HOUSE OF REPRESENTATIVES—*Tuesday, November 26, 1991*

The House met at 10 a.m.

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

During this season of Thanksgiving, we earnestly pray, O God, that Your spirit will touch the lives of people and that deeds of generosity and acts of kindness will be the standard for people everywhere. May the reality of violence in communities or in our world be conquered by acts of understanding and compassion; may the spirit of hatred or suspicion be overcome with reconciliation; may the grasp for power be tempered with respect for others; and may enthusiasm for success be measured by an enthusiasm for faithfulness and for truth. Gracious God, You have created us to be Your people and to give thanks for the gifts we have received, we pray for the strength and the courage to do justice, to love kindness, and to walk humbly with You. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. DERRICK. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. DERRICK. 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. 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 283, nays 112, not voting 39, as follows:

[Roll No. 428]

YEAS—283

Abercrombie	AuCoin	Borski
Ackerman	Bacchus	Boucher
Anderson	Barnard	Brewster
Andrews (ME)	Bateman	Brooks
Andrews (NJ)	Bennett	Broomfield
Andrews (TX)	Berman	Browder
Annunzio	Bevill	Brown
Applegate	Bilbray	Bruce
Archer	Blackwell	Bryant
Atkins	Bonior	Bustamante
Callahan	Jefferson	Perkins
Campbell (CO)	Jenkins	Peterson (FL)
Cardin	Johnson (CT)	Peterson (MN)
Carper	Johnson (SD)	Petri
Carr	Johnston	Pickett
Clement	Jones (GA)	Pickle
Clinger	Jones (NC)	Poshard
Coleman (TX)	Jontz	Price
Collins (MI)	Kaptur	Pursell
Combest	Kasich	Quillen
Condit	Kennedy	Rahall
Conyers	Kennelly	Rangel
Cooper	Kildee	Ravenel
Costello	Kleczka	Ray
Cox (IL)	Klug	Reed
Coyne	Kolter	Rhodes
Cramer	Kopetski	Richardson
Darden	Kostmayer	Rinaldo
de la Garza	LaFalce	Roe
DeFazio	Lancaster	Roemer
DeLauro	Lantos	Rostenkowski
Dellums	LaRocco	Rowland
Derrick	Laughlin	Roybal
Dicks	Lehman (CA)	Russo
Dingell	Lehman (FL)	Sabo
Donnelly	Lent	Sangmeister
Dooley	Levin (MI)	Sarpalius
Dorgan (ND)	Levine (CA)	Savage
Downey	Lewis (GA)	Sawyer
Dreier	Lipinski	Schiff
Durbin	Lloyd	Schulze
Dwyer	Long	Schumer
Dymally	Lowey (NY)	Serrano
Early	Luken	Sharp
Edwards (CA)	Manton	Shuster
Edwards (TX)	Martin	Sisisky
Emerson	Martinez	Skaggs
Engel	Matsui	Skeen
English	Mavroules	Skelton
Erdreich	Mazzoli	Slattery
Espy	McCloskey	Slaughter
Evans	McCollum	Smith (FL)
Ewing	McCurdy	Smith (IA)
Fascell	McDermott	Snowe
Fawell	McEwen	Solarz
Fazio	McGrath	Spratt
Feighan	McHugh	Staggers
Fish	McMillen (MD)	Stallings
Flake	McNulty	Stark
Foglietta	Mfume	Stenholm
Frank (MA)	Miller (CA)	Stokes
Frost	Mineta	Studds
Gaydos	Mink	Swett
Gejdenson	Moakley	Swift
Gephardt	Mollohan	Synar
Geren	Montgomery	Tanner
Gibbons	Moody	Tauzin
Gillmor	Moran	Taylor (MS)
Gilman	Morrison	Thomas (GA)
Glickman	Murtha	Thornton
Gonzalez	Myers	Torres
Gordon	Nagle	Torricelli
Gradison	Natcher	Traficant
Green	Neal (MA)	Traxler
Guarini	Neal (NC)	Unsoeld
Gunderson	Nichols	Valentine
Hall (OH)	Nowak	Vander Jagt
Hall (TX)	Oakar	Vento
Hamilton	Obey	Visclosky
Harris	Olin	Volkmer
Hatcher	Olver	Walsh
Hayes (IL)	Ortiz	Washington
Hayes (LA)	Orton	Waxman
Hefner	Owens (NY)	Weiss
Hertel	Owens (UT)	Wheat
Hoagland	Packard	Whitten
Hochbrueckner	Pallone	Williams
Horn	Panetta	Wise
Horton	Parker	Wolpe
Houghton	Pastor	Wyden
Hoyer	Patterson	Wylie
Hubbard	Payne (NJ)	Yates
Huckaby	Payne (VA)	Yatron
Hughes	Pease	
Hutto	Penny	

NAYS—112

Allard	Grandy	Paxon
Allen	Hancock	Porter
Armey	Hansen	Ramstad
Baker	Hastert	Regula
Ballenger	Hefley	Riggs
Barrett	Henry	Roberts
Barton	Herger	Rogers
Bentley	Hobson	Rohrabacher
Bereuter	Holloway	Ros-Lehtinen
Bilirakis	Hopkins	Roth
Bliley	Hunter	Roukema
Boehlert	Hyde	Santorum
Boehner	Inhofe	Saxton
Bunning	Jacobs	Schaefer
Burton	James	Schroeder
Camp	Johnson (TX)	Sensenbrenner
Campbell (CA)	Kanjorski	Shays
Chandler	Kolbe	Sikorski
Clay	Kyl	Smith (OR)
Coble	Lagomarsino	Smith (TX)
Coleman (MO)	Leach	Solomon
Coughlin	Lewis (CA)	Spence
Cox (CA)	Lewis (FL)	Stearns
Cunningham	Lightfoot	Stump
Dannemeyer	Livingston	Sundquist
DeLay	Machtley	Taylor (NC)
Doolittle	Marlenee	Thomas (CA)
Duncan	McCandless	Thomas (WY)
Edwards (OK)	McDade	Upton
Fields	McMillan (NC)	Vucanovich
Franks (CT)	Meyers	Walker
Gallegly	Michel	Weldon
Gallo	Miller (OH)	Wolf
Gekas	Molinari	Young (FL)
Gilchrest	Moorhead	Zeliff
Gingrich	Murphy	Zimmer
Goodling	Nussle	
Goss	Oxley	

NOT VOTING—39

Alexander	Eckart	Ridge
Anthony	Ford (MI)	Ritter
Aspin	Ford (TN)	Rose
Beilenson	Hammerschmidt	Sanders
Boxer	Ireland	Scheuer
Byron	Lowery (CA)	Shaw
Chapman	Markey	Smith (NJ)
Collins (IL)	McCrery	Tallon
Crane	Miller (WA)	Towns
Davis	Morella	Waters
Dickinson	Mrazek	Weber
Dixon	Oberstar	Wilson
Dornan (CA)	Pelosi	Young (AK)

□ 1028

Mr. JAMES changed his vote from "yea" to "nay."

Mr. JOHNSTON of Florida changed his vote from "nay" to "yea."

So the Journal was approved.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from West Virginia [Mr. WISE] please come forward and lead the House in the Pledge of Allegiance.

Mr. WISE 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.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 1476. An act to provide for the divestiture of certain properties of the San Carlos Indian Irrigation Project in the State of Arizona, and for other purposes; and

H.R. 3370. An act to direct the Secretary of the Interior to carry out a study and make recommendations to the Congress regarding to feasibility of establishing a Native American cultural center in Oklahoma City, OK.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 3807. An act to amend the Arms Export Control Act to authorize the President to transfer battle tanks, artillery pieces, and armored combat vehicles to member countries of the North Atlantic Treaty Organization in conjunction with implementation of the Treaty on Conventional Armed Forces in Europe.

The message also announced that the Senate agrees to the amendment of the House to the bill (S. 1891) entitled "An act to permit the Secretary of Health and Human Services to waive certain recovery requirements with respect to the construction or remodeling of facilities, and for other purposes."

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate to the amendment of the House to the bill (S. 1193) entitled "An act to make technical amendments to various Indian laws."

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 756. An act to amend title 17, United States Code, the copyright renewal provisions, and for other purposes;

S. 1595. An act to preserve and enhance the ability of Alaska Natives to speak and understand their native languages;

S. 2047. An act to establish a commission to commemorate the bicentennial of the establishment of the Democratic Party of the United States; and

S. 2050. An act to ensure that the ceiling established with respect to health education assistance loans does not prohibit the provision of Federal loan insurance to new and previous borrowers under such loan program, and for other purposes.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3816

Mr. DICKS. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 3816.

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

There was no objection.

□ 1030

MCPEAK FAMILY STRUGGLES WITH HEALTH CARE EXPENSES

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

Mr. WISE. Mr. Speaker, this morning I would like to introduce another West Virginia family from Harpers Ferry that is having trouble receiving health care.

Kare McPeak has two hemophiliac sons, Anthony and Thomas, 10 and 11 years old respectively. A service agency has been covering the boys' medical expenses since their father, while he works, does not have insurance that covers the boys. His insurance does not cover preexisting illness.

Recently Mrs. McPeak just got a new job to help foot their huge medical bills. The additional income unfortunately will knock her out of the assistance she is getting from the service agency, and their medical expenses total over one-half-million-dollars per year. She and her husband together make a good income. They consider themselves middle America. But they just lost their home because they had to make a choice between paying for their mortgage and paying for the boys' medication.

Does anyone really consider that a choice?

Mr. Speaker, how much longer must citizens like Mrs. McPeak choose between working to help provide for her family and having medical care for her children? How long must families choose between paying the mortgage and paying for medicine? How much longer until Congress enacts a national health care strategy which says Anthony and Thomas will have access to affordable health care?

STATUS OF REPUBLICAN ECONOMIC GROWTH PACKAGE

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

Mr. GINGRICH. Mr. Speaker, last night BOB MICHEL and I met with the President on our economic growth legislation. At the end of that meeting we had to rush back to the House to vote on the campaign reform bill.

The haste of our departure led some White House reporters to be confused about the tenor of that meeting.

This morning the White House issued the following statement on behalf of the President and I quote:

Congress has had many months to pass our economic growth package. The President regrets Congress' inaction. He is enthusiastic about the House Republicans' efforts to advance a responsible growth package. As we said last night, the President reviewed the package with Bob Michel and Newt Gingrich and told them unequivocally that he liked the package, and supports their efforts to advance the growth agenda.

I hope, given this statement, that the Democratic leadership will make in order an up-or-down vote on the growth package today.

STATUS OF PRESIDENT'S INTENTIONS ON REPUBLICAN ECONOMIC GROWTH PACKAGE

(Mr. FOLEY asked and was given permission to address the House for 1 minute.)

Mr. FOLEY. Mr. Speaker, what I said to the press publicly I also want to say on the floor of the House.

We have had confusing statements from the White House and from Members of the House of Representatives on the Republican side about the President's intentions with regard to the possible continuation of this session for the purpose of considering issues relating to various proposals having to do with taxes and other matters.

Every bit of information that I have received in a private way indicates that the President does not wish that this session be extended beyond the time required to complete the announced program for the purpose of considering any so-called growth package offered by the Republican Members of the House.

I have not received any information to the contrary.

It is important to be clear about this because of suggestions that the President is willing or might be willing or that members of the White House staff might be willing or interested, and so forth. This is something that can be settled very easily.

If the President communicates directly to me, or to the majority leader, or to the majority leader and the Republican leader simultaneously today that he desires us to extend this session of the 102d Congress for the purpose of considering legislation dealing with tax reductions for middle-income taxpayers and other proposals of this kind—despite the previous indications that he wishes to consider these after the State of the Union Message—I will urge that we stay in session.

However, I believe the time has come for an end to the gamesmanship of indirect suggestions back and forth. This is not a matter on which there should be any confusion. The President either wishes us to conclude our business and adjourn this session of the Congress or he does not. We will accommodate the President's desires in this regard but he must articulate them clearly, unequivocally, and directly and should do so today.

CLARIFICATION OF PRESIDENT'S INTENTIONS WITH RESPECT TO REPUBLICAN GROWTH PACKAGE

(Mr. DELAY asked and was given permission to address the House for 1

minute and to revise and extend his remarks.)

Mr. DELAY. Mr. Speaker, it is not confusing that this Government is based on separation of powers. This House is just as important as the executive branch and this House if it wants to do something about jobs in America can do it on its own and does not need directions from the President.

The point here is that the Democrats do not want to address jobs in America.

There still is not order but I will continue because obviously the Democrats would rather talk on the floor of the House than listen about jobs in America. We are talking about jobs and this House can take any action it wants. It can vote on a growth package today or it can call us back into session after the Thanksgiving recess or we can work through Thanksgiving. The point is that America's economy is hurting and we need jobs in America. We can call this session back after Thanksgiving if we so desire. We do not need the President of the United States to tell us.

The President of the Untied States told us last night that if we pass a growth package similar to what the Republicans are offering, he will sign it, which means that we can pass it on the floor of the House today or we can come back after Thanksgiving and do what is the will of the Congress.

It is obvious to me that the Democratic leadership, Mr. Speaker, does not care about jobs in America.

DISTRIBUTION OF TRANSPORTATION FUNDS TO THE STATES

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

Mr. BENNETT. Mr. Speaker, later today we are scheduled to consider the transportation reauthorization conference report. As of this hour, we have not received an updated analysis of how the transportation funds will be distributed to the States, nor have we seen bill language. I ask you—how can we be expected to support legislation which we have not seen and that leaves us in the dark as to how fairly or unfairly highway money is to be distributed? I don't think we can.

I have been criticized in various circles over the last 24 hours for inaccurately portraying how poorly donor States will do under this conference report. However, my analysis is based on distribution tables produced by the Federal Highway Administration on Sunday. I must stress that these are the most recently released tables from the administration. Committee leaders have told me that the numbers have changed, but when asked, they cannot produce new tables to refute those I have been distributing. I always say, "trust, but verify;" and while I believe in the integrity of the Public Works Committee, I owe it to my State and you owe it to yours to verify, on paper, the committee's claims. It is the committee that has the burden of proof and if they cannot meet the burden, we are compelled to oppose the conference report.

In reviewing the latest available material from the transportation reauthorization conference, it appears that those of us who represent donor States have every reason to be concerned. According to my analysis, as of now, the conference report that we are to vote on uses Senate formulas and only applies the 90 percent minimum allocation to about 75 percent of the total program. Gone are the FAST formulas that I, and so many of you, fought for so vigorously, and we are stuck with the continued use of an antiquated distribution system that was developed 35 years ago to construct this Nation's interstate system. Now that the system is nearly complete, it is time to move forward in an effort to meet modern transportation needs with a modern formula. This bill does not seem to do that.

Even more disconcerting is the fact that the 90 percent minimum allocation program, intended to be a safety net, has such limited application. In many cases, this means that donor States will do worse under the conference report than under either the House or Senate bill. Most States cannot live with that and neither should we. The equity and fairness that we achieved in the House bill has been lost and I can see no reason to support the conference report.

□ 1040

THE ANGELS OF THE WORLD FOUNDATION

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

Mr. LEWIS of Florida. Mr. Speaker, this is the ninth year I have had the honor and pleasure of delivering one of your first gifts of the holiday season.

You should have already received the 1991 Angels of the World Christmas ornament from the T&M Ranch in Indiantown, FL.

Many of you will recall the T&M Ranch is a home and school for mentally handicapped adults. There they learn the necessary skills to become working members of their community.

They craft these beautiful angel ornaments designed by sculptor Laszlo Ispanky. The project teaches them to make something with their hands, prepare it for delivery and to manage the money they earn from their efforts.

The T&M Ranch and the Angels of the World Foundation use proceeds from the sale of the ornament to create scholarships for mentally disabled persons.

It has been a great pleasure of mine to bring their gift of love to you. I hope you have a special place for the 1991, ninth edition angel, Anna of Germany. Happy holidays to you all.

WE MUST ENCOURAGE OTHER COUNTRIES TO ACCEPT HAITIAN REFUGEES

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

Mr. RANGEL. Mr. Speaker, as we try to decide today whether or not we have a sufficient amount of votes to extend the death penalty for 50 additional Federal crimes, which would include Indians and other people in this country, I would want to share the thought that, if we walk away from this Congress and do nothing about the Haitian refugees, that indirectly we may be responsible for the lives of many poor people that will be directed back to Haiti. The only thing that prevents these refugees from returning is that a Federal court order out of Miami restrains the administration from sending the Haitians back to Haiti where many would face certain death. Mr. Speaker, the Committee on the Judiciary is now considering a Mazzoli bill that would codify the law and encourage other countries to take these people, but says, "any place but Haiti."

Religious leaders around the country, Catholics, Protestants, Jewish people, and gentiles, have come together to say that at this holiday season, as Mary and Joseph found themselves homeless, let us not return these people without a country, without homes and without hope back to Haiti. We can at least go and have that Thanksgiving knowing that we have taken a vote to encourage other countries' leaders to accept these poor people rather than to send them to Haiti where they can face certain death.

THE UNFAIR BURDEN OF THE EARNINGS TEST ON AMERICA'S WORKING SENIORS

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

Mr. HASTERT. Mr. Speaker, once again Washington bureaucrats are telling us they know more about seniors than seniors themselves. And to add insult to injury, they are spending our tax dollars to do it.

The bureaucrats at the Social Security Administration are trumpeting the results of a study that suggests Americans aged 65 to 69 who are receiving Social Security benefits won't go back to work if the Social Security earnings penalty is repealed. The earn-

ings penalty, you'll recall, is that Depression-era fossil that takes away $1 in Social Security benefits for every $3 a senior earns over $9,720 annually. For seniors earning as little as $10,000 a year, that amounts to an effective marginal tax rate of 56 percent—nearly twice the tax rate millionaires pay.

The study the SSA bureaucrats are touting says that repeal of this discriminatory law will have no effect on seniors. Mr. Speaker, nothing could be further from the truth.

Maybe if the Social Security Administration bureaucrats left their comfortable offices and actually talked to some of America's working seniors, they would realize the unfair burden the earnings test places on seniors, our Nation's businesses, and the national economy. They might even discover that tens of thousands of otherwise honest citizens have been forced into an underground cash economy.

Many seniors are forced to work after they reach retirement age simply because they cannot make ends meet on Social Security alone. With increasing property taxes, skyrocketing health care costs, and extremely low interest rates on their modest savings, more and more seniors must work.

As I walk the streets in my district every weekend, I talk to seniors who tell me they would work all year if they could do so without losing their benefits—but who quit in midfall because it is more cost effective for them to do so.

Businesses rely on seniors because older Americans respect the work ethic and are reliable. And with more people working and spending, the economy would get a badly needed shot in the arm.

And finally, Mr. Speaker, the numbers speak for themselves. According to the National Center for Policy Analysis, more than 700,000 seniors would return to the work force or emerge from the underground economy if the earnings test was repealed.

The SSA bureaucrats who want to continue to penalize seniors are afraid that repeal of the earnings test means fewer of them will be needed to push papers. But keeping bureaucrats busy is a poor reason to retain this foolish law.

A DOMESTIC PROGRAM AND A TAX CUT BY CHRISTMAS IS POSSIBLE

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

Mr. WILLIAMS. Mr. Speaker, my colleagues, if the indecision and confusion down at the White House was not so dangerous, it would be providing us with great yearend entertainment. In his final year, entering his final year of his term, President Bush cannot decide whether or not he is even for the domestic agenda, which is being offered by the Republicans here in the House. First it was, "Don't offer it." Now it is, "Maybe offer it." First it was, "You won't vote." Now, "Maybe you shall vote." It is dangerous.

The President has got to pay more attention to the domestic economy, and he has got to make up his mind, but from the Democratic side we tell him this: "If you don't threaten to veto, Mr. President, if you want us to stay in session, the Democrats on our side would like to give middle-income Americans a tax cut to put under their Christmas tree."

So, join us, Mr. President. Invite us to stay in session. We will do it, and we will provide middle-income Americans with a domestic program and a tax cut by Christmas.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MAZZOLI). The Chair would remind Members that comments in the House are to be directed to the Chair and not to persons outside the Chamber.

INVESTIGATION OF THE OCTOBER SURPRISE IS A FRIVOLOUS WASTE OF TAXPAYER DOLLARS

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

Mr. LIVINGSTON. Mr. Speaker, talk about gamesmanship. Where in the world are the priorities of the Democrat leadership of this House?

As my colleagues know, despite what the Democrat candidates for President have been saying for the last few months, despite what everybody acknowledges to be big problems in this country—the economy, health care, education and the like, the fact is that the priorities of this House leadership lead us to spend time and substantial money on a spurious October surprise investigation.

Mr. Speaker, that was all 12 years ago. The ordinary statute of limitations is 5 years, and other investigations have thrown cold water on the idea. There was the GAO report, the Senate Intelligence Committee, the Iran-Contra investigation, the independent counsel, and even Newsweek and New Republic have debunked this thing entirely, yet a majority of the Committee on Rules of this House voted to go ahead with this investigation.

Why, Mr. Speaker? We have big problems. There is substantial evidence of other matters that could be investigated, like the relationship of Members of the House to the Sandinista communists in the late 1980's. But why this?

What it comes down to is that we are not about to study economic problems, not address an economic program, but instead we will frivolously waste the taxpayers' dollars and our important time on this worthless investigation of the "October Surprise"—for no other reason than partisan advantage in a presidential election year.

AMENDMENTS TO THE HAWAIIAN HOMES COMMISSION ACT OF 1920

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

Mr. ABERCROMBIE. Mr. Speaker, today I have introduced companion legislation to Senate Joint Resolutions 23 through 34. This action is to provide for the consent of the United States to certain amendments to the Hawaiian Homes Commission Act, 1920, as amended, made in 1986, 1987, and 1989, and 1990 through the enactment of laws by the State of Hawaii.

It is my hope that by introducing companion legislation to the House of Representatives that consent to these amendments will be agreed upon without further delay.

Approval of these amendments will allow more native Hawaiians to acquire homesteads more quickly and thus fulfill the original Homesteaders Act of 1920.

Mahalo and Aloha.

THE DEMOCRATS HAVE NOT DONE ONE THING TO PUT AMERICANS BACK TO WORK

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

Mr. GUNDERSON. Mr. Speaker, and colleagues, I am absolutely amazed when Democrat Members of this institution stand up and say, "Mr. President, tell me what you want, and we will do it."

Mr. Speaker, I say to them, "You have already sent to the President of the United States no less than 24 bills he had to veto. He has told you clearly and unequivocally this crime bill will be vetoed. If you believe what you have said this morning, then don't even bring the crime bill up. Go back to conference, and do a real crime bill. You want to adjourn so you can go across this country and ask the American people if they're better off than they were 4 years ago, but I urge caution when you do that because, if you make that statement, if you ask that question, the American people very properly will ask you back, 'And what, Mr. Democratic Congressman, have you done about it?'"

Mr. Speaker, the hard cold reality is that, unless a growth package is made in order to the RTC bill later today,

the Democrats will have to admit to the American people that in the midst of the recession that they, the Democrats who control this Congress, have not done one thing to put one American back to work.

□ 1050

ARKANSAS EDUCATIONAL TELEVISION CELEBRATES SILVER ANNIVERSARY

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

Mr. THORNTON. Mr. Speaker, my State will pass an educational milestone next month, marking the silver anniversary of its venture into educational television.

On December 4, 1966, Arkansas placed into operation the first of what would become five television stations, which now broadcast educational programming to over 90 percent of our State.

The Arkansas Educational Television Commission has been working on this silver anniversary celebration all year, using its award-winning theme, "Where Learning Never Ends," to stress the excellent variety of programming that is available to Arkansas because of its work.

The network is active 18 hours a day, offering Arkansas viewers education that ranges from "Sesame Street" to college telecourses, with geography, science, math, and GED programming in between; cultural productions that include opera, ballet, and drama; and an informative schedule of public affairs programming that includes the "MacNeil/Lehrer Newshour," "Washington Week in Review," and its own production, "Arkansas Week."

AETN and its five transmitters present to Arkansas the best in public broadcasting while helping to educate our children and to raise the levels of scholastic accomplishment in our State. AETN also presents programs like the "Arkansas Traveler" and "Ozark Mountain Christmas"—programs that make our State proud.

Mr. Speaker, I am pleased to call my colleagues' attention to this great Arkansas resource and to congratulate the staff and management of AETN for this achievement.

ELEVATING EPA STATUS

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

Mr. GOSS. Mr. Speaker, this is the time of year when we ask, what happened to such and such bills? My colleague, the gentleman from New York [Mr. BOEHLERT] has been making inquiries this week to find out whatever happened to legislation to elevate the EPA to a Cabinet level.

Incredibly, this is something that has been on the agenda since I first came to Congress almost 3 years ago. The other body has already taken positive action on such a measure, all the major environmental groups and the administration has long been asking for such action. Not surprisingly, the American people support it too. It is astonishing to note that all of this support is apparently being frustrated by the will of one House committee, of one committee chairman who has so far refused to bring this legislation to the floor. Mr. Speaker, if it looks like a Cabinet-level agency, acts like a Cabinet-level agency, and is expected to be treated like a Cabinet-level agency, then why can't this body do the right thing and finally give the EPA the forum that its responsibilities demand?

DEFICIT CONSEQUENCES TO THE REPUBLICAN GROWTH PLAN

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

Mr. DURBIN. Mr. Speaker, it is time to take a closer look at the Republican growth package. This growth package which the gentleman from Georgia [Mr. GINGRICH] described this morning will add $25 billion to our national deficit over the next 5 years.

After all the carping and crying about our national debt, the House Republicans believe a bigger deficit is the answer to our economic problems.

Now, what is the centerpiece of the Gingrich Republican growth plan? Surprise, surprise. The Republican plan would cut the capital gains tax on the wealthiest Americans. The Joint Committee on Taxation estimates that 57 percent of this tax break would go to those Americans earning over $200,000 a year. For those Americans it means a tax reduction each year of over $11,000.

Let us go back on this chart to the middle-income Americans, the working families. The Republican growth package gives the working family a whopping $65 to $84 tax break. The Republican growth package would help the incomes of the wealthiest Americans grow dramatically.

Does this sound familiar? Have we heard this song before? It is the same supply side, voodoo, trickledown economics that got our country into this economic mess.

RECOGNITION OF MEMBERS

The SPEAKER pro tempore (Mr. MAZZOLI). For what purpose does the gentleman from California [Mr. DORNAN] seek recognition?

The House will be in order. The Chair will repeat, the House will be in order.

PARLIAMENTARY INQUIRY

Mr. DANNEMEYER. I have a parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore (Mr. MAZZOLI). When the House is in order, the gentleman will be recognized.

Mr. DANNEMEYER. I have a parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from California [Mr. DANNEMEYER] will state his parliamentary inquiry.

Mr. DANNEMEYER. Mr. Speaker, when one Member of the House uses a chart as part of a presentation, do the rules provide that another Member can make a reference to that chart?

The SPEAKER pro tempore. References can be made, but the use of the chart is not guaranteed.

Mr. DANNEMEYER. Mr. Speaker, is it appropriate to make a parliamentary inquiry to ask the Chair to ask the Sergeant at Arms to go and find that chart?

The SPEAKER pro tempore. That is not a proper parliamentary inquiry.

THE ELUSIVE CHART

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

Mr. DORNAN of California. Mr. Speaker, I want to revise and extend my remarks and take that chart and put it to literary prose and put it in immediately following my remarks. I like that chart.

I wanted to talk about that chart. I am going to go and look for it in the Speaker's Lobby afterwards and study that chart and memorize that chart, because I noticed the next item up, which was the second highest paid Americans on that chart, was U.S. Congressmen and Senators. The next category up was $100,000 to $200,000, and we pull down about $125,000 here.

I thought I would point out that under that Republican plan Members of Congress were going to get a 13.7-percent tax break, so I thought when we go home on Thanksgiving and have our town hall meetings, we may hear people stand up and say, "Mr. Congressperson, you make $125,000. Why wouldn't you give us a growth package so that we could begin to create jobs again in America?"

Under President Reagan we were creating 300,000 jobs a month, and George Bush had hoped to break that record, but because of the Democratic-controlled Congress, the House and the Senate, we are losing 50,000 jobs a month. I ask, "Why don't we stay and come back after Thanksgiving and pass this growth package? We will let you call it the Democratic growth package."

Mr. Speaker, I am going to go and look for that chart now. It is fascinating.

THE 70-PERCENT MINIMUM WAGE INCREASE WILL HURT WORKERS AND SMALL BUSINESSES IN DISTRICT OF COLUMBIA

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

Mr. STEARNS. Mr. Speaker, I could not believe my eyes when I read that the District of Columbia Wage-Hour Board has decided to increase District of Columbia's minimum wage from $4.25 to $7.25.

That's a 70-percent wage increase that will be devastating to small business men and women in the District of Columbia.

While the wage-hour board certainly had good intentions, it's decision will hurt those it intends to help—low-income workers.

The Washington Post reported yesterday that a day care center in southeast Washington will begin to lay off or close entirely because of the board's decision. This day care center has provided service to low-income families for 23 years.

The chairman and CEO of Colonial Parking, which employs 250 cashiers, also said he is considering massive layoffs.

Mr. Speaker, the way to help low-income workers is through an expanding economy that creates new jobs to give people employment options. By increasing wages by 70 percent, the D.C. Wage-Hour Board will shrink the job pool and will chase small businesses out of the city. That's no way to help the people of Washington.

BUREAUCRATIC REDTAPE HAMPERS IMPLEMENTATION OF ASSISTANCE PROGRAMS

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

Mr. TALLON. Mr. Speaker, Complexity cripples the food stamp, AFDC, and Medicaid Programs and increases the potential that families will be denied assistance because of red-tape rather than for eligibility reasons.

And taxpayer dollars are paying for ever more bureaucracy as the need for these vital programs grows.

My bill simply calls for USDA and HHS to compile a document to delineate what statutory and regulatory changes may be made to streamline and coordinate program rules.

If we pass this bill, policy makers will have, for the first time, a document from which meaningful and lasting changes can be made for the benefit of recipients and taxpayers.

To be denied assistance simply because government bureaucracy cannot keep up with itself is an inefficiency that we should not tolerate.

PORNOGRAPHY BOYCOTT

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

Mr. DANNEMEYER. Mr. Speaker, our first amendment right of free speech is the cornerstone of all other civil liberties. Without it religious liberty would be diminished, the right to freely associate would be meaningless, and the right to vote would be irrelevant.

But with this precious right comes responsibility. Interestingly, this right of free speech cuts both ways. That is, we can use our collective voice to rise up against that which fails to uplift the human spirit or which does not quite meet an accepted standard. Environmentalists use this right to announce boycotts against tuna manufacturers. Some black Americans once sought to boycott businesses operating in South Africa. And some people use this right to boycott the promotion of cultural decay.

Mr. Speaker, I fit in with this latter group. I have chosen to boycott the K-Mart Corp., owners of Waldenbooks, who choose to sell pornography in their stores. I am just one consumer, but I will not knowingly allow my money to go to porn merchants no matter how respectable they try to make themselves seem.

PASS THE CRIME BILL

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

Mr. MAZZOLI. Mr. Speaker, the crime bill, which I hope comes to the floor later today, is being hit from the left by liberals among us because it includes additional death penalties, because it eases the exclusionary rule, and limits to some extent habeas corpus death row petitions.

That same bill is being hit from the right by the conservatives because it includes handgun waiting periods and it does not go far enough to ease the exclusionary rule or to limit habeas corpus or to add death penalties.

There is a legislative rule of thumb that I have generally lived by these 20 years I have been in political office. And that is any bill which is assaulted and decried from the left and any bill which is at the same time assaulted and decried from the right is probably a pretty good bill.

So I say the crime bill is not a great bill. But, it is a pretty good bill. I hope that that bill passes today.

JAPANESE APOLOGY FOR PEARL HARBOR ATTACK

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, December 7, 1991, marks the 50th anniversary of the Imperial Japanese Navy's attack on the United States Pacific Fleet at Pearl Harbor in Hawaii. That act resulted in more than 2,400 American deaths, including 1,102 Navy personnel on the battleship *Arizona*, plus numerous other military and civilian casualties.

Not only has there never been an apology for these deaths and casualties, but it appears that Japan no longer is acknowledging responsibility inasmuch as our information indicates that Japan's history books are to be rewritten without any references to the Pearl Harbor Sunday morning attack.

Therefore, over the weekend I submitted a resolution calling upon the Japanese Government to formally apologize on or before December 7, 1991, to the widows, parents, children, other survivors, and to the people of the United States. I urge my colleagues who believe in America to join me and several other Members in supporting this bipartisan resolution concerning Pearl Harbor 50 years later.

GOVERNMENT SERVICE IS PUBLIC SERVICE

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

Mr. GLICKMAN. Mr. Speaker, today my colleague, the gentleman from Washington [Mr. CHANDLER] and I are introducing legislation that would create a lifetime ban on working for a foreign government or foreign-controlled corporation for certain high-level appointees of the executive branch and officials involved in trade negotiations, which would involve people at the U.S. Trade Representative's Office, the International Trade Commission, the Commerce Department and the Defense Department.

The purpose is manifold: To stop opportunists who used political influence to get trade jobs in the Government, blocking out people who would choose public service as a career rather than a pit stop, to remove the financial incentives for experienced trade negotiators to leave public service, to stop the flow of insider information about trade negotiations and individual corporations to foreign interests, and to remove the unfair advantage foreign competitors gain by having a former high-level U.S. official represent them before a Federal agency, Congress or the White House.

The purpose of this bill is clear. Government service is public service, not a training program for financial self-enrichment. We need to begin to fight for our own, to keep U.S. corporations strong and to preserve American jobs.

WHY NOT AN ECONOMIC GROWTH PACKAGE TODAY?

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

Mr. SANTORUM. Mr. Speaker, today we are about to embark on what the majority leader has termed the mother of all sessions. We are going to knuckle down here in the House of Representatives, and we are going to spend day and night and possibly morning solving the problems of our country. But in that expanse of time, there is no room to consider a growth package.

We have heard here this morning that if we got a call from the President of the United States to stay over that we could deal with the growth package.

This is nothing new. This is nothing new. These growth packages have been around for a year. We have been asking for them for a year. This is another delay.

We have 1 full day. We have 24 hours. We have plenty of time to come here to the floor today to do this for America today.

There are unemployed people who are sitting at home because they do not have a job right now watching us who want our help. Let us help them.

LET US DEAL WITH THE UNDERLYING CANCER

(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, the Republicans have another economic growth plan which constitutes tax cuts around election time. I am not going to put the Republicans down because the Democrats also have a similar type of plan.

My colleagues in the Congress, I say the real problem is we are treating the symptoms: crime, drugs, prostitution, welfare. No one is dealing with the underlying cancer.

In my opinion, no one is looking at trade reform, tax loophole reform, because those parties are looking exactly alike. It is getting so bad, when we have a sitting President that is agreeing to an economic growth package from a group of Republican Congressmen that he has never read, then our economy is in deep trouble, big time.

I say before we go on with any more 10-year plans, 5-year plans, let us start with taking a look at the trade and tax policies of our country that are sending our jobs overseas and ruining, ruining our communities.

SOME ASPECTS OF THE GROWTH PACKAGE

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

Mr. CUNNINGHAM. Mr. Speaker, the majority leader said that it would require the President to extend Congress. We can do that on the RTC bill that is coming up, but let me go through just a couple of items that the package includes, not for the rich but a 30-percent inclusion from taxable income from any taxable asset. That means a home, whether it is a $15,000 home or a $200,000 home. Adjust value asset for effects of inflation. No penalty for a first-time home buyer. I know my daughter and my son are coming up to buy a home. I do not think they can do it.

The most highly taxed group in America. I do not call them senior citizens, I call them chronically gifted, a Social Security earnings limitation reduction. That is important, Mr. Speaker.

This is not for the rich. Leading employees apprentice program. This is where employers can invest to create jobs in our shipbuilding industry. In San Diego they are already doing that. They are providing jobs for young men and women coming out of high school.

We can give them a tax credit. Repeal the excise tax on boats, aircraft, and passenger vehicles. This costs the Government money.

Those are all but about 15 of the items, Mr. Speaker.

THE TRANSPORTATION BILL

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Mr. Speaker, we hope we are going to have a transportation bill out today. We do not have all of the numbers together yet so we do not know where all the money is going to go, and I think it is a disservice to the Members of the House to come out with figures that are not accurate because we do not have the figures and to be telling people that they are going to be hurt.

We are looking at the donor States, and we know, and I am a donor State, I want to get everything back into my district that I can because that is what the people want. But at the same time we are looking at a national bill, we are looking, if we want to jump-start the economic engine, this is the way to do it because we are talking about 2 million jobs, something that would put the economic stimulus into the Nation and help to get us back on the road again.

But we cannot do it if it is not going to be given a fair chance and a fair opportunity today. Today we are going to vote on it. Please, wait and look and listen and find out what is going to be in the bill before making any serious mistakes and saying, "No, I am not going to do it because there is not enough in my pocket."

□ 1110

ENCOURAGING RECOGNITION OF UKRAINIAN INDEPENDENCE

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

Mr. COX of California. Mr. Speaker, in just a few days the nearly 52 million people of Ukraine will vote overwhelmingly to declare their independence from the former Soviet Union. The United States should be among the first to recognize Ukrainian independence. It is vitally important that the United States side with the people of Ukraine instead of continuing to prop up a Kremlin still run by barely reconstructed Communists. In particular it is important that America not repeat the performance so embarrassing to all of us in which our Nation was nearly the last on Earth, save our Cuba, to recognize the independence of the Baltic nations.

Those who argue that Kremlin control over the military, economic, and social policies of Ukraine is somehow in America's interests are wrong. America now has the opportunity to negotiate with an independent Russia and then independent Ukraine for the wholesale destruction of nuclear weapons and for the implementation of free market reforms.

I urge my colleagues to sign a letter I have prepared for President Bush encouraging him to accept the advice of several in his administration, including Secretary Cheney, to recognize Ukraine upon their declaration of independence this weekend.

SAME OLD REPUBLICAN TRICKLEDOWN ECONOMICS

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, I listen to my colleagues on the other side, and I wish so much that it was as simple as they would like to portray it. We keep hearing about this wonderful tax package that they have, and I feel like it is a movie. This is where we came in. This is how we got in trouble. So what should we do? Do more of it?

They are talking about more cuts for luxury taxes, more cuts for the rich on their capital gains taxes. I suppose that means we are going to get trickled on one more time. For the people who have still been waiting to be trickled on for the last 10 years of tax cuts and are not even damp, I do not think this will do it.

The gentleman from Ohio makes a very good point. What is wrong with this economy is very serious and we should stay here and we should deal with it. But it goes to trade, it goes to jobs, it goes to global market, it goes

to all sorts of things. It is not about a tax on boats alone, believe me.

DEMOCRATS' FOREIGN POLICY LEGISLATION IGNORES DOMESTIC NEEDS

(Mr. ROTH asked and was given permission to address the House for 1 minute.)

Mr. ROTH. Mr. Speaker, for weeks our Democrat colleagues have been attacking the President on foreign policy matters. The chief Democrat accuser has been the majority leader, who has called for putting America first. Now here we are in the last day of the session and what is the only bill that the majority leader chooses to bring up? It is the Democrat $25 billion foreign aid bill.

We have voted on this bill now for the third time, but 178 days ago the President of the United States asked for a highway bill. Where is it? We have not voted on it once. But in this foreign aid there are $3 billion to build highways overseas, but not 1 cent to build highways here at home.

Senior citizens are asking. The leading tax writer, the gentleman from Illinois [Mr. ROSTENKOWSKI], sends us a "Dear Colleague" letter, "Vote for the foreign aid bill." Senior citizens are asking if the Democrats have enough money to spend $25 billion overseas, why don't they have enough money to restore the Social Security benefits that were taken away by a Democrat Congress and a Democrat President in 1977.

In 5 months we have voted on foreign aid three times. We are shoveling it overseas so fast they cannot spend it fast enough, but in 13 years we have not voted on notch once. Now go home and tell your notchers that.

FOREIGN AID BILL REFLECTS THE PRESIDENT'S REQUESTS

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

Mr. OBEY. Mr. Speaker, never have I heard more fantasy engaged in on the House floor than by the previous speaker. The previous speaker just indicated that the Democratic foreign aid bill may be before the House today. What absolute baloney.

The fact is that virtually every dollar of that foreign aid bill is in the bill at the request of George Bush in the big White House down on the other side of Pennsylvania Avenue.

The second fact which the gentleman chooses to ignore is that the IMF, which is a $13 billion piece of that bill, is in the bill at the specific request of the President of the United States. This is one Democratic chairman who is going to make very certain that that IMF never sees the light of day in the appropriations bill.

But if the Members want to know who is responsible for that $13 billion request, do not tell the American people a falsehood. Do not pretend that that bill is a Democratic bill. Virtually every dollar in that bill is at the request of the Republican White House and $13 billion IMF is in that bill because Nick Brady, the Secretary of the Treasury and the President's best friend in the Cabinet, is demanding that it be in there. So let us tell the truth.

AMERICA NEEDS GREATER CONTRIBUTION FROM ITS ALLIES

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

Mr. REGULA. Mr. Speaker, last week in Tokyo, Secretary Dick Cheney made what I think is a very significant speech. During his remarks he called on Japan to play a more active role, militarily and politically, in the world today, and to take on greater world responsibilities, particularly by helping the emerging democracies in Eastern Europe and the Soviet Union.

I would quote directly from his remarks, as follows: "Japan can do more. Japan's economic strength gives it worldwide political influence." I think this is a very important policy statement by the Secretary of Defense. At least we are saying to one of our allies, and we should say to all of them, "You must take greater responsibility, financial and otherwise, for world peace."

We have 56,000 American U.S. service personnel stationed in Japan today. This number should be reduced substantially. This is a very expensive cost to the United States. I think it is vital that we get a greater contribution from our allies, not only Japan but also others in paying the security costs for maintaining world peace.

I commend Secretary Cheney for taking that message to our ally in the Pacific.

LAST MINUTE REPUBLICAN GROWTH PACKAGE RHETORIC

(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, once again the Republicans want to repeat history. They want us to consider one of their economic growth packages in the middle of the night on the last day of the session.

Mr. Speaker, we did that in 1981 and we had the largest deficits in the history of this country created, deficits that are now crippling our economy and crippling the American family and crippling our ability to create jobs.

In 1986 the Republican-led Senate, with the full support of President Reagan and then-Vice President George Bush, took capital gains out of the Tax Code, took passive losses out of the Tax Code, took the IRA's out of the Tax Code, and told us it would create economic growth. Now George Herbert Walker Bush is back here telling us, and the Republicans are saying, put it all back in and it will create economic growth.

Which is it, folks? You ought to settle this debate within your party before you try to get us to consider it in the middle of the night. This is not so much about economic growth as it is about the growth of the bank accounts of the wealthiest people in this country who would benefit under the Republican proposal. This is not so much about their willingness to stay here in session as it is the Republicans' fear to go home and find out what they have done to the American people and this economy.

MUSINGS OF MARIO

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

Mr. PAXON. Mr. Speaker, it was another weekend of the musings of Mario. Get used to it, America. We in New York have watched this sideshow for years. Last weekend Mario Cuomo laid every problem in New York at the doorstep of President Bush.

Let us set the record straight. It was Mario Cuomo who raised taxes by $1 billion in each of the last 3 years, making New York Money Magazine's tax hell. It was Mario Cuomo who moved New York to dead last on the list of Tax Freedom Days. The Center for Study of the States says our Governor accumulated the worst record for balancing the budget. Cuomo added 30,000 new State jobs, raised State spending 98 percent, and has given us the third lowest bond rating in all of America.

Financial World Magazine rates Mario Cuomo 43d in fiscal management. On his watch, SAT scores have dropped from 36th to 45th in the Nation. Now New York's biggest and fastest export is our educated youth, who leave to look for jobs elsewhere.

The Washington Post said last month, and I quote here, "Cuomo says he would have to quit as Governor to run for presidency." That is the best news New Yorkers have heard in years. Please do not disappoint us.

□ 1120

BEWARE OF STRANGERS BEARING GIFTS

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

Mr. DORGAN of North Dakota. Mr. Speaker, there is an old saying, "Be-

ware of strangers bearing gifts." Never is it more important to understand that than in the 11th hour of a legislative session.

Now we have the Republicans coming to us with their economic growth package. I call it the dollar and-a-quarter package. $1.25 a week is what they offer to middle-income families. Some stimulus, is it not?

But look a little closer at this package. Down at the bottom, those families that make over $200,000 a year, almost $12,000 a year in tax cuts. In fact, 70 percent of their tax cuts go to people with incomes over $100,000.

There is nothing new about this, but there is certainly something Republican about it. The same old tired nonsense. They continue to believe that the key of the kingdom of economic growth is in the bank accounts of the rich.

When will they understand that the middle-income families drive this economy, and if ever we would give the middle-income families a little something to work with, America would get to work again.

When will we see an economic growth package that is fair from Republicans? I hope it is soon.

THE DISTRICT OF COLUMBIA'S INTERSTATE GUN CONTROL

(Mr. INHOFE asked and was given permission to address the House for 1 minute.)

Mr. INHOFE. Mr. Speaker, much as I hate to change the subject from this very interesting topic today, I would like to recall that on Tuesday, November 5, the District of Columbia passed into law a measure that holds firearm manufacturers and sellers liable for injuries caused by the persons who purchase their guns.

This is just another gust of wind in the storm called gun control. The media and proponents of gun control have somehow fooled the public into believing that if we get rid of the firearm, we get rid of the fired upon.

We seem to be forgetting who is doing the killing. We seem to be forgetting that a person using a steak knife can kill somebody, a person driving an automobile can murder someone, a person using something as harmless as a pillow can commit a homicide. But do we hold the Sheffield Knife Co. liable, do we hold General Motors liable, do we hold the Cannon Linen Co. liable. I don't think so.

So, where are the gun control enthusiasts leading us? First to court and then on to being a totally defenseless nation. If measures like the one passed here in the District prevail, they will make a mockery of our Nation's interstate commerce laws.

Forget the fact that a dealer in Oklahoma legally sold an individual, with sporting intentions, a firearm. The lawsuits will quickly drive gundealers and manufacturers out of business and the only winners will be the incessant lawyers that feed on these types of statutes.

Mr. Speaker, when I read about the D.C. referendum in the paper, I was reminded of England between the two World Wars. Well-meaning lawmakers in the Labor Party convinced the people that by giving up their guns they would then disarm the IRA rebels and have peace. The Firearms Acts of 1922 and 1937 set up gun registration that led to confiscation. It was only when Adolph Hitler had invaded their homeland and taken away what little defense they had at Dunkirk that they realized their predicament.

They found out they had a dried-up arms industry and they had to come to barbaric America to bail them out.

A few minutes ago the gentleman from California [Mr. MILLER] talked about remembering history. I hope that we can remember this bit of history as we act on these gun control measures in this country.

Today we face the same predicament with the rebels on our own streets. Let us not make the same mistake. Only tougher laws against criminals will bring down crime rates.

Mr. Speaker, the only winners in the D.C. referendum will be criminals and lawyers.

GIVE WORKERS A CHANCE TO HAVE A REAL THANKSGIVING

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

Mr. BALLENGER. Mr. Speaker, Thanksgiving is coming Thursday, but almost 8,000 workers in North Carolina will not be able to afford a turkey, because this House passed the luxury tax that has destroyed the boat building industry and their jobs.

Mr. Speaker, we could pass a Democrat growth package in a couple hours. Time is not the stumbling block that prevents our vote on the Republican growth package, politics is. We have been wasting time here doing nothing but 1-minute speeches, suspensions, and special orders, so there is plenty of time for a serious effort.

Give us a chance to vote on our growth package which would help those North Carolina workers to get their jobs back and have a real Thanksgiving.

ANOTHER NEW LOW

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

Mr. MCEWEN. Mr. Speaker, just when you think you have heard it all, then you find out that there is another new low.

I wish to bring to the attention of my colleagues H.R. 3807 which will be messaged over from the Senate later on this afternoon. There is a provision in there to give $700 million to the Soviet Union, $700 million; but listen to this, line 19 of section 5 says this:

> The value of assistance from existing stocks and inventories of the Department of Defense or any other federal Department or agency may not be charged against those funds.

Now, not only are we going to give $700 million in cash, we can take anything that America possesses and give to them free with no accountability under any circumstances.

Now, rest assured if this amendment is allowed to pass this afternoon, I swear, I guarantee, we are going to be sending trucks to the Soviet Union to transport food, rest assured; not to your local hospital board, not to a fire department, not to a police department. We are going to be sending it to the Soviet Union so they can build aircraft.

Mr. Speaker, from Jane's Defense Weekly of November 16, 1991, I include an article as to how they are accelerating their fighter construction in order to sell on the market for hard cash; so we will pick up their expenses at home so they can sell arms abroad:

[From Jane's Defense Weekly, Nov. 16, 1991]

NEW "FROGFOOT" IN THE WINGS—RUSSIANS SEEKING FOREIGN CASH

Russia, soon to assume control of its own aircraft programmes, may have to seek foreign investment to keep its fly-by-wire MiG-29 "Fulcrum" programme alive, according to Vladimir Laptev, Deputy Minister for the Soviet Union's soon-to-be disbanded Ministry of Aviation Industry.

The MiG-29M, as it is called, is one of several combat aircraft programmes eligible for foreign participation: another is the Soviet Air Force's next-generation jet trainer.

"We're due to make a final decision in January," Laptev said. Principal bidders for the twin-engine trainer are Mikoyan, Sukhoi and Yakovlev.

So far, both sub-and supersonic designs are under consideration. The aircraft should be able to cater for both basic and advanced instruction.

The air force is fighting to maintain next year's R&D budget at current funding levels, Laptev said. Even so, programmes are having to be strictly prioritized in the scramble for the scant cash available.

"There will be a concentration of funds on the most important programmers at the expense of secondary programmes," Laptev told JDW. The MiG-29M has been sacrificed because it is not a core air force programme, he said. "We may look for a foreign partner to continue (with it)," he added.

Asked whether any next-generation combat aircraft programmes had fallen at the cash hurdle, Laptev said: "Naturally, there are financial constraints, but so far, no, none had been stopped.

"Some of these programmes are so advanced that it would be most damaging to stop them now," He added.

In September, Laptev said work for the Soviet Air Force was underway on improve-

ments to existing MiG-29 "Fulcrums" and Su-27 "Flankers" as well as development of new fighters comparable to NATO's next-generation aircraft.

Other combat aircraft designs, notably the Yak-141 "Freestyle" and the multi-role Su-37 fighter, are open to foreign investment both to complete and—in the case of the Su-37—to start their development.

SEND BACK EDWARD LEE HOWARD, AN AMERICAN TRAITOR

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

Mr. BROOMFIELD. Mr. Speaker, yesterday the other body voted to transfer $500 million from the Pentagon budget to help dismantle Soviet nuclear weapons.

I suspect that is just the opening round in a series of proposals to help the people in the various Republics once controlled by the Soviet Union get back on their feet.

The Soviets are not in a position to give us much in return for our financial aid, but there is one thing they surely can do: Send back Edward Lee Howard.

He is the first American CIA operative ever to defect to the Soviet Union. According to a story in today's Washington Times, "U.S. officials have said his disclosures caused the deaths of several agents working secretly in Moscow."

Edward Lee Howard betrayed his friends, betrayed his Government, and betrayed his country. We should demand his return.

I include the Washington Times article for printing in the RECORD:

[From the Washington Times, Nov. 26, 1991]

CIA DEFECTOR NOW UNGUARDED

(By Bill Gertz)

CIA defector Edward Lee Howard has lost the round-the-clock protection provided by the KGB in Moscow and worries that he could be turned over to U.S. authorities for prosecution, according to Bush administration intelligence officials.

A Western reporter recently approached Howard at his Moscow apartment and the defector tried to have the reporter thrown out, said officials who spoke on condition of anonymity.

However, no security guards were present or came to Howard's aid in trying to oust the journalist from the apartment building, the officials said.

The officials said the incident was a clear sign the Soviets have abandoned the blanket protection once afforded their prize CIA defector.

FBI spokesman Bill Carter declined to comment on whether Howard has lost his security protection. But he said the former CIA operative still is wanted on espionage charges.

In Moscow, Alexi Zakharov, a spokesman for the Soviet security police, said of Howard: "I don't know the man, but in our country everything is possible."

Asked if someone like Howard might leave the country someday, the spokesman said of the spy business: "In these days, ours leave, and yours come, so in general everything is possible."

Howard, a CIA operative from 1981 to 1983, slipped away from FBI surveillance agents watching his New Mexico home in September 1985. Several months later he was granted political asylum in Moscow.

Trained as a Moscow case officer, he is the first CIA officer ever to defect to the KGB, and U.S. officials have said his disclosures caused the deaths of several agents working secrecy in Moscow.

The KGB, a central pillar of Soviet power, was disbanded following disclosures that its chairman, Vladimir Kryuchkov, and several top aides helped engineer the abortive coup last August.

In its place, several new organizations were set up. The internal security and conterintelligence police is called the Interrepublican Security Service. A separate foreign espionage branch was renamed the Central Security Service.

Howard told The Washington Post last year that he lived in a country house outside Moscow with two KGB guards who provided 24-hour protection against possible kidnapping by Western spy services.

At the time the defector said he regularly played chess with his guards.

David Wise, author of the 1988 book on Howard, "The Spy Who Got Away," said the defector also lives in an apartment provided by the KGB near the Arbat, a shopping area of Moscow.

It was at this second-floor apartment where the recent confrontation between Howard and a Western correspondent took place, the officials said.

"He worries a lot about being abducted," Mr. Wise said in an interview.

According to Mr. Wise, Howard told him during a series of interviews in Hungary several years ago that he feared the CIA would abduct him or poison food sent to him from abroad.

"I have to worry that the agency might try to kidnap me," Howard was quoted as saying in the Wise book. "It wouldn't take much, a hypodermic needle, throw me in the trunk of the car, and it's only two hours to the [Austrian] border."

Thomas DuHadway, the late chief of the FBI's intelligence division, said in September that the United States should press the Soviets to extradite Howard in exchange for U.S. economic assistance.

THE UNITED STATES IS THE ONLY NATION WITHOUT AN ENVIRONMENTAL DEPARTMENT

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

Mr. BOEHLERT. Mr. Speaker, the United States is the only nation in the developed world that does not have an environmental department at the highest level of government, yet the American people repeatedly tell us they want the top environmental administrator, for our Government sitting at the President's Cabinet table.

We have a bill, Mr. Speaker, at the Speaker's table already passed by the Senate that would fix this problem, and yet the chairman of the Government Operations Committee refuses to act. We have a bipartisan coalition, a majority in this Chamber that wants to pass that legislation to elevate the EPA to Cabinet level status, yet the chairman of the Government Operations Committee refuses to act.

Every major environmental group in America and the administration has endorsed this bill, yet the chairman of the Government Operations Committee refuses to act.

The American people, the environmentalists, all of us who are so vitally concerned, Republicans and Democrats alike, know who to blame if we do not pass this legislation by the end of this session. It is the chairman of the Government Operations Committee.

ECONOMIC GROWTH, A PRIORITY

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

Mr. RIGGS. Mr. Speaker, when Speaker FOLEY was down here in the well a few minutes ago at the beginning of the 1-minute speeches, he did say one thing that struck me as right. He said the issue is too important for gamesmanship. But what did he describe as the issue? Taxes, tax cuts, tax breaks. He could not bring himself to use the words "economic growth."

Well, Mr. Speaker, our priority before we go home, before we adjourn for the year is economic growth, because we realize that extending unemployment insurance benefits, recapitalizing the bank insurance fund, appropriating billions more for the savings and loan bailout without addressing underlying economic conditions is like pumping blood into a hemorrhaging patient without first closing the wound.

Yes, our package does have capital gains, which is an item very much supported by America's farmers and small business people.

Yes, we would repeal the luxury taxes which have cost working Americans their jobs, but we would also reinstate passive losses and repeal the Social Security's earnings limit, both ideas which have tremendous Democratic support in this House.

Mr. Speaker, it is a sad commentary on this place that we cannot have a debate on economic growth because the liberal Democratic majority that runs the place, that sets the schedule, that controls the rules, will not allow that debate to take place.

THE REPUBLICAN CHRISTMAS TREE

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

Mr. DEFAZIO. Mr. Speaker, imagine the so-called Republican growth package as a Christmas tree down at the

White House. The President has invited in his wealthy friends. And what do we find under the tree? Well, of course, we find capital gains, because 31 percent is an egregious amount for the richest people in America to pay in terms of taxes on their income. It used to be 71 percent, but they are a little greedy; 31 percent, that is too much, let us take them to 18 and, well, it will trickle down to the rest of us for next Christmas.

Now, this bizarre thing about the tax on boats, they are not concerned about the fact that we levied a registration tax on every small boatowner in America, the people who cannot afford it; but no, those people will not find yachts under the Christmas tree.

Get this one. If a yacht costs $120,000, with this surtax it will cost $122,000.

□ 1130

And those people who can afford $120,000 yachts just will not buy them when they cost $122,000. They will not be under Christmas trees, and those people who build the yachts will be out of work.

If you believe that, I have got something special to put under your Christmas tree.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each scheduled motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken after debate has concluded on all motions to suspend the rules.

SAN CARLO APACHE TRIBE WATER RIGHTS SETTLEMENT ACT OF 1991

Mr. MILLER of California. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 291) to settle certain water rights claims of the San Carlos Apache Tribe, as amended.

The Clerk read as follows:

S. 291

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 "San Carlos Apache Tribe Water Rights Settlement Act of 1991".

SEC. 2. CONGRESSIONAL FINDINGS.

(a) SPECIFIC FINDINGS.—The Congress finds and declares that—

(1) it is the policy of the United States, in fulfillment of its trust responsibility to Indian tribes, to promote Indian self-determination and economic self-sufficiency, and to settle, wherever possible, the water rights claims of Indian tribes without lengthy and costly litigation;

(2) meaningful Indian self-determination and economic self-sufficiency depend on the development of viable Indian reservation economies;

(3) qualification of rights to water and development of facilities needed to utilize tribal water supplies effectively is essential to the development of viable Indian reservation economies, particularly in arid western States;

(4) on November 9, 1871, and by actions subsequent thereto, the United States Government established a reservation for the San Carlos Apache Tribe in Arizona;

(5) the United States, as trustee for the San Carlos Apache Tribe, obtained water entitlements for the Tribe pursuant to the Globe Equity Decree of 1935; however, continued uncertainty as to the full extent of the Tribe's entitlement to water has severely limited the Tribe's access to water and financial resources necessary to develop its valuable agricultural lands and frustrated its efforts to reduce its dependence on Federal program funding and achieve meaningful self-determination and self-sufficiency;

(6) proceedings to determine the full extent and nature of the Tribe's water rights are currently pending before the United States District Court in Arizona and in the Superior Court of the State of Arizona in and for Maricopa County, as part of the General Adjudication of the Gila River System and Source;

(7) recognizing that final resolution of pending litigation will take many years and entail great expense to all parties, continue economically and socially damaging limits to the Tribe's access to water, prolong uncertainty as to the availability of water supplies and seriously impair the long-term economic planning and development of all parties, the Tribe and its neighboring non-Indian communities have sought to settle their dispute to water and reduce the burdens of litigation;

(8) after lengthy negotiations, which included participation by representatives of the United States Government, the Tribe, and neighboring non-Indian communities of the Salt River and Gila River Valleys, who are all party to the General Adjudication of the Gila River System and Source, the parties are prepared to enter into an Agreement to resolve all water rights claims between and among themselves, to quantify the Tribe's entitlement to water, and to provide for the orderly development of the Tribe's lands;

(9) pursuant to the Agreement, the neighboring non-Indian communities will relinquish claims to approximately 58,735 acre-feet of surface water to the Tribe, provide the means of storing water supplies of the Tribe behind Coolidge Dam on the Gila River in Arizona to enhance fishing, recreation, and other environmental benefits, and make substantial additional contributions to carry out the Agreement's provisions; and

(10) to advance the goal of Federal Indian policy and to fulfill the trust responsibility of the United States to the Tribe, it is appropriate that the United States participate in the implementation of the Agreement and contribute funds for the rehabilitation and expansion of existing reservation irrigation facilities so as to enable the Tribe to utilize fully its water resources in developing a diverse, efficient reservation economy.

(b) PURPOSES OF THIS ACT.—It is the purpose of this Act—

(1) to approve, ratify, and confirm the Agreement to be entered into by the Tribe and its neighboring non-Indian communities,

(2) to authorize and direct the Secretary of the Interior to execute and perform such Agreement, and

(3) to authorize the actions and appropriations necessary for the United States to fulfill its legal and trust obligations to the Tribe as provided in the Agreement and this Act.

SEC. 3. DEFINITIONS.

For purposes of this Act:

(1) "Active conservation capacity" means that storage space, exclusive of bank storage, available to store water which can be released through existing reservoir outlet works.

(2) "Agreement" means that agreement among the San Carlos Apache Tribe; the United States of America; the State of Arizona; the Salt River Project Agricultural Improvement and Power District; the Salt River Valley Water Users' Association; the Roosevelt Water Conservation District; the Arizona cities of Chandler, Glendale, Globe, Mesa, Safford, Scottsdale and Tempe, the town of Gilbert; Buckeye Water Conservation and Drainage District, Buckeye Irrigation Company, the Phelps Dodge Corporation and the Central Arizona Water Conservation District, together with all exhibits thereto, as the same is executed by the Secretary of the Interior pursuant to sections 10(c) and 11(a)(7) of this Act.

(3) "CAP" means the Central Arizona Project, a reclamation project authorized under title III of the Colorado River Basin Project Act of 1968 (43 U.S.C. 1521 et seq.).

(4) "CAWCD" means the Central Arizona Water Conservation District, organized under the laws of the State of Arizona, which is the contractor under a contract with the United States, dated December 15, 1972, for the delivery of water and repayment of costs of the Central Arizona Project.

(5) "Globe Equity Decree" means the decree dated June 29, 1935, entered in the United States of America v. Gila Valley Irrigation District, et al., Globe Equity 59, in the District Court of the United States in and for the District of Arizona, and all decrees and decisions supplemental thereto.

(6) "Reservation" means the reservation authorized by the Treaty with the Apache Nation dated July 1, 1852 (10 Stat. 979), established by the Executive orders of November 9, 1871 and December 14, 1872, as modified by subsequent Executive orders and Act of Congress including the Executive order of August 5, 1873.

(7) "RWCD" means the Roosevelt Water Conservation District, an irrigation district organized under the laws of the State of Arizona.

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

(9) "SRP" means the Salt River Project Agricultural Improvement and Power District, a political subdivision of the State of Arizona, and the Salt River Valley Water Users' Association, an Arizona Corporation.

(10) "SCIP" means the San Carlos Irrigation Project authorized pursuant to the Act of March 7, 1928 (45 Stat. 200, 210), and administered by the Bureau of Indian Affairs.

(11) "Tribe" means the San Carlos Apache Tribe, a tribe of Apache Indians organized under section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 987; 25 U.S.C. 476), and duly recognized by the Secretary.

SEC. 4. WATER.

(a) REALLOCATION OF WATER.—The Secretary shall reallocate, for the exclusive use of the Tribe, all of the water referred to in subsection (f)(2) of section 2 of the Act of Oc-

tober 19, 1984 (98 Stat. 2698), which is not required for delivery to the Ak-Chin Indian Reservation under that Act. The Secretary shall exclude, for the purposes of determining the allocation and repayment of costs of the CAP as provided in Article 9.3 of Contract No. 14-06-W-245, Amendment No. 1, between the United States and CAWCD dated December 1, 1988, and any amendment or revision thereof, the costs associated with such water from CAWCD's repayment obligation and such costs shall be nonreimbursable.

(b) PARTIAL SATISFACTION OF CLAIMS.—Notwithstanding any other provision of this Act, in the event the authorizations contained in section 8(b) do not become effective, the water referred to in subsection 4(a) of this Act shall constitute partial satisfaction of the Tribe's claims for water in the proceeding entitled "In Re the General Adjudication of All Rights To Use Water in the Gila River System and Source, Maricopa County Superior Court Nos. W-1, W-2, W-3, and W-4 (consolidated), as against the parties identified in section 3(2) of this Act.

(c) ADDITIONAL ALLOCATIONS.—The Secretary shall reallocate to the Tribe an annual entitlement to 14,655 acre-feet of water from the Central Arizona Project having a CAP municipal and industrial priority, which the Secretary previously allocated to Phelps Dodge Corporation in the Notice of Final Water Allocations to Indian and non-Indian water Users and Related Decisions, dated March 24, 1983 (48 F.R. 12446 et seq.). The Tribe shall pay the United States or, if directed by the Secretary, CAWCD, all operation, maintenance and replacement costs associated with such CAP water. Except as provided in subsection (e)(3) of section 6, water service capital charges, or any other charges or payments for such CAP water other than operation, maintenance and replacement costs shall be nonreimbursable. The Secretary shall exclude, for the purposes of determining the allocation and repayment of costs of the CAP as provided in Article 9.3 of Contract No. 14-06-W-245, Amendment No. 1, between the United States and CAWCD dated December 1, 1988, and any amendment or revision thereof, the costs associated with such water from CAWCD's repayment obligation and such costs shall be nonreimbursable.

(d) ADDITIONAL ALLOCATION.—The Secretary shall reallocate to the Tribe and annual entitlement to 3,480 acre-feet of water from the Central Arizona Project having a CAP municipal and industrial priority, which the Secretary previously allocated to the city of Globe, Arizona in the Notice of Final Water Allocations to Indian and Non-Indian Water Users and Related Decisions, dated March 24, 1983 (48 F.R. 12466 et seq.). The Tribe shall pay the United States or, if directed by the Secretary CAWCD, all operation, maintenance and replacement costs associated with such CAP water. Except as provided in subsection (e)(3) of section 6, water service capital charges, or any other charges or payments of such CAP water other than operation, maintenance and replacement costs shall be nonreimbursable. The Secretary shall exclude, for the purposes of determining the allocation and repayment of costs of the CAP as provided in Article 9.3 of contract No. 14-06-W-245, Amendment No. 1, between the United States and CAWCD dated December 1, 1988, and any amendment or revision thereof, the costs associated with such water from CAWCD's repayment obligation and such costs shall be reimbursable.

(e) WATER STORAGE POOL.—Notwithstanding the Act of June 7, 1924 (43 Stat. 475), as amended by the Act of March 7, 1928 (45 Stat. 200, 210), in order to permit the Tribe to maintain permanently a pool of stored water for fish, wildlife, recreation and other purposes, the Secretary shall designate for the benefit of the Tribe such active conservation capacity behind Coolidge Dam on the Gila River in Arizona as is not being used by the Secretary to meet the obligations of SCIP or irrigation storage, except that any water stored by the Tribe shall be the first water to spill ("spill water") from Coolidge Dam. The water stored by the Tribe shall be, at the Tribe's designation, the water provided to the Tribe pursuant to subsections (a), (c) and (d) of this section, its entitlement of 12,700 acre-feet of water under its Tribal CAP Delivery Contract dated December 11, 1981; the water referred to in section 10(f), or any combination thereof. A pro rata share of evaporation and seepage losses shall be deducted daily from the Tribe's stored water balance as provided in the Agreement. The Tribe shall pay an equitable share of the operation and maintenance costs for the water stored for the benefit of the Tribe, subject to the Act of July 1, 1932 (47 Stat. 564, 25 U.S.C. 386 et seq.). The water stored by the Tribe pursuant to this subsection shall not be subject to apportionments pursuant to Article VIII(2) of the Globe Equity Decree. Not later than January 31 of each year, the Secretary shall notify the United States District Court for the District of Arizona of the Tribe's stored water balance as of January 1 of that year. The Secretary shall notify said Court of the Tribe's stored water balance at least once per calendar month and at such more frequent intervals as conditions, in the Secretary's judgment, may require.

(f) EXECUTION OF AGREEMENT.—The Secretary shall execute the Agreement which establishes, as between and among the parties to Agreement, the Tribe's permanent right, except as provided in paragraphs 13.0, 14.0 and 15.0 of the Agreement, to the on-reservation diversion and use of all ground water beneath the Tribe's Reservation, subject to the management plan referred to in section 10(D) of this Act, and all surface water in all tributaries within the Tribe's Reservation to the mainstreams of: The Black River, the Salt River below its confluence with the Black River, the San Pedro River and the Gila River, including the right, except as provided in paragraphs 14.0 and 15.0 of the Agreement, to fully regulate and store such water on the tributaries. The Tribe's rights to the mainstream of Black River, San Pedro River and the Gila River shall be as provided in the Agreement and the Globe Equity Decree. With respect to parties not subject to the waiver authorized by subsection 8(b) of this Act, the claims of the Tribe and the United States, as trustee for the Tribe, are preserved.

(g) GILA RIVER EXCHANGES.—Any exchange pursuant to this legislation of Gila River water for water supplied by the CAP shall not amend, alter or conflict with the exchanges authorized by section 304(f) of the Colorado River Basin Project Act (43 U.S.C. 1524(f)).

