASTINGS of Florida, Mr. OWENS, and Mr. BISHOP.

H.R. 2260: Mr. LEACH.

H.R. 2270: Mr. HEFLEY.

H.R. 2310: Mr. MARTINI.

H.R. 2342: Mr. BISHOP.

H.R. 2400: Mr. BISHOP and Mrs. MALONEY.

H.R. 2406: Mr. SHAYS.

H.R. 2416: Mr. SHAW and Mr. WAMP.

H.R. 2450: Mr. COX.

H.R. 2506: Mr. CONDIT.

H.R. 2508: Mr. FRISA, Mr. SMITH of Michigan, Mr. CASTLE, and Mr. FORBES.

H.R. 2534: Ms. MCKINNEY, Mr. OLVER, and Mr. MEEHAN.

H.R. 2579: Mr. WELLER, Mr. BARRETT of Nebraska, Ms. JACKSON-LEE, Mr. BROWDER, Mr. BROWN of Ohio, Mr. PARKER, Mr. RAMSTAD, Mrs. JOHNSON of Connecticut, Mr. FRISA, and Mr. LEWIS of Kentucky.

H.R. 2597: Mr. DIAZ-BALART and Mr. JOHNSTON of Florida.

H.R. 2651: Mr. GALLEGLY, Mr. BLUTE, Mr. KLECZKA, Mr. DOYLE, and Mrs. MEEK of Florida.

H.R. 2664: Mr. ROBERTS, Mrs. ROUKEMA, and Mr. STARK.

H.R. 2699: Mr. MEEHAN, Mr. LATOURETTE, Mr. SAWYER, Mr. GENE GREEN of Texas, Mr. LIPINSKI, Mr. BROWN of Ohio, Ms. KAPTUR, Mr. LAFALCE, and Mr. GIBBONS.

H.R. 2713: Mr. MARTINI, Mr. BILBRAY, Mr. LATOURETTE, and Mr. GENE GREEN of Texas.

H.R. 2714: Mr. TORRES.

H.R. 2764: Mr. BLILEY, Mrs. MEEK of Florida, Mr. ACKERMAN, Mr. STEARNS, and Mr. LEVIN.

H.R. 2779: Mr. BENTSEN, Mr. HANSEN, Mr. HAYES, and Mr. LARGENT.

H.R. 2798: Mr. NETHERCUTT and Mr. MINGE.

H.R. 2848: Mr. QUINN and Mr. GENE GREEN of Texas.

H.R. 2856: Mr. FARR.

H.R. 2894: Mr. BARTLETT of Maryland, Mr. BURTON of Indiana, Mr. SCARBOROUGH, and Mr. WELDON of Pennsylvania.

H. Con. Res. 134: Mr. BAKER of California, Mr. MICA, Mr. WELDON of Florida, Mr. METCALF, and Mr. NEY.

H. Res. 263: Mr. BUNN of Oregon and Mr. MINGE.

H. Res. 346: Mr. WALSH.

H. Res. 348: Mr. HAYWORTH, Mr. SKELTON, Mr. NETHERCUTT, Mr. HERGER, Mr. BACHUS, Mr. FOLEY, Mr. WELDON OF PENNSYLVANIA, MR. SHAYS, Mr. MCCRERY, Mr. BUNNING of Kentucky, and Mr. CALVERT.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2854

OFFERED BY: MR. SANDERS

AMENDMENT NO. 1: At the end of title II, add the following new subtitle:

Subtitle C—Northeast Interstate Dairy Compact

SEC. 231. CONGRESSIONAL CONSENT FOR NORTHEAST INTERSTATE DAIRY COMPACT.

Congress consents to the Northeast Interstate Dairy Compact entered into among the States of Vermont, New Hampshire, Maine, Connecticut, Rhode Island, and Massachusetts, subject to the following conditions:

(1) COMPENSATION OF CCC.—Before the end of each fiscal year that a Compact price regulation is in effect, the Compact Commission shall compensate the Commodity Credit Corporation for the cost of any purchases of milk and milk products by the Corporation that result from any projected increase in fluid milk production for the fiscal year within the Compact region in excess of the national average rate of production.

(2) MILK MARKET ORDER ADMINISTRATOR.—By agreement among the States and the Secretary of Agriculture, the Administrator shall provide technical assistance to the Compact Commission, and be reimbursed for assistance, with respect to the applicable milk marketing order issued under section 8c(5) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.

(3) TERMINATION AND RENEWAL.—The consent for the Compact—

(A) shall terminate on the date that is 5 years after the date of establishment of a Compact over-order price, subject to subparagraph (B); and

(B) may be renewed by Congress, without prior re-ratification by the States' legislatures.

EXTENSIONS OF REMARKS

U.S. FOREIGN MILITARY SALES DURING FISCAL YEAR 1995

HON. LEE H. HAMILTON
OF INDIANA
IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 1996

Mr. HAMILTON. Mr. Speaker, I would like to bring to my colleagues' attention information submitted pursuant to the Arms Export Control Act with respect to U.S. foreign military sales during fiscal year 1995.

The first table details worldwide government-to-government foreign military sales during fiscal year 1995 for defense articles and services and for construction sales. Total FMS sales for fiscal year 1995 were $9.029 billion, a decline from $12.865 billion in fiscal year 1994.

The second table details licenses/approval for the export of commercially sold defense articles and services for fiscal year 1995.

The tables follow:

Total value of defense articles and services sold to each country/purchaser as of September 30, 1995 under foreign military sales (see part II for construction sales)

[In thousands of dollars][1]

Countries	Accepted—fiscal year 1995
Part I—Foreign Military Sales:	
Antigua and Barbuda	162
Argentina	15,909
Australia	164,756
Austria	10,462
Bahrain	57,266
Bangladesh	7,542
Barbados	88
Belgium	24,213
Belize	298
Bolivia—Intl. Narc	13,631
Botswana	75
Brazil	58,259
Brunei	20
Cambodia	1,688
Canada	197,661
Cape Verde	2
Chad	343
Chile	4,084
Colombia	20,732
Colombia—Intl. Narc	10,235
Costa Rica	2,009
Denmark	47,222
Djibouti	50
Dominica	73
Dominican Republic	610
Ecuador	134
Ecuador—Intl. Narc	129
Egypt	1,080,975
El Salvador	7,214
Eritrea	204
Estonia	168
Ethiopia	544
Fiji	15
Finland	218,175
France	767,735
Germany	266,461
Ghana	85
Greece	216,194
Grenada	95
Guyana	67
Haiti	918
Honduras	3,952
India	15
Indonesia	11,293
Ireland	45
Israel	661,282
Italy	31,012
Jamaica	1,169
Japan	715,389
Jordan	15,316
Kenya	2,754
Korea (Seoul)	494,320
Kuwait	83,694
Latvia	234
Lebanon	66,044
Lithuania	341
Luxembourg	68
Malaysia	25,697
Malta	12
Mexico	1,608
Morocco	4,482
Mozambique	368
Nacisa	397
Namibia	60
Namma	1,371
Namsa—F104	350
Namsa—General+Nike	20,011
Namsa—Hawk	928
Namsa—Weapons	7,384
Napmo	2,734
NATO	1,670
NATO AEW+C (0+S)	26,750
NATO Headquarters	221
Netherlands	947,526
New Zealand	9,390
NHPLO	1,630
Niger	589
Norway	12,131
Oas Hq	33
Oman	8,108
Org. of African Unity	763
Pakistan	78
Panama	55
Paraguay	13
Portugal	13,519
Rep. of Philippines	23,025
Romania	12,431
Saclant	6,507
Saudi Arabia	485,613
Senegal	451
Shape	3,287
Sierra Leone	3
Singapore	198,146
Slovakia	(2)
Spain	401,722
Sri Lanka	67
St. Kitts and Nevis	15
St. Lucia	292
St. Vincent+Gren	25
Sweden	12,865
Switzerland	22,393
Taiwan	208,123
Thailand	193,496
Trinidad—Tobago	155
Tunisia	10,552
Turkey	599,092
United Arab Emirates	4,698
United Kingdom	114,369
UNOCHA	766
Uruguay	2,323
Venezuela	36,172
Zambia	322
Zimbabwe	292
Classified totals[3]	320,801
Subtotal	9,029,308
Part II—Construction Sales:	
Bolivia—Intl. Narc	1,340
Cape Verde	58
Chad	194
Colombia—Intl. Narc	451
Ecuador—Intl. Narc	243
Egypt	4,241
El Salvador	2,442
Eritrea	456
Ethiopia	243
Honduras	388
Morocco	4,854
Saudi Arabia	10,000
Subtotal	24,911
Total	9,054,218

[1] Totals may not add due to rounding.
[2] Dollar value less than $500.00.
[3] See the classified annex to the CPD.

Licenses/approvals for the export of commercially sold defense articles/services as of September 30, 1995

[In thousands of dollars]

	Cumulative
Albania	39
Algeria	29,520
Andorra	40
Angola	863
Antigua	3
Argentina	45,631
Aruba	6
Australia	698,814
Austria	23,277
Azerbaijan	64
Bahamas, The	2.057
Bahrain	10,124
Bangladesh	5,531
Barbados	28,146
Belgium	192,327
Belize	125
Bermuda	54
Bolivia	31,616
Botswana	1,188
Brazil	108,544
British Virgin Islands	61
Brunei	23,405
Bulgaria	728
Burma	3
Burkina Faso	18
Cambodia	38
Cameroon	626
Canada	19,016
Cayman Islands	35
Chad	5,233
Chile	51,411
China	222,784
Colombia	27,134
Congo	600
Comoros	7
Costa Rica	21,514
Cote D'Ivoire	653
Cyprus	995
Czech Republic	10,128
Denmark	131,470
Dominican Republic	22,967
Ecuador	52,195

	Cumulative
Egypt	163,788
El Salvador	23,605
Eritrea	111
Estonia	620
Ethiopia	93
Finland	1,688,348
Faroe Islands	4,000
Fiji	10
Finland	16,310
France	204,516
French Guiana	441,629
French Polynesia	22
Gambia	2
Gabon	1,600
Germany	797,503
Ghana	7
Gibraltar	12
Greece	177,800
Greenland	27
Guatemala	21,997
Guyana	82
Haiti	799
Honduras	22,234
Hong Kong	21,274
Hungary	331
Iceland	5,585
India	17,001
Indonesia	80,214
Ireland	3,502
Israel	679,993
Italy	510,828
Jamaica	21,284
Japan	2,163,667
Jordan	2,854
Kazakhstan	229,027
Kenya	421
Korea, Republic of	985,611
Kuwait	568,711
Latvia	269
Lebanon	732
Lithuania	16
Luxembourg	315,693
Macau	279
Malaysia	97,974
Maldives	12
Mali	1
Malta	18
Mauritius	1
Mexico	44,506
Monaco	9
Morocco	13,409
Namibia	1,327
Nepal	62
Netherlands	464,058
Netherlands Antilles	3,381
New Caledonia	216
New Zealand	72,728
Nicaragua	2,056
Niger	420
Nigeria	1,231
Norway	199,616
Oman	10,072
Pakistan	105,897
Panama	21,494
Papua New Guinea	1,925
Paraguay	37,198
Peru	41,616
Philippines	112,923
Poland	1,449
Portugal	57,584
Qatar	2,743
Reunion	4
Romania	3,430
Russia	10,613
Saudi Arabia	816,656
Senegal	454
Singapore	333,244
Slovakia	167
Slovenia	18,497
Solomon Islands	169
South Africa	30,178
Spain	285,188
Sri Lanka	3,697
St. Kitts and Nevis Anguilla	4
St. Lucia	?
St. Vincent	53
Suriname	37
Sweden	1,071,849
Switzerland	238,531
Taiwan	27,757
Tanzania	25
Thailand	159,882
Trinidad and Tobago	21,789
Tunisia	5,470
Turkey	574,747
Turkmenistan	600
Uganda	133
Ukraine	1,528
United Arab Emirates	53,546
United Kingdom	2,444,015
United Nations	97
Uruguay	23,284
Uzbekistan	9
Various Countries	403,383
Venezuela	61,694
Vietnam	1,060
Yemen	1,392
Zambia	2,475
Zimbabwe	719
Classified Totals[1]	875,292
Worldwide Total	19,707,041

[1] See classified annex to CPD.

Note.—Details may not add due to rounding.

Source: This information was prepared and submitted by the Office of Defense Trade Controls, State Department.

RALPH YARBOROUGH TRIBUTE

HON. CHARLES WILSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 1996

Mr. WILSON. Mr. Speaker, in 1969 when I was a member of the Texas State Senate I had the great honor of introducing the late Senator Ralph Yarborough at a United Labor Legislative Committee luncheon. What I said that day about my friend held true until the day he died. I ask that this tribute to Senator Yarborough be printed in the CONGRESSIONAL RECORD as a memorial to one of the best and most compassionate statesmen that Texas and the U.S. Senate will ever know.

Ralph Yarborough has been in the arena for the little people of Texas as long as I can remember. He has represented the folks from Diboll and Dallas, from Huntington and Houston, from San Augustine and San Antonio, from Kountze and Corsicana, and he has represented them with vigor, compassion and complete disregard for the special interest and the greedy.

This is rare in a Texas politician. Too often the rest of us have to find a reason why we can't do what we know we should. Too often, we find it necessary to compromise with the special interests. Not Ralph Yarborough. He is totally incorruptible. His record of courage and consistency cannot be matched in the United States Senate.

He is the only Senator from the old Confederacy who has dared represent the black man with votes rather than words. He is the only prominent Texas politician who would march with the brown man in their effort to obtain a decent minimum wage.

His trail has been glorious but it's also been long and torturous. He is the most hated of all by the privileged and the powerful. But he is loved by us. Loved because he does right, and loved because he is all we have.

HONORING RUSSELL L. CARSON

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 1996

Mr. KILDEE. Mr. Speaker, it is my pleasure to rise before my colleagues in the U.S. House of Representatives to recognize Mr. Russell L. Carson. Mr. Carson recently retired as captain of the Waterford Township Police Department after 25 years of dedicated public service. A retirement party in his honor is to be held on February 3, 1996, in Keego Harbor, MI.

Mr. Carson has spent his entire career protecting the public and preserving the laws of this Nation. During his illustrious career, he has received many awards and commendations for his selfless devotion to duty. His tireless spirit has earned him the respect of his colleagues not only in the police department that he helped to command, but also with the countless people whose lives were touched by him. During his 25-year career, Mr. Carson has worked as a patrolman, detective, school liaison officer, lieutenant, staff lieutenant, and captain. Also included in his many duties were detective bureau commander, patrol bureau commander, and administrative services commander.

Mr. Speaker, Russell Carson has worked diligently to help make his community a safer and better place to live. I know that his retirement dinner is not meant to celebrate his departure from law enforcement, rather, the dinner is meant to show him the deep love and respect his colleagues, his family, his friends, and his community have for him. I ask you and my fellow Members of the 104th Congress to join me in paying tribute to such a dedicated public servant, Mr. Russell L. Carson.

HONORING CONGRESSWOMAN BARBARA JORDAN

HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 1996

Mr. FROST. Mr. Speaker, in honor of this year's theme of African-American women, I wish to recognize the passing of former Congresswoman Barbara Jordan, one of Texas' greatest political figures. She died at the age of 59 from pneumonia, one of the many illnesses which she suffered from in the last years of her life. But the life that she led was extraordinary, and she left a mark that few will ever match, and that none will ever forget.

Mr. Speaker, Congresswoman Jordan distinguished herself from an early age. With her family's encouragement she worked hard to rise above the poverty of her childhood in Houston. She graduated magna cum laude from Texas Southern University. It was there that she first displayed her powerful oratorical skills as a member of the debate team. In 1959 she received her law degree from Boston University.

Mr. Speaker, Barbara Jordan made history by setting a number of firsts. She was the first

black State senator in Texas history, elected in 1966. In 1972 she was accorded the high honor of being elected president pro tempore of the Texas Senate, another first for an African-American. Eight years later she recorded another first, becoming the first black from Texas to be elected to Congress. Although she only served for 6 years in the House of Representatives, her impact was monumental.

It was as a freshman Congresswoman, Mr. Speaker, that the Nation first came to know Barbara Jordan. As a member of the House Judiciary Committee she made one of the defining speeches of the Richard Nixon impeachment hearings. Rising above the political rhetoric, she told the world, "My faith in the Constitution is whole, it is complete, it is total, and I am not going to sit here and be an idle spectator to the diminution, the subversion, the destruction of the Constitution." Indeed, her statements reminded America of what was truly great about this country.

On a more personal note, Mr. Speaker, Barbara Jordan served as one of my earliest political role models. I had a chance to see Congresswoman Jordan speak at the 1976 Democratic National Convention. Like everyone else that heard her speech I was moved not only by her eloquence, but by her definition of public service. "More is required of public officials than slogans and handshakes and press releases," she said. "We must hold ourselves strictly accountable. We must provide the people with a vision of the future." These words continue to guide and inspire me 20 years later.

I wish in the coming days that all Texans would join me in reflecting upon the legacy of Barbara Jordan. She stood for honesty, integrity, and an unswerving commitment to the principles on which this country was founded. Her legacy will endure as we continue to honor these ideals.

SMALL BUSINESS INVESTMENT AND GROWTH ACT

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 1996

Mr. CRANE. Mr. Speaker, today I am introducing legislation, the Small Business Investment and Growth Act, to provide needed tax relief for some of America's small business manufacturers.

As a member of the Ways and Means Committee, I strenuously objected to the tax increases of 1990 and 1993, knowing of the negative economic impact these would have on American businesses and individuals. In particular, increasing the maximum individual marginal tax rate from 28 percent to 39.6 percent put a tremendous strain on small businesses organized as S corporations, because they must pay taxes at the individual rate. S corporation manufacturers, facing 36-percent and 39.6-percent tax rates at the highest levels, compete at a significant disadvantage against C corporation manufacturers, which pay a maximum 34-percent rate.

I propose to end this Government-created inequity with the Small Business Investment and Growth Act. Small businesses have created the overwhelming majority of jobs in the United States. We cannot allow the intrusiveness of the Federal Government to neutralize this proven formula of prosperity and job growth.

This act will establish at 34 percent the maximum tax rate for manufacturers organized as S corporations. The taxable small business income would be limited to income from the trade or business of certain eligible small businesses, specifically excluding passive income. To benefit from the maximum 34-percent rate, businesses must also reinvest their after-tax income into the business.

To encourage business reinvestment, each eligible S corporation would establish a new qualified retained earnings account [QREA]. Each year, the QREA will be increased by the taxable earnings of the business. The QREA may then be decreased by either "qualified" or "nonqualified" distributions. Qualified distributions are to enable shareholders to pay the income taxes due on their pro rata share of the taxable income. Should a business choose to make nonqualified distributions from its QREA, it will incur an additional tax, designed to negate the benefit of the maximum rate of 34 percent.

Again, the intent of this legislation is to reward eligible S corporations which reinvest income into the business, thereby creating more jobs. Indeed, successful small manufacturers have been able to create three to four new jobs for every additional $100,000 they retain in the business.

I recognize that this legislation is a rather modest and narrowly crafted bill, and I realize that there may be other ways to accomplish the end goal of this proposal, which is to equalize the tax treatment of all manufacturers whether they organize as S corporations or C corporations. In that regard, I would welcome a debate on the best means to achieve this end. Personally, I would prefer to lower even further corporate and business taxes, but we are currently constrained by our budget rules. Furthermore, I look forward to an opportunity to completely abolish the present tax code in order to replace it with a more simple tax code that eliminates the inequities inherent in the current code.

The Small Business Investment and Growth Act will, in the near term, provide much needed tax relief to spur economic and job growth, and I would strongly encourage my colleagues to cosponsor it.

TRIBUTE TO CHIEF CLARENCE HARMON ON HIS RETIREMENT

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 1996

Mr. GEPHARDT. Mr. Speaker, I rise today to congratulate one of the great citizens of my hometown, St. Louis, on his retirement from a unique and valuable career of public service.

Col. Clarence Harmon, who will celebrate his retirement later this week, had a truly distinguished career with the Metropolitan St. Louis Police Department. After working his way up through the ranks, he became the first African-American police chief in the city's history.

Perhaps Chief Harmon's greatest contribution to the police department, and to the safety of our citizens, was his early and fervent commitment to community oriented policing. The success of this program can be seen as the crime rate in St. Louis declines—with the murder rate dropping by 18 percent last year. By encouraging the police to work hand in hand with the community to address problems before they become crises he has been instrumental in increasing community confidence and police effectiveness.