SEC. 5. RATIFICATION AND CONFIRMATION OF CONTRACTS.

(a) RATIFICATION OF CONTRACT.—Except as provided in section 10(i), the contract between the SRP and the RWCD District dated October 24, 1924, together with all amendments thereto and any extension thereto entered into pursuant to the Agreement, is ratified, confirmed, and declared to be valid.

(b) SUBCONTRACT.—The Secretary shall revise the subcontract of the Roosevelt Water Conservation District for agricultural water service from the CAP to include an addendum substantially in the form of Exhibit "A" to the Agreement and to execute the subcontract as revised. Notwithstanding any other provision of law, the Secretary shall approve the conversions of agricultural water to municipal and industrial uses authorized by the addendum at such time or times as the conditions authorizing such conversions, as set forth in the addendum, are found to exist.

(c) RESTRICTIONS.—The lands within RWCD and SRP shall be free from the ownership and full cost pricing limitations of Federal reclamation law and from all full cost pricing provisions of Federal law.

(d) DISCLAIMER.—No person, entity or lands shall become subject to the provisions of the Reclamation Reform Act of 1982 (43 U.S.C. 390aa et seq.) or any full cost pricing provision of Federal law by virtue of their participation in the settlement or their execution and performance of the Agreement, or the use, storage or delivery of CAP water pursuant to a lease, sublease or exchange of water to which the Tribe is entitled under this Act.

(e) FULL COST PRICING PROVISIONS.—The lands within the Tribe's Reservation shall be free from all full cost pricing provisions of Federal law.

(g) CERTAIN EXTENSIONS AUTHORIZED.—Notwithstanding any other provision of law or any other provision of this Act, the Secretary, subject to tribal approval, is authorized and directed to: extend the term of that right-of-way permit granted to Phelps Dodge Corporation on March 8, 1950, and all amendments thereto, for the construction, operation and maintenance of an electrical transmission line and existing road for access to those facilities over the lands of the Tribe; extend the term of that right-of-way permit numbered 2000089 granted on July 25, 1944, to Phelps Dodge Corporation, and all amendments thereto, for the construction, use, operation and maintenance of a water plant, pipeline, canal, water flowage easement through Willow Creek and existing road for access to those facilities over the lands of the Tribe; and grant a water flowage easement through the portions of Eagle Creek flowing through the Tribe's Reservation. Notwithstanding any other provision of law, each such right-of-way and flowage easement shall be for a term expiring on March 8, 2090, and shall be subject to the right of Phelps Dodge to renew the rights-of-way and flowage easements for an additional term of up to 100 years, subject to payment of rental at a rate based upon fair market retail value.

SEC. 6. WATER DELIVERY CONTRACT AMENDMENTS; WATER LEASE, WATER WITHDRAWAL.

(a) AMENDMENT OF CONTRACT.—The Secretary shall amend the CAP water delivery contract between the United States and the Ak-Chin Indian Community dated December 11, 1980, and the contract between the United States and the Ak-Chin Indian Community dated October 2, 1985, as is necessary to satisfy the requirements of section 4(a) of this Act.

(b) CONTRACT AMENDMENT.—The Secretary shall amend the CAP water delivery contract between the United States and the Tribe dated December 11, 1980 (hereinafter referred to as the "Tribal CAP Delivery Contract"), as follows:

(1) To include the obligation by the United States to deliver water to the Tribe upon the same terms and conditions set forth in the Tribal CAP Delivery Contract as follows:

water from those sources described in subsections (a), (c), and (d) of section 4 of this Act; except that the water reallocated pursuant to such subsections shall retain the priority such water had prior to its reallocation. The cost to the United States to meet the Secretary's obligation to design and construct new facilities to delivery CAP water shall not exceed the cost of construction of the delivery and distribution system for the 12,700 acrefeet of CAP water originally allocated to the Tribe.

(2) To extend the term of such contract to December 31, 2100, and to provide for its subsequent renewal upon the same terms and conditions as the Tribal CAP Delivery Contract, as amended.

(3) To authorize the Tribe to lease or to enter into an option or options to lease the water to which the Tribe is entitled under the Tribal CAP Delivery Contract, as amended, within Maricopa, Pinal and Pima Counties for terms not exceeding one hundred years and to renew such leases.

(4) To authorize the Tribe to lease water to which the Tribe is entitled under the Tribal CAP Delivery Contract, as amended, to the city of Scottsdale under the term and conditions of the Water Lease set forth in Exhibit "B" to the Agreement.

(5) To authorize the Tribe to lease water to which the Tribe is entitled under the Tribal CAP Delivery Contract, as amended, including, but not limited to, the cities of Chandler, Glendale, Goodyear, Mesa, Peoria, Phoenix, Scottsdale, Temple and the town of Gilbert.

(c) APPROVAL OF AMENDMENTS.—Notwithstanding any other provision of law, the amendments to the Tribal CAP Delivery Contract set forth in Exhibit "C" to the Agreement are hereby authorized, approved and confirmed.

(d) CHARGES NOT TO BE IMPOSED.—The United States shall not impose upon the Tribe the operation, maintenance and replacement charges described and set forth in section 6 of the Tribal CAP Delivery Contract or any other charge with respect to CAP water delivered or required to be delivered to the lessee or lessees of the options to lease or leases herein authorized.

(e) WATER LEASE.—Except as provided in paragraph (3) of this subsection, any Water Lease entered into by the Tribe as authorized by section 6 shall specifically provide that—

(1) the lessee shall pay all operation, maintenance and replacement costs of such water to the United States, or if directed by the Secretary, to CAWCD;

(2) except as provided in paragraph (3) of this subsection, the lessee shall not be obligated to pay water service capital charges or municipal and industrial subcontract charges or any other charges or payment for such CAP water other than the operation, maintenance and replacement costs and lease payments; and

(3) with respect to the water reallocated to the Tribe pursuant to subsections (c) and (d) of section 4, the Tribe or lessee shall pay any water service capital charges or municipal and industrial subcontract charge for any water use or lease from the effective date of this Act through September 30, 1995.

(f) ALLOCATION AND REPAYMENT OF COSTS.—For the purpose of determining allocation and repayment of costs of the CAP as provided in Article 9.3 of Contract Numbered 14-06-W-245, Amendment No. 1, between the United States of America and CAWCD dated December 1, 1988, and any amendment or revision thereof, the costs associated with the delivery of water to which the Tribe is entitled under the Tribal Delivery Contract, as amended, to the lessee or lessees of the options to lease or leases herein authorized shall be nonreimbursable, and such costs shall be excluded from CAWCD's repayment obligation.

(g) AGREEMENTS.—The Secretary shall, in consultation with the Tribe, enter into agreements necessary to permit the Tribe to exchange, within the State of Arizona, all or part of the water available to it under its Tribal CAP Delivery Contract, as amended.

(h) RATIFICATION.—As among the parties to the Agreement, the right of the city of Globe to withdraw and use water from under the Cutter subarea under the Agreement, as limited and conditioned thereunder, is hereby ratified and confirmed.

(i) USE OF WATER.—As among the parties to the Agreement, the right of the city of Stafford to withdraw and use water from the Bonita Creek watershed as provided in the Agreement, as limited and conditioned thereunder, is hereby ratified and confirmed.

(j) WITHDRAWAL AND USE OF WATER.—As between the Tribe and Phelps Dodge, the right of Phelps Dodge to divert, withdraw and use water as provided in the Agreement, as limited and conditioned thereunder, is hereby ratified and confirmed.

(k) PROHIBITIONS.—Except as authorized by this section, no water made available to the Tribe pursuant to the Agreement, the Globe Equity Decree, or this Act may be sold, leased, transferred or in any way used off the Tribe's Reservation.

SEC. 7. CONSTRUCTION AND REHABILITATION; TRUST FUND.

(a) DUTIES.—The Secretary is directed—

(1) pursuant to the existing authority of the Colorado River Basin Project Act (43 U.S.C. 1501 et seq.) to design and construct new facilities for the delivery of 12,700 acrefeet of CAP water originally allocated to the Tribe to tribal reservation lands at a cost which shall not exceed the cost for such design and construction which would have been incurred by the Secretary in the absence of the Agreement and this Act; and

(2) to amend the contract between the United States Economic Development Administration and the Tribe relating to the construction of Elgo Dam on the San Carlos Apache Indian Reservation, Project No. 07-81-000210, to provide that all remaining repayment obligations, owing to the United States on the date of the enactment of this Act are discharged.

(b) FUND.—There is established in the Treasury of the United States a fund to be known as the "San Carlos Apache Tribe Development Trust Fund" (hereinafter called the "Fund") for the exclusive use and benefit of the Tribe. The Secretary shall deposit into the Fund the funds authorized to be appropriated in subsection (c) and the $3,000,000 provided by the State of Arizona pursuant to the Agreement. There shall be deposited into the Fund any monies paid to the Tribe or to the Secretary on behalf of the Tribe from leases or options to lease water authorized by section 6 of this Act.

(c) AUTHORIZATION.—There are authorized to be appropriated $18,800,000 in fiscal year 1993, and $19,600,000 in fiscal year 1994, together with interest accruing thereon beginning one year from the date of enactment of this Act at rates determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding Federal obligations of comparable maturity, to carry out the provisions of subsection (b).

(d) USE OF FUND.—When the authorizations contained in section 8(b) of this Act are effective, the principal of the Fund and any interest or income accruing thereon may be used by the Tribe to put to beneficial use the Tribe's water entitlement, to defray the cost to the Tribe of CAP operation, maintenance and replacement charges as appropriate, and for other economic and community development purposes. The income from the Fund shall be distributed by the Secretary to the San Carlos Apache Tribe only upon presentation to the Secretary of a certified copy of a duly enacted Resolution of the Tribal Council requesting distribution and a written budget approved by the Tribal Council. Such income may thereafter be expended only in accordance with such budget. Income not distributed shall be added to principal. The principal from the Fund may be distributed by the Secretary to the San Carlos Apache Tribe only upon presentation to the Secretary of a certified copy of a duly enacted Resolution of the Tribal Council requesting distribution and a written budget approved by the Tribal Council and the Secretary. Such principal may thereafter be expended only in accordance with such budget: *Provided, however,* That the principal may only be utilized for long-term economic development projects. In approving a budget for the distribution of income or principal, the Secretary shall, in accordance with regulations promulgated pursuant to subsection (e) of this section, be assured that methods exist and will be employed to ensure the use of the funds shall be in accordance with the approved budget.

(e) REGULATIONS.—The Secretary shall, no later than 30 days after the date the authorizations contained in section 8(b) are effective, promulgate regulations necessary to carry out the purposes of subsection (d).

(f) DISCLAIMER.—The United States shall not be liable for any claim or cause of action arising from the Tribe's use or expenditure of monies distributed from the Fund.

SEC. 8. SATISFACTION OF CLAIMS.

(a) FULL SATISFACTION OF CLAIMS.—Except as provided in subsection (e) of this section, the benefits realized by the Tribe and its members under this Act shall constitute full and compete satisfaction of all members' claims for water rights or injuries to water rights under Federal, State and other laws (including claims for water rights in ground water, surface water, and effluent) from time immemorial to the effective date of this Act. Notwithstanding the foregoing, nothing in this Act shall be deemed to recognize or establish any right of a member of the Tribe to water on the Tribe's Reservation.

(b) RELEASE.—The Tribe, on behalf of itself and its members, and the Secretary on behalf of the United States, are authorized, as part of the performance of the obligations under the Agreement, to execute a waiver and release, except as provided in the Agreement, of all claims of water rights or injuries to water rights (including water rights in ground water, surface water and effluent), from time immemorial to the effective date of this Act, and any and all future claims of water rights (including water rights in ground water, surface water and effluent), from and after the effective date of this Act, which the Tribe and its members may have, against the United States, the State of Arizona or any agency or political subdivision thereof, or any other person, corporation, or municipal corporation, arising under the laws of the United States, the State of Arizona or otherwise.

(c) ADDITIONAL RELEASES.—Except as provided in the Agreement, the United States

shall not assert any claim against the State of Arizona or any political subdivision thereof, or any person, corporation or municipal corporation, arising under the laws of the United States, the State of Arizona or otherwise in its own right or on behalf of the Tribe based upon—

(1) water rights or injuries to water rights (including water rights in ground water, surface water and effluent) of the Tribe and its members, or

(2) water rights or injuries to water rights (including water rights in ground water, surface water and effluent) held by the United States on behalf of the Tribe and its members.

(d) SAVINGS PROVISION.—In the event the authorizations contained in subsection (b) of this section do not become effective pursuant to section 11(a), the Tribe and the United States shall retain the right to assert past and future water rights claims as to all Reservation lands.

(e) DISCLAIMER.—Nothing in this Act shall affect the water right or claims related to the San Carlos Apache Allotments outside the exterior boundaries of the Reservation.

SEC. 9. ENVIRONMENTAL COMPLIANCE.

(a) NO MAJOR FEDERAL ACTION.—Execution of the settlement agreement by the Secretary as provided for in section 10(c) shall not constitute a major Federal action under the National Environmental Policy Act (42 U.S.C. 4321 et seq.). The Secretary shall carry out all necessary environmental compliance during the implementation phase of this settlement.

(b) AUTHORIZATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out all necessary environmental compliance associated with the settlement under this Act, including mitigation measures adopted by the Secretary.

(c) LEAD AGENCY.—With respect to such settlement, the Bureau of Reclamation shall be designated as the lead agency in regard to environmental compliance, and shall coordinate and cooperate with the other affected Federal agencies as required under applicable Federal environmental laws.

(d) ENVIRONMENTAL ACTS.—The Secretary shall comply with all aspect of the National Environmental Policy Act (42 U.S.C. 4321 et seq.) and the Endangered Species Act (16 U.S.C. 1531 et seq.), and other applicable Federal environmental Acts and regulations in proceeding through the implementation phase of such settlement.

SEC. 10. MISCELLANEOUS PROVISIONS.

(a) WAIVER OF SOVEREIGN IMMUNITY.—In the event any party to the Agreement files a lawsuit in any United States district court relating only and directly to the interpretation or enforcement of this Act or the Agreement, naming the United States of America or the Tribe as parties, authorization is hereby granted to joining the United States of America or the Tribe, or both, in any such litigation, and any claim by the United States of America or the Tribe to sovereign immunity from such suit is hereby waived.

(b) CERTAIN CLAIMS PROHIBITED.—The United States of America shall make no claims for reimbursement of costs arising out of the implementation of this Act or the Agreement against any lands within the San Carlos Apache Indian Reservation, and no assessment shall be made with regard to such costs against such lands.

(c) APPROVAL OF AGREEMENT.—Except to the extent that the Agreement conflicts with the provisions of this Act, such Agreement is hereby approved, ratified and confirmed. The Secretary shall execute and perform such Agreement as approved, ratified and confirmed. The Secretary is authorized to execute any amendments to the Agreement and perform any action required by any amendments to the Agreement which may be mutually agreed upon by the parties.

(d) GROUND WATER MANAGEMENT PLAN.—The Secretary shall establish a ground water management plan for the San Carlos Apache Reservation which, except as is necessary to be consistent with the provisions of this Act, will have the same effect as a management plan developed under Arizona law.

(e) AMENDMENT TO THE ACT OF APRIL 4, 1938.—The Act of April 4, 1938 (52 Stat. 193; 25 U.S.C. 390) is amended by inserting immediately before the period at the end thereof a colon and the following: "Provided further, That concessions for recreation and fish and wildlife purposes on San Carlos Lake may be granted only by the governing body of the San Carlos Apache Tribe upon such conditions and subject to such limitations as may be set forth in the constitution and bylaws of such Tribe."

(f) SAN CARLOS RESERVOIR.—There is hereby transferred to the Tribe the Secretary's entitlement of 30,000 acre-feet of water, less any evaporation and seepage losses from the date of acquisition by the Secretary to the date of transfer, which the Secretary may have acquired through substituting CAP water for water to which the Gila River Indian Community and the San Carlos Irrigation and Drainage District had a right to be released from San Carlos Reservoir and delivered to them in 1990.

(g) LIMITATION.—No part of the Fund established by section 7(b) of this Act, including principal and income, or income from options to lease water or water leases authorized by section 6, may be used to make per capita payments to members of the Tribe.

(h) DISCLAIMER.—Nothing in this Act shall be construed to repeal, modify, amend, change or affect the Secretary's obligations to the Ak-Chin Indian Community pursuant to the Act of October 19, 1984 (98 Stat. 2698).

(i) WATER RIGHTS.—Nothing in this Act shall be construed to quantify or otherwise affect the water rights, claims or entitlements to water of any Arizona tribe, band or community, including, but not limited to, the Gila River Indian Community and the White Mountain Apache Tribe, other than the San Carlos Apache Tribe.

(j) PLANET RANCH.—The Secretary is authorized and directed to acquire, with the consent of and upon terms mutually acceptable to the city of Scottsdale ("city") and the Secretary, all of the city's right, title and interest in Planet Ranch located on the Bill Williams River in Arizona, including all water rights appurtenant to that property, and the city's January 1988 application filed with the Arizona Department of Water Resources to appropriate water from the Bill Williams River through a land exchange based on fair market value. If an exchange is made with land purchased by the Bureau of Reclamation for the construction and operation of the Central Arizona Project, then, upon commencement of repayment by CAWCD of the reimbursable costs of the Central Arizona Project, the fair market value of those lands so exchanged shall be credited in full against the annual payments due from CAWCD under Article 9.4(a) of Contract No. 14-06-W-245, Amendment No. 1, between the Untied States and CAWCD dated December 1, 1988, and any amendment or revision thereof, until exhausted: Provided, however, That the authorized appropriation ceiling of the Central Arizona Project shall not be affected in any manner by the provisions of this subsection.

(k) REPEAL.—Section 304(c)(3) of the Colorado River Basin Project Act (43 U.S.C. 1524(c)(3)) is hereby repealed. This subsection does not authorize transportation of water pumped within the exterior boundary of the Federal reclamation project established prior to September 30, 1968, pursuant to the Act of June 17, 1902 (32 Stat. 388; 43 U.S.C. 391), as amended and supplemented, across project boundaries.

(l) WATER RIGHTS.—Nothing in this Act shall be construed to affect the water rights or the water rights claims of any Federal agency other than the Bureau of Indian Affairs on behalf of the San Carlos Apache Tribe, nor shall anything in this Act be construed to prohibit the United States from confirming in the Agreement, except on behalf of Indian tribes other than the San Carlos Apache Tribe, the Gila River and Little Colorado River watershed water rights of other parties to the Agreement by making express provisions for the same in the Agreement.

SEC. 11. EFFECTIVE DATE.

(a) EFFECTIVE DATE OF AUTHORIZATION.—The authorization contained in section 8(b) of this Act shall become effective as of the date the Secretary causes to be published in the Federal Register a statement of findings that—

(1) the Secretary has fulfilled the requirements of sections 4 and 6;

(2) the Roosevelt Water Conservation District subcontract for agricultural water service from CAP has been revised and executed as appropriated in section 5(b);

(3) the funds authorized by section 7(c) have been appointed and deposited into the Fund;

(4) the contract referred to in section 7(a)(2) has been amended;

(5) the State of Arizona has appropriated and deposited into the Fund $3,000,000 as required by the Agreement;

(6) the stipulations attached to the Agreement as Exhibits "D" and "E" have been approved; and

(7) the Agreement has been modified, to the extent it is in conflict with this Act, and has been executed by the Secretary.

(b) CONDITIONS.—

(1) If the actions described in paragraphs (1), (2), (3), (4), (5), (6), and (7) of subsection (a) of this Act have not occurred by December 31, 1994, subsections (c) and (d) of section 4, subsections (a) and (b), of section 5, section 6, subsection (a)(2), (c), (d), and (f) of section 7, subsections (b) and (c) of section 8, and subsections (a), (b), (c), (d), (e), (g), (h), (j), and (l) of section 10 of this Act, together with any contracts entered into pursuant to such section or subsection, shall not be effective on and after the date of enactment of this Act, and any funds appropriated pursuant to section 7(c), and remaining unobligated and unexpended on the date of the enactment of this Act, shall immediately revert to the Treasury, as general revenues, and any funds appropriated by the State of Arizona pursuant to the Agreement, and remaining unobligated and unexpended on the date of the enactment of this Act, shall immediately revert to the State of Arizona.

(2) Notwithstanding the provisions of paragraph (1) of this subsection, if the provisions of subsections (a) and (b) of section 5 of this Act have been otherwise accomplished pursuant to provisions of the Act of October 20, 1988, the provisions of paragraph (1) of this subsection shall not be construed as affecting such subsections.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. MILLER] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. RHODES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. MILLER].

GENERAL LEAVE

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 291, the Senate bill presently under consideration.

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

There was no objection.

Mr. MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support on S. 291, the San Carlos Apache Tribe Water Rights Settlement of 1991.

The House passed a similar bill in the 101st Congress. Earlier this year, the Committee on Interior and Insular Affairs held a joint hearing on this legislation with the Senate Select Committee on Indian Affairs. The Senate passed S. 291 on October 8, 1991.

The State of Arizona and its Indian and non-Indian residents have all shown tremendous leadership in formulating settlements to Indian water disputes. I congratulate all those who have participated in putting the San Carlos settlement together.

The House amendment to S. 291 deletes section 8(f) of the Senate bill. This provision would have exempted non-Indian irrigators who use water from the central Arizona project from the acreage limitation and full-cost pricing provisions of reclamation law.

This provision was included in the Senate-passed bill as a quid pro quo for the non-Indian irrigators, who have agreed to waive their claims to 33,300 acre-feet per year of water that will now become a part of the San Carlos stettlement. The non-Indians believe they had an entitlement to that water, and asked for relief from the requirements of reclamation law in return for waiving their claims.

Our review of the facts of this matter indicates that no such entitlement exists. In particular, I call the attention of my colleagues to a letter dated April 22, 1991, from Mr. Timothy W. Glidden, who chairs the Interior Department's working group on Indian water settlements. Mr. Glidden's letter presents the facts which justify deletion of section 8(f) of the Senate version of the bill. It is my understanding that the minority is agreeable to this amendment. I ask that this letter be inserted in the RECORD.

Mr. Speaker, the terms of the San Carlos settlement included in S. 291 will go a long way toward resolving years of water disputes in Arizona. Everyone agrees that the water rights of tribes in Arizona and elsewhere in the West have been wrongfully taken from them by non-Indians in many cases. Enactment of S. 291 will right some of these wrongs.

I urge my colleagues to support passage of this important bill.

Mr. Speaker, the letter to which I referred is as follows:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, April 22, 1991.

Hon. GEORGE MILLER,
Vice Chairman, Committee on Interior and Insular Affairs, House of Representatives, Washington, DC.

DEAR MR. VICE CHAIRMAN: On March 21, 1991, the Department of the Interior (Department) provides testimony at the joint Senate-House Hearing on H.R. 748 and S. 291, the "San Carlos Indian Water Rights Settlement Act of 1991." During the hearing, Mr. Hayes and Mr. Swan identified several specific concerns which needed to be addressed before the Administration could support the settlement. They also stated the Administration's belief as to how important it was to outline the Administration's position on two critical aspects of the subject legislation—the Scottsdale/Planet Ranch land exchange and the Ak Chin component of the water budget. Resolution of these two issues would be moving the settlement in the proper direction; however, the Administration remains opposed to the settlement unless the subject legislation is amended to address all of the concerns identified in the testimony.

First, it is our understanding that the San Carlos Tribe (Tribe), the local settlement participants and the Arizona delegation all favor the addition of a provision which would facilitate a land exchange between the Federal Government and the City of Scottsdale. This exchange would transfer Bureau of Reclamation acquired lands (mostly within the City's limits) to the City in exchange for the City's land and water rights along the Bill Williams River in Western Arizona.

This new provision is an important component to this legislation for two reasons. First, the water lease between the Tribe and the City provided by the settlement makes it possible for the City to consider the transfer of its Planet Ranch property to the Federal Government. The new land and water rights will be an important addition to the Bill Williams Unit of the Havasu National Wildlife Refuge, which will relieve tension between the Federal Government and the City in the area of water rights. Second, by acquiring the City's existing water rights and by perfecting a right for which the City has applied under state law, the Federal Government will ensure in perpetuity the constant flow of a sizeable quantity of water into Lake Havasu for the benefit of the Central Arizona Project (CAP).[1]

We cannot overstate the importance of acquiring the Planet Ranch property from the perspective of maintaining the health and viability of the Bill Williams Wildlife Refuge. As a result, we have worked diligently with the City's representatives to make the exchange possible. Set forth below is our proposed language, which we urge you to add as an amendment to this legislation:

Section 10. Miscellaneous Provisions

(1) The Secretary is authorized to acquire, upon terms mutually acceptable to the City of Scottsdale ("the City") and Secretary, all of the City's right, title and interest to the Planet Ranch located on the Bill Williams River in Arizona; including all water rights appurtenant to that property and the City's January 1988 application to appropriate water from the Bill Williams River ("City Property"). The Secretary shall acquire full fee simple title to the City Property through a land exchange pursuant to authorities in the National Wildlife Refuge System Administration Act of 1966. All lands and interests acquired by the Secretary under this provision, including all water rights appurtenant to that property, shall be managed as an addition to the Bill Williams Unit of the Havasu National Wildlife Refuge, hereafter designated the Bill Williams National Wildlife Refuge, a unit of the National Wildlife Refuge System.

(2) If an exchange is made with land acquired by the Bureau of Reclamation for the construction and operation of the Central Arizona Project, the original cost of those lands so exchanged shall be deducted from the cost of said project to be allocated for determining repayment to the United States; provided however, that the authorized appropriation ceiling of the Central Arizona Project shall not be affected in any manner by the provisions of this subsection; provided further, that said lands shall be exchanged at their fair market value.

For the reasons stated above, the Planet Ranch exchange is a critical aspect of this legislation. We, therefore, urge that it be included as a part of the final bill. If you have any questions about this proposal we will be pleased to respond.

The second critical aspect is the proposed use of the excess Ak Chin water as a part of this settlement. At the hearing on similar legislation introduced in 1990, both the Arizona Department of Water Resources (DWR) and the Central Arizona Water Conservation District (CAWCD) opposed the settlement legislation on the basis of their opposition to the utilization of the Ak Chin supply. We want to provide the committees with our position and give you the benefit of our thinking on this matter.

We favor the use of the excess Ak Chin water for this settlement. In fact, we see the Ak Chin water as a critical component, since without it we fully expect that the settlement will not work and that viable alternative sources will not be found. In order for you to understand our position, it is necessary that we explain a number of points.

1. The history of the 1984 Ak Chin Settlement is thoroughly explained in the September 14, 1984, House of Representatives Report (House Report); and therefore, it need not be repeated here. It is sufficient to note that the Ak Chin Settlement was structured solely with water from Arizona's 2.8 million annual entitlement from the Colorado River. In

[1] The exchange will transfer to the U.S. Fish and Wildlife Service state law certificated water rights in the amount of approximately 14,400 acre-feet (A/F) per year, which will be changed from consumptive uses to instream flow type uses. The exchange will also transfer Scottsdale's pending application for an additional water right on the Bill Williams River. The Fish and Wildlife Service will perfect this right under State law for non-consumptive instream flow type purposes. Together these new rights will amount to approximately 40–50,000 A/F per year. The acquisition of the Planet Ranch property and the maintenance and perfection of the water rights involved will be totally a result of the utilization of government resources. If the Bureau of Reclamation acquired lands were not used for these purposes, they would be sold at public auction and the proceeds would be credited to the CAP costs with any excess over the original acquisition costs being deposited in the U.S. Treasury.

other words, there were no contributions, either in water or money, from the local parties who would have faced litigation against the Ak Chin Community and the United States.

In order to provide for the settlement, the Secretary obtained, with the approval of Congress, 50,000 acre-feet (A/F) of Colorado River water from the Yuma-Mesa Division of the Gila Project, and then reallocated that water for use on the Ak Chin Reservation, to be delivered via the CAP canal system.[2] The 50,000 A/F were added to the Ak Chin Tribe's existing CAP allocation of 58,300 A/F per year for a total of 108,300 A/F available for settlement purposes.

However, the settlement provided that in most years a quantity of 75,000 A/F per year would be delivered to the Ak Chin Community—see section 2(a) of P.L. 98-530, 98 Stat. 2698. This leaves an ordinary year surplus of 33,300 A/F per year, and it is this surplus which is proposed for use in the San Carlos Settlement. Importantly, the San Carlos Settlement expressly provides that the use of this supply in the San Carlos Settlement shall in no way impact the rights of the Ak Chin Community under the Ak Chin Settlement.

2. The essence of the argument against the use of the excess Ak Chin water in this settlement is that in the Ak Chin legislation the excess water was somehow committed to general CAP uses, and could thereafter not be used for dedicated Indian purposes. We disagree with this conclusion.

The 58,300 A/F allocation to the Ak Chin Community was made in the Secretary's CAP allocation order published in the Federal Register on March 24, 1983. That decision created an Indian CAP water pool of 309,828 A/F. In our view, that pool was not changed by the Ak Chin legislation, and the Secretary has never taken any administrative action to reduce the pool. Thus, that pool of CAP water remains available for use on Indian reservations, unless the Secretary decides to reallocate the water for some other CAP purpose, including allocation to non-Indians.

Our conclusion that the excess water remains where it was first allocated is supported by the House Report. On page 12, the House Report states: "It is the intent of the Committee that the Yuma-Mesa Division reallocation be the first segment of the permanent supply the Secretary is obligated to deliver. Any water in excess of the Secretary's obligation [to deliver 75,000 A/F per year] would be from the Ak Chin's CAP allocation." We strongly agree with the Committee's views, and it has always been the Department's position that the higher-priority Yuma-Mesa reallocation water should be the first-used foundation for the Ak Chin excess supply. As a result, the excess water will always be the unused portion of the Ak Chin CAP allocation, which was allocated as a part of the Indian CAP pool in 1983.

Most importantly, in the Ak Chin legislation Congress did not expressly direct the Secretary to utilize the excess Ak Chin water in a specific manner. Rather, section 2(k) of the Ak Chin Act speaks in general terms as to what the Secretary may do with the excess water:

(k) The water referred to in subsection (f)(1) shall be for the exclusive use and benefit of the Ak-Chin Indian Community, except that whenever, the aggregate water supply referred to in subsection (f) exceeds the quantity necessary to meet the obligations of the Secretary under this Act, the Secretary shall allocate on an interim basis to the Central Arizona Project any of the water referred to in subsection (f) which is not required for delivery to the Ak-Chin Indian Reservation under this Act.

The House Report underscores the conclusion that the decision as to how the excess water was to be used was left to the Secretary's discretion. Again on page 12 of the House Report, the committee states: "It is the intent of the Committee that water not needed to satisfy the Secretary's delivery obligation [75,000 A/F per year] be available for allocation in the State of Arizona." Similarly, on page 13 of the House Report, in specific reference to section 2(k) of the Ak Chin legislation, the Committee explains the purpose of section 2(k) and states that: "It is the intent of the Committee that any such excess water be allocated for use in Arizona." Senator Goldwater's comments on the Senate floor, printed in the Congressional Record (September 25, 1984), also support this position: "The second amendment [in section 2(k)], technical in nature, merely reconfirms the fact that any of the surplus aggregate water which the Secretary of the Interior does not use in fulfilling his obligation to the [Ak Chin] Indians goes to the Central Arizona Project."

These comments reflect an understanding by the Committee, and the Congress, of the Secretary's broad authority under section 5 of the 1929 Boulder Canyon Project Act, 43 U.S.C. 617, et seq., to allocate and contract for the use of water from the Colorado River within the lower basin area. In order to change that authority, or to circumscribe the Secretary's discretion in this area, we believe that the words of Congress must be clear and express. That did not happen in the Ak Chin legislation.

3. A second argument, which has been made, is that certain verbal understandings were established in the final hours of the Ak Chin legislation wherein the excess water was committed to non-Indian CAP users. The stated reason for the understanding was that the non-Indian CAP users deserved such a benefit in return for the utilization of the Yuma-Mesa water (50,000 A/F) which would have been diverted by the CAP in future years if that supply was not needed at the Yuma-Mesa Division. In other words, since that portion of the Yuma-Mesa water was not being used, the diversion of that water by the CAP was expected and that expectation was impacted by the reallocation.

We believe that this is not a case where the words of Congress are unclear, and if there were any ambiguity, the House Report provides the legislation history to support the conclusion that the Secretary retained the authority to use the excess water as he determines—as long as the use is within Arizona.

There is an alternate argument that the non-Indian CAP users were entitled to the Yuma-Mesa water, and therefore deserved some compensation in the form of a deal concerning the excess water. We do not give this argument great weight.

First, the fact that CAP may have used the unused Yuma-Mesa water would not have given the CAP a contract right to that water. The entitlement belonged to the Yuma-Mesa District; and therefore, at best the CAP only had an expectation of using that water. Even if Bureau of Reclamation or DWR water supply studies contributed to the expectation, that expectation did not ripen into a right.

Second, this Department must give full respect to the contract water rights of Colorado River users until such rights are withdrawn, canceled, or reduced by action of the Secretary or the Supreme Court. Thus, we cannot view all unused entitlements or portions of entitlements along the Arizona side of the Colorado River as somehow belonging to the CAP. For example, CAP may presently divert the unused City of Kingman entitlement, but the City of Kingman has projections for the use of that water. Even if Kingman cannot put its unused water to beneficial use, we have a clear expectation that the Kingman entitlement will be reallocated in the future for use within Mojave County. In other situations, unused supplies may be secured for use by the CAP.

Third, the Yuma-Mesa water was not simply reallocated by unilateral action of the Secretary. Rather, an agreement was reached with the Yuma-Mesa Division, and various forms of compensation were provided in order to obtain the consent of the Division in regard to the reduction of its contract entitlement. Thus, the notion that the non-Indian CAP users were entitled to "compensation" for the utilization of that water in the Ak Chin Settlement when the Government had already provided compensation to the Yuma-Mesa Division for the same water, seems to ignore the circumstances which led to the acquisition of the Ak Chin water.

4. We feel it is important to note that the Ak Chin Settlement was somewhat unique in that it was not supported by local contributions. The Federal Government provided the whole solution to the Ak Chin Settlement via the Community's CAP allocation and the acquired Yuma-Mesa water. In addition, the Government even faces money damage penalties if the Congressionally established supply is not delivered annually by the Secretary.

We see this as significant in light of opposition to the San Carlos legislation. As we believe you understand, only a few of the many CAP subcontractors are opposing this legislation on the basis of the Ak Chin excess water. Among that small group are the large CAP-user irrigation districts in Pinal County, such as Maricopa Stanfield and the Central Arizona Irrigation and Drainage District (CAIDD). These entities apparently support proposition that any uncommitted CAP water, which in their view is the excess AK Chin water, would enure to the benefit of the CAP agricultural users.

This position contains an inherent contradiction. The Ak Chin water was allocated by the Secretary; and therefore, was never available for use by other CAP water users. In addition, the United States bore the cost of purchasing the Colorado water used to satisfy the Ak Chin water claims. Therefore, since the United States acquired the water for the Ak Chin settlement, there could be no rights which would accrue to other CAP water users.

We disagree with the position that CAP agricultural users obtained some type of commitment to benefit from the excess Ak Chin water. We are confident that these CAP water users do not have valid legal claims to the excess water. If this legislation is enacted, a few of the agricultural entities may persist and take their claims to the Claims Court; however, we feel strongly that such claims will be rejected in that forum.

5. Finally, we wish to address this problem on a scale which is broader than the technical argument.

[2] By the Act of July 30, 1947, Congress had authorized the use of up to 300,000 A/F of water per year for use within the Yuma-Mesa Division. Since a need for that much water had not been demonstrated, the Division's annual entitlement was contractually reduced to 250,000 A/F as a result of the Ak Chin settlement.

Many of the CAP subcontractors are the same entities at risk in the Gila River adjudication as a result of Indian water claims.

These entities at risk face essentially three choices: (1) litigation, (2) reach a settlement by giving up some of their present uses from local sources, or (3) acquire or consent to the use of some other source of water which can be used as the basis for a settlement. Clearly the excess Ak Chin water represents a utilization of alternative number 3.

By supporting the use of the excess Ak Chin water for this settlement, which could have been reallocated by the Secretary to non-Indian users at some point in the future, the non-Indian settlement participants are making a choice to utilize an available component of the CAP supply to structure this settlement as opposed to giving up some of, or more of, the water they presently enjoy from local supplies. We see using this future water which may or may not become an entitlement as a reasonable choice.

The point is that the Ak Chin water is a critical component of this settlement in that it provides a significant portion of the settlement water budget. Without this source we assume that the settlement will fail, and we see no viable alternative solutions. Accordingly, all of us are left with no choice. Is the excess Ak Chin water an acceptable component to this settlement, or do we oppose that action to the detriment of the settlement? Based on the reasons outlined above, we support the use of the excess Ak Chin water.

In conclusion, let me say that we recognize that the Ak Chin matter is complex and the historical record is important to a clear understanding of our position. We also want the committees to have a full and complete understanding or our analysis so that you can see that we have carefully considered the problem.

Our recommendation is that you support the inclusion of the excess Ak Chin water in this settlement. We also recommend that you add the Planet Ranch exchange provision set forth herein as a way to greatly protect and enhance a unit of the national wildlife refuge system, and provide a tangible and long-term benefit to the State and CAWCD in regard to the security of the CAP water supply.

The Office of management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this report for the consideration of the committee.

Thank you for your attention to our concerns.

Sincerely,

TIMOTHY W. GLIDDEN,
Chairman, Working Group on Indian Water Settlements.

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

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

Mr. Speaker, I naturally rise in support of this legislation, and I would be remiss if I did not begin by thanking the chairman of the full committee, the gentleman from California, Mr. MILLER, for his assistance in getting this Senate bill to the floor with the House amendment so that we can pass the bill here in the last day of the session and proceed to conference with the Senate to resolve the remaining differences which exist in the bill.

The chairman has very, very adequately explained the process that got us to this point, and I am in full agreement with 95 percent of the chairman's statement. The chairman knows which 5 percent I am not in agreement with, and we will be continuing discussions about that 5 percent as we go along toward conference with the Senate.

This is a very important bill for the State of Arizona. It resolves a longstanding dispute and it rights many longstanding wrongs in favor of the San Carlos Apache Indians.

But as important as righting those wrongs is the fact that, with resolution of this dispute, the parties to the dispute now have an element called certainty. They now know, or will know, what their rights are as it pertains to certain quantities of water, ground water and surface water, in the State of Arizona.

This is important to the Indians; it is important to the cities who are parties to the settlement; it is important to the State of Arizona.

Without this element of certainty being acquired by the parties to this agreement, they all faced years and years of costly and expensive litigation in order for a judicial determination of various and sundry rights they have.

While that litigation is continuing, they are unable to plan for their futures, unable to know what degree of certainty they have to their wear rights and their ability to go forth into the next century.

So, achieving this negotiated settlement is an extremely important event in the lives of the participants and the lives of those who are parties to the agreement. I commend everybody who has been involved.

I certainly want to thank my fellow members of the Arizona delegation here in the House, our two Senators, Senator MCCAIN and Senator DECONCINI, for their assistance.

I again thank the gentleman from California [Mr. MILLER] and all of our staffs who worked very hard on this legislation.

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

Mr. KYL. I thank my colleague for yielding. I would like to express my appreciation to him and to Chairman MILLER for their work on this bill. I too support the bill.

The San Carlos Indian Tribe is in my congressional district, as are many of the communities which will benefit from the resolution of the disputes which this bill will help resolve. The only concern that we have is the change that has been made in the legislation that was alluded to by the chairman. The compromise that was delicately put together here is, to some extent, disrupted as a result of this change, but time is of the essence here. It is important this bill move to conference so these issues can be discussed.

One of the most critical things is the fact that litigation is pending, as my colleague from Arizona pointed out, and the longer that litigation proceeds and the further down the road it gets, the more difficult it is to reach these kinds of compromise agreements..

We are very concerned that unless we can bring it up soon and get this legislation passed, we may have missed the opportunity to reach a negotiated settlement which would be in the interests of all of the parties.

So, time is important. We do urge that our colleagues support this legislation, move the bill to conference, and there we can try to iron out those items upon which we currently differ.

It is legislation well worth supporting.

Mr. RHODES. Mr. Speaker, I urge our colleagues to support passage of this legislation.

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

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. MILLER] that the House suspend the rules and pass the Senate bill, S. 291, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

TELEPHONE CONSUMER PROTECTION ACT OF 1991

Mr. MARKEY. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1462) to amend the Communications Act of 1934 to prohibit certain practices involving the use of telephone equipment, as amended.

The Clerk read as follows:

S. 1462

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 "Telephone Consumer Protection Act of 1991".

SEC. 2. FINDINGS.

The Congress finds that:

(1) The use of the telephone to market goods and services to the home and other businesses is now pervasive due to the increased use of cost-effective telemarketing techniques.

(2) Over 30,000 businesses actively telemarket goods and services to business and residential customers.

(3) More than 300,000 solicitors call more than 18,000,000 Americans every day.

(4) Total United States sales generated through telemarketing amounted to $435,000,000,000 in 1990, a more than four-fold increase since 1984.

(5) Unrestricted telemarketing, however, can be an intrusive invasion of privacy and,

when an emergency or medical assistance telephone line is seized, a risk to public safety.

(6) Many consumers are outraged over the proliferation of intrusive, nuisance calls to their homes from telemarketers.

(7) Over half the States now have statutes restricting various uses of the telephone for marketing, but telemarketers can evade their prohibitions through interstate operations; therefore, Federal law is needed to control residential telemarketing practices.

(8) The Constitution does not prohibit restrictions on commercial telemarketing solicitations.

(9) Individuals' privacy rights, public safety interests, and commercial freedoms of speech and trade must be balanced in a way that protects the privacy of individuals and permits legitimate telemarketing practices.

(10) Evidence compiled by the Congress indicates that residential telephone subscribers consider automated or prerecorded telephone calls, regardless of the content or the initiator of the message, to be a nuisance and an invasion of privacy.

(11) Technologies that might allow consumers to avoid receiving such calls are not universally available, are costly, are unlikely to be enforced, or place an inordinate burden on the consumer.

(12) Banning such automated or prerecorded telephone calls to the home, except when the receiving party consents to receiving the call or when such calls are necessary in an emergency situation affecting the health and safety of the consumer, is the only effective means of protecting telephone consumers from this nuisance and privacy invasion.

(13) While the evidence presented to the Congress indicates that automated or prerecorded calls are a nuisance and an invasion of privacy, regardless of the type of call, the Federal Communications Commission should have the flexibility to design different rules for those types of automated or prerecorded calls that it finds are not considered a nuisance or invasion of privacy, or for noncommercial calls, consistent with the free speech protections embodied in the First Amendment of the Constitution.

(14) Businesses also have complained to the Congress and the Federal Communications Commission that automated or prerecorded telephone calls are a nuisance, are an invasion of privacy, and interfere with interstate commerce.

(15) The Federal Communications Commission should consider adopting reasonable restrictions on automated or prerecorded calls to businesses as well as to the home, consistent with the constitutional protections of free speech.

SEC. 3. RESTRICTIONS ON THE USE OF TELEPHONE EQUIPMENT.

(a) AMENDMENT.—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. 227. RESTRICTIONS ON THE USE OF TELEPHONE EQUIPMENT.

"(a) DEFINITIONS.—As used in this section—

"(1) The term 'automatic telephone dialing system' means equipment which has the capacity—

"(A) to store or produce telephone numbers to be called, using a random or sequential number generator; and

"(B) to dial such numbers.

"(2) The term 'telephone facsimile machine' means equipment which has the capacity (A) to transcribe text or images, or both, from paper into an electronic signal and to transmit that signal over a regular telephone line, or (B) to transcribe text or images (or both) from an electronic signal received over a regular telephone line onto paper.

"(3) The term 'telephone solicitation' means the initiation of a telephone call or message for the purpose of encouraging the purchase or rental of, or investment in, property, goods, or services, which is transmitted to any person, but such term does not include a call or message (A) to any person with that person's prior express invitation or permission, (B) to any person with whom the caller has an established business relationship, or (C) by a tax exempt nonprofit organization.

"(4) The term 'unsolicited advertisement' means any material advertising the commercial availability or quality of any property, goods, or services which is transmitted to any person without that person's prior express invitation or permission.

"(b) RESTRICTIONS ON THE USE OF AUTOMATED TELEPHONE EQUIPMENT.—

"(1) PROHIBITIONS.—It shall be unlawful for any person within the United States—

"(A) to make any call (other than a call made for emergency purposes or made with the prior express consent of the called party) using any automatic telephone dialing system or an artificial or prerecorded voice—

"(i) to any emergency telephone line (including any '911' line and any emergency line of a hospital, medical physician or service office, health care facility, poison control center, or fire protection or law enforcement agency);

"(ii) to the telephone line of any guest room or patient room of a hospital, health care facility, elderly home, or similar establishment; or

"(iii) to any telephone number assigned to a paging service, cellular telephone service, specialized mobile radio service, or other radio common carrier service, or any service for which the called party is charged for the call;

"(B) to initiate any telephone call to any residential telephone line using an artificial or prerecorded voice to deliver a message without the prior express consent of the called party, unless the call is initiated for emergency purposes or is exempted by rule or order by the Commission under paragraph (2)(B);

"(C) to use any telephone facsimile machine, computer, or other device to send an unsolicited advertisement to a telephone facsimile machine; or

"(D) to use an automatic telephone dialing system in such a way that two or more telephone lines of a multi-line business are engaged simultaneously.

"(2) REGULATIONS; EXEMPTIONS AND OTHER PROVISIONS.—The Commission shall prescribe regulations to implement the requirements of this subsection. In implementing the requirements of this subsection, the Commission—

"(A) shall consider prescribing regulations to allow businesses to avoid receiving calls made using an artificial or prerecorded voice to which they have not given their prior express consent; and

"(B) may, by rule or order, exempt from the requirements of paragraph (1)(B) of this subsection, subject to such conditions as the Commission may prescribe—

"(i) calls that are not made for a commercial purpose; and

"(ii) such classes or categories of calls made for commercial purposes as the Commission determines—

"(I) will not adversely affect the privacy rights that this section is intended to protect; and

"(II) do not include the transmission of any unsolicited advertisement.

"(3) PRIVATE RIGHT OF ACTION.—A person or entity may, if otherwise permitted by the laws or rules of court of a State, bring in an appropriate court of that State—

"(A) an action based on a violation of this subsection or the regulations prescribed under this subsection to enjoin such violation,

"(B) an action to recover for actual monetary loss from such a violation, or to receive $500 in damages for each such violation, whichever is greater, or

"(C) both such actions.

If the court finds that the defendant willfully or knowingly violated this subsection or the regulations prescribed under this subsection, the court may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under subparagraph (B) of this paragraph.

"(c) PROTECTION OF SUBSCRIBER PRIVACY RIGHTS.—

"(1) RULEMAKING PROCEEDING REQUIRED.—Within 120 days after the date of enactment of this section, the Commission shall initiate a rulemaking proceeding concerning the need to protect residential telephone subscribers' privacy rights to avoid receiving telephone solicitations to which they object. The proceeding shall—

"(A) compare and evaluate alternative methods and procedures (including the use of electronic databases, telephone network technologies, special directory markings, industry-based or company-specific 'do not call' systems, and any other alternatives, individually or in combination) for their effectiveness in protecting such privacy rights, and in terms of their cost and other advantages and disadvantages;

"(B) evaluate the categories of public and private entities that would have the capacity to establish and administer such methods and procedures;

"(C) consider whether different methods and procedures may apply for local telephone solicitations, such as local telephone solicitations of small businesses or holders of second class mail permits;

"(D) consider whether there is a need for additional Commission authority to further restrict telephone solicitations, including those calls exempted under subsection (a)(3) of this section, and, if such a finding is made and supported by the record, propose specific restrictions to the Congress; and

"(E) develop proposed regulations to implement the methods and procedures that the Commission determines are most effective and efficient to accomplish the purposes of this section.

"(2) REGULATIONS.—Not later than 9 months after the date of enactment of this section, the Commission shall conclude the rulemaking proceeding initiated under paragraph (1) and shall prescribe regulations to implement methods and procedures for protecting the privacy rights described in such paragraph in an efficient, effective, and economic manner and without the imposition of any additional charge to telephone subscribers.

"(3) USE OF DATABASE PERMITTED.—The regulations required by paragraph (2) may require the establishment and operation of a single national database to compile a list of telephone numbers of residential subscribers who object to receiving telephone solicita-

tions, and to make that compiled list and parts thereof available for purchase. If the Commission determines to require such a database, such regulations shall—

"(A) specify a method by which the Commission will select an entity to administer such database;

"(B) require each common carrier providing telephone exchange service, in accordance with regulations prescribed by the Commission, to inform subscribers for telephone exchange service of the opportunity to provide notification, in accordance with regulations established under this paragraph, that such subscriber objects to receiving telephone solicitations;

"(C) specify the methods by which each telephone subscriber shall be informed, by the common carrier that provides local exchange service to that subscriber, of (i) the subscriber's right to give or revoke a notification of an objection under subparagraph (A), and (ii) the methods by which such right may be exercised by the subscriber;

"(D) specify the methods by which such objections shall be collected and added to the database;

"(E) prohibit any residential subscriber from being charged for giving or revoking such notification or for being included in a database compiled under this section;

"(F) prohibit any person from making or transmitting a telephone solicitation to the telephone number of any subscriber included in such database;

"(G) specify (i) the methods by which any person desiring to make or transmit telephone solicitations will obtain access to the database, by area code or local exchange prefix, as required to avoid calling the telephone numbers of subscribers included in such database; and (ii) the costs to be recovered from such persons;

"(H) specify the methods for recovering, from persons accessing such database, the costs involved in identifying, collecting, updating, disseminating, and selling, and other activities relating to, the operations of the database that are incurred by the entities carrying out those activities;

"(I) specify the frequency with which such database will be updated and specify the method by which such updating will take effect for purposes of compliance with the regulations prescribed under this subsection;

"(J) be designed to enable States to use the database mechanism selected by the Commission for purposes of administering or enforcing State law;

"(K) prohibit the use of such database for any purpose other than compliance with the requirements of this section and any such State law and specify methods for protection of the privacy rights of persons whose numbers are included in such database; and

"(L) require each common carrier providing services to any person for the purpose of making telephone solicitations to notify such person of the requirements of this section and the regulations thereunder.

"(4) CONSIDERATIONS REQUIRED FOR USE OF DATABASE METHOD.—If the Commission determines to require the database mechanism described in paragraph (3), the Commission shall—

"(A) in developing procedures for gaining access to the database, consider the different needs of telemarketers conducting business on a national, regional, State, or local level;

"(B) develop a fee schedule or price structure for recouping the cost of such database that recognizes such differences and—

"(i) reflect the relative costs of providing a national, regional, State, or local list of phone numbers of subscribers who object to receiving telephone solicitations;

"(ii) reflect the relative costs of providing such lists on paper or electronic media; and

"(iii) not place an unreasonable financial burden on small businesses; and

"(C) consider (i) whether the needs of telemarketers operating on a local basis could be met through special markings of area white pages directories, and (ii) if such directories are needed as an adjunct to database lists prepared by area code and local exchange prefix.

"(5) PRIVATE RIGHT OF ACTION.—A person who has received more than one telephone call within any 12-month period by or on behalf of the same entity in violation of the regulations prescribed under this subsection may, if otherwise permitted by the laws or rules of court of a State bring in an appropriate court of that State—

"(A) an action based on a violation of the regulations prescribed under this subsection to enjoin such violation,

"(B) an action to recover for actual monetary loss from such a violation, or to receive up to $500 in damages for each such violation, whichever is greater, or

"(C) both such actions.

It shall be an affirmative defense in any action brought under this paragraph that the defendant has established and implemented, with due care, reasonable practices and procedures to effectively prevent telephone solicitations in violation of the regulations prescribed under this subsection. If the court finds that the defendant willfully or knowingly violated the regulations prescribed under this subsection, the court may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under subparagraph (B) of this paragraph.

"(6) RELATION TO SUBSECTION (B).—The provisions of this subsection shall not be construed to permit a communication prohibited by subsection (b).

"(d) TECHNICAL AND PROCEDURAL STANDARDS.—

"(1) PROHIBITION.—It shall be unlawful for any person within the United States—

"(A) to initiate any communication using a telephone facsimile machine, or to make any telephone call using any automatic telephone dialing system, that does not comply with the technical and procedural standards prescribed under this subsection, or to use any telephone facsimile machine or automatic telephone dialing system in a manner that does not comply with such standards; or

"(B) to use a computer or other electronic device to send any message via a telephone facsimile machine unless such person clearly marks, in a margin at the top or bottom of each transmitted page of the message or on the first page of the transmission, the date and time it is sent and an identification of the business, other entity, or individual sending the message and the telephone number of the sending machine or of such business, other entity, or individual.

"(2) TELEPHONE FACSIMILE MACHINES.—The Commission shall revise the regulations setting technical and procedural standards for telephone facsimile machines to require that any such machine which is manufactured after one year after the date of enactment of this section clearly marks, in a margin at the top or bottom of each transmitted page or on the first page of each transmission, the date and time sent, an identification of the business, other entity, or individual sending the message, and the telephone number of the sending machine or of such business, other entity, or individual.

"(3) ARTIFICIAL OR PRERECORDED VOICE SYSTEMS.—The Commission shall prescribe technical and procedural standards for systems that are used to transmit any artificial or prerecorded voice message via telephone. Such standards shall require that—

"(A) all artificial or prerecorded telephone messages (i) shall, at the beginning of the message, state clearly the identity of the business, individual, or other entity initiating the call, and (ii) shall, during or after the message, state clearly the telephone number or address of such business, other entity, or individual; and

"(B) any such system will automatically release the called party's line within 5 seconds of the time notification is transmitted to the system that the called party has hung up, to allow the called party's line to be used to make or receive other calls.

"(e) EFFECT ON STATE LAW.—

"(1) STATE LAW NOT PREEMPTED.—Except for the standards prescribed under subsection (d) and subject to paragraph (2) of this subsection, nothing in this section or in the regulations prescribed under this section shall preempt any State law that imposes more restrictive intrastate requirements or regulations on, or which prohibits—

"(A) the use of telephone facsimile machines or other electronic devices to send unsolicited advertisements;

"(B) the use of automatic telephone dialing systems;

"(C) the use of artificial or prerecorded voice messages; or

"(D) the making of telephone solicitations.

"(2) STATE USE OF DATABASES.—If, pursuant to subsection (c)(3), the Commission requires the establishment of a single national database of telephone numbers of subscribers who object to receiving telephone solicitations, a State or local authority may not, in its regulation of telephone solicitations, require the use of any database, list, or listing system that does not include the part of such single national database that relates to such State.

"(f) ACTIONS BY STATES.—

"(1) AUTHORITY OF STATES.—Whenever the attorney general of a State, or an official or agency designated by a State, has reason to believe that any person has engaged or is engaging in a pattern or practice of telephone calls or other transmissions to residents of that State in violation of this section or the regulations prescribed under this section, the State may bring a civil action on behalf of its residents to enjoin such calls, an action to recover for actual monetary loss or receive $500 in damages for each violation, or both such actions. If the court finds the defendant willfully or knowingly violated such regulations, the court may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under the preceding sentence.

"(2) EXCLUSIVE JURISDICTION OF FEDERAL COURTS.—The district courts of the United States, the United States courts of any territory, and the District Court of the United States for the District of Columbia shall have exclusive jurisdiction over all civil actions brought under this subsection. Upon proper application, such courts shall also have jurisdiction to issue writs of mandamus, or orders affording like relief, commanding the defendant to comply with the provisions of this section or regulations prescribed under this section, including the requirement that the defendant take such ac-

tion as is necessary to remove the danger of such violation. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.

"(3) RIGHTS OF COMMISSION.—The State shall serve prior written notice of any such civil action upon the Commission and provide the Commission with a copy of its complaint, except in any case where such prior notice is not feasible, in which case the State shall serve such notice immediately upon instituting such action. The Commission shall have the right (A) to intervene in the action, (B) upon so intervening, to be heard on all matters arising therein, and (C) to file petitions for appeal.

"(4) VENUE; SERVICE OF PROCESS.—Any civil action brought under this subsection in a district court of the United States may be brought in the district wherein the defendant is found or is an inhabitant or transacts business or wherein the violation occurred or is occurring, and process in such cases may be served in any district in which the defendant is an inhabitant or where the defendant may be found.

"(5) INVESTIGATORY POWERS.—For purposes of bringing any civil action under this subsection, nothing in this section shall prevent the attorney general of a State, or an official or agency designated by a State, from exercising the powers conferred on the attorney general or such official by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

"(6) EFFECT ON STATE COURT PROCEEDINGS.—Nothing contained in this subsection shall be construed to prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any general civil or criminal statute of such State.

"(7) LIMITATION.—Whenever the Commission has instituted a civil action for violation of regulations prescribed under this section, no State may, during the pendency of such action instituted by the Commission, subsequently institute a civil action against any defendant named in the Commission's complaint for any violation as alleged in the Commission's complaint.

"(8) DEFINITION.—As used in this subsection, the term 'attorney general' means the chief legal officer of a State.".

(b) CONFORMING AMENDMENT.—Section 2(b) of the Communications Act of 1934 (47 U.S.C. 152(b)) is amended by striking "Except as provided" and all that follows through "and subject to the provisions" and inserting "Except as provided in sections 223 through 227, inclusive, and subject to the provisions".

(c) DEADLINE FOR REGULATIONS; EFFECTIVE DATE.—

(1) REGULATIONS.—The Federal Communications Commission shall prescribe regulations to implement the amendments made by this section not later than 9 months after the date of enactment of this Act.

(2) EFFECTIVE DATE.—The requirements of section 228 of the Communications Act of 1934 (as added by this section), other than the authority to prescribe regulations, shall take effect one year after the date of enactment of this Act.

SEC. 4. AM RADIO SERVICE.

Section 331 of the Communications Act of 1934 is amended—

(1) in the heading of such section, by inserting "AND AM RADIO STATIONS" after "TELEVISION STATIONS";

(2) by inserting "(a) VERY HIGH FREQUENCY STATIONS.—" after "SEC. 331."; and

(3) by adding at the end the following new subsection:

"(b) AM RADIO STATIONS.—It shall be the policy of the Commission, in any case in which the licensee of an existing AM daytime-only station located in a community with a population of more than 100,000 persons that lacks a local full time aural station licensed to that community and that is located within a Class I station primary service area notifies the Commission that such licensee seeks to provide full-time service, to ensure that such a licensee is able to place a principal community contour signal over its entire community of license 24 hours a day, if technically feasible. The Commission shall report to the appropriate committees of Congress within 30 days after the date of enactment of this Act on how it intends to meet this policy goal.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. MARKEY] will be recognized for 20 minutes, and the gentleman from New Jersey [Mr. RINALDO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. MARKEY].

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

Mr. Speaker, today the House will consider a substitute amendment to Senate 1462 that embodies the text of H.R. 1304, the Telephone Advertising Consumer Rights Act, which passed this body on November 16. I am offering this compromise amendment with the gentleman from New Jersey [Mr. RINALDO]. The compromise effectively merges and improves legislation passed by the Senate dealing with automatic dialing systems and unsolicited facsimile messages.

□ 1140

In short, Mr. Speaker, the compromise will finally give the public the opportunity to just say no to unsolicited phone or fax advertisements. The compromise gives the public a fighting chance to start to curtail unwanted telemarketing practices by requiring the FCC to conduct a rulemaking and weigh the alternative methods for protecting consumers' privacy rights and to put them in place before our home telephones become the receptacles of junk calls in the same way that junk mail often inundates our mailboxes.

Mr. Speaker, today in America more than 300,000 solicitors make more than 19 million calls every day, while some 75,000 stockbrokers make 1.5 billion telemarketing calls a year. Automatic dialing machines, on the other hand, have the capacity to call 20 million Americans during the course of a single day, with each individual machine delivering a prerecorded message to 1,000 homes.

In addition, automatic dialing machines place calls randomly, meaning they sometimes call unlisted numbers, or numbers of hospitals, police and fire stations, causing public safety problems. Our bill, H.R. 1304, would prohibit advertising calls to public safety numbers, as well as to paging, specialized mobile radio and cellular equipment.

In the final analysis a person's home is his castle. Preservation of the tranquility and privacy of that castle should compel us to avail consumers of the opportunity to place the telephone line into their home, the sanctuary from which they escape all the other trials that society and Congress cause them, off limits to intrusive and annoying interruptions. I believe that telemarketing can be a powerful and effective business tool, but the nightly ritual of phone calls to homes from strangers and robots has many Americans fed up.

Mr. Speaker, the aim of this legislation is not to eliminate the brave new world of telemarketing, but rather to secure an individual's right to privacy that might be unintentionally intruded upon by these new technologies. For this reason the legislation addresses live unsolicited commercial telemarketing to residential subscribers. If a live call is being made for the purpose other than for a commercial solicitation, then it is not regulated under this bill. In the context of the legislation a telephone solicitation is a call to encourage the purchase, rental of, or investment in property, goods, or services.

In addition, the compromise bill makes it unlawful for any person to initiate any telephone call to any residence using an artificial or prerecorded voice to deliver a message. The legislation makes two absolute exceptions to this prohibition:

First, where there is the prior express consent of the called party; and second, where the call is initiated for emergency purposes. The term "emergency purposes" is also intended to include any automated telephone call that notifies consumers of impending or current power outages, whether these outages are for scheduled maintenance, unscheduled outages caused by storms, or power interruptions for load management programs.

Second, the bill also allows the Federal Communications Commission to exempt, by rule or order, classes or categories of calls made for commercial purposes that do not "adversely affect the privacy rights" that this section of the bill is intended to protect and, that "do not include the transmission of any unsolicited advertisement." An example of such a use may be to leave messages with consumers to call a debt collection agency to discuss their student loan or to notify a consumer that a product they have ordered is ready to be picked up at the store. I fully expect the Commission to grant an exemption, for instance, for voice messaging services that forward calls. For example, if a consumer is late catching a plane and calls his home to tell his wife he'll be arriving late and can't get through to her, this service allows him to leave a

message and board the plane. While he is traveling, the service automatically dials the number repeatedly until the message is delivered. Such a voice messaging service is a benefit to consumers and should not be hindered by this legislation.

I believe we have put together a consensus compromise, one that reflects a responsible approach to address what the record indicates is of greatest concern to consumers.

I, as usual, want to thank the gentleman from New Jersey [Mr. RINALDO] for his leadership, for his cooperation, for his steadfast support in the development of this legislation. It is typical of the working relationship that we have had on the subcommittee for the last 5 years that we could produce such a complex piece of legislation. As well, I would like to thank the gentleman from New York [Mr. LENT] on the minority side who, along with his staff, have worked with us in the development of the legislation, the gentleman from Tennessee [Mr. COOPER], the gentlewoman from New Jersey [Mrs. ROUKEMA], the gentleman from Massachusetts [Mr. FRANK], along with the gentleman from Texas [Mr. BRYAND]. Each and every one of them has played a role in helping to craft this legislation and, working with the majority staff of David Leach at the full committee level and Mick Regan on the minority side, we have been able to put this legislation together. So, I want to thank all of the parties involved.

Mr. Speaker, I think this is an excellent piece of legislation.

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

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

Mr. Speaker, I urge my colleagues to join me in supporting S. 1462, the Automated Telephone Consumer Protection Act of 1991. This bill is substantially similar to H.R. 1304, the Telephone Advertising Consumer Rights Act, a bill that the House recently passed.

This bill addresses widespread and growing concern about abuses associated with automatic dialers, junk faxes, and unwanted telephone solicitations. Under this bill, those who use automatic dialers would be prohibited from making computer-generated calls to emergency lines at health care facilities, fire protection, or law enforcement agencies, any telephone line at a patient room in a hospital, or paging or cellular telephone numbers.

In addition to addressing these serious health and safety concerns, the bill would prohibit autodialed calls to anyone that has not given the caller prior express consent. This bill also requires the FCC to restrict only those categories of artificial or prerecorded voice calls which are made for commercial purposes and will affect the privacy rights that the bill intends to protect. Among categories which should be made available to the public are voice messaging services which deliver legitimate personal messages to one or more persons.

The FCC has already authorized as in the public interest a service which allows a caller from a coin telephone to record a message for later delivery when encountering a busy signal or no answer. Likewise, a similar service which the FCC has also authorized would allow a person to send a message to a group of people through a recorded message. Clearly, these types of personal voice messaging services are not invasive of a person's privacy rights, and this bill is not intended to prohibit these or other such services yet to be developed.

S. 1462 also directs the FCC to determine the most effective and efficient method of allowing telephone subscribers to avoid live telephone solicitation calls. Specifically, the Commission must consider an electronic database, special directory markings, industry-based or company-specific "do not call" systems, as well as other alternative solutions to the problem of unsolicited calls.

In drafting this legislation, we recognized that many legitimate businesses make telephone calls, including solicitations, without annoying consumers. Thus, the bill exempts businesses that have a preestablished business relationship with a customer as well as telephone calls from nonprofit organizations. In addition, the bill mandates that the FCC consider whether different methods and procedures should apply for local telephone solicitations, particularly from small businesses and holders of second-class mail permits, such as newspapers.

I want to briefly mention an important issue relating to a person's change in residence and change in telephone number. In the committee report on H.R. 1304, we state that during the first 6 to 12 months after a change in a person's telephone number, a telephone subscriber should reasonably expect to receive telemarketing calls. No matter what telemarketing control alternatives are selected by the FCC, implementation may take up to 12 months for a new resident. This initial contact during that period may actually help introduce new residents to local goods and services available in their new community. We expect that such calls will be allowed during the first 6 to 12 months.

To ensure a uniform approach to this nationwide problem, this bill would preempt the States from adopting a database approach, if the FCC mandates a national database. From the industry's perspective, this preemption has the important benefit of ensuring that telemarketers are not subject to duplicative regulation.

Finally, this bill promotes the allocation of fulltime AM radio channels to medium-sized cities located in or adjacent to major metropolitan markets that lack a fulltime AM station.

I would like to thank Messrs. DINGELL, LENT, and MARKEY for their help and leadership in crafting this important bill. I would also like to thank Senators HOLLINGS, DANFORTH, and PRESSLER for their hard work in developing consensus, bipartisan legislation. I urge my colleagues to support this important measure.

Mr. Speaker, I would like to once again particularly thank the chairman of the subcommittee, the gentleman from Massachusetts [Mr. MARKEY], for his help, for his leadership, for his cooperation in seeing that this bill got to the floor and in working out some of the problems associated with the legislation. I would also like to thank Senators DANFORTH, HOLLINGS, and PRESSLER for their hard work in developing consensus bipartisan legislation. In addition, I think it should be noted that the gentleman from Michigan [Mr. DINGELL], the chairman of the full Committee on Energy and Commerce, and my good friend, the gentleman from New York [Mr. LENT], the ranking minority member of that committee, exhibited a great amount of leadership in seeing that the bill got through the full committee and onto the floor.

Finally, Mr. Speaker, I would like to thank the members of the committee and acknowledge their hard work and dedication in seeing that this bill would get to the floor. I thank my good friend and colleague, the gentlewoman from New Jersey [Mrs. ROUKEMA], who worked extremely hard to see to it that this bill got to where it is today and will be on the President's desk shortly.

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

□ 1150

Mr. MARKEY. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. BRYANT].

Mr. BRYANT. Mr. Speaker, I represent the home area of MessagePhone, Inc., a company which is engaged in the business of message forwarding. Senator HOLLING's legislation, as it passed the Senate—the Automated Telephone Consumer Protection Act, S. 1462, would have inadvertently ended their operations. The bill however has been corrected to avoid this inadvertent result.

Automatic message delivery, developed by MessagePhone, gives a caller, who encounters a busy or unanswered telephone call, the opportunity to record a short message for subsequent delivery. For example, the technology for this service could call the original destination number every 15 minutes for several hours or until the telephone was answered and the message was delivered. For the purpose of privacy, after delivery, the call attempts are stopped and the message is destroyed.

MessagePhone designed the service to give the calling party an alternative to busy and unanswered telephone calls which make up 30 percent of all telephone calls.

Unlike the technology used by telemarketers for their random solicitations, this service is a prepaid, person-to-person communication, not all that different from a regular telephone call. The service is designed so that the messages are short and the content is personal in nature.

Take for instance the scenario where you are at an airport, you missed your flight and only have a few minutes to call your spouse with the updated flight information. The line is busy and you have to leave. With my constituent's service, you could record a message; they would attempt to deliver a few minutes later, even if you were completely removed from a telephone.

Furthermore, Bell Atlantic currently offers this very service from its payphones. In order to do so, Bell Atlantic had to receive a waiver from the FCC's Computer II rules. To qualify for the waiver, the service had to pass a rigorous public interest test. A similar request that must meet the same public interest test recently was filed by BellSouth. In comments to the FCC, these two Regional Bell Companies have demonstrated that there are well over 1 billion busy and unanswered telephone calls, from payphones, annually.

It is important to note that, in 1988, Judge Greene granted the Regional Bell Operating Companies a waiver of the modified final judgment, concluding that automatic message delivery services were little more than a delay in a standard telephone transmission and that the Regional Bells should be allowed to offer these caller-directed services to the public.

MessagePhone's automatic message delivery services does not consist of random calls with prerecorded messages that invade the privacy of our constituents. Rather, they provide a message service that clearly is beneficial to the public. It is important that existing and emerging technologies and services that are beneficial to the public should not be prohibited by this legislation.

The broadness of the Senator's original definition of an autodialer would have prevented the telemessaging services I have described.

MessagePhone, Inc., has been providing the messaging service described above which has been favorably perceived by the public. Family members, friends, or business associates can receive a recorded message of very limited duration for subsequent delivery when the telephone line is answered or free.

I understand that the legislation we have before us now does not shut down all telemessaging services. The bill allows the Federal Communications Commission to exempt:

(i) calls that are not made for a commercial purpose; and

(ii) such classes or categories of calls made for commercial purposes as the Commission determines—

(I) will not adversely affect the privacy rights that this section is intended to protect; and

(II) do not include the transmission of any unsolicited advertisement.

I am pleased that this issue was resolved without a formal conference with the Senate, and I further understand that the FCC is amenable to this language as a means of preserving these valuable telemessaging services.

I thank you for your valuable assistance on this issue.

Mr. Speaker, I would like to ask the chairman of the subcommittee, the gentleman from Massachusetts [Mr. MARKEY] if I am correct in my understanding of the bill.

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

Mr. BRYANT. I yield to the gentleman from Massachusetts.

Mr. MARKEY. Mr. Speaker, the gentleman has accurately described the intention of the legislation. We have made the commonsense exceptions that in fact improve communications between individuals using the modern telecommunications technologies while at the same time targeting that abusive robotic use of the technology which has become such an intrusive part of the American society.

Mr. BRYANT. Mr. Speaker, I further understand that the FCC is amenable to the direction that the bill is taking now with regard to this automated type of messaging service; is that correct?

Mr. MARKEY. The gentleman is correct.

Mr. BRYANT. Mr. Speaker, I would like to express my very deep thanks to the gentleman from New Jersey [Mr. RINALDO], too, for allowing us to make this needed correction to the bill.

Mr. RINALDO. Mr. Speaker, I yield 3 minutes to the ranking minority member of the full committee, the gentleman from New York [Mr. LENT].

Mr. LENT. Mr. Speaker, I urge my colleagues to support S. 1462, the Telephone Protection Act of 1991. This bill contains many of the same provisions included in H.R. 1304, the Telephone Advertising Consumer Rights Act, which the House passed last week. The bill reflects a consensus that has been worked out between the House and the Senate on concerns about the telemarketing industry. I want to commend both the gentleman from Massachusetts [Mr. MARKEY] and the gentleman from New Jersey [Mr. RINALDO] as well as the gentlelady from New Jersey [Mrs. ROUKEMA], for an outstanding job and Mike Regan, Jerry Waldron, David Leach, and other Energy and Commerce Committee staff for helping to bring this bill to the floor.

This is important legislation with bipartisan support designed to address various consumer concerns without unnecessarily burdening the telemarketing industry. The bill before the House today reflects a further effort to address problems in the telemarketing industry, while accommodating legitimate concerns of telemarketers that their industry not be unfairly stifled.

S. 1462 explicitly recognizes that there are certain classes and categories of calls that consumers do not mind, and in fact would probably like to receive. Calls informing a customer that a bill is overdue, or a previously unstocked item is now available at a store are clearly not burdensome, and should not be prohibited. Similarly, the bill grants the FCC the latitude to exempt certain services that telephone companies presently offer, or in the future are likely to offer, to send messages and other important information.

While the telemarketing industry is understandably concerned about being subject to excessive regulation, I believe that the Nation's consumers have a reasonable concern regarding privacy. S. 1462 balances both of these concerns, and I urge my colleagues to join me in supporting the bill.

Mr. MARKEY. Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee [Mr. COOPER].

Mr. COOPER. Mr. Speaker, I thank the distinguished chairman of the subcommittee for yielding time to me. I congratulate him for his leadership in moving this legislation. And I add my congratulations to the distinguished ranking member, the gentleman from New Jersey.

Mr. Speaker, I rise in support of this legislation because it effectively addresses the nightly assault by telemarketing machines and operators on the privacy of our homes. Yet it does so in a balanced way that permits telemarketing to continue its important function of promoting commerce.

I have said here before that some of these calls are much more annoying than others. For example, I regard and I hope the FCC will regard, robotic calls by machines such as autodialers and computer-generated voices to be a much greater threat to the privacy of our homes than calls by live operators. At least you can vent your anger to a real person if they have interrupted your dinner. You can ask them questions and hold them accountable to some extent. At least a live person can only call one person at a time.

Among calls placed by live operators, there are some that we may not mind so much. Some are even helpful. We may not mind a call from a local business in town reminding us of a special sale or opportunity. If they are rude or intrusive, they are accountable in the local area by the damage to their reputation among the people who live there. For interstate calls, especially

there. For interstate calls, especially from other time zones, there is no such accountability. Unwanted calls are tainting the wanted ones and make us cringe at the thought of answering the telephone at night. As I have said before, it's a classic case of the bad apples spoiling the whole barrel.

Chairman MARKEY and the Subcommittee on Telecommunications and Finance crafted an excellent bill that would enable the Federal Communications Commission to protect consumers from the calls they don't want, but not restrict their ability to receive the calls they do want. The FCC was given broad flexibility to fashion regulatory approaches to achieve this result. I am pleased to see that in working out a compromise on the legislation passed by the other body, the chairman preserved this flexibility. I commend him for preserving the opportunity for a choice by the consumer.

Under the legislation before us the FCC still has the same breadth of options available to address this issue. Some options are spelled out as examples for the Commission's consideration, but they are not limiting. I was concerned that the compromise with the other body might narrow the options and tilt the regulatory process toward adoption of a national data base. That has clearly not occurred here.

My own belief is that the national database will not bear up well under close scrutiny. I think the company-specific do-not-call approach offers consumers greater choice. To me, it seems more efficient in terms of the cost of implementation and the lag times required to implement it, as compared to the national database. But that is for the FCC to decide.

I am especially pleased that the Commission still has the opportunity to prescribe methods and procedures for local telephone solicitations that are different from that selected for the non-local calls. This will enable the Commission to take into account that telemarketers making local calls already have an accountability within the community by virtue of their reputation as businesses and as individuals. The other methods and procedures available to the Commission for the local option might be entirely different approaches from that selected for the nonlocal calls. For example, the Commission might decide to use a hybrid approach of a mandatory, company-specific do-not-call system at the local level and something else, perhaps even a national database for other calls.

Overall, Mr. Speaker, this is a good compromise. The FCC has the latitude, the tools, to strike a good balance between curbing annoying telemarketing while preserving telemarketing's contribution to commerce. I thank the chairman for his leadership and I wholeheartedly support and endorse this legislation.

Mr. RINALDO. Mr. Speaker, I yield 1 minute to the distinguished minority whip, the gentleman from Georgia [Mr. GINGRICH].

Mr. GINGRICH. Mr. Speaker, I thank my friend for yielding time to me.

Mr. Speaker, I simply want to report to the House that the President 5 minutes ago met with the press and, in response to the Speaker's request for instructions on economic growth, said this House has had a full year to play around with the issue. He is requesting that the Democrats make in order this afternoon a vote on the Republican growth plan.

As soon as the transcript of his exact comments is available, I will bring the transcript to the floor and read his exact words into the RECORD. I think it is now up the Speaker to make in order a vote on the bill.

Mr. MARKEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Oklahoma [Mr. SYNAR].

Mr. SYNAR. Mr. Speaker, I thank the chairman of the subcommittee for yielding this time to me.

Mr. Speaker, I rise in support of today's legislation, and I want to commend the gentleman from New Jersey [Mr. RINALDO] and the gentleman from Massachusetts [Mr. MARKEY], as well as the staffs of the majority and the minority for the outstanding job that they have done to bring us this legislation today.

I also want to particularly commend the chairman of the subcommittee for his statement in which he says that the term "emergency purposes" is also intended to include any automated telephone calls that notify consumers of impending or current power shortages, whether these outages are for scheduled maintenance or unscheduled outages caused by storms or power interruptions for load management programs. That language is inserted, I'm told, in order to try to accommodate the concerns many of our rural electric cooperatives have had with respect to doing normal maintenance on their lines.

Mr. Speaker, I appreciate the personal attention of the subcommittee chairman, and I will convey to the REC's their concerns have been addressed by this legislation.

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Mr. RINALDO. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from my home State of New Jersey [Mrs. ROUKEMA].

Mr. MARKEY. Mr. Speaker, I yield 1 minute to the gentlewoman from New Jersey.

The SPEAKER pro tempore. The gentlewoman from New Jersey [Mrs. ROUKEMA] is recognized for 2 minutes.

Mrs. ROUKEMA. Mr. Speaker, I rise today in strong support of S. 1462, the Telephone Advertising Regulation Act. I also want to thank the distinguished chairman of the Subcommittee on Telecommunications and Finance, Mr. MARKEY, and the distinguished ranking member, my colleague from New Jersey, Mr. RINALDO, for their expeditious handling of this compromise legislation, which preserves the rights of consumers and protects the health and safety of the public. At long last a reliable law will be passed.

Telecommunications and computer technology advances have made information exchange easier, and brought our Nation and the world closer together. However, as with any vital technology, telecommunications and computer equipment may be used in a counterproductive and abusive fashion.

Today, we unfortunatley find that automatic dialing recorded message players are being used in record numbers to systematically solicit unsuspecting and unwilling residential and commercial telephone subscribers. This practice is an unwarranted invasion of privacy, and it can be dangerous and life-threatening. This Congress can no longer stand by the wayside and allow telephones to become a potential health hazard.

I am sure my colleagues have heard many complaints about computer-generated phone calls from their constituents. In my case, I have been contacted by a number of physicians in my district who have justifiably complained that their office emergency lines, typically reserved for critical cases, are being clogged with unsolicited computer calls. One of these physicians also happens to be my husband, Dr. Richard W. Roukema, who has repeatedly suffered this problem on his phone lines reserved for emergency calls from the hospital. I especially appreciate the support of Chairman MARKEY in this respect. His wife, also a practicing physician, understood the problem immediately.

This is harassment.

Computer calls are also harassing police and fire emergency numbers. This problem is particularly serious when the computer-generated call will not disconnect and free up the phone line until after its message has been completed. Mr. Speaker, this practice must stop before lives are lost.

S. 1462 contains a provision which prohibits computer-generated calls to emergency phone lines or pagers at hospitals, physicians' or medical service offices, health care facilities, and fire protection and law enforcement agencies.

Yet, as alluded to earlier, it is not just calls to doctors' offices or police and fire stations that pose a public health hazard. I have previously recounted the story of a New York mother who tried to call an ambulance for her injured child, and the sheer terror she experienced when she picked up her

phone only to find it occupied by a computer call that would not disconnect. Fortunately, that injured child survived, but, Mr. Speaker, let us not wait for tragedy before we act.

S. 1462 also contains a provision requiring computer-generated calls to disconnect as soon as the receiver seeks to terminate the message. This is a commonsense provision which ensures the saftey of telephone customers who may have received unsolicited and unwanted computer-generated calls.

Another important aspect of S. 1462 is that it protects the privacy of telephone subscribers by allowing those citizens who object to receiving computer-generated phone calls to add their names to a national database or a comparable substitute as determined by the FCC. This key provision finally guarantees telephone subscribers freedom from unwanted intrusions into their privacy.

The Senate language has tightened up the prohibition on automatic dialing computers by completely prohibiting their use unless the FCC grants an exemption in the public interest. Such an exemption would include emergency information about natural disasters and health-related evacuations.

Under the provisions of the bill, live telemarketers will still be able to make commercial calls to those customers who have not requested an exemption from such calls. This will allow legitimate telemarketers to conduct business in a safe and responsible fashion, without penalty.

In conclusion, this compromise is faithful to the basic purposes of the original intent of the legislation. It preserves the privacy of the consumer through the ban on autodialers except where consumers choose the exemption.

I support the bill.

Mr. MARKEY. Mr. Speaker, will the gentlewoman yield?

Mrs. ROUKEMA. I yield to the gentleman from Massachusetts.

Mr. MARKEY. Mr. Speaker, I would like to make it quite clear that that particular provision is a direct result of the interest which the husband of the gentlewoman from New Jersey [Mrs. ROUKEMA] showed on this subject.

Mrs. ROUKEMA. My husband and your wife.

Mr. MARKEY. Mr. Speaker, I would simply like to point out that when the gentlewoman from New Jersey [Mrs. ROUKEMA] a year or a year and a half ago approached me with this problem that her husband, a physician, had with the inability for him to have complete control over his telephones for emergency purposes, that that triggered the discussion, the process, which has resulted in the provision being built into this legislation which will protect not only your husband, but my wife, who is also a physician, and the other tens of thousands of physicians and emergency personnel across the country, from having their lines stopped up by these junk calls which in dire circumstances could prevent the proper treatment by physicians of some very serious medical problems in the country.

Mr. Speaker, I want to congratulate the gentlewoman from New Jersey [Mrs. ROUKEMA] and congratulate her husband, because this provision is really in the name of her husband.

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

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

Mr. Speaker, I would like to once again thank the chairman of the full committee, the gentleman from Michigan [Mr. DINGELL], for his work, along with his work, along with his staff on these issues. I would like to thank Senator HOLLINGS, Senator PRESSLER, Senator INOUYE, and Senator DANFORTH for their work on these issues.

I would like to thank John Windhausen and Mary McManus from the Senate Commerce staff for their work, and the yeoman work, to use the words of the gentlewoman from New Jersey [Mrs. ROUKEMA], of Steve Cope from legislative counsel, who has helped us enormously.

When a bill of this magnitude is passed, I recognize my indebtedness to the people who work for me directly on an ongoing basis. At this juncture I would just like to personally acknowledge the work of Gerry Salemme and Jerry Waldron and Colin Crowell and Ed Joseph, who each have participated in this long process. Also I would like to note as well, so that all of the proper thank yous are made, Justin Lilley on the minority side as well, who helped to construct this effort that has produced a piece of legislation which the gentleman from New Jersey [Mr. RINALDO] and I, the gentleman from Michigan [Mr. DINGELL] and the gentleman from New York [Mr. LENT], have been able to bring out to the floor here today.

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

Mr. MARKEY. I am glad to yield to the gentleman from New Jersey.

Mr. RINALDO. Mr. Speaker, I just want to underscore what the chairman of the committee has stated. I think it is important to note for the RECORD that we have a situation on the Subcommittee on Telecommunications and Finance where both majority and minority staffs work very well together in an effort to work out problems with legislation, to compromise effectively, to negotiate, and to come up with the kind of package that meets the needs of the people we represent and the people of this great country of ours, and I would particularly acknowledge the endeavors of David Leach, Jerry Waldron, Colin Crowell, Mike Regan, Justin Lilley, and Cathy Reid, for the fine job they have done, not working for any partisan interest, but working together to achieve the kind of results that we see here this morning, of course once again, in the very bipartisan and fair manner in which Chairman MARKEY runs the subcommittee.

Mr. MARKEY. Mr. Speaker, reclaiming my time, I thank the gentleman from New Jersey [Mr. RINALDO].

Mr. Speaker, I would just like to say that this is the beginning of the end for junk faxes and junk calls in America. This knows no partisan line. This is not a Democrat or Republican issue, this is not a liberal or conservative issue. When those junk faxes start coming over your machine, you do not think like a Republican or a Democrat, you just think how are you going to be able to get your hands around the neck of the person making you pay with your paper for whatever message they are trying to send you.

We are sending instructions over to the FCC that we want them to begin the process here of shutting down the abuse of the telephones and fax machines that have grown over the last half a decade.

Mr. Speaker, I yield 1 minute to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, I want to just attest to the effective bipartisanship of both the gentleman from Massachusetts [Mr. MARKEY] and the gentleman from New Jersey [Mr. RINALDO] on a number of telecommunications issues.

Last night we passed the Corporation for Public Broadcasting bill that had a number of provisions important to women and minorities in rural areas, giving them access to telemarketing. I especially want to note the cooperation I got from the gentleman from Massachusetts [Mr. MARKEY] on a number of issues relating to exemptions when there are medical emergencies and safety issues.

Mr. Speaker, I can attest again to the gentleman from New Jersey [Mr. RINALDO] and the gentleman from Massachusetts [Mr. MARKEY] effectively working on a number of bills. I think we have had a lot of suspensions in this area, and I just want to join in commending them for this very strong effort and their excellent staffs.

Mr. Speaker, I rise today in strong support of S. 1462, the Automated Telephone Consumer Protection Act. I commend the gentlemen from Massachusetts and New Jersey for producing a final product that strikes an appropriate balance so that individuals will be protected from unwanted calls while still having the ability to take advantage of doing some of their shopping and subscription renewals at home over the telephone.

As an early cosponsor of the House version of the bill, H.R. 1304, I am a strong supporter of the effort to control unwanted calls. The question, however, was how to do this while still allowing those telephone solicitation calls

that consumers might want: From their alma mater, from their favorite charity, from their newspaper or magazine about a lapsed subscription. This bill gives the Federal Communications Commission [FCC] a way of regulating these types of calls and provides some necessary guidance and considerations for the FCC as part of their deliberations.

The bill appropriately singles out calls in which there is an existing business relationship between the caller and the consumer. Different rules should apply to these types of calls. Businesses need to be able to contact customers with whom they have a prior or existing business relationship. Generally, these calls are not objectionable to the recipient; they allow the customer to take advantage of special promotions and other offers from vendors with whom they are already familiar. At the same time, I want to emphasize that these vendors should be keeping track of customers' wishes regarding telephone calls and where and when he likes to receive them or not. Responsible telemarketers should respect certain basic privacy concerns irregardless of whether there is an existing business relationship.

Responsible telemarketing practices will not be restricted by this legislation, and the industry will continue to play a beneficial consumer role in our society. For example, newspapers often use telemarketing to renew lapsed subscriptions or offer special promotions to people who receive the paper only a few days a week. Customers are familiar with these calls and generally find it a convenience not to have to get in touch with their distributor about renewal.

Finally, the bill allows the FCC to evaluate alternatives for protecting residential phone customers from unwanted calls. The FCC is authorized to consider several options for how best to accomplish this. It is my personal opinion that the creation of a giant national database containing the names of people who do not wish to receive telemarketing calls is not the best way to go. This proposal is extremely problematic and may cause more harm than good. I would, therefore, urge the FCC to adopt another, less intrusive, means of protecting residential telephone customers from unwanted telemarketing.

Once again, let me congratulate the sponsors of the bill for their extraordinary efforts to produce a final products that deals with various concerns raised by different parties. Because of the leadership of the subcommittee chairman and ranking Republican member, we are able to pass this consensus bill before the end of the first session. I would urge my colleagues to vote for the bill.

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

Mr. Speaker, I would just like to note that, as usual, from my 5 years as subcommittee chairman, the gentleman from New Mexico [Mr. RICHARDSON] has, as he has on every single piece of legislation, inserted provisions that are going to be very important and vital for the protection of the American public. I would like to make that notation here before we conclude debate.

Mr. Speaker, again, we worked in a bipartisan fashion. We hope that the House sees fit to accept this legislation today.

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

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Massachusetts [Mr. MARKEY] that the House suspend the rules and pass the Senate bill, S. 1462, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

REGARDING UNFAIR IMPRISONMENT OF DR. NGUYEN DAN QUE BY GOVERNMENT OF VIETNAM

Mr. SOLARZ. Mr. Speaker, I move to suspend the rules and concur in the Senate concurrent resolution (S. Con. Res. 78) regarding the unfair imprisonment and trial of Dr. Nguyen Dan Que by the Government of Vietnam.

The Clerk read as follows:

S. CON. RES. 78

Whereas the normalization of relations with the Socialist Republic of Vietnam and the potential lifting of the economic embargo depend in part on that nation taking certain steps related to the recognition of certain human rights;

Whereas Dr. Nguyen Dan Que is a nonviolent advocate for human rights and democracy in the Socialist Republic of Vietnam;

Whereas Dr. Nguyen Dan Que's right to free expression is guaranteed by Article 19 of the Universal Declaration of Human Rights;

Whereas Dr. Nguyen Dan Que has been imprisoned for 12 of the last 13 years and has for 14 years suffered from ill health;

Whereas Dr. Nguyen has finally been charged with treason and trying to overthrow the Vietnamese government;

Whereas Dr. Nguyen is scheduled to go on trial on November 29, 1991; and

Whereas numerous international human rights organizations have called for the release of Dr. Nguyen: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) Dr. Nguyen Dan Que should be accorded a fair and impartial trial as is his right under Articles 10 and 11 of the Universal Declaration of Human Rights;

(2) to ensure fairness and impartiality during his impending trail, international observers should be permitted access to all court proceedings and evidence; and

(3) if Dr. Nguyen is merely guilty of nonviolently expressing his views regarding human rights, he should be released immediately.

Sec. 2. The Secretary of the Senate shall transmit a copy of this concurrent resolution to the following persons: the Permanent Representative of Vietnam to the United Nations, the Speaker of the Vietnamese National Assembly, the Foreign Minister and the Prime Minister of the Socialist Republic of Vietnam, as well as the Secretary of State and the President of the United States.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. SOLARZ] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. SOLARZ].

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

Mr. Speaker, this resolution was introduced by Senator ROBB and passed by the other body on Saturday. It expresses the deep concern of the Congress about the impending trial of Dr. Nguyen Dan Que of Vietnam.

Dr. Que, a human rights activist who has spent most of the past 14 years in prison, was arrested in Ho Chi Minh City on June 14, 1990, apparently for the high crime of signing a petition for nonviolent political reform and respect for human rights in Vietnam.

According a Asia Watch, one of the most respected human rights organizations in the world, which is noted in particular for the excellence of the people who work for it, Dr. Que's crime is the exercise of basic human rights of speech and association, as guaranteed, believe it or not, by Vietnam's own constitution, as well as by the International Covenant on Civil and Political Rights, to which the government of Vietnam has acceded.

According to a Ho Chi Minh City law journal, Dr. Que's accusers take as evidence of his so-called criminal intent such alleged facts as—now, listen to this one—his interest in studying Russian, his membership in Amnesty International, his letters protesting human rights abuses in China, Turkey, Greece, Colombia, and the Philippines, his sending a telegram to the government of Japan protesting the repatriation of a defecting Chinese pilot, and testimony from others that Dr. Que is apparently the sort of person who "asks others to join him in action, the same way Western politicians do."

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My friends, these may be serious crimes in Vietnam, but in the United States and most other countries around the world, they would be seen not as evidence of criminality, but as a manifestation of decency and good will and a commitment to the cause of fundamental human rights.

The resolution before us today urges that Dr. Que be accorded a fair and impartial trial and that international observers be permitted access to all court proceedings and evidence.

It also states that if Dr. Que is merely guilty of the nonviolent expression of his views, as Asia Watch and other groups assert, he should be released immediately.

Mr. Speaker, this is a significant resolution, as it reaffirms the importance of human rights in the evolving bilateral relationship between the United States and Vietnam. I think it is very important for the leadership in Hanoi to know that the continued and sys-

tematic violation of basic human rights will inevitably limit the degree of bilateral cooperation between our two countries.

I also hope that the adoption of this resolution will serve to encourage the government in Vietnam to expedite the release and emigration of those so-called reeducation camp detainees who remain in long-term detention and who have been there in most if not all instances for nearly 17 years.

The fact is, of course, that the Government of Vietnam has released most of the thousands of people who had been held in reeducation camps since 1975, and a number of us worked long and hard to bring that about, but the State Department and human rights groups have contended that there are about 100 who remain in long-term detention in these reeducation camps, and we hope the day will soon come when literally all of them are released.

Finally, Mr. Speaker, I want to express my appreciation to the gentleman from Virginia [Mr. WOLF], my very good friend, who encouraged the Committee on Foreign Affairs to move this resolution expeditiously to the floor. For many years now he has been an outspoken advocate on behalf of the cause of human rights in Vietnam in general and the plight of the reeducation camp prisoners over there in particular.

I think we all owe him a debt of gratitude for reminding us of our continuing obligation to speak up on behalf of these people, who suffer either by virtue of their association with our country during the course of the war in Vietnam or because they espouse the fundamental ideals and principles upon which our own great republic was founded 200 years ago.

This resolution will probably not attract much attention over here. I doubt it will be on the front page of the Washington Post tomorrow. But I suspect that Dr. Que somehow or other will learn about it, and I have no doubt it will embolden him and greatly enhance his morale.

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

Mr. SOLARZ. I am pleased to yield to the gentleman from Florida [Mr. FASCELL], my beloved chairman.

Mr. FASCELL. Mr. Speaker, I simply want to join my colleague in his eloquent statement with regard to this legislation and commend the original sponsor, the gentleman from Virginia [Mr. WOLF] and my distinguish ranking member or the Committee on Foreign Affairs, the gentleman from Michigan [Mr. BROOMFIELD].

It is important. The time has come to normalize our relationship after a long, bitter confrontation.

In that process, as we move along, the gentleman is absolutely correct, if there is one constancy about the United States and its people it is our strong conviction with regard to the nonviolent expression of political opinion and human rights.

It is the one thing that is respected around the world by all people regardless of what language they speak. We have seen the constancy of the American people in a firm belief of their value system as the one thing that changed the world and certainly what we see happening all over the world now is ample proof of that.

None of us should take lightly the importance of passing a resolution expressing the conviction of the American people in a matter of this kind.

Mr. Speaker, I rise in support of Senate Concurrent Resolution 78 and urge its immediate adoption by the House. This resolution expresses the sense of the Congress that the Government of Vietnam should accord Dr. Nguyen Dan Que, an outspoken advocate for democracy in that country who is scheduled to go on trial for treason this Friday, his internationally recognized human right to due process of law.

The resolution further calls on the Government of Vietnam to release immediately Dr. Nguyen Dan Que who, in our opinion and that of the international human rights community, has been imprisoned solely for the nonviolent expression of his political views.

Mr. Speaker, as the process of normalizing the relations between the United States and Vietnam begins, it is essential that the United States Government insist that respect for human rights and greater political freedoms for the people of Vietnam be on the bilateral diplomatic agenda. One of the first steps the Government of Vietnam can take—and for which the United States Government should press—is the release of Dr. Nguyen and all others who languish in Vietnamese prisons for their attempts to exercise their internationally recognized human rights, including freedom of thought, expression, association and assembly.

I urge unanimous passage of this resolution.

Mr. SOLARZ. Mr. Speaker, I thank the gentleman for his observation.

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

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

Mr. Speaker, I would like to express my strong support for this resolution.

Senate Concurrent Resolution 78 calls on Vietnam to give Dr. Nguyen Dan Que a fair trial and to release him if in fact his only crime is expressing his views.

Several years ago, Dr. Que, a Vietnamese physician, criticized the lack of medical supplies available to doctors. The Vietnamese authorities punished him for his candor by throwing him in a reeducation camp for 10 years.

After his release in 1988, Dr. Que remained steadfast in his determination to speak the truth about conditions in his country. He continued to speak out for nonviolent political change in Vietnam. The Government has responded by charging him with treason and trying to overthrow the regime.

For 35 years, the Communist government in Hanoi has boasted of its achievements. During the Vietnam war, there were some who were willing to believe that the Communists in Hanoi were only patriots who wanted to build a better future for their country.

Today, the failure of communism in Vietnam is obvious to all except the Government in Hanoi. The country is poor and has a few friends. But the Communists continue to stamp out human rights, and seek to silence men such as Dr. Que, who try to speak out.

For the past few years, the Vietnamese Government has called for an end to the American economic embargo and for normalization of relations between our two countries. Vietnam says that we should bury the past and seek a better relationship with their country.

I'm all for seeking reconciliation with former enemies, including Vietnam. But it seems to me that while the American people's attitudes towards Vietnam have changed, the men in Hanoi are still playing by the old rules and attitudes.

It's time that the Government in Hanoi begins to respect the human rights of its citizens. Senate Concurrent Resolution 78 sends a message to Vietnam that the United States is following Dr. Que's case closely, and that we expect Vietnam to fully respect the principles of the Universal Declaration on Human Rights.

I urge my colleagues to support this important resolution.

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

Mr. WOLF. Mr. Speaker, I want to thank the gentleman from Florida [Mr. FASCELL], the committee chairman, the gentleman from New York [Mr. SOLARZ], and the gentleman from Michigan [Mr. BROOMFIELD], the ranking Republican member, for moving this and for their work on this and other pieces of legislation like this.

I think the Vietnamese Government will know now that the three of them are interested in this, and with the threat of them watching to see what the outcome of this trial would be, I feel much better about it, and I am sure that they know that the three of them are going to be looking to see how it goes and what the results are of the trial.

So to the three gentleman, I appreciate their putting this on and moving it so quickly.

Mr. Speaker, I rise in support of Senate Concurrent Resolution 78 which calls on the Vietnamese Government to guarantee a fair and impartial trial for Dr. Nguyen Dan Que, a prisoner of conscience, who will be brought to trial on November 29, 1991, in Ho Chi Minh City and formally charged with "activities aimed at overthrowing the people's

government." Dr. Que could face the death penalty for this offense.

According to Amnesty International, Dr. Nguyen Dan Que was born in 1942 in northern Vietnam, studied medicine at Saigon University and, on graduation, joined the teaching staff of the university medical school. Dr. Que remained in Ho Chi Minh City after the end of the Vietnam war in 1975, and was appointed director of Cho-ray Hospital. Concerned by the shortage of medicines and standards of medical care in the country, he became disillusioned with the new Government's health care policies and expressed criticisms openly. This led to his dismissal as hospital director and in February 1978, he was arrested and accused of "rebelling against the regime." He was imprisoned for 10 years without charge or trial.

Dr. Que was released in February 1988, and later became a founding member of a political movement established in 1990 under the name of the High Tide of Humanism Movement. In May 1990 this organization launched a petition calling for nonviolent political, social and economic change in Vietnam, including the introduction of a multiparty system for government. In clear violation of the Universal Declaration of Human Rights, Dr. Que was re-arrested one month later, on June 14, 1990, and has been held without charge or trial since. He has allegedly been ill-treated and tortured and is currently suffering ill-health.

Dr. Que will be brought to trial on November 29, and could be put to death for "activities aimed at overthrowing the people's government."

The freedom of expression, the bedrock of free societies, the first amendment of our own Constitution, is being suppressed in Vietnam. Dr. Que will be tried on Friday for non-violently calling for change. As the United States moves toward normalizing relations with Vietnam, the Congress cannot stand by and allow the same country to suppress the most fundamental freedoms.

I call on the Congress to send a message to Vietnam that the United States will not tolerate Vietnam's shirking of international standards of human rights and demand that if Dr. Que is merely guilty of nonviolently expressing his views regarding human rights, he should be released immediately.

□ 1220

Mr. SOLARZ. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey [Mr. ANDREWS].

Mr. ANDREWS of New Jersey. Mr. Speaker, I thank the gentleman for yielding the time and thank the subcommittee chairman and commend him and the ranking minority members for this very forceful and appropriate resolution. I rise in strong support of the resolution.

Mr. Speaker, freedom is winning around the world, but it has not yet won. This is chilling evidence of the fact that there are places in the world where when a man or woman speaks his or her mind or takes an act of political conscience, the penalty can still be severe. I commend the committee for pointing this out, and I would suggest that the only way that the momentum of freedom that we have seen in the last few years can be reversed is if good people of good faith like the members of this committee fail to act and fail to tell Vietnam, in this case, that the world is watching this trial.

So I thank and commend the members of the committee.

Mr. SOLARZ. Mr. Speaker, I simply want to thank the gentleman from New Jersey and let him know that anytime he cares to make remarks like that he will always be eligible for time from the Committee on Foreign Affairs. We appreciate it very much.

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

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

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from New York [Mr. SOLARZ] that the House suspend the rules and concur in the Senate concurrent resolution, Senate Concurrent Resolution 78.

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

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SOLARZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate concurrent resolution just concurred in.

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

There was no objection.

SENSE OF HOUSE WITH RESPECT TO LEGISLATION RELATING TO AMORTIZATION OF GOODWILL AND CERTAIN OTHER INTANGIBLES

Mr. ROSTENKOWSKI. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 292) expressing the sense of the House of Representatives with respect to legislation relating to the amortization of goodwill and certain other intangibles.

The clerk read as follows:

H. RES. 292

Resolved, That it is the sense of the House of Representatives that any legislation enacted with respect to amortization of goodwill and certain other intangibles for Federal income tax purposes should contain a provision permitting taxpayers to elect in a consistent manner the provisions of such legislation with respect to transactions after the date on which H.R. 3035 of the One Hundred Second Congress was introduced and before the otherwise prescribed effective date of such legislation.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 20 minutes, and the gentleman from Texas [Mr. ARCHER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois [Mr. ROSTENKOWSKI].

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the pending resolution.

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

There was no objection.

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

Mr. Speaker, I rise in support of House Resolution 292, expressing the sense of the House with respect to the effective date of legislation to simplify the tax treatment of intangible assets.

As reported by the Committee on Ways and Means, this sense of the House resolution would promote economic stability by ensuring that normal business transactions are not held up while tax simplification legislation works its way through the legislative process.

Last July, I introduced H.R. 3035, which would eliminate much of the controversy over the tax treatment of intangible assets by providing a uniform, predictable set of rules for amortizing these assets. This bill was one of a series of bills that I introduced this year relating to tax simplification.

The Committee on Ways and Means has held 2 days of hearings on H.R. 3035 and the issue of the tax treatment of intangibles. While some problems remain to be worked out, I have been encouraged by the public response to the bill, which has been overwhelmingly favorable. I am also gratified by the Treasury Department's position in support of the bill.

As introduced, H.R. 3035 would become effective on the date of enactment of the bill. Concern has recently been expressed that business transactions are being held up because of uncertainty as to when this legislation might be enacted.

House Resolution 292 would alleviate these concerns by stating the sense of the House that in the event that intangible legislation is enacted into law, taxpayers should be allowed to elect to apply the legislation to all acquisitions of intangible assets taking place after

the date of introduction of H.R. 3035—July 25, 1991—and before its enactment.

Because it is an election at the taxpayer's choice, this sense of the House resolution would not harm any taxpayer, but instead would ensure that taxpayers could proceed with business as usual without fear of losing the benefit of pending tax simplification.

I want to emphasize, Mr. Speaker, that passage of this resolution today is not intended to prejudge or otherwise prejudice important issues that must be worked out next year with respect to H.R. 3035. Issues such as the treatment of computer software, government licenses, movie distribution rights, and retroactivity all must be resolved on their merits in the substantive markup anticipated next year House Resolution 292 is merely intended to allow business transactions to proceed while the underlying intangibles bill works its way through the legislative process.

Mr. Speaker, I urge all my colleagues to support this sense of the House resolution.

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

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

Mr. Speaker, frequently, the mere anticipation of congressional action influences significant business and personal decisions.

A significant change in the law is proposed by a leading lawmaker, and people naturally begin to ask themselves how the proposal might affect them. They may change or delay action they were planning to take.

That has apparently been the case with legislation proposed by Chairman ROSTENKOWSKI on July 25 to change the taxation of intangible assets such as goodwill, customer lists, computer software, know how, and the like.

There is anecdotal evidence that the uncertainty over changes in the amortization of intangibles may be delaying business transactions that would otherwise be taking place.

This resolution attempts to alleviate some of that uncertainty. The last thing the economy needs now is people postponing investments and acquisitions that could produce jobs.

I commend the chairman for moving House Resolution 292 forward. It is a responsible attempt to ease taxpayer concerns while the amortization of intangibles issue is still being considered.

It says that if Congress should enact legislation changing the taxation of intangible assets, we intend to allow taxpayers an election to use the benefits of the new law back to July 25, 1991—if it is to their advantage.

The resolution does not attempt to settle the underlying question of the tax treatment of intangibles. That is a separate issue for another day.

I personally have real concerns about forcing taxpayers to amortize any asset—intangible or otherwise—over a period longer than its economic life.

Importantly, a vote for this resolution today does not obligate anyone to support the chairman's intangibles bill or any other bill. The resolution has no bearing on whether or when amortization legislation will be enacted—or how it would be structured.

It says only that we plan to give taxpayers a choice of new or old law—retroactive to July 25, 1991—if we pass a law on intangibles.

The resolution does not carry with it the force of law. It makes no guarantees. It will however, give taxpayers some degree of assurance that the House doesn't intend to penalize taxpayers who go forward now.

House Resolution 292 deserves our support. I urge its adoption.

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

□ 1230

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. STARK].

Mr. STARK. Mr. Speaker, I just wanted to take this opportunity to engage in a colloquy with the distinguished ranking minority member of the committee.

Mr. Speaker, just to repeat this gentleman's understanding that this resolution does not bind the members of the Ways and Means Committee to vote one way or the other on any procedure, including the issue of retroactivity. Is that the gentleman's understanding?

Mr. ARCHER. Mr. Speaker, if the gentleman will yield, that is my understanding. It is a nonbinding resolution.

Mr. STARK. And that therefore an attorney out on Wall Street today advising his or her clients on a merger or an acquisition when it comes to the possibility of tax treatment of intangibles could not use this as a basis for a legal opinion; would that be the gentleman's understanding?

Mr. ARCHER. Mr. Speaker, if the gentleman will yield further, I am afraid I cannot speculate on legal opinions.

Mr. STARK. All right, but so far as the gentleman knows, there is nothing in this bill that in effect has the force of law?

Mr. ARCHER. I do not think that it is of any benefit to expand on the response that I made initially, but I would simply add, if the gentleman will yield further, that any individual who does enter into an acquisition on the assumption that the intangibles bill will pass is taking a very real risk, because I do not think it is at all certain that it is going to pass.

Mr. STARK. Mr. Speaker, I thank the gentleman. To go on further, that is what I wanted to suggest, that in its most definitive interpretation, this bill could merely represent that a majority of the Ways and Means Committee favored bringing it and that as far as we know, at least two-thirds of the House of Representatives would not object to it as a policy, but that it otherwise would have no force and effect at this moment.

Mr. ARCHER. That is my understanding.

Mr. STARK. Mr. Speaker, I thank the gentleman.

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

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

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Illinois [Mr. ROSTENKOWSKI] that the House suspend the rules and agree to the resolution, House Resolution 292.

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

A motion to reconsider was laid on the table.

TECHNICAL CORRECTIONS ACT OF 1991

Mr. ROSTENKOWSKI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1555) to make technical corrections relating to the Revenue Reconciliation Act of 1990, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1555

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 "Technical Corrections Act of 1991".

TITLE I—REVENUE PROVISIONS

SEC. 101. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 102. AMENDMENTS RELATED TO REVENUE RECONCILIATION ACT OF 1990.

(a) AMENDMENTS RELATED TO SUBTITLE A.—

(1) Subparagraph (B) of section 59(j)(3) is amended by striking "section 1(i)(3)(B)" and inserting "section 1(g)(3)(B)".

(2) Paragraph (2) of section 897(a) is amended by striking "21" in the heading of such paragraph and in subparagraph (A) and inserting "24".

(3) Clause (ii) of section 32(b)(1)(B) is amended by inserting a comma after "greater".

(4) Section 541 is amended by striking "28 percent" and inserting "31 percent".

(5) Subsection (c) of section 32 is amended by adding at the end thereof the following new paragraph:

"(4) TREATMENT OF DEDUCTION FOR MEDICAL INSURANCE OF SELF-EMPLOYED.—In determining the amount of adjusted gross income for purposes of this section, the amount of the

deduction under section 162(l) shall be determined without regard to section 162(l)(3)(B)."

(6) Clause (i) of section 151(d)(3)(C) is amended by striking "joint of a return" and inserting "joint return".

(7) Subparagraph (B) of section 402(e)(1) is amended by striking the last sentence thereof.

(8) Subsection (b) of section 1 is amended by striking "$26,500" in the table contained therein and inserting "$26,050".

(b) AMENDMENTS RELATED TO SUBTITLE B.—

(1) Paragraph (1) of section 11212(e) of the Revenue Reconciliation Act of 1990 is amended by striking "Paragraph (1) of section 6724(d)" and inserting "Subparagraph (B) of section 6724(d)(1)".

(2) Subsection (b) of section 4082 is amended to read as follows:

"(b) TAX ON CERTAIN USES.—If any person uses gasoline (other than in the production of gasoline or special fuels referred to in section 4041), such use shall for purposes of this chapter be considered a removal."

(3)(A) Subparagraph (B) of section 4093(c)(2) is amended by inserting before the period "unless such fuel is sold for exclusive use by a State or any political subdivision thereof".

(B) Paragraph (4) of section 6427(l) is amended by inserting before the period "unless such fuel was used by a State or any political subdivision thereof".

(4) Paragraph (1) of section 6416(b) is amended by striking "chapter 32 or by section 4051" and inserting "chapter 31 or 32".

(5) Paragraph (1) of section 9502(e) is amended to read as follows:

"(1) INCREASES IN TAX REVENUES BEFORE 1993 TO REMAIN IN GENERAL FUND.—In the case of taxes imposed before January 1, 1993, the amounts required to be appropriated under paragraphs (1), (2), and (3) of subsection (b) shall be determined without regard to any increase in a rate of tax enacted by the Revenue Reconciliation Act of 1990."

(6) Section 7012 is amended—

(A) by striking "production or importation of gasoline" in paragraph (3) and inserting "taxes on gasoline and diesel fuel", and

(B) by striking paragraph (4) and redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

(7) Subsection (c) of section 5041 is amended by striking paragraph (6) and by inserting the following new paragraphs:

"(6) CREDIT FOR TRANSFEREE IN BOND.—If—

"(A) wine produced by any person would be eligible for any credit under paragraph (1) if removed by such person during the calendar year,

"(B) wine produced by such person is removed during such calendar year by any other person (hereafter in this paragraph referred to as the 'transferee') to whom such wine was transferred in bond and who is liable for the tax imposed by this section with respect to such wine, and

"(C) such producer holds title to such wine at the time of its removal and provides to the transferee such information as is necessary to properly determine the transferee's credit under this paragraph,

then, the transferee (and not the producer) shall be allowed the credit under paragraph (1) which would be allowed to the producer if the wine removed by the transferee had been removed by the producer on that date.

"(7) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary to carry out the purposes of this subsection, including regulations—

"(A) to prevent the credit provided in this subsection from benefiting any person who produces more than 250,000 wine gallons during a calendar year, and

"(B) to assure proper reduction of such credit for persons producing more than 150,000 wine gallons of wine during a calendar year."

(8) Paragraph (3) of section 5061(b) is amended to read as follows:

"(3) section 5041(f),".

(9) Section 5354 is amended by inserting "(taking into account the appropriate amount of credit with respect to such wine under section 5041(c))" after "any one time".

(10) Effective on the date of the enactment of this Act, paragraph (7) of section 11202(i) of the Revenue Reconciliation Act of 1991 is amended by adding at the end thereof the following: "The Secretary may treat any person who bore the ultimate burden of the tax imposed by this subsection as the person to whom a credit or refund under such provisions may be allowed or made."

(c) AMENDMENTS RELATED TO SUBTITLE C.—

(1) Paragraph (4) of section 56(g) is amended by redesignating subparagraph (I) as subparagraph (H).

(2) Subparagraph (B) of section 6724(d)(1) is amended—

(A) by striking "or" at the end of clause (xi),

(B) by striking the period at the end of the clause added by section 11212(e) of the Revenue Reconciliation Act of 1990 and inserting ", or", and

(C) by redesignating the clause added by section 11323(c)(2) of such Act as clause (xiii).

(3) Subsection (g) of section 6302 is amended by inserting ", 22," after "chapters 21".

(4) The earnings and profits of any insurance company to which section 11305(c)(3) of the Revenue Reconciliation Act of 1990 applies shall be determined without regard to any deduction allowed under such section; except that, for purposes of applying sections 56, 902, 952(c)(1), and 960 of the Internal Revenue Code of 1986, such deduction shall be taken into account.

(5) Subparagraph (D) of section 6038A(e)(4) is amended—

(A) by striking "any transaction to which the summons relates" and inserting "any affected taxable year", and

(B) by adding at the end thereof the following new sentence: "For purposes of this subparagraph, the term 'affected taxable year' means any taxable year if the determination of the amount of tax imposed for such taxable year is affected by the treatment of the transaction to which the summons relates."

(6) Subparagraph (A) of section 6621(c)(2) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall be applied without regard to any such letter or notice which is withdrawn by the Secretary."

(7) Clause (i) of section 6621(c)(2)(B) is amended by striking "this subtitle" and inserting "this title".

(d) AMENDMENTS RELATED TO SUBTITLE D.—

(1) Paragraph (9) of section 132(h) is amended by striking "or the last sentence of subsection (c)(1) thereof".

(2) Notwithstanding section 11402(c) of the Revenue Reconciliation Act of 1990, the amendment made by section 11402(b)(1) of such Act shall apply to taxable years ending after December 31, 1989.

(3) Clause (ii) of section 143(m)(4)(C) is amended—

(A) by striking "any month of the 10-year period" and inserting "any year of the 4-year period",

(B) by striking "succeeding months" and inserting "succeeding years", and

(C) by striking "over the remainder of such period (or, if lesser, 5 years)" and inserting "to zero over the succeeding 5 years".

(e) AMENDMENTS RELATED TO SUBTITLE E.—

(1) Subsection (d) of section 39 is amended—

(A) by redesignating the paragraph added by section 11511(b)(2) of the Revenue Reconciliation Act of 1990 as paragraph (1), and

(B) by redesignating the paragraph added by section 11611(b)(2) of such Act as paragraph (2).

(2)(A) Subsection (h) of section 56 is amended—

(i) by striking "subsection (g)(4)(G)" in paragraph (5) and inserting "subsection (g)(4)(F)", and

(ii) by striking "section 613(e)(3)" in paragraph (7)(B) and inserting "section 613(e)(2)".

(B) Clause (ii) of section 56(d)(1)(B) is amended to read as follows:

"(ii) appropriate adjustments in the application of section 172(b)(2) shall be made to take into account the limitation of subparagraph (A)."

(C) Subparagraph (B) of section 56(g)(1) is amended by striking "and the alternative tax net operating loss deduction" and inserting ", the alternative tax net operating loss deduction, and the deduction under subsection (h)".

(3) Clause (i) of section 613A(c)(3)(A) is amended by striking "the table contained in".

(4) Section 6501 is amended—

(A) by striking subsection (m) (relating to deficiency attributable to election under section 44B) and by redesignating subsections (n) and (o) as subsections (m) and (n), respectively, and

(B) by striking "section 40(f) or 51(j)" in subsection (m) (as redesignated by subparagraph (A)) and inserting "section 40(f), 43, or 51(j)".

(5) Paragraph (2) of section 55(c) is amended by striking "29(b)(5)" and inserting "29(b)(6)".

(6) Subparagraph (C) of section 38(c)(2) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990) is amended by inserting before the period at the end of the first sentence the following: "and without regard to the deduction under section 56(h)".

(7) Clauses (iii) and (iv) of section 53(d)(1)(B) are each amended by striking "section 29(b)(5)(B)" and inserting "section 29(b)(6)(B)".

(8) Subparagraph (B) of section 56(h)(4) is amended by striking "For purposes of subparagraph (A), the" and inserting "The".

(f) AMENDMENTS RELATED TO SUBTITLE F.—

(1)(A) Section 2701(a)(3) is amended by adding at the end thereof the following new subparagraph:

"(C) VALUATION OF QUALIFIED PAYMENTS WHERE NO LIQUIDATION, ETC. RIGHTS.—In the case of an applicable retained interest which is described in subparagraph (B)(i) but not subparagraph (B)(ii), the value of the distribution right shall be determined without regard to this section."

(B) Section 2701(a)(3)(B) is amended by inserting "CERTAIN" before "QUALIFIED" in the heading thereof.

(C) Sections 2701 (d)(1) and (d)(4) are each amended by striking "subsection (a)(3)(B)" and inserting "subsection (a)(3) (B) or (C)".

(2) Clause (i) of section 2701(a)(4)(B) is amended by inserting "(or, to the extent provided in regulations, the rights as to either income or capital)" after "income and capital".

(3)(A) Section 2701(b)(2) is amended by adding at the end thereof the following new subparagraph:

"(C) APPLICABLE FAMILY MEMBER.—For purposes of this subsection, the term 'applicable

family member' includes any lineal descendant of any parent of the transferor or the transferor's spouse."

(B) Section 2701(e)(3) is amended—

(i) by striking subparagraph (B), and

(ii) by striking so much of paragraph (3) as precedes "shall be treated as holding" and inserting:

"(3) ATTRIBUTION OF INDIRECT HOLDINGS AND TRANSFERS.—An individual".

(C) Section 2704(c)(3) is amended by striking "section 2701(e)(3)(A)" and inserting "section 2701(e)(3)".

(4) Clause (i) of section 2701(c)(1)(B) is amended to read as follows:

"(i) a right to distributions with respect to any interest which is junior to the rights of the transferred interest,".

(5)(A) Clause (i) of section 2701(c)(3)(C) is amended to read as follows:

"(i) IN GENERAL.—Payments under any interest held by a transferor which (without regard to this subparagraph) are qualified payments shall be treated as qualified payments unless the transferor elects not to treat such payments as qualified payments. Payments described in the preceding sentence which are held by an applicable family member shall be treated as qualified payments only if such member elects to treat such payments as qualified payments."

(B) The first sentence of section 2701(c)(3)(C)(ii) is amended to read as follows: "A transferor or applicable family member holding any distribution right which (without regard to this subparagraph) is not a qualified payment may elect to treat such right as a qualified payment, to be paid in the amounts and at the times specified in such election."

(C) The time for making an election under the second sentence of section 2701(c)(3)(C)(i) of the Internal Revenue Code of 1986 (as amended by subparagraph (A)) shall not expire before the due date (including extensions) for filing the transferor's return of the tax imposed by section 2501 of such Code for calendar year 1991.

(6) Section 2701(d)(3)(A)(iii) is amended by striking "the period ending on the date of".

(7) Subclause (I) of section 2701(d)(3)(B)(ii) is amended by inserting "or the exclusion under section 2503(b)," after "section 2523,".

(8) Section 2701(e)(5) is amended—

(A) by striking "such contribution to capital or such redemption, recapitalization, or other change" in subparagraph (A) and inserting "such transaction", and

(B) by striking "the transfer" in subparagraph (B) and inserting "such transaction".

(9) Section 2701(d)(4) is amended by adding at the end thereof the following new subparagraph:

"(C) TRANSFER TO TRANSFERORS.—In the case of a taxable event described in paragraph (3)(A)(ii) involving a transfer of an applicable retained interest from an applicable family member to a transferor, this subsection shall continue to apply to the transferor during any period the transferor holds such interest."

(10) Section 2701(e)(6) is amended by inserting "or to reflect the application of subsection (d)" before the period at the end thereof.

(11)(A) Section 2702(a)(3)(A) is amended—

(i) by striking "to the extent" and inserting "if" in clause (i),

(ii) by striking "or" at the end of clause (i),

(iii) by striking the period at the end of clause (ii) and inserting ", or", and

(iv) by adding at the end thereof the following new clause:

"(iii) to the extent that regulations provide that such transfer is not inconsistent with the purposes of this section."

(B)(i) Section 2702(a)(3) is amended by striking "incomplete transfer" each place it appears and inserting "incomplete gift".

(ii) The heading for section 2702(a)(3)(B) is amended by striking "INCOMPLETE TRANSFER" and inserting "INCOMPLETE GIFT".

(12) Section 2703(b)(2) is amended by striking "members of the decedent's family" and inserting "natural objects of the bounty of the transferor".

(g) AMENDMENTS RELATED TO SUBTITLE G.—

(1)(A) Subsection (a) of section 1248 is amended—

(i) by striking ", or if a United States person receives a distribution from a foreign corporation which, under section 302 or 331, is treated as an exchange of stock" in paragraph (1), and

(ii) by adding at the end thereof the following new sentence: "For purposes of this section, a United States person shall be treated as having sold or exchanged any stock if, under any provision of this subtitle, such person is treated as realizing gain from the sale or exchange of such stock."

(B) Paragraph (1) of section 1248(e) is amended by striking "or receives a distribution from a domestic corporation which, under section 302 or 331, is treated as an exchange of stock".

(C) Subparagraph (B) of section 1248(f)(1) is amended by striking "or 361(c)(1)" and inserting "355(c)(1), or 361(c)(1)".

(D) Paragraph (1) of section 1248(i) is amended to read as follows:

"(1) IN GENERAL.—If any shareholder of a 10-percent corporate shareholder of a foreign corporation exchanges stock of the 10-percent corporate shareholder for stock of the foreign corporation, such 10-percent corporate shareholder shall recognize gain in the same manner as if the stock of the foreign corporation received in such exchange had been—

"(A) issued to the 10-percent corporate shareholder, and

"(B) then distributed by the 10-percent corporate shareholder to such shareholder in redemption or liquidation (whichever is appropriate).

The amount of gain recognized by such 10-percent corporate shareholder under the preceding sentence shall not exceed the amount treated as a dividend under this section."

(2) Section 897 is amended by striking subsection (f).

(3) Paragraph (13) of section 4975(d) is amended by striking "section 408(b)" and inserting "section 408(b)(12)".

(4) Clause (iii) of section 56(g)(4)(D) is amended by inserting ", but only with respect to taxable years beginning after December 31, 1989" before the period at the end thereof.

(5)(A) Paragraph (11) of section 11701(a) of the Revenue Reconciliation Act of 1990 (and the amendment made by such paragraph) are hereby repealed, and section 7108(r)(2) of the Revenue Reconciliation Act of 1989 shall be applied as if such paragraph (and amendment) had never been enacted.

(B) Subparagraph (A) shall not apply to any building if the owner of such building establishes to the satisfaction of the Secretary of the Treasury or his delegate that such owner reasonably relied on the amendment made by such paragraph (11).

(h) AMENDMENTS RELATED TO SUBTITLE H.—

(1)(A) Clause (vi) of section 168(e)(3)(B) is amended by striking "or" at the end of subclause (I), by striking the period at the end of subclause (II) and inserting ", or", and by adding at the end thereof the following new subclause:

"(III) is described in section 48(l)(3)(A)(ix) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990)."

(B) Subparagraph (K) of section 168(g)(4) is amended by striking "section 48(a)(3)(A)(iii)" and inserting "section 48(l)(3)(A)(ix) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990)".

(2) Clause (ii) of section 172(b)(1)(E) is amended by striking "subsection (m)" and inserting "subsection (h)".

(3) Sections 805(a)(4)(E), 832(b)(5)(C)(ii)(II), and 832(b)(5)(D)(ii)(II) are each amended by striking "243(b)(5)" and inserting "243(b)(2)".

(4) Subparagraph (A) of section 243(b)(3) is amended by inserting "of" after "In the case".

(5) The subsection heading for subsection (a) of section 280F is amended by striking "INVESTMENT TAX CREDIT AND".

(6) Clause (i) of section 1504(c)(2)(B) is amended by inserting "section" before "243(b)(2)".

(7) Paragraph (3) of section 341(f) is amended by striking "351, 361, 371(a), or 374(a)" and inserting "351, or 361".

(8) Paragraph (2) of section 243(b) is amended to read as follows:

"(2) AFFILIATED GROUP.—For purposes of this subsection:

"(A) IN GENERAL.—The term 'affiliated group' has the meaning given such term by section 1504(b), except that for such purposes sections 1504(b)(2), 1504(b)(4), and 1504(c) shall not apply.

"(B) GROUP MUST BE CONSISTENT IN FOREIGN TAX TREATMENT.—The requirements of paragraph (1)(A) shall not be treated as being met with respect to any dividend received by a corporation if, for any taxable year which includes the day on which such dividend is received—

"(i) 1 or more members of the affiliated group referred to in paragraph (1)(A) choose to any extent to take the benefits of section 901, and

"(ii) 1 or more other members of such group claim to any extent a deduction for taxes otherwise creditable under section 901.".

(9) The amendment made by section 11813(b)(17) of the Revenue Reconciliation Act of 1990 shall be applied as if the material stricken by such amendment included the closing parenthesis after "section 48(a)(5)".

(10) Paragraph (1) of section 179(d) is amended—

(A) by striking "in a trade or business" and inserting "a trade or business", and

(B) by adding at the end thereof the following new sentence: "Such term shall not include any property described in section 50(b) and shall not include air conditioning or heating units and horses".

(11) Subparagraph (E) of section 50(a)(2) is amended by striking "section 48(a)(5)(A)" and inserting "section 48(a)(5)".

(12) The amendment made by section 11801(c)(9)(G)(ii) of the Revenue Reconciliation Act of 1990 shall be applied as if it struck "Section 422A(c)(2)" and inserted "Section 422(c)(2)".

(13) Subparagraph (B) of section 424(c)(3) is amended by striking "a qualified stock option, an incentive stock option, an option granted under an employee stock purchase plan, or a restricted stock option" and inserting "an incentive stock option or an option granted under an employee stock purchase plan".

(14) Subsections (a)(45), (b)(14), and (c)(21) of section 11801 of the Revenue Reconciliation Act of 1990 are hereby repealed, and the Internal Revenue Code of 1986 shall be applied and administered as if such subsections (and the amendments made by such subsections) had not been enacted.

(15) Subparagraph (E) of section 1367(a)(2) is amended by striking "section 613A(c)(13)(B)" and inserting "section 613A(c)(11)(B)".

(16) Subparagraph (B) of section 460(e)(6) is amended by striking "section 167(k)" and inserting "section 168(e)(2)(A)(ii)".

(17) Subparagraph (C) of section 172(h)(4) is amended by striking "subsection (b)(1)(M)" and inserting "subsection (b)(1)(E)".

(18) Section 6503 is amended—

(A) by redesignating the subsection relating to extension in case of certain summonses as subsection (j), and

(B) by redesignating the subsection relating to cross references as subsection (k).

(19) Paragraph (4) of section 1250(e) is hereby repealed.

(i) EFFECTIVE DATE.—Any amendment made by this section shall take effect as if included in the provision of the Revenue Reconciliation Act of 1990 to which such amendment relates.

SEC. 103. MISCELLANEOUS PROVISIONS.

(a) APPLICATION OF AMENDMENTS MADE BY TITLE XII OF OMNIBUS BUDGET RECONCILIATION ACT OF 1990.—Except as otherwise expressly provided, whenever in title XII of the Omnibus Budget Reconciliation Act of 1990 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 Internal Revenue Code of 1986.

(b) TREATMENT OF CERTAIN AMOUNTS UNDER HEDGE BOND RULES.—

(1) Clause (iii) of section 149(g)(3)(B) is amended to read as follows:

"(iii) AMOUNTS HELD PENDING REINVESTMENT OR REDEMPTION.—Amounts held for not more than 30 days pending reinvestment or bond redemption shall be treated as invested in bonds described in clause (i)."

(2) The amendment made by paragraph (1) shall take effect as if included in the amendments made by section 7651 of the Omnibus Budget Reconciliation Act of 1989.

(c) TREATMENT OF CERTAIN DISTRIBUTIONS UNDER SECTION 1445.—

(1) IN GENERAL.—Paragraph (3) of section 1445(e) is amended by adding at the end thereof the following new sentence: "Rules similar to the rules of the preceding provisions of this paragraph shall apply in the case of any distribution to which section 301 applies and which is not made out of the earnings and profits of such a domestic corporation."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to distributions after the date of the enactment of this Act.

(d) TREATMENT OF CERTAIN CREDITS UNDER SECTION 469.—

(1) IN GENERAL.—Subparagraph (B) of section 469(c)(3) is amended by adding at the end thereof the following new sentence: "If the preceding sentence applies to the net income from any property for any taxable year, any credits allowable under subpart B (other than section 27(a)) or D of part IV of subchapter A for such taxable year which are attributable to such property shall be treated as credits not from a passive activity to the extent the amount of such credits does not exceed the regular tax liability of the taxpayer for the taxable year which is allocable to such net income."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to distributions after the date of the enactment of this Act.

(d) TREATMENT OF CERTAIN CREDITS UNDER SECTION 469.—

(1) IN GENERAL.—Subparagraph (B) of section 469(c)(3) is amended by adding at the end thereof the following new sentence: "If the preceding sentence applies to the net income from any property for any taxable year, any credits allowable under subpart B (other than section 27(a)) or D of part IV of subchapter A for such taxable year which are attributable to such property shall be treated as credits not from a passive activity to the extent the amount of such credits does not exceed the regular tax liability of the taxpayer for the taxable year which is allocable to such net income."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1986.

(e) TREATMENT OF DISPOSITIONS UNDER PASSIVE LOSS RULES.—

(1) IN GENERAL.—Subparagraph (A) of section 469(g)(1) is amended to read as follows:

"(A) IN GENERAL.—If all gain or loss realized on such disposition is recognized, the excess of—

"(i) any loss from such activity for such taxable year (determined after the application of subsection (b)), over

"(ii) any net income or gain for such taxable year from all other passive activities (determined after the application of subsection (b)),

shall be treated as a loss which is not from a passive activity."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1986.

(f) MISCELLANEOUS AMENDMENTS TO FOREIGN PROVISIONS.—

(1) COORDINATION OF UNIFIED ESTATE TAX CREDIT WITH TREATIES.—Subparagraph (A) of section 2102(c)(3) is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, property shall not be treated as situated in the United States if such property is exempt from the tax imposed by this subchapter under any treaty obligation of the United States.".

(2) TREATMENT OF CERTAIN INTEREST PAID TO RELATED PERSON.—

(A) IN GENERAL.—Subparagraph (B) of section 163(j)(1) is amended by inserting before the period at the end thereof the following: "(and clause (ii) of paragraph (2)(A) shall not apply for purposes of applying this subsection to the amount so treated)".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply as if included in the amendments made by section 7210(a) of the Revenue Reconciliation Act of 1989.

(3) TREATMENT OF INTEREST ALLOCABLE TO EFFECTIVELY CONNECTED INCOME.—

(A) IN GENERAL.—

(i) Subparagraph (B) of section 884(f)(1) is amended by striking "to the extent" and all that follows down through "subparagraph (A)" and inserting "to the extent that the allocable interest exceeds the interest described in subparagraph (A)".

(ii) The second sentence of section 884(f)(1) is amended by striking "reasonably expected" and all that follows down through the period at the end thereof and inserting "reasonably expected to be allocable interest.".

(iii) Paragraph (2) of section 884(f) is amended to read as follows:

"(2) ALLOCABLE INTEREST.—For purposes of this subsection, the term 'allocable interest' means any interest which is allocable to income which is effectively connected (or treated as effectively connected) with the conduct of a trade or business in the United States."

(B) EFFECTIVE DATE.—The amendments made by subparagraph (A) shall take effect as if included in the amendments made by section 1241(a) of the Tax Reform Act of 1986.

(4) CLARIFICATION OF SOURCE RULE.—

(A) IN GENERAL.—Paragraph (2) of section 865(b) is amended by striking "863(b)" and inserting "863".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall take effect as if included in the amendments made by section 1211 of the Tax Reform Act of 1986.

(5) REPEAL OF OBSOLETE PROVISIONS.—

(A) Paragraph (1) of section 6038(a) is amended by striking ", and" at the end of subparagraph (E) and inserting a period, and by striking subparagraph (F).

(B) Subsection (b) of section 6038A is amended by adding "and" at the end of paragraph (2), by striking ", and" at the end of paragraph (3) and inserting a period, and by striking paragraph (4).

(g) TREATMENT OF ASSIGNMENT OF INTEREST IN CERTAIN BOND-FINANCED FACILITIES.—

(1) IN GENERAL.—Subparagraph (A) of section 1317(3) of the Tax Reform Act of 1986 is amended by adding at the end thereof the following new sentence: "A facility shall not fail to be treated as described in this subparagraph by reason of an assignment (or an agreement to an assignment) by the governmental unit on whose behalf the bonds are issued of any part of its interest in the property financed by such bonds to another governmental unit."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in such section 1317 on the date of the enactment of the Tax Reform Act of 1986.

(h) CLARIFICATION OF TREATMENT OF MEDICARE ENTITLEMENT UNDER COBRA PROVISIONS.—

(1) IN GENERAL.—

(A) Subclause (V) of section 4980B(f)(2)(B)(i) is amended to read as follows:

"(V) MEDICARE ENTITLEMENT FOLLOWED BY QUALIFYING EVENT.—In the case of a qualifying event described in paragraph (3)(B) that occurs less than 18 months after the date the covered employee became entitled to benefits under title XVIII of the Social Security Act, the period of coverage for qualified beneficiaries other than the covered employee shall not terminate under this clause before the close of the 36-month period beginning on the date the covered employee became so entitled."

(B) Clause (v) of section 602(2)(A) of the Employee Retirement Income Security Act of 1974 is amended to read as follows:

"(v) MEDICARE ENTITLEMENT FOLLOWED BY QUALIFYING EVENT.—In the case of a qualifying event described in section 603(2) that occurs less than 18 months after the date the covered employee became entitled to benefits under title XVIII of the Social Security Act, the period of coverage for qualified beneficiaries other than the covered employee shall not terminate under this subparagraph before the close of the 36-month period beginning on the date the covered employee became so entitled."

(C) Clause (iv) of section 2202(2)(A) of the Public Health Service Act is amended to read as follows:

"(iv) MEDICARE ENTITLEMENT FOLLOWED BY QUALIFYING EVENT.—In the case of a qualify-

ing event described in section 2203(2) that occurs less than 18 months after the date the covered employee became entitled to benefits under title XVIII of the Social Security Act, the period of coverage for qualified beneficiaries other than the covered employee shall not terminate under this subparagraph before the close of the 36-month period beginning on the date the covered employee became so entitled."

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to plan years beginning after December 31, 1989.

(i) MISCELLANEOUS CLERICAL AMENDMENTS.—

(1) Subclause (II) of section 56(g)(4)(C)(ii) is amended by striking "of the subclause" and inserting "of subclause".

(2) Paragraph (2) of section 72(m) is amended by inserting "and" at the end of subparagraph (A), by striking subparagraph (B), and by redesignating subparagraph (C) as subparagraph (B).

(3) Paragraph (2) of section 86(b) is amended by striking "adusted" and inserting "adjusted".

(4)(A) The heading for section 112 is amended by striking "**COMBAT PAY**" and inserting "**COMBAT ZONE COMPENSATION**".

(B) The item relating to section 112 in the table of sections for part III of subchapter B of chapter 1 is amended by striking "combat pay" and inserting "combat zone compensation".

(C) Paragraph (1) of section 3401(a) is amended by striking "combat pay" and inserting "combat zone compensation".

(5) Clause (i) of section 172(h)(3)(B) is amended by striking the comma at the end thereof and inserting a period.

(6) Clause (ii) of section 543(a)(2)(B) is amended by striking "section 563(c)" and inserting "section 563(d)".

(7) Paragraph (1) of section 958(a) is amended by striking "sections 955(b)(1)(A) and (B), 955(c)(2)(A)(ii), and 960(a)(1)" and inserting "section 960(a)(1)".

(8) Subparagraph (B) of section 4092(b)(1) is amended by striking "or" at the end of clause (i).

(9) Subsection (g) of section 642 is amended by striking "under 2621(a)(2)" and inserting "under section 2621(a)(2)".

(10) Section 1463 is amended by striking "this subsection" and inserting "this section".

(11) Subsection (k) of section 3306 is amended by inserting a period at the end thereof.

(12) The item relating to section 4472 in the table of sections for subchapter B of chapter 36 is amended by striking "and special rules".

(13) Paragraph (2) of section 4978(b) is amended by striking the period at the end of subparagraph (A) and inserting a comma, and by striking the period and quotation marks at the end of subparagraph (B) and inserting a comma.

(14) Paragraph (3) of section 5134(c) is amended by striking "section 6662(a)" and inserting "section 6665(a)".

(15) Paragraph (2) of section 5206(f) is amended by striking "section 5(e)" and inserting "section 105(e)".

(16) Paragraph (1) of section 6050B(c) is amended by striking "section 85(c)" and inserting "section 85(b)".

(17) Subsection (k) of section 6166 is amended by striking paragraph (6).

(18) Subsection (e) of section 6214 is amended to read as follows:

"(e) CROSS REFERENCE.—

"For provision giving Tax Court jurisdiction to order a refund of an overpayment and to award sanctions, see section 6512(b)(2)."

(19) The section heading for section 6043 is amended by striking the semicolon and inserting a comma.

(20) The item relating to section 6043 in the table of sections for subpart B of part III of subchapter A of chapter 61 is amended by striking the semicolon and inserting a comma.

(21) The table of sections for part I of subchapter A of chapter 68 is amended by striking the item relating to section 6662.

(22)(A) Section 7232 is amended—

(i) by striking "**LUBRICATING OIL,**" in the heading, and

(ii) by striking "lubricating oil," in the text.