I join my fellow St. Louisans in congratulating Chief Harmon on a job well done and wish him the best in his future endeavors.

RECOGNIZING FIRST PRESBYTERIAN CHURCH OF LIVERMORE, CA

HON. BILL BAKER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 1996

Mr. BAKER of California. Mr. Speaker, in 1871, a group of nine farmers drew together to form a new church in the Livermore Valley in northern California. Started at a time when bars were more prevalent in Livermore than churches, what became the First Presbyterian Church of Livermore has witnessed the remarkable events that have shaped our country—the sorrow of war and the prosperity of peace, the anxiety of drought and the blessing of abundant harvest. And throughout its 125-year history, First Presbyterian has celebrated the importance of family and the centrality of enduring values.

Over its 125-year history, the First Presbyterian Church has grown to a ministry serving not only its 800 members but the greater Livermore Community. Very deliberately, the Church has chosen to stay in its downtown location rather than move to a more comfortable suburban area precisely because of its desire to serve those who most need its assistance. First Presbyterian has been a leader in supporting such vital efforts as the Family Crisis Center and the Emergency Fund Center, which help persons needing food, shelter, and other critical assistance.

In addition, the Church has worked actively with the Tri-Valley Haven for Women, which ministers to women and children suffering from abusive situations. First Presbyterian has also played a lead role in the Interfaith Backpack project, through which the greater religious community works together at the beginning of each school year to provide backpacks for young people whose families can't afford them.

First Presbyterian celebrates its 125th anniversary with the grateful knowledge that it has improved the lives of countless men, women, and children in central California. In coming years, this legacy will serve to inspire new acts of charity and generosity that, in themselves, will encourage others to serve as they have been served. It is an honor for me to recognize First Presbyterian Church of Livermore in the CONGRESSIONAL RECORD, and to

express my personal thanks to Pastor William E. Nebo and all the members of the Church for what they are doing to build the Livermore community. My best to each of them on this unique and special occasion.

CAMPAIGN FINANCE REFORM

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 1996

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, January 3, 1996, into the CONGRESSIONAL RECORD.

COMMON-SENSE CAMPAIGN REFORMS

The past year was productive for congressional reform. Congress acted to apply private sector laws to Congress, ban gifts, and restrict lobbying. These common-sense reforms are important, and Congress should build on this momentum and pass sweeping campaign finance reform this year.

In the past few decades, Congress has made substantial progress in opening up the political process and making Members more accountable. Members of Congress are now required to make comprehensive financial disclosure, and public and private transactions are subject to careful scrutiny. This exposure is directly responsible for the numerous successful ethics investigations in recent years. Prior to these changes—thirty, fifty, or a hundred years ago—such ethics violations were rarely prosecuted because the public knew nothing about them. We need to build continually on this progress, including the important steps taken last year.

CONGRESSIONAL ACCOUNTABILITY ACT

Last January Congress passed a law to apply private sector laws to Congress. This legislation was based on a recommendation of the Joint Committee on the Organization of Congress, which I co-chaired, and is an expansion of a measure passed by the House in 1994. This new law establishes an Office of Compliance to apply these laws to Congress, including labor regulations of the Occupational Safety and Health Administration (OSHA).

LOBBYING REFORM

With my strong support, Congress passed a lobbying reform law that requires paid lobbyists to disclose who pays them, whom they lobby, what issues they lobby for, and how much they are paid to influence the government. A similar bill was filibustered by the Senate in 1994. I am pleased that leaders of both parties removed their opposition to these reforms.

GIFT BAN

The House passed a bill to ban all gifts to Members, with limited exceptions for close family or friends. There is simply no reason to take valuable gifts, meals, or vacations from lobbyists.

THE 1996 REFORM AGENDA

We must push hard for additional reforms in 1996. The forces against reform are strong—last year lobbying reform and the gift ban were blocked five times before public pressure forced the House leadership to have a vote. Congress must build on these successes to complete additional reforms.

CAMPAIGN FINANCE REFORM

The overriding reform issue for 1996 is campaign finance reform. Some observers liken congressional reform to a three-legged stool. Banning gifts and restricting lobbying are the first two legs, but without the third leg—campaign finance reform—the stool will fall over. Hoosiers are fed up with the flood of campaign money and favors from lobbyists.

I have expressed the concern for many years that money plays a disproportionate role in American politics. The system forces candidates to spend too much time raising money instead of meeting with the public and focusing on issues of national importance. My sense is that the public will demand major change in the present system. Reforming campaign finance is critical if Congress is to be a truly representative body.

There are a number of key issues in campaign finance reform:

Political action committees (PACs)

The importance of PACs should be reduced. We should cap total PAC contributions to a candidate and reduce the limit on contributions from a single PAC. Members of Congress should also be prohibited from running "leadership PACs", which a few Members use to gain power and influence over other Members for their own personal agenda. We should also block "bundling" of checks by PACs, which evades the $5,000 limit on PAC contributions.

"Soft money"

We should limit contributions by corporations, wealthy individuals, and other organizations to political parties and PACs affiliated with Members of Congress. These donors now give hundreds of thousands of dollars for "independent" expenditures. While direct expenditures for candidates are prohibited—advertising, campaign salaries, etc.—the indirect efforts, such as organization and issue or party advertising, can be as influential. Because these actions are theoretically not for federal candidates, they skirt federal campaign limits and can avoid public disclosure.

Small contributors

Reforms should emphasize the importance of grassroots political fundraising over big-ticket donors. The number of large contributions should be capped, and candidates should be encouraged to seek a broad base of support from contributions of less than $200—perhaps with a tax deduction for individuals who make small contributions. A balance should also be struck between small in-state contributions and larger national contributions.

Spending limits

Congress passed some mandatory spending limits in 1974, but the Supreme Court overturned them as an unconstitutional restriction on free speech. We should examine ways to encourage voluntary limits, such as providing reduced-cost television and radio time to candidates who abide by the limits. Presidential campaigns now provide public matching funds for candidates who agree to abide by voluntary spending limits.

Enforcement

Congress must also give more authority to the Federal Election Commission to crack down on election law violations. In one recent case, the FEC needed 12 months to audit a House Member's campaign records that turned out to be fraudulent. Prompt, tough enforcement is the key to cleaning up the system.

CONCLUSION

Congress made significant progress on reforms in 1995, but it must build on that momentum in 1996. Major campaign finance reform will be the overriding reform issue this year in Congress. The purpose of reform is to reduce special interest influence and increase political competition. The campaign finance system may never be perfect, but the influence of money can and should be reduced. Until we begin limiting money's disproportionate influence, public cynicism will continue to grow.

The passage of a complete reform agenda will help demonstrate that members are serious about enhancing the openness, effectiveness, and public credibility of Congress. I strongly support sweeping campaign finance reform, and will urge my colleagues to act now to make these commonsense changes that reflect on the integrity of Congress.

OIL SPILL PROTECTION

HON. JACK REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 1996

Mr. REED. Mr. Speaker, I am pleased to join my colleague, Representative PATRICK KENNEDY, in an effort to protect Rhode Island's precious coastline from the environmental devastation of oil spills.

Tragically, on January 19, the tug boat *Scandia* caught fire in severe weather off the coast of my congressional district.

The tug's crew could not control the fire and abandoned both the tug and the barge's cargo of 4 million gallons of oil to the high winds and seas.

While the tug crew was swiftly pulled from the sea by brave members of the Coast Guard, the same cannot be said for the unmanned barge which spilled 1 million gallons of oil off the Rhode Island coast.

The environmental and economic destruction of the spill is, at the present time, incalculable. Indeed, no one can estimate the damage to the fishery's long-term health, the wildlife, or my State's tourism industry.

But what has become clear in articles from the Providence Journal and my own experience as a member of the now defunct Merchant Marine and Fisheries Committee, is that Congress must address the growing reliance of this Nation on towing vessels to transport hazardous materials like oil.

It may surprise some of my colleagues that a tug boat which pulls 4 million gallons of oil and has a crew of 6 is not required to be inspected by the Coast Guard.

That's correct, the tug boat that pulled thousands of barrels of oil off the coast of my district and the estimated 2 to 4 barges that ply the waters of Narragansett Bay each day do not even get inspected once a year like an automobile.

Moreover, even though the *Scandia*'s pilot had a master's license, no license is actually required to pilot these vessels.

And, perhaps even more disturbing is the fact that tug boats are not required to have some of the most basic navigational and safety equipment on board.

This body has tried to address this situation in previous years, only to have efforts to improve tug safety sink in the other body.

However, I would urge my colleagues, especially those from our Nation's coastal States,

to consider joining me and Congressman KENNEDY in supporting legislation that tries to prevent avoidable accidents in the future.

The Towing Vessel Safety Act of 1996 takes a better safe than sorry approach to protecting our Nation's environment and the hard-working families who make their living on the water.

This legislation will require tugs that pull hazardous materials to be inspected once a year, just like the cars of my constituents.

It will also establish licensing standards for the pilot and crew of tug boats towing hazardous materials, just like truckers who have a license to carry these items.

The bill would also ask the Coast Guard and Secretary of Transportation to ensure that tug boats carry basic navigational items like a radar system, a compass, and up-to-date charts as well as adequate fire fighting equipment, just as oil tankers must do.

The legislation protects crew members who report safety violations from wrongful discharge, like other employees who handle volatile cargo.

These common sense, preventative measures are a responsible first-step in addressing the increase in oil barge traffic off our Nation's pristine beaches. Indeed, the National Transportation Safety Board has made similar recommendations in the past.

At the same time, we need to take other steps to ensure that the barges pulled by these tugs are safe, and in the weeks to come we will be examining legislation to accomplish this aim.

The Coast Guard recognizes that there is a need to improve tug and barge safety, and it has proposed some new safety measures. And, the towing industry plans to have a self-inspection regime ready in 2 years.

However, I believe we need to take direct, reasonable steps to prevent environmental and economic catastrophes like the spill off Rhode Island.

Prevention is not without cost, but as the saying goes, an ounce of prevention is worth a pound of cure.

At the present time, questions remain as to the cause of the accident and whether the accident could have been prevented, but concerns remain that this disaster was preventable. It is in this spirit that we are introducing the Towing Vessel Safety Act.

Mr. Speaker, my State has seen the results of an oil spill once, and I hope this legislation can reduce the chances of it happening again.

NORMA MATHES KNIGHT, KINGS PARK CHAMBER OF COMMERCE 1995 WOMAN OF THE YEAR

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 1996

Mr. ACKERMAN. Mr. Speaker, I rise today to offer my sincere congratulations to Norma Mathes Knight on being named the Kings Park, NY, Chamber of Commerce 1995 Woman of the Year.

In 1963, Norma Mathes Knight, her husband Harold (Harry) Mathes and their daughters Patricia, Marilyn, and son Bill moved to Fort Salonga in Suffolk County, NY.

Patricia was then a freshman at Immaculate College in Pennsylvania, Marilyn a freshman at Kings Park High School, and Bill a student at Ralph J. Osgood Elementary School.

In 1970, Norma and Harry opened Mathes & Son, Inc. at 95 Pulaski Road in Kings Park. In 1980, they bought the building at 101 Pulaski Road where their business Mathes & Son Auto Parts Supply became a familiar sight and an integral part of the hamlet of Kings Park. This year will mark the 25th anniversary in business of Mathes & Son.

Norma was one of the founding members of the Kings Park Chamber of Commerce. In 1971, she became one of its original directors. She is presently the vice president of the chamber. Her participation in all aspects of the functioning of the chamber has not only been an integral part of Norma's life, but has served as an outstanding contribution and benefit to the entire community.

Norma has dedicated herself to improving the quality of life for others. She has demonstrated this over and over through her involvement and deep commitment to community service. She is also a member of the Fort Salonga Civic Association, St. Charles Hospital Auxiliary, and the Smithtown Professional Women's Network.

Mr. Speaker, I ask my colleagues to join me in saluting Norma Mathes Knight for her outstanding commitment and selfless dedication to her community, and to extend our best wishes and congratulations on her being named 1995 Woman of the Year.

INDIA'S NUCLEAR PROGRAM

HON. CHARLES WILSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 1996

Mr. WILSON. Mr. Speaker, the Government of India appears to be playing a game of nuclear chicken with the United States. In the past 3 months India has: Prepared for nuclear testing, tested for eventual deployment of the medium-range Prithvi missile, capable of carrying nuclear warheads, and repudiated the Comprehensive Test Ban Treaty.

While India—under great pressure from the United States and the lender nations—reluctantly decided to refrain from nuclear testing for the time being, it is planning to go ahead with testing and deployment of its medium-range Prithvi missile, possibly even as we meet here today. The United States has urged India not to proceed with the deployment of the Prithvi missiles because deployment could increase tensions between India and Pakistan, the only nation within logistical range of this new Indian offensive weapons system. The United States has urged restraint in missile development and deployment on the subcontinent as we continue our efforts to reduce tensions and slow the arms buildup.

One hears all kinds of rather lame excuses for India's potential Prithvi deployment. The Indian Government would lead us to believe that deployment is being done in response to internal domestic political pressure. Issues that affect the security and safety of an entire subcontinent, such as nuclear and missile proliferation, cannot and should not be equated with political expediency. The internal political pressures cannot be carelessly applied when the result of those pressures is a direct threat to Pakistan's security. And surely if this rationale for nuclear provocation is good for the goose, will it not soon become equally good for the gander?

Mr. Speaker, since 1974 India has freely pursued its nuclear program. Pakistan, on the other hand has been severely penalized: for 10 years Pakistan has endured the Pressler sanctions that have adversely affected Pakistan's conventional defense. Yet Pakistan has consistently supported the elimination of nuclear weapons in the region. Since 1974 Pakistan has proposed to India the establishment of a nuclear weapons free zone in south Asia (1974); a joint Indo-Pakistan declaration renouncing the acquisition and manufacture of nuclear weapons (1978); mutual inspections by India and Pakistan of nuclear facilities (1979); simultaneous adherence to the NPT by India and Pakistan (1979); simultaneous acceptance of full-scope IAEA safeguards (1979); agreement on a bilateral or regional nuclear test ban treaty (1987); commencement of a multilateral conference on the nuclear proliferation in south Asia (1991); and creation of a missile-free zone in south Asia (1993).

All of these proposals have been rejected by India.

Mr. Speaker, if Pakistan and India are ever to resolve the differences between them it must be done through confidence-building measures, not through an arms race or nuclear contest. Prime Minister Benazir Bhutto of Pakistan and her predecessors have made a series of good faith gestures, and have put significant non-proliferation proposals on the table. Pakistan has demonstrated significant restraint in its own sophisticated technological program. It is long time that such restraint be matched by India, and that India respond substantively to the arms reduction proposals that have been promulgated by Islamabad. And above all, Mr. Speaker, this is hardly the right time or the right circumstances for a major provocation such as the deployment of the Indian Prithvi program.

I urge the President and the Secretary of State to use their good offices to have New Delhi take positive steps forward, not dangerous steps backward.

HONORING DR. DUANE R. BROWN

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 1996

Mr. KILDEE. Mr. Speaker, it is my pleasure to rise before my colleagues in the U.S. House of Representatives to recognize Duane Brown, Ph.D. Dr. Brown is retiring today after almost 29 years in the field of education.

Dr. Brown began his career in 1957 in the Flint community schools. Starting out as a community school director he quickly showed he understood the importance of the community's role in the education of the students. He

worked tirelessly with the parents and other community members to insure that each and every child had the best education possible. He worked with numerous organizations throughout the community to provide whatever services the residents of the community needed, whether that person was a student, parent or member of the community. At various stages in Dr. Brown's career he served as a principal and a director of elementary education. While serving as principal at Williams Community Education Center; he was responsible for the coordination of a comprehensive elementary school, recreational center, and facility offering health and other needed community services to the students and residents of the area; a true full service school.

In 1978, Dr. Brown began serving as executive director of the National Center for Community Education. It was through this center that Dr. Brown continued his mission by traveling to nearly every State in our great Nation and several foreign countries to conduct workshops for educators and parents on the benefits of community education. Additionally, many thousands of people have traveled from all over the world to the National Center and the Flint School District to learn more about community education. It was through these opportunities that many participants came to realize the dream that Charles Stewart Mott and Frank Manley had many years ago, when they looked around the Flint community at the many empty school buildings commenting and dreaming about all of the wonderful clubs for the young people.

Mr. Speaker, Duane R. Brown is one of those educators that each of us as parents hope our children have the opportunity to become acquainted with because he cares. It is with great pleasure that I stand before you today to ask you and my fellow members of the 104th Congress to join me in paying tribute to a individual who certainly made his community a better place for all because he was there.

IN COMMEMORATION OF KINDNESS WEEK

HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 1996

Mr. FROST. Mr. Speaker, I would like to recognize the Kindness Foundation of Dallas, TX, and to praise their efforts to establish the week of February 11–18, 1996, as Kindness Week in Texas.

The Kindness Foundation's mission is to improve the quality of life throughout Dallas, and challenge every city in the United States to encourage intentional acts of kindness among all of its citizens.

The Foundation was founded by Dee Silverstein and Jackie Waldman of Dallas after they were inspired by the movie, Schindler's List. Silverstein and Waldman were stuck by the impact that one committed individual could make in the world. They realized that they too could make a difference and sought the counsel of the late James C. McCormick, a best-selling author and prominent Dallas area businessman and city leader; together the three enlisted the help of other committed Texans to form Dallas Acts Kind, the grassroots group that organized Kindness Week '95.

The Dallas mayor endorsed the idea and declared February 12–18 1995, Dallas Acts Kind Week. The first week of its kind, the event was a huge success. Activities included a Kindness Youth Rally for 16,000 area seventh and eighth graders with a message to make kindness a way of life, an All-City Rally promoting racial harmony and religious tolerance, and a gathering in Thanks-Giving Square to celebrate unity.

As a result of Dallas Acts Kind Week '95, a Universal Prayer was written by leaders of the three monotheistic religions—Judaism, Christianity, and Islam.

In addition, the success of last year's event prompted Dr. Don Benton, a pastor in the United Methodist Church, to accept a calling to serve as the first president of The Kindness Foundation.

For 1996, a special task force has been coordinating the efforts of more than 100 volunteers in planning for Kindness Week '96. Thus far, events will include a youth rally designed to promote kindness as a strength, the planting of the first "Kindness Tree," an interfaith service, a free showing of *Schindler's List*, an evening of multicultural family entertainment, and a city-wide rally organized to foster oneness.

The Kindness Foundation was created by three caring individuals who were committed to make their community a better place in which to live. Since then, many more have joined them in this worthy cause. It is now up to all of us to participate in the effort to spread kindness in the course of our daily lives. After all, we all share the responsibility in building nurturing and supportive communities.

THE 104TH CONGRESS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 1996

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, January 10, 1996, into the CONGRESSIONAL RECORD:

THE FIRST SESSION OF THE 104TH CONGRESS

It is hard to remember a busier session of Congress than the first year of the 104th Congress in 1995. The House was in session through Christmas, and cast over 880 votes. But is also true that the achievements of the first session are meager. Even the strongest champions of the first session admit the sparse results and say the session made history but not laws.

CONGRESSIONAL AGENDA

The new congressional leadership certainly defined the debate during 1995 and they deserve credit for making a start on the central question of balancing the federal budget by the year 2002. Major progress was made in reducing the deficit and trimming the size of government in the first two years of the Clinton Administration, and the new congressional leadership is building on those achievements. The issue now is not whether the budget should be balanced, but how; and not whether federal responsibilities should be devolved to the states, but which ones. I voted for a seven-year balanced budget, a balanced budget amendment to the Constitution, and a line-item veto.

Some of the major achievements of the session came on issues that transcended partisan politics. Congress, with my support, passed long delayed legislation to tighten registration and disclosure rules for lobbyists; banned virtually all gifts to lawmakers, including expensive paid trips to resorts; required Congress to abide by federal workplace laws; and limited the imposition of unfunded mandates on states and localities.

The congressional leadership has brought about major changes in the manner Congress operates. Speaker Gingrich has centralized power in his office, at the expense of the committee system. For the most part, he has simply bypassed the slow process of congressional hearings and committee work, and attempted to use spending bills to make changes in policy. He has succeeded in keeping a remarkable level of discipline in his caucus.