(B) The table of sections for part II of subchapter A of chapter 75 is amended by striking "lubricating oil," in the item relating to section 7232.

(23) Paragraph (1) of section 6701(a) of the Omnibus Budget Reconciliation Act of 1989 is amended by striking "subclause (IV)" and inserting "subclause (V)".

(24) Clause (ii) of section 7304(a)(2)(D) of such Act is amended by striking "subsection (c)(2)" and inserting "subsection (c)".

(25) Paragraph (1) of section 7646(b) of such Act is amended by striking "section 6050H(b)(1)" and inserting "section 6050H(b)(2)".

(26) Paragraph (10) of section 7721(c) of such Act is amended by striking "section 6662(b)(2)(C)(ii)" and inserting "section 6661(b)(2)(C)(ii)".

(27) Subparagraph (A) of section 7811(i)(3) of such Act is amended by inserting "the first place it appears" before "in clause (i)".

(28) Paragraph (10) of section 7841(d) of such Act is amended by striking "section 381(a)" and inserting "section 381(c)".

(29) Paragraph (2) of section 7861(c) of such Act is amended by inserting "the second place it appears" before "and inserting".

(30) Paragraph (1) of section 460(b) is amended by striking "the look-back method of paragraph (3)" and inserting "the look-back method of paragraph (2)".

(31) The heading for paragraph (2) of section 6427(b) is amended by striking "3-CENT" and inserting "3.1-CENT".

TITLE II—MEDICARE MISCELLANEOUS AND TECHNICAL AMENDMENTS

SEC. 200. REFERENCES TO OBRA-1990; EFFECTIVE DATE.

(a) REFERENCES TO OMNIBUS BUDGET RECONCILIATION ACT OF 1990.—In this title, the term "OBRA-1990" means the Omnibus Budget Reconciliation Act of 1990.

(b) EFFECTIVE DATE.—Except where otherwise provided, the amendments made by this title and the provisions of this title shall take effect as if included in the enactment of the Omnibus Budget Reconciliation Act of 1990.

Subtitle A—Amendments Relating to Part A of the Medicare Program

SEC. 201. EXCLUDING DISTINCT PSYCHIATRIC AND REHABILITATION UNITS FROM ADJUSTMENT TO PAYMENT AMOUNTS FOR PPS-EXEMPT HOSPITALS (SECTION 4005 OF OBRA-1990).

(a) IN GENERAL.—Section 1886(b)(1)(B)(ii) of the Social Security Act (42 U.S.C. 1395ww(b)(1)(B)(ii)), as amended by section 4005(a)(1) of OBRA-1990, is amended by striking "(ii) in the case of" and inserting "(ii) for a hospital that is not a subsection (d) hospital (other than a unit of a hospital described in subsection (d)(1)(B)(ii)), in the case of".

(b) CONFORMING AMENDMENT.—Section 1886(d)(1)(B) of such Act (42 U.S.C. 1395ww(d)(1)(B)) is amended—

(1) in clause (i), by striking "1861(f)," and inserting "1861(f)) or a rehabilitation hospital (as defined by the Secretary),";

(2) by amending clause (ii) to read as follows:

"(ii) in accordance with regulations of the Secretary, a psychiatric or rehabilitation unit of the hospital which is a distinct part of the hospital (as defined by the Secretary),"; and

(3) by striking the semicolon at the end of clause (v) and all that follows and inserting a period.

SEC. 202. CLARIFICATION OF DRG PAYMENT WINDOW EXPANSION (SECTION 4003 OF OBRA-1990).

(a) APPLICATION TO WHOLLY OWNED ENTITIES.—Section 1886(a)(4) of the Social Security Act (42 U.S.C. 1395ww(a)(4)), as amended by section 4003(a) of OBRA-1990, is amended—

(1) in the first sentence, by striking "wholly owned or operated by" and inserting "related to"; and

(2) by adding at the end the following new sentence: "In the first sentence of this paragraph, an entity is 'related to' a hospital if the hospital is to a significant extent associated or affiliated with or has control of or is controlled by the entity.".

(b) NON-APPLICATION TO PPS-EXEMPT HOSPITALS.—The first sentence of section 1886(a)(4) of such Act (42 U.S.C. 1395ww(a)(4)) is further amended by striking "and includes" and inserting "and (in the case of a subsection (d) hospital) includes".

SEC. 203. ESSENTIAL ACCESS COMMUNITY HOSPITAL PROGRAM.

(a) INCREASING NUMBER OF PARTICIPATING STATES.—Section 1820(a)(1) of the Social Security Act (42 U.S.C. 1395i-4(a)(1)) is amended by striking "7" and inserting "9".

(b) PERMITTING DESIGNATION OF HOSPITALS LOCATED IN URBAN AREAS.—Section 1820 of the Social Security Act (42 U.S.C. 1395i-4) is amended—

(1) by striking paragraph (1) of subsection (e) and redesignating paragraphs (2) through (6) as paragraphs (1) through (5); and

(2) in subsection (e)(1)(A) (as redesignated by paragraph (1)—

(A) by striking ", (ii)" and inserting "or (ii)",

(B) by striking "or (iii)" and all that follows through "section,", and

(C) in subsection (i)(1)(B), by striking "paragraph (3)" and inserting "paragraph (2)".

(c) PERMITTING HOSPITALS LOCATED IN ADJOINING STATES TO PARTICIPATE IN STATE PROGRAM.—

(1) IN GENERAL.—Section 1820 of such Act (42 U.S.C. 1395i-4) is amended—

(A) by redesignating subsection (k) as subsection (l); and

(B) by inserting after subsection (j) the following new subsection:

"(k) ELIGIBILITY OF HOSPITALS NOT LOCATED IN PARTICIPATING STATES.—Notwithstanding any other provision of this section—

"(1) for purposes of including a hospital or facility as a member institution of a rural health network, a State may designate a hospital or facility that is not located in the State as an essential access community hospital or a rural primary care hospital if the hospital or facility is located in an adjoining

State and is otherwise eligible for designation as such a hospital; and

"(2) the Secretary may designate a hospital or facility that is not located in a State receiving a grant under subsection (a)(1) as an essential access community hospital or a rural primary care hospital if the hospital or facility is a member institution of a rural health network of a State receiving a grant under such subsection.

"(3) a hospital or facility designated by a State pursuant to paragraph (1) shall be eligible to receive a grant under subsection (a)(2).".

(2) CONFORMING AMENDMENT.—Section 1820(c)(1) of such Act (42 U.S.C. 1395i-4(c)(1)) is amended by striking "paragraph (3)" and inserting "paragraph (3) or subsection (k)".

(d) CLARIFICATION OF PHYSICIAN STAFFING REQUIREMENT FOR RURAL PRIMARY CARE HOSPITALS.—Section 1820(f)(1)(H) of such Act (42 U.S.C. 1395i-4(f)(1)(H)) is amended by striking the period and inserting the following: ", except that in determining whether a facility meets the requirements of this subparagraph, subparagraphs (E) and (F) of that paragraph shall be applied as if any reference to a 'physician' is a reference to a physician as defined in section 1861(r)(1).".

(e) MISCELLANEOUS TECHNICAL AMENDMENTS.—(1) Section 1812(a)(1) of such Act (42 U.S.C. 1395d(a)(1)) is amended—

(A) by striking "inpatient hospital services" the first place it appears and inserting "inpatient hospital services or inpatient rural primary care hospital services";

(B) by striking "inpatient hospital services" the second place it appears and inserting "such services"; and

(C) by striking "and inpatient rural primary care hospital services".

(2) Sections 1813(a) and 1813(b)(3)(A) of such Act (42 U.S.C. 1395e(a), 1395e(b)(3)(A)) are each amended by striking "inpatient hospital services" each place it appears and inserting "inpatient hospital services or inpatient rural primary care hospital services".

(3) Section 1813(b)(3)(B) of such Act (42 U.S.C. 1395e(b)(3)(B)) is amended by striking "inpatient hospital services" and inserting "inpatient hospital services, inpatient rural primary care hospital services".

(4) Section 1861(a) of such Act (42 U.S.C. 1395x(a)) is amended—

(A) in paragraphs (1), by striking "inpatient hospital services" and inserting "inpatient hospital services, inpatient rural primary care hospital services"; and

(B) in paragraph (2), by striking "hospital" and inserting "hospital or rural primary care hospital".

SEC. 204. CARE OF PATIENTS RECEIVING QUALIFIED PSYCHOLOGIST SERVICES.

Section 1861(e)(4) of the Social Security Act (42 U.S.C. 1395x(e)(4)) is amended by striking "physician;" and inserting "physician, except that a patient receiving qualified psychologist services (as defined in subsection (ii)) may be under the care of a clinical psychologist with respect to such services to the extent permitted under State law;".

SEC. 205. TREATMENT OF CERTAIN MILITARY FACILITIES.

(a) COVERAGE OF SERVICES PROVIDED IN CERTAIN UNIFORMED SERVICES TREATMENT FACILITIES.—

(1) IN GENERAL.—The Secretary of Health and Human Services may not take any action to recover amounts that were paid by the United States under title XVIII of the Social Security Act to the facilities described in paragraph (2) (or to other individuals or entities with whom such facilities had entered into agreements to provide services under such title) for services provided during the period beginning October 1, 1986, and ending December 31, 1989.

(2) FACILITIES DESCRIBED.—The facilities referred to in paragraph (1) are the hospitals described in section 248c of title 42, United States Code, that are located in Boston, Massachusetts; Baltimore, Maryland; and Seattle, Washington.

(b) STUDY OF JOINT MEDICAL FACILITY.—

(1) STUDY.—The Secretary of Health and Human Services, in consultation with the Secretary of Defense, shall conduct a study of the feasibility and desirability of establishing a joint medical facility among the Department of Defense, the Department of Veterans' Affairs, and other public and private entities, and shall include in such study an analysis of the need to make changes in the medicare and medicaid programs (including facility certification standards under such programs) in order to facilitate the establishment of such joint medical facility.

(2) REPORT.—Not later than June 1, 1992, the Secretary of Health and Human Services shall submit a report on the study conducted under paragraph (1) to the Committee on Finance of the Senate and the Committees on Ways and Means and Energy and Commerce of the House of Representatives.

SEC. 206. TECHNICAL CORRECTION RELATING TO NURSING HOME REFORM (SECTION 4008 OF OBRA-1990).

Section 1819(b)(3)(C)(i)(I) of the Social Security Act (42 U.S.C. 1395i-3(b)(3)(C)(i)(I)), as amended by section 4008(h)(2)(C) of OBRA-1990, is amended by striking "not later than" before "14 days".

Subtitle B—Amendments Relating to Part B of the Medicare Program

SEC. 211. PHYSICIAN PAYMENT PROVISIONS (SECTIONS 4101 THROUGH 4118 OF OBRA-1990).

(a) OVERVALUED PROCEDURES (SECTION 4101 OF OBRA-1990).—(1) Section 1842(b)(16)(B)(iii) of the Social Security Act, as added by section 4101(b) of OBRA-1990, is amended—

(A) by striking ", simple and subcutaneous",

(B) by striking "; small" and inserting "and small",

(C) by striking "treatments;" the first place it appears and inserting "and",

(D) by striking "lobectomy;",

(E) by striking "enterectomy; colectomy; cholecystectomy;",

(F) by striking "; transurerethral resection" and inserting "and resection", and

(G) by striking "sacral laminectomy;".

(2) Section 4101(b)(2) of OBRA-1990 is amended—

(A) in the matter before subparagraph (A), by striking "1842(b)(16)" and inserting "1842(b)(16)(B)", and

(B) in subparagraph (B)—

(i) by striking ", simple and subcutaneous",

(ii) by striking "(HCPCS codes 19160 and 19162)" and inserting "(HCPCS code 19160)", and

(iii) by striking all that follows "(HCPCS codes 92250" and inserting "and 92260).".

(b) RADIOLOGY SERVICES (SECTION 4102 OF OBRA-1990).—(1) Section 1834(b)(4) of the Social Security Act is amended by redesignating subparagraphs (E) and (F) (as previously redesignated by section 4102(a)(1) of OBRA-1990) as subparagraphs (F) and (G), respectively.

(2) Section 1834(b)(4)(D) of the Social Security Act, as inserted by section 4102(a)(2) of OBRA-1990, is amended—

(A) in the matter before clause (i), by striking "shall be determined as follows:" and inserting "shall, subject to clause (vii), be reduced to the adjusted conversion factor for the locality determined as follows:",

(B) in clause (iv), by striking "LOCAL ADJUSTMENT.—Subject to clause (vii), the conversion factor to be applied to" and inserting "ADJUSTED CONVERSION FACTOR.—The adjusted conversion factor for",

(C) in clause (vii), by striking "under this subparagraph", and

(D) in clause (vii), by inserting "reduced under this subparagraph by" after "shall not be".

(3) Section 4102(c)(2) of OBRA-1990 is amended by striking "radiology services" and all that follows and inserting "nuclear medicine services".

(4) Section 4102(d) of OBRA-1990 is amended by striking "new paragraph" and inserting "new subparagraph".

(5) Section 1834(b)(4)(E) of the Social Security Act, as inserted by section 4102(d) of OBRA-1990, is amended by inserting "RULE FOR CERTAIN SCANNING SERVICES.—" after "(E)".

(6) Section 1848(a)(2)(D)(iii) of the Social Security Act, as added by section 4102(g)(2)(B) of OBRA-1990, is amended by striking "that are subject to section 6105(b) of the Omnibus Budget Reconciliation Act of 1989" and by striking "provided under such section" and inserting "provided under section 6105(b) of the Omnibus Budget Reconciliation Act of 1989".

(c) ANESTHESIA SERVICES (SECTION 4103 OF OBRA-1990).—(1) Section 4103(a) of OBRA-1990 is amended by striking "REDUCTION IN FEE SCHEDULE" and inserting "REDUCTION IN PREVAILING CHARGES".

(2) Section 1842(q)(1)(B) of the Social Security Act, as inserted by section 4103(a)(2) of OBRA-1990, is amended—

(A) in the matter before clause (i), by striking "shall be determined as follows:" and inserting "shall, subject to clause (iv), be reduced to the adjusted prevailing charge conversion factor for the locality determined as follows:", and

(B) in clause (iii), by striking "Subject to clause (iv), the prevailing charge conversion factor to be applied in" and inserting "The adjusted prevailing charge conversion factor for".

(d) ASSISTANTS AT SURGERY (SECTION 4107 OF OBRA-1990).—(1) Section 1848(i)(2)(B) of the Social Security Act, as added by section 4107(a)(1) of OBRA-1990, is amended by striking "performed under this part" and inserting "paid under this part".

(2) Section 4107(c) of OBRA-1990 is amended by inserting "(a)(1)" after "subsection".

(3) Section 4107(a)(2) of OBRA-1990 is amended by adding at the end the following: "In applying section 1848(g)(2)(D) of the Social Security Act for services of an assistant-at-surgery furnished during 1991, the recognized payment amount shall not exceed the maximum amount specified under section 1848(i)(2)(A) of such Act (as applied under this paragraph in such year).".

(e) TECHNICAL COMPONENTS OF DIAGNOSTIC SERVICES (SECTION 4108 OF OBRA-1990).—Section 1842(b) of the Social Security Act is amended by redesignating paragraph (18), as added by section 4108(a) of OBRA-1990, as paragraph (17) and, in such paragraph, by inserting ", tests specified in paragraph (14)(C)(i)," after "diagnostic laboratory tests".

(f) STATEWIDE FEE SCHEDULES (SECTION 4117 OF OBRA-1990).—Section 4117 of OBRA-1990 is amended—

(1) in subsection (a)—

(A) by striking "IN GENERAL.—", and

(B) by striking ", if the" and all that follows through "1991, "; and

(2) by striking subsections (b), (c), and (d).

(g) RECIPROCAL BILLING ARRANGEMENTS (SECTION 4110 OF OBRA–1990).—Clause (D) of section 1842(b)(6) of the Social Security Act, as inserted by section 4110(a)(2) of OBRA–1990), is amended to read as follows: "(D) payment may be made to a physician for physicians' services (and services furnished incident to such services) furnished by a second physician to patients of the first physician if (i) the first physician is unavailable to provide the services; (ii) the services are furnished pursuant to an arrangement between the two physicians that (I) is informal and reciprocal, or (II) involves per diem or other fee-for-time compensation for such services; (iii) the services are not provided by the second physician over a continuous period of more than 60 days; and (iv) the claim form submitted to the carrier for such services includes the second physician's unique identifier (provided under the system established under subsection (r)) and indicates that the claim meets the requirements of this clause for payment to the first provider".

(h) STUDY OF AGGREGATION RULE FOR CLAIMS OF SIMILAR PHYSICIAN SERVICES (SECTION 4113 OF OBRA–1990).—Section 4113 of OBRA–1990 is amended—

(1) by inserting "of the Social Security Act" after "1869(b)(2)"; and

(2) by striking "December 31, 1992" and inserting "December 31, 1993".

(i) OTHER MISCELLANEOUS AND TECHNICAL AMENDMENTS.—(1) The heading of section 1834(f) of the Social Security Act (42 U.S.C. 1395m(f)), as amended by section 4104(a) of OBRA–1990, is amended by striking "FISCAL YEAR".

(2)(A) Section 4105(b) of OBRA–1990 is amended—

(i) in paragraph (2), by striking "amendments" and inserting "amendment", and

(ii) in paragraph (3), by striking "amendments made by paragraphs (1) and (2)" and inserting "amendment made by paragraph (1)".

(B) Section 1848(f)(2)(C) of the Social Security Act (42 U.S.C. 1395w–4(f)(2)(C)), as added by section 4105(c)(2) of OBRA–1990, is amended by inserting "PERFORMANCE STANDARD RATES OF INCREASE FOR FISCAL YEAR 1991.—" after "(C)".

(C) Section 4105(d) of OBRA–1990 is amended by inserting "PUBLICATION OF PERFORMANCE STANDARD RATES.—" after "(d)".

(3) Section 1842(b)(4)(F) of the Social Security Act (42 U.S.C. 1395u(b)(4)(F)), as amended by section 4106(a)(1) of OBRA–1990, is amended—

(A) in clause (i), by striking "prevailing charge" the first place it appears and inserting "customary charge"; and

(B) in clause (ii)(III), by striking "second, third, and fourth" and inserting "first, second, and third".

(4) Section 1842(b)(4)(F)(ii)(I) of the Social Security Act (42 U.S.C. 1395u(b)(4)(F)(ii)(I)), as amended by section 4106(a)(1) of OBRA–1990, is amended by striking "respiratory therapist,".

(5) Section 4106(c) of OBRA–1990 is amended by inserting "of the Social Security Act" after "1848(d)(1)(B)".

(6) Section 4114 of OBRA–1990 is amended by striking "patients" the second place it appears.

(7) Section 1848(e)(1)(C) of the Social Security Act, as added by section 4118(c)(2) of OBRA–1990, is amended by inserting "date of the" after "since the".

(8) Section 4118(f)(1)(D) of OBRA–1990 is amended by striking "is amended".

(9) Section 4118(f)(1)(N)(ii) of such Act is amended by striking "subsection (f)(5)(A)" and inserting "subsection (f)(5)(A))".

(10) Section 1845(e) of the Social Security Act (42 U.S.C. 1395w–1(e)), as amended by section 4118(j)(1)(D) of OBRA–1990, is amended—

(A) by striking paragraph (2); and

(B) by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4).

(11) Section 4118(j)(2) of OBRA–1990 is amended by striking "In section" and inserting "Section".

(12)(A) Section 1848(i)(3) of the Social Security Act, as added by section 4118(k) of OBRA–1990, is amended by striking the space before the period at the end.

(B) Section 1834(a)(10)(B) of the Social Security Act is amended by striking "as such provisions apply to physicians' services and physicians and a reasonable charge under section 1842(b)".

SEC. 212. SERVICES FURNISHED IN AMBULATORY SURGICAL CENTERS (SECTION 4151 OF OBRA–1990).

(a) PAYMENT AMOUNTS FOR SERVICES FURNISHED IN AMBULATORY SURGICAL CENTERS.—(1)(A) Section 1833(i)(2)(A)(i) of the Social Security Act (42 U.S.C. 1395l(i)(2)(A)(i)) is amended by striking the comma at the end and inserting the following: ", as determined in accordance with a survey (based upon a representative sample of procedures and facilities) taken not later than July 1, 1993, and every 5 years thereafter, of the actual audited costs incurred by such centers in providing such services,".

(B) Section 1833(i)(2) of such Act (42 U.S.C. 1395l(i)(2)) is amended—

(i) in the second sentence of subparagraph (A) and the second sentence of subparagraph (B), by striking "and may be adjusted by the Secretary, when appropriate,"; and

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

"(C) Notwithstanding the second sentence of subparagraph (A) or the second sentence of subparagraph (B), if the Secretary has not updated amounts established under such subparagraphs with respect to facility services furnished during a fiscal year (beginning with fiscal year 1994), such amounts shall be increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with March of the preceding fiscal year.".

(C) The second sentence of section 1833(i)(1) of such Act (42 U.S.C. 1395l(i)(1)) is amended by striking the period and inserting the following: ", in consultation with appropriate trade and professional organizations.".

(2) Section 4151(c)(3) of OBRA–1990 is amended by striking "for the insertion of an intraocular lens" and inserting "for an intraocular lens inserted".

(b) ADJUSTMENTS TO PAYMENT AMOUNTS FOR NEW TECHNOLOGY INTRAOCULAR LENSES.—(1) Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services (hereafter referred to as the "Secretary") shall develop and implement a process under which interested parties may request review by the Secretary of the appropriateness of the reimbursement amount provided under section 1833(i)(2)(A)(iii) of the Social Security Act with respect to a class of new technology intraocular lenses. For purposes of the preceding sentence, an intraocular lens may not be treated as a new technology lens unless it has been approved by the Food and Drug Administration.

(2) In determining whether to provide an adjustment of payment with respect to a particular lens under paragraph (1), the Secretary shall take into account whether use of the lens is likely to result in reduced risk of intraoperative or postoperative complication or trauma, accelerated postoperative recovery, reduced induced astigmatism, improved postoperative visual acuity, more stable postoperative vision, or other comparable clinical advantages.

(3) The Secretary shall publish notice in the Federal Register from time to time (but no less often than once each year) of a list of the requests that the Secretary has received for review under this subsection, and shall provide for a 30-day comment period on the lenses that are the subjects of the requests contained in such notice. The Secretary shall publish a notice of his determinations with respect to intraocular lenses listed in the notice within 90 days after the close of the comment period.

(4) Any adjustment of a payment amount (or payment limit) made under this subsection shall become effective not later than 30 days after the date on which the notice with respect to the adjustment is published under paragraph (3).

SEC. 213. DURABLE MEDICAL EQUIPMENT (SECTION 4152 OF OBRA–1990).

(a) UPDATES TO PAYMENT AMOUNTS.—Subparagraph (A) of section 1834(a)(14) of the Social Security Act, as added by section 4152(b)(4) of OBRA–1990, is amended to read as follows:

"(A) for 1991 and 1992, the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year reduced by 1 percentage point; and".

(b) TREATMENT OF POTENTIALLY OVERUSED ITEMS AND ADVANCED DETERMINATIONS OF COVERAGE.—(1) Effective on the date of the enactment of this Act, section 1834(a)(15) of the Social Security Act, as added by section 4152(e) of OBRA–1990, is amended to read as follows:

"(15) SPECIAL TREATMENT FOR POTENTIALLY OVERUSED ITEMS.—

"(A) DEVELOPMENT OF LIST OF ITEMS BY SECRETARY.—The Secretary shall develop and periodically update a list of items for which payment may be made under this subsection that are potentially overused, and shall include in such list seat-lift mechanisms, transcutaneous electrical nerve stimulators, motorized scooters, and any such other item determined by the Secretary to be potentially overused on the basis of any of the following criteria—

"(i) the item is marketed directly to potential patients;

"(ii) the item is marketed with an offer to potential patients to waive the costs of coinsurance associated with the item or is marketed as being available at no cost to policyholders of a medicare supplemental policy (as defined in section 1882(g)(1));

"(iii) the item has been subject to a consistent pattern of overutilization; or

"(iv) a high proportion of claims for payment for such item under this part may not be made because of the application of section 1862(a)(1).

"(B) ITEMS SUBJECT TO SPECIAL CARRIER SCRUTINY.—Payment may not be made under this part for any item contained in the list developed by the Secretary under subparagraph (A) unless the carrier has subjected the claim for payment for the item to special scrutiny or has followed the procedures described in paragraph (11)(C) with respect to the item.".

(2) Effective January 1, 1992, section 1834(a)(11) of such Act (42 U.S.C. 1395m(a)) is amended by adding at the end the following new subparagraph:

"(C) CARRIER DETERMINATIONS FOR CERTAIN ITEMS IN ADVANCE.—A carrier shall determine in advance whether payment for an item may not be made under this subsection because of the application of section 1862(a)(1) if—

"(i) the item is a customized item (other than inexpensive items specified by the Secretary); or

"(ii) the item is a specified covered item under subparagraph (B).".

(3) Section 1842(c) of such Act (42 U.S.C. 1395u(c)) is amended by adding at the end the following new paragraph:

"(4) Each contract under this section which provides for the disbursement of funds, as described in subsection (a)(1)(B), shall require the carrier to meet criteria developed by the Secretary to measure the timeliness of carrier responses to requests for payment of items described in section 1834(a)(11)(C).".

(4) Section 1834(h)(3) of such Act, as added by section 4153(a) of OBRA–1990, is amended by striking "paragraph (10) and paragraph (11)" and inserting "paragraphs (10) and (11)".

(c) STUDY OF VARIATIONS IN DURABLE MEDICAL EQUIPMENT SUPPLIER COSTS.—

(1) COLLECTION AND ANALYSIS OF SUPPLIER COST DATA.—The Administrator of the Health Care Financing Administration shall, in consultation with appropriate organizations, collect data on supplier costs of durable medical equipment for which payment may be made under part B of the medicare program, and shall analyze such data to determine the proportions of such costs attributable to the service and product components of furnishing such equipment and the extent to which such proportions vary by type of equipment and by the geographic region in which the supplier is located.

(2) DEVELOPMENT OF GEOGRAPHIC ADJUSTMENT INDEX; REPORTS.—Not later than January 1, 1993—

(A) the Administrator shall submit a report to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the data collected and the analysis conducted under subparagraph (A), and shall include in such report the Administrator's recommendations for a geographic cost adjustment index for suppliers of durable medical equipment under the medicare program and an analysis of the impact of such proposed index on payments under the medicare program; and

(B) the Comptroller General shall submit a report to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate analyzing on a geographic basis the supplier costs of durable medical equipment under the medicare program.

(d) OXYGEN RETESTING.—Section 1834(a)(5)(E) of the Social Security Act (42 U.S.C. 1395m(a)(5)(E)) is amended by striking "55" and inserting "56".

(e) ORTHOTIC AND PROSTHETIC FEE SCHEDULES.—Section 1834(h)(2) of the Social Security Act (42 U.S.C. 1395m(h)(2)) is amended—

(1) in subparagraph (A)(ii)(II), by striking "1992 or 1993" and inserting "1992, 1993, or 1994";

(2) in subparagraph (B)(i), by striking "1992" and inserting "1993"; and

(3) in subparagraph (C)—

(A) in clause (i), by striking "or 1991" and inserting "1991, or 1992",

(B) in clause (ii), by striking "1992" each place it appears and inserting "1993",

(C) in clause (iii), by striking "1993" each place it appears and inserting "1994", and

(D) in clause (iv), by striking "1994" and inserting "1995".

(f) OTHER TECHNICAL AND CONFORMING AMENDMENTS.—(1) Section 4152(a)(3) of OBRA–1990 is amended by striking "amendment made by subsection (a)" and inserting "amendments made by this subsection".

(2) Section 4152(c)(2) of OBRA–1990 is amended by striking "1395m(a)(7)(A)" and inserting "1395m(a)(7)".

(3) Section 1834(a)(7)(A)(iii)(II) of the Social Security Act, as inserted by section 4152(c)(2)(D) of OBRA–1990, is amended by striking "clause (v)" and inserting "clause (vi)".

(4) Section 1834(a)(7)(C)(i) of the Social Security Act, as added by section 4152(c)(2)(F) of OBRA–1990, is amended by striking "or paragraph (3)".

(5) Section 1834(a)(3) of the Social Security Act (42 U.S.C. 1395m(a)(3)), as amended by section 4152(c)(3) of OBRA–1990, is amended by striking subparagraph (D).

(6) Section 4153(c)(1) of OBRA–1990 is amended by striking "1834(a)" and inserting "1834(h)".

(7) Section 4153(d)(2) of OBRA–1990 is amended by striking "Reconciliation" and inserting "Reconciliation".

(8)(A) Section 1834(a) of the Social Security Act (42 U.S.C. 1395m(a)) is amended by striking paragraph (6).

(B) Section 1834(a) of such Act (42 U.S.C. 1395m) is amended—

(i) in subparagraphs (A) and (B) of paragraph (1), by striking "(2) through (7)" each place it appears and inserting "(2) through (5) and (7)";

(ii) in paragraph (7), by striking "(2) through (6)" and inserting "(2) through (5)";

(iii) in paragraph (8), by striking "paragraphs (6) and (7)" each place it appears in the matter preceding subparagraph (A) and in subparagraph (C) and inserting "paragraph (7)"; and

(iv) in paragraph (8)(A)(i), by striking "described—" and all that follows and inserting "described in paragraph (7) equal to the average of the purchase prices on the claims submitted on an assignment-related basis for the unused item supplied during the 6-month period ending with December 1986.".

SEC. 214. OTHER PART B ITEMS AND SERVICES (SECTIONS 4154 THROUGH 4164 OF OBRA–1990).

(a) REVISION OF INFORMATION ON PART B CLAIMS FORMS.—Section 1833(q)(1) of the Social Security Act (42 U.S.C. 1395l(q)(1)) is amended—

(1) by striking "provider number" and inserting "unique physician identification number"; and

(2) by striking "and indicate whether or not the referring physician is an interested investor (within the meaning of section 1877(h)(5))".

(b) CONSULTATION FOR SOCIAL WORKERS.—Effective with respect to services furnished on or after January 1, 1991, section 6113(c) of the Omnibus Budget Reconciliation Act of 1989 is amended—

(A) by inserting "and clinical social worker services" after "psychologist services"; and

(B) by striking "psychologist" the second and third place it appears and inserting "psychologist or clinical social worker".

(c) REPORTS ON HOSPITAL OUTPATIENT PAYMENT.—(1) The Omnibus Budget Reconciliation Act of 1989 is amended by striking section 6137.

(2) Section 1135(d) of the Social Security Act (42 U.S.C. 1320b–5(d)) is amended—

(1) by striking paragraph (6); and

(2) in paragraph (7)—

(A) by striking "systems" each place it appears and inserting "system"; and

(B) by striking "paragraphs (1) and (6)" and inserting "paragraph (1)".

(d) RADIOLOGY AND DIAGNOSTIC SERVICES PROVIDED IN HOSPITAL OUTPATIENT DEPARTMENTS.—(1) Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1989, section 1833(n)(1)(B)(i)(II) of the Social Security Act (42 U.S.C. 1395l(n)(1)(B)(i)(II)) is amended—

(A) by striking "1989" and inserting "1989 and for services described in subsection (a)(2)(E)(ii) furnished on or after January 1, 1992"; and

(B) by striking "1842(b)" and inserting "1842(b) (or, in the case of services furnished on or after January 1, 1992, under section 1848)".

(2) Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1989, section 1833(n)(1)(B)(i)(II) of the Social Security Act (42 U.S.C. 1395l(n)(1)(B)(i)(II)) is amended by striking "January 1, 1989" and inserting "April 1, 1989".

(e) PAYMENTS TO NURSE PRACTITIONERS IN RURAL AREAS (SECTION 4155 OF OBRA–1990).—(1) Section 1833(a)(1) of the Social Security Act, as amended by section 4155(b)(2) of OBRA–1990, is amended—

(A) by striking "and" before "(N)"; and

(B) with respect to the matter inserted by section 4155(b)(2)(B) of OBRA–1990—

(i) by striking "(M)" and inserting ", and (O)", and

(ii) by transferring and inserting it (as amended) immediately before the semicolon at the end.

(2) Section 1833(r)(1) of such Act, as added by section 4155(b)(3) of OBRA–1990, is amended—

(A) by striking "ambulatory" each place it appears and inserting "or ambulatory"; and

(B) by striking "center," and inserting "center".

(3) Section 1833(r)(2)(A) of such Act (42 U.S.C. 1395l(r)(2)(A)), as added by section 4155(b)(3) of OBRA–1990, is amended by striking "subsection (a)(1)(M)" and inserting "subsection (a)(1)(O)".

(4) Section 1861(b)(4) of such Act (42 U.S.C. 1395x(b)(4)) is amended by striking "subsection (s)(2)(K)(i)" and inserting "clauses (i) or (iii) of subsection (s)(2)(K)".

(5) Section 1861(aa)(5) of such Act, as amended by section 4155(d) of OBRA–1990, is amended by striking "this Act" and inserting "this title".

(6) Section 1862(a)(14) of such Act (42 U.S.C. 1395y(a)(14)) is amended by striking "1861(s)(2)(K)(i)" and inserting "1861(s)(2)(K)(i) or 1861(s)(2)(K)(iii)".

(7) Section 1866(a)(1)(H) of such Act (42 U.S.C. 1395cc(a)(1)(H)) is amended by striking "1861(s)(2)(K)(i)" and inserting "1861(s)(2)(K)(i) or 1861(s)(2)(K)(iii)".

(f) OTHER TECHNICAL AND CONFORMING AMENDMENTS.—

(1) IMMEDIATE ENROLLMENT IN PART B BY INDIVIDUALS COVERED BY AN EMPLOYMENT-BASED PLAN.—(A) Subparagraphs (A) and (B) of section 1837(i)(3) of the Social Security Act (42 U.S.C. 1395p(i)(3)) are each amended—

(i) by striking "beginning with the first day of the first month in which the individual is no longer enrolled" and inserting "including each month during any part of which the individual is enrolled"; and

(ii) by striking "and ending seven months later" and inserting "ending with the last day of the eighth consecutive month in which the individual is at no time so enrolled".

(B) Paragraphs (1) and (2) of section 1838(e) of the Social Security Act (42 U.S.C. 1395q(e)) are amended to read as follows:

"(1) in any month of the special enrollment period in which the individual is at any time enrolled in a plan (specified in subparagraph (A) or (B), as applicable, of section 1837(i)(3)) or in the first month following such a month, the coverage period shall begin on the first day of the month in which the individual so enrolls (or, at the option of the individual, on the first day of any of the following three months), or

"(2) in any other month of the special enrollment period, the coverage period shall begin on the first day of the month following the month in which the individual so enrolls.".

(C) The amendments made by subparagraphs (A) and (B) shall take effect on the first day of the first month that begins after the expiration of the 120-day period that begins on the date of the enactment of this Act.

(2) BLEND AMOUNTS FOR AMBULATORY SURGICAL CENTER PAYMENTS.—Subclauses (I) and (II) of section 1833(i)(3)(B)(ii) of the Social Security Act (42 U.S.C. 1395l(i)(3)(B)(ii)), as amended by section 4151(c)(1)(A) of OBRA-1990, are each amended—

(A) by striking "for reporting" and inserting "for portions of cost reporting"; and

(B) by striking "and on or before" and inserting "and ending on or before".

(3) CLINICAL DIAGNOSTIC LABORATORY TESTS (SECTION 4154 OF OBRA-1990).—Section 4154(e)(5) of OBRA-1990 is amended by striking "(1)(A)" and inserting "(1)(A),".

(4) SEPARATE PAYMENT UNDER PART B FOR CERTAIN SERVICES (SECTION 4157 OF OBRA-1990).—Section 4157(a) of OBRA-1990 is amended by striking "(a) SERVICES OF" and all that follows through "Section" and inserting "(a) TREATMENT OF SERVICES OF CERTAIN HEALTH PRACTITIONERS.—Section".

(5) CERTIFIED REGISTERED NURSE ANESTHETISTS (SECTION 4160 OF OBRA-1990).—Section 1833(l)(4)(B)(ii)(VII) of the Social Security Act, as inserted by section 4160(3) of OBRA-1990, is amended by striking "1997" and inserting "1996".

(6) COMMUNITY HEALTH CENTERS AND RURAL HEALTH CLINICS (SECTION 4161 OF OBRA-1990).—(A) The fourth sentence of section 1861(aa)(2) of the Social Security Act (42 U.S.C. 1395x(aa)(2)), as added by section 4161(b)(1) of OBRA-1990, is amended—

(i) by striking "certification" the first place it appears and inserting "approval"; and

(ii) by striking "the Secretary's approval or disapproval of the certification" and inserting "Secretary's approval or disapproval".

(B) Section 4161(a)(7)(B) of OBRA-1990 is amended by inserting "and to the Committee on Finance of the Senate" after "Representatives".

(7) SCREENING MAMMOGRAPHY (SECTION 4163 OF OBRA-1990).—(A) Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended—

(i) in subsection (s)(13), as added by section 4163(a)(1) of OBRA-1990, by striking "subsection (jj)" and inserting "subsection (kk)"; and

(ii) in the subsection (jj) inserted by section 4163(a)(2) of OBRA-1990, by striking "(jj) The term" and inserting "(kk) The term".

(B) Section 1834(c)(1) of the Social Security Act, as added by section 4163(b) of OBRA-1990, is amended in the matter preceding subparagraph (A) by striking "1861(jj)" and inserting "1861(kk)".

(C) Section 4163 of OBRA-1990 is amended—

(i) by adding at the end of subsection (d) the following new paragraph:

"(3) The amendment made by paragraph (2)(A)(iv) shall apply to screening pap smears performed on or after July 1, 1990."; and

(ii) in subsection (e), by striking "The amendments" and inserting "Except as provided in subsection (d)(3), the amendments.".

(8) INJECTABLE DRUGS FOR TREATMENT OF OSTEOPOROSIS.—

(A) CLARIFICATION OF DRUGS COVERED.—The section 1861(jj) of the Social Security Act inserted by section 4156(a)(2) of OBRA-1990 is amended—

(i) in the matter preceding paragraph (1), by striking "a bone fracture related to"; and

(ii) in paragraph (1), by striking "patient" and inserting "individual has suffered a bone fracture related to post-menopausal osteoporosis and that the individual".

(B) LIMITING COVERAGE TO DRUGS PROVIDED BY HOME HEALTH AGENCIES.—(i) Section 1861(jj) of the Social Security Act (42 U.S.C. 1395x(jj)) is amended by striking "if" and inserting "by a home health agency if".

(ii) Section 1861(m)(5) of such Act (42 U.S.C. 1395x(m)) is amended by striking "but excluding" and inserting "and a covered osteoporosis drug (as defined in subsection (jj), but excluding other".

(iii) Section 1861(s)(2) of such Act (42 U.S.C. 1395x(s)(2)) is amended—

(I) by adding "and" at the end of subparagraph (N); and

(II) by striking subparagraph (O) and redesignating subparagraph (P) as subparagraph (O).

(C) PAYMENT BASED ON REASONABLE COST.—Section 1833(a)(2) of such Act (42 U.S.C. 1395l(a)(2)) is amended—

(i) in subparagraph (A), by striking "health services" and inserting "health services (other than covered osteoporosis drug (as defined in section 1861(jj)))"; and

(ii) by striking "and" at the end of subparagraph (D);

(iii) by striking the semicolon at the end and inserting "; and"; and

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

"(F) with respect to covered osteoporosis drug (as defined in section 1861(jj)) furnished by a home health agency, 80 percent of the reasonable cost of such service, as determined under section 1861(v);".

(D) APPLICATION OF PART B DEDUCTIBLE.—Section 1833(b)(2) of such Act (42 U.S.C. 1395l(b)(2)) is amended by striking "services" and inserting "services (other than covered osteoporosis drug (as defined in section 1861(jj))".

(9) OTHER MISCELLANEOUS AND TECHNICAL CORRECTIONS (SECTION 4164 OF OBRA-1990).—

(A) OWNERSHIP DISCLOSURE REQUIREMENTS.—(i) Section 1124A(a)(2)(A) of the Social Security Act, as inserted by section 4164(b)(1) of OBRA-1990, is amended by striking "of the Social Security Act".

(ii) Section 4164(b)(4) of OBRA-1990 is amended by striking "paragraph" and inserting "paragraphs".

(B) DIRECTORY OF UNIQUE PHYSICIAN IDENTIFIER NUMBERS.—Section 4164(c) of OBRA-1990 is amended by striking "publish" and inserting "publish, and shall periodically update,".

Subtitle C—Amendments Relating to Parts A and B

SEC. 221. PROVISIONS RELATING TO PARTS A AND B (SECTIONS 4201 THROUGH 4207 OF OBRA-1990).

(a) ESRD (SECTION 4201 OF OBRA-1990).—(1) Section 4201(b)(3) of OBRA-1990 is amended by striking "The Commission" and all that follows through "1993)" and inserting 'Not later than June 1, 1992 (in the case of fiscal year 1993), and not later than March 1 before the beginning of each fiscal year thereafter, the Commission".

(2) Section 1881(b)(1)(C) of the Social Security Act, as inserted by section 4201(d)(2) of OBRA-1990, is amended by striking "1861(s)(2)(Q)" and inserting "1861(s)(2)(O)".

(3) Section 4201(d)(2) of OBRA-1990 is amended by striking "(B) by striking", "(C) by striking", and "(3) by adding" and inserting "(i) by striking", "(ii) by striking", and "(B) by adding", respectively.

(b) HOME DIALYSIS DEMONSTRATION PROJECT (SECTION 4202 OF OBRA-1990).—Section 4202 of OBRA-1990 is amended—

(1) in subsection (b)(1)(A), by striking "home hemodialysis staff assistant" and inserting "qualified home hemodialysis staff assistant (as described in subsection (d))";

(2) in subsection (b)(2)(B)(ii)(I), by striking "(as adjusted to reflect differences in area wage levels);

(3) in subsection (c)(1)(A), by striking "skilled";

(4) in subsection (c)(1)(E), by striking "(b)(4)" and inserting "(b)(2)";

(5) in subsection (f)—

(A) by striking "AUTHORIZATION OF APPROPRIATIONS.—The Secretary" and inserting "FUNDING.—(1) The Secretary";

(B) by redesignating paragraphs (1) through (5) as subparagraphs (A) through (E); and

(C) by adding at the end the following new paragraph:

"(2) Funds provided under subparagraphs (B) through (E) of paragraph (1) to carry out the demonstration project established under subsection (a) in a fiscal year shall remain available until expended.".

(c) EXTENSION OF SECONDARY PAYOR PROVISIONS (SECTION 4203 OF OBRA-1990).—(1) The sentence in section 1862(b)(1)(C) of the Social Security Act added by section 4203(c)(1)(B) of OBRA-1990 is amended—

(A) by striking "on or before January 1, 1996," and inserting "before January 1, 1996"; and

(B) by striking "clauses (i) and (ii)" and inserting "this subparagraph".

(2) Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1989, section 1862(b)(1) of the Social Security Act is amended.—

(A) in subparagraphs (A)(v) and (B)(iv)(II), by inserting ", without regard to section 5000(d) of such Code" before the period at the end of each subparagraph;

(B) in subparagraph (A)(iii), by striking "current calendar year or the preceding calendar year" and inserting "current calendar year and the preceding calendar year"; and

(C) in the matter in subparagraph (C) after clause (ii), by striking "taking into account that" and inserting "paying benefits secondary to this title when".

(3) Section 4203(c)(2) of OBRA-1990 is amended—

(A) by striking "the application of clause (iii)" and inserting "the second sentence";

(B) by striking "on individuals" and all that follows through "section 226A of such Act";

(C) in clause (ii), by striking "clause" and inserting "sentence";

(D) in clause (v), by adding "and" at the end; and

(E) in clause (vi)—

(i) by inserting "of such Act" after "1862(b)(1)(C)", and

(ii) by striking the period at the end and inserting the following: ", without regard to the number of employees covered by such plans.".

(4) Section 4203(d) of OBRA–1990 is amended by striking "this subsection" and inserting "this section".

(d) HEALTH MAINTENANCE ORGANIZATIONS (SECTION 4204 OF OBRA–1990).—(1) Section 4204(b) of OBRA–1990 is amended to read as follows:

"(b) REVISIONS IN THE PAYMENT METHODOLOGY FOR RISK CONTRACTORS.—(1)(A) The Secretary of Health and Human Services shall revise the payment method for organizations with a risk-sharing contract under section 1876(g) of the Social Security Act for years beginning with 1993.

"(B) In making the revisions required under subparagraph (A) the Secretary shall consider—

"(i) the difference in costs associated with medicare beneficiaries with differing health status and demographic characteristics;

"(ii) the effects of using alternative geographic classifications on the determinations of costs associated with beneficiaries residing in different areas; and

"(iii) the difference in costs associated with medicare beneficiaries 65 years of age or older for whom medicare is the secondary payor under section 1862(b)(1)(A) of the Social Security Act and beneficiaries for whom medicare is the primary payor.

"(2) Not later than March 1, 1992, the Secretary shall cause to have published in the Federal Register a proposed rule describing the proposed revisions in the payment methodology.

"(3) Not later than May 1, 1992, the Comptroller General shall review the proposal made pursuant to paragraph (1), and shall report to Congress on the appropriateness of the proposed modifications.

"(4) Taking into account the recommendations in the report made pursuant to paragraph (3), not later than August 31, 1992, the Secretary shall issue a final rule implementing the revised payment methodology, effective for contract years beginning on or after January 1, 1993.".

(2) Section 1876(a)(3) of the Social Security Act (42 U.S.C. 1395mm(a)(3)) is amended by striking "subsection (c)(7)" and inserting "subsections (c)(2)(B)(ii) and (c)(7)".

(3) Section 4204(c)(3) of OBRA–1990 is amended by striking "for 1991" and inserting "for years beginning with 1991".

(4) Section 4204(d)(2) of OBRA–1990 is amended by striking "amendment" and inserting "amendments".

(5) Section 1876(a)(1)(E)(ii)(I) of the Social Security Act, as added by section 4204(e)(1)(B) of OBRA–1990, is amended by striking the comma after "contributed to".

(6) Section 4204(e)(2) of OBRA–1990 is amended by striking "(which has a risk-sharing contract under section 1876 of the Social Security Act)".

(7) Section 4204(f)(4) of OBRA–1990 is amended by striking "final".

(8) Section 1862(b)(3)(C) of the Social Security Act, as added by section 4204(g)(1) of OBRA–1990, is amended—

(A) in the heading, by striking "PLAN" and inserting "PLAN OR A LARGE GROUP HEALTH PLAN";

(B) by striking "group health plan" and inserting "group health plan or a large group health plan";

(C) by striking ", unless such incentive is also offered to all individuals who are eligible for coverage under the plan"; and

(D) by striking "the first sentence of subsection (a) and other than subsection (b)" and inserting "subsections (a) and (b)".

(e) PEER REVIEW ORGANIZATIONS (SECTION 4205 OF OBRA–1990).—(1) The third sentence of section 1156(b)(1) of the Social Security Act, as inserted by section 4205(a)(1)(B) of OBRA–1990, is amended by striking "whehter" and inserting "whether".

(2) Section 1154(a)(9)(B) of the Social Security Act, as added by section 4205(d)(1)(A)(ii) of OBRA–1990, is amended by striking "this subsection" and inserting "section 1156(a)".

(3) Section 4205(d)(2)(B) of OBRA–1990 is amended by striking "amendments" and inserting "amendment".

(4) Section 1160(d) of the Social Security Act (as added by section 4205(e)(1) of OBRA–1990) is amended by striking "subpena" and inserting "subpoena".

(5) Section 4205(e)(2) of OBRA–1990 is amended by striking "amendments" and inserting "amendment" and by striking "all".

(f) SURVEY AND CERTIFICATION REQUIREMENTS.—(1) Section 1864 of the Social Security Act (42 U.S.C. 1395aa) is amended—

(A) in subsection (e), by striking "title" and inserting "title (other than any fee relating to section 353 of the Public Health Service Act)"; and

(B) in the first sentence of subsection (a), by striking "1861(s) or" and all that follows through "Service Act," and inserting "1861(s),".

(2) An agreement made by the Secretary with a State under section 1864(a) of the Social Security Act may include an agreement that the services of the State health agency or other appropriate State agency (or the appropriate local agencies) will be utilized by the Secretary for the purpose of determining whether a laboratory meets the requirements of section 353 of the Public Health Service Act.

(g) OTHER MISCELLANEOUS AND TECHNICAL PROVISIONS.—(1) Section 1833 of the Social Security Act (42 U.S.C. 1395l) is amended by redesignating the subsection (r) added by section 4206(b)(2) of OBRA–1990 as subsection (s).

(2) Section 1866(f)(1) of the Social Security Act (42 U.S.C. 1395cc(f)(1)), as added by section 4206(a)(2) of OBRA–1990, is amended by striking "1833(r)" and inserting "1833(s)".

(3) The section following section 4206 of OBRA–1990 is amended by striking "SEC. 4027." and inserting "SEC. 4207.", and in this subsection is referred to as section 4207 of OBRA–1990.

(4) Section 4207(a)(1) of OBRA–1990 is amended by adding closing quotation marks and a period after "such review.".

(5) Section 4207(a)(4) of OBRA–1990 is amended by striking "this subsection" and inserting "paragraphs (2) and (3)".

(6) Section 4207(b)(1) of OBRA–1990 is amended by striking "section 3(7)" and inserting "section 601(a)(1)".

(7) Section 1877 of the Social Security Act (42 U.S.C. 1395nn) is amended—

(A) in the fourth sentence of subsection (f)—

(i) by striking "provided" and inserting "furnished", and

(ii) by striking "provides" and inserting "furnish".

(B) in the fifth sentence of subsection (f)—

(i) by striking "providing" each place it appears and inserting "furnishing",

(ii) by striking "with respect to the providers" and inserting "with respect to the entities", and

(iii) by striking "diagnostic imaging services of any type" and inserting "magnetic resonance imaging, computerized axial tomography scans, and ultrasound services";

(C) in subsection (h)(1)—

(i) by striking "; REMUNERATION.—(A)" and inserting ".—",

(ii) in subparagraph (A), by striking "any remuneration" and all that follows and inserting "any payment (whether directly or indirectly, overtly or covertly, in cash or in kind) made by an entity to a physician (or immediate family member).", and

(iii) by striking subparagraph (B); and

(D) in subsection (a)(2)(B), by striking "subsection (h)(1)(A)" and inserting "subsection (h)(1)".

(8) Section 2355(b)(1)(B) of the Deficit Reduction Act of 1984, as amended by section 4207(b)(4)(B)(ii) of OBRA–1990, is amended—

(A) by striking "12907(c)(4)(A)" and inserting "4207(b)(4)(B)(i)", and

(B) by striking "feasibilitly" and inserting "feasibility".

(9) Section 4207(b)(4)(B)(iii)(III) of OBRA–1990 is amended by striking the period at the end and inserting a semicolon.

(10) Subsections (c)(3) and (e) of section 2355 of the Deficit Reduction Act of 1984, as amended by section 4207(b)(4)(B) of OBRA–1990, are each amended by striking "12907(c)(4)(A)" each place it appears and inserting "4207(b)(4)(B)".

(11) Section 4207(c)(2) of OBRA–1990 is amended by striking "the Committee on Ways and Means" each place it appears and inserting "the Committees on Ways and Means and Energy and Commerce".

(12) Section 4207(d) of OBRA–1990 is amended by redesignating the second paragraph (3) (relating to effective date) as paragraph (4).

(13) Section 4207(i)(2) of OBRA–1990 is amended—

(A) by striking the period at the end of clause (iii) and inserting a semicolon, and

(B) in clause (v), by striking "residents" and inserting "patients".

(14) Section 4207(j) of OBRA–1990 is amended by striking "title" each place it appears and inserting "subtitle".

Subtitle D—Medicare Supplemental Insurance Policies

SEC. 231. CORRECTIONS RELATING TO MEDICARE SUPPLEMENTAL INSURANCE POLICIES (SECTIONS 4351 THROUGH 4361 OF OBRA–1990).

(a) SIMPLIFICATION OF MEDICARE SUPPLEMENTAL POLICIES (SECTION 4351 OF OBRA–1990).—

(1) Section 4351 of OBRA–1990 is amended by striking "(a) IN GENERAL.—".

(2) Section 1882(p) of the Social Security Act, as added by section 4351 of OBRA–1990, is amended—

(A) in paragraph (1)(A)—

(i) by striking "promulgates" and inserting "changes the revised NAIC Model Regulation (described in subsection (m)) to incorporate",

(ii) by striking "(such limitations, language, definitions, format, and standards referred to collectively in this subsection as 'NAIC standards')", and

(iii) by striking "included a reference to the NAIC standards" and inserting "were a reference to the revised NAIC Model Regulation as changed under this subparagraph (such changed regulation referred to in this section as the '1991 NAIC Model Regulation')";

(B) in paragraph (1)(B)—

(i) by striking "promulgate NAIC standards" and inserting "make the changes in the revised NAIC Model Regulation",

(ii) by striking "limitations, language, definitions, format, and standards described in clauses (i) through (iv) of such subparagraph (in this subsection referred to collectively as 'Federal standards')" and inserting "a regulation", and

(iii) by striking "included a reference to the Federal standards" and inserting "were a reference to the revised NAIC Model Regulation as changed by the Secretary under this subparagraph (such changed regulation referred to in this section as the '1991 Federal Regulation')";

(C) in paragraph (1)(C)(i), by striking "NAIC standards or the Federal standards" and inserting "1991 NAIC Model Regulation or 1991 Federal Regulation";

(D) in paragraphs (1)(C)(ii)(I), (1)(E), (2), and (9)(B), by striking "NAIC or Federal standards" and inserting "1991 NAIC Model Regulation or 1991 Federal Regulation";

(E) in paragraph (2)(C), by striking "(5)(B)" and inserting "(4)(B)";

(F) in paragraph (4)(A)(i), by inserting "or paragraph (6)" after "(B)";

(G) in paragraph (4), by striking "applicable standards" each place it appears and inserting "applicable 1991 NAIC Model Regulation or 1991 Federal Regulation";

(H) in paragraph (6), by striking "in regard to the limitation of benefits described in paragraph (4)" and inserting "described in clauses (i) through (iii) of paragraph (1)(A)";

(I) in paragraph (7), by striking "policyholder" and inserting "policyholders";

(J) in paragraph (8), by striking "after the effective date of the NAIC or Federal standards with respect to the policy, in violation of the previous requirements of this subsection" and inserting "on and after the effective date specified in paragraph (1)(C) (but subject to paragraph (10)), in violation of the applicable 1991 NAIC Model Regulation or 1991 Federal Regulation insofar as such regulation relates to the requirements of subsection (o) or (q) or clause (i), (ii), or (iii) of paragraph (1)(A)";

(K) in paragraph (9), by adding at the end the following new subparagraph:

"(D) Subject to paragraph (10), this paragraph shall apply to sales of policies occurring on or after the effective date specified in paragraph (1)(C).''; and

(L) in paragraph (10), by striking "this subsection" and inserting "paragraph (1)(A)(i)".

(3) The Secretary of Health and Human Services shall publish in the Federal Register a list described in section 1882(p)(10) of the Social Security Act by not later than December 31, 1991.

(4) For purposes of section 1882 of the Social Security Act, when the National Association of Insurance Commissioners modifies its 1991 NAIC Model Regulation (adopted in July 1991) to delete from section 15C the exception which begins with "unless", such modification shall be considered to be part of that Regulation under such section. If subsection (p)(1)(A) of such section is applicable, until the Association makes such modification, such section shall be applied as if such exception had been deleted. Any 1991 Federal Regulation adopted under such section shall not include such exception. If the Secretary of Health and Human Services identifies a State as requiring legislative action in order to conform its regulatory program to the modification described in this paragraph, the State regulatory program shall not be considered to be out of compliance with the requirements of such section due solely to failure to make such modification until the close of the first regular legislative session that begins after the date of the enactment of this Act.

(b) GUARANTEED RENEWABILITY (SECTION 4352 OF OBRA–1990).—Section 1882(q) of the Social Security Act, as added by section 4352 of OBRA–1990, is amended—

(1) in paragraph (2), by striking "paragraph (2)" and inserting "paragraph (4)", and

(2) in paragraph (4), by striking "the succeeding issuer" and inserting "issuer of the replacement policy".

(c) ENFORCEMENT OF STANDARDS (SECTION 4353 OF OBRA–1990).—

(1) Section 1882(a)(2) of the Social Security Act, as added by section 4353(a)(2)(B) of OBRA–1990, is amended—

(A) in subparagraph (A), by striking "NAIC standards or the Federal standards" and inserting "1991 NAIC Model Regulation or 1991 Federal Regulation", and

(B) by striking "after the effective date of the NAIC or Federal standards with respect to the policy" and inserting "on and after the effective date specified in subsection (p)(1)(C)".

(2) The sentence in section 1882(b)(1) of the Social Security Act added by section 4353(c)(5) of OBRA–1990 is amended—

(A) by striking "The report" and inserting "Each report",

(B) by inserting "and requirements" after "standards",

(C) by striking "and" after "compliance,", and

(D) by striking the comma after "Commissioners".

(3) Section 1882(g)(2)(B) of the Social Security Act is amended by striking "Panel" and inserting "Secretary".

(4) Section 1882(b)(1) of such Act is amended by striking "the the Secretary" and inserting "the Secretary".

(d) PREVENTING DUPLICATION (SECTION 4354 OF OBRA–1990).—

(1) Section 1882(d)(3)(A) of the Social Security Act, as amended by section 4354(a)(1) of OBRA–1990, is amended—

(A) by inserting before the first sentence the following:

"(i) Effective before January 1, 1994, it is unlawful for a person to sell or issue to an individual entitled to benefits under part A or enrolled under part B of this title—

"(I) a health insurance policy with knowledge that the policy duplicates health benefits to which the individual is otherwise entitled under this title or title XIX,

"(II) a medicare supplemental policy with knowledge that the individual is entitled to benefits under another medicare supplemental policy, or

"(III) a health insurance policy (other than a medicare supplemental policy) with knowledge that the policy duplicates health benefits to which the individual is otherwise entitled, other than benefits to which the individual is entitled under a requirement of State or Federal law.";

(B) by designating the current first sentence as clause (ii) and, in such clause, by striking "It is unlawful" and inserting "Effective January 1, 1994, it is unlawful";

(C) by designating the current second sentence as clause (iii) and, in such clause, by striking "the previous sentence" and inserting "clause (i) or (ii)";

(D) by designating the current third sentence as clause (iv) and, in such clause—

(i) by striking "the previous sentence" and inserting "clause (i) or (ii) with respect to the sale of a medicare supplemental policy", and

(ii) by striking "the sale of the policy will not duplicate health benefits to which the individual is otherwise entitled" and inserting "the individual is not entitled to benefits under another medicare supplemental policy"; and

(E) by striking the last sentence.

(2) Section 1882(d)(3)(B) of the Social Security Act, as amended by section 4354(a)(2) of OBRA–1990, is amended—

(A) in clause (i)(I), by striking "clause (II)" and inserting "clause (ii)",

(B) in clause (ii)(II), by striking "65 years of age or older",

(C) in clause (iii)(I), by striking "another medicare" and inserting "a medicare",

(D) in clause (iii)(I), by striking "such a policy" and inserting "a medicare supplemental policy",

(E) in clause (iii)(II), by striking "another policy" and inserting "a medicare supplemental policy", and

(F) by amending subclause (III) of clause (iii) to read as follows:

"(III) If the statement required by clause (i) is obtained and indicates that the individual is entitled to any medical assistance under title XIX, the sale of the policy is not in violation of clause (i) (insofar as such clause relates to such medical assistance), if a State medicaid plan under such title pays the premiums for the policy, or, in the case of a qualified medicare beneficiary described in section 1905(p)(1), if the State pays less than the individual's full liability for medicare cost-sharing (as defined in section 1905(p)(3)).".

(3)(A) Section 1882(d)(3)(C) of the Social Security Act is amended—

(i) by striking "the selling" and inserting "(i) the sale or issuance", and

(ii) by inserting before the period at the end the following: ", (ii) the sale or issuance before January 1, 1994, of a policy or plan described in subparagraph (A)(i)(I) (other than a medicare supplemental policy to an individual entitled to any medical assistance under title XIX) under which all the benefits are fully payable directly to or on behalf of the individual without regard to other health benefit coverage of the individual but only if there is disclosed in a prominent manner as part of the application a statement of the extent to which benefits payable under the policy or plan duplicate benefits under this title, or (iii) the sale or issuance before January 1, 1994, of a policy or plan described in subparagraph (A)(i)(III) under which all the benefits are fully payable directly to or on behalf of the individual without regard to other health benefit coverage of the individual".

(B) The requirement of a disclosure under section 1882(d)(3)(C)(ii) of the Social Security Act shall not apply to an application made for a policy or plan before 90 days after the date of the enactment of this Act.

(4) Subparagraphs (A) and (B) of section 1882(q)(5)(A) of the Social Security Act, as added by section 4354(b) of OBRA–1990, is amended by striking "of the Social Security Act".

(5) The second subsection (b) of section 4354 of OBRA–1990 (relating to effective date) is amended by redesignating such subsection as subsection (c).

(e) LOSS RATIOS AND REFUNDS OF PREMIUMS (SECTION 4355 OF OBRA–1990).—

(1) Section 1882(r) of the Social Security Act, as added by section 4355(a)(3) of OBRA–1990, is amended—

(A) in paragraph (1), by striking "or sold" and inserting "or renewed";

(B) in paragraph (1)(A), by inserting "for periods after the effective date of these provisions" after "the policy can be expected";

(C) in paragraph (1)(A), by striking "Commissioners," and inserting "Commissioners)";

(D) in paragraph (1)(B), by inserting before the period at the end the following: ", treating policies of the same type as a single policy for each standard package";

(E) by adding at the end of paragraph (1) the following: "For the purpose of calculating the refund or credit required under paragraph (1)(B) for a policy issued before the date specified in subsection (p)(1)(C), the refund or credit calculation shall be based on the aggregate benefits provided and premiums collected under all policies issued by an insurer in a State and shall be based only on aggregate benefits provided and premiums collected under the policies after such date.";

(F) in the first sentence of paragraph (2)(A), by striking "by policy number" and inserting "by standard package";

(G) by striking the second sentence of paragraph (2)(A) and inserting the following: "Paragraph (1)(B) shall not apply to a policy until 12 months following issue. In the case of a policy issued before the date specified in subsection (p)(1)(C), paragraph (1)(B) shall not apply until 12 months following such date.";

(H) in the last sentence of paragraph (2)(A), by striking "in order" and all that follows through "are effective";

(I) in paragraph (2), by striking "policy year" each place it appears and inserting "calendar year";

(J) in paragraph (4), by striking "dislowance", "loss-ratios", and "loss-ratio" and inserting "disallowance", "loss ratios", and "loss ratio", respectively;

(K) in paragraph (6)(A), by striking "issues a policy in violation of the loss ratio requirements of this subsection" and "such violation" and inserting "fails to provide refunds or credits as required in paragraph (1)(B)" and "policy issued for which such failure occurred", respectively; and

(L) in paragraph (6)(B), by striking "to policyholders" and inserting "to the policyholder or, in the case of a group policy, to the certificate holder".

(2) Section 1882(b)(1) of the Social Security Act is amended by transferring and inserting the subparagraph (G) added by section 4355(c)(3) of OBRA–1990 immediately after the subparagraph (F) added by section 4353(c)(3) of that Act.

(3) Section 4355(d) of OBRA–1990 is amended by striking "sold or issued" and all that follows and inserting "issued or renewed on or after the date specified in section 1882(p)(1)(C) of the Social Security Act.".

(f) TREATMENT OF HMO'S (SECTION 4356 OF OBRA–1990).—

(1) Section 1882(g)(1) of the Social Security Act, as amended by section 4356(a) of OBRA–1990, is amended by striking "a health maintenance organization or other direct service organization" and all that follows through "1833" and inserting "an eligible organization (as defined in section 1876(b)) if the policy or plan provides benefits pursuant to a contract under section 1876 or an approved demonstration project described in section 603(c) of the Social Security Amendments of 1983, section 2355 of the Deficit Reduction Act of 1984, or section 9412(b) of the Omnibus Budget Reconciliation Act of 1986 or, during the 1-year period beginning on the date specified in subsection (p)(1)(C), a policy or plan of an organization if the policy or plan provides benefits pursuant to an agreement under section 1833(a)(1)(A)".

(2) Section 4356(b) of OBRA–1990 is amended by striking "on the date of the enactment of this Act" and inserting "on the date specified in section 1882(p)(1)(C) of the Social Security Act".

(g) PRE-EXISTING CONDITION LIMITATIONS (SECTION 4357 OF OBRA–1990).—Section 1882(s) of the Social Security Act, as added by section 4357(a)(2) of OBRA–1990, is amended—

(1) in paragraph (2)(A), by striking "for which an application is submitted" and inserting "in the case of an individual for whom an application is submitted prior to or", and

(2) in paragraph (2)(B), by striking "before it" and inserting "before the policy".

(h) MEDICARE SELECT POLICIES (SECTION 4358 OF OBRA–1990).—

(1) Section 1882(t) of the Social Security Act, as added by section 4358(a) of OBRA–1990, is amended—

(A) in paragraph (1), by inserting "medicare supplemental" after "If a",

(B) in paragraph (1), by striking "NAIC Model Standards" and inserting "1991 NAIC Model Regulation or 1991 Federal Regulation",

(C) in paragraph (1)(A), by inserting "or agreements" after "contracts",

(D) in subparagraphs (E)(i) and (F) of paragraph (1), by striking "NAIC standards" and inserting "standards in the 1991 NAIC Model Regulation or 1991 Federal Regulation", and

(E) in paragraph (2), by inserting "the issuer" before "is subject to a civil money penalty".

(2) Section 1154(a)(4)(B) of the Social Security Act, as amended by section 4358(b)(3) of OBRA–1990, is amended—

(A) by inserting "that is" after "(or", and

(B) by striking "1882(t)" and inserting "1882(t)(3)".

(i) HEALTH INSURANCE COUNSELING (SECTION 4360 OF OBRA–1990).—Section 4360 of OBRA–1990 is amended—

(1) in subsection (b)(2)(A)(ii), by striking "Act" and inserting "Act)";

(2) in subsection (b)(2)(D), by striking "services" and inserting "counseling";

(3) in subsection (b)(2)(I), by striking "assistance" and inserting "referrals";

(4) in subsection (c)(1), by striking "and that such activities will continue to be maintained at such level";

(5) in subsection (d)(3), by striking "to the rural areas" and inserting "eligible individuals residing in rural areas";

(6) in subsection (e)—

(A) by striking "subsection (c) or (d)" and inserting "this section",

(B) by striking "and annually thereafter, issue an annual report" and inserting "and annually thereafter during the period of the grant, issue a report",

(C) in paragraph (1), by striking "Statewide", and

(D) in subsection (f), by striking paragraph (2) and by redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively; and

(7) by redesignating the second subsection (f) (relating to authorization of appropriations for grants) as subsection (g).

(j) TELEPHONE INFORMATION SYSTEM (SECTION 4361 OF OBRA–1990).—

(1) Section 1804 of the Social Security Act is amended—

(A) by adding at the end of the heading the following: "; MEDICARE AND MEDIGAP INFORMATION",

(B) by inserting "(a)" after "1804.", and

(C) by adding at the end the following new subsection:

"(b) The Secretary shall provide information via a toll-free telephone number on the programs under this title.".

(2) Section 1882(f) of the Social Security Act is amended by adding at the end the following new paragraph:

"(3) The Secretary shall provide information via a toll-free telephone number on medicare supplemental policies (including the relationship of State programs under title XIX to such policies).".

(3) Section 1889 of the Social Security Act, as inserted by section 4361(a) of OBRA–1990, is repealed.

TITLE III—CORRECTIONS RELATING TO SOCIAL SECURITY, INCOME SECURITY AND HUMAN RESOURCES, AND TARIFF AND CUSTOMS

Subtitle A—Social Security

SEC. 301. TECHNICAL CORRECTIONS RELATED TO OASDI IN THE OMNIBUS BUDGET RECONCILIATION ACT OF 1990.

(a) AMENDMENTS RELATED TO PROVISIONS IN SECTION 5103(b) RELATING TO DISABLED WIDOWS.—Section 223(f)(2) of the Social Security Act (42 U.S.C. 423(f)(2)) is amended—

(1) in subparagraph (A), by striking "(in a case to which clause (ii)(II) does not apply)"; and

(2) by striking subparagraph (B)(ii) and inserting the following:

"(ii) the individual is now able to engage in substantial gainful activity; or".

(b) AMENDMENTS RELATED TO PROVISIONS IN SECTION 5105(d) RELATING TO REPRESENTATIVE PAYEES.—Section 5105(d)(1)(A) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508) is amended—

(1) by striking "Section 205(j)(5)" and inserting "Section 205(j)(6)"; and

(2) by redesignating the paragraph (5) as amended thereby as paragraph (6).