FAILURES

Even so, the ambitions of the new House leadership have outstripped its achievements and left one of the least productive sessions in modern history in terms of the number of laws enacted. The most important piece of legislation—a huge omnibus bill calling for reform of hundreds of programs and a seven year plan to balance the budget—remains stalled in negotiations with the White House. In all, 67 bills were enacted into law in 1995, by far the lowest number for a first session of Congress since the end of World War II. Among them are six of the 13 annual appropriations bills funding the operations of the government that should have been passed by October 1, 1995.

The list of items under the Contract with America not passed is extensive. It includes a balanced budget amendment, a line item veto, crime bill, welfare reform, tax cuts, national security measures, deregulation, litigation restraints, and term limits. Speaker Gingrich was able to get most of his Contract through the House with ease, but came up hard against the unique role that the Constitution gives to the Senate. The Senate traditionally serves as a break on the excesses of the House. The revolutionary zeal that has often marked the Republicans in the House still courses through the House, but the Senate has proved to be far more cautious and skeptical, slowing some measures and blocking others.

This has been a special-interest driven Congress. I suppose that's always true to some extent, but the new Republican leadership, while vowing to end it, just came up with a new list of political winners and losers. The working poor have certainly been on the wrong side of their list; the wealthy on the right side. It is one thing to run on a promise of curbing all government entitlements to everyone but quite another to target lower income working Americans for a disproportionate share of the cuts. Many members came to Congress this year to shake up Washington, but they have become among the leaders in campaign contributions from special interests. As a remedy, I support sweeping campaign finance reform, and will urge its consideration this year.

LACK OF CIVILITY

The congressional session was as contentious as I can remember, epitomized by the bitter fight over the budget that closed the government for 21 days—a record—and kept

Congress in session over Christmas for the first time in 15 years, and reached new heights for vituperative debate.

I have seen more flat-out partisanship in the House this year than ever before. It spreads from the floor to the committees, which were once largely free of it, and certainly to the television cameras. There have been shouting and shoving matches on and off the House floor and harsh partisan and personal attacks.

RETIREMENTS

There's not much doubt that Congress is going through a real shakeout. So far, 24 members of the House and 12 members of the Senate have announced their retirements, with another 10 House members running for higher office. Many have talked about the very long hours and demanding schedule. Others have cited the extreme partisanship. Still others have said they simply want to pursue other career opportunities, and spend more time with their families.

Change and turnover can be beneficial as new members bring fresh energy and new ideas to the institution. Congress, however, also benefits from the leadership and experience of veteran legislators, who know how to build consensus and make the legislative process work. My concern is that so many retirements come from the political center of both parties. Moderates are where most of the American people are on issues. What we need in Congress and government today is a dynamic center that represents and responds to the needs and concerns of the average American, not special interests on the right and left.

CONCLUSION

My own guess is that, under the present balance of forces in the White House and Congress, all of the questions on the budget and the role of government will not be resolved completely. We can reasonably expect incremental changes, rather than revolution. Nobody knows, of course, what happens to the Republican proposals in the days ahead. Many of the questions, unsettled in 1995, may be resolved in 1996.

A SALUTE TO BLACK HISTORY MONTH

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 1996

Mr. SCHUMER. Mr. Speaker, I urge my colleagues to join me this February in celebrating Black History Month. I would like to take a moment to reflect on the courageous leadership and civic duty that has shaped the communities of New York throughout this decade. As we approach a new century, New Yorkers of all ethnic backgrounds will face a new set of economic, social, and political challenges. If we stop and recognize the perseverance of African-Americans in times of change, their record of commitment to the pursuit of prosperity, integrity, and opportunity for their families and friends speaks for itself.

The tireless work of community and religious leaders in guiding African-American communities have done much to improve the quality of life in our city. I am proud to honor this important occasion where African-Americans join hands to acknowledge their accomplishments and their unique contributions to our society and the world.

The level of civic participation in today's culture is depressingly low among average American citizens. However, I am always inspired by the surge of community spirit and leadership from African-Americans in New York. Our society would be a better place if more Americans emulated the civic duty and moral strength of their African-American counterparts. I hope that Black History Month is recognized and honored by citizens of all backgrounds. I honor the work and vision of my African-American colleagues in Congress and throughout New York. May our city continue to be blessed with their leadership.

HONORING LIVERMORE PUBLIC SCHOOLS

HON. BILL BAKER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 1996

Mr. BAKER of California. Mr. Speaker, Money Magazine is generally recognized as one of the most reliable financial guides in the country. That's why, when Money recognized the public schools in Livermore, CA as among the "100 Top Schools in Towns You Can Afford," America took notice.

Livermore is a lovely community situated amid rolling hills and farmland in central California's east bay region. Home of the Lawrence Livermore National Laboratory, Livermore is committed to the community values that make for a high quality of life. It is not surprising to me that its school system would be cited for excellence.

Money set demanding criteria as the basis of its selections. Money said the school systems on its list are rated in the academic top 20 percent of all systems. Money also scored its "Top 100" in the context of housing affordability. In other words, Money combined high scholastic standards with community liveability—and Livermore was one of the top 100 school systems out of 16,665 systems in the Nation to meet this stringent test.

It is an honor for me to recognize the parents, teachers, administrators, and students of the Livermore public school system for achieving this exceptional honor. I am proud to represent this remarkable group of people in Congress, and appreciate all they have done to make their schools and community the wonderful places they are.

AUTISM SOCIETY OF AMERICA CELEBRATES NATIONAL AUTISM AWARENESS MONTH

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 1996

Mr. GEPHARDT. Mr. Speaker, I rise today to join the Autism Society of America [ASA] in recognition of January as National Autism Awareness Month.

This has been a year of progress and achievement for the ASA. Last spring, in response to a request from Congress, the National Institutes of Health [NIH] held an Autism State-of-the-Science Conference. The conference brought researchers, clinicians and parents together in an effort to evaluate existing science and identify new areas for research.

The conference highlighted the fact that autism affects some 400,000 Americans. While the exact cause of autism is still unknown, conference participants agreed that, at least for some individuals with autism, there appears to be a genetic link—one that could very probably be identified with the work being conducted by the NIH National Center for Human Genome Research.

Undoubtedly the most important outcome of the conference was the conclusion that more research is desperately needed. Autism is a lifelong disability. Its social, emotional, and financial costs are staggering, ranging from $30,000 to $100,000 per year per person—millions of dollars for each individual over the course of a normal lifespan. These numbers speak to the need for more research on the possible causes of autism as well as medical, social, and behavioral interventions.

The ASA was the major force behind this conference. Backed by the strength and knowledge of its 18,000 parent members, the ASA has been the primary source of information and referral on autism and the largest collective voice representing the autism community. Founded over three decades ago, its members are now connected through a volunteer network of over 220 chapters in 48 States.

Mr. Speaker, I ask my colleagues to join me in congratulating the Autism Society of America for its 30 years of service and in sharing in their celebration of National Autism Awareness Month.

TIME TO CLARIFY THE ROLE OF CHURCHES IN THE POLITICAL SPHERE

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 1996

Mr. CRANE. Mr. Speaker, today I am introducing legislation along with my colleague from New York, CHARLIE RANGEL, which will allow churches to carry on a minimal degree of grassroots lobbying and campaign activity without jeopardizing their tax exempt status.

The proposal can best be described in two parts, with the first part focusing on the grassroots lobbying activity of churches. Section 501(c)(3) of the Internal Revenue Code states that "no substantial part of [church] activities [can] consist of carrying on propaganda or otherwise attempting to influence legislation."

While this language clearly suggests that some such activity is acceptable, churches have had a hard time determining just exactly what level will pass muster with the Internal Revenue Service. Because of the verbiage "no substantial part," and varying court interpretations as to just exactly what "substantial" means, churches are very shy about engaging in any lobbying activity on issues at all because of the fear that they could lose their tax

exempt status. In an effort to give churches a better idea of just exactly how much in the way of resources they can devote to grass roots lobbying, we have drafted a proposal which would give churches and the IRS a bright line test.

Working with legislative counsel, we have crafted a proposal which allows churches to continue to maintain their tax exempt status as long as they do not make lobbying expenditures in a taxable year "in excess of an amount equal to 20 percent of such organization's gross revenue for such year." This "20 percent rule" for lobbying activity parallels another provision in the Code for nonprofits (501(h)).

The second part of the proposal addresses church involvement in actual campaign activity. The Code currently states that churches cannot engage in "any political campaign on behalf of—or in opposition to—any candidate for public office." In other words, a church is prohibited from campaigning for or against a specific candidate.

The current language begs some questions. Is allowing a candidate to come into a church to speak from the pulpit or allowing a meeting of a candidate's volunteers in the church basement really something we want to prohibit? Shouldn't a certain minimal degree of activity be acceptable? Without getting into a lengthy debate on the subject of separation of church and state, I do need to make some observations on that matter at this juncture. As a Ph.D. in American History, I have taken great pains to study our Constitution and the writings of the Founding Fathers. There is no question in my mind that the so-called wall erected to separate church and state was erected to prevent the state from interfering with the activities of the church—not to prevent the church from being involved in the activities of the state. In other words, it is my view that church involvement in the political process is not something that would have been frowned upon at all by the Founding Fathers. Indeed, I would imagine that they might be surprised if there were no such activity.

Frankly, plenty of churches on both the right and left currently allow such activity, and that fact raises the question of selective enforcement by the IRS. If the IRS decides to step up enforcement in this area, are we going to see some churches lose their tax exempt status simply because of a volunteer meeting in the church basement? Will we see a situation where, depending on the political party in power at the time, harassment of churches exclusively on the right or churches exclusively on the left? If the reality is that the IRS currently looks the other way when it comes to such minimal activity, putting a bright line test in law for such minimal activity will put everyone's mind at ease and would seem reasonable.

To address these concerns and questions, the second part of this bill states that it is acceptable for a church to devote up to 5 percent of the organization's gross revenues to campaign on behalf of—or in opposition to—any political campaign or candidate for public office. This would allow for the very limited and modest activities given as examples above.

Finally, I would note that the legislation contains an aggregate limit which states that both the grass roots lobbying activity and the campaign activity combined cannot exceed 20 percent of gross revenues.

It is my hope that this proposal will generate broad bipartisan support, and I encourage my colleagues to join us and cosponsor this legislation.

A TRIBUTE TO THE CREW OF SPACE SHUTTLE "CHALLENGER"

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 1996

Mr. HASTINGS of Florida. Mr. Speaker, I rise to pay tribute to the seven crew members of the space shuttle *Challenger*. Ten years ago on January 28, 1986, these brave astronauts fell victim to one of our Nation's most horrific tragedies—the *Challenger* explosion. Indeed, human space exploration is and has always been inherently risky but this should not deter us from reaching for the stars or from exploring this new frontier.

Forty-nine space shuttle missions have been successfully completed since 1986. The safety features of the space shuttle have improved substantially since the *Challenger* tragedy. It is possible, NASA officials believe, that if a similar accident happened today, crew members could escape with their own oxygen supply and parachutes.

A healthy shuttle program is fundamental to construction of the international space station—starting in late 1997, which will be the basis of further human exploration of Mars and beyond. NASA plans to launch 26 shuttle flights between 1997 and 2002 to help assemble this station. Additionally, a preliminary plan designed by NASA and the Russian Space Agency envisions using the space shuttle to deliver Russian hardware to resupply the orbiting Mir station. Therefore, the space shuttle program will be instrumental in the enhancement of international cooperation, the forerunner of world space. Furthermore, the reusable space shuttle is the way of the future for launching commercial and military satellites.

As one of the parents of the astronauts remarked, he was "pleased that the crew's footsteps were being followed" and "that their hopes and dreams are marching forward." On the 10th anniversary of this disaster, we must express support for the continuation of the space exploration mission in order to truly honor those seven brave explorers.

TRIBUTE TO GERARD KLUPP

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 1996

Mr. KLECZKA. Mr. Speaker, I rise today to pay tribute to a lifelong friend and resident of Milwaukee, my hometown, Mr. Gerard Klupp, as he is honored as Person of the Year by the South Side Advancement Association at the 49th annual Lincoln Day banquet.

Jerry Klupp is devoted to his family, his God, and his Nation. He is the proud father of two children and grandfather of five and has served his parish, St. Adalbert's, in many capacities. Enlisting in the Air National Guard in 1949, Jerry was activated into the Air Force in 1951, and was honorably discharged in 1953 as a sergeant. He is currently active in his American Legion Post and the AMVETS.

Jerry Klupp is also a successful businessman. Working in his father's business, Frank J. Klupp & Sons, a construction firm, Jerry has had a personal, hands-on influence on many public and private projects, both big and small, in the Milwaukee area.

Many Milwaukee civic organizations have also been graced with Jerry's service over the years. Beneficiaries of Jerry's gifts of time and talents include the South Side Business Club, the Milwaukee Society—Polish National Alliance, the South Side Advancement Association, and Polish Fest.

Mr. Speaker, Jerry Klupp's dedication to his community should serve as an example to us all.

With all of this in mind, I am pleased to present Jerry Klupp with an American flag which has proudly flown over our Nation's Capitol. Keep up the good work, God Bless, and thanks for being a model citizen, Jerry.

TELEVISION VIOLENCE

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 1996

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, January 17, 1996 into the CONGRESSIONAL RECORD:

TELEVISION VIOLENCE

Most of us have seen something offensive on television—portrayals of casual sex, talk shows which glorify all the wrong values, or graphic violence. Adults can, and often do, turn off the set in disgust; but these images can be both powerful and confusing to children. While many parents try to closely monitor what their children watch, in this age of cable television they are frequently confounded by the proliferation of new programs.

TV has become a very strong competitor to families, schools, and other community institutions in shaping young people's attitudes and values about acceptable behavior. Television is cheap, accessible and convenient. Most research on the effects of television on children has centered on violent programming. Congress has also discussed a number of approaches to lessen TV violence.

RESEARCH

Virtually every American household has at least one television set, and children are among the most avid viewers. The average pre-schooler and school-aged child watches two to four hours of TV per day. By the time children finish elementary school, they have on average viewed 8,000 murders and over 100,000 additional acts of violence on television. A 1994 report analyzed ten television channels for 18 hours one day and found over 1,800 acts of violence—more than 10 violent scenes per hour, per channel, all day. But perhaps most disturbing is the finding that TV violence is most common on Saturday morning, when children are most likely to be watching.

No one believes that television by itself causes aggression, but research indicates convincingly that violent programming contributes to the problem. Most of the 1,000 or so studies on TV violence show that it can influence viewers of all ages and socioeconomic levels toward more violent and aggressive behavior. Watching the more violent shows can easily lead a person to develop an image of a mean world in which people cannot be trusted and in which violence is commonplace, even acceptable.

WHAT CAN BE DONE

The public has increasingly demanded that broadcasters show more restraint, but progress was slow. The industry for many years denied that violent programming was harmful to children, and argued that restrictions could limit creativity and interfere with First Amendment protections on free speech. However, the four major television networks agreed in 1993 to place parental warnings on programs that might contain excessive violence. In early 1994, network and cable television executives agreed to have their programming independently monitored for two years.

Meanwhile, pressure for greater government involvement in limiting violent programming has also mounted. The federal government generally has imposed only limited restrictions on the content of television shows. The Supreme Court this month upheld federal regulations that ban indecent programming between 6:00 a.m. and 10:00 p.m. However, this ban has usually been enforced against programming which is sexually explicit or contains vulgar language—not against violent programming.

Attention has recently focused on the so-called "V-chip," which would allow parents to block violent programming. Under this proposal, television programs would be rated much as movies are. These ratings would be electronically transmitted to the V-chip, a receptor inside the television set. Parents could then program their TVs not to receive programs with certain ratings.

During consideration of a telecommunications reform bill in August 1995, I voted for an amendment to require that all 13-inch and larger TVs sold in the United States include a V-chip. The measure, which was approved by the House, would give broadcasters one year to establish voluntary rules for rating video programming and to begin transmitting such ratings. If the industry failed to act, the Federal Communications Commission (FCC) would develop its own guidelines. A House-Senate conference committee has agreed to the V-chip provisions.

Critics of the V-chip charge that it would impose unconstitutional restrictions on TV programming. However, the V-chip proposal does not bar broadcasters from showing violent programs—it simply allows consumers to regulate the reception of such programs in their homes. Just as the system of voluntary movie ratings has survived legal scrutiny, I believe that the V-chip will as well.

In addition, the Chairman of the FCC has proposed greater requirements on broadcasters to air educational programs for children. Some schools have also begun media literacy programs to encourage students to view TV more critically.

OUTLOOK

Many parents feel bombarded by ideas and images hostile to the values they want to instill in their children. Television is not the only source of trouble—music, video games, movies, and the Internet can also be conduits for violence or vulgarity. But TV remains by far the most influential type of media, and how we deal with it will be instructive in dealing with other types.

Many questions remain: How can the V-chip technology be made more affordable? What distinctions should we make between different violent images—for example, Wile E. Coyote attacking the Road Runner vs. a documentary on the Holocaust? How should violence depicted on television news be treated? Not all instances of violent programming are necessarily inappropriate, but we must figure out how to protect children from violence that is clearly excessive. I think it might help to require each broadcaster to say when it applies to the FCC for renewal of its license what it intends to do for the children that it serves and how it intends to discourage violence.

It is clear that there are no easy solutions to this problem, but we cannot abandon our children to the wasteland of television violence. I believe the V-chip can come to be an important tool for parents to use in combatting the effects of TV violence. But I do not believe that technology will ever serve as a substitute for the role parents play in screening the programs their children watch and discussing with them what they see. Right now, violence sells. It is up to the public to remove this perverse economic incentive by voting with our feet—or more accurately, with our remote controls. Without any doubt public pressure will be more important than a federal statute to make the purveyors of media violence display good judgment and exercise self-restraint.

TRIBUTE TO WILLIE JULIUS MORRISON

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 1996

Mrs. MEEK of Florida. Mr. Speaker, I rise today to announce the retirement of Willie Julius Morrison, assistant director Metro-Dade Police Department. After serving 4 years in the Air Force, on January 17, 1966 Willie Morrison became a patrol officer with the public safety department.

This was the beginning of a quick and steady rise to leadership. In 1970 Officer Morrison became Sergeant Morrison. Three years later, he was promoted to lieutenant. By 1979 he was the police major for the north region. In February 1980, he was designated as chief of the newly formed special services division.

During this rapid rise within the leadership ranks, Willie Morrison achieved several firsts. He was the first black lieutenant in the Metro-Dade Police Department, the first black police major; the first black police chief; and the first and only black assistant director within the department.

Willie Morrison has served in a variety of professional positions and he faithfully serves as husband and father to Rose and Julius respectively.

It is important for you to know that this distinguished leader has served the Metropolitan Dade County community well. We thank him for 30 years of public service.

TRIBUTE TO BENJAMIN LONGMAN

HON. MARTIN OLAV SABO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 1996

Mr. SABO. Mr. Speaker, our Nation recently celebrated the 50th anniversary of our hard-fought victory in World War II. During this conflict, many people at home and abroad made sacrifices for their country. One of these was my constituent, Mr. Benjamin Longman.

Mr. Longman served in World War II as a flight trainee and later as a flight instructor. Due to an administrative error, however, military records did not accurately reflect his service until they were corrected in May of 1982. At that time, the U.S. Air Force confirmed that Mr. Longman did in fact serve on active military duty in 1943.

Mr. Longman, now 82 years old, was honorably discharged from military service in 1945. As his representative in Congress, I wish to publicly thank him for his military service to the United States of America. All of our fellow citizens should be grateful for his patriotism. Mr. Speaker, I commend Benjamin Longman's example of service to all Members of Congress and to all Americans.

ODELL JOHNSON, JR., AND HIS COMMITMENT TO HIGHER EDUCATION

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 1996

Mr. DELLUMS. Mr. Speaker, I rise today to share with my colleagues the fact that Mr. Odell Johnson, Jr., has dedicated over 25 years of committed service to the education of Oakland and the bay area.

Odell served as Laney College president for 15 years, longer than any other president in the history of the Peralta Community College District. He received his education from Fresno City College, St. Mary's College, and the California State University at Hayward. He then became the dean of students of St. Mary's College and dean of instruction at the College of Alameda.

He continued to make important contributions to increase standards for higher education as president of Laney College, where he oversaw the educational opportunities afforded to the most ethnically diverse of the California community colleges.

Odell's many contributions as a respected leader extend beyond the boundaries of the bay area. They include State and national recognition for his outstanding service to higher education. In addition to his services as an educator, he has been active on boards in community-based organizations such as the West Oakland Health Center, the Black Adoption Placement and Research Center, the Oakland Ensemble Theater, and the Bay Area Dance Series.

Odell also maintains a strong commitment to assisting young people in identifying and

achieving their personal, educational, and career goals. Through his leadership, he has assisted many students in developing and understanding a respect and an appreciation for people from diverse backgrounds and cultures.

THE TOWING VESSEL SAFETY ACT OF 1996

HON. PATRICK J. KENNEDY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 1996

Mr. KENNEDY of Rhode Island. Mr. Speaker, I rise today to announce the introduction of the Towing Vessel Safety Act of 1996. This bill was brought to the top of my legislative agenda due to the recent oil spill that occurred off the coast of Rhode Island.

Almost 1 million gallons of home heating oil spilled into our waters when the *Scandia* tugboat caught fire and caused the North Cape barge to run aground. Sadly, this incident has had serious environmental and economic repercussions in my State. Most notable is the damage to our coastal ecosystems. Thousands of lobsters and other wildlife were heavily impacted by this tragedy. In all, it will take months to remediate the damage and restore our environment and industries like commercial fishing and tourism to their full health.

The Towing Vessel Safety Act will establish guidelines that every tugboat have navigational, fire prevention, and various other safety provisions necessary to avoid incidents like the one in Rhode Island. Moreover, the bill will ensure that the master and crew of tugboats are properly trained and licensed in the operation of the vessel and its equipment. Lastly, the Towing Vessel Safety Act will require the Coast Guard to make routine inspections to guarantee that all guidelines are followed.

Mr. Speaker, I am deeply saddened by what has happened in Rhode Island. I am hopeful, however, that the Towing Vessel Safety Act will be an important first step in avoiding similar tragedies.

I am looking forward to working with the Coast Guard, the House Transportation Committee, and all my colleagues in Congress to ensure that this important legislation becomes law.

Mr. Speaker, I insert the text of the Towing Vessel Safety Act for the RECORD.

H.R. —

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 "Towing Vessel Safety Act of 1996".

SEC. 2. MINIMUM NAVIGATIONAL SAFETY EQUIPMENT FOR TOWING VESSELS.

(a) IN GENERAL.—Section 4102 of title 46, United States Code, is amended by adding at the end the following:

"(f)(1) In prescribing regulations for towing vessels, the Secretary shall—

"(A) consider the characteristics, methods of operation, and nature of the service of towing vessels;

"(B) consult with the Towing Safety Advisory Committee; and

"(C) require, to the extent appropriate, the installation, maintenance, and use of and familiarity with the following equipment on each towing vessel, other than a towing vessel that is used only for towing disabled vessels:

"(i) A radar system.

"(ii) An electronic position-fixing device.

"(iii) A sonic depth finder.

"(iv) A compass or swing meter.

"(v) Adequate towing wire and associated equipment.

"(vi) Up-to-date navigational charts and publications for the areas normally transited by the vessel.

"(vii) Other safety equipment the Secretary determines to be necessary.

"(2) The Secretary shall establish in regulations under this chapter requirements that—

"(A) any equipment required on a towing vessel under paragraph (1) shall be maintained in effective operating condition; and

"(B) if such equipment on a vessel ceases to operate, the master of the vessel shall exercise due diligence to restore the equipment to effective operating condition, or cause it to be restored to that condition, at the earliest practicable date.".

(b) REGULATIONS.—The Secretary of Transportation shall issue regulations by not later than 12 months after the date of the enactment of this Act, prescribing navigational publication and equipment requirements under subsection (f) of section 4102 of title 46, United States Code, as added by subsection (a) of this section.

SEC. 3. REPORTING MARINE CASUALTIES.

(a) EXPEDITED REPORTING REQUIRED.—Section 6101(b) of title 46 United States Code, is amended by striking "within 5 days" and inserting "by as soon as practicable, but in no case later than within 5 days,".

(b) PENALTY FOR FAILURE TO REPORT A CASUALTY.—Section 6103(a) of title 46, United States Code is amended by striking "$1,000" and inserting "not more than $25,000".

SEC. 4. REPORT ON FEASIBILITY OF ESTABLISHING A DIFFERENTIAL GLOBAL POSITIONING SATELLITE NAVIGATION SYSTEM AND ELECTRONIC CHARTS FOR INLAND WATERWAYS.

Not later than 6 months after the date of the enactment of this Act, the Secretary of Transportation shall submit a report to the Congress on the feasibility of establishing a differential global positioning satellite navigation system and creating electronic charts for the inland waterways of the United States.

SEC. 5. PROTECTION OF SEAMEN AGAINST DISCRIMINATION.

Section 2114 of title 46, United States Code, is amended—

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

"(a) An owner, charterer, managing operator, agent, master, or individual in charge of a vessel may not discharge, temporarily remove, or in any manner discriminate against a seaman because the seaman—

"(1) in good faith has reported or is about to report to the Coast Guard that the seaman believes that a violation of this subtitle, or a regulation issued under this subtitle, has occurred; or

"(2) refuses to violate this subtitle or a regulation issued under this subtitle."; and

(2) in subsection (b)—

(A) in paragraph (1) by striking "and" after the semicolon;

(B) in paragraph (2) by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(3) an award of cost and reasonable attorney's fees to the prevailing plaintiff.".

SEC. 6. MANNING AND LICENSING REQUIREMENTS FOR TOWING VESSELS.

(a) MANNING REQUIREMENTS.—Section 8904 of title 46, United States Code, is amended by adding at the end the following:

"(c) A towing vessel, other than a vessel referred to in subsection (b), shall—

"(1) while being operated, have on board an individual licensed by the Secretary as a master of that type of towing vessel; and

"(2) be operated by an individual licensed by the Secretary to operate that type of towing vessel.".

(b) REGULATIONS ESTABLISHING LICENSES FOR MASTERS AND OPERATORS.—Section 7101 of title 46, United States Code, is amended by adding at the end the following:

"(j)(1) The Secretary shall prescribe regulations which establish licenses for masters and mates of towing vessels.

"(2) Regulations under this subsection shall provide that an individual may be issued a license as a master or mate of a towing vessel only if the individual—

"(A) demonstrates proficiency in the use of the equipment required pursuant to section 4102(f)(1)(C) of this title; and

"(B) demonstrates proficiency in operating a towing vessel.

"(3) Regulations under this subsection may establish standards and procedures under which the Secretary may delegate, to individuals who have experience in the operation of towing vessels and to other qualified persons, the authority to conduct examinations required for the issuance of a license as a master or mate of a towing vessel.".

(c) EXISTING UNINSPECTED TOWING VESSEL OPERATOR LICENSE HOLDERS.—An uninspected towing vessel operator license that is valid on the date of enactment of this Act shall be valid as a master or mate license required under section 8904 of title 46, United States Code, as amended by this section, until otherwise required to be renewed. The Secretary shall require that an individual applying for a first renewal of such a license as a master or mate license under that section demonstrate proficiency under the requirements of section 7101(j) of title 46, United States Code, as added by this section.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect 2 years after the date of the enactment of this Act.

(e) DEADLINE FOR REGULATIONS.—The Secretary of the department in which the Coast Guard is operating shall issue regulations under the amendments made by this section by not later than 1 year after the date of the enactment of this Act.

SEC. 7. INSPECTION OF TOWING VESSELS.

(a) IN GENERAL.—Section 3301 of title 46, United States Code, is amended by adding at the end the following:

"(14) towing vessels.".

(b) EXCEPTION.—Section 3302 of title 46, United States Code, is amended by adding at the end the following:

"(n) A towing vessel is not subject to inspection under section 3301(14) of this title if the vessel—

"(1) is used only for towing disabled vessels; or

"(2) is not used to pull, push, or haul alongside a barge that is subject to inspection under section 3301 of this title.".

(c) EQUIPMENT REQUIREMENTS.—Section 3306 of title 46, United States Code, is amended by adding at the end the following:

"(j) In prescribing regulations for towing vessels, the Secretary shall—

"(1) consider the characteristics, methods of operation, and nature of the service of towing vessels;

"(2) consult with the Towing Safety Advisory Committee; and

"(3) require, to the extent appropriate, the installation, maintenance, and use of the following equipment on each towing vessel, other than a towing vessel that is used only for towing disabled vessels:

"(A) A radar system.

"(B) An electronic position-fixing device.

"(C) Adequate communications equipment.

"(D) A sonic depth finder.

"(E) A compass or swing meter.

"(F) Adequate towing equipment.

"(G) Up-to-date navigational charts and publications for the areas normally transited by the vessel.

"(H) Adequate fire fighting equipment.

"(I) Other equipment the Secretary determines will minimize the risk of injury to the crew or the risk of a vessel or barge casualty.".

(d) REGULATIONS.—The Secretary of Transportation shall prescribe regulations implementing this section within 1 year after the date of enactment of this Act.

SEC. 8. CIVIL PENALTIES.

(a) PROHIBITED OPERATION OF UNINSPECTED TOWING VESSEL, GENERALLY.—Section 4106 of title 46, United States Code, is amended by striking "$5,000" and inserting "$25,000".

(b) OPERATION OF UNINSPECTED TOWING VESSEL IN VIOLATION OF MANNING REQUIREMENTS.—Section 8906 of title 46, United States Code, is amended by striking "$1,000" and inserting "not more than $25,000".

HONORING DR. RON GALLOWAY

HON. CHARLIE NORWOOD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 1996

Mr. NORWOOD. Mr. Speaker, I am pleased to bring to your attention the distinguished career of Dr. Ronald Frost Galloway. Dr. Galloway is retiring today from University Hospital in Augusta, GA. He has practiced at University Hospital since 1963, where he established the first cardiac surgical program at the hospital in 1974. He has served on the Richmond County Hospital Authority for 7 years helping shape what University Hospital is today.

Mr. Speaker, Dr. Galloway has enhanced the quality of life for the people of the Augusta community for many years. He is a man of uncompromising integrity, a truly remarkable physician, and a gentleman. I am pleased to honor him today before the House of Representatives.

SMALL BUSINESS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 1996

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, January 24, 1996 into the CONGRESSIONAL RECORD:

SMALL BUSINESS: CREATING OPPORTUNITY

Small businesses are the backbone of the American economy. They generate a majority of our new jobs and provide many important technological innovations. They also play a vital role in satisfying the country's need for opportunity and choice. For years, small businesses have repeatedly led this country out of troubled economic times and into prosperity.

There are over 5.8 million small businesses in the U.S. today, employing more than 92 million private sector workers. Small businesses account for 50% of the nation's sales, 50% of private sector output, 53% of U.S. employment, and 99.7% of all employers. There are over 129,000 small businesses in Indiana, employing over 2.1 million people. By any measure, small businesses are a key source of growth and dynamism in our economy.

WHITE HOUSE CONFERENCE

The small business community, however, does face numerous challenges in the national and global marketplaces. Last summer a bipartisan delegation of over 2,000 small business men and women, including representatives from southern Indiana, met in Washington to identify the key concerns of America's entrepreneurs and develop specific recommendations for maintaining and encouraging the economic viability of small business.

The White House Conference on Small Business made 60 recommendations, focussing on three critical areas: improving access to capital; easing regulatory burdens; and making investments in our workforce. Congress and the President took some steps over the last year to address these concerns, but more work needs to be done.

CAPITAL FORMATION

Access to capital is a critical problem for many small businesses. More than two-thirds of all new firms begin with less than $10,000 in total capital, much of it provided by the owner, family members or friends. Once established, a small firm must face interest rates on bank loans two or three percentage points above the prime rate. The White House Conference made several recommendations to improve access to the capital needed to finance the survival and growth of small businesses, and Congress has acted on some of those proposals.

Congress, with my support, approved the Small Business Lending Enhancement Act which will allow SBA to increase total loan volume at a lower cost to the taxpayers, and SBA has acted independently to simplify the application process for small businesses. Furthermore, federal bank regulators have reduced regulation and paperwork burdens for small national banks, and securities regulators have eased registration and filing burdens for small business.

Small business is also keenly interested in tax relief, particularly relating to capital gains and estate taxes. I agree that the federal government should encourage investment, and have been supportive of carefully designed efforts to increase savings and investment. I would expect to support such changes again in the context of comprehensive, fiscally responsible tax reform.

REGULATORY RELIEF

Federal, state and local governments impose too many requirements on the operation of businesses. The burdens often include substantial paperwork and recordkeeping requirements. The White House Conference made several recommendations for easing or eliminating federal regulations, some of which have been acted upon and others of which are under consideration in Congress.

Congress, with my support, approved a measure to minimize the paperwork burden for regulatory compliance. I have also supported bills, approved by the House and pending in the Senate, to impose a temporary moratorium on regulations; require federal agencies to conduct risk assessment and cost-benefit analysis of federal regulations; permit small businesses to challenge proposed federal rules in court; require compensation for property owners adversely affected by regulations; reform product liability laws; and change federal procurement laws to increase government use of commercial items.

We need a commonsense regulatory system that works for small businesses, not against them. The system should protect health, safety and the environment without imposing unacceptable or unreasonable costs on small business. Regulations should recognize that the private sector is the best engine for economic growth, respect the role of state and local governments, and be effective, sensible and understandable.

WORKFORCE INVESTMENT

As business technology has become more complex and the world economy more competitive, the strength of the American economy depends on the skills and training of our workforce. Small business owners often tell me of the need to improve the quality of education and access to skill training. The White House Conference echoed these views.

The task of preparing our workers falls on many of us: parents, educators, businesses, and the public sector. The federal government has a secondary, though, important role. Congress, with my support, is currently reforming federal job training efforts—streamlining various programs and giving more flexibility to the states. I do not support, however, the deep cuts in job training and school-to-work programs favored by Speaker Gingrich.

The White House Conference also focused attention on the rising cost of providing workplace benefits, urging various pension and health care reforms to ease these pressures. Congress, with my support, approved a measure to reinstate the 25% health insurance premium deduction for the self-employed and raise the deduction level to 30% in tax year 1996. I favor a 100% deduction. Congress is also debating proposals to encourage greater retirement savings.

CONCLUSION

We Americans should try to help small businesses compete by increasing their productivity—by increasing the quality and quantity of capital their workers use, by improving their employee skills through training, and by enhancing their management skills. Ensuring that financing is available and affordable will be critical to allowing small business to achieve these goals. Their competitiveness will also be improved by easing regulations. Small firms must also continue to do what they do best—experiment with new products and process innovations—if they are to hold their important position at the leading edge of the American economy.

ELLA LEE COLLINS TURNS 100 FEBRUARY 20

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 1996

Mr. WALSH. Mr. Speaker, I ask my colleagues to join me today in wishing a special

happy birthday to Ella Lee Collins of Syracuse, NY, who turns 100 on February 20.

On behalf of her 3 children, 19 grandchildren, and 26 great-grandchildren, all of whom turn to her for advice and guidance as she remains an active matriarch and all of whom have never been neglected a birthday wish from her—I wish her a happy, happy centennial celebration.

On my own behalf I want to thank her for 30 years of service as an active member of the Board of Elections in Baldwinsville, NY. Fulfilling civic responsibility in this way, she has gained many admirers through her career.

Having spent her life in service to family and community, Ella Lee Collins now lives in the Bishop Ludden Apartments and spends her private time on some favorite TV watching: The Guiding Light soap opera and New York Yankees games.

May God grant us all the longevity and vitality of Mrs. Collins.

BILL TO AUTHORIZE THE ARMY CORPS OF ENGINEERS TO MAKE CAPITAL IMPROVEMENTS TO WASHINGTON AQUEDUCT

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 1996

Ms. NORTON. Mr. Speaker, since 1859, the Washington Aqueduct has provided Washington, DC, and the metropolitan region with safe drinking water. Each and every day, 24 hours each day, the Aqueduct collects, treats, and transports water to the District, Arlington County, Falls Church, the Pentagon, National Airport, and Arlington Cemetery. The Army Corps of Engineers owns and operates the Aqueduct on behalf of the Department of the Army and in fiscal year 1994 alone, delivered 67 billion gallons of water to Aqueduct customers—60 percent of that amount to the District of Columbia.

In his February 1, 1996 report, The Washington Aqueduct: Financing and Ownership Study, Secretary of the Army Togo West reports that throughout its history, the Aqueduct has been continually upgraded and improved to meet changing regulations and new technology. The Secretary, however, admits that Aqueduct facilities currently are "in need of modernization to meet future drinking water and water quality." Evolving Safe Water Drinking Act standards in fact require upgrading Aqueduct facilities.

Last November, Virginia Senator JOHN WARNER, chair of the Senate Subcommittee on Transportation and Infrastructure, included a provision in both the Water Resources Development Act (S. 640) and the Safe Drinking Water Act (S. 1316) which authorizes the Army Corps of Engineers to borrow the funds from the Treasury necessary for improving the Washington Aqueduct. This loan would have to be repaid by the Aqueduct's customers and, as such, the Congressional Budget Office scores it as no cost to the Federal Government. The measure I introduce today is identical to Senator WARNER's legislation.

This bill will provide a financial mechanism for the repairs so that the hundreds of millions of dollars for the work do not result in exorbitant hikes in water rates. Under current rules, any needed capital improvements at the Aqueduct must be paid for in advance by District consumers and consumers in Arlington County and the city of Falls Church.

In response to more stringent water quality requirements being implemented nationally by the EPA, substantial costly improvements of $200–$500 million will be necessary at the Aqueduct over the next 10–15 years. Affordable water rates can be maintained only if payments are spread out over an extended period of time. This bill will ensure the long term future of the Aqueduct at reasonable consumer rates.

I urge my colleagues to support this important measure granting the Corps of Engineers the authority to provide vital improvements to the Aqueduct and ensuring safe drinking water for all of those served by this facility.

H.R.—

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

SECTION 1. CAPITAL IMPROVEMENTS FOR THE WASHINGTON AQUEDUCT.

(a) AUTHORIZATIONS.—

(1) AUTHORIZATION OF MODERNIZATION.—Subject to approval in, and in such amounts as may be provided in appropriations Acts, the Chief of Engineers of the Army Corps of Engineers is authorized to modernize the Washington Aqueduct.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Army Corps of Engineers borrowing authority in amounts sufficient to cover the full costs of modernizing the Washington Aqueduct. The borrowing authority shall be provided by the Secretary of the Treasury, under such terms and conditions as are established by the Secretary of the Treasury, after a series of contracts with each public water supply customer has been entered into under subsection (b).

(b) CONTRACTS WITH PUBLIC WATER SUPPLY CUSTOMERS.—

(1) CONTRACTS TO REPAY CORPS DEBT.—To the extent provided in appropriations Acts, and in accordance with paragraphs (2) and (3), the Chief of Engineers of the Army Corps of Engineers is authorized to enter into a series of contracts with each public water supply customer under which the customer commits to repay a pro-rata share of the principal and interest owed by the Army Corps of Engineers to the Secretary of the Treasury under subsection (a). Under each of the contracts, the customer that enters into the contract shall commit to pay any additional amount necessary to fully offset the risk of default on the contract.

(2) OFFSETTING OF RISK OF DEFAULT.—Each contract under paragraph (1) shall include such additional terms and conditions as the Secretary of the Treasury may require so that the value to the Government of the contracts is estimated to be equal to the obligational authority used by the Army Corps of Engineers for modernizing the Washington Aqueduct at the time that each series of contracts is entered into.

(3) OTHER CONDITIONS.—Each contract entered into under paragraph (1) shall—

(A) provide that the public water supply customer pledges future income from fees assessed to operate and maintain the Washington Aqueduct;

(B) provide the United States priority over all other creditors; and

(C) include other conditions that the Secretary of the Treasury determines to be appropriate.

(c) BORROWING AUTHORITY.—Subject to an appropriation under subsection (a)(2) and after entering into a series of contracts under subsection (b), the Secretary, acting through the Chief of Engineers of the Army Corps of Engineers, shall seek borrowing authority from the Secretary of the Treasury under subsection (a)(2).

(d) DEFINITIONS.—In this section:

(1) PUBLIC WATER SUPPLY CUSTOMER.—The term "public water supply customer" means the District of Columbia, the county of Arlington, Virginia, and the city of Falls Church, Virginia.

(2) VALUE TO THE GOVERNMENT.—The term "value to the Government" means the net present value of a contract under subsection (b) calculated under the rules set forth in subparagraphs (A) and (B) of section 502(5) of the Congressional Budget Act of 1974 (2 U.S.C. 661a(5)), excluding section 502(5)(B)(i) of the Act, as though the contracts provided for the repayment of direct loans to the public water supply customers.