(c) AMENDMENTS RELATED TO PROVISIONS IN SECTION 5106 RELATING TO COORDINATION OF RULES UNDER TITLES II AND XVI GOVERNING FEES FOR REPRESENTATIVES OF CLAIMANTS WITH ENTITLEMENTS UNDER BOTH TITLES.—

(1) CALCULATION OF FEE OF CLAIMANT'S REPRESENTATIVE BASED ON AMOUNT OF PAST-DUE SUPPLEMENTAL SECURITY INCOME BENEFITS AFTER APPLICATION OF WINDFALL OFFSET PROVISION.—Section 1631(d)(2)(A)(i) of the Social Security Act (as amended by section 5106(a)(2) of the Omnibus Budget Reconciliation Act of 1990) (42 U.S.C. 1383(d)(2)(A)(i)) is amended to read as follows:

"(i) by substituting, in subparagraphs (A)(ii)(I) and (C)(i), the phrase '(determined before any applicable reduction under section 1631(g), and reduced by the amount of any reduction in benefits under this title or title II made pursuant to section 1127(a))' for the parenthetical phrase contained therein; and".

(2) CALCULATION OF PAST-DUE BENEFITS FOR PURPOSES OF DETERMINING ATTORNEY FEES IN JUDICIAL PROCEEDINGS.—

(A) IN GENERAL.—Section 206(b)(1) of such Act (42 U.S.C. 406(b)(1)) is amended—

(i) by inserting "(A)" after "(b)(1)"; and

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

"(B) For purposes of this paragraph—

"(i) the term 'past-due benefits' excludes any benefits with respect to which payment has been continued pursuant to subsection (g) or (h) of section 223, and

"(ii) amounts of past-due benefits shall be taken into account to the extent provided under the rules applicable in cases before the Secretary.".

(B) PROTECTION FROM OFFSETTING SSI BENEFITS.—The last sentence of section 1127(a) of such Act (as added by section 5106(b) of the Omnibus Budget Reconciliation Act of 1990) (42 U.S.C. 1320a–6(a)) is amended by striking "section 206(a)(4)" and inserting "subsection (a)(4) or (b) of section 206".

(3) APPLICATION OF SINGLE DOLLAR AMOUNT CEILING TO CONCURRENT CLAIMS UNDER TITLES II AND XVI.—

(A) IN GENERAL.—Section 206(a)(2) of such Act (as amended by section 5106(a)(1) of the Omnibus Budget Reconciliation Act of 1990) (42 U.S.C. 406(a)(2)) is amended—

(i) by redesignating subparagraph (C) as subparagraph (D); and

(ii) by inserting after subparagraph (B) the following new subparagraph:

"(C) In any case involving—

"(i) an agreement or agreements described in subparagraph (A) with any person relating to both a claim of entitlement to past-due benefits under this title and a claim of entitlement to past-due benefits under title XVI, and

"(ii) a favorable determination made by the Secretary with respect to both such claims,

the Secretary may approve such agreement or agreements only if the total fee or fees specified in such agreement or agreements do not exceed, in the aggregate, the dollar amount in effect under subparagraph (A)(ii)(II).".

(B) CONFORMING AMENDMENT.—Section 206(a)(3)(A) of such Act (as amended by section 5106(a)(1) of the Omnibus Budget Reconciliation Act of 1990) (42 U.S.C. 406(a)(3)(A)) is amended by striking "paragraph (2)(C)" and inserting "paragraph (2)(D)".

(d) AMENDMENT RELATED TO PROVISIONS IN SECTION 5115 RELATING TO ADVANCE TAX TRANSFERS.—Section 201(a) of the Social Security Act (42 U.S.C. 401(a)) is amended in the last sentence by striking "and" the second place it appears.

(e) EFFECTIVE DATE.—Each amendment made by this section shall take effect as if included in the provisions of the Omnibus Budget Reconciliation Act of 1990 to which such amendment relates.

Subtitle B—Income Security and Human Resources

SEC. 311. REPEAL OF PROVISION INADVERTENTLY INCLUDED IN THE OMNIBUS BUDGET RECONCILIATION ACT OF 1990.

Section 5057 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508), and the amendment made by such section, are hereby repealed, and section 1139(d) of the Social Security Act shall be applied and administered as if such section 5057 had never been enacted.

SEC. 312. CORRECTIONS RELATED TO THE INCOME SECURITY AND HUMAN RESOURCES PROVISIONS OF THE OMNIBUS BUDGET RECONCILIATION ACT OF 1990.

(a) AMENDMENT RELATED TO SECTION 5035(a)(2).—Section 5035(a)(2) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508) is amended by striking "a semicolon" and inserting " '; and' ".

(b) AMENDMENTS RELATED TO SECTION 5105(d)(T11)(b).—Section 5105(d)(1)(B) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508) is amended—

(1) by striking "Section 1631(a)(2)(E)" and inserting "Section 1631(a)(2)(F)"; and

(2) by redesignating the subparagraph (E) as amended thereby as subparagraph (F).

(c) AMENDMENT RELATED TO SECTION 5105(a)(1)(b).—The second paragraph of section 1631(a) of the Social Security Act (42 U.S.C. 1383(a)) is amended by striking "(A)(i) Payments" and inserting "(2)(A)(i) Payments".

(d) AMENDMENTS RELATED TO SECTION 5105(b).—Section 1631(a)(2)(C) of the Social Security Act (42 U.S.C. 1383(a)(2)(C)) is amended—

(1) by striking clause (ii);

(2) by redesignating clauses (iii), (iv), and (v) as clauses (ii), (iii), and (iv), respectively; and

(3) in clause (iv) (as so redesignated), by striking "(iii), and (iv)" and inserting "and (iii)".

(e) AMENDMENTS RELATED TO SECTION 5107(a)(2)(b).—Section 1631(c)(1)(B) of the Social Security Act (42 U.S.C. 1383(c)(1)(B)) is amended by striking "paragraph (1)" each place such term appears and inserting "subparagraph (A)".

(f) AMENDMENT RELATED TO SECTION 5109(a)(2).—Section 1631 of the Social Security Act (42 U.S.C. 1383) is amended by redesignating the subsection (n) added by section 5109(a)(2) of the Omnibus Budget Reconciliation Act of 1990, as subsection (o).

(g) AMENDMENTS RELATED TO SECTION 11115(b)(2).—Section 11115(b)(2) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508) is amended—

(1) in subparagraph (A), by striking "paragraph (8)" and inserting "paragraph (9)";

(2) in subparagraph (B), by striking "paragraph (9)" and inserting "paragraph (10)"; and

(3) in subparagraph (C), by redesignating the new paragraph added thereby as paragraph (11).

(h) EFFECTIVE DATE.—Each amendment made by this section shall take effect as if included in the provision of the Omnibus Budget Reconciliation Act of 1990 to which the amendment relates at the time such provision became law.

SEC. 313. CORRECTION RELATED TO SECTION 8006 OF THE OMNIBUS BUDGET RECONCILIATION ACT OF 1989.

(a) CORRECTION.—Section 473(a)(6)(B) of the Social Security Act (42 U.S.C. 673(a)(6)(B)) is amended by striking "474(a)(3)(B)" and inserting "474(a)(3)(C)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) of this section shall take effect as if included in section 8006 of the Omnibus Budget Reconciliation Act of 1989 at the time such section 8006 became law.

SEC. 314. AMENDMENT RELATED TO SECTION 13101(d)(2) OF THE OMNIBUS BUDGET RECONCILIATION ACT OF 1990.

(a) IN GENERAL.—Section 256(k)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) by striking "—" the second place it appears and all that follows through "(I)"; and

(2) by striking "; or" and all that follows through "(II)" and inserting ", except that a State may not be allotted an amount under this subparagraph that exceeds".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) of this section shall take effect as if included in section 13101(d)(2) of the Omnibus Budget Reconciliation Act of 1990 at the time such section 13101(d)(2) became law.

Subtitle C—Tariff and Customs

SEC. 321. TECHNICAL AMENDMENTS TO THE HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES.

(a) IN GENERAL.—The Harmonized Tariff Schedule of the United States is amended as follows:

(1) REMOVAL OF GDR FROM COLUMN 2 RATE LIST.—General Note 3(b) is amended by striking "German Democratic Republic".

(2) TAPESTRY AND UPHOLSTERY FABRICS.—The article description for subheading 5112.19.20 is amended by striking "of a weight exceeding 300 g/m²".

(3) GLOVES.—

(A) Chapter 61 is amended by redesignating subheading 6116.10.45 as subheading 6116.10.48.

(B) Chapter 62 is amended by striking the superior text "Other:" that appears between subheadings 6216.00.46 and 6216.00.52.

(4) AGGLOMERATE STONE FLOOR AND WALL TILES.—The article description for subheading 6810.19.12 is amended to read as follows: "Of stone agglomerated with binders other than cement".

(5) 2,4-DIAMINOBENZENESULFONIC ACID.—The article description for heading 9902.30.43 is amended by striking "2921.51.50" and inserting "2921.59.50".

(6) MACHINES USED IN THE MANUFACTURE OF BICYCLE PARTS.—The article description for heading 9902.84.79 is amended by striking "8479.89.90" and inserting "8462.49.00, 8479.89.90 or 9031.80.00".

(7) COPYING MACHINES AND PARTS.—The article description for heading 9902.90.90 is amended by inserting "or 8473.40.40" after "8472.90.80".

(b) STAGED RATE REDUCTIONS FOR GLOVES.—Any staged reduction of a special rate of duty set forth in subheading 6116.10.45 of such Schedule that takes effect on or after October 1, 1990, by reason of section 10011(a)(2) of Omnibus Budget Reconciliation Act of 1990 shall apply to the corresponding rate of duty in subheading 6116.10.48 (as redesignated by subsection (a)(3)(A)).

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsection (a) shall apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

(2) RETROACTIVE APPLICATION FOR CERTAIN LIQUIDATIONS AND RELIQUIDATIONS.—

(A) Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the appropriate customs officer on or before the 90th day after the date of the enactment of this Act, any entry—

(i) that was made after the applicable date and before the 15th day after such date of enactment; and

(ii) with respect to which there would have been a lesser or no duty if any amendment made by subsection (a) applied to such entry;

shall be liquidated or reliquidated as though such amendment applied to such entry.

(B) For purposes of this subsection, the term "applicable date" means—

(i) if such amendment is made by subsection (a)(4) or (a)(7), December 31, 1988; and

(ii) if such amendment is made by subsection (a)(2), (a)(3), (a)(5), (a)(6), September 30, 1990.

SEC. 322. CLARIFICATION REGARDING THE APPLICATION OF CUSTOMS USER FEES.

(a) IN GENERAL.—Subparagraph (D) of section 13031(b)(8) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(8)(D)) is amended—

(1) by striking out "and" at the end of clause (iv);

(2) by striking out the period at the end of clause (v) and inserting "; and"; and

(3) by inserting after clause (v) the following new clause:

"(vi) in the case of merchandise entered from a foreign trade zone (other than merchandise to which clause (v) applies), be applied only to the value of the merchandise subject to duty under section 3 of the Act of June 18, 1934 (commonly known as the Foreign Trade Zones Act, 19 U.S.C. 81c)."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to—

(1) any entry made from a foreign trade zone on or after the 15th day after the date of the enactment of this Act; and

(2) any entry made from a foreign trade zone after November 30, 1986, and before such 15th day if the entry was not liquidated before such 15th day.

SEC. 323. TECHNICAL AMENDMENTS TO THE OMNIBUS TRADE AND COMPETITIVENESS ACT OF 1988.

(a) IN GENERAL.—Paragraph (2) of section 1102(a) of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 2902(a)(2)) is amended—

(1) in subparagraph (A)—

(A) by striking "the date of enactment of this Act" and inserting "January 1, 1989"; and

(B) by striking "such date of enactment" and inserting "January 1, 1989"; and

(2) in subparagraph (B), by striking "such date of enactment" and inserting "January 1, 1989".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect January 1, 1989.

(c) CONSTRUCTION.—For purposes of applying the amendments made by subsection (a), the column 1-general rate of duty established by any amendment to the Harmonized Tariff Schedule of the United States that was enacted after January 1, 1989, shall, if—

(1) such amendment has, or is statutorily treated as having, an effective date of January 1, 1989; or

(2) application for liquidation or reliquidation at such rate with respect to entries made after December 31, 1988, and before the effective date of the amendment, is provided for;

be treated as the rate in effect on January 1, 1989.

SEC. 324. TECHNICAL AMENDMENT TO THE CUSTOMS AND TRADE ACT OF 1990.

Subsection (b) of section 484H of the Customs and Trade Act of 1990 (19 U.S.C. 1553 note) is amended by striking ", or withdrawn from warehouse for consumption," and inserting "for transportation in bond".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 20 minutes, and the gentleman from Texas [Mr. ARCHER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois [Mr. ROSTENKOWSKI].

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include herein extraneous material on H.R. 1555, the bill now under consideration.

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

There was no objection.

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

Mr. Speaker, I am pleased to present to the House H.R. 1555, the Technical Corrections Act of 1991, as unanimously approved by the Ways and Means Committee.

The primary purpose of this legislation is to make technical corrections to the provisions of the Omnibus Budget Reconciliation Act of 1990 within the jurisdiction of the Ways and Means Committee. It includes technical corrections relating to past tax, Social Security, health, human resources, and trade legislation.

Mr. Speaker, I want to assure my colleagues that this bill is not intended to make substantive changes to the 1990 act or other recent legislation. Like past technical corrections bills, H.R. 1555 is revenue neutral. The Joint Committee on Taxation and the Congressional Budget Office have certified that the bill will not cause any overall loss of Federal revenues.

H.R. 1555 has broad bipartisan support, including the support of the administration. The legislation is the product of the majority and minority staffs of the Ways and Means Committee working with the staff of the Joint Committee on Taxation, appropriate administration departments and agencies, and the Office of the Legislative Counsel to review and make recommendations for technical corrections and clarifications. In addition, our staff worked with the staff of the Energy and Commerce Committee on the relevant Medicare provisions. I want to particularly thank Chairman JOHN DINGELL and other members of the Energy and Commerce Committee for their cooperation and the cooperation of their staffs in bringing H.R. 1555 to the floor today.

Mr. Speaker, it is important to pass this legislation as expeditiously as possible. To the extent that the bill corrects or clarifies Tax Code provisions, it will guide taxpayers in properly filing their tax returns; it will also help the Internal Revenue Service in its task of interpreting and administering the laws consistent with congressional intent. The Medicare corrections are needed to clarify provisions affecting payments to hospitals, physicians, and other health care providers.

Therefore, Mr. Speaker, I urge my colleagues to support this important measure.

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

Mr. Speaker, I rise to join the chairman of the Ways and Means Committee in support of H.R. 1555, the Technical Corrections Act of 1991.

H.R. 1555 contains necessary technical corrections to prior tax, trade, and health legislation. The provisions of the bill have been worked out in cooperation between the minority and majority staffs of the Ways and Means Committee and the Joint Committee on Taxation. The bill is supported by the Treasury. These provisions are all nonsubstantive changes to current law and I urge their adoption.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. STARK].

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

Mr. Speaker, I just want to suggest to the Members that title II of this bill contains a number of miscellaneous and technical amendments to the Medicare statute. These amendments have been developed in a cooperative effort with our ranking minority member, Mr. GRADISON, and with the Energy and Commerce Committee majority and minority.

These provisions are all truly no-cost items according to the CBO. In addition there are no spending items with offsetting savings provisions which redistribute Medicare funds in any way.

These provisions clarify payments to hospitals exempt from prospective payment, the DRG payment window, the EACH program, payments to ambulatory surgery centers, payments for durable medical equipment, and end-stage renal disease benefits.

Title II also amends the Medigap sections of OBRA '90. These provisions make clarifications in the areas of duplicate coverage and loss ratios. In addition, they include a number of minor, technical, and conforming changes in the statutory language of OBRA '90.

Again, let me reiterate that these amendments are all minor and no cost. I urge my colleagues to support this bill.

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

Mr. STARK. I yield to the gentleman from Massachusetts.

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

Mr. Speaker, it is my understanding that the Medicare technical corrections bill contains provisions that are only technical in nature. There are no policy changes or substantive changes in the document before the House.

Mr. STARK. The gentleman's understanding is correct.

Mr. DONNELLY. Mr. Speaker, I thank the gentleman.

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

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. ROSTENKOWSKI] that the House suspend the rules and pass the bill, H.R. 1555, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

TAX EXTENSION ACT OF 1991

Mr. ROSTENKOWSKI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3909) to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3909

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

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Tax Extension Act of 1991".

(b) AMENDMENT OF 1986 CODE.—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 Internal Revenue Code of 1986.

TITLE I—6-MONTH EXTENSION OF CERTAIN EXPIRING TAX PROVISIONS

SEC. 101. ALLOCATION OF RESEARCH AND EXPERIMENTAL EXPENDITURES.

(a) EXTENSION.—Paragraph (5) of section 864(f) (relating to allocation of research and experimental expenditures) is amended to read as follows:

"(5) YEARS TO WHICH RULE APPLIES.—

"(A) IN GENERAL.—This subsection shall apply to the taxpayer's first 3 taxable years beginning after August 1, 1989, and on or before August 1, 1992.

"(B) REDUCTION.—Notwithstanding subparagraph (A), in the case of the taxpayer's first taxable year beginning after August 1, 1991, this subsection shall only apply to qualified research and experimental expenditures incurred during the first 6 months of such taxable year."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after August 1, 1989.

SEC. 102. RESEARCH CREDIT.

(a) EXTENSION.—Subsection (h) of section 41 (relating to credit for increasing research activities) is amended—

(1) by striking "December 31, 1991" each place it appears and inserting "June 30, 1992", and

(2) by striking "January 1, 1992" each place it appears and inserting "July 1, 1992".

(b) CONFORMING AMENDMENT.—Subparagraph (D) of section 28(b)(1) is amended by striking "December 31, 1991" and inserting "June 30, 1992".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1991.

SEC. 103. EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE.

(a) EXTENSION.—

(1) IN GENERAL.—Subsection (d) of section 127 (relating to educational assistance programs) is amended by striking "December 31, 1991" and inserting "June 30, 1992".

(2) SPECIAL RULE.—In the case of any taxable year beginning in 1992, only amounts paid before July 1, 1992, by the employer for educational assistance for the employee shall be taken into account in determining the amount excluded under section 127 of the Internal Revenue Code of 1986 with respect to such employee for such taxable year.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 104. EMPLOYER-PROVIDED GROUP LEGAL SERVICES PLANS.

(a) EXTENSION.—

(1) IN GENERAL.—Subsection (e) of section 120 (relating to amounts received under qualified group legal service plans) is amended by striking "December 31, 1991" and inserting "June 30, 1992".

(2) SPECIAL RULE.—In the case of any taxable year beginning in 1992, only amounts paid before July 1, 1992, by the employer for coverage for the employee, his spouse, or his dependents, under a qualified group legal services plan for periods before July 1, 1992, shall be taken into account in determining the amount excluded under section 120 of the Internal Revenue Code of 1986 with respect to such employee for such taxable year.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 105. TARGETED JOBS CREDIT.

(a) IN GENERAL.—Paragraph (4) of section 51(c) (relating to termination) is amended by striking "December 31, 1991" and inserting "June 30, 1992".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to individuals who begin work for the employer after December 31, 1991.

SEC. 106 ENERGY INVESTMENT CREDIT FOR SOLAR AND GEOTHERMAL PROPERTY.

Subparagraph (B) of section 48(a)(2) (relating to energy percentage) is amended by striking "December 31, 1991" and inserting "June 30, 1992".

SEC. 107. LOW-INCOME HOUSING CREDIT.

(a) EXTENSION.—

(1) Paragraph (1) of section 42(o) is amended—

(A) by striking ", for any calendar year after 1991",

(B) by inserting before the comma at the end of subparagraph (A) "to any amount allocated after June 30, 1992", and

(C) by striking "1991" in subparagraph (B) and inserting "June 30, 1992".

(2) Paragraph (2) of section 42(o) is amended—

(A) by striking "1992" each place it appears and inserting "July 1, 1992",

(B) by striking "December 31, 1991" in subparagraph (B) and inserting "June 30, 1992",

(C) by striking "December 31, 1993" in subparagraph (B) and inserting "June 30, 1994", and

(D) by striking "January 1, 1994" in subparagraph (C) and inserting "July 1, 1994".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years after 1991.

SEC. 108. QUALIFIED MORTGAGE BONDS.

(a) IN GENERAL.—Subparagraph (B) of section 143(a)(1) (defining qualified mortgage bond) is amended by striking "December 31, 1991" each place it appears and inserting "June 30, 1992".

(b) MORTGAGE CREDIT CERTIFICATES.—Subsection (h) of section 25 (relating to interest on certain home mortgages) is amended by striking "December 31, 1991" and inserting "June 30, 1992".

(c) EFFECTIVE DATES.—

(1) BONDS.—The amendment made by subsection (a) shall apply to bonds issued after December 31, 1991.

(2) CERTIFICATES.—The amendment made by subsection (b) shall apply to elections for periods after December 31, 1991.

SEC. 109. QUALIFIED SMALL ISSUE BONDS.

(a) IN GENERAL.—Subparagraph (B) of section 144(a)(12) (relating to termination dates) is amended by striking "December 31, 1991" and inserting "June 30, 1992".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to bonds issued after December 31, 1991.

SEC. 110. HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) EXTENSION.—

(1) IN GENERAL.—Paragraph (6) of section 162(l) (relating to special rules for health insurance costs of self-employed individuals) is amended by striking "December 31, 1991" and inserting "June 30, 1992".

(2) SPECIAL RULE.—In the case of any taxable year beginning in 1992—

(A) only amounts paid before July 1, 1992, by the individual for insurance coverage for periods before July 1, 1992, shall be taken into account in determining the amount deductible under section 162(l) of the Internal Revenue Code of 1986 with respect to such individual for such taxable year, and

(B) for purposes of subparagraph (A) of section 162(l)(2) of such Code, the amount of the earned income described in such subparagraph taken into account for such taxable year shall be the amount which bears the same ratio to the total amount of such earned income as the number of months in such taxable year ending before July 1, 1992, bears to the number of months in such taxable year.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 111. EXPENSES FOR DRUGS FOR RARE CONDITIONS.

(a) IN GENERAL.—Subsection (e) of section 28 (relating to clinical testing expenses for certain drugs for rare diseases or conditions) is amended by striking "December 31, 1991" and inserting "June 30, 1992".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending after December 31, 1991.

SEC. 112. CHARITABLE CONTRIBUTIONS OF APPRECIATED PROPERTY.

Subparagraph (B) of section 57(a)(6) (relating to appreciated property charitable deduction) is amended by adding at the end thereof the following new sentence: "In the case of a contribution made before July 1, 1992, in a taxable year beginning in 1992, such term shall not include any tangible personal property."

TITLE II—MODIFICATION TO CORPORATE ESTIMATED TAX PROVISIONS

SEC. 201. TEMPORARY INCREASE IN AMOUNT OF CORPORATE ESTIMATED TAX PAYMENTS.

(a) GENERAL RULE.—Subsection (d) of section 6655 (relating to amount of required installment) is amended by adding at the end thereof the following new paragraph:

"(3) TEMPORARY INCREASE IN AMOUNT OF INSTALLMENT BASED ON CURRENT YEAR TAX.—In the case of any taxable year beginning after 1991 and before 1997—

"(A) Paragraph (1)(B)(i) and subsection (e)(3)(A)(i) shall be applied by substituting for '90 percent' each place it appears the current year percentage determined under the following table:

In the case of a taxable year beginning in:	The current year percentage is:
1992	93
1993 or 1994	94
1995 or 1996	95.

"(B) Appropriate adjustments to the table contained in subsection (e)(2)(B)(ii) shall be made to reflect the provisions of subparagraph (A)."

(b) CONFORMING AMENDMENT.—Paragraph (1) of section 6655(e) is amended by striking "modified by subsection (d)(2)" and inserting "modified by paragraphs (2) and (3) of subsection (d)".

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1991.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois [Mr. ROSTENKOWSKI) will be recognized for 20 minutes, and the gentleman from Texas [Mr. ARCHER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois [Mr. ROSTENKOWSKI].

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 3909, the bill now under consideration.

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

There was no objection.

□ 1240

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

Mr. Speaker, as reported by the Committee on Ways and Means, this bill would extend for 6 months 12 expiring provisions of the Internal Revenue Code that were enacted to provide incentives for low-income housing, research and development, education, and other activities beneficial to the economy. Many Members of the House have written to me and the Ways and Means Committee urging us to act on the expiring provisions prior to adjournment.

H.R. 3909 will allow these important programs to continue beyond their scheduled expiration of December 31, 1991. Without this emergency legislation, these programs will expire at year-end, causing injury to millions of taxpayers who benefit from these provisions, and further jeopardizing important sectors of the economy. The 6-month extension contained in H.R. 3909 should be adequate to allow for the development of a permanent solution in the event that there is a tax bill next year.

The Senate Finance Committee has reported identical legislation. It is my hope that both Houses will pass the identical legislation before we adjourn, so that it may be signed into law as soon as possible.

Mr. Speaker, I want to express my intention that this will be the last temporary extension of these 12 expiring tax provisions. Over the past few years, these temporary extensions have become an annual ritual. Such on-again, off-again legislation is bad for government and bad for taxpayers, who cannot plan ahead to utilize the incentives. This annual uncertainty does not reflect well on the Congress or the administration, and creates needless instability in the economy.

Yet the current budgetary and political realities in the closing days of the first session of this Congress demand such a temporary solution. Early next year, however, the Ways and Means Committee will hold hearings to review all the expiring tax provisions and will vote on each one individually, to decide whether each one should be made permanent or allowed to expire. The burden will be on those who support individual extensions, both in the administration and in the Congress, to present the case for a permanent extension and to recommend ways to pay for them.

Mr. Speaker, in compliance with the budgetary pay-as-you-go requirements, H.R. 3909 contains a revenue offset which would speed up estimated tax payments for large corporations. Under current law, these corporations are required to make estimated tax payments equal to 90 percent of their current tax liability. The bill would temporarily raise this required percentage to 95 percent, after a 3-year phasein period.

Commitments have been made in both Houses of Congress to keep this legislation clean of all amendments. I would urge that these commitments be honored, so this important emergency legislation is not jeopardized. I strongly urge my colleagues to vote for this bill.

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

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

Mr. Speaker, I yield myself such time as I may consume and ask unanimous consent to revise and extend my remarks.

H.R. 3909, the Tax Extension Act of 1991, provides for a 6-month extension of a dozen tax provisions that are generally due to expire at the end of this year.

These tax provisions have become known euphemistically as the extenders inasmuch as Congress has extended these provisions generally 1 year at a time for the past several years.

These expiring tax provisions include such provisions as the research and experimentation tax credit—deduction of health insurance costs for self-employed individuals, the exclusion for employer-provided educational assistance, extension of qualified mortgages bonds which provides low interest mortgage for first time home buyers, and the low-income housing tax credit.

Several of the expiring provisions are of such unquestionable merit that they should have been extended permanently years ago. Unfortunately, revenue constraints in recent years have led us to extend them for only short periods of time.

I look forward to working with Chairman ROSTENKOWSKI next year in reviewing the entire list of expiring provisions. We should extend permanently those provisions that merit permanent extension and eliminate those that do not.

The bill is funded through a modification to the estimated tax payments for corporations. Under current law, a corporation generally is required to pay estimated tax payments equal to 90 percent of the corporation's final tax liability.

Under the bill, this 90-percent requirement would be increased to 95 percent.

While this revenue raiser may sound rather innocuous at first blush, I have serious concerns about the proposal. No hearings have been held. I seriously doubt that 5 percent of the corporate tax directors in this country are even aware we are considering this proposal today.

Second, the Ways and Means Committee recently considered a similar modification to the estimated tax payment rules for individuals in the context of the unemployment bill. The committee soundly rejected the proposal until numerous concerns had been remedied.

The estimated tax payment process is not a simple one for small businesses that lack the sophistication to adequately comply.

The current law 90-percent rule provides a 10-percent margin of error to accommodate the good faith estimated tax calculations taxpayers are required to make four times each tax year. Increasing the degree of accuracy to 95 percent will strain the practical ability of many small business owners.

Unfortunately, the problem can be far worse for large corporations.

I recently heard from 1 corporation in my district that has approximately 300 domestic subsidiaries and 150 foreign subsidiaries. It is virtually impossible for this corporation to gather accurate tax information from this far-flung enterprise in order to file accurate estimated taxes. Because penalties for underpayment of estimated tax are nondeductible, this company will be forced to overpay its taxes, thereby providing an interest-free loan to the U.S. Government. This is fundamentally unfair.

In the coming months, we will have an opportunity to monitor the problems raised by this and past modifications to the estimated tax rules. I hope that we will have an opportunity next year to comprehensively review the estimated tax payment rules in order to simplify and improve these rules.

Mr. Speaker, I yield 1 minute to the gentleman from Rhode Island [Mr. MACHTLEY].

Mr. MACHTLEY. Mr. Speaker, I rise in strong support of H.R. 3909.

I wish to thank the chairman and the ranking member as well as the members of the committee for extending these very important programs; specifically, the mortgage revenue bond and the low-income housing tax credit. These programs provide 1.3 million Americans with homes, provides some 400,000 rental units. I believe these are the types of programs which have worked and which I hope, as the committee goes back to review this, they will make permanent.

I think our country needs the housing program; I think these are programs which have been proven.

Mr. Speaker, I commend the committee for extending these programs so that there is no disruption in the building programs and the housing for our homeless.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. I thank the gentleman for yielding.

Mr. Speaker, I rise in strong support of this legislation.

Mr. Speaker, we have heard a lot of talk today dealing with the need for action on our economy. There is no question that we must take action to reverse this recession and its damaging impact on families across this great land.

Make no mistake about it, Democrats have a plan and are ready to act if the President will join us productively, rather than merely threaten another veto.

In the interim, I want to commend the chairman of the Ways and Means Committee for bringing this bill, extending critical expiring tax provisions to keep investment going in our economy. As I discussed with the chairman, this bill is a lifeline to our home building industry, without which this recession will only become deeper and more severe.

Housing starts are now at the lowest level of any year since World War II. Over 15 percent of those employed by the homebuilding industry on a national level—and over 60 percent in the Washington metropolitan region—are out of work today. This industry and its impact on our economy are clearly in a crisis.

At the same time, it is important to note that Housing has led our Nation out of every recession. Without a turnaround in the housing industry, we may continue to flounder and sink in the rough seas in which we now find ourselves.

This legislation will keep in place critical lifelines to the homebuilding industry. Without these extensions, financing that is now available through mortgage revenue bonds and capital that is available for low-income housing would dry up and turn a crisis into a disaster and a recession into a depression.

To point out the importance of these provisions, it is important to note that State-issued mortgage revenue bonds have funded more than 1.3 million lower income mortgages—and over 131,000 in 1990 alone. Local housing authorities have provided another 474,000 mortgage revenue bond [MRB] loans. In 1990, in Maryland, over 4,400 families have received MRB-assisted loans. This means jobs for employees of the homebuilding industry and means the recession is that much less painful.

The Chairman's bill will allow us to get to next year, when we can include these provisions in an overall package that focuses on spurring and sustaining economic growth.

I also commend the chairman on his commitment to review these issues next year and make them permanent if they are found to be productive. At long last we can stop the gameplaying of making these issues a political football on an annual basis and provide some confidence and stability to capital markets for the homebuilding industry. I thank the chairman for this action today and urge adoption of this important legislation.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Mr. Speaker, let me congratulate the Chairman, the gentleman from Illinois [Mr. ROSTENKOWSKI], and also the ranking Member, the gentleman from Texas [Mr. ARCHER], for coming together to make such an important issue to the American people and the Nation a nonpartisan issue.

Clearly, all 12 of these extenders have a great constituency, but I am concerned about the creation of jobs for the underprivileged, especially our teenagers, and the targeted job credits where we reach out and encourage people to hire the disadvantaged and give them the training necessary to keep them working, off the welfare rolls and out of trouble.

In addition, we are talking about the low-income housing credit, where 95 percent of all the housing that has been built in the last 3 years where the rent has been $450 or less per month has been built under the low-income housing credit.

So I do join with the minority and the majority, hoping that it soon will become permanent. But it took a lot of cooperation and a lot of work for us to get where we are today, and I congratulate both of these gentlemen.

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Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Speaker, I rise today in strong support of the bill, and I rise in relief that we are considering H.R. 3909. I thank the gentleman from Illinois [Mr. ROSTENKOWSKI], the chairman of the Committee on Ways and Means, and certainly thank the gentleman from Texas [Mr. ARCHER].

This legislation would extend the 12 tax provisions that are slated to expire on December 31, 1991. These include important programs like mortgage revenue bonds, the low-income housing tax credit, and the research and development tax credit.

Extending these proven programs is the least complicated and least costly way to stimulate the economy. I am the lead sponsor of the mortgage revenue bond extender. This is a vital program that helps working families purchase their first home. It is supported by 391 Members of the House.

The Mortgage Revenue Bond Program helped more than 605,000 families become homeowners in 1990 alone. Since 1988, 10,239 families in Connecticut have become first time homebuyers with the assistance of mortgage revenue bonds.

The Mortgage Revenue Bond Program is a proven program. It is one of the few things that is still moving homes in the residential real estatemarket. In addition, more than 60 percent of all lower priced RTC home sales have been financed by the Mortgage Revenue Bond Program, the only gold star the RTC can claim.

The extension of the Low-Income Housing Tax Credit Program will also provide much needed stimulus for our fragile economy. The low-income housing tax credit is the most important housing program we have today, providing for more new construction than any other Federal program. The credit produces 120,000 units of low-income rental housing each year. And since its inception this vital program has added 28,000 new low-income housing units in Connecticut.

If my colleagues really want to do something for jobs, and if they want to do something for real estate, and, most importantly, if they want to do something for the American people, here it is. Here is something practical we can do in this very good economic package in front of us, and I am delighted we have it and hope everybody comes together, as they have on the committee, to support it.

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

Mr. Speaker, the gentlewoman from Connecticut [Mrs. KENNELLY] who just spoke is absolutely correct. The public would like for this Congress to come together without partisan bickering to try to help the economy, and this is one step today in this bill where we have come together, where we can go arm and arm, Democrats and Republicans, to the American people and say, "We do want to create jobs."

Mr. Speaker, this targeted jobs tax credit, which will be renewed by this bill, creates job opportunities for Americans. The mortgage revenue bond provision, which is renewed, will create the construction of more homes, and the sale of more homes and the creation of more jobs. The R&D tax credits will create more jobs for those people who are at the cutting edge of developing technology that will keep this country in the forefront and competing with its foreign trading partners. That is in addition to low income housing. The credit there will create more jobs.

So, this Congress is taking at least a small step forward in a positive way today to help to move us out of a recession and into greater job creation.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. Mr. Speaker, I thank the gentleman from Illinois [Mr. ROSTENKOWSKI] for yielding this time to me, and let me say that I was pleased yesterday when the Committee on Ways and Means Democrats and Republicans decided together to do what I think all of us understand is necessary for the economy. These are public policies that are important, and we have decided to extend these extended tax provisions so we do not get in positions where our failure to extend

them depresses the economy further and causes further loss of jobs. This is a package that will help stimulate and help produce some economic activity, and I am pleased to see that we can work together and can have a spirit of bipartisanship and harmony on these issues.

I do want to take one of these extenders and discuss it just for a moment. That is the 25-percent health insurance deduction for self-employed. I am pleased that that is not allowed to expire, that that is in fact extended, but it is not nearly enough. There is no excuse at all in these times when we talk about the need for incentives to have health insurance to say to a small business or a farmer on one side of the street, "You get a 25-percent deduction for your health insurance on your income tax, but your competitor across the street is incorporated, and you get, Mr. Competitor, a 100-percent deduction. If you're incorporated, you get a full 100-percent deduction for health insurance costs, but if you're a self proprietor or self-employed, you only get 25 percent."

Mr. Speaker, we have to correct that, and we have to do it soon. I am hoping next year when we discuss this we will decide that the self-employed, the unincorporated businesses of America, will have a 100-percent education for health insurance costs, just as the incorporated businesses have. There is no justification of that difference in public policy.

Once again let me say in the midst of all of this partisan chaos around there that this is at least one small shining example of how Republicans and Democrats can work together to bring something to the floor that is good for the country, and I congratulate the gentleman from Illinois [Mr. ROSTENKOWSKI], the chairman of the Committee on Ways and Means, and I congratulate the ranking member, the gentleman from Texas [Mr. ARCHER] and the folks on that side of the aisle as well.

Mr. ARCHER. Mr. Speaker, I yield 3 minutes to the gentleman from Iowa [Mr. GRANDY].

Mr. GRANDY. Mr. Speaker, I thank the gentleman from Texas [Mr. ARCHER] for yielding this time to me, and let me agree with my friend, the gentleman from North Dakota [Mr. DORGAN] on the timeliness and importance of extending these expiration provisions. I salute the chairman, the gentleman from Illinois [Mr. ROSTENKOWSKI]. I salute the gentleman from Texas [Mr. ARCHER] and will expand only for a moment on how this is a small way is a package that Members on both sides of the aisles can take home and say, "We have done something for growth and for competitiveness."

The gentleman from North Dakota [Mr. DORGAN] expanded on the 25-percent deductibility, which is really not so much a tax issue as it is a fairness issue, and I will not elaborate on that except to say that both he and I have sponsored legislation to expand that deductibility to 100 percent, and indeed that proposal is incorporated in many of the health care reform packages that both Republicans and Democrats have offered.

But, as a Representative from a rural area, Mr. Speaker, let me highlight some provisions that I think are terribly important to rural communities that have suffered outmigration and has sustained a lack of growth for many years. In addition to health care deductibility for self-employed individuals, and in our case that usually means farmers, there are two other provisions that are terribly important. The provisions which extends the qualified small new manufacturing bonds are those bonds from which beginning farmer lender programs grow. Iowa has had a very successful beginning farmer program. It depends on these private activity bonds and will be allowed to continue at least for 6 months, which is good news for a lot of young farmers who otherwise would not be enfranchised in agriculture.

Similarly, the low-income housing tax credit more and more in rural areas where we are suffering a tremendous shortage in housing is now combining with Farmers Home and FHA to provide housing needs for the rural poor. That is a tremendously important extension.

Let me add one more personal note. To reauthorize section 127, which is employer-provided education assistance, is not only good tax policy, it is good competitive policy for this country. We all know and have heard in the Committee on Ways and Means and on the floor of this House how important it is to move our work force to a skill force. Unless employers get involved, this will not happen, so this provision, and hopefully others to come, provide a tremendous opportunity for growth and competitiveness.

I salute the gentleman from Illinois [Mr. ROSTENKOWSKI], the chairman of the Committee on Ways and Means, and I salute the gentleman from Texas [Mr. ARCHER], and I encourage all Members to support enthusiastically the expiring provisions.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. ANDREWS].

Mr. ANDREWS of Texas. Mr. Speaker, I rise, too, in support of this important bipartisan legislation, the Tax Extension Act of 1991. This may be one of the most significant pieces of legislation that Congress considers this session to encourage risk-taking, investment, and jobs creation.

Mr. Speaker, history has shown us that the research and development tax credit has helped businesses develop new products that stimulate economic growth and make us more competitive with our trading partners. It is absolutely critical that we extend this important credit.

Second, Mr. Speaker, the targeted jobs credit has enabled many businesses to employ the disadvantaged. Over a half a million workers benefit from this specific tax provision.

Finally, the extension of the 25-percent tax deduction for the self-employed is absolutely critical if we are going to control insurance costs for small businesses. This is an issue that we must address as a Congress and in the Ways and Means Committee in this next legislative session. But today we are saying to the small businessman that we must keep their insurance costs from going up. We are, therefore, extending this important deduction.

Mr. Speaker, the Ways and Means Committee will be back 6 months from now to review these provisions and to look at other provisions that can encourage growth in our economy.

I want to commend the chairman and the ranking minority member. This is a bipartisan bill; it is an important piece of legislation, and I encourage its passage.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY of New York. Mr. Speaker, I rise today to thank Chairman ROSTENKOWSKI for bringing this important legislation to the floor before adjournment. The extension of these provisions of the Tax Code are critically important as my letter to the committee last week, signed by 94 of our colleagues, pointed out. This bill is essential to the stability of our economy, particularly during this recession.

Among the programs extended are the low-income housing tax credit and Mortgage Revenue Bond Program which are very important to our housing industry, especially at this difficult time. The bill also extends the targeted jobs tax credit which has clearly served to create jobs that we need now more than ever. The research and experimentation tax credit is also important to expanding our economy, and this bill keeps that credit in operation as well. It also preserves the tax exclusion for employer-provided educational and legal expenses and tax provisions related to the value of donated works of art.

Mr. Speaker, we all know that these particular tax provisions have histories of success, and it is indeed good news that this bill is being moved quickly through the Congress before adjournment. I commend the committee for its timely action and urge my colleagues to lend their full support to its passage today. I submit my letter of November 22 along with the list of signers to be printed at this point in the RECORD.

HOUSE OF REPRESENTATIVES,
Washington, DC, November 22, 1991.

Hon. DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means, Longworth Building, Washington, DC.

DEAR MR. CHAIRMAN: We respectfully urge you to convene your committee at the first opportunity to consider a short term extension of the expiring provisions of the tax code before we adjourn for the year. At this time, when our economy is mired in recession, we must maintain the viability of these programs, all of which have positive economic and societal impacts.

Although we would urge a long term or even permanent extension of these provisions, we are aware of the constraints imposed by the 1990 Budget Agreement. Hence, we want you to know of our support for a short-term extension, even as short as three months, to keep these programs operating while we grapple with the tough economic and tax questions which we all know must be addressed in early 1992.

Mr. Chairman, we understand your reservations about opening up the tax code so late in the year, but we ask that you do so to ensure that the social and economic benefits from these important programs are not jeopardized at this critical time. While all of us have changes we would like to see in the tax code, we realize the overriding importance of maintaining continuity for these long-standing provisions which are set to expire December 31. We encourage you to bring an extension bill to the floor under suspension of the rules before we adjourn.

Sincerely,

Nita M. Lowey, Mike Espy, Claude Harris, John Cox, Jr., Lane Evans, W.G. Hefner, Frank Pallone, Jr., Tim Johnson, Hamilton Fish, Jr., Matthew J. Rinaldo, William H. Zeliff, Jr., Chalmers P. Wylie, Stephen L. Neal, and Beverly Byron.

John Conyers, Jr., Les AuCoin, Collin Peterson, David R. Nagle, James H. Bilbray, Glen Browder, Robert E. Cramer, Jr., Ben Nighthorse Campbell, William Lehman, Matthew McHugh, Glenn Anderson, Patricia Schroeder, J. Roy Rowland, David Price, Vic Fazio, and Robert J. Mrazek.

Ileana Ros-Lehtinen, Ben Jones, Bill Emerson, Robin Tallon, Richard Lehman, Jon Kyl, Scott Klug, Peter H. Kostmayer, Joseph Gaydos, Walter Jones, Thomas Ewing, Norman F. Lent, Mary Rose Oakar, and Henry J. Nowak.

John Tanner, Jim Jontz, Bernard J. Dwyer, James F. Sensenbrenner, Jr., Randy "Duke" Cunningham, Jack Reed, Craig Thomas, Robert A. Borski, Terry Bruce, Dick Swett, Dan Burton, Jose E. Serrano, James V. Hansen, Constance Morella, Howard Coble, Wally Herger, William L. Dickinson, Joel Hefley, Dan Schaefer, and Tom Lewis.

Tom Bevill, Larry Smith, Bill Alexander, Ronald K. Machtley, Porter Goss, Robert W. Davis, Charles Taylor, James H. Scheuer, Arthur Ravenel, Jr., Bill Lowery, Gerry Studds, Jerry F. Costello, Marilyn Lloyd, and Floyd Spence.

Gary Ackerman, Dave Camp, Thomas McMillen, Bart Gordon, Chester G. Atkins, Sam Gejdenson, Glenn English, Douglas "Pete" Peterson, Charles A. Hayes, Robert J. Lagomarsino, Dale E. Kildee, Wayne Owens, John M. Spratt, Jim Bacchus, Tom Andrews, Susan Molinari, and Alex J. McMillan,

Members of Congress.

□ 1300

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN of Michigan. Mr. Speaker, I would like to congratulate the chairman of the committee for finding a way to bridge this gap. The extenders are being extended because they have stood the test of time. These are deserving provisions. They have been placed in the rather unusual situation of every so often having to be renewed. But they are renewed because they serve basic economic needs for employers, large and small, for employers of all kinds.

Next year they are going to have to stand the rest of financial stringency, and I hope all of us who support the essence of these provisions will look ahead and try to find a way to fit these provisions into an overall tax package on a permanent basis.

So, Mr. Speaker, I rise in strong support of this action. It is a responsible one. In 6 months we will take another look and make sure we can handle this on a permanent basis.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield such time as he may consume to the gentleman from Rhode Island [Mr. REED].

Mr. REED. Mr. Speaker, I rise in support of this measure and commend the chairman of the committee for his leadership.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Speaker, I want to commend the chairman of the committee and the committee for bringing this proposal to the floor.

I have some concerns obviously about the on-and-off nature of these extenders, but I think the most important point made by the committee is that in advancing these extenders they paid for them. The cost of these extenders for 5 years is $3.1 billion. They raised $3.1 billion by increasing the corporate estimated tax in terms of its payment.

There are a lot of tax proposals that are being thrown around here. Some of them are paid for, some of them are not. The worst thing we could do is to cut taxes for some people while increasing the worst tax of all, which is the deficit on the American people. That is a lesson that both the President and my colleagues need to learn.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. Mr. Speaker, I want to thank my chairman for yielding me the time, and I want to congratulate the gentleman from Illinois [Mr. ROSTENKOWSKI] and the gentleman from Texas [Mr. ARCHER] for finding a way to bring this extender bill to the floor.

These expiring tax provisions are very important to our economy and very important to many programs that we have in our State and local governments and throughout our communities.

I want to underscore the point that the gentleman from Illinois [Mr. ROSTENKOWSKI] made earlier, and that is that we need to take up these expiring tax provisions next year. I hope at that time that we will be able to look at permanent extensions for these tax provisions and also look at ways in which we can modify some of these provisions to make them more effective. Unfortunately, we just extend many of these provisions without looking at each individual one. I think that is important, and I thank the chairman of the committee for giving us that opportunity again next year.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. THOMAS], a member of the committee.

Mr. THOMAS of California. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, it is ironic that the morning after the House passed a multimillion dollar campaign finance bill with no funding source, there is a discussion about a tax package that actually pays for itself. We are talking about $3.1 billion in which a committee, on which it is my pleasure to be a member, was at least responsible enough to include sufficient revenue for the revenue lost.

Last night in a fit of orgy this House passed a bill that includes tax credits that the Joint Tax Committee estimates will, over a 5-year period, cost about $780 million. It included a postage subsidy which was between $50 and $75 million a year, and it included matching funds which the other side of the aisle said all last night were to be paid for out of voluntary funds. If we would take a look at this morning's Washington Post, we would see that the gentleman from Connecticut has already reneged on that commitment and says he reserves the right to use tax dollars.

Mr. Speaker, I wish those Members who just took the microphone and talked about responsibility in terms of covering the cost of requests would have been at the microphone last night when this body unfortunately passed a multibillion-dollar package financing campaigns with taxpayers' money and did not have the coverage to pay for it.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Speaker, I thank the gentleman very much for yielding this time to me.

Mr. Speaker, I rise in strong support of this bill to extend key expiring tax provisions.

There are disagreements in this House, and they are legitimate disagreements. We fight tough battles about what the future tax policy of

this Nation ought to be and these are valid battles. But it indeed would be a shame if we were unable to provide the predictability of policy that is so important to the success of the programs that we currently have in place.

These extenders are the most successful housing policy the Federal Government participates in in my district and in my State. These extenders provide the most powerful and successful educational assistance to working people that my constituents enjoy. It is imperative in an era of skyrocketing health care costs that we preserve the right of self-employed, small businessmen and women to deduct at least 25 percent of their health care premiums. Failure to renew the targeted jobs tax credit would throw a new round of people into the unemployment lines in Connecticut. These programs funded through tax expenditures create opportunity for millions of Americans, and thousands of my constituents.

So, Mr. Speaker, I commend the chairman and the ranking member for being able to create the discipline in this and the other body to bring the bill to the floor. By so doing we restore the predictability and certainty that makes sound tax policy. We restore benefits to thousands of folks out there that are crucial to their well-being and to the opportunity they have to realize new dreams and we restore Congress' credibility as the steward of the people's interests.

Mr. ARCHER. Mr. Speaker, I yield 30 seconds to the gentleman from Pennsylvania [Mr. MURTHA].

Mr. MURTHA. Mr. Speaker, I just wonder if there is a message in all the compliments that are being paid to the chairman. I usually only see these kinds of compliments when someone has either died or is retiring.

May I ask the chairman if there is a message there?

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

Mr. MURTHA. I yield to the chairman of the committee.

Mr. ROSTENKOWSKI. Mr. Speaker, I am sure that the gentleman was aware that the extensions of gratitude were rendered to both Mr. ROSTENKOWSKI and the gentleman from Texas [Mr. ARCHER].

The SPEAKER pro tempore (Mr. MAZZOLI). The time of the gentleman from Pennsylvania [Mr. MURTHA] has expired.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield such time as he may consume to the gentleman from Utah [Mr. ORTON].

Mr. ORTON. Mr. Speaker, I rise in enthusiastic support of extending these provisions in a manner that they may be paid for as we go.

Mr. ARCHER. Mr. Speaker, I think we should quit while we are ahead.

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

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

Mr. Speaker, one certain evidence we have seen here is that the Congress can work together. These are very important provisions. They are provisions that both the minority and the majority, not only in the Committee on Ways and Means but in conference as well, have been struggling with for a long time. That is one of the reasons why in the past we did extend them permanently, and only because of budget constraints and revenues we continuously cut them back to a point where only this year we had them for 9 months.

I think there is much to be said about the Ways and Means Committee reviewing these extenders, as they are known, and doing something about them on a permanent basis.

Mr. Speaker, in conclusion, I wish to say that I am especially pleased that by this bill we are able to extend the low-income-housing tax credit for 6 months.

□ 1310

In Chicago alone it will enable us to create 2000 new units of housing for the poorest of the citizens. It is of the utmost importance to me, and I think to generally the poor people of the country, that we pass this legislation, both for our inner cities and rural areas. They certainly deserve it, are counting on it, and I think we should move with great dispatch.

Mr. FRANKS of Connecticut. Mr. Speaker, I rise in strong support of passage of H.R. 3909, which authorizes the extension of 12 expiring tax provisions.

It is fitting that as we begin to celebrate the holiday season, we can point to an issue which has united both sides of the aisle.

For too long, the Congress has delayed taking action on these expiring tax credits which have been an essential part of our economy.

While the 6 month extension of these tax credits will show the business community that Congress supports these credits and that we have a strong interest in seeing them continued, I hope Members will continue to support efforts to extend them permanently or on a yearly basis.

Premanent extension of these provisions will allow businesses to make the financial plans to fully utilize their credits on a yearly basis.

Earlier this year, I introduced the Small Business Jobs and Tax Benefits Act which would extend 5 of the 12 expiring provisions which I believe are crucial to the success and expansion of the small business community. I am pleased that these five expiring provisions were included in H.R. 3909.

Real long-term economic growth and expanded job opportunities will depend on Congress passing measures such as H.R. 3909 which create incentives for business to invest and expand.

These provisions will also assist employers who offer educational programs, target jobs to disadvantaged and disabled workers, relieve the burden of insurance for self-employed individuals, assist in the development of solar and geothermal energy equipment and exclude employer provided group legal services from taxes.

Mr. Speaker, I am also very concerned about the ability of working families to find affordable housing.

That is why I am very pleased two other provisions will be extended—the Mortgage Revenue Bond Program and the Low Income Housing Tax Assistance Program.

These will be the first step that Congress takes in passing legislation which will get our economy up and running again.

Mr. Speaker, I urge all Members to support this bill.

Mr. MOODY. Mr. Speaker, I rise in strong support of H.R. 3909, the bill to extend the 12 tax provisions that will expire at the end of this year. I commend Chairman ROSTENKOWSKI and my fellow members of the Ways and Means Committee for working together to find a way to extend these provisions.

I cosponsored legislation to extend these crucial provisions because each of them serves an essential need in our communities. Several of these items are among the most successful that we have enacted in the Ways and Means Committee in recent years.

I'd like to single out the targeted jobs tax credit and the low-income housing tax credit for special notice. Both of these tax credits are very important in my district and in my State. This Wisconsin Housing and Economic Development Authority has been especially supportive of the low-income housing credit, and have proclaimed it to be a major success in Milwaukee. Several other nongovernmental, nonprofit community groups make extensive use of these credits to build affordable housing for low-income families without the direct involvement of the Government.

The targeted jobs tax credit is another good example of a successful approach to using the private sector to address a public need by providing the necessary resources without Government micromanagement. This credit helps defray the costs of hiring young men and women that have had difficulty getting into or staying in the work force. It gives these workers real jobs in the private sector, providing them with experience and training.

This legislation also extends the 25-percent deductibility of health insurance for the self-employed. This is obviously a minimum necessity given the high and ever-growing cost of health insurance. However, it is only a stopgap measure. I have introduced legislation with my colleague BYRON DORGAN to make health insurance fully deductible for the self-employed. There is no reason that one set of businesses should be allowed to deduct 100 percent of this cost, and another set of businesses denied this benefit. The real long-term solution to this problem, however, is a fundamental reform of the health insurance system that puts serious controls on rising health costs. I hope we achieve this reform in this Congress by adopting a bill I have introduced to establish a single-payer health insurance system that will reduce costs for the vast majority of American families and businesses.

There are other provisions in this bill which I heartily support, including: mortgage revenue bonds to help working families buy their own homes; small issue manufacturing bonds to help communities attract and retain business

for economic development; and the research and experimentation tax credit which continues to give American business the incentive to invest in research projects that will contribute to the long-term competitiveness of this economy.

While I am extremely happy that we are able to extend these provisions for 6 months, I think that it is essential that we make it a priority to permanently extend each of them before they expire next year. I look forward to working with Members of the committee and the House to find a way to do this.

Mr. REED. Mr. Speaker, I rise today in strong support of H.R. 3909 and in recognition of Chairman ROSTENKOWSKI's efforts to bring this legislation to the floor.

H.R. 3909 demonstrates our commitment to improving the economy, affordable housing, health care, jobs, and research. Its passage will continue for 6 months a host of programs of vital importance to our States. I would like to highlight a few.

The Mortgage Revenue Bond Program and the low-income housing tax credit are two of the most effective tools we have to create affordable housing as well as meet our goal of providing all Americans with decent, accessible, and safe housing.

Since its inception 12 years ago, the targeted jobs tax credit has helped millions of low-income Americans go from tax users to tax payers. At the same time, the targeted jobs tax credit also affords businesses, large and small, the opportunity to reduce their tax burden. The targeted jobs tax credit also increases hiring from groups in our society which are historically disadvantaged and structurally unemployed, and thus begin to break the vicious cycle of poverty.

While health insurance costs have been escalating dramatically for all businesses, the costs have been significantly higher for small business. New data on health coverage in small firms indicates that they still employ a disproportionately large share of workers without employer provided health insurance. Moreover, nearly half of the self-employed workforce is uninsured.

The continuation of the 25 percent deduction for health insurance costs provides an incentive for more small business owners to purchase health insurance for themselves and their employees.

Again, I would like to state my support for the worthy programs I mentioned above as well as continuing the authority of States to issue tax-exempt small issue manufacturing bonds.

Mr. BLACKWELL. Mr. Speaker, I rise today to express my strong support for H.R. 3909. This economy needs a jump start and I can think of no better way to help get it going than by supporting this bill that will give tax credits for the construction of low-income housing. The low-income housing tax credit is the Nation's primary affordable housing tool, responsible for 94 percent of all low-income housing starts and more than 35 percent of all rental housing starts each year. In addition, this bill allows tax exempt status for mortgage revenue bonds, and gives tax credit for the hiring of disabled and disadvantaged workers. I firmly believe that we need affordable housing for the poor and the working class. We need jobs for all Americans, including the disabled, and we must support programs that encourage people to further their education. This comprehensive bill will offer millions of people the push that they need to get on with their lives. By supporting this legislation, we can help these people, and stimulate our fragile economy at the same time.

Ms. SLAUGHTER of New York. Mr. Speaker, I rise in support of the H.R. 3909, the compromise bill on extenders that will temporarily rescue the 12 expiring provisions of the Tax Code. I commend the wisdom of the Ways and Means Committee and the Senate Finance Committee in recognizing the importance of these expiring provisions.

While I strongly support the tax breaks for low-income housing, research and experimentation, and employer-provided educational assistance, among others, there is one expiring provision about which I have been particularly concerned. That provision is the deduction for interest on industrial revenue bonds, [IDB's] issued to provide capital for small manufacturers.

By providing a sound, responsible, reliable means of capital development, IDB's have played a critical role for small manufacturing firms. Such firms have long been a key component of the economy of my district, which includes parts of Greater Rochester, NY. While the manufacturing sector of our economy has been in decline in recent years, IDB's have been a useful mechanism in the struggle to reverse this trend. By reducing the cost of capital, IDB's encourage investment by small manufacturing firms. In recent years in New York, estimates are that $1 of every $10 invested in the small manufacturing industries has involved IDB's. In the Rochester area alone, IDB-financed projects have created more than 1,000 new jobs over the last 4 years.

I have fought to keep open the manufacturing sector's access to needed capital by introducing legislation, both this year and last, to extend the tax exemption on IDB's for a 5-year period. A 5-year extension is needed because our practice of piecemeal extensions of shorter time periods has discouraged some manufacturers from using IDB financing. While IDB's do work, small manufacturers need a program in place that provides continuity and an adequate planning horizon. Accordingly, H.R. 3909's 6-month extension is only a partial victory for small manufacturers. Congress must recognize the job creation and economic stimulus potential of a full 5-year extension of the IDB exemption.

As American manufacturers struggle to survive a recession, a credit crunch, and stiffening foreign competition, we owe nothing less to this backbone sector of our Nation's economy.

Ms. PELOSI. Mr. Speaker, I rise today in strong support of H.R. 3909, to extend 12 expiring tax provisions for 6 months. I would like to commend Chairman ROSTENKOWSKI and Ranking Member ARCHER for their work to develop this package. I know that bringing this bill to the floor today was not easy and required persistence, creativity, and commitment.

Included in these provisions are a number of important programs. Of particular interest to my constituents are the extension of the low-income housing tax credit and the mortgage revenue bond [MRB] programs. These two programs provide much need assistance for the development of affordable housing. I was pleased to work with Representative MACHTLEY in initiating a letter to Chairman ROSTENKOWSKI and Ranking Member ARCHER, cosigned by 225 of our colleagues, urging that these 2 worthy programs be extended.

The tax credit is a significant Federal incentive for the production and rehabilitation of low-income rental housing. Fully utilized, the credit is capabile of facilitating the production and rehabilitation of over 120,000 units of low-income house annually. If made permanent, the tax credit over the next decade could save approximately 620,000 low-income rental units which would otherwise be lost from the house stock. In the San Francisco Bay area, the tax credit has been used in a number of innovative affordable projects. I am very pleased that today we are acting to prevent its expiration.

The Mortgage Revenue Bond Progam, too, plays a significant role in providing affordable housing. The MRB Progam help to reduce home mortgage costs for lower income families, and in my city of San Francisco, helps to provide for moderate-income workers in the city who would otherwise not able to afford to live there. Nationwide, MRB's have assisted over 1.3 million low- and moderate-income families become homeowners.

The bill before us today takes a step in the direction of reordering our domestic priorities. The mechanism developed to raise the revenue needed to extend these expiring tax provisions will speed up tax collections on corporations. Currently, corporations pay taxes based on 90 percent of the current year's tax liability without having to pay an assessment for failure to pay estimated tax. H.R 3909 will require corporations with taxable income over $1 million to pay quarterly taxes based on 95 percent of their income. We implemented a similar change for individuals in orfer to fund the extension of unemployment benefits. It is fitting that today we are using changes to coporate taxation to fund the development of affordable housing.

Again, I would like to commend Chairman ROSTENKOWSKI and Congressman ARCHER for their success with this measure. I urge my colleagues to support H.R. 3909.

Mrs. ROUKEMA. Mr. Speaker, I rise today in strong support of H.R. 3909, a bill to extend for 6 months 12 vital tax provisions that are due to expire on December 31, 1991.

On November 23, I wrote to the chairman of the Ways and Means Committee, Mr. ROSTENKOWSKI, urging that he bring before the full House, prior to adjournment of this first session, legislation to extend these crucial tax provisions. I wish to thank both the chairman and the ranking Republican member of the Ways and Means Committee, Mr. ARCHER, for their efforts to bring this bill before us today.

Given our current recessionary economy, this bill is among the most important legislative initiatives that we will consider prior to adjournment. A number of New Jersey businesses have brought to my attention their strong support for extending various of these 12 tax provisions that they view as crucial to their operations. Also, I wish to point out that

this bill will help to ensure the availability of affordable housing for low- and moderate-income families, health insurance benefits for self-employed persons and their families, and employer-sponsored educational benefits for many Americans.

As the ranking Republican member of the Banking, Housing and Urban Affairs Subcommittee on Housing, and a strong proponent of affordable housing alternatives, I am particularly pleased to note that H.R. 3909 extends both the low-income housing tax credit and the authority of States to issue tax-exempt mortgage-revenue bonds. Earlier this year, I cosponsored H.R. 413 and H.R. 1067, bills to extend on a permanent basis the low-income housing tax credit and mortgage-revenue bond programs, respectively. Government entities and individual groups, together with many Members of this body committed to affordable housing, know the successful history of these programs.

Mr. Speaker, the mortgage-revenue bond program has enabled many low- and moderate-income Americans to purchase their own homes. In New Jersey, where real estate prices are amongst the highest in the Nation, and the gap between household income and home purchase prices has widened, mortgage-revenue bonds and the low-income housing tax credit are the only forms of Federal assistance remaining to facilitate affordable housing.

Mr. Speaker, the bill before us also extends the health insurance deduction for self-employed individuals and their families. Without this provision, many more American families would likely find themselves without necessary health care coverage. One illness or medical emergency could thrust such families into poverty. Thus, the extension of this provision will serve to protect the health and economic well-being of self-employed persons and their families.

I also wish to address the extreme importance of extending tax credits for business research and experimentation [R&E]. Since its enactment in 1981, this tax credit has proven to be an extremely effective incentive to American companies to increase their level of research on new technologies and new products. American businesses would be severely disadvantaged in international markets if the research and experimentation tax credits were allowed to lapse. It is estimated that the extension of these tax credits could lead to $27.5 billion in increased spending for R&E from 1991 to 1995. In addition to the obvious technological research benefits of this increased R&E spending, it would also serve to stimulate jobs, thereby bolstering local economies and businesses.

Last year, during the final hours of the budget debate, Congress approved a 12-month extension of these tax provisions. This year, under the resulting 1990 budget agreement, we must offset this 6-month extension of these tax provisions. This bill does so by speeding up tax collection from certain corporations who make quarterly estimated tax payments. Since a large number of such corporations benefit from these tax provisions, this is an appropriate offset.

While a permanent extension of these credits would be preferable, I believe that we will revisit this issue next year when we tackle the difficult economic and tax issues that we all know must be addressed at the earliest possible opportunity.

Mr. Speaker, I urge my colleagues to lend their support to this bill. It is good for business, good for job creation, good for the economy, and good for America. I also urge our colleagues in the other body to act quickly on this high-priority measure so that we may ensure that there will be no interruption in the operation of these 12 essential programs.

Ms. DELAURO. Mr. Speaker, today, on the last day of this legislative session, we are debating one of the most important bills we have considered this year. H.R. 3909, which will extend a number of crucial tax incentives, is good news for businesses in my State and around the country.

The Government policies addressed in this legislation will help businesses that are struggling to survive this recession—they must not be allowed to lapse. Between 1980 and 1990, an average of 183 businesses per year declared bankruptcy in my State of Connecticut. This year, 526 businesses declared bankruptcy in the first 8 months. Clearly, something must be done.

This bill would extend a dozen vital tax measures scheduled to expire at the end of this year. The incentives in this bill will help businesses, expecially in the slumping real estate sector, to endure these tough economic times. If we allow them to expire, we risk doing serious damage to businesses already weakened by the recession.

Some of the most significant provisions are: Tax credits for business research and experimentation, which will help American businesses and universities invest in the future; low-income housing tax credits and mortgage-revenue bonds, which are vital to the development of affordable housing for low- and moderate-income Americans; deductions of health insurance costs for the self-employed, which allow self-employed individuals to deduct their health care costs in the same manner as larger businesses; and the targeted jobs tax credit, which encourages businesses to hire disabled and disadvantaged workers.

Other provisions in this bill include: Exclusion from taxes of employee-provided education assistance, tax credits for business investment in solar and geothermal energy equipment, and authority to issue tax-exempt small issue manufacturing bonds.

This legislation will not solve the economic ills facing our country. We need to do much, much more. The bill before us extends most of the expiring tax incentives only through the first 6 months of next year. Many, if not most, of these provisions will need to be extended further, and some are worthy of permanent extension.

But this bill represents our commitment to helping businesses through this devastating period and creating new growth, new jobs, and new hope for the future. For businesses surviving on the edge, this legislation will bring a much needed reprieve from the economic pressures they face.

Mr. Speaker, we cannot afford to allow these vital programs to expire. I call on my colleagues to join me in supporting this important proposal.

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

The SPEAKER pro tempore, (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Illinois [Mr. ROSTENKOWSKI] that the House suspend the rules and pass the bill (H.R. 3909) as amended.

The question was taken.

Mr. ARCHER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

FOOD, AGRICULTURE, CONSERVATION AND TRADE ACT AMENDMENTS OF 1991

Mr. DE LA GARZA. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 305) concurring in the Senate amendment to H.R. 3029 with an amendment.

The Clerk read as follows:

H. RES. 305

Resolved, That upon adoption of this resolution, the House shall be considered to have taken from the Speaker's table the bill (H.R. 3029) to make technical corrections to agricultural laws, with the Senate amendment thereto, and to have concurred in the Senate amendment with an amendment as follows:

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Food, Agriculture, Conservation, and Trade Act Amendments of 1991".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

TITLE I—AGRICULTURAL COMMODITY PROGRAMS

Sec. 101. References.
Sec. 102. Conserving use acres.
Sec. 103. Double cropping of 0/92 acres.
Sec. 104. Announcement of acreage reduction programs for rice.
Sec. 105. Corn and sorghum bases.
Sec. 106. Cover crops on reduced acreage.
Sec. 107. Cotton user marketing certificates.
Sec. 108. Malting barley.
Sec. 109. Deficiency payments for wheat, barley, and oats.
Sec. 110. Minor oilseed loan rates.
Sec. 111. Sugar.
Sec. 112. Crop acreage base.
Sec. 113. Miscellaneous amendments to the Agricultural Act of 1949.
Sec. 114. Miscellaneous amendments relating to the Food, Agriculture, Conservation, and Trade Act of 1990.
Sec. 115. Miscellaneous amendments to the Agricultural Adjustment Act.
Sec. 116. Miscellaneous amendments to the Agricultural Adjustment Act of 1938.
Sec. 117. Section redesignation.
Sec. 118. Other miscellaneous commodity amendments.
Sec. 119. Sense of Congress regarding imported barley and oats.