(3) WASHINGTON AQUEDUCT.—The term "Washington Aqueduct" means the water supply system of treatment plans, raw water intakes, conduits, reservoirs, transmission mains, and pumping stations owned by the Federal Government located in the metropolitan Washington, District of Columbia, area.

TRIBUTE TO HELEN G. JACOB

HON. JACK QUINN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 1996

Mr. QUINN. Mr. Speaker, I rise today to recognize the distinguished community service of Helen G. Jacob, on the occasion of the opening of the Department of Veteran's Affairs Western New York Healthcare System Women's Wellness Center dedicated in her honor.

Ms. Jacob has served the State of New York as the chairperson of the Rehabilitation Committee for Women Veterans, a project which she initiated in 1984. She has also served as the vice president of the National Historians' Association, Area I, which encompasses 12 States and 3 separate countries.

In addition to these remarkable duties, Helen Jacob is also the women's coordinator for the Veterans Administration Medical Center in Buffalo, NY. In this capacity, she has selflessly dedicated countless hours on a volunteer basis to the personal needs of both inpatient and outpatient women in the medical center's care.

Helen also holds the prestigious honor of being the only women elected as Commander of the American Legion of Erie County, a position responsible for approximately 14,000 members in over 50 posts.

Since its inception in 1992, Ms. Jacob has provided insight and expertise in veteran related issues on my 30th Congressional District Veterans Advisory Committee. Helen's insight and sage advise on matters concerning our Nation's veterans is truly appreciated, and I unreservedly offer her my enthusiastic congratulations and commendations for this dedication.

The dedication of the Helen G. Jacob Women's Wellness Center is also testimony to the innovative spirit of the hospital itself, as it is the only one of its kind nationwide in a veterans hospital or medical center.

Mr. Speaker, today I join with the Jacob family, her colleagues, friends, all of those who served our Nation in the Armed Forces, and indeed, the entire western New York community to honor Ms. Helen G. Jacob for her dedication, hard work, and commitment to western New York and its veterans.

AMERICORPS: INVESTMENTS WORTH MAKING IN OUR CHILDREN AND COMMUNITIES

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 1996

Mr. VENTO. Mr. Speaker, I rise today in support of a valuable initiative that is an investment in both our Nation's communities and the citizens who live in them, the AmeriCorps Program. AmeriCorps participants earn money for their education by giving their time to efforts that improve communities and help people in need. The goal of the AmeriCorps Program is to support communities' efforts to provide for the human, educational, environmental, and public safety needs in their area. AmeriCorps initiatives serve to strengthen communities, increase civic responsibility, and expand opportunities for our Nation's citizens in need. These goals mean the AmeriCorps Program benefits our Nation on two fronts. It expands the knowledge and skill of our Nation's next generation of workers while simultaneously benefiting community organizations that are struggling to deliver essential assistance to our most vulnerable citizens, a struggle that will only increase in future years as budgets tighten and these organizations are asked to take a more prominent role in the delivery of such assistance.

When discussing AmeriCorps, some of my colleagues have referred to a General Accounting Office [GAO] study that shows higher costs per participant in the AmeriCorps Program than first calculated. The study states that the average cost per AmeriCorps member is $26,654. The study, however, neglects to calculate the benefits, economic or social, that the program provides. In fact, the very objective of this GAO study was solely to calculate the per participant cost figure, not to determine whether the AmeriCorps Program provides higher benefits than those costs or whether the program has been effective in reaching its goals. The GAO analysis, therefore, is a one dimensional study because major value is added by AmeriCorps participants that is not considered.

The University of Minnesota recently completed a study of the benefits of the AmeriCorps Program in Minnesota and how those benefits compare with program costs. The study noted a number of economic and social benefits that the GAO study ignores, concluding that AmeriCorps initiatives benefit communities far more than they cost. One example is an AmeriCorps project in Minneapolis where nine AmeriCorps youths, some having a prior brush with the law, renovated four homes. The resulting benefits to the city include property appreciation, increased tax payments, decreased cost to the justice system, and the benefit of having the participating youth learn valuable skills and a strong work ethic. The University of Minnesota study concludes that the community received a benefit of $3.90 per every dollar put into the project; that is nearly a 4 to 1 benefit ratio.

In West St. Paul, 14 dedicated AmeriCorps members coached and tutored 800 students, contributing to a 30-percent drop in theft and vandalism in the area. This drop in crime saved taxpayers $160,000 in law enforcement and property costs, and helped earn this program a $2.94 benefit to each dollar of cost. In addition to the direct economic benefits measured by the study, this project helped to educate hundreds of students who will benefit from that education long after their participation in the project is finished. AmeriCorps members in Minnesota also ran a program to help high school drop-outs gain their diplomas. Forty young people earned their diploma from this effort. The community, however, gained much more in the form of increased income tax revenue resulting from these new graduates' higher expected incomes and, more importantly, it gained a more educated population which is more likely to see the value of voluntarism and give back to their community in later years.

AmeriCorps is working for our communities and youth in Minnesota and, I expect, throughout the Nation. In Minnesota, the AmeriCorps Program has indeed been effective in reaching its goals and has proven to be an efficient use of public funds. Minnesota members of AmeriCorps work with organizations such as the Boys and Girls Clubs, the Salvation Army, the YMCA, Habitat for Humanity, and the National Multiple Sclerosis Society as well as with public entities like Minneapolis Public Schools and the Minnesota Department of Natural Resources. Their activities include tutoring and mentoring young students, reducing adult illiteracy, rehabilitating and constructing low-income housing, restoring deteriorating parks and green spaces, aiding elderly citizens with independent living, and providing outreach services to victims of domestic violence, to name only a fraction of their past and ongoing efforts. These are civic endeavors that make a real difference in peoples' lives in our State, and the AmeriCorps members that are achieving these successes are young people who, because of AmeriCorps, will gain the opportunity to go to college or acquire other types of training so that they can build better lives for themselves and their families.

A recent Gallup Poll found that 94 percent of Americans agree that national service initiatives like AmeriCorps are important efforts for the Federal Government to organize and maintain. Furthermore, 75 percent of Americans object to reducing or eliminating the program. Nonetheless, the Republican majority has, ironically, targeted national service initiatives such as AmeriCorps for elimination while citing a study that only analyzes costs and is blind to the benefits of the program, therefore, concluding erroneously that our Nation cannot afford such an effort.

Proposed reductions in funding for education, welfare, and other programs that help our children and disadvantaged families make the work of AmeriCorps even more essential. The AmeriCorps Program is a double investment in the future of this Nation. The program not only gives struggling social service organizations a helping hand assisting our most vulnerable children, adults and elderly citizens, it helps AmeriCorps participants become relevant, productive, successful members of their communities and teaches all participants the value and importance of giving back to the communities in which they live. The AmeriCorps Program is a good investment in our Nation, and it is working. Let us keep AmeriCorps in place to serve our youth and our communities.

MILLIONS SUFFER UNDER INDIAN REPRESSION

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 1996

Mr. BURTON of Indiana. Mr. Speaker, last week the nation of India celebrated its Republic Day, the 46th anniversary of the adoption of its constitution in 1950. On this occasion, it seems fitting to step back and assess India's progress in the areas of human rights and conflict resolution with its neighbors.

It is unfortunate to report that India's progress in many areas has not been very good. In terms of making peace with its neighbor, Pakistan, India's record has frankly been abysmal. In fact, on the very day that India was celebrating Republic Day, two rockets were fired into a small town in the Kashmiri region of Pakistan. One struck a mosque just after noon prayers, killing 20 civilians and injuring many more. It is widely assumed that the rockets were fired by the Indian Army. The next day, India took the very belligerent step of test-firing its Prithvi II missile. This new missile is nuclear-capable and able to reach any major city in Pakistan.

India's refusal to negotiate seriously with its neighbor Pakistan, and with the Kashmiri people, over the status of Kashmir has been a major disappointment to the world community. Much more disappointing has been India's inhuman record of government-sanctioned murder and torture in Kashmir. For years, India's security forces have run amuck in Kashmir, committing gang-rapes, extrajudicial killings, burning down entire villages, spraying gunfire into crowds of civilians and committing unspeakable acts of torture on the Kashmiri people. India has conducted a carefully orchestrated campaign of rape, torture, and murder in order to keep the people of Kashmir from demonstrating for independence.

I was particularly struck by one story reported by Professor William Baker in a recent book:

He interviewed a young woman who had been abducted by Indian soldiers who had just searched her village. They dragged her off to their compound, where they kept her naked in a pit. They raped her in a pit for 10 days. They extinguished their cigarettes all over her

body. When they were through with her, they took her to the bank of a river, stabbed her in the head with a bayonet, and left her for dead. Today she is so traumatized, she has lost most of her memory.

For the people of Kashmir, such treatment is all too common. In neighboring Punjab, where the Sikh people have also been fighting for their right to self-determination, the human rights situation has been just as dismal. In June of 1984, 11 years ago, as the movement for a free Khalistan was gaining steam, the Indian Army launched an assault on the holiest Sikh shrine—the Golden Temple in Amritsar. Thirty-eight other temples were also attacked, and over 20,000 Sikh civilians were murdered. Since that time, life in Punjab has been a nightmare of repression. Thousands of Sikhs are imprisoned without charges and tortured. Young men are abducted by security forces and disappear forever. Entire families are brutalized.

Mr. Speaker, recently, the Indian Government has been making the claim that the human rights situation in Punjab has improved dramatically. Unfortunately, there is no truth to the claim. It has been estimated that as many as 70,000 Sikhs languish in Indian prisons without charges. Asia Watch has reported that "virtually everyone detained in Punjab is tortured."

Last month, I sent around a Dear Colleague letter detailing a particularly horrible encounter that happened late last year. A human rights activist was detained by Indian police along with his driver. The driver's legs were tied to two separate jeeps that drove off in opposite directions, tearing the man into pieces. The human right activist had disappeared.

In another case that has received widespread attention, well-known human rights figure Jaswant Singh Khalra was abducted by police last September. Mr. Khalra earned the wrath of the Indian Government by publicizing charges that the army had murdered over 25,000 Sikhs and cremated their bodies to cover up their crimes. Despite international protests, including a letter from myself and 64 of my House colleagues, Mr. Khalra has disappeared into the Indian prison system.

Mr. Speaker, Mr. Khalra should be released immediately, along with all prisoners of conscience in Punjab and Kashmir. It is long past time for India's reign of terror to come to an end. The Indian Government cannot achieve its goals through the systematic abuses of basic human rights. The time has come for the Government of India to sit down and negotiate agreements with Sikh and Kashmiri political leaders that respect their rights to democracy, self-determination, and human rights.

I would like to make one final observation. In the very near future, India's Ambassador to the United States, Mr. S.S. Ray, will be returning to India. Mr. Ray has been a controversial figure. During the late 1980's, he was the Governor of the State of Punjab. This was at the time when some of the worst atrocities were taking place there, and Ambassador Ray was, at the time, in command of the security forces who were committing them. It was highly inappropriate for the Government of India to send to us an ambassador who has been widely charged with responsibility for a campaign of human rights abuses by security forces under his watch. I hope that, in selecting a new ambassador, the Indian Government will be more sensitive to the concerns of the American people and the international community.

TRIBUTE TO CHARLES H. CURLEY

HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 1996

Ms. WOOLSEY. Mr. Speaker, I rise today to honor one of my district's more dedicated and caring individuals, Charles H. Curley. Chuck is being honored as Marin Citizen of the Year for 1995. I wish that I could be with his colleagues, friends, and family tonight as we celebrate his remarkable accomplishments.

Chuck has been a devoted resident of Marin County since he moved here over 35 years ago. Chuck's work has come as both monetary support and as direct participation on task forces and focus groups. Serving as mayor of Larkspur, councilman, planning commissioner, president of the Police Commission, Chuck has spent countless hours working with community leaders in an effort to create a strong alliance throughout Marin. I wish to recognize Chuck for his commitment to the people of Marin County, and to thank him for his long record of public service.

The enthusiasm that Chuck has for both the arts and the environment is seen through his participation in various activities throughout the county. In addition to serving as president of the Marin Arts Council, Chuck is also a patron of the Marin Society of Artists. His effort and dedication has opened the door for numerous artists and has introduced young children to the world of art. Chuck and his wife Nancy were honored in 1994 for their outstanding contribution to the Arts of Marin.

Chuck is also committed to protecting our environment. He was vice-president of the Marin Conservation League, and is currently a member of the Pt. Reyes Bird Observatory and the Sierra Club.

Mr. Speaker, it is my great pleasure to pay tribute to Charles H. Curley during this special evening at the Marin Civic Center. Marin County owes a great deal of gratitude for the tireless efforts of Chuck over the years. He has worked hard time and time again on behalf of many people and for many important causes. I extend my hearty congratulations and best wishes to Chuck and his wife Nancy for continued success in the years to come.

LET'S DON'T RISK THE AVOCADO INDUSTRY

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 1996

Mr. PACKARD. Mr. Speaker, growers in my district produce the most and the best avocados in the world. In order to ensure that we remain competitive we need to make sure our crops remain the best in the world.

For that reason, I rise to urge the USDA to stop the rulemaking process that would modify the quarantine on Mexican Hass avocados. I ask Secretary Glickman, to prevent a rule from going forward which risks the entire avocado industry, especially when there is so much disagreement about the quality of the science underlying the USDA's determination.

As a member of the appropriations Committee, I worked with my colleagues to address this issue in the fiscal year 1996 agriculture appropriations legislation. The bill, which the President signed into law back in October, expects the U.S. Department of Agriculture to use scientifically credible pest risk assessment and risk management before lifting the current quarantine on Mexican avocados.

During the appropriations process, we asked for the USDA to conduct an independent review of the science. Unfortunately, the Secretary turned us down and suggested that the avocado industry take the lead in this regard.

The Center for Exotic Pest Research at the University of California at Riverside reviewed the proposed rule and published an extremely troubling report. Their findings were strikingly different from those of the USDA and give me great cause for concern. UC Riverside found, and I quote:

> The proposed rule's risk assessment contains undocumented assertions, highly questionable estimates, and improper methodology, and as a result, we find it to be invalid.

Free trade is the engine that drives a vibrant economy. I know that growers in my district will compete against any avocado grower in the world. However, the UC Riverside report gives credence to their fears that Mexican avocados coming across the border could carry infestation that could spread throughout the country. I certainly don't believe Secretary Glickman wants to usher in another disaster like the Mediterranean fruit fly.

I think it just makes sense to learn our lesson and take a cautious approach. I urge the Secretary to listen to the experts at UC Riverside and craft a rule that does not put the American avocado industry at risk.

TRIBUTE TO EUGENE JUNETTE

HON. GEORGE P. RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 1996

Mr. RADANOVICH. Mr. Speaker, I want to bring to the attention of my colleagues an extraordinary program that began in government but has for the past 20 years been supported by the private sector to the benefit of millions of children in this country and countries around the world.

Most particularly I wish to point with pride to the individual who has carried this splendid program forward from its beginning in a U.S. Justice Department agency in the 1970's to the worldwide anticrime program that is has become today. He is my constituent, Eugene Junette of Fresno, CA.

The program that Mr. Junette has spearheaded since 1976 is Play It Safe, a crime prevention program launched by the Law Enforcement Assistance Administration [LEAA]

Office of Public Affairs in 1974 by its director, Malcolm Barr. Mr. Junette has asked that Mr. Barr, who retired Feb. 3, 1996, as an Associate Director of Public Affairs, U.S. Department of Commerce, following an illustrious 26-year government career, and other Federal Government officials who helped him—Wilbur Brantley, the late Cornelius Cooper, and Joseph Mulvey—share credit for this highly acclaimed program.

Play It Safe is, in fact, a simple coloring book, originally approved by the U.S. Justice Department and various sheriffs, police, and juvenile justice organizations.

It began in Mr. Barr's office on a shoestring budget and was visualized and developed by Mr. Barr and his small staff. When funds ran out, Mr. Barr approached Kiwanis International which agreed to promote, print, and distribute the booklet among preschool, kindergarten, and elementary school children in the United States, at no cost to the Government. Eugene Junette was appointed chairman.

Under Mr. Junette's enthusiastic guidance, the Play It Safe program multiplied to all 50 States and into 61 foreign countries. The coloring book is translated into 31 languages. Thousands of volunteers now work with what has become Play It Safe International, Inc., whose address is 1289 N. Temperance Avenue, Fresno, CA 93727.

Numerous service clubs and other nonprofit organizations are responsible for the distribution of some 26 million copies of the coloring book. Play It Safe, through Mr. Barr, used the nationally syndicated children's television program "Romper Room" in Baltimore, MD, to jump-start the project that I am told cost the American taxpayer no more than $20,000. As a result, millions of young children have been effectively educated about how to minimize criminal opportunities against themselves and their friends.

Play It Safe volunteers have also helped develop a parent/teacher guide and home safety check list. Mr. Junette has dedicated the last 20 years of his life, often working 16 to 18 hour days, to help protect children from criminal activity. I join him in drawing attention to Mr. Barr, of Alexandria, VA, who he credits as the man with the vision to see the future possibilities of Play It Safe, not as a Government-sponsored project, but as a private sector program dedicated to the safety and wellbeing of children in this and many nations around the world. Mr. Barr described Play It Safe as a major accomplishment of his long Government career. I join his colleagues and friends wishing him well in his retirement.

As the Play It Safe program completes its 20th year of private sector sponsorship, I wish to particularly salute my constituent Mr. Junette, and all the thousands of volunteers who have helped in furthering the Play It Safe project, and to point to this amazing display of volunteerism that I am proud to say has emanated from my congressional district for two decades.

ACADEMY REVIEW BOARD

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 1996

Mr. FRELINGHUYSEN. Mr. Speaker, every year, more high school seniors from the 11th Congressional District trade in varsity jackets for Navy peacoats, Air Force flight suits, and Army brass buckles than any other district in the country. But this is nothing new: our area has repeatedly sent an above average proportion of its sons and daughters to the Nation's military academies for decades.

This shouldn't come as a surprise. The educational excellence of our area is well known and has long been a magnet for families looking for the best environment in which to raise their children. Our graduates are skilled not only in mathematics, science, and social studies, but also have solid backgrounds in sports, debate teams, and other extracurricular activities. This diverse upbringing makes military academy recruiters sit up and take note—indeed, many recruiters know our towns and schools by name.

Since the 1830's, Members of Congress have enjoyed meeting, talking with, and nominating these superb young people to our military academies. But how did this process evolve?

In 1843, when West Point was the sole academy, Congress ratified the nominating process and became directly involved in the makeup of our military's leadership. This was not an act of an imperial Congress bent on controlling every aspect of the Government. Rather, the procedure still used today was and id one further check and balance in our democracy. It was originally designed to weaken and divide political coloration in the officer corps, provide geographical balance to our armed services, and to make the officer corps more resilient to unfettered nepotism that handicapped European armies.

In 1854, Representative Gerrit Smith of New York added a new component to the academy nomination process—the academy review board. This was the first time a Member of Congress appointed prominent citizens from his district to screen applicants and assist with the serious duty of nominating candidates for academy admission. Today, I am honored to continue this wise tradition in my service to the 11th Congressional District.

The Academy Review Board is composed of nine local citizens who have shown exemplary service to New Jersey, to their communities, and to the continued excellence of education in our area—many are veterans. Though from diverse background and professions, they all share a common dedication to seeing that the best qualified and motivated graduates attend our academies. And, as is true for most volunteer panels, their service goes largely unnoticed.

I would like to take a moment to recognize these men and women and to thank them publicly for participating in this important panel. Being on this board requires hard work and an objective mind. Members have the responsibility of interviewing upwards of 50 outstanding high school seniors every year in the academy review process.

The nomination process follows a general timetable. High school seniors mail personal information directly to the Military Academy, the Naval Academy, the Air Force Academy, and the Merchant Marine Academy once they become interested in attending. Information includes academic achievement, college entry test scores, and other activities. At this time, they also inform their Representative of their desire to be nominated.

The academies then assess the applicants, rank them based on the data supplied, and return the files to my office with their notations. In mid-December, our Academy Review Board interviews all of the applicants over the course of 2 days. They assess a student's qualifications and analyze character, desire to serve, and other talents that may be hidden on paper.

Last year, the board interviewed 41 applicants. Nominations included 20 to the Naval Academy, 10 to the Military Academy, 6 to the Air Force Academy, and 1 to the Merchant Marine Academy (the Coast Guard Academy does not use the Congressional Nomination process). The Board then forwards their recommendations to the academies by January 31, where recruiters review files and notify applicants and my office of their final decisions on admission.

It is both reassuring and rewarding to know that many of our military officers hail from our hometowns or close by. When we consider the role of these officers in peace or war, we can rest easier knowing that the best and brightest are in command. Wherever they are sent, be that Bosnia, Somalia, Haiti, or Vietnam, many of these officers have academy training.

And while a few people may question the motivations and ambitions of some young people, the academy review process shows that the large majority of our graduates are just as highly motivated as the generation before them. They still seek guidance from loving parents, dedicated teachers, and schools, and from trusted clergy and rabbis. Indeed, every time I visit a school, speak at a college, or meet a young academy nominee, I am constantly reminded that we as a Nation are blessed with fine young men and women.

Their willingness and desire to serve their country is perhaps the most persuasive evidence of all.

ACADEMY NOMINEES FOR 1995, 11TH CONGRESSIONAL DISTRICT, NEW JERSEY

NAME, HOMETOWN, HIGH SCHOOL, AND ACADEMY

Justin White, Basking Ridge, Ridge, Naval.

Robert Vuolo, Morris Plains, Delbarton, Naval.

Renuka Vijayanathan, N. Caldwell, West Essex, Naval.

Kevin Orisini, Sparta, Sparta, Naval.

Meghan Neumann, Succassunna, Roxbury, Military.

John Eure, Rockaway, Morris Catholic, Naval.

Michael Kester, Bridgewater, Bridgewater/Raritan, Naval.

Patrick Nelson, Hackettstown, Bridgeton Academy, Naval.

Brian Fitzgerald, Mendham, West Morris Mendham, Naval.

Daniel Figenshu, Madison, Delbarton, Naval.

Richard Evans, Flanders, Mt. Olive, Naval.

Robert Poggio, Long Valley, West Morris Central, Naval.

Cory Winer, Wharton, Choate Rosemary Hall, Military.

Anthony Bruno, East Hanover, Hanover Park, Naval.

Louis Amorosa, Somerville, Immaculata, Naval.

Jason Corbisiero, Rockaway, Morris Catholic, Naval.

Andrew Gassman, Chatham, Oratory Prep, Naval.

Damon Finaldi, Florham Park, Hanover Park Regional, Naval.

Frederic Haeussler, Florham Park, Choate Rosemary Hall, Naval.

John Neuhart, Chatham, Ohio State ROTC, Naval.

Mary Faulkner, Long Valley, West Morris Central, Air Force.

Brent Kruel, Dover, Randolph, Air Force.

Jeffrey Melitski, Bernardsville, Bernardsville, Air Force.

Hunter Lonsberry, Morristown, Morristown Beard, Air Force.

Timothy Larkin, Long Valley, West Morris Central, Merchant Marine.

James Wong, Randolph, Randolph, Military.

Scott Magaziner, Randolph, Randolph, Air Force.

Mark Chiarvalloti, Rockaway, Penn State USMA Prep., Military.

Victor Camaya, Pompton Plains, Pequannock, Military.

Andrew Moan, Far Hills, Pingry, Naval.

Louis Kuo, Parsippany, Parsippany, Military.

Michael DeCicco, Raritan, Bridgewater/Raritan, Military.

David Esposito, Caldwell, James Caldwell, Military.

Joel Tompkins, Chatham, Chatham, Military.

Tatiana Kazdoba, Denville, Villa Walsh Academy, Naval.

Shane Rowe, Dover, New Mexico Military Institute, Military.

Thomas Rogers, Rockaway, Morris Knolls, Air Force.

TRIBUTE TO SIDDHARTHA SHANKAR RAY

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 1996

Mr. MANTON. Mr. Speaker, I rise today to pay tribute to Siddhartha Shankar Ray for serving with distinction as India's Ambassador to the United States for the past 3½ years. During his tenure, relations between the United States and India have reached a new plateau of strength, friendship, and understanding. The United States has become India's largest investor, and India has been named by the Department of Commerce as one of the key emerging markets for United States business for this decade and the next century.

There are many reasons for this dramatic improvement in relations between our two countries. However, I believe it is clear that no one has made a greater contribution or played a more central role in this transformation than Siddhartha Shankar Ray. He has worked tirelessly with the Congress and the executive branch as well as State and local officials around the country to help ensure that our Government fully understands India's needs and concerns. He has been a bridge builder between the United States business and investment community and the Indian private and public sector. He has been a sought after speaker and commentator in the academic community here, along with numerous important think tanks and private foundations. Finally, Ambassador Ray has been an ambassador "par excellence" in the Indian-American community. He has travelled to almost every State and city with an Indian-American population reminding Americans of Indian descent and of the important economic reforms unfolding on the subcontinent, while urging Indian-Americans to be active participants in the transformation of the Indian economy.

Mr. Speaker, Ambassador Ray has greatly impressed many of us in the Congress with his artful diplomacy, his keen logic and his persuasive skills. He has taken the thorniest issues in the Indo-United States relationship and presented them to decision makers in the United States in a manner which has been both convincing and reassuring. It is obvious to anyone who has worked with him during the past several years that Ambassador Ray's skills as an imminent India barrister have served India well during his term as Ambassador.

Of course, Ambassador Ray has not achieved all of these successes by himself. He possesses another invaluable asset: his lovely wife, Maya, who also is a noted barrister and former elected official. Maya Ray has been a gracious host, trusted advisor and articulate spokesperson. Together, they have proven to be a superb team.

Mr. Speaker, later this month, Siddhartha Shankar Ray will leave his position as Ambassador to the United States to return to Calcutta, his home city, to stand for election to the Lokh Sabha, India's House of Parliament. While it would be improper for any Member of this body on either side of the aisle to endorse a candidate for office in India, I am certain all of my colleagues agree that Ambassador Ray will approach the coming campaign with the same level of energy, dedication and articulate persuasion that were the hallmark of his years in Washington.

Mr. Speaker, I know my colleagues join me in wishing Siddhartha Shankar Ray and Maya every good wish in the months and years to come. We invite them to visit us in Washington often to witness the fruits of Ambassador Ray's labor as the Indo-United States relationship continues to grow and prosper.

SUPPORT PEACE AND DEMOCRACY IN TURKEY: SUPPORT HOUSE CONCURRENT RESOLUTION 136

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 1996

Mr. HOYER. Mr. Speaker, on January 25, 1995, I joined the chairman of the Helsinki Commission, CHRIS SMITH, in introducing H. Con. Res. 136, legislation which advocates a peaceful end to the conflict between the Government of Turkey and Kurdish militants. I urge my colleagues to join us as cosponsors of this important resolution aimed at ending a vicious cycle of violence and terror which has claimed so many lives over the past decade and has eroded the impressive strides made by a government committed to achieving full-fledged democracy.

Mr. Speaker, for more than a decade Turkey's citizens, especially those residing in the southeast, have suffered the horrors of terrorism and the excesses of a government committed to eradicating terrorism at any cost. More than 20,000 people have died in clashes among security forces, the Kurdistan Workers Party [PKK] and shadowy Muslim fundamentalist groups. Turkish troops in southeast Turkey have forcibly evacuated or destroyed more that 2,650 Kurdish villages, burned crops, killed livestock, and displaced more than three million people. Citizens are detained, tortured, extrajudicially executed or disappear without a trace. The PKK has also killed innocent civilians, mined local roads, and set off bombs in populated areas—contributing to the cycle of violence and the climate of fear that pervades southeast Turkey.

Mr. Speaker, earlier this month, European newspapers printed color pictures of Turkish soldiers posing with the heads of decapitated Kurdish guerrillas. These gruesome and despicable photos all too graphically underline the hatred and brutality fueling this conflict. But even more, the pictures reinforce the urgent need for reconciliation. Violence and terrorism will not resolve this conflict. Only dialog can help overcome bitterness inspired by 12 years of war. House Concurrent Resolution 136 promotes an end to violence and a beginning for efforts promoting reconciliation and understanding.

Mr. Speaker, Chairman SMITH and I are sending letters to officials of the Organization for Security and Cooperation in Europe [OSCE] urging them to initiate and support steps to resolve the escalating conflict in Turkey. We believe the OSCE should establish a million of long-duration to monitor human rights abuses and help defuse sources of conflict and have asked that the OSCE chairman-in-office send a personal representative to develop recommendations concerning the mandate and scope of future OSCE activities in Turkey. We have also asked the president of the OSCE Parliamentary Assembly to designate a parliamentary delegation to Turkey to assist in this task. The OSCE has played a critical role in conflict prevention, mediation, and human rights monitoring in the former Yugoslavia, the Caucasus, the Baltic States, and elsewhere. An OSCE presence in Turkey would be especially helpful as local non-governmental organizations, international humanitarian groups, including the International Committee of the Red Cross, and even journalists are not allowed by authorities to operate freely in this region.

Mr. Speaker, Turkey and Israel are the only functional democratic states in the Middle East. Turkey is a NATO ally and OSCE member. The government's inability to peacefully and democratically resolve the Kurdish conflict jeopardizes Turkey's democratic foundations, drains a stumbling economy, threatens regional stability, and makes closer relations with Europe and the United States problematic. Our Government has been instrumental

in helping resolve conflicts in the Middle East, the Balkans and elsewhere. Mr. Speaker, if we truly value our strategic, economic and political partnership with Turkey, and I believe we do, we must act now to help end this brutal conflict. It is precisely because of that partnership that we seek to assist Turkey in ending this conflict.

Mr. Speaker, I urge my colleagues to review House Concurrent Resolution 136. I believe it represents a balanced and thoughtful first step that our Government can and should take to promote peaceful resolution of a difficult and divisive conflict. I call on all my colleagues who value human rights and our partnership with Turkey to cosponsor this resolution. We must try to help stop the violence.

THE STATE OF THE UNION

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 1996

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, January 31, 1996 into the CONGRESSIONAL RECORD:

THE PRESIDENT'S STATE OF THE UNION ADDRESS

Declaring that the era of big government is over, the President embraced a centrist view of government in his State of the Union address. The speech had no soaring rhetoric, and it was rather blandly written and probably too long, but he delivered it forcefully and appeared robust and strong. By complimenting his chief political opponent he came across as gracious and fair minded. As usual, he threw about everything into the speech. Most observers felt that he had a very good night.

OVERVIEW

He gave an upbeat view of the nation, saying that the state of the union is strong and that America has made progress in reducing the deficit, creating new jobs, and keeping unemployment and inflation low. He emphasized that the crime rate, teen pregnancies, high school drop out rates, poverty and welfare rolls are all down, and that we have had great success in lowering air pollution, cutting tons of pesticides from water and food supplies. He emphasized progress made abroad, with the United States leading toward peace in Haiti, Northern Ireland, Bosnia, and the Middle East.

But the President did not dwell upon the progress; he emphasized the challenges that are before us—to balance the budget, keep families together, provide educational opportunities and economic security, continue the fight against crime and drugs, protect the environment, continue American world leadership, and make our government and its democracy work better for less money.

SIZE OF GOVERNMENT

Throughout the speech the President highlighted the theme of smaller government, saying that big government does not have all the answers, that there's not a program for every problem. He's right. He said that we need a smaller, less bureaucratic government in Washington, one that lives within its means, and he noted that the federal workforce is now at its lowest level in 30 years. He laid out the challenges for an age of possibility. He hit hard on the point that the government shutdowns are a mistake, also now acknowledged by Speaker Gingrich, and he challenged Congress never to shut the federal government down again. The President was equally sharp in his comments on the efforts to threaten the full faith and credit of the U.S. to try to force presidential budget or other policy concessions.

ECONOMY

The President was both optimist and critic of the American economy. He mentioned the impressive list of economic statistics that now characterize the American economy. The economy overall is in good shape, with low inflation and interest rates, steady growth, and relatively low unemployment. Yet at the same time, many Americans are fearful of layoffs, concerned about the growing gap between the rich and the poor, worried that wages are not keeping up with inflation, and doubtful about the future of the American dream.

MAJOR POINTS

As usual in a State of the Union address there was something in it for most everybody. The President hit very popular themes emphasizing a balanced budget, a strengthened American family, moving people from welfare to work, making health care more available to every American, and supporting the efforts of state and local police to catch criminals and prevent crime. He also stressed improving educational opportunities, reducing the drug problem, working with business to cut pollution, curbing the influence of special interests in politics, attacking the problem of illegal immigration, and maintaining America's role as a peacemaker in the world.

Strongly applauded were his references to education and cultural values, and his calls for responsible parents, decency on television and in the movies, and a crackdown on gangs. Reiterating themes he has often expressed in the past, he put heavy emphasis on working together as a community and reaching across the lines that divide us in order to find common ground and to make America work better. Again and again he said that the future can only be achieved by teamwork between Republicans and Democrats and between government and the private sector.

He spent remarkably little time talking about the protracted struggle over the budget, sounding at times as if the fight was already over. His eyes were clearly focused on the future and not the contentious and hostile battles going on with Congress. He did not lambast the Republicans, indeed he complimented their commitment to a balanced budget and took the high road throughout his speech.

The speech was significant in that it proposed few if any bold new initiatives and basically repeated calls the President has made in the past. He is clearly constrained by the fact that he has little money to play with and his emphasis on the limitations of government. The prominence of the traditional values of family and work were strong themes in his speech. A significant omission in the speech was any reference to his and the First Lady's problems with Whitewater.

PROTECTING AGAINST EXCESSES

I think the President sought to portray himself as a reasonable man who shared many of the goals of his political opponents but thought their means were too harsh. He conceded that government programs had become too costly and inefficient, but he did not abandon the fundamental obligations to the people who rely on Medicare and Medicaid, stating: "America cannot become stronger if they become weaker." I think the President is saying that he will cut back big government but he will do it compassionately, that he will keep many government programs but he will run them more efficiently.

CONCLUSION

The themes the President hit in his speech—limited government, an optimistic view of the future of America with great challenges and possibilities—hit responsive chords among Americans. In outlining the challenges to the country, the President for the most part chose not to attack his political opponents' positions but rather to emphasize common ground, and that also was well received. The key test for the President will be whether he is able to follow through on the themes and vision he laid out.

TRIBUTE TO OFFICER RUSSELL F. PITKIN

HON. BILL BAKER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 1996

Mr. BAKER of California. Mr. Speaker, in March, one of California's finest law officers will retire after 31 years of dedicated service. Russell F. Pitkin has been an integral part of the Contra Costa Sheriff's Office for more than three decades, providing the kind of leadership and excellence that sets the standard for his peers.

During the course of his career, Mr. Pitkin participated in the 99th session of the FBI Academy in Quantico, VA. A holder of a master's degree in public administration, he rose from being a deputy sheriff to becoming undersheriff, and has served in every rank in the investigation division.

One of the highlights of his career came when he was involved in the felony investigation involving members of the Symbionese Liberation Army, which resulted in the arrest warrants for the kidnappers of Patty Hearst. His diligence in this effort was characteristic of his assiduous performance throughout his time in the sheriff's office.

The men and women who daily put their lives on the line for our safety and well-being are among the true heroes of our time. Russell Pitkin is one of the foremost of these heroes, and all Contra Costans owe him a debt of gratitude for all he has done to make the east bay the wonderful place it is. I am honored to recognize him today in the CONGRESSIONAL RECORD, and to wish him every success in his retirement.

TRIBUTE TO H. E. AMBASSADOR SIDDHARTHA SHANKAR RAY

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 1996

Mr. GILMAN. Mr. Speaker, I rise to pay tribute to my friend and colleague, Ambassador Siddhartha Shankar Ray, India's envoy to the

United States. During his 4 years in the United States, Indo-United States relations significantly improved. Ambassador Ray's efforts on behalf of his nation helped to educate so many of us in the Congress about the important economic reforms currently being implemented in the world's largest democracy. A distinguished diplomat, gentleman, and friend, Ambassador Ray and his wife, Maya, will be missed in Washington.

Prior to coming to Washington, both Ambassador and Mrs. Ray had distinguished legal careers and both also served their nation as Members of Parliament. Immediately preceding his current post, Ambassador Ray served with distinction as Governor of Punjab. Those of us who closely follow events in South Asia fully recognize the challenges Ambassador Ray faced in Punjab. Despite the seemingly intractable problems in that region, Ambassador Ray left Punjab, as he now leaves Washington with an impressive list of accomplishments.

Mr. Ray was appointed Ambassador to the United States on October 10, 1992, with the rank of Federal Cabinet Minister. That appointment, at that level, demonstrates Prime Minister Rao's confidence in Ambassador Ray. As chairman of the House International Relations Committee, I fully agree that the Prime Minister's confidence was well-placed.

It was during Ambassador Ray's tenure in Washington that Prime Minister Rao addressed a joint session of the U.S. Congress—the highest honor our Nation can convey upon a foreign dignitary. It was during Ambassador Ray's tenure in Washington that the United States and India moved beyond almost all of the difficulties of the cold war. The improved climate in Indo-United States relations can be tangibly measured by the number of high-level United States official visits to Washington.

It is with great regret that we bid farewell to Siddhartha and Maya Ray. We commend the Ambassador and Mrs. Ray for their outstanding work in Washington and we wish them success in all of their future endeavors.

INTERVIEW WITH PRESIDENT WILLIAM J. CLINTON

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 1996

Mr. ENGEL. Mr. Speaker, in a very succinct and incisive interview with Middle East Insight president and editor George Nader in the magazine's 15th anniversary issue in December President Clinton articulated his vision for the future of the Middle East and for American interests in the region. The President said, "We want to see the establishment of a peaceful and prosperous region in which all nations and people can live in freedom and security."

Real progress made in the Middle East peace process under the Clinton administration has been unprecedented. As the Israeli-Syrian talks continue to move ahead, and our attention remains focused on further process toward lasting peace in the Middle East, I commend the entire interview to my colleagues.

[From Middle East Insight, November-December, 1995]

INTERVIEW WITH PRESIDENT WILLIAM J. CLINTON

(By George A. Nader)

In this 15th Anniversary issue, President Bill Clinton gives an exclusive interview about U.S. interests in the Middle East to Middle East Insight editor George A. Nader. This interview is a follow-up to President Clinton's first interview with Middle East Insight as President-elect.

President Clinton's term in office has been marked by historic agreements between Israel and the PLO, a formal peace treaty between Israel and Jordan, ongoing negotiations under U.S. auspices between Israel and Syria and Lebnanon, and continued enforcement of dual containment of Iraq and Iran. President Clinton had developed a warm and productive relationship with Israeli Prime Minister Yitzhak Rabin before his assassination last November, and will now be working closely with his successor, Shimon Peres, on many vital areas of interest to the United States in the Middle East.

We are privileged to have President Clinton share his views below on these subjects as well as his vision for the future of the region.

Q: Mr. President, as spiral of violence in the Middle East, capped by the assassination of Israeli Prime Minister Yitzhak Rabin, has challenged the peace process. What are your thoughts about the impact of this assassination on the state of the peace process?

A: The tragic death of Prime Minister Rabin was an attempt to stop the historic progress which has been made toward a comprehensive and lasting settlement of the Arab-Israeli conflict. But the reaction in Israel, the Middle East, and around the world to this crime demonstrates the marginalization of those who would use violence to achieve their ends and the overwhelming support which exists for the peace process. The world lost a great man and I—along with all Americans—a great friend in Yitzhak Rabin. A champion of his nation in conflict, he became a hero for reconciliation and understanding as well. His life paralleled that of the Middle East in his time: he fought tirelessly for the security and prosperity of his people, and then turned that same strength and wisdom to forging a peace that would ensure that this security and prosperity would live on after him.

His death reminds us all that the cost of leadership is sometimes very high. But his life serves as an example for what can be achieved through courage and determination to do what is right. The tributes paid to Prime Minister Rabin by King Hussein, President Mubarak, and other leaders from the region and around the world have been mirrored in the unprecedented outpouring of support expressed by the people of Israel for his living legacy, the pursuit of a just and enduring peace of all the people of the Middle East. I am committed to continue doing all I can to ensure that this goal is realized.

Q: What is your view of the importance of Palestinian economic development to the success of the peace process?

A: We agree that Palestinian economic development is a key ingredient in building a lasting peace. It is essential that the Palestinian people see that the peace process has produced tangible benefits in their daily lives, that their future—and that of their children—has changed for the better because of the decision to pursue dialogue and reconciliation over confrontation. Since October 1993, the United States has taken the lead in mobilizing the international donor effort to support the Palestinian Authority and to help provide the foundations for a better and more prosperous life for the Palestinian people.