Sec. 120. Cotton classing fees.
Sec. 121. Sense of Congress regarding targeted option payments.
Sec. 122. Transfer of peanut quota undermarketings.
Sec. 123. Cotton futures contracts.
Sec. 124. Lamb price and supply reporting services report and system.
Sec. 125. Cotton first handler marketing certificates.
Sec. 126. Production of black-eyed peas for donation.
Sec. 127. Milk price support program limited to 48 contiguous States.
Sec. 128. Modification of milk production termination program.
TITLE II—CONSERVATION
Sec. 201. Amendments to the Food, Agriculture, Conservation, and Trade Act of 1990.
Sec. 202. Amendment to the Soil Conservation and Domestic Allotment Act.
Sec. 203. Farms for the Future.
Sec. 204. Amendments to the Food Security Act of 1985.
TITLE III—AGRICULTURAL TRADE
Sec. 301. Superfluous punctuation in farmer to farmer provisions.
Sec. 302. Punctuation correction in Enterprise for the Americas Initiative.
Sec. 303. Spelling correction in section 604.
Sec. 304. Missing word in section 606.
Sec. 305. Punctuation error in section 607.
Sec. 306. Typographical correction in section 612.
Sec. 307. Erroneous quotation.
Sec. 308. Punctuation correction.
Sec. 309. Date correction.
Sec. 310. Missing subtitle heading correction.
Sec. 311. Redesignation of subsection.
Sec. 312. Date correction to section 404.
Sec. 313. Date correction to section 416.
Sec. 314. Redesignation of section.
Sec. 315. Cross reference correction.
Sec. 316. Placement clarification.
Sec. 317. Punctuation correction.
Sec. 318. Elimination of obsolete cross reference.
Sec. 319. Cross reference correction.
Sec. 320. Correcting clerical errors in section 204 of the Agricultural Trade Act of 1978.
Sec. 321. Capitalization correction.
Sec. 322. Correction of error in date.
Sec. 323. Correction of typographical error.
Sec. 324. Cross reference correction.
Sec. 325. Elimination of superfluous word.
Sec. 326. Cross reference correction.
Sec. 327. Amendment to section 602.
Sec. 328. Section 407 corrections.
Sec. 329. Section 407(b) amendment.
Sec. 330. Supplemental views in annual report.
Sec. 331. Consultations with Congress.
Sec. 332. Statute designation.
Sec. 333. Correction of placement and indentation of subparagraph.
Sec. 334. Export credit guarantee program.
Sec. 335. Technical amendments to the Food for Progress Program.
Sec. 336. Miscellaneous amendment to the Agricultural Trade Development and Assistance Act of 1954.
Sec. 337. Reporting requirements.
Sec. 338. Sharing United States agricultural expertise and information.
Sec. 339. Conforming amendment relating to the Environment for the Americas Board.
TITLE IV—RESEARCH
Sec. 401. Competitive, special, and facilities research grants.
Sec. 402. National Agricultural Research, Extension, and Teaching Policy Act of 1977.
Sec. 403. Rural development and small farm research and education.
Sec. 404. National Genetic Resources Program.
Sec. 405. Alternative agricultural research and commercialization.
Sec. 406. Deer tick research.
Sec. 407. Miscellaneous research provisions.
Sec. 408. Sustainable agriculture research and education.
TITLE V—CREDIT
Sec. 501. Amendments to the Consolidated Farm and Rural Development Act.
Sec. 502. Amendments to the Farm Credit Act of 1971.
Sec. 503. Federal Agricultural Mortgage Corporation.
TITLE VI—CROP INSURANCE AND DISASTER ASSISTANCE
Sec. 601. Federal crop insurance.
Sec. 602. Disaster relief.
TITLE VII—RURAL DEVELOPMENT
Sec. 701. Amendments to the Consolidated Farm and Rural Development Act.
Sec. 702. Amendments to the Food, Agriculture, Conservation, and Trade Act of 1990.
Sec. 703. Amendments to the Rural Electrification Act of 1936.
Sec. 704. Rural health leadership development.
TITLE VIII—AGRICULTURAL PROMOTION
Sec. 801. Short title.
Sec. 802. Pecans.
Sec. 803. Mushrooms.
Sec. 804. Potatoes.
Sec. 805. Limes.
Sec. 806. Soybeans.
Sec. 807. Honey.
Sec. 808. Cotton.
Sec. 809. Fluid milk.
Sec. 810. Wool.
TITLE IX—FOOD AND NUTRITION PROGRAMS
Subtitle A—Food Stamp Program
Sec. 901. Application of Food Stamp Act of 1977 to disabled persons.
Sec. 902. Categorical eligibility for recipients of general assistance.
Sec. 903. Exclusions from income.
Sec. 904. Resources that cannot be sold for a significant return.
Sec. 905. Resource exemption for households exempt under AFDC or SSI.
Sec. 906. Technical amendment on transitional housing.
Sec. 907. Performance standards for employment and training programs.
Sec. 908. Suspension of certain requirements, and study, of food stamp program on Indian reservations.
Sec. 909. Value of allotment.
Sec. 910. Prorating within a certification period.
Sec. 911. Recovery of claims caused by nonfraudulent household errors.
Sec. 912. Demonstration projects for vehicle exclusion limit.
Sec. 913. Definition of retail food store.
Subtitle B—Commodity Distribution
Sec. 921. Extension of elderly commodity processing demonstrations.
Sec. 922. Reduction of Federal paperwork for distribution of commodities.
Subtitle C—Indian Subsistence Farming Demonstration Grant
Sec. 931. Purposes.
Sec. 932. Definitions.
Sec. 933. Indian subsistence farming demonstration grant program.
Sec. 934. Training and technical assistance.
Sec. 935. Tribal consultation.
Sec. 936. Use of grants.
Sec. 937. Amount and term of grant.
Sec. 938. Other requirements.
Sec. 939. Authorization of appropriations.
Subtitle D—Technical Amendments
Sec. 941. Technical amendments to the Food Stamp Act of 1977.
Sec. 942. Amendment relating to the Hunger Prevention Act of 1988.
TITLE X—MISCELLANEOUS TECHNICAL CORRECTIONS
Sec. 1001. Organic certification.
Sec. 1002. Agricultural fellowships.
Sec. 1003. Outreach and assistance for socially disadvantaged farmers and ranchers.
Sec. 1004. Protection of pets.
Sec. 1005. Critical agricultural materials.
Sec. 1006. Amendments to FIFRA and related provisions.
Sec. 1007. Grain standards.
Sec. 1008. Packers and stockyards.
Sec. 1009. Redundant language in Warehouse Act.
Sec. 1010. Clarification of Food, Agriculture, Conservation, and Trade Act of 1990.
Sec. 1011. Perishable agricultural commodities.
Sec. 1012. Egg products inspection.
Sec. 1013. Prevention of introduction of brown tree snakes to Hawaii from Guam.
Sec. 1014. Grant to prevent and control potato diseases.
Sec. 1015. Collection of fees for inspection services.
Sec. 1016. Exemption and study of certain food products.
Sec. 1017. Fees for laboratory accreditation.
Sec. 1018. State and private forestry technical amendments.
TITLE XI—EFFECTIVE DATES
Sec. 1101. Effective dates.

TITLE I—AGRICULTURAL COMMODITY PROGRAMS

SEC. 101. REFERENCES.

Except as otherwise specifically provided, whenever in this title a section is amended, repealed, or referenced, such amendment, repeal, or reference shall be considered to be made to that section of the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.).

SEC. 102. CONSERVING USE ACRES.

(a) RICE.—Section 101B(c)(1)(E) (7 U.S.C. 1441-2(c)(1)(E)) is amended—

(1) by indenting 2 ems the left margin of clauses (i) and (ii) and redesignating such clauses as subclauses (I) and (II), respectively;

(2) by striking "(E) ALTERNATIVE CROPS.—The Secretary" and inserting the following:

"(E) ALTERNATIVE CROPS.—

"(i) INDUSTRIAL AND OTHER CROPS.—The Secretary";

(3) by indenting 2 ems the left margin of clause (i) (as amended by paragraph (2));

(4) by striking "sesame, castor beans, crambe," and inserting "castor beans,";

(5) by striking "rye, mung beans," and inserting "rye, millet, mung beans,";

(6) in subclause (I) (as redesignated by paragraph (1)), by striking "and will not affect farm income adversely"; and

(7) by adding at the end the following new clause:

"(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 and crambe. In implementing 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.".

(b) COTTON.—Section 103B(c)(1)(E) (7 U.S.C. 1444–2(c)(1)(E)) is amended—

(1) by indenting 2 ems the left margin of clauses (i) and (ii) and redesignating such clauses as subclauses (I) and (II), respectively;

(2) by striking "(E) ALTERNATIVE CROPS.—The Secretary" and inserting the following:

"(E) ALTERNATIVE CROPS.—

"(i) INDUSTRIAL AND OTHER CROPS.—The Secretary";

(3) by indenting 2 ems the left margin of clause (i) (as amended by paragraph (2));

(4) by striking "sesame, castor beans, crambe," and inserting "castor beans,";

(5) by striking "rye, mung beans," and inserting "rye, millet, mung beans,";

(6) in subclause (I) (as redesignated by paragraph (1)), by striking "and will not affect farm income adversely"; and

(7) by adding at the end the following new clause:

"(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 and crambe. In implementing 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.".

(c) FEED GRAINS.—Section 105B(c)(1)(F) (7 U.S.C. 1444f(c)(1)(F)) is amended—

(1) in clause (i)—

(A) by striking "sesame, castor beans, crambe," and inserting "castor beans,";

(B) by striking "rye, mung beans," and inserting "rye, millet, mung beans,"; and

(C) in subclause (I), by striking "and will not affect farm income adversely"; and

(2) in clause (ii), by striking "mustard seed, and" and inserting "mustard seed, sesame, crambe, and".

(d) WHEAT.—Section 107B(c)(1)(F) (7 U.S.C. 1445b–3a(c)(1)(F)) is amended—

(1) in clause (i)—

(A) by striking "sesame, castor beans, crambe," and inserting "castor beans,";

(B) by striking "rye, mung beans," and inserting "rye, millet, mung beans,"; and

(C) in subclause (I), by striking "and will not affect farm income adversely"; and

(2) in clause (ii), by striking "mustard seed, and" and inserting "mustard seed, sesame, crambe, and".

SEC. 103. DOUBLE CROPPING OF 0/92 ACRES.

(a) FEED GRAINS.—Section 105B(c)(1)(F) (7 U.S.C. 1444f(c)(1)(F)) is amended by adding at the end the following new clause:

"(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 such 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 implementing 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.".

(b) WHEAT.—Section 107B(c)(1)(F) (7 U.S.C. 1445b–3a(c)(1)(F)) is amended by adding at the end the following new clause:

"(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 such 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 implementing 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.".

SEC. 104. ANNOUNCEMENT OF ACREAGE REDUCTION PROGRAMS FOR RICE.

Section 101B(e)(1) (7 U.S.C. 1441–2(e)(1)) is amended by striking subparagraph (C) and inserting the following new subparagraph:

"(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 1992 crop, as soon as practicable after the date of enactment of this subparagraph). 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 described in paragraph (2)(A).".

SEC. 105. CORN AND SORGHUM BASES.

Section 105B(e)(2) (7 U.S.C. 1444f(c)(2)) is amended by adding at the end the following new subparagraph:

"(H) CORN AND SORGHUM BASES.—Notwithstanding any other provision of this Act, with respect to each of the 1992 through 1995 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.".

SEC. 106. COVER CROPS ON REDUCED ACREAGE.

(a) RICE.—Clause (i) of section 101B(e)(4)(B) (7 U.S.C. 1441–2(e)(4)(B)(i)) is amended to read as follows:

"(i) REQUIRED.—

"(I) IN GENERAL.—Except as provided in subclause (II) and paragraph (2), a producer who participates in an acreage reduction program established for a crop of rice under this subsection shall be required to plant to, or maintain as, an annual or perennial cover 50 percent (or more at the option of the producer) of the acreage that is required to be removed from the production of rice, but not to exceed 5 percent (or more at the option of the producer) of the crop acreage base established for the crop.

"(II) ARID AREAS.—Subclause (I) shall not apply with respect to arid areas (including summer fallow areas), as determined by the Secretary. If the Secretary determines any county in a State to be arid, the respective State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) may designate any other county or counties or all of the State as arid for the purposes of this paragraph.

"(III) APPROVAL OF COVER CROPS AND PRACTICES.—The State committee, after receiving recommendations from the county committees, shall approve appropriate crops planted or maintained as cover, including, as appropriate, annual or perennial native grasses and legumes or other vegetation. The State committee shall establish the final seeding date for the planting of the cover and shall approve appropriate cover crops or practices, after consulting the Soil Conservation Service State Conservationist regarding whether the crops or practices will sufficiently protect the land from weeds and wind and water erosion. After the Secretary establishes the State technical committee for the State pursuant to section 1261 of the Food Security Act of 1985 (16 U.S.C. 3861), the State committee shall consult with the technical committee (rather than the Soil Conservation Service State Conservationist) regarding whether the crops or practices will sufficiently protect the land from weeds and wind and water erosion.".

(b) COTTON.—Clause (i) of section 103B(e)(4)(B) (7 U.S.C. 1444–2(e)(4)(B)(i)) is amended to read as follows:

"(i) REQUIRED.—

"(I) IN GENERAL.—Except as provided in subclause (II) and paragraph (2), a producer who participates in an acreage reduction program established for a crop of upland cotton under this subsection shall be required to plant to, or maintain as, an annual or perennial cover 50 percent (or more at the option of the producer) of the acreage that is required to be removed from the production of upland cotton, but not to exceed 5 percent (or more at the option of the producer) of the crop acreage base established for the crop.

"(II) ARID AREAS.—Subclause (I) shall not apply with respect to arid areas (including summer fallow areas), as determined by the Secretary. If the Secretary determines any county in a State to be arid, the respective State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) may designate any other county or counties or all of

the State as arid for the purposes of this paragraph.

"(III) APPROVAL OF COVER CROPS AND PRACTICES.—The State committee, after receiving recommendations from the county committees, shall approve appropriate crops planted or maintained as cover, including, as appropriate, annual or perennial native grasses and legumes or other vegetation. The State committee shall establish the final seeding date for the planting of the cover and shall approve appropriate cover crops or practices, after consulting the Soil Conservation Service State Conservationist regarding whether the crops or practices will sufficiently protect the land from weeds and wind and water erosion. After the Secretary establishes the State technical committee for the State pursuant to section 1261 of the Food Security Act of 1985 (16 U.S.C. 3861), the State committee shall consult with the technical committee (rather than the Soil Conservation Service State Conservationist) regarding whether the crops or practices will sufficiently protect the land from weeds and wind and water erosion.".

(c) FEED GRAINS.—Clause (i) of section 105B(e)(4)(B) (7 U.S.C. 1444f(e)(4)(B)(i)) is amended to read as follows:

"(i) REQUIRED.—

"(I) IN GENERAL.—Except as provided in subclause (II) and paragraph (2), a producer who participates in an acreage reduction program established for a crop of feed grains under this subsection shall be required to plant to, or maintain as, an annual or perennial cover 50 percent (or more at the option of the producer) of the acreage that is required to be removed from the production of feed grains, but not to exceed 5 percent (or more at the option of the producer) of the crop acreage base established for the crop.

"(II) ARID AREAS.—Subclause (I) shall not apply with respect to arid areas (including summer fallow areas), as determined by the Secretary. If the Secretary determines any county in a State to be arid, the respective State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) may designate any other county or counties or all of the State as arid for the purposes of this paragraph.

"(III) APPROVAL OF COVER CROPS AND PRACTICES.—The State committee, after receiving recommendations from the county committees, shall approve appropriate crops planted or maintained as cover, including, as appropriate, annual or perennial native grasses and legumes or other vegetation. The State committee shall establish the final seeding date for the planting of the cover and shall approve appropriate cover crops or practices, after consulting the Soil Conservation Service State Conservationist regarding whether the crops or practices will sufficiently protect the land from weeds and wind and water erosion. After the Secretary establishes the State technical committee for the State pursuant to section 1261 of the Food Security Act of 1985 (16 U.S.C. 3861), the State committee shall consult with the technical committee (rather than the Soil Conservation Service State Conservationist) regarding whether the crops or practices will sufficiently protect the land from weeds and wind and water erosion.".

(d) WHEAT.—Clause (i) of section 107B(e)(4)(B) (7 U.S.C. 1445b-3a(e)(4)(B)(i)) is amended to read as follows:

"(i) REQUIRED.—

"(I) IN GENERAL.—Except as provided in subclause (II) and paragraph (2), a producer who participates in an acreage reduction program established for a crop of wheat under this subsection shall be required to plant to, or maintain as, an annual or perennial cover 50 percent (or more at the option of the producer) of the acreage that is required to be removed from the production of wheat, but not to exceed 5 percent (or more at the option of the producer) of the crop acreage base established for the crop.

"(II) ARID AREAS.—Subclause (I) shall not apply with respect to arid areas (including summer fallow areas), as determined by the Secretary. If the Secretary determines any county in a State to be arid, the respective State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) may designate any other county or counties or all of the State as arid for the purposes of this paragraph.

"(III) APPROVAL OF COVER CROPS AND PRACTICES.—The State committee, after receiving recommendations from the county committees, shall approve appropriate crops planted or maintained as cover, including, as appropriate, annual or perennial native grasses and legumes or other vegetation. The State committee shall establish the final seeding date for the planting of the cover and shall approve appropriate cover crops or practices, after consulting the Soil Conservation Service State Conservationist regarding whether the crops or practices will sufficiently protect the land from weeds and wind and water erosion. After the Secretary establishes the State technical committee for the State pursuant to section 1261 of the Food Security Act of 1985 (16 U.S.C. 3861), the State committee shall consult with the technical committee (rather than the Soil Conservation Service State Conservationist) regarding whether the crops or practices will sufficiently protect the land from weeds and wind and water erosion.".

SEC. 107. COTTON USER MARKETING CERTIFICATES.

(a) ISSUANCE.—Section 103B(a)(5)(E) (7 U.S.C. 1444-2(a)(5)(E)) is amended—

(1) by striking clause (i) and inserting the following new clause:

"(i) ISSUANCE.—Subject to clause (iv), during the period beginning August 1, 1991, and ending July 31, 1996, 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) one and three-thirty seconds 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.";

(2) in clause (ii), by striking "marketing certificates" and inserting "marketing certificates or cash payments"; and

(3) by adding at the end the following new clause:

"(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 quotation for the lowest priced United States growth, as quoted for Middling (M) one and three-thirty seconds 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.".

(b) PREVAILING WORLD MARKET PRICE.—Section 103B(a)(5)(C)(ii) (7 U.S.C. 1444-2(a)(5)(C)(ii)) is amended by striking "and (B)" and inserting ", (B), and (E)".

SEC. 108. MALTING BARLEY.

Section 105B (7 U.S.C. 1444f) is amended—

(1) in subsection (e)(2)(G), by adding at the end the following new sentence: "The Secretary shall make an annual determination of whether to exempt such producers from compliance with any acreage limitation under this paragraph and shall announce such determination in the Federal Register."; and

(2) by striking subsection (p) and inserting the following new subsection:

"(p) MALTING BARLEY.—

"(1) ASSESSMENT REQUIRED.—In order 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 1991 through 1995 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 such 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 1991 through 1995 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 such 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 counties 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 producer's production 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.".

SEC. 109. DEFICIENCY PAYMENTS FOR WHEAT, BARLEY, AND OATS.

Section 114(c) (7 U.S.C. 1445j(c)) is amended—

(1) in the material preceding the paragraphs, by striking "sections" and inserting "section";

(2) by redesignating paragraph (3) as paragraph (4); and

(3) by striking paragraph (2) and inserting the following new paragraphs:

"(2) With respect to feed grains (excluding barley and oats), 75 percent of the final projected deficiency payment for the crop, reduced by the amount of the advance, shall be made available as soon as practicable after the end of the first 5 months of the applicable marketing year.

"(3) With respect to wheat, barley, and oats, the final projected deficiency payment

for the crop, reduced by the amount of the advance, shall be made available as soon as practicable after the end of the first 5 months of the applicable marketing year. Such projected payment shall be based on 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 with respect to wheat or 7 cents per bushel with respect to barley and oats.".

SEC. 110. MINOR OILSEED LOAN RATES.

Section 205(c) (7 U.S.C. 1446f(c)) is amended—

(1) in paragraph (2), by striking "flaxseed" and inserting "flaxseed, individually,";

(2) in paragraph (3), by striking "that, in the case of cottonseed, in no event less" and inserting "in no event shall the level for such oilseeds (other than cottonseed) be less"; and

(3) by adding after and below paragraph (3) the following new sentence:

"To ensure that producers have an equitable opportunity to produce an alternative crop in areas of limited crop options, the Secretary may limit, insofar as practicable, adjustments in the loan rate established under paragraph (2) applicable to a particular region, State, or county for the purpose of reflecting transportation differentials such that the regional, State, or county loan rate does not increase or decrease by more than 9 percent from the basic national loan rate.".

SEC. 111. SUGAR.

(a) SUGAR PRICE SUPPORT AND MARKETING ASSESSMENTS.—Section 206 (7 U.S.C. 1446g) is amended—

(1) in subsection (e), by striking "announce the loan rate" and inserting "announce the basic loan rates for beet sugar and cane sugar";

(2) in subsection (f), by striking "Loans" and inserting "Except as provided in subsection (g), loans";

(3) by striking subsection (g) and inserting the following new subsection:

"(g) SUPPLEMENTARY NONRECOURSE LOANS.—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. Such 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 9 months less the quantity of time that the first loan was in effect."; and

(4) in subsection (i)—

(A) by striking paragraphs (1), (2), and (3) and inserting the following new paragraphs:

"(1) SUGARCANE.—Effective only for marketings of raw cane sugar during the 1992 through 1996 fiscal years, the first processor of sugarcane shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to .18 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).

"(2) SUGAR BEETS.—Effective only for marketings of beet sugar during the 1992 through 1996 fiscal years, the first processor of sugar beets shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to .193 cents 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.—Marketing assessments required under this subsection shall be collected on a monthly basis and shall be remitted to the Commodity Credit Corporation within 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 that 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."; and

(B) in paragraph (4), by striking "collect or remit the reduction" and inserting "remit the assessment".

(b) SECURITY INTERESTS.—Subsection (b) of section 405 (7 U.S.C. 1425) is amended to read as follows:

"(b) SUGARCANE AND SUGAR BEETS.—The security interests obtained by the Commodity Credit Corporation as a result of the execution of security agreements by the processors of sugarcane and 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. The preceding sentence shall not affect the application of section 401(e)(2).".

(c) SUGAR INFORMATION REPORTING.—Section 359a of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359aa) is amended—

(1) by striking subsection (a) and inserting the following new subsection:

"(a) DUTY OF PROCESSORS, REFINERS AND MANUFACTURERS TO REPORT.—

"(1) PROCESSORS AND REFINERS.—All sugarcane processors, cane sugar refiners, and sugar beet processors 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) MANUFACTURERS OF CRYSTALLINE FRUCTOSE.—All manufacturers of crystalline fructose from corn (hereafter in this part referred to as 'crystalline fructose') shall furnish the Secretary, on a monthly basis, such information as the Secretary may require with respect to the manufacturer's distribution of crystalline fructose.";

(2) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively;

(3) by inserting after subsection (a) the following new subsection:

"(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 producer's sugarcane or sugar beet yields and acres planted to sugarcane or sugar beets, respectively."; and

(4) in subsection (d) (as redesignated by paragraph (2))—

(A) by striking "data on imports," and inserting "data on production, imports,"; and

(B) by inserting "composite data on distributions of" after "sugar and".

(d) MARKETING ALLOTMENTS FOR SUGAR AND CRYSTALLINE FRUCTOSE.—Section 359b of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359bb) is amended—

(1) by striking subsection (a) and inserting the following new subsection:

"(a) SUGAR ESTIMATES.—

"(1) IN GENERAL.—Before the beginning of each of the fiscal years 1992 through 1996, the Secretary shall estimate—

"(A) the quantity of sugar that will be consumed in the United States during the fiscal year (other than sugar imported for the production of polyhydric alcohol or to be refined and reexported in refined form or in sugar containing products) and the quantity of sugar that would provide for reasonable carryover stocks;

"(B) the quantity of sugar that will be available from carry-in stocks or from domestically-produced sugarcane and sugar beets for consumption in the United States during the year; and

"(C) the quantity of sugar that will be imported for consumption in the United States during the year (other than sugar imported for the production of polyhydric alcohol or to be refined and reexported in a refined form or in sugar containing products), based on the difference between—

"(i) the sum of the quantity of estimated consumption and reasonable carryover stocks; and

"(ii) the quantity of sugar estimated to be available from domestically-produced sugarcane and sugar beets and from carry-in stocks.

"(2) QUARTERLY REESTIMATES.—The Secretary shall make quarterly reestimates of sugar consumption, stocks, production, and imports for a fiscal year no later than the beginning of each of the second through fourth quarters of the fiscal year.";

(2) by striking subsection (b) and inserting the following new subsection:

"(b) SUGAR ALLOTMENTS.—

"(1) IN GENERAL.—For any fiscal year in which the Secretary estimates, under subsection (a)(1)(C), that imports of sugar for consumption in the United States (other than sugar imported for the production of polyhydric alcohol or to be refined and reexported in refined form or in sugar containing products) will be less than 1,250,000 short tons, raw value, the Secretary shall establish for that year appropriate allotments under section 359c for the marketing by processors of sugar processed from domestically-produced sugarcane and sugar beets, at a level that the Secretary estimates will result in imports of sugar of not less than 1,250,000 short tons, raw value, for that year.

"(2) PRODUCTS.—The Secretary may include sugar products, whose majority content is sucrose or crystalline fructose for human consumption, derived from sugarcane, sugar beets, molasses or sugar in the allotments under paragraph (1) if the Secretary determines it to be appropriate for purposes of this part."; and

(3) in subsection (d)(4), by inserting after "the United States" the following: "(including, with respect to any integrated processor and refiner, the movement of raw cane sugar into the refining process)".

(e) ESTABLISHMENT OF MARKETING ALLOTMENTS.—Section 359c of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359cc) is amended—

(1) in subsection (b)(1)—

(A) by striking "from the estimated sugar consumption" and inserting "from the sum of the estimated sugar consumption and reasonable carryover stocks (at the end of the fiscal year)"; and

(B) in subparagraph (A), by striking "(representing minimum imports of sugar for consumption in the United States during the fiscal year)";

(2) in subsection (b)(2), by striking "prevent the accumulation of sugar acquired by" and inserting "avoid the forfeiture of sugar to";

(3) in subsection (f)—

(A) in the subsection heading, by striking "SUGARCANE ALLOTMENT" and inserting "CANE SUGAR ALLOTMENTS"; and

(B) by striking "allotted among the 5 States in the United States in which sugarcane is produced" and inserting "allotted, among the 5 States in the United States in which sugarcane is produced,";

(4) in subsection (g)—

(A) by striking paragraph (1) and inserting the following new paragraph:

"(1) IN GENERAL.—The Secretary shall, based on reestimates under section 359b(a)(2)—

"(A) adjust upward or downward marketing allotments established under subsections (a) through (f) in a fair and equitable manner;

"(B) establish marketing allotments for the fiscal year or any portion of such fiscal year; or

"(C) suspend the allotments,

as the Secretary determines appropriate, to reflect changes in estimated sugar consumption, stocks, production, or imports.".

(B) by striking paragraph (3) and inserting the following new paragraph:

"(3) REDUCTIONS.—Whenever a marketing allotment for a fiscal year is required to be reduced during the fiscal year under this subsection, if 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), for the fiscal year at the time of the reduction by any individual processor covered by the allotment exceeds the processor's reduced allocation, the allocation of an allotment, if any, next established for the processor shall be reduced by the quantity of the excess sugar marketed."; and

(5) by striking subsection (h) and inserting the following new subsection:

"(h) FILLING CANE SUGAR AND BEET SUGAR ALLOTMENTS.—Each marketing allotment for cane sugar established under this section may only be filled with sugar processed from domestically grown sugarcane, and each marketing allotment for beet sugar established under this section may only be filled with sugar processed from domestically grown sugar beets.".

(f) ALLOCATION OF MARKETING ALLOTMENTS.—Section 359d of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359dd) is amended—

(1) in subsection (a)(2) by striking "after such hearing" both places it appears and inserting "after a hearing, if requested by interested parties,"; and

(2) by striking subsection (b) and inserting the following new subsection:

"(b) FILLING CANE SUGAR ALLOTMENTS.—Except as otherwise provided in section 359e, a State cane sugar allotment established under section 359c(f) for a fiscal year may be filled only with sugar processed from sugarcane grown in the State covered by the allotment.".

(g) REASSIGNMENTS OF DEFICITS.—Section 359e of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359ee) is amended to read as follows:

"SEC. 359e. REASSIGNMENT OF DEFICITS.

"(a) ESTIMATES OF DEFICITS.—At any time allotments are in effect under this part, the Secretary, from time to time, shall determine whether (in view of then-current inventories of sugar, the estimated production of sugar and expected marketings, and other pertinent factors) any processor of sugarcane will be unable to market the sugar covered by the portion of the State cane sugar allotment allocated to the processor and whether any processor of sugar beets will be unable to market sugar covered by the portion of the beet sugar allotment allocated to the processor.

"(b) REASSIGNMENT OF DEFICITS.—

"(1) CANE SUGAR.—If the Secretary determines that any sugarcane processor who has been allocated a share of a State cane sugar allotment will be unable to market the processor's allocation of the State's allotment for the fiscal year—

"(A) the Secretary first shall reassign the estimated quantity of the deficit to the allocations for other processors within that State, depending on the capacity of each other processor to fill the portion of the deficit to be assigned to it 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 allotments for other cane sugar States, depending on the capacity of each other State to fill the portion of the deficit to be assigned to it, with the reassigned quantity to each State to be allocated among processors in that State in proportion to the allocations 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 been allocated a share of the beet sugar allotment will be unable to market that allocation—

"(A) the Secretary first shall reassign the estimated quantity of the deficit to the allotments for other sugar beet processors, depending on the capacity of each other processor to fill the portion of the deficit to be assigned to it 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) CORRESPONDING INCREASE.—The allocation of each processor receiving a reassigned quantity of an allotment under this subsection for a fiscal year shall be increased to reflect the reassignment.".

(h) PROVISIONS APPLICABLE TO PRODUCERS.—Section 359f(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359ff(b)) is amended—

(1) in paragraph (1)(A), by striking "250 producers in such State" and inserting "250 sugarcane producers in the State (other than Puerto Rico)";

(2) in paragraph (2), by striking "establish proportionate shares for the crop of sugarcane that is harvested during" and inserting "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"; and

(3) by striking paragraphs (3), (4), and (5) and inserting the following new paragraphs:

"(3) METHOD OF DETERMINING.—For purposes of determining proportionate shares for any crop of sugarcane:

"(A) The Secretary shall establish the State's per-acre yield goal for a crop of sugarcane 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 producers in the State, taking into consideration any available production research data that the Secretary considers relevant.

"(B) 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) The Secretary shall convert the State allotment for the fiscal year involved into a State acreage allotment for the crop by dividing the State allotment by the per-acre yield goal for the State, as established under subparagraph (A) and as further adjusted under subparagraph (B).

"(D) The Secretary shall establish a uniform reduction percentage for the crop by dividing the State acreage allotment, 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) 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 farm's proportionate share 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) 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) 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.—Whenever 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 farm's proportionate share for the fiscal year, or otherwise violate proportionate share regulations issued by the Secretary under section 359h(a).

"(B) CIVIL PENALTY.—Any producer who violates subparagraph (A) shall be liable to the Commodity Credit Corporation for a civil penalty in an amount equal to 3 times the United States market value, at the time of the commission of the violation, of the quantity of sugar produced from that quantity of sugarcane involved in the violation. The quantity of sugarcane involved shall be determined based on the per-acre yield goal established under paragraph (3).".

(i) SPECIAL RULES.—Section 359g of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359gg) is amended—

(1) by striking subsections (a) and (b) and inserting the following new subsections:

"(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, but 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."; and

(2) in subsection (c)—

(A) by striking "hearing and"; and

(B) by inserting "required to be" after "proportionate share was".

(j) REGULATIONS.—Subsection (a) of section 359h of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359hh(a)) is amended to read as follows:

"(a) REGULATIONS.—The Secretary or the Commodity Credit Corporation, as appropriate, shall issue such regulations as may be necessary to carry out the authority vested in the Secretary in administering this part."; and

(k) APPEALS.—Paragraph (2) of section 359i(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359ii(b)(2)) is amended to read as follows:

"(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. 112. CROP ACREAGE BASE.

(a) ACREAGE CONSIDERED PLANTED.—Section 503(c) (7 U.S.C. 1463(c)) is amended—

(1) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8) respectively; and

(2) by inserting after paragraph (5) the following new paragraph:

"(6) acreage in an amount not to exceed 20 percent of the crop acreage base for a crop of feed grains or wheat if—

"(A) the acreage is planted to dry peas, (limited to Austrian peas, wrinkled, seed, green, yellow, and umatilla) and lentils; and

"(B) payments are not received by producers under sections 105B(c)(1)(E) and 107B(c)(1)(E), as the case may be;".

(b) ADJUSTMENT OF BASES.—Section 503(h) (7 U.S.C. 1463(h)) is amended—

(1) by striking "BASES.—The county" and inserting the following: "BASES.—

"(1) IN GENERAL.—The county"; and

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

"(2) RESTORATION OF CROP ACREAGE BASE.—

"(A) IN GENERAL.—For the 1992 through 1995 crop years, the county committee shall allow an eligible producer to increase individual crop acreage bases on the farm, subject to subsection (a)(2), above the levels of base that would otherwise be established under this section, in order to restore the total of crop acreage bases on the farm for the 1992 through 1995 crop years to the same level as the total of crop acreage bases on the farm for the 1990 crop year.

"(B) ELIGIBLE PRODUCER DEFINED.—For the purposes of this paragraph, the term 'eligible producer' means a producer of upland cotton or rice who, the appropriate county committee determines—

"(i) was required to reduce one or more individual crop acreage bases on the farm during the 1991 crop year in order to comply with subsection (a)(2) and the change in the calculation of cotton and rice crop acreage bases to a 3-year formula as provided in this section; and

"(ii) has participated in the price support program during the 1991 crop year and each subsequent crop year through the current crop year.

"(C) REGULATIONS.—The Secretary shall issue regulations to carry out this paragraph.".

(c) PLANTING FLEXIBILITY.—Section 504(b)(1) (7 U.S.C. 1464(b)(1)) is amended—

(1) by striking "and" at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D) and inserting "; and"; and

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

"(E) mung beans.".

SEC. 113. MISCELLANEOUS AMENDMENTS TO THE AGRICULTURAL ACT OF 1949.

The Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) is further amended—

(1) in section 101B(c)(1)(B) (7 U.S.C. 1441–2(c)(1)(B)), by redesignating the second clause (ii) as clause (iii);

(2) in section 103B(a) (7 U.S.C. 1444–2(a))—

(A) in paragraph (1)(B), by striking "upland cotton," and inserting "upland cotton),"; and

(B) in paragraph (3), by striking "the date of enactment of this Act" and inserting "November 28, 1990";

(3) in section 103B(n)(1)(D) (7 U.S.C. 1444–2(n)(1)(D)), by striking "effective date of the proclamation" and inserting "date the special quota is established by the Secretary";

(4) in section 105B(c)(1)(B)(iii)(IV)(bb) (7 U.S.C. 1444f(c)(1)(B)(iii)(IV)(bb)) by striking "(bb) BARLEY CALCULATIONS.—" and inserting "(bb) BARLEY CALCULATIONS.—";

(5) in section 105B(g) (7 U.S.C. 1444f(g))—

(A) in paragraph (1), by striking "subsection (d)" and inserting "subsection (e)"; and

(B) in paragraph (6)(E), by striking "is" both places it appears and inserting "are";

(6) in section 107B(g)(1) (7 U.S.C. 1445b–3a(g)(1)), by striking "subsection (d)" and inserting "subsection (e)";

(7) in section 110 (7 U.S.C. 1445e)—

(A) in subsection (n), by striking "the date of enactment of this section" and inserting "November 28, 1990";

(B) by redesignating subsection (o) as subsection (p) and transferring such subsection to the end of the section; and

(C) in the second subsection (k)—

(i) by redesignating such subsection as subsection (o);

(ii) by striking "(o) In" and inserting "(o) REVIEW.—In"; and

(iii) by striking "subsection (e)(1)" and inserting "this section";

(8) in section 201 (7 U.S.C. 1446), by redesignating subsection (b) (as amended by section 1161(b)(3) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3521)) as subsection (c);

(9) in section 202 (7 U.S.C. 1446a)—

(A) by striking "Administrator of Veterans' Affairs" each place it appears and inserting "Secretary of Veterans Affairs"; and

(B) by striking "Administrator" each place it appears and inserting "Secretary of Veterans Affairs";

(10) in section 204(h)(3) (7 U.S.C. 1446e(h)(3)), by adding at the end the following new sentence: "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 and 3821).";

(11) in section 406(b)(4) (7 U.S.C. 1426(b)(4)), by striking "the date of enactment of this subsection" and inserting "November 28, 1990,"; and

(12) in section 426 (7 U.S.C. 1433e)—

(A) in subsection (c)—

(i) by striking "division" in paragraphs (1) and (6) and inserting "Division"; and

(ii) by striking "subsection (e)" in paragraph (7) and inserting "subsection (f)";

(B) in subsection (f), by striking "county or State" and inserting "State or county";

(C) in subsection (g), by striking "County Committees" and inserting "county committees"; and

(D) in subsection (h), by striking "section 8(e)" and inserting "section 8(b)".

SEC. 114. MISCELLANEOUS AMENDMENTS RELATING TO THE FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.

(a) IN GENERAL.—The Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3359) is amended—

(1) in section 1124 (7 U.S.C. 1445e note; 104 Stat. 3506), by striking "warehouse" both places it appears and inserting "warehousemen";

(2) in section 1156 (7 U.S.C. 1421 note), by striking subsection (b) and inserting the following new subsection:

"(b) FUNDS.—The Corporation shall expend such funds as may be required to conduct the pilot program for futures options contract trading in the manner specified in this subtitle and the regulations issued, and contracts entered into, to carry out this subtitle, except that funds of the Corporation may not be used to carry out this subtitle unless the Secretary, in the sole discretion of the Secretary, determines in advance that such funds shall be used for this purpose.";

(3) in section 1353 (7 U.S.C. 1622 note; 104 Stat. 3567), by striking "et seq" and inserting "et seq.";

(4) in section 2241 (7 U.S.C. 1421 note; 104 Stat. 3963)—

(A) in subsection (a)(4)(A), by inserting "extra long staple cotton," after "upland cotton," each place it appears;

(B) in subsection (b)(1), by inserting "extra long staple cotton," after "upland cotton,"; and

(C) in subsection (b)(4), by inserting "extra long staple cotton," after "upland cotton,";

(5) in section 2243(b)(2)(A) (7 U.S.C. 1421 note; 104 Stat. 3966), by striking "to harvest" and inserting "for harvest";

(6) in section 2249 (7 U.S.C. 1421 note; 104 Stat. 3972), by striking "chapter" and inserting "subchapter" each place it appears;

(7) in section 2250(b)(1) (7 U.S.C. 1421 note; 104 Stat. 3973), by striking "cotton" and inserting "upland cotton, extra long staple cotton";

(8) in section 2257 (7 U.S.C. 1421 note; 104 Stat. 3974), by striking "chapter" and inserting "subchapter" each place it appears;

(9) in section 2258 (7 U.S.C. 1421 note; 104 Stat. 3975), by striking "chapter" and inserting "subchapter";

(10) in section 2259 (7 U.S.C. 1421 note; 104 Stat. 3975), by striking "chapter" and inserting "subchapter";

(11) in section 2263 (7 U.S.C. 1421 note; 104 Stat. 3975), by striking "chapter" and inserting "subchapter" each place it appears;

(12) in section 2265 (7 U.S.C. 1421 note; 104 Stat. 3976), by striking "chapter" and inserting "subchapter";

(13) in section 2266(a) (7 U.S.C. 1421 note; 104 Stat. 3976), by striking "subchapter" and inserting "chapter";

(14) in section 2267 (7 U.S.C. 1421 note; 104 Stat. 3976)—

(A) in subsection (a), by striking "subchapter" and inserting "chapter" each place it appears; and

(B) in subsection (b), by striking "chapter 1" and inserting "this chapter";

(15) in section 2268(b) (7 U.S.C. 1421 note; 104 Stat. 3976), by striking "subchapter" and inserting "chapter"; and

(16) in section 2271 (7 U.S.C. 1421 note; 104 Stat. 3977), by striking "payment of" and inserting "payments or".

(b) PRICE SUPPORT FOR HIGH MOISTURE FEED GRAINS.—

(1) IN GENERAL.—Section 105B of the Agricultural Act of 1949 (7 U.S.C. 1444f) is amended—

(A) by redesignating subsection (q) as subsection (r); and

(B) by inserting after subsection (p) the following new subsection:

"(q) PRICE SUPPORT FOR HIGH MOISTURE FEED GRAINS.—

"(1) RECOURSE LOANS.—Notwithstanding any other provision of law, effective for each of the 1991 through 1995 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 their crop of feed grains in a high moisture state, hereinafter in this subsection defined as a feed grain having a moisture content in excess of Commodity Credit Corporation standards for loans made by the Secretary under paragraphs (1) and (6) of subsection (a);

"(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 they were the owners of the feed grain at the time of delivery to, and that the quantity to be placed under loan was in fact harvested on the farm and delivered to, a feedlot, feed mill, or commercial or on-farm high-moisture storage facility, or to such facilities maintained by the users of such 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 producer equivalent to a quantity determined by multiplying—

"(A) the acreage of the feed grain in a high moisture state harvested on the producer's farm; by

"(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 such high moisture feed grain was obtained.".

(2) CONFORMING AMENDMENT.—Section 404 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1444f–1) is repealed.

SEC. 115. MISCELLANEOUS AMENDMENTS TO THE AGRICULTURAL ADJUSTMENT ACT.

The Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(1) in section 8b(b)(2) (7 U.S.C. 608b(b)(2)), by striking "(7 U.S.C. 1445c–2)" and inserting "(7 U.S.C. 1445c–3)"; and

(2) in section 8c(5)(B)(ii) (7 U.S.C. 608c(5)(B)(ii)), is amended by striking "and," before clause (f) and inserting ", and".

SEC. 116. MISCELLANEOUS AMENDMENTS TO THE AGRICULTURAL ADJUSTMENT ACT OF 1938.

The Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) is amended—

(1) in section 319(1) (7 U.S.C. 1314e(1))—

(A) by inserting "in a State" after "one farm";

(B) by striking "of Tennessee"; and

(C) by adding at the end the following new sentence: "This subsection shall apply only to the States of Tennessee and Virginia.";

(2) in section 374(a) (7 U.S.C. 1374(a))—

(A) by inserting after "30 inch rows" the following: "(or, at the option of those cotton producers who had an established practice of using 32 inch rows before the 1991 crop, 32 inch rows)"; and

(B) by adding at the end the following new sentence: "For the 1992 through 1995 crops, the rules establishing the requirements for eligibility for conserving use for payment acres shall be the same rules as were in effect for 1991 crops."; and

(3) in section 379(a) (7 U.S.C. 1379(a))—

(A) by striking "or" at the end of paragraph (4);

(B) by striking the period at the end of paragraph (5) and inserting "; or";

(C) by striking "; or" at the end of paragraph (6) and inserting a period; and

(D) by redesignating paragraph (7) as subsection (c), moving such subsection to appear after subsection (b), and conforming the left margin of such subsection to subsection (b).

SEC. 117. SECTION REDESIGNATION.

(a) SECTION REDESIGNATION.—Sections 359 and 359a of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359 and 1359a) are redesignated as sections 358d and 358e, respectively.

(b) CONFORMING AMENDMENTS AS RESULT OF REDESIGNATIONS.—

(1) PRICE SUPPORT PROGRAM.—The Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) is amended—

(A) in section 108A(3)(A) (7 U.S.C. 1445c–2(3)(A)), by striking "section 359" each place it appears and inserting "section 358d"; and

(B) in section 108B(c)(1) (7 U.S.C. 1445c–3(c)(1)), by striking "sections 359 and 359a" each place it appears and inserting "sections 358d and 358e".

(2) MARKETING QUOTAS.—The Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) is amended—

(A) in section 358(v)(3) (7 U.S.C. 1358(v)(3)), by striking "section 359(c)" and inserting "section 358d(c)";

(B) in section 358–1(e)(3) (7 U.S.C. 1358–1(e)(3)), by striking "section 359(c)" and inserting "section 358d(c)";

(C) in section 358d (7 U.S.C. 1359), as redesignated by subsection (a)—

(i) by striking "section 359(a)" in subsection (b) and inserting "subsection (a)"; and

(ii) by striking "section 108B" each place it appears in subsections (m)(1)(C), (p)(1), and (r)(2)(A) and inserting "section 108A"; and

(D) in section 358e(b)(1) (7 U.S.C. 1359a(b)(1)), as redesignated by subsection (a), by striking "section 359(c)" and inserting "section 358d(c)".

SEC. 118. OTHER MISCELLANEOUS COMMODITY AMENDMENTS.

(a) MISSING LANGUAGE.—Section 5(1)(3) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note) is amended by striking "(42 U.S.C. 1396d(5)))" and inserting "(42 U.S.C. 1396d(5))))".

(b) MISSING LANGUAGE.—Section 1001(2)(B)(iv) of the Food Security Act of 1985 (7 U.S.C. 1308(2)(B)(iv)) is amended by inserting "section" before "107B(c)(1)".

(c) EXTRA LANGUAGE.—Section 1001A(a)(2) of the Food Security Act of 1985 (7 U.S.C. 1308–1(a)(2)) is amended by striking "0 to".

(d) AMENDMENT TO FOOD AND AGRICULTURE ACT OF 1962.—Section 326 of the Food and Agriculture Act of 1962 (7 U.S.C. 1339a) is amended by adding at the end the following sentences: "The authority provided in this section shall be in addition to any other authority provided to the Secretary under any other Act. This section shall be applicable to an action taken by a representative of the Secretary that occurs before, on, or after November 28, 1990. This section shall not apply to a pattern of conduct where authorized representatives of the Secretary take actions or provide advice with respect to producers that the representatives and producers know are inconsistent with applicable laws and regulations.".

(e) AMENDMENT TO THE FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.—Section 102(b)(1)(B) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1446e–1(b)(1)(B)) is amended by striking "Commodity Credit Corporation" and inserting "Secretary".

(f) CLARIFICATION OF AMENDMENT.—Section 704 of the National Wool Act of 1954 (7 U.S.C. 1782) is amended by striking "SEC." and all that follows through "If payments" in the first sentence of subsection (a) and inserting the following:

"SEC. 704. PAYMENT AS MEANS OF PRICE SUPPORT.

"(a) USE OF PAYMENTS.—If payments".

SEC. 119. SENSE OF CONGRESS REGARDING IMPORTED BARLEY AND OATS.

(a) FINDINGS.—Congress finds that—

(1) significant quantities of barley and oats are currently being imported into the United States from Norway, Sweden, and Finland origins, and there is reason to believe that such imports will continue in the future;

(2) such imported barley and oats are being purchased at a price artificially established at a level significantly below that of domestically produced barley and oats due to unfair and predatory export subsidies and schemes employed by the exporting countries of origin; and

(3) it is likely that the continued importation of such quantities of subsidized barley and oats will significantly and adversely affect producers of domestic barley and oats and impair the operations of existing farm commodity programs for barley and oats in the United States.

(b) SENSE OF CONGRESS.—Based on these findings, it is the sense of Congress that the Secretary of Agriculture and the President of the United States should immediately and aggressively employ all available options under existing laws, including those under section 22 of the Agricultural Adjustment Act (7 U.S.C. 624), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, in order to prevent material damage to the producers of domestic barley and oats and to prevent material interference with the programs established pursuant to section 105B of the Agricultural Act of 1949 (7 U.S.C. 1444f).

SEC. 120. COTTON CLASSING FEES.

(a) EXTENSION OF AUTHORIZATION.—The first sentence of section 3a of the Cotton Statistics and Estimates Act (7 U.S.C. 473a)

is amended to read as follows: "Effective for each of fiscal years 1992 through 1996, the Secretary of Agriculture shall make cotton classification services available to producers of cotton and shall provide for the collection of classification fees from participating producers, or agents who voluntarily agree to collect and remit the fees on behalf of producers.".

(b) FEES.—The first proviso in the second sentence of section 3a of such Act is amended—

(1) by striking clauses (1) and (2) and inserting the following new clauses: "(1) the uniform per bale classification fee to be collected from producers, or their agents, for the classification service in any year shall be the fee established in the previous year for the prevailing method of classification service, exclusive of adjustments to the fee made in the previous year under clauses (2), (3), and (4), and as may be adjusted by the percentage change in the implicit price deflator for the gross national product as indexed during the most recent 12-month period for which statistics are available; (2) the fee calculated in accordance with clause (1) for a crop year may be increased by an amount not to exceed 1 percent for every 100,000 running bales, or portion thereof, that the Secretary estimates will be classed by the United States Department of Agriculture in the crop year below the level of 12,500,000 running bales, or decreased by a quantity not to exceed 1 percent for every 100,000 running bales, or portion thereof, that the Secretary estimates will be classed by the United States Department of Agriculture in the crop year above the level of 12,500,000 running bales;"; and

(2) by striking clause (7) and inserting the following new clause: "(7) the Secretary shall announce the uniform classification fee and any surcharge for the crop not later than June 1 of the year in which the fee applies.".

(c) CLARIFICATION OF SERVICES.—The third sentence of section 3a of such Act is amended to read as follows: "Classification services, other than the prevailing method, provided at the request of the producer shall not be subject to the restrictions specified in clauses (1), (2), and (3) of the preceding sentence.".

(d) REPEAL OF STUDY ON PROCESSING CERTAIN COTTON GRADES.—Section 3 of the Uniform Cotton Classing Fees Act of 1987 (7 U.S.C. 473a note) is repealed.

(e) EFFECTIVE DATE.—Subsections (a), (b), and (c), and the amendments by subsections (a), (b), and (c), shall be effective for the period beginning on the date of enactment of this Act and ending on September 30, 1996.

SEC. 121. SENSE OF CONGRESS REGARDING TARGETED OPTION PAYMENTS.

(a) FINDINGS.—Congress finds that—

(1) thousands of agricultural producers are facing extremely difficult economic times and low commodity prices;

(2) the conditions on each farm are unique and require a unique plan to meet the income, conservation, and soil and weather conditions of the farm; and

(3) agricultural producers need the maximum possible flexibility to tailor the agricultural price support and production adjustment program to their farms' individual needs.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Agriculture should offer targeted option payments for each of the 1992 through 1995 crops of wheat, feed grains, upland cotton, and rice as authorized by sections 107B(e)(3), 105B(e)(3), 103B(e)(3), and 101B(e)(3) of the Agricultural Act of 1949 (7 U.S.C. 1445b–3a(e)(3), 1444f(e)(3), 1444–2(e)(3), and 1441–2(e)(3)), respectively.

SEC. 122. TRANSFER OF PEANUT QUOTA UNDERMARKETINGS.

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

(1) in paragraph (1)—

(A) by inserting "(including any applicable undermarketings)" after "any part of the poundage quota"; and

(B) by inserting "(including any applicable undermarketings)" after "any such lease of poundage quota";

(2) in the first sentence of paragraph (2), by striking "for the farm" and inserting "(including any applicable undermarketings)"; and

(3) in paragraph (3), by inserting after "farm poundage quota" the following: "(including any applicable undermarketings)".

SEC. 123. COTTON FUTURES CONTRACTS.

Subsection (c)(1) of the United States Cotton Futures Act (7 U.S.C. 15b(c)(1)) is amended by inserting before the period at the end the following: ", except that any cotton futures contract that, by its terms, is settled in cash is excluded from the coverage of this paragraph and Act".

SEC. 124. LAMB PRICE AND SUPPLY REPORTING SERVICES REPORT AND SYSTEM.

(a) REPORT.—Not later than 90 days after the date of enactment of this Act, the Secretary of Agriculture shall submit a report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on measures that are necessary to improve the lamb price and supply reporting services of the Department of Agriculture, including recommendations to establish a complete information gathering system that reflects the market structure of the national lamb industry. In preparing the report, the Secretary shall examine measures to improve information on—

(1) price reporting series of wholesale, retail, box, carcass, pelt, offal, and live lamb sales in the United States, including markets in—

(A) California (including San Francisco);

(B) the East Coast region (including Washington, D.C.);

(C) the Midwest region (including Chicago, Illinois);

(D) Texas;

(E) the Rocky Mountain region; and

(F) Florida;

(2) sheep and lamb inventories, including on-feed reports;

(3) the price and supply relationships between retailers and breakers;

(4) the viability of voluntary or mandatory reporting for sheep prices; and

(5) information on the import and export of sheep, analyzed by cut, carcass, box, breeder stock, and sex.

(b) PRICE DISCOVERY AND REPORTING SYSTEM.—

(1) SYSTEM REQUIRED.—Based on the report required under subsection (a), the Secretary shall—

(A) develop a price discovery system formula for the lamb market, such as carcass equivalent pricing; and

(B) establish a price discovery and reporting system for the lamb market to assist lamb producers to better allocate their resources and make informed production and marketing decisions.

(2) IMPLEMENTATION.—The price discovery and reporting system for the lamb market shall be implemented by the Secretary not later than 180 days after the date of the submission of the report.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to develop and establish the system required under this subsection.

(c) CONSULTATION.—In preparing the report required under subsection (a) and establishing the price discovery and reporting system required under subsection (b), the Secretary shall consult with lamb producers and other persons in the national lamb industry.

SEC. 125. COTTON FIRST HANDLER MARKETING CERTIFICATES.

Section 103B(a)(5)(B) (7 U.S.C. 1444–2(a)(5)(B)) is amended—

(1) by inserting "or cash payments" after "marketing certificates" each place it appears in clauses (i) and (ii); and

(2) in clause (iii), by inserting "or cash payment" after "certificate".

SEC. 126. PRODUCTION OF BLACK-EYED PEAS FOR DONATION.

(a) 50/92 PROGRAM FOR COTTON.—Section 103B(c)(1)(D) (7 U.S.C. 1444–2(c)(1)(D)) is amended by adding at the end the following new clause:

"(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 producer agrees 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 (7 U.S.C. 612c note)) that is approved by the Secretary; and

"(II) the Secretary finds that such action will not result in the disruption of normal channels of trade.".

(b) ACREAGE REDUCTION PROGRAM.—Section 103B(e)(2) of such Act (7 U.S.C. 1444–2(e)(2)) is amended by adding at the end the following new subparagraph:

"(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 one-half of the reduced acreage on the farm if—

"(i) the producer agrees to donate the harvested peas from such 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 (7 U.S.C. 612c note)) that is approved by the Secretary; and

"(ii) the Secretary finds that such action will not result in the disruption of normal channels of trade.".

SEC. 127. MILK PRICE SUPPORT PROGRAM LIMITED TO 48 CONTIGUOUS STATES.

(a) IN GENERAL.—Section 204 (7 U.S.C. 1446e) is amended—

(1) in subsection (a), by inserting "produced in the 48 contiguous States" after "the price of milk";

(2) in subsection (c)(1), by inserting before the period the following: "produced in the 48 contiguous States";

(3) in subsection (d)(5)(B), by striking "United States" both places it appears and inserting "48 contiguous States and the District of Columbia"; and

(4) in subsections (g)(1) and (h)(1), by striking "United States" each place it appears and inserting "48 contiguous States".

(b) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect as of January 1, 1991.

SEC. 128. MODIFICATION OF MILK PRODUCTION TERMINATION PROGRAM.

(a) CERTAIN TRANSFERS AUTHORIZED.—If the Secretary of Agriculture determines that a natural disaster renders unusable the land or milk production facilities of the producers on a farm, the Secretary shall allow the producers to transfer the production unit (including dairy animals and equipment) to a farm idled under the milk production termination program established under section 201(d)(3) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)(3)), without penalty, if the producers on the farm agree to comply with all terms and conditions of the program contract for the remainder of the contract period.

(b) APPLICATION.—This section shall apply with respect to any natural disaster occurring during the period beginning on October 1, 1990, and ending on February 1, 1991.

TITLE II—CONSERVATION

SEC. 201. AMENDMENTS TO THE FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.

(a) AMENDMENTS TO SECTION 1451.—Section 1451 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5822) is amended—

(1) in subsection (b)(1)(D), by striking "(e)" and inserting "(f)";

(2) in subsection (d), by inserting "each of" before "the calendar";

(3) in subsection (f)(5), by striking "assisting" and inserting "assist"; and

(4) in subsection (h)(7)(B)—

(A) in clause (i), by inserting before the period at the end of the first sentence the following: ", but only to the extent that such number exceeds the number of acres resulting from the reduction in payment acres under an amendment made by section 1101 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508; 104 Stat. 1388-1)"; and

(B) in clause (ii), by striking "under" and all that follows through "Agricultural" and inserting "under section 101B(c)(1)(D), 103B(c)(1)(D), 105B(c)(1)(E), or 107B(c)(1)(E) of the Agricultural".

(b) AMENDMENTS TO SECTION 1466.—Section 1466 of such Act (7 U.S.C. 4201 note) is amended—

(1) in subsection (c), by striking "Funds" and inserting "funds"; and

(2) in each of subsections (e) and (f), by striking "section (b)" and inserting "subsection (b)".

(c) AMENDMENT TO SECTION 1468(a)(2).—Section 1468(a)(2) of such Act (7 U.S.C. 4201 note) is amended by striking "Funds" and inserting "funds".

(d) AMENDMENTS TO SECTION 1473(a).—Section 1473(a) of such Act (7 U.S.C. 5403(a)) is amended—

(1) in paragraph (1), by striking "subparagraph (B)" and inserting "paragraph (2)"; and

(2) in paragraph (2), by striking "subparagraph (A)" " and inserting "paragraph (1)".

(e) AMENDMENT TO SECTION 1483(c).—Section 1483(c) of such Act (7 U.S.C. 5503(c)) is amended by inserting "and" after "Animal".

(f) AMENDMENT TO SECTION 1485.—Section 1485 of such Act (7 U.S.C. 5505) is amended—

(1) in subsection (a), by striking "Administrator" both places it appears " and inserting "Director";

(2) in subsection (a)(3), by striking "Atmospheric Agency, the" " and inserting "Atmospheric Administration, the"; and

(3) in subsection (b)(3), by striking "subsection (a)" " and inserting "this subsection".

(g) AMENDMENTS TO SECTION 1499.—Section 1499 of such Act (7 U.S.C. 5506) is amended—

(1) in the 4th sentence of subsection (a)—

(A) by inserting "Agricultural" before "Environmental"; and

(B) by striking "1612" and inserting "1472";

(2) in subsection (b)—

(A) by striking "AFFECT" and inserting "EFFECT"; and

(B) by inserting "and section 1499A" after "subsection (a)"; and

(3) in subsection (c), by inserting "and" after "Animal".

(h) NEW SECTION.—

(1) EDUCATION PROGRAM.—Such Act is amended by inserting after section 1499 (7 U.S.C. 5506) the following new section:

"SEC. 1499A. EDUCATION PROGRAM REGARDING HANDLING OF AGRICULTURAL CHEMICALS AND AGRICULTURAL CHEMICAL CONTAINERS.

"Subject to the availability of funds appropriated in advance, the Secretary of Agriculture shall direct the Extension Service to operate a program in each State to catalogue the Federal, State, and local laws and regulations that govern the handling of unused or unwanted agricultural chemicals and agricultural chemical containers in the State. The program established under this section shall make available to producers of agricultural commodities and the general public, and provide on request, educational materials developed or collected by the program.".

(2) The table of contents in section 1(b) of such Act (104 Stat. 3363) is amended by inserting after the item relating to section 1499 the following new item:

"Sec. 1499A. Education program regarding handling of agricultural chemicals and agricultural chemical containers.".

SEC. 202. AMENDMENT TO THE SOIL CONSERVATION AND DOMESTIC ALLOTMENT ACT.

The 14th sentence of the 5th undesignated paragraph of section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) is amended by inserting ", except that, in the case of a person elected to be a national officer or State president of the National Association of Farmer Elected Committeemen, the limitation shall be four consecutive terms" before the period.

SEC. 203. FARMS FOR THE FUTURE.

(a) IN GENERAL.—Sections 1465 through 1469 of the Farms for the Future Act of 1990 (7 U.S.C. 4201 note) are amended to read as follows:

"SEC. 1465. SHORT TITLE, PURPOSE, AND DEFINITION.

"(a) SHORT TITLE.—This chapter may be cited as the 'Farms for the Future Act of 1990'.

"(b) PURPOSE.—It is the purpose of this chapter to promote a national farmland protection effort to preserve our vital farmland resources for future generations.

"(c) DEFINITIONS.—As used in this chapter:

"(1) ALLOWABLE INTEREST RATE.—The term 'allowable interest rate' refers to the interest rate that the State trust fund pays on each eligible loan (including the interest paid by the State trust fund, State, or State agency on bonds or other obligations described in paragraph (2)).

"(2) ELIGIBLE LOAN.—The term 'eligible loan' means each loan made by lending institutions to each State trust fund, or to the State acting in conjunction with the State trust fund, to further the purposes of this chapter, and the proceeds from any issuance of obligations, or other bonded indebtedness, of any eligible State, the State trust fund, or any agency of an eligible State, except that no eligible loan shall bear an interest rate in excess of 10 percent per year.

"(3) ELIGIBLE STATE.—The term 'eligible State' means—

"(A) the State of Vermont; and

"(B) at the option of the Secretary and subject to appropriations, any State that—

"(i) operates or administers a land preservation fund that invests funds in the protection or preservation of farmland for agricultural purposes; and

"(ii) works in coordination with the governing bodies of counties, towns, townships, villages, or other units of general government below the State level, or with private nonprofit or public organizations, to assist in the preservation of farmland for agricultural purposes.

"(4) LENDING INSTITUTION.—The term 'lending institution' means any Federal or State chartered bank, savings and loan association, cooperative lending agency, other legally organized lending agency, State government or agency, political subdivision of a State, or any nonprofit conservation organization.

"(5) PROGRAM.—The term 'program' means the farmland preservation program established under this chapter to be known as the 'Agricultural Resource Conservation Demonstration Program'.

"(6) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

"(7) STATE.—The term 'State' means any State of the United States, the Commonwealth of Puerto Rico, and the Virgin Islands of the United States.

"(8) STATE TRUST FUND.—The term 'State trust fund' means any trust fund or an account established by an eligible State, or other public instrumentality of the eligible State, where such eligible State is approved to participate by the Secretary in the program under application procedures set forth in section 1466(j) or 1468.

"SEC. 1466. ESTABLISHMENT OF PROGRAM.

"(a) IN GENERAL.—

"(1) PURPOSE.—The Secretary shall establish and implement a program, to be known as the 'Agricultural Resource Conservation Demonstration Program', to provide Federal guarantees and interest assistance for eligible loans described in section 1465(c)(2) made to, or issued for the benefit of, State trust funds.

"(2) ASSISTANCE.—Under the program the Secretary shall guarantee for a period of 10 years the timely payment of the principal amount and interest due on each eligible loan described in section 1465(c)(2) made to, or issued for the benefit of, State trust funds and shall for each such 10-year period subsidize the interest on such eligible loans at the allowable interest rate for the first 5 years after the loan is made, or issued, and at no less than 3 percentage points for the second 5 years under procedures described in subsection (b).

"(b) MANDATORY ASSISTANCE TO EACH STATE TRUST FUND.—The Secretary shall—

"(1) fully guarantee with the full faith and credit of the United States each eligible loan described in section 1465(c)(2) made to, or issued for the benefit of, each State trust fund under procedures established by the Secretary;

"(2) annually pay to each State trust fund an amount calculated by applying the allowable interest rate to the amount of each loan described in section 1465(c)(2) made to, or issued for the benefit of, each State trust fund during each of the first 5 years after the date

on which each such loan was made or issued; and

"(3) annually pay to each State trust fund, for each year during the second 5-year period after each such eligible loan is made to, or issued for the benefit of, the State trust fund, an amount calculated by applying the interest rate difference, between the rate of interest charged to borrowers of direct loans as described in section 316(a)(2) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1946(a)(2)) and the allowable interest rate, to the amount of each such loan made to, or issued for the benefit of, the State trust fund, as determined under procedures established by the Secretary.

"(c) FUNDING.—

"(1) ISSUANCE OF STOCK.—The Secretary of Agriculture shall make and issue stock, in the same manner as notes are issued under section 309(c) or 309A(d) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929(c) or 1929a(d)), to the Secretary of the Treasury for the purpose of obtaining funds from the Secretary of the Treasury that are necessary for discharging the obligations of the Secretary of Agriculture under this chapter. The stock shall not pay dividends and shall not be redeemable.

"(2) PURCHASE OF STOCK.—The Secretary of the Treasury shall provide the funding necessary to implement this chapter. The Secretary of the Treasury shall purchase any stock of the Secretary of Agriculture issued to implement this chapter. The Secretary of the Treasury shall use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code. The purposes for which the securities may be issued under such chapter are extended to include the raising of funds to purchase stock issued by the Secretary of Agriculture to implement this chapter with respect to each eligible State. The Secretary of Agriculture shall make and issue such stock as is necessary to fund this chapter to the Secretary of Treasury who shall promptly purchase the stock (within 60 days) being offered by the Secretary of Agriculture.

"(3) COMMODITY CREDIT CORPORATION.—If the Secretary of Agriculture fails to issue stock as required under this chapter, or if funding is otherwise not provided as set forth in this chapter, for the eligible State described in section 1465(c)(3)(A), notwithstanding any other provision of law, the Secretary of Agriculture shall use the funds, services and facilities of the Commodity Credit Corporation to carry out the requirements of this chapter. The procedure described in paragraph (2) shall be used to reimburse the Corporation for funds expended to carry out this paragraph.

"(d) REQUIRED PURCHASES OF STOCK.—The Secretary shall promptly notify the Secretary of the Treasury, in writing, each time an application of an eligible State is approved by the Secretary under this chapter. The Secretary of the Treasury shall promptly purchase stock (within 60 days) offered by the Secretary under subsection (c) and the Secretary of Agriculture shall deposit the proceeds from each such sale of stock in accounts created to administer the program.

"(e) ENTITLEMENTS.—The Secretary is entitled to receive funds, and shall receive funds, from the Secretary of the Treasury in an amount equal to the total par-value of the stock issued to the Secretary of the Treasury. Each State trust fund is entitled to receive, and the Secretary of Agriculture shall promptly pay to each such trust fund, amounts calculated under procedures described in subsection (b).

"(f) REGULATIONS.—Except regarding the eligible State described in section 1465(c)(3)(A), the Secretary shall promulgate proposed and final regulations, under the prior public comment provisions of section 553 of title 5, United States Code, setting forth—

"(1) the application procedures for eligible States;

"(2) the factors to be used in approving applicants;

"(3) procedures for the prompt payment of the obligations of the Secretary under subsection (b);

"(4) recordkeeping requirements for approved State trust funds;

"(5) requirements to prevent program abuse and procedures to recover improperly obtained funds;

"(6) rules permitting State trust funds to act as revolving funds or to otherwise accumulate additional capital, based on investments, to be subsequently used to promote the purposes of this chapter; and

"(7) any other rules necessary and appropriate to carry out the program.

"(g) DURATION OF PROGRAM.—The program established under this chapter shall expire on September 30, 1996, except that any financial obligations of the Secretary shall continue to be met as required by this chapter.

"(h) ELIGIBLE USES FOR GUARANTEED LOAN FUNDS.—

"(1) IN GENERAL.—Funds from eligible loans (including proceeds from the sale of bonds or other obligations described in section 1465(c)(2)) guaranteed under this chapter, and any earnings of the State trust funds, may be used—

"(A) to purchase development rights, conservation easements or other types of easements, or to purchase agricultural land in fee simple or some lesser estate in land;

"(B) to pay all reasonable and customary costs including appraisal, survey and engineering fees, and legal expenses;

"(C) to pay the costs of enforcing easements or land use restrictions;

"(D) to cover the costs of complying with any regulations issued by the Secretary under this program and the costs of implementing the farmland plan of operation, except that the guaranteed loan proceeds shall not be used to pay overhead expenses of the State trust fund (rent, utilities, salaries, wages, insurance premiums, and the like); and

"(E) to generate earnings (including through investments not exceeding 10 years in duration for each eligible loan), to be used for future farmland preservation efforts, through investments in direct obligations of the United States or obligations guaranteed by the United States or an agency thereof or by depositing funds in any member bank of the Federal Reserve System or any Federally insured State nonmember bank.

"(2) COLLATERAL FOR LOANS.—To the extent consistent with relevant banking laws and practices, the investments or deposits described in paragraph (1)(E) may serve as collateral for loans made to, or on behalf of, the State trust fund.

"(i) STATE USE OF GUARANTEED LOAN FUNDS.—The Secretary may issue regulations or procedures requiring each State trust fund to report to the Secretary regarding the uses of the eligible loans (described in section 1465(c)(2)) guaranteed by the Secretary and the Secretary may monitor the uses of the funds to ensure that the loans are used for purposes related to this chapter. Neither the Secretary or the lending institution shall have the power to require approval of each specific use of the loans guaranteed by the Secretary, the specific terms of each use of the loan funds, or the specific provisions of each purchase or investment made with loans guaranteed by the Secretary. The Secretary may require that each State trust fund provide a State farmland preservation plan of operation to the Secretary setting forth the plans for administering the program in the State and may require each State trust fund to periodically report to the Secretary on the purchases of interests in farmland and on other specific uses of the funds.

"(j) SPECIAL RULES FOR THE PILOT PROJECT STATE.—Notwithstanding any other provisions of this chapter, the following special rules shall apply to the eligible State described in section 1465(c)(3)(A):

"(1) PROVISION OF LOAN GUARANTEE AND INTEREST ASSISTANCE AGREEMENT.—Within 30 days of the date any State trust fund in the eligible State receives a commitment for each eligible loan from a lending institution, the Secretary shall provide the lending institution with the loan guarantee and the interest assistance agreement so that the lending institution may disburse the full amount of the loan proceeds to the State trust fund on the date of loan closing to carry out this program. After the loan closing, the lending institution shall have no obligation to monitor or approve the use of loan proceeds by the State trust fund.