The United States has met fully its pledge of $100 million per year in assistance and we are encouraging other donors to ensure that their aid commitments are fulfilled as rapidly as possible. In order to help the Palestinian Authority meet its responsibilities under the Interim Agreement and to move forward on infrastructure development projects critical to the building of a vibrant economy, we are a major organizer of the Conference on Assistance to the Palestinians to be held in Europe this December.

In addition to our leading role in the international donor effort, we are also working to improve the environment for private sector economic growth and investment. We are discussing with Israel and the Palestinians the possible establishment of industrial zones, as well as ways in which Israel's justifiable security concerns can be addressed consistent with our shared desire to promote development of the Palestinian economy. Consistent with our desire to promote Palestinian entrepreneurship, US Trade Representative Kantor has recently announced an agreement to extend duty-free treatment to Palestinian goods entering the United States.

Q: With the recent imposition of Presidential sanctions on Iran, US-Iranian relations have reached a new low. What are the prospects for the success of sanctions on Iran and what is the potential value of a dialogue with Iran?

A: Our problem is not with the people of Iran; it is with the unacceptable behavior of the Iranian government: direct and indirect support for and use of terror; subversion of states friendly to the United States; military intimidation of its neighbors; and acquisition of weapons and technologies of mass destruction—including nuclear.

The Executive Order I signed earlier this year, imposing a complete ban on US financial and commercial dealings with Iran, is intended to demonstrate our resolve that Tehran pay a price for continuing its threatening activities. To be fully successful, we need the support of Iran's other trading partners in Europe, Asia, and around the world. We are urging them to follow our example and help ensure that sustained and meaningful economic pressure is brought to bear until the behavior of the Iranian government changes.

While we are prepared to have a dialogue with authoritative representatives of the government of Iran at any time, it must be made clear that normal relations cannot exist until such time as Iran ceases its objectionable activities.

Q: UN economic sanctions have been imposed on Iraq for five years now. While the sanctions seem to have checked the military capabilities of Saddam Hussein, he still remains in power and the Iraqi people suffer. How successful can sanctions be?

A. The United States is committed to the maintenance of sanctions against Iraq until Baghdad complies fully with all its UN Security Council obligations. Recent revelations by Iraqi defectors and the work of UN inspectors provide compelling evidence that Saddam Hussein has consistently attempted to deceive the United Nations. They also show that as recently as last summer, Saddam was planning new threats against his neighbors.

We are deeply concerned about the humanitarian plight of Iraqi people. But there must be no doubt that Saddam is responsible for their suffering. He has refused to avail himself of the opportunity under UNSC resolutions to sell oil to pay for food and medicine, preferring to divert resources to his supporters and military and to use his own people as hostages in the pursuit of international sympathy for lifting of the sanctions.

Sanctions are the primary means available to the international community to compel Iraqi compliance with Security Council resolutions and to ensure that Iraq does not again become a threat to the region. Given Saddam Hussein's track record, the Council has a responsibility to hold him to the highest possible standard. With respect to the future of Saddam Hussein and his regime, that is a matter for the Iraqi people alone to decide.

Q. As you are involved in the peace process, and as the region undergoes important changes, what is your vision for the future of the Middle East and for America's interests there?

A. Our vision for the future of the Middle East is a simple one. We want to see the establishment of a peaceful and prosperous region in which all nations and peoples can live in freedom and security.

There is much work still before us, but we are making real progress toward our goal. The peace process has made unprecedented advances in the last two years, and despite the loss of one of its greatest champions, it continues to gather momentum. The enemies of peace such as Iran, Iraq, and Libya are increasingly isolated. More and more regional governments are recognizing that dialogue and reconciliation—and the trade and development that accompany and reinforce peace—are the best means of ensuring a better future for their nations. The United States will continue to stand by those who take risks for peace and work together with them to ensure that our mutual vision is realized.

OCEAN TOWNSHIP HADASSAH PAYS TRIBUTE TO ISRAEL PRIME MINISTER RABIN

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 1996

Mr. PALLONE. Mr. Speaker, in memory and honor of the late Israeli Prime Minister Yitzhak Rabin, Ocean Township Hadassah in Monmouth County, NJ, has pledged a donation to the Hadassah-Hebrew University Medical Center at Ein Karem, Israel, so that it may continue its life-saving work of healing, teaching, and research. I rise today, both to pay tribute to the slain Israeli soldier, statesman, and peacemaker, and to my friends from the Jersey shore area who are striving to pay a lasting tribute to this great world leader.

Mr. Speaker, I shall never forget September 13, 1995. On that brilliantly sunny day I was fortunate to be among those on the White House lawn to witness the signing of the Israel-PLO treaty by Prime Minister Rabin and PLO Chairman Yasir Arafat. We witnessed in person, as did millions of others the world over who watched on television, an event we had hoped for but never really thought we would see. In his moving speech, the Prime Minister summed up the feelings of the people of Israel and their many strong supporters here in America: "Enough of blood and tears. Enough."

Yitzhak Rabin's life in many ways mirrored the history and destiny of his country. He fought valiantly in Israel's War of Independence in 1948. In the Six Day War of 1967, he brilliantly led the Israel Defense Forces in a stunning victory that greatly enhanced Israel's security. Yet it would still be many years before Israel's recalcitrant Arab neighbors were ready to negotiate with the Jewish State. First, Egypt's President Anwar Sadat came forward in the cause of peace—and, like Yitzhak Rabin, paid with his life at the hands of fellow countrymen who were not yet ready to say "Enough" to war. Finally, PLO Leader Arafat and, more recently, Jordan's King Hussein, also chose the road of peace with Israel. During the years that the Arab state of war and economic boycott against Israel remained in effect, Yitzhak Rabin stood ready to fight, if necessary, to defend Israel's security. Yet, late in his career, the Prime Minister had the courage to recognize a changing world and to accept, indeed embrace, change. The huge turnout of world leaders at Mr. Rabin's funeral demonstrates—including many of his former Arab enemies—just how rare and impressive his courage was. While most of us will remember Mr. Rabin's gruff demeanor and military bearing, minutes before his death, Yitzhak Rabin was smiling and singing a song of peace with thousands of Israelis in Tel Aviv.

On the day of the historic signing of the peace accord, my guest was Sharon Portman of Ocean Township, a long-time supporter and leader in Ocean Township Hadassah and many other community organizations. Sadly, Sharon passed away last summer. Sharon had dedicated so much of her time and energy to working for a strong and secure Israel, and believed passionately that one day Israel would achieve peace with her Arab neighbors. Whenever I think back to that signing ceremony on the White House Lawn, there is a tinge of sadness as I think about Sharon.

Mr. Speaker, Ocean Township Hadassah is a volunteer organization of close to 450 women ranging in age from their midtwenties to their midfifties. After the assassination of Prime Minister Rabin, members of the organization, as well other members of the community, sought a way to make a lasting tribute consistent with Mr. Rabin's life-long dedication to the betterment of the Jewish State. Prime Minister Rabin spoke to the women of Hadassah at their convention in Israel last summer, praising their fundraising efforts to build and maintain hospitals in Israel. The Prime Minister expressed the fervent hope that Hadassah Hospital would treat Israeli children for many years—but "never again to be treated due to the ravages of war."

Mr. Speaker, I would like to pay particular tribute to Elynn Shapiro, president of Ocean Township Hadassah, for her leadership in this tribute to Yitzhak Rabin, and to the many other citizens of our community who have contributed to this most worthy effort.

SECRETARY OF VETERANS AFFAIRS, JESSE BROWN

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 1996

Mr. MORAN. Mr. Speaker, I would like to express my gratitude for the noteworthy accomplishments achieved by Secretary Jesse Brown on behalf of the veterans of this great Nation. Since his selection as the Secretary of Veterans Affairs, the women and men who served our country have had a knowledgeable and responsive supporter in that post.

Among some of Secretary Brown's greatest accomplishments are:

The creation of new clinics allowing veterans more access to VA health care.

Assistance to one and a half million veterans with employment services in a joint venture with the Department of Labor to increase the number of veterans hired in the Federal Government.

The expansion of programs for homeless veterans by doubling the resources dedicated to these initiatives, and the institution of a grant program to assist public and non-profit organizations in assisting homeless veterans.

A more complete accounting on the register of Vietnam veterans' diseases for which services-connected compensation is awarded based on exposure to herbicide agents.

The expansion and great improvement in health care services for those combat veterans who suffer from post-traumatic stress disorder.

The increased attention given to the needs of women veterans including mammography quality control and counseling, and medical programs for women veterans who suffer the after-effects of service-related sexual trauma.

The establishment of a home refinancing program that enables veterans to obtain lower home loan rates, thus saving an average of $1,500 a year.

There are about 70,000 veterans in the Eighth Congressional District of Virginia, so I am very concerned about the service these individuals receive. Even with such a large number of veterans' needs to be processed from just northern Virginia, the VA procedures are exceptional. The VA under Secretary Brown has worked so well, in fact, that my need for inquiries has declined from several cases a month to several cases a year.

Secretary Brown's initiative to improve services to veterans also saved money through streamlining, privatizing or consolidating activities. I could not ask for better support for those who served this country.

While Secretary Brown's promotion of a decent budget to support these benefits has frequently been rebuffed, the services his Department provides shows his steadfast commitment to our Nation's veterans and their families. We should not forget the responsibility this Nation has to our service members and their survivors. Budgets and associated dollars cannot replace the sacrifices these veterans have made.

As a combat veteran himself, Secretary Brown has walked the walk. He has ensured that VA benefits and the health care system

are efficient and support our veterans. He is a true American, a friend, and a great man.

CONGRATULATIONS TO CITIBANK FOR EXCELLENCE

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 1996

Mr. UNDERWOOD. Mr. Speaker, as the saying goes "we reap what we sow." In my home district of Guam, one of our local banking institutions is showing a commitment to our island in a wonderful way: They are sowing seeds, or in this case "seed money."

Since 1992, Citibank of Guam has awarded $10,000 in cash to our island's top teacher of the year. This is a competition for public and private school teachers from kindergarten through high school, but the winners are the children.

We have many noteworthy teachers on Guam, and I know they work under difficult conditions which demand commitment and integrity. As a former educator, I salute the teachers of Guam and also Citibank for honoring excellence among professional educators.

Citibank helped to form a private corporation to expand this fine program. In addition to Citibank, the newly formed Excellence in Teaching Foundation now includes corporate citizens Ernst & Young and the Pacific Daily News. Kudos to them as well.

It is events like this program that display the character of our island community. Our corporate citizens took this task upon themselves. They know that a quality education for our children is the key to their company's success.

Our teachers are vital, yet their work requires much more than Government can fund, more than parents can give and more than the private sector can donate. This program provides a little incentive, or seed money, to push an already taxed teacher corps. To our 1993 winner, Ms. Jelly Flores and to our 1994 winner Ms. Sandra Bojtos, I commend you.

TRIBUTE TO JOSEPH O. BUSICK

HON. JAMES C. GREENWOOD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 1996

Mr. GREENWOOD. Mr. Speaker, today I rise to pay tribute to an outstanding businessman from the Eighth District of Pennsylvania upon the occasion of the 50th anniversary of his business, Delaware Landscape Stone and Delaware Quarries, Inc.

Mr. Busick served in the Air Force in World War II and was decorated as a bomber pilot flying the Flying Fortress B–17.

At the end of his active duty in 1946, Mr. Busick returned to Bucks County and started a small quarry in Mt. Pleasant. He continued to serve in the Air Force Reserve and retired as a lieutenant colonel in 1969.

In the intervening years his business grew from that small quarry to a company with four operational locations and between 80 and 125 employees, depending upon the time of year. In 1955 Mr. Busick took over an abandoned quarry that has been in existence since 1758. In the first year of operation that quarry was flooded out, but Mr. Busick was undaunted and continued to work for the growth of his business. The company produces decorative stone of all kinds and also building stone for facades. Stone from these quarries graces universities, churches, and commercial buildings all over the country as well as private homes and garden walls. Mr. Busick also sells stone produced by other quarries throughout the United States.

It was in 1972 that the company's newest operation was opened near Orlando, FL. That operation, called Pebble Junction, creates most of Disney World's stone work. Mr. Busick and his son, J. Kevan Busick, who is now CBO of the business, have recently created a park in Sanford, FL. The park which is open to the public is beautified with waterfalls, ponds and landscaping stone from their quarries.

Joe Busick continues to be active in the business with his son, Kevan, but he is also an avid gardener and staunch defender of the environment. He has turned more than 300 acres of his own land into a wildlife preserve to protect animals from the rapid development taking place in our district.

Mr. Busick has contributed much to our communities through his successful business and through his many other endeavors.

ED MEYER: 25 YEARS AT THE HELM OF GREY ADVERTISING

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 1996

Mr. LANTOS. Mr. Speaker, today marks a very important milestone for one of the most respected and enduring leaders of the business world. Ed Meyer celebrates his 25th anniversary as chairman and chief executive officer of Grey Advertising, during which time he has been a shining example of a good corporate citizen. I feel it is important to bring Ed Meyer's many extraordinary accomplishments to the attention of this body so that we may appreciate and honor this exemplary American.

There are many successful executives in this country, but relatively few have been at the helm of an industry giant for so long. Indeed, Grey Advertising is an industry giant—largely because of the vision, skill, integrity and humaneness of Ed Meyer. When he joined the firm, Grey had 1 office and 14 clients. Today, under Ed's leadership, there are 277 offices in 72 countries, including APCO public affairs here in Washington.

As a highly successful international entrepreneur, Ed Meyer has been a pioneer in leading U.S. firms to new markets throughout the world, thereby advancing America's position as a leader in the global marketplace of products and ideas. Ed has been an ambassador of the American way of doing business and an example of the best of American executives.

Ed is also a good employer. No one can run an organization for 25 years without building a lasting relationship of trust and respect with the individuals who are behind the successes. Ed is a good citizen, generously giving his valuable time and energy to the community. Grey Advertising is a model American company and Ed Meyer is a model executive.

Ed Meyer is truly an invaluable American resource and I invite my colleagues to join me in congratulating Ed Meyer on the 25th anniversary of his enlightened leadership of Grey Advertising.

TRIBUTE TO AMBASSADOR SIDDHARTHA SHANKAR RAY, INDIA'S ENVOY TO WASHINGTON

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 1996

Mr. MENENDEZ. Mr. Speaker, I would like to pay tribute and bid a fond farewell to Ambassador Siddhartha Shankar Ray, India's envoy to Washington since 1992. I am certain he will be successful in achieving his goals when he returns to India.

During his service, relations between the United States and India have grown to new heights. In his position, he has stressed the importance of ties to India. High level visits by U.S. officials have increased significantly since Ambassador Ray came to Washington. Since Prime Minister P.V. Narasimha Rao instituted his historic economic reform program for India in 1991, United States investment in India has grown at a substantial rate.

In Washington, Ambassador Ray has been able to express India's concerns in an articulate manner. He has publicized the huge market potential that India possesses for business investments and consumer goods. Also, he has worked to improve the strategic relationship between the United States and India in South Asia.

Since 1957, Ambassador Ray has served the citizens of the world's largest democracy. He has been a member of the West Bengal Assembly, a member of the Lower House of the Indian Parliament, Governor of Punjab, Chief Minister of West Bengal, and Minister of Education, Social Welfare and Culture for India. The appointment of such an experienced and respected public servant demonstrates the level of importance that the Government of India places on its relations with the United States.

Both Ambassador Ray and his wife, Mrs. Maya Ray, have played an important role in building United States-India relations during the post-cold-war era. When he returns to India, I am confident that Ambassador Ray will continue to be a strong advocate of cordial and fruitful United States-India relations.

I ask that my colleagues join me in paying tribute to Ambassador Ray for his service, and I wish him and his wife best wishes for the future.

TRIBUTE TO HY ROSENBLUM

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 1996

Mr. SOLOMON. Mr. Speaker, I would like to pay my final tribute to a man I have praised before on this floor, Hy Rosenblum of East Greenbush, NY.

May he rest in peace. His life was one long act of giving to his community.

Had he only served as assistant State attorney general, town attorney for Schodack and East Greenbush, and village attorney for Castelton, he would have inscribed his name on the honor roll of outstanding citizens. But he also gave 41 years of his life to Hudson Valley Community College.

He was appointed to the college's original board of trustees by Gov. Thomas Dewey. He was later named secretary of the board, and served in that capacity for more than 40 years. He did not miss a graduation at the college for 41 years.

But that was not all. In 1943 he created the Consideration Award for local high school graduates who had shown high regard for the personal and property rights of others. In 1946, he incorporated the Hudson Valley Broadcasting Corp., which led to the creation of radio station WROW and WROW–TV. He served on that board of directors as well. In 1957 he chaired the Rensselaer County Park Committee, and played a major role in establishing the Grafton Lakes State Park. He also participated in such community efforts as lobbying for more State police, and preventing the closing of the Fort Orange Paper Co.

As you can see, Mr. Speaker, Mr. Rosenblum's contributions were many and lasting. I was proud to call him a friend, and I speak for many others when I say I will miss him. You do not replace someone like Hy Rosenblum.

Mr. Speaker, I ask you and other Members to join me in a final salute to a great American, Hy Rosenblum, and in offering our condolences and deepest regret to his wife, Doris, and grieving family.

A FATHER'S LETTER TO SANTA

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 1996

Mr. DUNCAN. Mr. Speaker, one of the most respected men in Tennessee, Jim Haslam, chairman of the Pilot Oil Corporation, recently sent me a copy of "A Father's Letter to Santa."

This letter was sent to Mr. Haslam by Kevin O'Neill, the head basketball coach of the University of Tennessee. This piece was originally written by David Chartrand, a columnist for the Olathe, KS, Daily News.

I hope that all of my colleagues and many readers of the RECORD from all across the country will take time to read this and pass it on to others:

A FATHER'S LETTER TO SANTA

DEAR SANTA: My five-year-old boy scribbled out his Christmas list. It's there by the fireplace. The Coke and M&Ms are from him, in case you're hungry. You know five-year-olds these days. The Cheezits are from me.

Santa, if you don't mind, I thought I'd go ahead and leave my list, too. It's long, but do what you can.

It's all I want for Christmas.

CHRISTMAS LIST FROM HIS FATHER

Santa, let my little boy grow up still believing that he has the funniest dad in the neighborhood.

Give him many close friends, both boys and girls. May they fill his days with adventure, security and dirty fingernails.

Leave his mom and me some magic dust that will keep him just the size he is now. We'd just as soon he stayed five years old three feet, four inches.

If he must grow up, make sure he still wants to sit on my lap at bedtime and read "The Frog and the Toad."

If you can help it, Santa, never let him be sent into war. His mother and I love our country, but we love our five-year-old boy more.

While you're at it, give our world leaders a copy of the "The Killer Angels," Michael Shaara's retelling of the Battle of Gettysburg. May it remind them that too many moms and dads have wept at Christmas for soldiers who died in battles that needn't have been fought.

Let our house always be filled with slamming doors and toilet seats, which are the official sounds of little boys.

Break it to him gently, Santa, that his dad won't always be able to carry him to bed at night or brush his teeth for him. Teach him courage in the face of such change.

Let him understand that no matter how nice you are to everyone, the world will sometimes break your heart. As you know, Santa, a child's feelings are fragile as moth wings.

Let him become a piano player, a soccer star or a priest. Or all three. Anything but a tax-and-spend Democrat.

Give him a hunger for books, music and geography. May he be the first kid in Kindergarten to be able to find Madagascar on a map.

The kid's a born artist, Santa, so send more crayons. May our kitchen window and refrigerator doors be ever plastered with his sketches of surreal rainbows and horses with big ears.

Through the years steer him oh so carefully to that little girl destined to be his bride. Let his mother and me still be around when he walks her down the aisle. If there's a just God, let her daddy be obscenely rich.

Grant him a heart that will cherish what his parents did right and forgive us for the mistakes we surely will have made over a lifetime of raising him.

Let him not hold it against us that he was born with my chin and his mother's ears. Time will teach him that these are God's ways of girding him for life's adversities.

Hold him steady on the day that he learns the truth about you and the Easter Bunny. May he take the news better than I did.

While you're flying around the heavens, Santa, make sure God has heard our prayer for this child: Lead my little boy not into temptation; deliver him from evil.

Be careful out there, Santa. And close the flue on your way up.

IN MEMORY OF EFFIE OLIVER

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 1996

Mr. POSHARD. Mr. Speaker, I rise today to remember the passing of Effie Oliver of Decatur, IL. Mrs. Oliver died last March after serving that community for decades in numerous caring capacities. Known especially for her devotion to children, the Longview Day Care Center of Decatur was renamed last October the Effie Oliver Child and Family Center in her honor. I would like to join the people of Decatur in offering my thanks in recognition of Mrs. Oliver's hard work, and my condolences to her surviving family.

Leadership and caring were a way of life for Effie. She donated her time and energy to numerous organizations, including the National Association for the Advancement of Colored People, the Democratic Women's Club, and the Women's Progressive Club. Mrs. Oliver was also a deaconess at St. Peter's AME Church and served on the advisory council at the Longview Day Care Center. Her husband, Bill Oliver, still serves the community as a Decatur city councilman.

In her over 20 years of service to the children of Longview Day Care Center Effie touched many lives. She improved the environment in which these kids spent their days, so it was utterly appropriate that when the center was renamed for her, it also was improved. The Effie Oliver Child and Family Care Center has expanded classrooms, brand new restrooms, and beautiful interior additions. A portrait of Mrs. Oliver hangs inside.

Mr. Speaker, in this day of increasing distrust in our neighbors and institutions, the life of Effie Oliver should be a reminder to us all of what great things can be accomplished when we give of ourselves. She led an exemplary life, and I am proud to have represented her in the U.S. Congress.

FAREWELL TO THE HONORABLE KWEISI MFUME

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 1996

Mr. DELLUMS. Mr. Speaker, I rise to honor an esteemed Member of the House as he departs to fulfill the role of chief executive officer and president of the National Association for the Advancement of Colored People. As I bid farewell to my colleague, I am saddened, but I rejoice and am pleased that my friend goes forward to guide and nurture our Nation's premier civil rights organization in its continued struggle on behalf of those less fortunate. He leaves an indelible mark on the institution and in the hearts of many. He has set himself apart as a distinguished Member of the House.

Since the 1960's, KWEISI MFUME has been a staunch supporter of civil rights and economic development and economic empowerment through his seven-point plan to revitalize

urban areas. As a member of the Banking and Financial Institutions Committee, KWEISI has proposed amendments to voice the concerns of public housing residents, and has sought to strengthen the Community Reinvestment Act.

As chair of the Congressional Black Caucus he heightened substantially the CBC's influence on major policy issues of concern, both domestically and internationally. In his efforts to ensure security, growth, and development for the African-American community, Kweisi has exercised his adeptness to build coalitions. His resourcefulness and ability to make allies is only one of his tremendous leadership qualities.

He leaves a legacy of leadership, commitment, and responsibility that must be carried on and preserved in this institution. He serves as an example to our youth and others who aspire greatness.

In fondly remembering his first days in Congress and his dear colleague advising Members of the correct pronunciation of his name, today we all know who he is and how to pronounce his name, and now we all cheer for his future and success.

Go forward my friend and do good work.

OPPOSES FRENCH GOVERNMENT NUCLEAR TESTING PROGRAM

HON. PETER A. DeFAZIO

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 1996

Mr. DEFAZIO. Mr. Speaker, I wish to voice my strong disapproval with the French Government's nuclear testing program. I join with many of my colleagues—and most the world community—in protesting the detonation of six French nuclear weapons in the South Pacific. That is why I am joining the congressional boycott of the French President's visit to Congress.

French President Jacques Chirac will appear February 1 before a joint session of Congress. I cannot of good conscience attend. France and the United States have a proud relationship of cooperation extending back to the beginning of our Nation. However, France's conduct in the South Pacific cannot be justified. Exploding nuclear weapons in pursuit of further weapons development contradicts the view of 175 nations—including France and the United States—who signed the Nuclear Non-Proliferation Treaty. It also needlessly endangers the environment and people of the region.

Just last week, France acknowledged the presence of radioactive iodine in the lagoon near the Mururoa test site. Despite their declaration that the tests blast are perfectly safe, we have no way to know if this is true. Since the French Government refuses to allow independent assessment of the environmental impact of these nuclear explosions, I must remain suspicious. Are the people who live in the South Pacific threatened by nuclear poison in their region of the world? What will the ecological and human health threats 10, 20, or a 100 years from now?

Although the Clinton administration has officially denounced the French nuclear testing program, its actions hardly match its rhetoric. I urge the White House to put real pressure on the Chirac government. Let us not forget our responsibility in this matter: the United States has long supported the French nuclear weapons program.

I must take special exception to the U.S. decision to allow French military aircraft to flying to the South Pacific test site the use of U.S. airspace. How can the world take seriously a United States criticism of the French nuclear weapons testing program when the United States refuse to take even the most basic action to resist the French action. The only assurance Congress can get from the U.S. State Department is that no nuclear materials are being transported "according to the best of our knowledge." This hardly represents strong scrutiny by our Government.

Now that the French Government has ended its series of nuclear detonations, I call on President Chirac to firmly commit his nation to end all future test. At the very least, France should declare the permanent closing of the South Pacific test site. France should also clean up the nuclear mess if left behind and allow independent monitoring the area. It is the least they can do for the South Pacific peoples who will have to live with the legacy of decades of nuclear weapons testing.

The rationale for nuclear testing ran out years ago. If the world governments won't stop this cold war relic now, then when? I look forward to the recognition by France that their ongoing nuclear weapons testing program was simply wrong. Perhaps we can now move toward a international ban on all future such explosive tests. The United States must continue to press for a comprehensive ban on all such future nuclear test explosions. And France must become an active player in these negotiations.

It is my hope that a change in the behavior of France's Government will allow me to participate in Mr. Chirac's next visit to Congress. I also look forward to a successful conclusion to the ongoing comprehensive nuclear talks so the world can take an important step toward nuclear disarmament.

HONORING WALTER HAGAN

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 1996

Mr. RICHARDSON. Mr. Speaker, few of us have the opportunity, desire, or even the ability to spend 50 years in any one profession. Those of us who do accomplish this amazing feat deserve special commendation.

I urge my colleagues to join me in congratulating Walter Hagan of Dallas, TX, as he celebrates his 50th year in the airline business. Mr. Hagan's half-century tenure is particularly remarkable as the airline industry is highly competitive, oftentimes turbulent, and never a cakewalk.

Mr. Hagan started working for American Overseas Airline at LaGuardia Field on January 10, 1946. After working as an operations representative, he was transferred to Paris, Copenhagen, and then London where he was appointed relief station manager for Europe. He returned to the United States where he worked his way up at American from lead agent in Dallas in 1949 to Dallas sales representative in 1964. After holding various positions with Braniff Airlines in the late 1960's and 1970's, Mr. Hagan returned to American Airlines in 1982 to serve as manager of special services.

It was in this latest position that I had the opportunity to see Mr. Hagan in operation and understand why he's been such a valued employee for 50 years. Mr. Speaker, Walter Hagan has extended hospitality to many Members of Congress, Senators, and other VIP's at the Dallas Airport. Luminaries such as Dolly Parton, Roger Staubach, and many others celebrated his 50 years with a January 10 luncheon in Dallas.

While Mr. Hagan recently announced his formal retirement, Mr. Hagan's admirers were not surprised to learn that he's still helping out at his office. So, even in retirement, Walter Hagan is still contributing and adding on to his now 50-plus years in the airline industry.

TOMHANNOCK UNITED METHODIST CHURCH

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 1996

Mr. SOLOMON. Mr. Speaker, the 22d district of New York is one of the most historic in the country. Our oldest churches, in particular, are virtual repositories of history.

The growth of those churches paralleled that of the communities they served. And nearly every one of them has a wealth of interesting anecdotal information worth preserving. One of these churches is the Tomhannock United Methodist Church in the Rensselaer County community of Valley Falls.

A constituent of mine, Mrs. Zillah S. Herrington of Johnsonville, was kind enough to forward a letter from the church's pastor, Rev. Gaylord Campbell. I'd like to share the letter with you, Mr. Speaker, and proudly place it in today's RECORD.

DEAR GERRY: We learn that the first sermon preached by a Methodist minister near Tomhannock was in 1788. From that small beginning, a service in Tomhannock that particular Sabbath Day, Methodism has a start in June 1789. Tomhannock had a preaching appointment is the erection of a church—it was built the summer of 1811 at a cost of about $1000. This church later burned and the present one was built on the same site in 1845.

Before continuing the appointments of 1832 an interesting story of Christian adventure must be told. James Caughey, an Irish lad, was licensed to preach by the Tomhannock Class. For eight years he preached in our conference. Then on one special occasion following a season for prayer, he felt a call to return to Europe. On July 19, 1841, he set sail for England. His ministry took him to Dublin Limerick, Cork in Ireland and Liverpool, Sheffield in England. During those six years of untiring ministry fully 20,000 were converted by his preaching. While in England, he met a boy by the name of Wm. Booth and led him to Christ. That boy became the famous General Booth, head of the Salvation

Army. Our interest is intensified when we learn that a man from Tomhannock was instrumental in leading this famous leader of a worldwide known, religious organization to Christ. This is a great heritage that comes down to us.

In 1845, this present church building was erected on the site of the old church. The total cost of the building was $3300. Subscriptions of $300 and less made possible the building of the church. Roswell Brown had the contract for the mason work. This came to $1200. Two men from Cambridge had the contract to the carpenters work. This bill totaled $1400. This did not include the steeple which was extra. While the church was being built, a committee was busy raising funds to repair the parsonage. This also was done. In 1855, the Social Rooms in back of the church were added at cost of $626.38. In 1859, the church bell was purchased at a cost of $53,876. In 1866, the parsonage was rebuilt at a cost of $2000. In 1871, the church was repaired and refurnished at an expense of $1188.

The period from 1870 to 1880 reveals that Tomhannock Methodist Church was the outstanding rural church of the Conference in points of membership, missionary zeal and local activity.

In 1896, a building committee raised $2100 which was used to redecorate the interior of the church. Three Gothic Pulpit Chairs (these are in the church today and used each Sunday) and a Pulpit were presented to the church by the pastor, Rev. Thomas Munro. The Rededication of the church occurred October 14, 1896. Dr. John H. Coleman preached the sermon.

DR. CORRIE BLAIR ENDURES

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 31, 1996

Mr. DUNCAN. Mr. Speaker, there are two causes for the exorbitant, excessive cost of healthcare in this country—the Federal Government and large insurance companies.

If it were not for the involvement of these two entities, medical care would cost only a tiny fraction of what it does.

If we paid for anything else through a third-party payor system, costs would skyrocket.

That is why I read with great interest the opening comments of a recent feature article about Dr. Corrie Blair in the Knoxville News-Sentinel.

I also would like to call attention to a similar story in today's Wall Street Journal entitled "A Magnificent Misfit" by W.E. Gutman.

I wish we had more old-fashioned doctors like Dr. Blair and Dr. Gutman.

[From the Knoxville News-Sentinel]

LOUDON WOMAN HAS BEEN PRACTICING MEDICINE FOR MORE THAN 54 YEARS

(By Don Williams)

"I'm one of a dying breed," says Dr. Corrie Blair.

"I don't like government medicine, I don't like insurance medicine. I don't like pharmacists telling you how to practice medicine."

If Blair seems set in her ways, she has reason to be.

She is 80 years old, although with her clear brown eyes and brown hair, she doesn't look it. She started practicing medicine when common sense directed how to treat common colds.

In this age of HMOs, TennCare and other programs brought in by big business and government, the bureaucrats and politicians have laid down a thick stratum of regulation on what used to be an uncluttered profession.

When Blair entered medicine more than 54 years ago, so-called innovations, such as preventive medicine, boiled down to using good common sense.

These organizations and things they're doing now are all based on economics rather than treating the patient," says Blair in a clear, high voice. There was a time, however, a time when . . .

Blair was a child when the bridge was put across the Tennessee River in Loudon, cutting her family out of the ferry business. Her family's ownership of choice real estate made life easy for her. Maybe too easy.

It could be that's one reason she chose medicine. For a young lady in the 1930s, training to be a doctor was far from easy.

Blair made good grades in Loudon County High School, but while the boys were studying biology and algebra, she was studying "domestic science" with the other girls.

"The only thing they thought we could do was get married or teach school, but when I got out there was no one I wanted to marry who wanted to marry me, so I went to college."

She attended two years at Agnes Scott College in Decatur, Ga., taking her first real science course there as a sophomore.

"I like science better than anything, so I thought, I'll study more science and be a doctor."

She returned to Tennessee and entered the University of Tennessee pre-med program.

"It wasn't too popular for women to do," she says, and her family and friends needed convincing that she was serious. Her first cousin, Dr. Blair Harrison, was chief of staff at Knoxville General Hospital, and he offered to let her take nurse's training to test her mettle.

"After that was over, I told them, why yes, I still want to be a doctor, and I applied to the UT College of Medicine in Memphis. Back then there were no dormitories and we lived in houses with residents. My family thought it would be OK. There was another girl in my class, and we went all the way through together."

It was while in Memphis that she met Dr. William Thomas McPeake.

"He was an old country boy, and I was an old country girl. We were staying at the same boarding house, and every evening we would get together on the front porch. I'd go for a walk and he'd go with me. He was working his way through."

McPeake graduated ahead of Blair, but stayed in Memphis to intern until she graduated in 1941. When he was called up for military training in Pennsylvania, Blair went to Philadelphia to serve her medical internship.

There, on Jan. 25, 1942, they were married. When McPeake shipped out to North Africa for service under Gen. George S. Patton, he left behind a pregnant wife.

"Our daughter, Molly, was 3 years old when he got back," she remembers. She was the first of four children.

Molly Peeler is a physician at Fort Sanders Regional Medical Center.

William T. McPeake is an orthopedic specialist, practicing mostly at St. Mary's.

Sara Louise Gilkey, now a lawyer in Lynchburg, Va., married a doctor.

Ed Blair McPeake operates the family farm, raising cattle in Loudon.

The children were all born in Loudon, and it was there where McPeake rejoined his wife after the war.

"I told him this is the garden spot of the world, and this is where I want to live."

By the time he returned, Blair had cobbled together a family practice.

Together they made house calls, mostly in a Jeep, like those McPeake knew in the Army.

"We used to deliver all the babies. We'd carry a little ether into the home and knock 'em out if they needed it. We'd spend the night with them and charge about $25. If they didn't have the money, sometimes they'd give us something. If they were killing hogs, they'd give you some part of it, or maybe a chicken.

"We had real good luck. The Lord took care of us."

The pair bought a little house downtown, where they conducted their practice. Later they built the modern Loudon Health Care Clinic, of concrete and steel, and moved the little house out to their farm.

Blair, who kept her maiden name rather than face a mountain of paperwork to change it on licenses, certificates and other forms, was ahead of her time.

"I was the first in our hospital (the old Charles H. Bacon Hospital, now Fort Sanders Loudon Medical Center) to let a man come in for the delivery of his baby. It worked out well. I've had husbands jumping up and down when the baby came out.

"One of the old things, which is good, is stressing preventive care. I've stressed it all my life. We told people they shouldn't smoke. We had tobacco allotments on the farm, but quit growing it. We got to feeling guilty."

McPeake died three years ago, and despite hands, swollen at times from arthritis, Blair still wears her wedding rings on a chain around her neck.

People in town call her Dr. Corrie, and she has a personal relationship with literally thousands of them.

"I think it's real important for doctors to know their patients. In these new programs they just rush you through like a herd of cattle. They don't talk to you. They don't listen to you."

Blair still listens, even though specialists have taken away many of her patients.

She quit delivering babies, for instance, shortly after babies she had delivered began having babies of their own. These days, more often than not, find her visiting area nursing homes, a practice she enjoys.

Asked when she plans to retire, she says resolutely, "When something comes along and knocks me over. Of course, these new medical programs might put me out of business. If that happens, I'll find something else I like to do, but not any better."

[From the Wall Street Journal, Jan. 31, 1996]

A MAGNIFICENT MISFIT

(By W.E. Gutman)

My father the doctor did everything himself without benefit of nurses, clerical staff, or drafty assembly-line consultation cubicles. He took your temperature as you sat on a white enamel swivel chair. He even drew blood from your finger and let it run up a thin graded tube as you marveled at the strange powers of capillary action.

This wonderful man had his own centrifuge, a gleaming autoclave and an old Roentgen that hummed with imperturbable omnipotence in a bright, cheerful room that smelled of lavender and cloves. When he administered injections, he'd deaden the point

of impact with a dry little slap, and he'd talk about this and that with neighborly solicitude long after the needle was out.

You were never surprised to learn that he'd pedaled several kilometers at night in the rain to deliver a baby on an old kitchen table, or to hold the hand of a dying village patriarch as family and friends looked on. Sometimes it lasted till morning. He'd go straight back to his office looking tired, but he'd smile, put on a fresh smock and patch up scraped elbows and knees, and he'd even ask how Aunt Lucy or Uncle John was feeling these days.

"How much do I owe you, doctor?" I'd often hear his patients ask.

"Oh I don't know," he'd answer, staring at his feet, clearly embarrassed by the question. "Whatever you can." Then he'd quickly add, "Don't worry if you're short. You can pay me next time."

Money made him feel uncomfortable. He had an almost prudish disdain toward it, "There is something incongruous about charging money to heal, relieve pain or save lives," he once told me. "I shall never get used to it"—a remarkable ethos for a man who, by his own admission, had embraced medicine to escape the abject poverty of his childhood.

"It all happened in dissection class," he recalled in a rare moment of wishful introspection. "I wept at the sight of my first cadaver. He was so very young, so very much alone, forgotten. Who is this wretched mass no one had claimed, I asked myself. Has he no family? Is there no one to mourn him? He was alive, he felt pleasure and pain, joy and sorrow. He had dreams. He loved. Was he loved in return? Could he have been saved? did poverty deprive him of good health or rob him of a decent funeral?

A pre-med student who now boasts a Fifth Avenue practice, a New Canaan estate, and a yacht at anchor in a secluded cove on some Caribbean coral archipelago once asked my father what he considered to be the three most important medical taboos. My father replied:

"Do not operate unless your patients's life clearly is in danger. Do not overmedicate. Never charge more than patients can afford. Ignore the first two injunctions and you are unprincipled. Break the third and I shall call you a vampire."

I miss my father, He was incorruptible. He had no time for sophistry, no patience for equivocation, no room for the shaded areas separating right and wrong. Compassion was his guide, his patients' health and welfare his sole mission and reward. He lived frugally—"how much does one really need to live with dignity?" he once asked a wealthy colleague who found the question incongruous and contentious. My father died poor but debtless.

I wish I had a dollar in my pocket for every patient this 1935 summa cum laude graduate of the Paris Faculty of Medicine treated for nothing, for every leg of lamb or basket of eggs he accepted in lieu of honorarium, for every debt he forgave. I would have had more than enough to afford the thorough checkup doctors denied me when I lost my job, when unemployment benefits ran out and I could no longer afford medical insurance.

I was 45 then. I am now 58. Will I find a doctor like my father when I retire and my meager scribblings barely cover the cost of a simple pine casket? They say it's cheaper to die than to live. My father devoted his career to reconstructing aphorisms. He was the magnificent misfit lesser men do not have the courage to be.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, February 1, 1996, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

FEBRUARY 2

9:30 a.m.
Joint Economic
To hold hearings to examine the employment-unemployment situation for January.
SD–562

FEBRUARY 5

1:00 p.m.
Joint Economic
To hold hearings to examine Federal barriers to State and local privatization efforts.
SD–106

FEBRUARY 6

10:00 a.m.
Judiciary
Immigration Subcommittee
To hold hearings on the use of the Supplemental Security Income program and other welfare programs by immigrants.
SD–226

2:00 p.m.
Energy and Natural Resources
Oversight and Investigations Subcommittee
To hold hearings to review trends in Federal land ownership.
SD–366

FEBRUARY 28

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the Disabled American Veterans.
345 Cannon Building

MARCH 5

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the Veterans of Foreign Wars.
345 Cannon Building

MARCH 14

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the Paralyzed Veterans of America, the Jewish War Veterans, the Retired Officers Association, the Association of the U.S. Army, the Non-Commissioned Officers Association, and the Blinded Veterans Association.
345 Cannon Building

MARCH 27

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the Veterans of World War I, AMVETS, the American Ex-Prisoners of War, the Vietnam Veterans of America, and the Military Order of the Purple Heart.
345 Cannon Building

SEPTEMBER 17

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the American Legion.
335 Cannon Building