"(2) APPROVAL OF APPLICATION.—The Secretary shall annually approve the completed application from the eligible State within 30 days after receipt if the application sets forth the general goals and policies of the State trust fund. The Secretary shall provide the Federal assistance required under this chapter beginning on the date the application or plan is approved.

"(3) AMOUNT OF GUARANTEES.—The Secretary shall calculate the total amount of guarantees to be provided for fiscal year 1992 in an amount equal to double the sum of—

"(A) the amount that was made available in fiscal year 1991 to the State trust fund (the Vermont Conservation and Housing Board regardless of whether the fund had been approved by the Secretary in fiscal year 1991), by the State described in section 1465(c)(3)(A), political subdivisions thereof, charitable organizations, private persons, or any other entity, in addition to the proceeds from the sale of obligations of the State related to the purposes of the State trust fund and the fair market value of donations of interests in land to the State trust fund; and

"(B) the matching contribution calculated under section 1468(c) for fiscal year 1992 for the State.

"(k) MISCELLANEOUS PROVISIONS.—

"(1) OPERATION.—Each State trust fund may operate through nonprofit corporations, municipalities, or other political subdivisions of States in carrying out the purposes of the program established in this chapter.

"(2) EARNINGS.—Earnings on funds of each State trust fund may be used for any purposes related to carrying out the operations of the trust fund in a manner not inconsistent with the requirements of this chapter or the farmland preservation plan.

"SEC. 1467. FEDERAL ACCOUNTS AND COMPLIANCE.

"(a) ACCOUNTS.—To carry out the purposes of this chapter, the Secretary may establish in the Treasury of the United States an account, to be known as the 'Agricultural Resource Conservation Revolving Fund' (hereafter referred to in this chapter as the 'Fund'), for the use by the Secretary to meet

the obligations of the Secretary under this chapter.

"(b) COMPLIANCE.—If the Secretary determines that any State trust fund is failing to comply, to a significant degree, with any requirements of this chapter, the Secretary shall report the failure to the Committee on Agriculture of the House of Representatives and to the Committee on Agriculture, Nutrition, and Forestry of the Senate, shall fully investigate the matter, may decline to provide additional Federal guarantees or interest subsidies to the State trust fund, and shall take other steps as may be appropriate to prevent the use of Federal assistance in a manner not consistent with this chapter.

"SEC. 1468. APPLICATIONS AND ADMINISTRATION.

"(a) APPLICATIONS.—In applying for assistance under this chapter an eligible State described in section 1465(c)(3)(B) shall—

"(1) prepare and submit, to the Secretary, an application at such time, in such manner, and containing such information as the Secretary shall require;

"(2) agree that the State trust fund will use any funds provided, or guaranteed, by the Secretary under this chapter in a manner that is consistent with the chapter and the regulations promulgated by the Secretary; and

"(3) agree to comply with any other requirements set forth in agreements with the Secretary or as the Secretary may prescribe by regulation.

"(b) ANNUAL APPLICATIONS.—Eligible States described in section 1465(c)(3)(B) may apply for Federal assistance under this chapter on an annual basis. The Secretary shall approve or disapprove each application for assistance, and notify the applicant of the action not later than 30 days after receipt of a complete application.

"(c) MATCH AND MAXIMUM AMOUNT.—

"(1) IN GENERAL.—The total amount of any guarantees provided by the Secretary under this program for each eligible State shall equal an amount that is equal to double the amount that is, or shall be, made available to the trust fund (including matching funds described in paragraphs (2) through (4)) in each such eligible State by the State, political subdivisions thereof, charitable organizations, private persons, or any other entity, for acquiring interests in land to protect and preserve important farmlands for future agricultural use but in no event shall the total Federal share exceed $10,000,000 in any fiscal year for any given State.

"(2) EARNINGS.—Earnings of the State trust fund and funds expended by the State or the State trust fund prior to loan closing for purposes consistent with this chapter, and in the same fiscal year, may be considered as matching funds.

"(3) OBLIGATIONS.—Proceeds from the sale of tax-exempt general obligation bonds, or other obligations, of the State or State trust fund shall be an allowable source of matching funds under this chapter for the same fiscal year.

"(4) LAND.—The fair market value of any donation of an interest in land to the State trust fund, or a charitable organization working with the State trust fund, may be considered as matching funds, for the same fiscal year, if—

"(i) the fair market value is based on an appraisal determined to be adequate by the State trust fund; and

"(ii) the donation is consistent with the State farmland preservation plan,

except that the value of land donated to charitable organizations by the State trust fund shall not be included as part of the match.

"(d) CLARIFICATION OF FEDERAL LAW.—Sellers of land, or of interests in land, to any State trust fund are not, and shall not be considered by the Secretary as, recipients or beneficiaries of Federal assistance.

"SEC. 1469. REPORT.

"Not later than September 30, 1992, and annually thereafter, the Secretary of Agriculture shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report concerning the operation of the program established under this chapter.".

(b) REGULATIONS.—Section 1470 of the Farms for the Future Act of 1990 (7 U.S.C. 4201 note) is amended—

(1) by striking "This" and inserting "(a) IN GENERAL.—This"; and

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

"(b) REGULATIONS.—Not later than December 31, 1991, the Secretary of Agriculture shall publish in the Federal Register interim final regulations to implement this chapter. The regulations shall not require each State's program to give a priority to the acquisition of land, or interests in land, that is subject to significant urban pressure.".

(c) REPORTS; STOCK ISSUANCE.—Such Act is amended by adding at the end the following new sections:

"SEC. 1470A. COMPTROLLER GENERAL REPORTS.

"On February 15 of 1992, and on December 1 of each of the years 1992 through 1996, the Comptroller General of the United States shall report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, on whether the Secretary of Agriculture is complying with the requirements of this chapter. The report shall include information concerning loans guaranteed under this chapter and the steps the Secretary of Agriculture has taken to comply with this chapter.

"SEC. 1470B. SPECIAL RULES FOR ISSUANCE OF STOCK FOR 1992.

"The Secretary shall issue the stock required to be issued to the Secretary of Treasury under this chapter with respect to the eligible State described in section 1465(c)(3)(A), for fiscal year 1992, on or before December 20, 1991.".

SEC. 204. AMENDMENTS TO THE FOOD SECURITY ACT OF 1985.

Title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.) is amended—

(1) in section 1211 (16 U.S.C. 3811)—

(A) in paragraph (1)(D), by striking "(16 U.S.C. 1421 note)" and inserting "(7 U.S.C. 1421 note)";

(B) in paragraph (3)(D), by inserting "of subtitle D" after "chapter 2"; and

(C) in paragraph (3)(E), by inserting "of subtitle D" after "chapter 3";

(2) in section 1212 (16 U.S.C. 3812)—

(A) in subsection (f)(4)(A), by striking "such violations" and inserting "such violation"; and

(B) in subsection (g)(2), by striking "XIII," and inserting "XIII";

(3) in section 1221(1)(D) (16 U.S.C. 3821(1)(D)), by striking "(16 U.S.C. 1421 note)" and inserting "(7 U.S.C. 1421 note)";

(4) in section 1223 (16 U.S.C. 3823), by striking "and" at the end of paragraph (3);

(5) in section 1232(a) (16 U.S.C. 3832(a))—

(A) by striking the extra semicolon at the end of paragraph (6); and

(B) in paragraph (7)—

(i) by striking "fall and winter"; and

(ii) by striking "for an applicable reduction in rental payment" and inserting "and occurs during the 7-month period in which grazing of conserving use acreage is allowed in a State under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) or after the producer harvests the grain crop of the surrounding field for a reduction in rental payment commensurate with the limited economic value of such incidental grazing".

(6) in section 1237(d) (16 U.S.C. 3837(d)), by striking "subsection (d)" and inserting "subsection (c)";

(7) in section 1239(b)(1)(A) (16 U.S.C. 3839(b)(1)(A)), by striking "corridors," and inserting "corridors;"; and

(8) in section 1247(b) (16 U.S.C. 3847(b)), by striking "subsection 1234(b)" and inserting "section 1234(b)".

TITLE III—AGRICULTURAL TRADE

SEC. 301. SUPERFLUOUS PUNCTUATION IN FARMER TO FARMER PROVISIONS.

Section 501(a)(3) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1737(a)(3)) is amended by striking the comma after "public".

SEC. 302. PUNCTUATION CORRECTION IN ENTERPRISE FOR THE AMERICAS INITIATIVE.

Section 603(a)(3) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738b(a)(3)) is amended by inserting a hyphen between "Inter" and "American".

SEC. 303. SPELLING CORRECTION IN SECTION 604.

Section 604(a)(2) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738c(a)(2)) is amended by striking "AVALIABILITY" and inserting "AVAILABILITY".

SEC. 304. MISSING WORD IN SECTION 606.

Section 606(c) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738e(c)) is amended by inserting "accounts" after "Corporation".

SEC. 305. PUNCTUATION ERROR IN SECTION 607.

Section 607(a) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C 1738f(a)) is amended by striking the quotation mark before "Fund" and inserting it after "Fund" the last place it appears.

SEC. 306. TYPOGRAPHICAL CORRECTION IN SECTION 612.

Section 612(a)(1) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C 1738k(a)(1)) is amended by striking "462), and—" and inserting "2281 et seq.);".

SEC. 307. ERRONEOUS QUOTATION.

Section 1515(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 is amended by striking "title I and" and inserting "titles I and".

SEC. 308. PUNCTUATION CORRECTION.

Section 103(d)(2) of the Agricultural Trade Act of 1978 (7 U.S.C. 5603(d)(2)) is amended by inserting a close parenthesis mark before the final period.

SEC. 309. DATE CORRECTION.

Section 203(g)(3) of the Agricultural Trade Act of 1978 (7 U.S.C. 5623(g)(3)) is amended by striking "the date of enactment of this Act" and inserting "November 28, 1990,".

SEC. 310. MISSING SUBTITLE HEADING CORRECTION.

Title II of the Agricultural Trade Act of 1978 is amended by inserting after the title heading the following:

"Subtitle A—Programs".

SEC. 311. REDESIGNATION OF SUBSECTION.

Section 301 of the Agricultural Trade Act of 1978 (7 U.S.C. 5651) is amended by redesignating subsection (g) as subsection (f).

SEC. 312. DATE CORRECTION TO SECTION 404.

Section 404 of the Agricultural Trade Act of 1978 (7 U.S.C. 5664) is amended by striking out "the date of enactment of this Act" and inserting "November 28, 1990".

SEC. 313. DATE CORRECTION TO SECTION 416.

Section 416(e) of the Agricultural Trade Act of 1978 (7 U.S.C. 5676(e)) is amended by striking out "the effective date of this section" and inserting "November 28, 1990".

SEC. 314. REDESIGNATION OF SECTION.

The Agricultural Trade Act of 1978 is amended by redesignating section 506 (7 U.S.C. 5695) as section 505.

SEC. 315. CROSS REFERENCE CORRECTION.

Section 601 of the Agricultural Trade Act of 1978 (7 U.S.C. 5711) is amended by striking "section 104" each place it appears and inserting "section 103".

SEC. 316. PLACEMENT CLARIFICATION.

Section 1532 of the Food, Agriculture, Conservation, and Trade Act of 1990 is amended by striking "thereof" and inserting "of title I".

SEC. 317. PUNCTUATION CORRECTION.

Section 108(b) of the Agricultural Act of 1954 (7 U.S.C. 1748) is amended by striking the period at the end of paragraph (1)(B) and inserting a semicolon.

SEC. 318. ELIMINATION OF OBSOLETE CROSS REFERENCE.

Section 108(b)(4) of the Agricultural Act of 1954 (7 U.S.C. 1748(b)(4)) is amended by striking "the trade assistance office" and all that follows through "section 201),".

SEC. 319. CROSS REFERENCE CORRECTION.

Section 407(c) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736a(c)) is amended by inserting "title I of" before "this Act" each place it appears in paragraphs (2)(B) and (3).

SEC. 320. CORRECTING CLERICAL ERRORS IN SECTION 204 OF THE AGRICULTURAL TRADE ACT OF 1978.

Section 204(d) of the Agricultural Trade Act of 1978 (7 U.S.C. 5624) is amended—

(1) by striking "AGENCY OR PRIVATE PARTIES" in the heading and inserting "AGENCIES"; and

(2) by striking "government" and inserting "Government".

SEC. 321. CAPITALIZATION CORRECTION.

Section 403(i)(2)(C) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1733(i)(2)(C)) is amended by striking "Committees" and inserting "committees".

SEC. 322. CORRECTION OF ERROR IN DATE.

Section 409, 410(a), 410(b), 410(c), and 411(e) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736c, 1736d(a), 1736d(b), 1736d(c), and 1736e(e)) are each amended by striking "the date of enactment of this Act" and inserting "November 28, 1990".

SEC. 323. CORRECTION OF TYPOGRAPHICAL ERROR.

Section 406(b)(5)(D) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736(b)(5)(D)) is amended by striking "items" and inserting "time".

SEC. 324. CROSS REFERENCE CORRECTION.

Section 407(c)(1)(A) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736a(c)(1)(A)) is amended by striking "this section" and inserting "title I".

SEC. 325. ELIMINATION OF SUPERFLUOUS WORD.

Section 407(c)(1)(C) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736a(c)(1)(C)) is amended by striking "other".

SEC. 326. CROSS REFERENCE CORRECTION.

Section 411(a) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736e(a)) is amended by striking "this title" and inserting "title I".

SEC. 327. AMENDMENT TO SECTION 602.

Section 602(a) of the Agricultural Trade Act of 1978 (7 U.S.C. 5712(a)) is amended—

(1) in paragraph (1), by striking "designate as produced" and inserting "designate produced"; and

(2) in paragraph (2), by striking "in accordance with subsection (c)".

SEC. 328. SECTION 407 CORRECTIONS.

(a) SUBSECTION (c)(4).—Section 407(c)(4) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736a(c)(4)) is amended—

(1) by inserting "provides or" after "in which such person"; and

(2) by striking "if the person is" and inserting "of a person".

(b) ELIMINATION OF WORD.—Section 407(d)(3) of the Agricultural Trade Development and Assistance Act of 1954 is amended by striking "other".

SEC. 329. SECTION 407(b) AMENDMENT.

Section 407(b)(1) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736a(b)(1)) is amended by striking "or agricultural commodity donated".

SEC. 330. SUPPLEMENTAL VIEWS IN ANNUAL REPORT.

Section 614 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738m) is amended—

(1) by striking "Not later" and inserting "(a) IN GENERAL.—Not later"; and

(2) by adding at the end the following:

"(b) SUPPLEMENTAL VIEWS IN ANNUAL REPORT.—No later than December 15 of each fiscal year, each member of the Board shall be entitled to receive a copy of the report required under subsection (a). Each member of the Board may prepare and submit supplemental views to the President on the implementation of this title by December 31 for inclusion in the annual report when it is transmitted to Congress pursuant to this section.".

SEC. 331. CONSULTATIONS WITH CONGRESS.

The Agricultural Trade Development and Assistance Act of 1954 is amended by inserting after section 614 (7 U.S.C. 1738m) the following:

"SEC. 615. CONSULTATIONS WITH CONGRESS.

"The President shall consult with the appropriate congressional committees on a periodic basis to review the operation of the Facility under this title and the eligibility of countries for benefits from the Facility under this title.".

SEC. 332. STATUTE DESIGNATION.

Section 407(d)(4) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736a(d)(4)) is amended by striking "the Federal Property Act of 1949, as amended," and inserting "the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.)".

SEC. 333. CORRECTION OF PLACEMENT AND INDENTATION OF SUBPARAGRAPH.

Subparagraph (B) of section 1514(5) of the Food, Agriculture, Conservation, and Trade Act of 1990, 104 Stat. 3663) is amended to read as follows:

"(B) by inserting after subparagraph (E) the following new subparagraph:

" '(F) The provisions of sections 403(i) and 407(c) of the Agricultural Trade Development and Assistance Act of 1954 shall apply to donations, sales and barters of eligible commodities under this subsection.' ".

SEC. 334. EXPORT CREDIT GUARANTEE PROGRAM.

Section 202(i) of the Agricultural Trade Act of 1978 (7 U.S.C. 5622(i)) is amended by striking "or proceeds payable under a credit guarantee issued by the Commodity Credit Corporation under this section if it is determined by the Corporation that" and inserting "issued by the Commodity Credit Corporation under this section if it is determined by the Corporation, at the time of the assignment, that".

SEC. 335. TECHNICAL AMENDMENTS TO THE FOOD FOR PROGRESS PROGRAM.

The Food for Progress Act of 1985 (7 U.S.C. 1736o) is amended—

(1) in subsection (l), by striking "September 30," where it appears immediately before "December 31";

(2) in subsection (m), by striking "this Act" each place it appears and inserting "this section"; and

(3) by redesignating subsections (l) and (m) (as amended by paragraphs (1) and (2)) as subsections (k) and (l), respectively.

SEC. 336. MISCELLANEOUS AMENDMENT TO THE AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE ACT OF 1954.

The first sentence of section 411(b) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736e) is amended by inserting before the period at the end the following: "at least 10 days prior to providing the debt relief".

SEC. 337. REPORTING REQUIREMENTS.

Section 214 of the Tobacco Adjustment Act of 1983 (7 U.S.C. 509(f)) is amended—

(1) by redesignating subsections (c) through (f) as subsections (d) through (g), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) EXCEPTIONS.—The reporting and recordkeeping requirements of this section shall not apply with respect to cigars, cigar tobaccos, pipe tobacco, chewing tobacco in retail packaging, and snuff in retail packaging. In order to qualify for the exception under this subsection, the tobacco must have a certification that its end use is for cigars, cigar tobacco, pipe tobacco, chewing tobacco in retail packaging, or snuff in retail packaging.".

SEC. 338. SHARING UNITED STATES AGRICULTURAL EXPERTISE AND INFORMATION.

Section 1542(d) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5622 note) is amended—

(1) by striking the subsection heading and inserting the following:

"(d) E (KIKA) DE LA GARZA AGRICULTURAL FELLOWSHIP PROGRAM.—The Secretary of Agriculture (hereafter in this section referred to as the 'Secretary') shall establish a program, to be known as the 'E (Kika) de la Garza Agricultural Fellowship Program', to develop agricultural markets in emerging democracies and to promote cooperation and exchange of information between agricultural institutions and agribusinesses in the United States and the Soviet Union, as follows:

"(1) DEVELOPMENT OF AGRICULTURAL SYSTEMS.—";

(2) in paragraph (1), by indenting 2 ems the left margin of subparagraphs (A) and (B) and redesignating such subparagraphs as clauses (i) and (ii), respectively;

(3) in paragraph (2), by indenting 2 ems the left margin of subparagraphs (A) and (B) and redesignating such subparagraphs as clauses (i) and (ii), respectively;

(4) by indenting 2 ems the left margin of paragraphs (1) through (9) and redesignating

such paragraphs as subparagraphs (A) through (I), respectively;

(5) by striking "subsection" each place it appears and inserting "paragraph";

(6) by striking "paragraph (1)" each place it appears and inserting "subparagraph (A)";

(7) by striking "paragraph (2)(A)" each place it appears and inserting "subparagraph (B)";

(8) by striking "paragraph (2)(B)" each place it appears and inserting "subparagraph (B)";

(9) in paragraph (1)(B) (as so redesignated)—

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

(B) by striking the period at the end of clause (ii) and inserting "; and"; and

(C) by adding at the end the following new clause:

"(iii) by providing for necessary subsistence expenses in emerging democracies and necessary transportation expenses of United States agricultural producers and other individuals knowledgeable in agricultural and agribusiness matters to assist in transferring their knowledge and expertise to entities in emerging democracies.";

(10) in paragraph (1)(I) (as so redesignated), by striking "$5,000,000" and inserting "$10,000,000"; and

(11) by adding at the end the following new paragraph:

"(2) AGRICULTURAL INFORMATION PROGRAM.—

"(A) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program, administered to complement the emerging democracies export promotion program developed under this section, to initiate and develop collaboration between the United States Department of Agriculture, United States agribusinesses, and appropriate agricultural institutions in the Soviet Union in order to promote the exchange of information and resources that will make a long-term contribution to the establishment of a free market food production and distribution system in the Soviet Union and the enhancement of agricultural trade with the United States.

"(B) IMPLEMENTATION.—The Secretary shall draw on the Department of Agriculture's experience to design, implement, and evaluate, on a cost-sharing basis with cooperating agricultural institutions, a program to—

"(i) compile, through contacts with the Government of the Soviet Union and private sector officials in the Soviet Union, a list of their agricultural institutions, including the location, capabilities, and needs of the institutions;

"(ii) make such information available through an appropriate agency of the Department of Agriculture to agribusinesses and agricultural institutions in the United States and other agencies of the United States Government; and

"(iii) carry out a program—

"(I) to review available agricultural information resources, to determine which would be useful for the purposes of this program;

"(II) to arrange for the exchange of persons associated with such agricultural institutions and agribusinesses with experience or interest in the areas of need identified in clause (i); and

"(III) to help establish contacts between agricultural entrepreneurs and businesses in the United States and the Soviet Union, which may include individuals and entities participating in the program established under paragraph (1), to facilitate cooperation and joint enterprises.

"(C) CONSULTATION AND COORDINATION.—The Secretary shall consult and coordinate with the Secretary of State and the Agency for International Development in the formulation and implementation of this program in conjunction with overall assistance to the Soviet Union.

"(D) DEFINITION.—For the purposes of this subsection, the term 'Soviet Union' means the Soviet Union, its successor entities, or any of the individual republics of the Soviet Union.

"(E) AUTHORIZATION FOR APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the program established under this paragraph.".

SEC. 339. CONFORMING AMENDMENT RELATING TO THE ENVIRONMENT FOR THE AMERICAS BOARD.

Section 610(b)(1) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738i(b)(1)) is amended—

(1) in subparagraph (A)—

(A) by striking "five" and inserting "six"; and

(B) by inserting ", at least one of whom shall be a representative of the Department of Agriculture" after "Government"; and

(2) in subparagraph (B), by striking "four" and inserting "five".

TITLE IV—RESEARCH

SEC. 401. COMPETITIVE, SPECIAL, AND FACILITIES RESEARCH GRANTS.

(a) SHORT TITLE.—Subsection (a) of section 2 of Public Law 89-106 (7 U.S.C. 450i) is amended—

(1) by inserting "(1)" before "In order"; and

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

"(2) SHORT TITLE.—This section may be cited as the 'Competitive, Special, and Facilities Research Grant Act'.".

(b) OTHER AMENDMENTS.—Such section is further amended—

(1) in subsection (b)(10), by striking "and" after "1993,";

(2) in subsection (e)—

(A) by striking "RECORD KEEPING.—" and inserting "INTER-REGIONAL RESEARCH PROJECT NUMBER 4.—";

(B) in paragraphs (1) and (7), by striking "this section" and inserting "this subsection";

(C) in paragraphs (2), (3), (4), (5)(C), and (6)(A), by striking "IR-4 program" and inserting "IR-4 Program";

(D) in paragraph (5)(B)—

(i) by striking "registration," and inserting "registrations,"; and

(ii) by inserting "and" at the end of the subparagraph; and

(E) in paragraph (6)—

(i) by striking "within one year of the date of the enactment of this paragraph" and inserting "not later than November 28, 1991,"; and

(ii) by inserting a comma after "reregistrations" in the first sentence;

(3) in subsection (f), by striking "LIMITS ON OVERHEAD COSTS.—" and inserting "RECORD KEEPING.—";

(4) in subsection (g), by striking "AUTHORIZATION OF APPROPRIATIONS.—" and inserting "LIMITS ON OVERHEAD COSTS.—";

(5) in subsection (h)—

(A) by striking "RULES.—" and inserting "AUTHORIZATION OF APPROPRIATIONS.—";

(B) by striking "subsection (b) of this section" and inserting "subsections (b) and (e)"; and

(C) by striking "the provisions of";

(6) in subsection (i)—

(A) by striking "APPLICATION OF OTHER LAWS.—" and inserting "RULES.—";

(B) by striking "is authorized to" and inserting "may"; and

(C) by striking "the provisions of";

(7) in subsection (j) (as redesignated by section 1497(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (104 Stat. 3630)), by inserting "APPLICATION OF OTHER LAWS.—" after "(j)"; and

(8) by redesignating subsections (j), (k), and (l) (as inserted by section 1615(b) of such Act (104 Stat. 3731)) as subsections (k), (l), and (m), respectively.

SEC. 402. NATIONAL AGRICULTURAL RESEARCH, EXTENSION, AND TEACHING POLICY ACT OF 1977.

The National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3101 et seq.) is amended—

(1) in section 1407(e) (7 U.S.C. 3122(e)) by striking the semicolon at the end of paragraph (7) and inserting a period;

(2) in section 1408 (7 U.S.C. 3123)—

(A) in subsection (e), by striking "government" and inserting "Government"; and

(B) in subsection (g)(1), by striking "Federally" and inserting "federally";

(3) in sections 1404(18) and 1408A(a) (7 U.S.C. 3103(18) and 3123a(a)), by inserting "and" after "Science";

(4) in section 1408A(c)(2)(H) (7 U.S.C. 3123a(c)(2)(H)), by striking "farmerworkers" and inserting "farmworkers";

(5) in section 1412 (7 U.S.C. 3127), by striking "and Advisory Board" in subsections (b) and (c) and inserting ", Advisory Board, and Technology Board";

(6) in section 1417(i) (7 U.S.C. 3152(c)), by striking the second sentence;

(7) in section 1419(b) (7 U.S.C. 3154(b)), by striking "subsection (c)" and inserting "subsection (d)";

(8) in section 1432 (7 U.S.C. 3194), by striking "SEC. 1432. (a)";

(9) in section 1446(d)(2) (7 U.S.C. 3222a(d)(2), by striking "the needs identified" and inserting "the purposes identified";

(10) in section 1446(e) (7 U.S.C. 3222a(e)), by striking "objective or" and inserting "objective of";

(11) in section 1458(a) (7 U.S.C. 3291(a)), by striking the period at the end of paragraph (3) and inserting a semicolon;

(12) in section 1463(a) (7 U.S.C. 3311), by striking "subtitle H and";

(13) in section 1473 (7 U.S.C. 3319), by striking "subsection (c)(2)" and inserting "subsection (c)(1)(B)"; and

(14) by repealing section 1473E (7 U.S.C. 3319e).

SEC. 403. RURAL DEVELOPMENT AND SMALL FARM RESEARCH AND EDUCATION.

(a) PROGRAMS AUTHORIZED.—Section 502 of the Rural Development Act of 1972 (7 U.S.C. 2662) is amended—

(1) in subsection (f)—

(A) by striking the subsection heading and inserting "COMPETITIVE GRANTS FOR FINANCIALLY STRESSED FARMERS, DISLOCATED FARMERS, AND RURAL FAMILIES.—"; and

(B) in paragraph (2), by striking "during the period beginning on the date of the enactment of this Act and ending on" and inserting "until"; and

(2) in the subsections following subsection (g)—

(A) by striking "(b) RURAL DEVELOPMENT EXTENSION" and inserting "(h) RURAL DEVELOPMENT EXTENSION";

(B) by striking "(h) RURAL HEALTH" and inserting "(i) RURAL HEALTH";

(C) by striking "(h) RESEARCH GRANTS.—" and inserting "(j) RESEARCH GRANTS.—"; and

(D) by arranging such subsections to appear in the proper order.

(b) DISTRIBUTION OF FUNDS.—Section 503(c)(1) of that Act (7 U.S.C. 2663(c)(1)) is amended—

(1) by striking "the provisions of section 502(e) of this title" and inserting "subsections (e) and (i) of section 502"; and

(2) by striking "objectives of section 502(e) of this title" and inserting "objectives of those subsections".

SEC. 404. NATIONAL GENETIC RESOURCES PROGRAM.

(a) IN GENERAL.—Subtitle C of title XVI of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 104 Stat. 3744) is amended—

(1) in the subtitle heading, by striking "**Genetics**" and inserting "**Genetic**"; and

(2) in section 1633(a) (7 U.S.C. 5842(a)), by striking "Resources program" and inserting "Resources Program".

(b) TABLE OF CONTENTS.—The item relating to such subtitle in section 1(b) of such Act (104 Stat. 3365) is amended to read as follows:

"Subtitle C—National Genetic Resources Program".

SEC. 405. ALTERNATIVE AGRICULTURAL RESEARCH AND COMMERCIALIZATION.

(a) PUNCTUATION CORRECTION.—Section 1658(d) of the Alternative Agricultural Research and Commercialization Act of 1990 (7 U.S.C. 5902(d)) is amended—

(1) by striking the period at the end of paragraph (2) and inserting "; and"; and

(2) by striking "; and" at the end of paragraph (3) and inserting a period.

(b) ESTABLISHMENT OF REGIONAL CENTERS.—Section 1663(a)(2) of such Act (7 U.S.C. 5907(a)(2)) is amended by striking "A Regional Center may not be established or operated" and inserting "No Regional Centers may be established".

SEC. 406. DEER TICK RESEARCH.

Section 1672 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925) is amended—

(1) in subsection (i), by striking "Agricultural Research Service" and inserting "Secretary of Agriculture, acting through the Cooperative State Research Service, to make competitive grants"; and

(2) in subsection (k)(1), by striking "Except for research funded under subsection (i), research" and inserting "Research".

SEC. 407. MISCELLANEOUS RESEARCH PROVISIONS.

Title XVI of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 104 Stat. 3703) is amended—

(1) in section 1604(a) (Public Law 101-624; 104 Stat. 3706), by striking "(7 U.S.C. 3122(a))" and inserting "(7 U.S.C. 3122)".

(2) in section 1619(b)(8) (7 U.S.C. 5801(b)(8)), by striking "Marianas Islands" and inserting "Mariana Islands";

(3) in section 1628(c) (7 U.S.C. 5831(c)), by striking "education" and inserting "educational";

(4) in section 1629(c)(1) (7 U.S.C. 5832(c)(1)), by striking "insure" and inserting "ensure";

(5) in section 1634(l) (7 U.S.C. 5843(l)), by striking "committee established" and inserting "council established";

(6) in section 1638(b)(5) (7 U.S.C. 5852(b)(5)), by striking "National Sciences Foundation" and inserting "National Science Foundation";

(7) in section 1639(a) (7 U.S.C. 5853(a)), by striking "Act" and inserting "subtitle";

(8) in section 1652(b)(1) (7 U.S.C. 5883(b)(1)), by striking "pheremones" and inserting "pheromones";

(9) in section 1668(g)(2) (7 U.S.C. 5921(g)(2)), by striking "WITHOLDINGS" and inserting "WITHHOLDINGS";

(10) in section 1670(d) (7 U.S.C. 5923(d)), by striking "acquaculture" and inserting "aquaculture";

(11) in section 1672(c) (7 U.S.C. 5925(c)), by redesignating paragraphs (A) through (I) as paragraphs (1) through (9), respectively;

(12) in section 1673(f) (7 U.S.C. 5926(f)), by striking "programs or" and inserting "programs of";

(13) in section 1674 (7 U.S.C. 5927)—

(A) in subsection (d)(3)(A), by striking "Schedules" and inserting "Schedule"; and

(B) in subsection (f), by striking "Committee" both places it appears and inserting "Committees";

(14) in section 1675(c) (7 U.S.C. 5928(c))—

(A) by striking paragraph (1) and inserting the following new paragraph:

"(1) ESTABLISHMENT.—Notwithstanding subsection (g)(1), the Secretary shall establish not more than four centers."; and

(B) in paragraph (2), by striking "PERIODS AND PREFERENCES.—Grants" and inserting the following: "OPERATING GRANTS.—The Secretary shall make grants to operate the centers established under paragraph (1). Such grants shall be competitively awarded based on merit and relevance in reference to meeting the purposes specified in subsection (a). Such grants";

(15) in section 1677 (7 U.S.C. 5930)—

(A) by striking "Reservation" each place it appears in subsections (a), (b), and (e) and inserting "reservation";

(B) by striking "Reservations" both places it appears in subsection (a) and inserting "reservations"; and

(C) by striking "Tribal" in subsection (c) and inserting "tribal";

(16) in section 1678(d) (7 U.S.C. 5931(d)), by striking "Teaching, and Extension" and inserting "Extension, and Teaching"; and

(17) in section 1681(a)(2), (7 U.S.C. 5934(a)(2)), by striking "teacheal mite" and inserting "tracheal mite".

SEC. 408. SUSTAINABLE AGRICULTURE RESEARCH AND EDUCATION.

Section 1624 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5814) is amended by striking "and 1623" and inserting "and 1622".

TITLE V—CREDIT

SEC. 501. AMENDMENTS TO THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.

(a) AMENDMENTS TO SECTION 304.—Section 304 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1924) is amended—

(1) by striking subsection (a); and

(2) by redesignating subsection (d) as subsection (a) and moving such subsection to appear before subsection (b).

(b) AMENDMENT TO SECTION 312(a).—Section 312(a) of such Act (7 U.S.C. 1942(a)) is amended by striking "systems." and all that follows and inserting "systems (for purposes of this subtitle, the term 'solar energy' means energy derived from sources (other than fossil fuels) and technologies included in the Federal Nonnuclear Energy Research and Development Act of 1974) (42 U.S.C. 5901 et seq.), (12) training in maintaining records of farming and ranching operations for limited resource borrowers receiving loans under section 310D, and (13) borrower training under section 359.".

(c) AMENDMENTS TO SECTION 331.—

(1) DIRECT AMENDMENTS.—Section 331(b)(4) of such Act (7 U.S.C. 1981(b)(4)) is amended—

(A) by striking "this title"; and

(B) by striking "1949 from" and inserting "1949, from".

(2) INDIRECT AMENDMENTS.—

(A) CLARIFICATION OF REPEAL.—Section 1805 of the Food, Agriculture, Conservation, and Trade Act of 1990 (104 Stat. 3819) is amended by striking subsections (b) and (c) and inserting the following:

"(b) PAYMENT OF ACCRUED INTEREST.—Section 331 (7 U.S.C. 1981) is amended by striking subsection (h) and redesignating subsections (i) and (j) as subsections (h) and (i), respectively.".

(B) CLARIFICATION OF TECHNICAL CORRECTIONS.—Section 2388(d)(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (104 Stat. 4052) is amended—

(i) by inserting ", as amended by section 1805(b) of this Act," before "is amended";

(ii) in clause (i) of subparagraph (A), by striking "(h), and (i)" and inserting "and (h)";

(iii) by striking clause (iv) and redesignating clauses (v), (vi), and (vii) of subparagraph (A) as clauses (iv), (v), and (vi), respectively;

(iv) in clause (iv) of subparagraph (A) (as so redesignated by clause (iii) of this subparagraph), by striking "(i)" and inserting "(h)"; and

(v) in clause (vi) of subparagraph (A) (as so redesignated by clause (iii) of this subparagraph)—

(I) by striking "(j)" and inserting "(i)"; and

(II) by striking "(10)" and inserting "(9)".

(d) AMENDMENTS TO SECTION 331E.—

(1) IN GENERAL.—Section 331E of such Act (7 U.S.C. 1981e) is amended—

(A) by striking "The" and inserting "(a) IN GENERAL.—The"; and

(B) by adding at the end the following new subsection:

"(b) CALCULATION OF YIELDS.—

"(1) IN GENERAL.—For purposes of averaging past yields of the farm of a borrower or applicant over a period of crop years to calculate future yields for the farm under this title (except for loans under subtitle C), the Secretary shall permit the borrower or applicant to exclude the crop year with the lowest actual or county average yield for the farm from the calculation, if the borrower or applicant was affected by a disaster during at least 2 of the crop years during the period.

"(2) AFFECTED BY A DISASTER.—For purposes of paragraph (1), a borrower or applicant was affected by a disaster if the Secretary finds that the borrower or applicant's farming operations have been substantially affected by a natural disaster in the United States or by a major disaster or emergency designated by the President under the Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), including a borrower or applicant who has a qualifying loss but is not located in a designated or declared disaster area.

"(3) APPLICATION OF SUBSECTION.—Paragraph (1) shall apply to all actions taken by the Secretary to carry out this title (except for loans under subtitle C) that involve the yields of a farm of a borrower or applicant, including making loans and loan guarantees, servicing loans, and making credit sales.".

(2) REGULATIONS.—

(A) INTERIM REGULATIONS.—Notwithstanding section 553 of title 5, United States Code, as soon as practicable after the date of enactment of this Act and without a requirement for prior public notice and comment, the Secretary of Agriculture shall issue interim regulations that provide for the implementation of the amendment made by paragraph (1) beginning in crop year 1992.

(B) FINAL REGULATIONS.—The Secretary of Agriculture shall provide for public notice and comment before the issuance of final regulations to implement the amendment made by paragraph (1).

(3) EFFECTIVE DATE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendment made by paragraph (1) shall become effective on the date of publication of the interim regulations issued pursuant to paragraph (2)(A).

(B) EXCEPTION.—The amendment made by paragraph (1) shall apply to each primary loan servicing application submitted on or after the date of enactment of this Act.

(e) AMENDMENTS TO SECTION 333(2)(A).—Section 333(2)(A) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983(2)(A)) is amended by redesignating clauses (1), (2), and (3), as clauses (i), (ii), and (iii), respectively.

(f) AMENDMENTS TO SECTION 335(e)(1).—Section 335(e)(1) of such Act (7 U.S.C. 1985(e)(1)) is amended—

(1) in subparagraph (A)(i), by striking "the borrower" and all that follows through "the 'borrower-owner')" and inserting "borrower-owner (as defined in subparagraph (F)"; and

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

"(F) As used in this paragraph, the term 'borrower-owner' means—

"(i) a borrower from whom the Secretary acquired real farm or ranch property (including the principal residence of the borrower) used to secure any loan made to the borrower under this title; or

"(ii) in any case in which an owner of property pledged the property to secure the loan and the owner is different than the borrower, the owner.".

(g) AMENDMENTS TO SECTION 352.—Section 352 of such Act (7 U.S.C. 2000) is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(B) by inserting after paragraph (1) the following new paragraph:

"(2) The term 'borrower-owner' means—

"(A) a borrower of a loan made or insured by the Secretary or the Administrator who meets the eligibility requirements of subsection (c)(1); or

"(B) in any case in which an owner of homestead property pledged the property to secure the loan and the owner is different than the borrower, the owner.".

(2) by striking "borrower" each place it appears and inserting "borrower-owner".

(h) AMENDMENTS TO SECTION 353.—Section 353 of such Act (7 U.S.C. 2001) is amended—

(1) in subsection (c)(6)(A)(ii), by striking "the date of enactment of this paragraph" and inserting "November 28, 1990"; and

(2) in subsection (m), by striking "335(e)(1)(A)" and inserting "335(e)(1)".

(i) AMENDMENTS TO SECTION 363.—Section 363 of such Act (7 U.S.C. 2006e) is amended—

(1) by striking "3801(a)(16))" and inserting "3801(a)(16)))"; and

(2) by striking "prior to the date of enactment of this section" and inserting "before November 28, 1990".

SEC. 502. AMENDMENTS TO THE FARM CREDIT ACT OF 1971.

(a) AMENDMENTS TO SECTION 1.11(a).—Section 1.11(a) of the Farm Credit Act of 1971 (12 U.S.C. 2019(a)) is amended—

(1) by striking "(a) Agricultural or Aquatic Purposes" and inserting the following:

"(a) AGRICULTURAL OR AQUATIC PURPOSES";

(2) by striking "(1) In general" and inserting the following:

"(1) IN GENERAL"; and

(3) by striking "(2) Limitation on loans for basic processing and marketing operations" and inserting the following:

"(2) LIMITATION ON LOANS FOR BASIC PROCESSING AND MARKETING OPERATIONS".

(b) AMENDMENT TO SECTION 2.0(b)(8).—Section 2.0(b)(8) of such Act (12 U.S.C. 2071(b)(8)) is amended by striking "charter to" and inserting "charter, to".

(c) AMENDMENT TO SECTION 2.1.—Section 2.1 of such Act (12 U.S.C. 2072) is amended by striking "or stockholder" and inserting "stockholder, or agent".

(d) AMENDMENT TO SECTION 2.11.—Section 2.11 of such Act (12 U.S.C. 2092) is amended by striking "or stockholder" and inserting "stockholder, or agent".

(e) AMENDMENT TO SECTION 3.7(b).—

(1) IN GENERAL.—Section 3.7(b) of such Act (12 U.S.C. 2128(b)) is amended—

(A) by inserting "(1)" after the subsection designation;

(B) by striking "(1) a domestic" and inserting "(A) a domestic";

(C) by inserting "or products thereof" after "commodities";

(D) by striking "(2) a domestic" and inserting "(B) a domestic"

(E) by striking "clause (1) of this subsection" and inserting "subparagraph (A)"; and

(F) by adding at the end the following new paragraphs:

"(2) A bank for cooperatives is authorized to make or participate in loans and commitments, and to extend other technical and financial assistance, to any domestic or foreign entity that is eligible for a guarantee or insurance as described in subparagraphs (A) and (B) with respect to transactions involving the Soviet Union (its successor entities or any of the individual republics of the Soviet Union) or an emerging democracy (as defined in section 1542(f) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5622 note)) for the export of agricultural commodities and products thereof from the United States, including (where applicable) the cost of freight, if in each case—

"(A) the loan involved is unconditionally guaranteed or insured by a department, agency, bureau, board, commission, or establishment of the United States or any corporation wholly owned directly or indirectly by the United States; and

"(B) the guarantee or insurance—

"(i) covers at least 95 percent of the amount loaned for the purchase of the commodities or products; and

"(ii) is issued on or before September 30, 1995.

"(3) A bank for cooperatives is authorized to provide such services as may be customary and normal in maintaining relationships with domestic or foreign entities to facilitate the activities specified in paragraphs (1) and (2), consistent with this Act.".

(2) CONFORMING AMENDMENT.—Section 3.8(b)(1)(D) of such Act (12 U.S.C. 2129(b)(1)(D)) is amended by striking "section 3.7(f)" and inserting "subsection (b) or (f) of section 3.7".

(f) AMENDMENTS TO SECTION 3.8.—Section 3.8 of such Act (12 U.S.C. 2129) is amended—

(1) in subsection (a)(4), by striking "(4) A" and inserting "(4) a"; and

(2) in subsection (b)(1), by moving subparagraph (D) 2 ems to the right so that the left margin of such subparagraph is aligned with the left margin of subparagraph (C).".

(g) AMENDMENT TO SECTION 4.28.—Section 4.28 of such Act (12 U.S.C. 2214) is amended by striking "2.17" and inserting "2.16".

(h) AMENDMENT TO SECTION 5.17(a)(8)(B)(ii).—Section 5.17(a)(8)(B)(ii) of such Act (12 U.S.C. 2252(a)(8)(B)(ii)) is amended by striking the last period.

(i) AMENDMENT TO SECTION 5.35(3).—Section 5.35(3) of such Act (12 U.S.C. 2271(3)) is amended by striking "D" and inserting "E".

(j) AMENDMENT TO SECTION 5.58(4)(B).—Section 5.58(4)(B) of such Act (12 U.S.C. 2277a-7(4)(B)) is amended by inserting after "and the Corporation," the following: "in any capacity,".

(k) AMENDMENTS TO SECTION 5.65.—Section 5.65(d)(1) of such Act (12 U.S.C. 2277a-14(d)(1)) is amended by striking "insured".

(l) AMENDMENTS TO SECTION 6.2(d).—Section 6.2(d) of such Act (12 U.S.C. 2278a-2(d)) is amended by striking "subchapter 1" each place such term appears and inserting "subchapter I".

(m) AMENDMENTS TO SECTION 6.23.—Section 6.23 of such Act (12 U.S.C. 2278b-3) is amended by inserting before the period at the end the following: ", except in the event of a restructuring or liquidation to a successor System institution".

(n) AMENDMENT TO SECTION 7.11(a)(2).—Section 7.11(a)(2) of such Act (12 U.S.C. 2279e(a)(2)) is amended by striking "30 days" and inserting "60 days".

SEC. 503. FEDERAL AGRICULTURAL MORTGAGE CORPORATION.

(a) Section 8.11 of the Farm Credit Act of 1971 (12 U.S.C. 2279aa-11) is amended—

(1) by amending paragraph (1) of subsection (a) to read as follows:

"(1) AUTHORITY.—Notwithstanding any other provision of this Act, the Farm Credit Administration shall have the authority to provide, acting through the Office of Secondary Market Oversight—

"(A) for the examination of the Corporation and its affiliates; and

"(B) for the general supervision of the safe and sound performance of the powers, functions, and duties vested in the Corporation and its affiliates by this title, including through the use of the authorities granted to the Farm Credit Administration under—

"(i) part C of title V; and

"(ii) beginning 6 months after the date of enactment of this section, section 5.17(a)(9).";

(2) by adding at the end of subsection (a) the following new paragraph:

"(3) OFFICE OF SECONDARY MARKET OVERSIGHT.—

"(A) Not later than 180 days after the date of enactment of this paragraph, the Farm Credit Administration Board shall establish within the Farm Credit Administration the Office of Secondary Market Oversight.

"(B) The Farm Credit Administration Board shall carry out the authority set forth in this section through the Office of Secondary Market Supervision.

"(C) The Office of Secondary Market Supervision shall be managed by a full-time Director who shall be selected by and report to the Farm Credit Administration Board.";

(3) by adding at the end thereof the following new subsection:

"(f) The Farm Credit Administration Board shall ensure that—

"(1) the Office of Secondary Market Supervision has access to a sufficient number of qualified and trained employees to adequately supervise the secondary market activities of the Corporation; and

"(2) the supervision of the powers, functions, and duties of the Corporation is performed, to the extent practicable, by personnel who are not responsible for the supervision of the banks and associations of the Farm Credit System.";

(b) Title VIII of the Farm Credit Act of 1971 (12 U.S.C. 2279aa et seq.) is amended—

(1) by inserting after section 8.0 the following:

"Subtitle A—Establishment and Activities of Federal Agricultural Mortgage Corporation"; and

(2) by inserting after section 8.14 the following new subtitle:

"Subtitle B—Regulation of Financial Safety and Soundness of Federal Agricultural Mortgage Corporation

"SEC. 8.31. DEFINITIONS.

"For purposes of this subtitle:

"(1) COMPENSATION.—The term 'compensation' means any payment of money or the provision of any other thing of current or potential value in connection with employment.

"(2) CORE CAPITAL.—The term 'core capital' means, with respect to the Corporation, the sum of the following (as determined in accordance with generally accepted accounting principles):

"(A) The par value of outstanding common stock.

"(B) The par value of outstanding preferred stock.

"(C) Paid-in capital.

"(D) Retained earnings.

"(3) DIRECTOR.—The term 'Director' means the Director of the Office of Secondary Market Oversight of the Farm Credit Administration, appointed under section 8.11(a)(3).

"(4) OFFICE.—The term 'Office' means the Office of Secondary Market Oversight of the Farm Credit Administration, established in section 8.11(a).

"(5) REGULATORY CAPITAL.—The term 'regulatory capital' means, with respect to the Corporation, the core capital of the Corporation plus an allowance for losses and guarantee claims, as determined in accordance with generally accepted accounting principles.

"(6) STATE.—The term 'State' means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

"SEC. 8.32. RISK-BASED CAPITAL LEVELS.

"(a) RISK-BASED CAPITAL TEST.—Not later than the expiration of the 2-year period beginning on the date of the enactment of this Act, the Director of the Office of Secondary Market Oversight shall, by regulation, establish a risk-based capital test under this section for the Corporation. When applied to the Corporation, the risk-based capital test shall determine the amount of regulatory capital for the Corporation that is sufficient for the Corporation to maintain positive capital during a 10-year period in which both of the following circumstances occur:

"(1) CREDIT RISK.—With respect to securities representing an interest in, or obligations backed by, a pool of qualified loans owned or guaranteed by the Corporation and other obligations of the Corporation, losses on the underlying qualified loans occur throughout the United States at a rate of default and severity (based on any measurements of default reasonably related to prevailing industry practice in determining capital adequacy) reasonably related to the rate and severity that occurred in contiguous areas of the United States containing an aggregate of not less than 5 percent of the total population of the United States that, for a period of not less than 2 years (as established by the Director), experienced the highest rates of default and severity of agricultural mortgage losses, in comparison with such rates of default and severity of agricultural mortgage losses in other such areas for any period of such duration, as determined by the Director.

"(2) INTEREST RATE RISK.—Interest rates on Treasury obligations of varying terms increase or decrease over the first 12 months of such 10-year period by not more than the lesser of (A) 50 percent (with respect to the average interest rates on such obligations during the 12-month period preceding the 10-year period), or (B) 600 basis points, and remain at such level for the remainder of the period. This paragraph may not be construed to require the Director to determine interest rate risk under this paragraph based on the interest rates for various long-term and short-term obligations all increasing or all decreasing concurrently.

"(b) CONSIDERATIONS.—

"(1) ESTABLISHMENT OF TEST.—In establishing the risk-based capital test under subsection (a)—

"(A) the Director shall take into account appropriate distinctions based on various types of agricultural mortgage products, varying terms of Treasury obligations, and any other factors the Director considers appropriate;

"(B) the Director shall conform loan data used in determining credit risk to the minimum geographic and commodity diversification standards applicable to pools of qualified loans eligible for guarantee;

"(C) the Director shall take into account retained subordinated participating interests under section 8.6(b)(2);

"(D) the Director may take into account other methods or tests to determine credit risk developed by the Corporation before the date of the enactment of the Federal Agricultural Mortgage Corporation Safety and Soundness Act of 1991; and

"(E) the Director shall consider any other information submitted by the Corporation in writing during the 180-day period beginning on the date of the enactment of such Act.

"(2) REVISING TEST.—Upon the expiration of the 5-year period beginning on the date of the enactment of the Federal Agricultural Mortgage Corporation Safety and Soundness Act of 1991, the Director shall examine the risk-based capital test under subsection (a) and may revise the test. In making examinations and revisions under this paragraph, the Director shall take into account that, before the date of the enactment of the Federal Agricultural Mortgage Corporation Safety and Soundness Act of 1991, the Corporation has not issued guarantees for pools of qualified loans. To the extent that the revision of the risk-based capital test causes a change in the classification of the Corporation within the enforcement levels established under section 8.35, the Director shall waive the applicability of any additional enforcement actions available because of such change for a reasonable period of time, to permit the Corporation to increase the amount of regulatory capital of the Corporation accordingly.

"(c) RISK-BASED CAPITAL LEVEL.—For purposes of this subtitle, the risk-based capital level for the Corporation shall be equal to the sum of the following amounts:

"(1) CREDIT AND INTEREST RATE RISK.—The amount of regulatory capital determined by applying the risk-based capital test under subsection (a) to the Corporation, adjusted to account for foreign exchange risk.

"(2) MANAGEMENT AND OPERATIONS RISK.—To provide for management and operations risk, 30 percent of the amount of regulatory capital determined by applying the risk-based capital test under subsection (a) to the Corporation.

"(d) SPECIFIED CONTENTS.—The regulations establishing the risk-based capital test under this section shall contain specific requirements, definitions, methods, variables, and parameters used under the risk-based capital test and in implementing the test (such as loan loss severity, float income, loan-to value ratios, taxes, yield curve slopes, default experience, prepayment rates, and performance of pools of qualified loans). The regulations shall be sufficiently specific to permit an individual other than the Director to apply the test in the same manner as the Director.

"(e) AVAILABILITY OF MODEL.—The Director shall make copies of the statistical model or models used to implement the risk-based capital test under this section available for public acquisition and may charge a reasonable fee for such copies.

"SEC. 8.33. MINIMUM CAPITAL LEVEL.

"(a) IN GENERAL.—Except as provided in subsection (b), for purposes of this subtitle, the minimum capital level for the Corporation shall be an amount of core capital equal to the sum of—

"(1) 2.50 percent of the aggregate on-balance sheet assets of the Corporation (other than assets referred to in paragraph (3)), as determined in accordance with generally accepted accounting principles;

"(2) 0.45 percent of the unpaid principal balance of outstanding securities guaranteed by the Corporation and backed by pools of qualified loans and substantially equivalent instruments issued or guaranteed by the Corporation, and other off-balance sheet obligations of the Corporation; and

"(3) the percentage of the aggregate assets of the Corporation acquired pursuant to the linked portfolio option under section 8.6(g) that is determined under subsection (c).

"(b) 18-MONTH TRANSITION.—During the 18-month period beginning upon the date of the enactment of the Federal Agricultural Mortgage Corporation Safety and Soundness Act of 1991, for purposes of this subtitle, the minimum capital level for the Corporation shall be an amount of core capital equal to the sum of—

"(1) 1.50 percent of the aggregate on-balance sheet assets of the Corporation (other than assets referred to in paragraph (3)), as determined in accordance with generally accepted accounting principles;

"(2) 0.40 percent of the unpaid principal balance of outstanding securities guaranteed by the Corporation and backed by pools of qualified loans and substantially equivalent instruments issued or guaranteed by the Corporation, and other off-balance sheet obligations of the Corporation; and

"(3) the percentage of the aggregate assets of the Corporation acquired pursuant to the linked portfolio option under section 8.6(g) that is determined under subsection (c).

"(c) LINKED PORTFOLIO ASSETS.—The percentage of any aggregate assets of the Corporation acquired pursuant to the linked portfolio option under section 8.6(g) that is referred to in subsections (a)(3) and (b)(3) of this section (and in section 8.34(3)(A)) shall be—

"(1) during the 5-year period beginning on the date of the enactment of the Federal Agricultural Mortgage Corporation Safety and Soundness Act of 1991—

"(A) 0.45 percent of any such assets not exceeding $1,000,000,000;

"(B) 0.75 percent of any such assets in excess of $1,000,000,000 but not exceeding $2,000,000,000;

"(C) 1.00 percent of any such assets in excess of $2,000,000,000 but not exceeding $3,000,000,000;

"(D) 1.25 percent of any such assets in excess of $3,000,000,000 but not exceeding $4,000,000,000;

"(E) 1.50 percent of any such assets in excess of $4,000,000,000 but not exceeding $5,000,000,000; and

"(F) 2.50 percent of any such assets in excess of $5,000,000,000.

"(2) after the expiration of such 5-year period, 2.50 percent of any such aggregate assets.

"SEC. 8.34. CRITICAL CAPITAL LEVEL.

"For purposes of this subtitle, the critical capital level for the Corporation shall be an amount of core capital equal to the sum of—

"(1) 1.25 percent of the aggregate on-balance sheet assets of the Corporation (other than assets referred to in paragraph (3)), as determined in accordance with generally accepted accounting principles;

"(2) 0.25 percent of the unpaid principal balance of outstanding securities guaranteed by the Corporation and backed by pools of qualified loans and substantially equivalent instruments issued or guaranteed by the Corporation, and other off-balance sheet obligations of the Corporation; and

"(3) a percentage of any aggregate assets of the Corporation acquired pursuant to the linked portfolio option under section 8.6(g), which shall be—

"(A) during the 5-year period beginning on the date of the enactment of the Federal Agricultural Mortgage Corporation Safety and Soundness Act of 1991, one-half of the percentage that is determined under section 8.33(c)(1); and

"(B) after the expiration of such 5-year period, 1.25 percent of any such aggregate assets.

"SEC. 8.35. ENFORCEMENT LEVELS.

"(a) IN GENERAL.—The Director shall classify the Corporation, for purposes of this subtitle, according to the following enforcement levels:

"(1) LEVEL I.—The Corporation shall be classified as within level I if the Corporation—

"(A) maintains an amount of regulatory capital that is equal to or exceeds the risk-based capital level established under section 8.32; and

"(B) equals or exceeds the minimum capital level established under section 8.33.

"(2) LEVEL II.—The Corporation shall be classified as within level II if—

"(A) the Corporation—

"(i) maintains an amount of regulatory capital that is less than the risk-based capital level; and

"(ii) equals or exceeds the minimum capital level; or

"(B) the Corporation is otherwise classified as within level II under subsection (b) of this section.

"(3) LEVEL III.—The Corporation shall be classified as within level III if—

"(A) the Corporation—

"(i) does not equal or exceed the minimum capital level; and

"(ii) equals or exceeds the critical capital level established under section 8.34; or

"(B) the Corporation is otherwise classified as within level III under subsection (b) of this section.

"(4) LEVEL IV.—The Corporation shall be classified as within level IV if the Corporation—

"(A) does not equal or exceed the critical capital level; or

"(B) is otherwise classified as within level IV under subsection (b) of this section.

"(b) DISCRETIONARY CLASSIFICATION.—If at any time the Director determines in writing (and provides written notification to the Corporation and the Farm Credit Administration) that the Corporation is taking any action not approved by the Director that could result in a rapid depletion of core capital or that the value of the property subject to mortgages securitized by the Corporation or property underlying securities guaranteed by the Corporation, has decreased significantly, the Director may classify the Corporation—

"(1) as within level II, if the Corporation is otherwise within level I;

"(2) as within level III, if the Corporation is otherwise within level II; or

"(3) as within level IV, if the Corporation is otherwise within level III.

"(c) QUARTERLY DETERMINATION.—The Director shall determine the classification of the Corporation for purposes of this subtitle on not less than a quarterly basis (and as appropriate under subsection (b)). The first such determination shall be made for the quarter ending March 31, 1992.

"(d) NOTICE.—Upon determining under subsection (b) or (c) that the Corporation is within level II or III, the Director shall provide written notice to the Congress and to the Corporation—

"(1) that the Corporation is within such level;

"(2) that the Corporation is subject to the provisions of section 8.36 or 8.37, as applicable; and

"(3) stating the reasons for the classification of the Corporation within such level.

"(e) IMPLEMENTATION.—Notwithstanding paragraphs (1) and (2) of subsection (a), during the 30-month period beginning on the date of the enactment of the Federal Agricultural Mortgage Corporation Safety and Soundness Act of 1991, the Corporation shall be classified as within level I if the Corporation equals or exceeds the minimum capital level established under section 8.33.

"SEC. 8.36. MANDATORY ACTIONS APPLICABLE TO LEVEL II.

"(a) CAPITAL RESTORATION PLAN.—If the Corporation is classified as within level II, the Corporation shall, within the time period provided in section 8.40(b) and in consultation with the Director, submit to the Director a capital restoration plan that complies with section 8.40 and, after approval, carry out the plan.

"(b) RESTRICTION ON DIVIDENDS.—If the Corporation is classified as within level II, the Corporation may not make any payment of dividends that would result in the Corporation being reclassified as within level III or IV.

"(c) RECLASSIFICATION FROM LEVEL II TO LEVEL III.—The Director shall immediately reclassify the Corporation as within level III (and the Corporation shall be subject to the provisions of section 8.37), if—

"(1) the Corporation is within level II; and

"(2)(A) the Corporation does not submit a capital restoration plan that is substantially in compliance with section 8.40 within the applicable period or the Director does not approve the capital restoration plan submitted by the Corporation; or

"(B) the Director determines that the Corporation has failed to make, in good faith, reasonable efforts necessary to comply with the capital restoration plan and fulfill the schedule for the plan approved by the Director.

"(d) EFFECTIVE DATE.—This section shall take effect upon the expiration of the 30-month period beginning on the date of the enactment of the Federal Agricultural Mortgage Corporation Safety and Soundness Act of 1991.

"SEC. 8.37. SUPERVISORY ACTIONS APPLICABLE TO LEVEL III.

"(a) MANDATORY SUPERVISORY ACTIONS.—

"(1) CAPITAL RESTORATION PLAN.—If the Corporation is classified as within level III, the Corporation shall, within the time period provided in section 8.40(b) and in consultation with the Director, submit to the Director a capital restoration plan that complies with section 8.40 and, after approval, carry out the plan.

"(2) RESTRICTIONS ON DIVIDENDS.—

"(A) PRIOR APPROVAL.—If the Corporation is classified as within level III, the Corporation—

"(i) may not make any payment of dividends that would result in the Corporation being reclassified as within level IV; and

"(ii) may make any other payment of dividends only if the Director approves the payment before the payment.

"(B) STANDARD FOR APPROVAL.—If the Corporation is classified as within level III, the Director may approve a payment of dividends by the Corporation only if the Director determines that the payment (i) will enhance the ability of the Corporation to meet the risk-based capital level and the minimum capital level promptly, (ii) will contribute to the long-term safety and soundness of the Corporation, or (iii) is otherwise in the public interest.

"(3) RECLASSIFICATION FROM LEVEL III TO LEVEL IV.—The Director shall immediately reclassify the Corporation as within level IV (and the Corporation shall be subject to the provisions of section 8.38), if—

"(A) the Corporation is classified as within level III; and

"(B)(i) the Corporation does not submit a capital restoration plan that is substantially in compliance with section 8.40 within the applicable period or the Director does not approve the capital restoration plan submitted by the Corporation; or

"(ii) the Director determines that the Corporation has failed to make, in good faith, reasonable efforts necessary to comply with the capital restoration plan and fulfill the schedule for the plan approved by the Director.

"(b) DISCRETIONARY SUPERVISORY ACTIONS.—In addition to any other actions taken by the Director (including actions under subsection (a)), the Director may, at any time, take any of the following actions if the Corporation is classified as within level III:

"(1) LIMITATION ON INCREASE IN OBLIGATIONS.—Limit any increase in, or order the reduction of, any obligations of the Corporation, including off-balance sheet obligations.

"(2) LIMITATION ON GROWTH.—Limit or prohibit the growth of the assets of the Corporation or require contraction of the assets of the Corporation.

"(3) PROHIBITION ON DIVIDENDS.—Prohibit the Corporation from making any payment of dividends.

"(4) ACQUISITION OF NEW CAPITAL.—Require the Corporation to acquire new capital in any form and in any amount sufficient to provide for the reclassification of the Corporation as within level II.

"(5) RESTRICTION OF ACTIVITIES.—Require the Corporation to terminate, reduce, or modify any activity that the Director determines creates excessive risk to the Corporation.

"(6) CONSERVATORSHIP.—Appoint a conservator for the Corporation consistent with part C of title V.

"(c) EFFECTIVE DATE.—This section shall take effect on January 1, 1992.

(c) AMENDMENT TO SECTION 8.3(c).—Section 8.3(c) of such Act (12 U.S.C. 2279aa-3(c)) is amended—

(1) by redesignating paragraph (13) as paragraph (14); and

(2) by inserting after paragraph (12) the following new paragraph:

"(13) To establish, acquire, and maintain affiliates (as such term is defined in section 8.11(g)) under applicable State laws to carry out any activities that otherwise would be performed directly by the Corporation under this title.".

(d) AMENDMENT TO SECTION 8.6.—Section 8.6 of such Act (12 U.S.C. 2279aa-6) is amended by adding at the end the following new subsection:

"(g) PURCHASE OF GUARANTEED SECURITIES.—

"(1) PURCHASE AUTHORITY.—The Corporation (and affiliates) may purchase, hold, and sell any securities guaranteed under this section by the Corporation that represent interests in, or obligations backed by, pools of qualified loans. Securities issued under this section shall have maturities and bear rates of interest as determined by the Corporation.

"(2) ISSUANCE OF DEBT OBLIGATIONS.—The Corporation (and affiliates) may issue debt obligations solely for the purpose of obtaining amounts for the purchase of any securities under paragraph (1), for the purchase of qualified loans (as defined in section 8.0(9)(B)), and for maintaining reasonable amounts for business operations (including adequate liquidity) relating to activities under this subsection.

"(3) TERMS AND LIMITATIONS.—

"(A) TERMS.—The obligations issued under this subsection shall have maturities and bear rates of interest as determined by the Corporation, and may be redeemable at the option of the Corporation before maturity in the manner stipulated in the obligations.

"(B) REQUIREMENT.—Each obligation shall clearly indicate that the obligation is not an obligation of, and is not guaranteed as to principal and interest by, the Farm Credit Administration, the United States, or any other agency or instrumentality of the United States (other than the Corporation).

"(C) AUTHORITY.—The Corporation may not issue obligations pursuant to paragraph (2) under this subsection while any obligation issued by the Corporation under section 8.13(a) remains outstanding.".

TITLE VI—CROP INSURANCE AND DISASTER ASSISTANCE

SEC. 601. FEDERAL CROP INSURANCE.

The Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) is amended—

(1) in section 506(d) (7 U.S.C. 1506(d))—

(A) by striking "section 508(c)" and inserting "section 508(f)"; and

(B) by striking the semicolon at the end and inserting a period;

(2) in section 506(m) (7 U.S.C. 1506(m))—

(A) by striking "wilfully" and inserting "willfully"; and

(B) by striking "to" after "exceed";

(3) in section 507(c)(2) (7 U.S.C. 1507(c)(2)), by inserting a comma after "private insurance companies";

(4) in section 508(a) (7 U.S.C. 1508(a)), by striking "(1)";

(5) in section 508 (7 U.S.C. 1508), by redesignating subsections (l), (m), and (n) as subsections (k), (l), and (m), respectively; and

(6) in section 518 (7 U.S.C. 1518) by striking "subsection (a) or (i)" and inserting "subsection (a) or (k)".

SEC. 602. DISASTER RELIEF.

(a) 1989 ACT.—Section 104(d)(1) of the Disaster Assistance Act of 1989 (7 U.S.C. 1421 note) is amended by inserting "(A)" after the paragraph heading.

(b) 1988 ACT.—Section 301(b) of the Disaster Assistance Act of 1988 (7 U.S.C. 1464 note) (as amended by section 1541 of the Food, Agriculture, Conservation, and Trade Act of 1990) is amended—

(1) in the subsection heading, by striking "SUNFLOWER SEED" and inserting "SUNFLOWERSEED"; and

(2) in paragraph (2)(A)—

(A) by inserting a comma after "(7 U.S.C. 612c)" in clause (i);

(B) by striking "such Act" in clause (i) and inserting "such section"; and

(C) by striking "sunflower seed" in clause (iv) and inserting "sunflowerseed".

(c) CLARIFICATION OF AMENDMENT.—Section 2232(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-510; 104 Stat. 3959) is amended—

(1) by striking "is amended to read:" and inserting "is amended by striking the material before the clauses and inserting the following:";

(2) by inserting open double quotes before "(A)"; and

(3) by moving the left margin of subparagraph (A) 2 ems to the right.

TITLE VII—RURAL DEVELOPMENT

SEC. 701. AMENDMENTS TO THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.

(a) AMENDMENTS TO SECTION 306(a).—Section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)) is amended—

(1) in paragraph (11)(B)(ii)—

(A) in subclause (I), by inserting "and" after the semicolon; and

(B) in subclause (II), by striking "; and" and inserting a period; and

(2) by striking paragraph (21).

(b) AMENDMENTS TO SECTION 306C(a)(2).—Subparagraphs (A) and (B) of section 306C(a)(2) of such Act (7 U.S.C. 1926c(a)(2)(A) and (B)) are each amended by moving the left margin of such subparagraphs 2 ems to the right.

(c) AMENDMENTS TO SECTION 310B.—Section 310B of such Act (7 U.S.C. 1932) is amended—

(1) in subsection (i)(2)(B)(iv), by striking "(ii) of this subsection" and inserting "(iii) of this subparagraph";

(2) in subsection (i)(5)(A), by striking "365(b)(3)," and inserting "365(b)(3)),";

(3) by transferring to the end of such section the provision added by section 2386 of the Food, Agriculture, Conservation, and Trade Act of 1990 (104 Stat. 4051);

(4) by redesignating the provision so transferred as subsection (j); and

(5) in subsection (j) (as so redesignated), by striking "The Secretary" and inserting "GRANTS TO BROADCASTING SYSTEMS.—The Secretary.

(d) AMENDMENTS TO SECTION 364(e).—Section 364(e) of such Act (7 U.S.C. 2006f(e)) is amended—

(1) in paragraph (2), by striking "the date of enactment of this section" and inserting "November 28, 1990"; and

(2) in paragraph (3), by striking "the date of enactment of this section" and inserting "November 28, 1990,".

(e) AMENDMENTS TO SECTION 365(b).—Section 365(b) of such Act (7 U.S.C. 2008(b)) is amended—

(1) in paragraph (4)(A), by striking "(3)(C)" and inserting "(3)(A)(iii)"; and

(2) in paragraph (5), by striking "(3)(B)" and inserting "(3)(A)(ii)".

(f) AMENDMENT TO SECTION 366(h).—Section 366(h) of such Act (7 U.S.C. 2008a(h)) is amended by striking "of such officer" and inserting "of such officer's".

(g) AMENDMENT TO SECTION 367(b)(1).—Section 367(b)(1) of such Act (7 U.S.C. 2008b(b)(1)) is amended by striking "365(b)(6)" and inserting "366(b)(6)".

(h) MISCELLANEOUS AMENDMENTS.—

(1) IDENTICAL AMENDMENTS.—Each of the following provisions of such Act is amended by striking "this Act" each place such term appears and inserting "this title":

(A) Section 306(a)(12)(D) (7 U.S.C. 1926(a)(12)(D)).

(B) Section 306(a)(20) (7 U.S.C. 1926(a)(20)).

(C) Section 310B(d)(5) (7 U.S.C. 1932(d)(5)).

(D) Section 310B(d)(7) (7 U.S.C. 1932(d)(7)).

(E) Section 331(b)(3) (7 U.S.C. 1981(b)(3)).

(F) Section 346(b)(3)(C) (7 U.S.C. 1994(b)(3)(C)).

(2) OTHER MISCELLANEOUS AMENDMENT.—Section 352(b)(3) of such Act (7 U.S.C. 2000(b)(3)) is amended by striking "be".

SEC. 702. AMENDMENTS TO THE FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.

(a) AMENDMENT TO SECTION 2302(b)(1).—Section 2302(b)(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2006f note) is amended by striking "the date of enactment of this section" and inserting "November 28, 1990".

(b) AMENDMENTS TO SECTION 2311.—Section 2311 of such Act (7 U.S.C. 2007a) is amended—

(1) in paragraph (2)(A)(ii)—

(A) by striking "4(b)" and inserting "4(e)";

(B) by striking "the section 4(c)" and inserting "section 4(l)"; and

(C) by striking "450b(c)))" and inserting "450b(l)))"; and

(2) in paragraph (4), by striking "this Act" and inserting "this chapter".

(c) AMENDMENTS TO SECTION 2313.—Section 2313 of such Act (7 U.S.C. 2007c) is amended—

(1) in subsection (a)(2), by striking "Fund established under paragraph (1)" and inserting "Rural Business Investment Fund";

(2) in subsection (b)(1), by striking "fund established by subsection (a)" and inserting "Rural Business Investment Fund"; and

(3) in subsection (c)(6), by inserting "Business Investment" before "Fund".

(d) AMENDMENT TO SECTION 2314(a)(1)(A)(i).—Section 2314(a)(1)(A)(i) of such Act (7 U.S.C. 2007d(a)(1)(A)(i)) is amended by striking "from the Fund under this chapter" and inserting "under this chapter from the Rural Business Investment Fund".

(e) AMENDMENT TO SECTION 2315(d)(2).—Section 2315(d)(2) of such Act (7 U.S.C. 2007e(d)(2)) is amended by striking "engage in conduct, in".

(f) AMENDMENTS TO SECTION 2322.—Section 2322 of such Act (7 U.S.C. 1926-1) is amended—

(1) in subsection (d)(1)(B)—

(A) by striking "section 306(a)(9) and 306(a)(10)" and inserting "paragraphs (9) and (10) of section 306(a)"; and

(B) by striking "sections 306(a)(19)(A) and (B)" and inserting "subparagraphs (A) and (B) of section 306(a)(19)"; and

(2) in subsection (i)(1), by striking "and (3)".

(g) AMENDMENT TO SECTION 2332.—Section 2332 of such Act (7 U.S.C. 950aaa-1) is amended by striking "Federal government" and inserting "Federal Government".

(h) AMENDMENTS TO SECTION 2388(h).—

(1) AMENDMENTS.—Section 2388(h) of such Act (104 Stat. 4053) is amended—

(A) in paragraph (1), by inserting "and" after the semicolon;

(B) in paragraph (2), by striking "; and" and inserting a period; and

(C) by striking paragraph (3).

(2) SPECIAL RULE.—The Consolidated Farm and Rural Development Act shall be applied and administered as if the amendment made by 2388(h)(3) of the Food, Agriculture, Conservation, and Trade Act of 1990 had never been enacted.

(i) REPEAL OF SECTION 2388(i).—Subsection (i) of section 2388 of the Food, Agriculture, Conservation, and Trade Act of 1990 (104 Stat. 4053) is hereby repealed and the Consolidated Farm and Rural Development Act shall be applied and administered as if the amendments made by such subsection had never been enacted.

SEC. 703. AMENDMENTS TO THE RURAL ELECTRIFICATION ACT OF 1936.

(a) AMENDMENT TO SECTION 11A.—Section 11A(e) of the Rural Electrification Act of 1936 (7 U.S.C. 911a(e)) is amended by striking "1 percent" and inserting "2 percent".

(b) REPEAL OF SECTION 17.—Section 17 of such Act (7 U.S.C. 917) is repealed.

(c) AMENDMENTS TO SECTION 501.—Section 501 of such Act (7 U.S.C. 950aa) is amended—

(1) in paragraph (6), by inserting "and" after the semicolon;

(2) by striking paragraph (7); and

(3) by redesignating paragraph (8) as paragraph (7).

(d) AMENDMENT TO SECTION 502.—Section 502(a)(2) of such Act (7 U.S.C. 950aa–1(a)(2)) is amended by striking "as defined in this Act".

SEC. 704. RURAL HEALTH LEADERSHIP DEVELOPMENT.

(a) IN GENERAL.—Section 502(i)(1) of the Rural Development Act of 1972 (7 U.S.C. 2662) (as redesignated by section 403(a)(2)(B) of this Act) is amended by adding at the end the following new subparagraph:

"(C) RURAL HEALTH LEADERSHIP DEVELOPMENT.—The Secretary, in consultation with the Office of Rural Health Policy of the Department of Health and Human Services, may make grants to academic medical centers or land grant colleges and universities, or any combination thereof, for the establishment of rural health leadership development education programs that shall assist rural communities in developing health care services and facilities that will provide the maximum benefit for the resources invested and assist community leaders and public officials in understanding their roles and responsibilities relative to rural health services and facilities, including—

"(i) community decisions regarding funding for and retention of rural hospitals;

"(ii) rural physician and allied health professionals recruitment and retention;

"(iii) the aging rural population and senior services required to care for the population;

"(iv) the establishment and maintenance of rural emergency medical services systems; and

"(v) the application of computer-assisted capital budgeting decision aids for rural health services and facilities.".

(b) CONFORMING AMENDMENT.—The first sentence of section 502(i)(4) of the Rural Development Act of 1972 (7 U.S.C. 2662) (as redesignated by section 403(a)(2)(B) of this Act) is amended by inserting after "to States" the following "or entities described in paragraph (1)(C)".

TITLE VIII—AGRICULTURAL PROMOTION

SEC. 801. SHORT TITLE.

Section 1901 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6001 note; 104 Stat. 3838) is amended by striking "This Act" and inserting "This title".

SEC. 802. PECANS.

Subtitle A of title XIX of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6001 et seq., 104 Stat. 3838) is amended—

(1) in section 1907(22) (7 U.S.C. 6002(22)), by striking "inshell" and inserting "in-shell";

(2) in section 1910(b)(8)(G) (7 U.S.C. 6005(b)(8)(G))—

(A) by striking "paragraph 3(A), (B), and (C)," and inserting "subparagraphs (A), (B), and (C) of paragraph (3),"; and

(B) by striking "paragraph (3)(D) and (E)" and inserting "subparagraphs (D) and (E) of paragraph (3)"; and

(3) in section 1915(b)(2) (7 U.S.C. 6010(b)(2)), by striking "section" after "1913 or".

SEC. 803. MUSHROOMS.

Subtitle B of title XIX of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6101 et seq.; 104 Stat. 3854) is amended—

(1) in section 1925(h) (7 U.S.C. 6104(h)), by striking "government" and inserting "governmental";

(2) in section 1928(d)(1)(A) (7 U.S.C. 6107(d)(1)(A)), by striking "United States district court" and inserting "United States District Court"; and

(3) in section 1929(b)(2) (7 U.S.C. 6108(b)(2)), by striking "section" after "1927 or".

SEC. 804. POTATOES.

Section 310(a)(2) of the Potato Research and Promotion Act (7 U.S.C. 2619(a)(2)) is amended by striking "(2) when" and inserting "(2) When".

SEC. 805. LIMES.

Subtitle D of title XIX of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6201 et seq.; 104 Stat. 3870) is amended—

(1) in section 1955(e)(1)(B) (7 U.S.C. 6204(e)(1)(B)), by striking "government employees" and inserting "Government employees";

(2) in section 1958(d)(1) (7 U.S.C. 6207(d)(1)), by striking "United States district court" and inserting "United States District Court"; and

(3) in section 1959(b)(2) (7 U.S.C. 6208(b)(2)), by striking "section" after "1957 or".

SEC. 806. SOYBEANS.

Subtitle E of title XIX of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6301 et seq.; 104 Stat. 3881) is amended—

(1) in section 1969 (7 U.S.C. 6304)—

(A) in subsection (g)(2)(A)(ii), by striking "Argicultural" and inserting "Agricultural";

(B) in subsection (l)(2)(F)(vii)(V), by striking "that requests" and inserting "that request"; and

(C) in subsection (q)(4)—

(i) by inserting a comma after "and"; and

(ii) by striking the semicolon after "Board";

(2) in section 1970(b)(3) (7 U.S.C. 6305(b)(3)), by striking "this Act" and inserting "this subtitle"; and

(3) in section 1974 (7 U.S.C. 6309)—

(A) in subsection (b)(3), by striking "section 1969(k)(4)" and inserting "section 1969(l)(4)"; and

(B) by redesignating the second subsection (b) as subsection (c).

SEC. 807. HONEY.

The Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4601 et seq.) is amended—

(1) in section 9(h) (7 U.S.C. 4608(h)), by inserting "to" before "an importer"; and

(2) in section 11A(b)(2) (7 U.S.C. 4610a(b)(2)), by striking "section" after "10 or".

SEC. 808. COTTON.

(a) COTTON PROMOTION ACT.—The Cotton Research and Promotion Act (7 U.S.C. 2101 et seq.) is amended—

(1) in section 7(e)(4) (7 U.S.C. 2106(e)(4)), by striking "title" and inserting "Act";

(2) in section 8(b)(2) (7 U.S.C. 2107(b)(2)), by striking "section 17C(2)" and inserting "section 17(c)(2)";

(3) in section 10(b) (7 U.S.C. 2109(b)), by striking "section 8(b) or 8(c)" and inserting "subsection (b) or (c) of section 8"; and

(4) in section 11(a) (7 U.S.C. 2110(a))—

(A) by inserting "of this Act" after "section"; and

(B) by striking "of this Act," after "subsection (b),".

(b) REPORTS.—Section 1998 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2101 note; 104 Stat. 3913) is amended by striking "title" each place it appears in subsections (a) and (b) and inserting "subtitle".

SEC. 809. FLUID MILK.

Section 1999L(b) of the Fluid Milk Promotion Act of 1990 (7 U.S.C. 6411(b); 104 Stat. 3922) is amended by striking "this subsection" and inserting "this section".

SEC. 810. WOOL.

Section 708 of the National Wool Act of 1954 (7 U.S.C. 1787) is amended by inserting after the third sentence the following new sentence: "In any agreement entered into under this section, the Secretary shall prohibit the use of any funds made available through pro rata deductions from payments under section 704 of this title in any manner for the purpose of influencing legislation or government action or policy, except for the development or recommendation to the Secretary of amendments to the research and promotion program.".

TITLE IX—FOOD AND NUTRITION PROGRAMS

Subtitle A—Food Stamp Program

SEC. 901. APPLICATION OF FOOD STAMP ACT OF 1977 TO DISABLED PERSONS.

Section 3 of the Food Stamp Act of 1977 (7 U.S.C. 2012) is amended by inserting after "title I, II, X, XIV, or XVI of the Social Security Act" both places it appears in subsections (g)(7) and (i) the following: ", or are individuals described in paragraphs (2) through (7) of subsection (r),".

SEC. 902. CATEGORICAL ELIGIBILITY FOR RECIPIENTS OF GENERAL ASSISTANCE.

The third sentence of section 5(a) of the Food Stamp Act of 1977 (7 U.S.C. 2014(a)) is amended by striking "appropriate for categorical treatment" and inserting "based on income criteria comparable to or more restrictive than those under subsection (c)(2), and not limited to one-time emergency payments that cannot be provided for more than one consecutive month,".

SEC. 903. EXCLUSIONS FROM INCOME.

Section 5(d) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)) is amended—

(1) in paragraph (3)—

(A) in subparagraph (A), by striking "to the extent" and all that follows through "involved)" and inserting "awarded to a household member enrolled"; and

(B) in subparagraph (B)—

(i) by inserting after "amount" the following: "used for or"; and

(ii) by striking "or program for" and inserting "program, or other grantor, for tuition and mandatory fees (including the rental or purchase of any equipment, materials, and supplies related to the pursuit of the course of study involved),";

(2) by striking "and" at the end of paragraph (14); and

(3) by inserting before the period at the end the following: ", and (16) any amounts necessary for the fulfillment of a plan for achieving self-support of a household member as provided under section 1612(b)(4)(B)(iv) of the Social Security Act (42 U.S.C. 1382a(b)(4)(B)(iv))".

SEC. 904. RESOURCES THAT CANNOT BE SOLD FOR A SIGNIFICANT RETURN.

Section 5(g)(5) of the Food Stamp Act of 1977 (7 U.S.C. 2014(g)(5)) is amended by adding at the end the following new sentences: "A resource shall be so identified if its sale or other disposition is unlikely to produce any significant amount of funds for the support of the household. The Secretary shall not require the State agency to require verification of the value of a resource to be excluded under this paragraph unless the State agency determines that the information provided by the household is questionable.".

SEC. 905. RESOURCE EXEMPTION FOR HOUSEHOLDS EXEMPT UNDER AFDC OR SSI.

Subsection (j) of section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014(j)) is amended to read as follows:

"(j) Notwithstanding subsections (a) through (i), a State agency shall consider a household member who receives supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1382 et seq.), aid to the aged, blind, or disabled under title I, II, X, XIV, or XVI of such Act (42 U.S.C. 301 et seq.), or who receives benefits under a State plan approved under part A of title IV of such Act (42 U.S.C. 601 et seq.) to have satisfied the resource limitations prescribed under subsection (g).".

SEC. 906. TECHNICAL AMENDMENT ON TRANSITIONAL HOUSING.

Section 5(k)(2)(F) of the Food Stamp Act of 1977 (7 U.S.C. 2014(k)(2)(F)) is amended by inserting before the semicolon the following: ", if the State agency calculates a shelter allowance to be paid under the State plan separate and apart from payments for other household needs even though it may be paid in combination with other allowances in some cases".

SEC. 907. PERFORMANCE STANDARDS FOR EMPLOYMENT AND TRAINING PROGRAMS.

(a) IN GENERAL.—Subparagraph (L) of section 6(d)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4)(L)) is amended to read as follows:

"(L)(i) The Secretary shall establish performance standards and measures applicable to employment and training programs carried out under this paragraph that are based on employment outcomes, including increases in earnings.

"(ii) Final performance standards and measures referred to in clause (i) shall be published not later than 12 months after the date that the final outcome-based performance standards are published for job opportunities and basic skills training programs under part F of title IV of the Social Security Act (42 U.S.C. 681 et seq.).

"(iii) The standards shall encourage States to serve those individuals who have greater barriers to employment and shall take into account the extent to which persons have elected to participate in employment and training programs under this paragraph. The standards shall require participants to make levels of efforts comparable to those required under the regulations set forth in section 273.7(f)(1) of title 7, Code of Federal Regulations in effect on January 1, 1991.

"(iv) The performance standards in effect under subparagraph (K) shall remain in effect during the period beginning on October 1, 1988, and ending on the date the Secretary implements the outcome-based performance standards described in this subparagraph.

"(v) A State agency shall be considered in compliance with applicable performance standards under subparagraph (K) if the State agency operates an employment and training program in a manner consistent with its approved plan and if the program requires participants to make levels of effort comparable to those required under the regulations set forth in section 273.7(f)(1) of title 7, Code of Federal Regulations in effect on January 1, 1991.".

(b) LIMITATION.—Section 6(d)(4)(K)(i) of such Act is amended—

(1) by striking "50 percent through September 30, 1989" and inserting "10 percent in fiscal years 1992 and 1993, and 15 percent in fiscal years 1994 and 1995"; and

(2) by adding at the end the following new sentence: "The Secretary shall not require the plan of a State agency to provide for the participation of a number of recipients greater than 10 percent in fiscal years 1992 and 1993, and 15 percent in fiscal years 1994 and 1995, of the persons who are subject to employment requirements under this section and who are not exempt under subparagraph (D).".

SEC. 908. SUSPENSION OF CERTAIN REQUIREMENTS, AND STUDY, OF FOOD STAMP PROGRAM ON INDIAN RESERVATIONS.

(a) SUSPENSION OF REQUIREMENTS.—

(1) STAGGERED ISSUANCE OF COUPONS.—No State agency shall be required to implement section 7(h)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2016(h)(1)), regarding the staggering of issuance of food stamp coupons, until April 1, 1993. The Secretary of Agriculture shall issue final regulations requiring the staggered issuance of coupons no later than December 1, 1992.

(2) EXEMPTION FROM MONTHLY REPORTING SYSTEMS.—No State agency shall be required to exempt households residing on Indian reservations from food stamp program monthly reporting systems until April 1, 1993. The Secretary shall issue final regulations requiring the exemption of households residing on Indian reservations from food stamp program monthly reporting systems no later than December 1, 1992.

(b) STUDY.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Comptroller General of the United States shall report to the Committee on Agriculture, Nutrition and Forestry of the Senate and the Committee on Agriculture of the House of Representatives on the difficulties that residents of Indian reservations experience in obtaining food stamp benefits, in using food stamp benefits, and in purchasing food economically with food stamps.

(2) COMPONENTS.—In carrying out paragraph (1), the Comptroller General shall—

(A) examine whether monthly reporting requirements are a burden to food stamp households residing on Indian reservations;

(B) examine whether prices at food stores serving reservations are increased during the parts of months when food stamps are issued or are decreased during times of the month when most households have exhausted their food stamp allotments;

(C) examine whether eligible households residing on reservations would prefer that the households' food stamp issuances be—

(i) staggered throughout the month;

(ii) concentrated on the same day of each month; or

(iii) staggered during approximately the first 2 weeks of the month; and

(D) analyze problems associated with transportation difficulties in terms of food stamp program participation and any actions that could be taken at the Federal, State, or local level to remedy the problems.

(3) CONSULTATION.—In completing the report and recommendations, the Comptroller General shall consult with Indian tribes, State agencies, and other appropriate parties.

SEC. 909. VALUE OF ALLOTMENT.

Section 8(b) of the Food Stamp Act of 1977 (7 U.S.C. 2017(b)) is amended—

(1) by striking "the allotment provided any eligible household" and inserting "benefits that may be provided under this Act, whether through coupons, access devices, or otherwise"; and

(2) by striking "an allotment" and inserting "benefits".

SEC. 910. PRORATING WITHIN A CERTIFICATION PERIOD.

Section 8(c) of the Food Stamp Act of 1977 (7 U.S.C. 2017(c)) is amended—

(1) in paragraph (1), by adding at the end the following new sentence: "Households shall receive full months' allotments for all months within a certification period, except as provided in the first sentence of this paragraph with respect to an initial month."; and

(2) in paragraph (2)(B), by striking "previous participation in such program" and inserting "the expiration of a certification period or after the termination of the certification of a household, during a certification period, when the household ceased to be eligible after notice and an opportunity for a hearing under section 11(e)(10)".

SEC. 911. RECOVERY OF CLAIMS CAUSED BY NONFRAUDULENT HOUSEHOLD ERRORS.

The first sentence of section 13(b)(2)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2022(b)(2)(A)) is amended by inserting before the period the following: ", except that the household shall be given notice permitting it to elect another means of repayment and given 10 days to make such an election before the State agency commences action to reduce the household's monthly allotment".

SEC. 912. DEMONSTRATION PROJECTS FOR VEHICLE EXCLUSION LIMIT.

The Secretary of Agriculture shall solicit requests to participate in the demonstration projects required by section 17(h) of the Food Stamp Act of 1977 (7 U.S.C. 2026(h)) by May 1, 1992. The projects shall commence operations no later than January 1, 1993.

SEC. 913. DEFINITION OF RETAIL FOOD STORE.

Section 11002(f)(3) of the Homeless Eligibility Clarification Act (Public Law 99-570; 7 U.S.C. 2012 note) is amended by striking "and (b)" and inserting ", (b), and (c)".

Subtitle B—Commodity Distribution

SEC. 921. EXTENSION OF ELDERLY COMMODITY PROCESSING DEMONSTRATIONS.

Section 1114(a)(2)(D) of the Agriculture and Food Act of 1981 (7 U.S.C. 1431e(2)(D)) is amended by striking "1992 and 1993" and inserting "1992, 1993, and 1994".

SEC. 922. REDUCTION OF FEDERAL PAPERWORK FOR DISTRIBUTION OF COMMODITIES.

(a) HUNGER PREVENTION ACT.—Section 110 of the Hunger Prevention Act of 1988 (7 U.S.C. 612c note) is amended—

(1) in paragraphs (1) and (2) of subsection (c), by inserting after "to needy persons" each place it appears the following: "and to other institutions that can demonstrate, in accordance with subsection (j)(3), that they serve predominantly needy persons"; and

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

"(j) PRIORITY SYSTEM FOR STATE DISTRIBUTION OF COMMODITIES.—

"(1) SOUP KITCHENS.—In distributing commodities under this section, the distributing

agency, under procedures determined appropriate by the distributing agency, shall offer, or otherwise make available, its full allocation of commodities for distribution to soup kitchens and other like organizations that serve meals to homeless persons, and to food banks for distribution to such organizations.

"(2) INSTITUTIONS THAT SERVE ONLY LOW-INCOME RECIPIENTS.—If distributing agencies determine that they will not likely exhaust their allocation of commodities under this section through distribution to institutions referred to in paragraph (1), the distributing agencies shall make the remaining commodities available to food banks for distribution to institutions that distribute commodities to the needy. When such institutions distribute commodities to individuals for home consumption, eligibility for such commodities shall be determined through a means test as determined appropriate by the State distributing agency.

"(3) OTHER INSTITUTIONS.—If the distributing agency's commodity allocation is not likely to be exhausted after distribution under paragraphs (1) and (2) (as determined by the food bank), food banks may distribute the remaining commodities to institutions that serve meals to needy persons and do not employ a means test to determine eligibility for such meals, provided that the organizations have documented, to the satisfaction of the food bank, that the organizations do, in fact, serve predominantly needy persons.

"(k) SETTLEMENT AND ADJUSTMENT OF CLAIMS..—

"(1) IN GENERAL.—The Secretary or a designee of the Secretary shall have the authority to—

"(A) determine the amount of, settle, and adjust any claim arising under this section; and

"(B) waive such a claim if the Secretary determines that to do so will serve the purposes of this section.

"(2) LITIGATION.—Nothing contained in this subsection shall be construed to diminish the authority of the Attorney General of the United States under section 516 of title 28, United States Code, to conduct litigation on behalf of the United States.".

(b) EMERGENCY FOOD ASSISTANCE ACT.—The Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is amended by adding at the end the following new section:

"SEC. 215. SETTLEMENT AND ADJUSTMENT OF CLAIMS.

"(a) IN GENERAL.—The Secretary or a designee of the Secretary shall have the authority to—

"(1) determine the amount of, settle, and adjust any claim arising under this Act; and

"(2) waive such a claim if the Secretary determines that to do so will serve the purposes of this Act.

"(b) LITIGATION.—Nothing contained in this section shall be construed to diminish the authority of the Attorney General of the United States under section 516 of title 28, United States Code, to conduct litigation on behalf of the United States.".

(c) COMMODITY SUPPLEMENTAL FOOD PROGRAM.—Section 5 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note) is amended by adding at the end the following new subsection:

"(k)(1) The Secretary or a designee of the Secretary shall have the authority to—

"(A) determine the amount of, settle, and adjust any claim arising under the commodity supplemental food program; and

"(B) waive such a claim if the Secretary determines that to do so will serve the purposes of the program.

"(2) Nothing contained in this subsection shall be construed to diminish the authority of the Attorney General of the United States under section 516 of title 28, United States Code, to conduct litigation on behalf of the United States.".

Subtitle C—Indian Subsistence Farming Demonstration Grant

SEC. 931. PURPOSES.

The purposes of this subtitle are to—

(1) provide technical assistance and training through the Extension Service in the Department of Agriculture to Indian tribes and Alaska Natives for the development and operation of subsistence farming programs to improve the nutritional health of Indians living on or near Indian reservations;

(2) establish the Indian subsistence farming demonstration grant program within the Department of Agriculture; and

(3) provide a supplemental source of fresh produce for Indians and Alaska Natives who—

(A) have special dietary needs;

(B) are participating in—

(i) the food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et. seq.); or

(ii) the food distribution program on Indian reservations established under section 4(b) of such Act (7 U.S.C. 2013(b)); or

(C) have income below 185 percent of the poverty line referred to in section 5(c)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2014(c)(1)).

SEC. 932. DEFINITIONS.

For the purposes of this subtitle:

(1) ELIGIBLE RECIPIENT.—The term "eligible recipient" means an Indian who—

(A) is identified by the Secretary as having special dietary needs;

(B) is participating in—

(i) the food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et. seq.); or

(ii) the food distribution program on Indian reservations established under section 4(b) of such Act (7 U.S.C. 2013(b)); or

(C) has income below 185 percent of the poverty line referred to in section 5(c)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2014(c)(1)).

(2) INDIAN.—The term "Indian" means a person who is a member of an Indian tribe, or who is an Alaska Native and a member of a Regional Corporation (as defined in section 3(g) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(g)).

(3) INDIAN RESERVATION.—The term "Indian reservation" has the same meaning given to the term "reservation" under section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)).

(4) INDIAN TRIBE.—The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community (including any Alaska Native village, Regional Corporation, or Regional Corporation (as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), which is recognized as eligible for the special services provided by the United States to Indians because of their status as Indians.

(5) INTER-TRIBAL CONSORTIUM.—The term "inter-tribal consortium" means a partnership between—

(A) an Indian tribe or tribal organization on an Indian reservation; and

(B) one or more Indian tribes or tribal organizations of other Indian tribes.

(6) PROGRAM.—The term "program" means any subsistence farming program funded or assisted under this subtitle.

(7) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

SEC. 933. INDIAN SUBSISTENCE FARMING DEMONSTRATION GRANT PROGRAM.

(a) IN GENERAL.—The Secretary may establish an Indian subsistence farming demonstration grant program that provides grants to any Indian tribe, or intertribal consortium, for the establishment on Indian reservations of subsistence farming operations that grow fresh produce for distribution to eligible recipients.

(b) APPLICATION.—Any Indian tribe or tribal consortium may submit to the Secretary an application for a grant under this subtitle. Any such application shall—

(1) be in such form as the Secretary may prescribe;

(2) be submitted to the Secretary on or before the date designated by the Secretary; and

(3) specify—

(A) the nature and scope of the subsistence farming project proposed by the applicant;

(B) the extent to which the project plans to use or incorporate existing resources and services available on the reservation; and

(C) the number of Indians who are projected as eligible recipients of produce grown under the project.

SEC. 934. TRAINING AND TECHNICAL ASSISTANCE.

The Extension Service may conduct, with respect to the projects established under this title, site surveys, workshops, short courses, training, and technical assistance on such topics as nutrition food preservation and preparation techniques, spacing, depth of seed placement, soil types, and other aspects of subsistence farming operations.

SEC. 935. TRIBAL CONSULTATION.

An Indian tribe participating in any subsistence farming program established under this subtitle shall consult with appropriate tribal and Indian Health Service officials regarding the specific dietary needs of the population to be served by the operation of the Indian subsistence farming project.

SEC. 936. USE OF GRANTS.

Funds provided under this subtitle may be used for—

(1) the purchase or lease of agricultural machinery, equipment, and tools for the operation of the program;

(2) the purchase of seeds, fertilizers, and such other resources as may be required for the operation of the program;

(3) the construction of greenhouses, fences, and other structures or facilities;

(4) accounting and distribution of produce grown under the program; and

(5) the employment of persons for the management and operation of the program.

SEC. 937. AMOUNT AND TERM OF GRANT.

(a) AMOUNT.—The maximum amount of any grant awarded under this subtitle shall not exceed $50,000.

(b) TERM.—The maximum term of any grant awarded under this subtitle shall be 3 years.

SEC. 938. OTHER REQUIREMENTS.

Each recipient of a grant awarded under this subtitle shall—

(1) furnish the Secretary with such information as the Secretary may require to—

(A) evaluate the program for which the grant is made;

(B) ensure that the grant funds are expended for the purposes for which the grant was made; and

(C) ensure that the produce grown is distributed to eligible recipients on the reservation; and

(2) submit to the Secretary at the close of the term of the grant a final report that shall include such information as the Secretary may require.

SEC. 939. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle $2,000,000 for each of the fiscal years 1993 through 1995.

Subtitle D—Technical Amendments

SEC. 941. TECHNICAL AMENDMENTS TO THE FOOD STAMP ACT OF 1977.

The Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) is amended—

(1) in section 3 (7 U.S.C. 2012)—

(A) in subsection (j), by striking "section 3(p) of this Act" and inserting "subsection (p)";

(B) in subsection (o)(6), by striking "per centun" and inserting "percent"; and

(C) by redesignating subsection (u) as subsection (t);

(2) in section 5 (7 U.S.C. 2014)—

(A) in subsection (d)(2), by striking "section 5(f) of this Act" and inserting "subsection (f)";

(B) in subsection (h)(1), by striking "Disaster Relief and Emergency Assistance Act" and inserting "Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.)"; and

(C) in subsection (k)(2), by moving the margin of subparagraph (E) to the left so as to align with the margin of subparagraph (D);

(3) in section 6 (7 U.S.C. 2015)—

(A) in subsection (c)(1)(A), by moving the margin of clause (ii) to the left so as to align with the margin of clause (i);

(B) in subsection (d)(1)(A)—

(i) by striking "who is physically" and inserting "who is a physically";

(ii) by striking "Secretary;" in clause (i) and all that follows through "refuses" in clause (ii) and inserting "Secretary; (ii) refuses"; and

(iii) by striking "two months" in clause (ii) and all that follows through "refuses" in clause (iii) and inserting "two months; or (iii) refuses";

(C) in subsection (d)(4)(B)(vii)—

(i) by striking "Secretary,," and inserting "Secretary,"; and

(ii) by striking "aimed an" and inserting "aimed at";

(D) in subsection (d)(4)(D)(iii), by striking "clauses (i) or (ii)" and inserting "clause (i) or (ii)"; and

(E) in subsection (d)(4)(I)(i)(II)—

(i) by striking "601 et seq.))" and inserting "601 et seq.)"; and

(ii) by striking ", but in" and inserting "), but in";

(4) in section 9(a)(1) (7 U.S.C. 2018(a)(1)), by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(5) in section 11(e) (7 U.S.C. 2020(e))—

(A) in paragraph (2), by striking the period at the end and inserting a semicolon;

(B) in paragraph (3)—

(i) in subparagraph (D), by inserting a close parenthesis after "section 6"; and

(ii) in subparagraph (E), by striking "verified under this Act, and that the State agency shall provide the household" and inserting "verified under this Act,
and that the State agency shall provide the household"; and

(C) in paragraph (15), by striking the period at the end and inserting a semicolon;

(6) in section 11 (7 U.S.C. 2020), by redesignating subsection (p) as subsection (b) and transferring such subsection to the location after subsection (a);

(7) in section 16 (7 U.S.C. 2025)—

(A) in subsection (g), by inserting a comma after "1991"; and

(B) in subsection (h)(4), by striking "the Act" and inserting "this Act";

(8) in the first sentence of section 17(b)(3)(C) (7 U.S.C. 2026(b)(3)(C)), by striking "402(g)(1)(A)" and inserting "402(g)(1)(A))";

(9) in section 19(b)(1)(A)(i) (7 U.S.C. 2028(b)(1)(A)(i)), by striking "directly." and inserting "directly";

(10) in section 20(g)(2) (7 U.S.C. 2029(g)(2))—

(A) by moving the margins of subparagraphs (A) and (B) 2 ems to the left; and

(B) in subparagraph (B), by moving the margins of clauses (i) and (ii) 2 ems to the left; and

(11) in section 22 (7 U.S.C. 2031)—

(A) by inserting the following section heading above the section designation:

"FOOD STAMP PORTION OF MINNESOTA FAMILY INVESTMENT PLAN";

(B) in subsection (d)(2)(B), by striking "paragraph (b)(3)(D)(iii)" and inserting "subsection (b)(3)(D)(iii)"; and

(C) in subsection (h), by striking "subsection b(12)" and inserting "subsection (b)(12)".

SEC. 942. AMENDMENT RELATING TO THE HUNGER PREVENTION ACT OF 1988.

Section 1772(h)(5) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 104 Stat. 3809) is amended by striking "Relief" and inserting "Prevention".

TITLE X—MISCELLANEOUS TECHNICAL CORRECTIONS

SEC. 1001. ORGANIC CERTIFICATION.

Title XXI of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 104 Stat 3935) is amended—

(1) in section 2105 (7 U.S.C. 6504), by striking the period at the end of paragraph (2) and inserting "; and";

(2) in section 2110 (7 U.S.C. 6509)—

(A) in subsection (d)(1)(B), by striking "paraciticides" and inserting "parasiticides"; and

(B) by redesignating subsection (h) as subsection (g);

(3) in section 2111(a)(1) (7 U.S.C. 6510(a)(1)), by striking "post harvest" and inserting "postharvest";

(4) in section 2112(b) (7 U.S.C. 6511(b)), by striking "PRE-HARVEST" and inserting "PREHARVEST";

(5) in section 2116(j)(2) (7 U.S.C. 6515(j)(2)), by striking "certifying such" and inserting "such certifying";

(6) in section 2118(c)(1)(B)(i) (7 U.S.C. 6517(c)(1)(B)(i)), by striking "paraciticides" and inserting "parasiticides"; and

(7) in section 2119(a) (7 U.S.C. 6518(a)), by striking "(to" and inserting "to";

(8) in section 2120(f) (7 U.S.C. 6519(f)), by inserting a comma after "et seq.)" the first place it appears; and

(9) in section 2121(b) (7 U.S.C. 6520(b)), by striking "District Court for the District" and inserting "district court for the district".

SEC. 1002. AGRICULTURAL FELLOWSHIPS.

Section 1543(e) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 3293; 104 Stat. 3694) is amended by striking "Program" and inserting "program".

SEC. 1003. OUTREACH AND ASSISTANCE FOR SOCIALLY DISADVANTAGED FARMERS AND RANCHERS.

Section 2501 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279) is amended—

(1) in subsection (a)(3), by striking "section" and inserting "subsection";

(2) in subsection (c)(1)(C), by inserting "program" after "agricultural"; and

(3) in subsection (d)(3), by striking "Not later than 1 year after the date of enactment of this Act," and inserting "Not later than November 28, 1991,".

SEC. 1004. PROTECTION OF PETS.

Section 28(b)(2)(F) of the Animal Welfare Act (7 U.S.C. 2158(b)(2)(F)) is amended by striking "subsection (b)" and inserting "subsection (a)".

SEC. 1005. CRITICAL AGRICULTURAL MATERIALS.

The Critical Agricultural Materials Act (7 U.S.C. 178 et seq.) is amended—

(1) in section 5(b)(9) (7 U.S.C. 178c(b)(9)), by striking the first comma after "industrial purposes"; and

(2) in section 11 (7 U.S.C. 178i), by striking "insure" both places it appears and inserting "ensure".

SEC. 1006. AMENDMENTS TO FIFRA AND RELATED PROVISIONS.

(a) IN GENERAL.—The Federal Insecticide, Fungicide, and Rodenticide Act is amended—

(1) in section 2(e)(1) (7 U.S.C. 136(e)(1))—

(A) by striking "section 4" and inserting "section 11";

(B) by striking "use" in the second sentence and inserting "uses"; and

(C) by striking "section 2(ee) of this Act" and inserting "subsection (ee)";

(2) in section 2(q)(2)(A)(i) (7 U.S.C. 136(q)(2)(A)(i)), by striking "size of form" and inserting "size or form";

(3) in section 3(c)(1) (7 U.S.C. 136a(c)(1))—

(A) by striking subparagraphs (E) and (F);

(B) by redesignating subparagraph (D) as subparagraph (F);

(C) by inserting after subparagraph (C) the following:

"(D) the complete formula of the pesticide;

"(E) a request that the pesticide be classified for general use or for restricted use, or for both; and"; and

(D) in subparagraph (F) (as so redesignated)—

(i) by striking "(i) with" and inserting "(i) With";

(ii) by striking the semicolon at the end of clauses (i), (ii), and (iii) and inserting a period;

(iii) by striking "(ii) except" and inserting "(ii) Except"; and

(iv) by striking "(iii) after" and inserting "(iii) After";

(4) by conforming the left margin of paragraph (3) of section 4(f) (7 U.S.C. 136a-1(f)) to the left margin of the preceding paragraph;

(5) in section 6(f)(3)(B) (7 U.S.C. 136d(f)(3)(B)), by striking "an unreasonable adverse affect" and inserting "an unreasonable adverse effect";

(6) in section 11 (7 U.S.C. 136i)—

(A) in the section heading, by striking "APPPLICATORS" and inserting "APPLICATORS";

(B) in subsection (b), by striking "this paragraph" each place it appears and inserting "subsection (a)(2)"; and

(C) in subsection (c), by striking "subsections (a) and (b)" and inserting "subsection (a)";

(7) in section 12(a)(2) (7 U.S.C. 136j(a)(2))—

(A) by striking "thereunder. It" in subparagraph (F) and inserting "thereunder, except that it";

(B) by striking "or" at the end of subparagraph (O); and

(C) by striking the period at the end of subparagraph (P) and inserting a semicolon;

(8) in section 14(a)(2) (7 U.S.C. 1361(a)(2))—

(A) by striking ": *Provided*, That" and inserting ", except that"; and

(B) by striking "use" and inserting "uses";

(9) in section 17(a) (7 U.S.C. 136o), by removing the last sentence from paragraph (2) and placing it as full measure sentence under such paragraph;

(10) in section 20(a) (7 U.S.C. 136r(a)), by striking "insure" and inserting "ensure"; and

(11) in section 26(c) (7 U.S.C. 136w–1(c)), by striking "use" and inserting "uses".

(b) GENDER.—

(1) Such Act is amended by striking "he" each place it appears in sections 3(c)(2)(A), 3(c)(5), 3(c)(6), 3(d)(1)(A), 3(d)(1)(B), 3(d)(1)(C), 3(d)(2), 5(b), 5(e), 5(f), 6(a)(1), 6(b), 6(c)(1), 6(c)(3), 7(b), 8(a), 9(c)(3), 10(c), 11(b), 16(b), 16(d), 18, 20(a), 21(b), 25(a)(3), 25(b), 25(c)(5), and 25(d) (7 U.S.C. 136a(c)(2)(A), 136a(c)(5), 136a(c)(6), 136a(d)(1)(A), 136a(d)(1)(B), 136a(d)(1)(C), 136a(d)(2), 136c(b), 136c(e), 136c(f), 136d(a)(1), 136d(b), 136d(c)(1), 136d(c)(3), 136e(b), 136f(a), 136g(c)(3), 136h(c), 136i(b), 136n(b), 136n(d), 136p, 136r(a), 136s(b), 136w(a)(3), 136w(b), 136w(c)(5), and 136w(d)) and inserting "the Administrator".

(2) Such Act is amended by striking "his" each place it appears in sections 3(c)(2)(A), 3(c)(3)(A), 3(c)(6), 6(b), 6(c)(1), 6(d), 10(b), 11(a)(2), 16(b), 17(c), 18, 21(b), and 25(c)(4) (7 U.S.C. 136a(c)(2)(A), 136a(c)(3)(A), 136a(c)(6), 136d(b), 136d(c)(1), 136d(d), 136h(b), 136i(a)(2), 136n(b), 136o(c), 136p, 136s(b), and 136w(c)(4)) and inserting "the Administrator's".

(3) Such Act is amended—

(A) in section 2(e)(2) (7 U.S.C. 136(e)(2)), by striking "him or his" and inserting "the applicator or the applicator's";

(B) in section 2(e)(3), by striking "he" and inserting "the applicator";

(C) in section 6(a)(2) (7 U.S.C. 136d(a)(2), by striking "he" and inserting "the registrant";

(D) in section 6(c)(3), by striking "him" and inserting "the Administrator";

(E) in section 6(d), by striking "him" and inserting "the Administrator";

(F) in section 7(c)(1) (7 U.S.C. 136e(c)(1), by striking "he" each place it appears and inserting "the producer";

(G) in section 7(c)(2)—

(i) by striking "him" and inserting "the Administrator"; and

(ii) by striking "he" and inserting "the producer";

(H) in the fourth sentence of section 9(a)(2) (7 U.S.C. 136g(a)(2)), by striking "he" and inserting "the officer or employee";

(I) in the third sentence of section 9(c)(1), by striking "his" and inserting "the person's";

(J) in section 10(a) (7 U.S.C. 136h(a)), by striking "his" and inserting "the applicant's";

(K) in section 11(a)(1) (7 U.S.C. 136i(a)(1))—

(i) in the ninth sentence, by striking "his" and inserting "the applicator"; and

(ii) in the last sentence, by striking "him" and inserting "the Administrator";

(L) in section 12(a)(2)(C) (7 U.S.C. 136j(a)(2)(C))—

(i) by striking "his" and inserting "the person's"; and

(ii) by striking "he" and inserting "the person";

(M) in section 12(a)(2)(D), by striking "his" and inserting "the person's";

(N) in section 12(b)(1)—

(i) by striking "he" and inserting "the person";

(ii) by striking "him" and inserting "the person";

(O) in section 12(b)(3), by striking "his official duties" and inserting "the official duties of the public official"; and

(P) in the second sentence of section 16(b) (7 U.S.C. 136n(b)), by striking "him" and inserting "the Administrator".

(c) UNEXECUTABLE AMENDMENT.—The phrase sought to be struck in section 102(b)(2)(A) of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1988 (Public Law 100–532; 102 Stat 2667) shall be deemed to be "an end-use product".

(d) RECORDKEEPING.—Section 1491 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 136i–1) is amended—

(1) in subsection (a), by striking "(7 U.S.C. 136a(d)(1)(C))" and inserting "(7 U.S.C. 136a(d)(1)(C)))"; and

(2) in subsection (d)(1), by inserting "of" after "fine".

(e) MAINTENANCE FEE.—Paragraph (5) of section 4(i) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a–1(i)(5)) is amended to read as follows:

"(5) MAINTENANCE FEE.—

"(A) Subject to other provisions of this paragraph, each registrant of a pesticide shall pay an annual fee by January 15 of each year of—

"(i) $650 for the first registration; and

"(ii) $1,300 for each additional registration, except that no fee shall be charged for more than 200 registrations held by any registrant.

"(B) In the case of a pesticide that is registered for a minor agricultural use, the Administrator may reduce or waive the payment of the fee imposed under this paragraph if the Administrator determines that the fee would significantly reduce the availability of the pesticide for the use.

"(C) The amount of each fee prescribed under subparagraph (A) shall be adjusted by the Administrator to a level that will result in the collection under this paragraph of, to the extent practicable, an aggregate amount of $14,000,000 each fiscal year.

"(D) The maximum annual fee payable under this paragraph by—

"(i) a registrant holding not more than 50 pesticide registrations shall be $55,000; and

"(ii) a registrant holding over 50 registrations shall be $95,000.

"(E)(i) For a small business, the maximum annual fee payable under this paragraph by—

"(I) a registrant holding not more than 50 pesticide registrations shall be $38,500; and

"(II) a registrant holding over 50 pesticide registrations shall be $66,500.

"(ii) For purposes of clause (i), the term 'small business' means a corporation, partnership, or unincorporated business that—

"(I) has 150 or fewer employees; and

"(II) during the 3-year period prior to the most recent maintenance fee billing cycle, had an average annual gross revenue from chemicals that did not exceed $40,000,000.

"(F) If any fee prescribed by this paragraph with respect to the registration of a pesticide is not paid by a registrant by the time prescribed, the Administrator, by order and without hearing, may cancel the registration.

"(G) The authority provided under this paragraph shall terminate on September 30, 1997.".

(f) REGISTRATION AND EXPEDITED PROCESSING FUND.—Section 4(k)(3)(A) of such Act (7 U.S.C. 136a–1(k)(3)(A)) is amended by striking "each fiscal year not more than $2,000,000 of the amounts in the fund" and inserting "for each of the fiscal years 1992, 1993, and 1994, 1/7th of the maintenance fees collected, up to $2 million each year".

SEC. 1007. GRAIN STANDARDS.

The United States Grain Standards Act (7 U.S.C. 71 et seq.) is amended—

(1) in section 3 (7 U.S.C. 75), by striking "The" in subsections (i), (j), (k), (u), (v), (w), (x), (z), and (aa) and inserting "the";

(2) in section 16(a) (7 U.S.C. 87e(a)), by striking "Administrtor." in the second sentence and inserting "Administrator."; and

(3) in section 17B(a) (7 U.S.C. 87f–2(a))—

(A) by striking "The" and inserting "On December 1 of each year, the";

(B) by striking "committee on Agriculture" and inserting "Committee on Agriculture; and

(C) by striking "one year" and all that follows through "such committees".

SEC. 1008. PACKERS AND STOCKYARDS.

The Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.) is amended—

(1) in section 202(c) (7 U.S.C. 192(c)), by striking "dealer. any" and inserting "dealer, any"; and

(2) in section 406(b)(2) (7 U.S.C. 227(b)(2)), by striking the comma after "unmanufactured form,".

SEC. 1009. REDUNDANT LANGUAGE IN WAREHOUSE ACT.

Section 17(c)(1)(B) of the United States Warehouse Act (7 U.S.C. 259(c)(1)(B)) is amended by striking ", or to a specified person".

SEC. 1010. CLARIFICATION OF FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.

Notwithstanding any other provision of law, the Secretary of Agriculture is directed immediately to implement the establishment within the Department of Agriculture of the Rural Development Administration established by subtitle A of title XXIII of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2006f et seq.) and the amendments made by such subtitle.

SEC. 1011. PERISHABLE AGRICULTURAL COMMODITIES.

The Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499a et seq.), is amended—

(1) in the first section (7 U.S.C. 499a)—

(A) by striking out "That when used in this Act—" and inserting the following:

"SECTION 1. SHORT TITLE AND DEFINITIONS.

"(a) SHORT TITLE.—This Act may be cited as the 'Perishable Agricultural Commodities Act, 1930'.

"(b) DEFINITIONS.—For purposes of this Act:"; and

(B) by striking the semicolon at the end of paragraphs (1), (2), (3), (4), (5), (6), and (9) and inserting a period;

(2) in section 4(a) (7 U.S.C. 499d(a)), by striking "anual" in the material before the first proviso and inserting "annual";

(3) in section 5(c)(2) (7 U.S.C. 499e(c)(2)), by striking "(as" and inserting ", as";

(4) in section 6 (7 U.S.C. 499f)—

(A) by adding a period at the end of subsection (c); and

(B) by striking the semicolon at the end of subsection (d) and inserting a period;

(5) in section 7 (7 U.S.C. 499g), by striking the semicolon at the end of subsections (a), (b), and (c) and inserting a period;

(6) in section 8(a) (7 U.S.C. 499h(a))—

(A) by redesignating paragraphs (a) and (b) as paragraphs (1) and (2), respectively; and

(B) by striking the semicolon at the end of the subsection and inserting a period;

(7) in section 14(a) (7 U.S.C. 499n(a))—

(A) by striking "(7 U.S.C., Supp. 2, secs. 1 to 17 (a))" and inserting "(7 U.S.C. 1 et seq.)"; and

(B) by striking the semicolon at the end of the subsection and inserting a period; and

(8) by striking section 18 (7 U.S.C. 499r).

SEC. 1012. EGG PRODUCTS INSPECTION.

(a) FINDINGS AND PURPOSES.—

(1) FINDINGS.—Congress finds that—

(A) food borne illness is a serious health problem;

(B) its incidence can be reduced through proper handling of food; and

(C) eggs are perishable and therefore are particularly susceptible to supporting microbial growth if proper temperature controls are not maintained.

(2) PURPOSES.—It is the purpose of this section to prescribe the temperature at which eggs are maintained in order to reduce the potential for harmful microbial growth to protect the health and welfare of consumers.

(b) INSPECTION OF EGG PRODUCTS.—Section 5 of the Egg Products Inspection Act (21 U.S.C. 1034) is amended by adding at the end the following new subsection:

"(e)(1) Subject to paragraphs (2), (3), and (4), the Secretary shall make such inspections as the Secretary considers appropriate of a facility of an egg handler (including a transport vehicle) to determine if shell eggs destined for the ultimate consumer—

"(A) are being held under refrigeration at an ambient temperature of no greater than 45 degrees Fahrenheit after packing; and

"(B) contain labeling that indicates that refrigeration is required.

"(2) In the case of a shell egg packer packing eggs for the ultimate consumer, the Secretary shall make an inspection in accordance with paragraph (1) at least once each calendar quarter.

"(3) The Secretary of Health and Human Services shall cause such inspections to be made as the Secretary considers appropriate to ensure compliance with the requirements of paragraph (1) at food manufacturing establishments, institutions, and restaurants, other than plants packing eggs.

"(4) The Secretary shall not make an inspection as provided in paragraph (1) on any egg handler with a flock of not more than 3,000 layers.

"(5) A representative of the Secretary and the Secretary of Health and Human Services shall be afforded access to a place of business referred to in this subsection, including a transport vehicle, for purposes of making an inspection required under this subsection.".

(c) PROHIBITED ACTS.—Section 8 of such Act (21 U.S.C. 1037) is amended—

(1) by redesignating subsections (c) through (e) as subsections (d) through (f), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) No egg handler shall possess any eggs after the eggs have been packed into a container that is destined for the ultimate consumer unless the eggs are stored and transported under refrigeration at an ambient temperature of no greater than 45 degrees Fahrenheit, as prescribed by rules and regulations promulgated by the Secretary.".

(d) PENALTIES.—Section 12 of such Act (21 U.S.C. 1041) is amended—

(1) in the first sentence of subsection (a), by striking "$1,000" and inserting "$5,000";

(2) by designating the last sentence of subsection (a) as subsection (d) and transferring such subsection to the end of the section;

(3) by redesignating subsection (b) as subsection (e) and transferring such subsection to the end of the section;

(4) by redesignating subsection (c) as subsection (b); and

(5) by inserting after subsection (b) the following new subsection:

"(c)(1)(A) Except as otherwise provided in this subsection, any person who violates any provision of this Act or any regulation issued under this Act, other than a violation for which a criminal penalty has been imposed under this Act, may be assessed a civil penalty by the Secretary of not more than $5,000 for each such violation. Each violation to which this subparagraph applies shall be considered a separate offense.

"(B) No penalty shall be assessed against any person under this subsection unless the person is given notice and opportunity for a hearing on the record before the Secretary in accordance with sections 554 and 556 of title 5, United States Code.

"(C) The amount of the civil penalty imposed under this subsection—

"(i) shall be assessed by the Secretary, by written order, taking into account the gravity of the violation, degree of culpability, and history of prior offenses; and

"(ii) may be reviewed only as provided in paragraph (2).

"(2)(A) The determination and order of the Secretary under this subsection shall be final and conclusive unless the person against whom such a violation is found under paragraph (1) files an application for judicial review within 30 days after service of the order in the United States court of appeals for the circuit in which the person has its principal place of business or in the United States Court of Appeals for the District of Columbia Circuit.

"(B) Judicial review of any such order shall be based on the record on which the determination and order are based.

"(C) If the court determines that additional evidence needs to be taken, the court shall order the hearing to be reopened for this purpose in such manner and on such terms and conditions as the court considers proper. The Secretary may modify the findings of the Secretary as to the facts, or make new findings, on the basis of the additional evidence so taken.

"(3) If any person fails to pay an assessment of a civil penalty after the penalty has become a final and unappealable order, or after the appropriate court of appeals has entered a final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General. The Attorney General shall institute a civil action to recover the amount assessed in an appropriate district court of the United States. In the collection action, the validity and appropriateness of the Secretary's order imposing the civil penalty shall not be subject to review.

"(4) All penalties collected under this subsection shall be paid into the Treasury of the United States.

"(5) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty assessed under this subsection.

"(6) Paragraph (1) shall not apply to an official plant.".

(e) REPORTING OF VIOLATION TO UNITED STATES ATTORNEY FOR INSTITUTION OF CRIMINAL PROCEEDINGS.—The last sentence of section 13 of such Act (21 U.S.C. 1042) is amended by inserting before the period at the end the following: "or an action to assess civil penalties".

(f) IMPORTS.—Section 17(a) of such Act (21 U.S.C. 1046(a)) is amended—

(1) by designating the first, second, and third sentences as paragraphs (1), (2), and (4), respectively; and

(2) by inserting after paragraph (2) (as so designated) the following new paragraph:

"(3) No eggs packed into a container that is destined for the ultimate consumer shall be imported into the United States unless the eggs are accompanied by a certification that the eggs have at all times after packaging been stored and transported under refrigeration at an ambient temperature of no greater than 45 degrees Fahrenheit, as required by sections 5(e) and 8(c).".

(g) RELATION TO OTHER AUTHORITIES.—The first sentence of section 23(b) of such Act (21 U.S.C. 1052(b)) is amended by striking "and (2)" and inserting the following: "(2) with respect to egg handlers specified in paragraphs (1) and (2) of section 5(e), no State or local jurisdiction may impose temperature requirements pertaining to eggs packaged for the ultimate consumer which are in addition to, or different from, Federal requirements, and (3)".

(h) EFFECTIVE DATE.—This section and the amendments made by this section shall become effective 12 months after the Secretary of Agriculture promulgates final regulations implementing this section and the amendments.

SEC. 1013. PREVENTION OF INTRODUCTION OF BROWN TREE SNAKES TO HAWAII FROM GUAM.

(a) IN GENERAL.—The Secretary of Agriculture shall, to the extent practicable, take such action as may be necessary to prevent the inadvertent introduction of brown tree snakes into other areas of the United States from Guam.

(b) INTRODUCTION INTO HAWAII.—The Secretary shall initiate a program to prevent, to the extent practicable, the introduction of the brown tree snake into Hawaii from Guam. In carrying out this section, the Secretary shall consider the use of sniffer or tracking dogs, snake traps, and other preventative processes or devices at aircraft and vessel loading facilities on Guam, Hawaii, or intermediate sites serving as transportation points that could result in the introduction of brown tree snakes into Hawaii.

(c) AUTHORITY.—The Secretary shall use the authority provided under the Federal Plant Pest Act (7 U.S.C. 150aa et seq.) to carry out subsections (a) and (b).

(d) CONTROL OF BROWN TREE SNAKES.—The Act of March 2, 1931 (46 Stat. 1468, chapter 370; 7 U.S.C. 426) is amended by inserting "brown tree snakes," after "rabbits,".

(e) IMPORTATION OF BROWN TREE SNAKES.—The first sentence of section 42(a)(1) of title 18, United States Code, is amended by inserting "brown tree snakes," after "reptiles,".

SEC. 1014. GRANT TO PREVENT AND CONTROL POTATO DISEASES.

Notwithstanding any other provision of law, funds available to the Animal and Plant Health Inspection Service of the Department of Agriculture for fiscal year 1992 shall be made available as a grant in the amount of $530,000 to the State of Maine Department of Agriculture, Food, and Rural Resources for potato disease detection, control, prevention, eradication and related activities, including the payment of compensation to persons for economic losses associated with such efforts conducted or to be conducted in the State of Maine. Any unobligated balances of funds previously appropriated or allocated for potato disease efforts by the Secretary of Agriculture shall remain available until expended by the Secretary.

SEC. 1015. COLLECTION OF FEES FOR INSPECTION SERVICES.

Section 2509(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (21 U.S.C. 136a(a)) is amended—

(1) in paragraph (1)—

(A) by striking "(1) QUARANTINE AND INSPECTION.—The Secretary" and inserting the following:

"(1) QUARANTINE AND INSPECTION.—

"(A) IN GENERAL.—The Secretary";

(B) by indenting 2 ems the left margin of paragraph (1); and

(C) by adding at the end the following new subparagraphs:

"(B) AIRPORT INSPECTION SERVICES.—For airport inspection services, the Secretary shall collect no more than $69,000,000 in fiscal year 1992 and $75,000,000 in fiscal year 1993 from international airline passengers and commercial aircraft operators.

"(C) COMMERCIAL TRUCK AND RAILROAD CAR INSPECTION SERVICES.—For commercial truck and railroad car inspection services, the Secretary shall collect no more than $3,667,000 in fiscal year 1992 and $3,890,000 in fiscal year 1993 from commercial truck and railroad car operators.

"(D) COSTS.—Fees, including fees from international airline passengers and commercial aircraft operators, may only be collected to the extent that the Secretary reasonably estimates 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 such services with respect to passengers as a class includes the costs of related inspections of the aircraft.";

(2) in paragraph (3)(B), by striking clause (ii) and inserting the following new clause:

"(ii) REIMBURSEMENT.—The Secretary of the Treasury shall use the Account to provide reimbursements to any appropriation accounts that incur the costs associated with the administration of this subsection and all other activities carried out by the Secretary at ports in the customs territory of the United States and at preclearance or preinspection sites outside the customs territory of the United States in connection with the enforcement of the animal quarantine laws. Any such reimbursement shall be subject to appropriations under clause (v).''; and

(3) in paragraph (4), by striking "The" and inserting "Subject to the limits set forth in paragraph (1), the".

SEC. 1016. EXEMPTION AND STUDY OF CERTAIN FOOD PRODUCTS.

(a) AMENDMENTS TO FEDERAL MEAT INSPECTION ACT.—Section 23 of the Federal Meat Inspection Act (21 U.S.C. 623) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c)(1) Under such terms and conditions as the Secretary shall prescribe through rules and regulations issued under section 24 that may be necessary to ensure food safety and protect public health such as special handling procedures, the Secretary shall exempt pizzas containing a meat food product from the inspection requirements of this Act if—

"(A) the meat food product components of the pizzas have been prepared, inspected, and passed in a cured or cooked form as ready-to-eat in compliance with the requirements of this Act; and

"(B) the pizzas are to be served in public or private nonprofit institutions.

"(2) The Secretary may withdraw or modify any exemption under this subsection whenever the Secretary determines such action is necessary to ensure food safety and to protect public health. The Secretary may reinstate or further modify any exemption withdrawn or modified under this subsection.".

(b) AMENDMENTS TO POULTRY PRODUCTS INSPECTION ACT.—Section 15 of the Poultry Products Inspection Act (21 U.S.C. 464) is amended—

(1) by redesignating subsection (d) and (e) as subsections (e) and (f), respectively;

(2) in subsection (e) (as so redesignated), by striking "(c)" and inserting "(d)"; and

(3) by inserting after subsection (c) the following new subsection:

"(d)(1) Under such terms and conditions as the Secretary shall prescribe through rules and regulations issued under this section that may be necessary to ensure food safety and protect public health such as special handling procedures, the Secretary shall exempt pizzas containing a poultry product from the inspection requirements of this Act if—

"(A) the poultry product components of the pizzas have been prepared, inspected, and passed in a cured or cooked form as ready-to-eat in compliance with the requirements of this Act; and

"(B) the pizzas are to be served in public or private nonprofit institutions.

"(2) The Secretary may withdraw or modify any exemption under this subsection whenever the Secretary determines such action is necessary to ensure food safety and to protect public health. The Secretary may reinstate or further modify any exemption withdrawn or modified under this subsection.".

(c) REGULATIONS.—No later than August 1, 1992, the Secretary of Agriculture shall issue final rules, through prior notice and comment rulemaking procedures, to implement the exemption authorized by section 23(c) of the Federal Meat Inspection Act (as added by subsection (a)) and the exemption authorized by section 15(d) of the Poultry Products Inspection Act (as added by subsection (b)). Prior to the issuance of the final rules, the Secretary shall hold at least one public hearing examining the public health and food safety issues raised by the granting of each of the exemptions.

(d) STUDIES.—

(1) IN GENERAL.—Not later than 24 months after the date of enactment of this Act, the Secretary of Agriculture, in consultation with the National Academy of Sciences, shall conduct—

(A) a study to develop criteria for, and evaluate, present and future inspection exemptions for meat food products and poultry products under the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) and the Poultry Products Inspection Act (21 U.S.C. 451 et seq.), respectively, which shall examine the potential effect on consumers, on the affected industries, on public health and food safety, on the role of the Department of Agriculture, and the scientific basis for the exemptions; and

(B) a study of the appropriateness of granting an exemption from the requirements of the Federal Meat Inspection Act or the Poultry Products Inspection Act, as appropriate, for wholesale meat outlets selling to hotels, restaurants, or other similar institutional users provided that the processing of meat by the outlets is limited to cutting, slicing, grinding, or repackaging into smaller quantities.

(2) RESULTS.—On completion of each study required under paragraph (1), the Secretary shall provide the results of the study to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

SEC. 1017. FEES FOR LABORATORY ACCREDITATION.

Section 1327 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 138f) is amended to read as follows:

"SEC. 1327. FEES.

"(a) IN GENERAL.—At the time that an application for accreditation is received by the Secretary and annually thereafter, a laboratory seeking accreditation by the Secretary under the authority of this subtitle, the Federal Meat Inspection Act (21 U.S.C. 601 et seq.), or the Poultry Products Inspection Act (21 U.S.C. 451 et seq.) shall pay to the Secretary a nonrefundable accreditation fee. All fees collected by the Secretary shall be credited to the account from which the expenses of the laboratory accreditation program are paid and, subject to subsection (e), shall be available immediately and remain available until expended to pay the expenses of the laboratory accreditation program.

"(b) AMOUNT OF FEE.—The fee required under this section shall be established by the Secretary in an amount that will offset the cost of the laboratory accreditation programs administered by the Secretary under the statutory authorities set forth in subsection (a).

"(c) REIMBURSEMENT OF EXPENSES.—Each laboratory that is accredited under a statutory authority set forth in subsection (a) or that has applied for accreditation under such authority shall reimburse the Secretary for reasonable travel and other expenses necessary to perform onsite inspections of the laboratory.

"(d) ADJUSTMENT OF FEES.—The Secretary may, on an annual basis, adjust the fees imposed under this section as necessary to support the full costs of the laboratory accreditation programs carried out under the statutory authorities set forth in subsection (a).

"(e) APPROPRIATIONS PREREQUISITE.—No fees collected under this section may be used to offset the cost of laboratory accreditation without appropriations made under subsection (f).

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated each fiscal year such sums as may be necessary for laboratory accreditation services under this section.".

SEC. 1018. STATE AND PRIVATE FORESTRY TECHNICAL AMENDMENTS.

(a) COOPERATIVE FORESTRY ASSISTANCE.—The Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101 et seq.) is amended—

(1) in section 5(d) (16 U.S.C. 2103a(d)), by striking "State Foresters" each place it appears and inserting "State foresters";

(2) in section 7 (16 U.S.C. 2103c)—

(A) in subsection (d)(2), by striking "Not later than 1 year after the date of enactment of this section," and inserting "Not later than November 28, 1991,";

(B) in subsection (e), by striking "Within 1 year from the date of enactment of this section and in consultation with State Forest Stewardship Advisory Committees established under section 15(b)" and inserting "Not later than November 28, 1991, and in consultation with State Forest Stewardship Coordinating Committees established under section 19(b)"; and

(C) in subsection (f), by striking "subsection (d)" and inserting "subsection (e)";

(3) in section 9 (16 U.S.C. 2105)—

(A) in subsection (g)(1)(C), by striking "subsection (e)" and inserting "subsection (f)";

(B) in subsection (g)(3)(E), by striking "subsection (e)" and inserting "subsection (f)";

(C) in subsection (h)(1), by striking "subsection (f)" and inserting "subsection (g)"; and

(D) in subsection (h)(2), by striking "subsection (f)(3)" and inserting "subsection (g)(3)"; and

(4) in section 10(g)(2) (16 U.S.C. 2106(g)(2)), by striking "fire fighting organization" and inserting "firefighting organization".

(b) COMMISSION ON STATE AND PRIVATE FORESTS.—Section 1245(g)(4) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 104 Stat. 3549; 16 U.S.C. 1601 note) is amended by striking "the Director of the Office Technology Assessment may furnish".

(c) FOREST PRODUCTS INSTITUTE.—Section 1247(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 104 Stat. 3551; 16 U.S.C. 2112 note) is amended by striking "in this section" the second place it appears.

(d) RENEWABLE RESOURCES EXTENSION.—Section 3(a) of the Renewable Resources Extension Act of 1978 (16 U.S.C. 1672(a)) is amended—

(1) by striking "and" at the end of paragraph (8);

(2) by striking the period at the end of the first paragraph (9) (as added by section 1219(b)(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 104 Stat. 3539) and inserting "; and"; and

(3) by redesignating the second paragraph (9) (as added by section 1251(b)(3) of such Act (104 Stat. 3552) as paragraph (10).

(e) AMERICA THE BEAUTIFUL.—Section 1264(n)(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 104 Stat. 3556; 16 U.S.C. 2101 note) is amended by striking "this Act" and inserting "this subtitle".

(f) REFORESTATION ASSISTANCE.—Section 1271(c)(3)(C) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 104 Stat. 3558; 16 U.S.C. 2106a) is amended—

(1) by inserting "(16 U.S.C. 2101 et seq.)" after "1978"; and

(2) by striking "(16 U.S.C. 590h, 590l, or 590p)" and inserting "(16 U.S.C. 590p(b))".

SEC. 1019. REPEAL.

Public Law 76-543 (54 Stat. 231) is hereby repealed.

TITLE XI—EFFECTIVE DATES

SEC. 1101. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided in this Act, this Act and the amendments made by this Act shall take effect on the date of enactment of this Act.

(b) INCLUSION IN FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.—The amendments made by the following provisions of this Act shall take effect as if included in the provision of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624) to which the amendment relates:

(1) Section 201 (other than section 201(h)).

(2) Section 307.

(3) Subsections (a) through (c), (e), (h), and (i) of section 501.

(4) Subsections (a), (b), (f) through (i), and (l) of section 502.

(5) Section 602(c).

(6) Section 701 (except as provided in subsection (c) of this section).

(7) Section 702.

(8) Section 703(c).

(c) MISCELLANEOUS AMENDMENTS TO CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.—The amendments made by section 701(h) of this Act to any provision specified therein shall take effect as if such amendments had been included in the Act that added the provision so specified at the time such Act became law.

(d) FOOD AND NUTRITION PROGRAMS.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, title IX of this Act, and the amendments made by title IX of this Act, shall take effect and be implemented no later than February 1, 1992.

(2) PASS ACCOUNTS EXCLUSION.—

(A) IN GENERAL.—The amendment made by section 903(3) of this Act shall take effect on the earlier of—

(i) the date of enactment of this Act;

(ii) October 1, 1990, for food stamp households for which the State agency knew, or had notice, that a member of the household had a plan for achieving self-support as provided under section 1612(b)(4)(B)(iv) of the Social Security Act (42 U.S.C. 1382a(b)(4)(B)(iv)); or

(iii) beginning on the date that a fair hearing was requested under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) contesting the denial of an exclusion for food stamp purposes for amounts necessary for the fulfillment of such a plan for achieving self-support.

(B) LIMITATION ON APPLICATION OF SECTION.—Notwithstanding section 11(b) of the Food Stamp Act of 1977 (as redesignated by section 941(6) of this Act), no State agency shall be required to search its files for cases to which the amendment made by section 903(3) of this Act applies, except where the excludability of amounts described in section 5(d)(16) of the Food Stamp Act of 1977 (as added by section 903(3) of this Act) was raised with the State agency prior to the date of enactment of the Act.

(3) PERFORMANCE STANDARDS FOR EMPLOYMENT AND TRAINING PROGRAMS.—The amendments made by section 908 of this Act shall take effect on September 30, 1991.

(4) RECOVERY OF CLAIMS CAUSED BY NONFRAUDULENT HOUSEHOLD ERRORS.—The amendment made by section 911 of this Act shall take effect on the date of enactment of this Act.

(5) DEFINITION OF RETAIL FOOD STORE.—The amendment made by section 913 of this Act shall take effect on October 1, 1990, and shall not apply with respect to any period occurring before such date.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. DE LA GARZA] will be recognized for 20 minutes, and the gentleman from Missouri [Mr. COLEMAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the House amendment to the Senate amendment to H.R. 3029, the Food, Agriculture, Conservation and Trade Act Amendments of 1991, is a bipartisan, House-Senate compromise making technical and a limited number of substantive changes in our agriculture, export promotion and nutrition programs.

The House version of H.R. 3029 was overwhelmingly approved 417 to 5 on July 31. The Senate measure was approved by voice vote just last Friday, November 22. Over the weekend the staff of the House and Senate Agriculture Committees worked quickly to resolve the areas of minor differences between the two bills and today Members of the House and Senate resolved the remaining outstanding issues.

The bulk of the compromise language on H.R. 3029 involves correcting technical and drafting errors and clarifying various provisions in Public Law 101-624, the Food, Agriculture, Conservation and Trade Act of 1990, that was signed into law last November.

There are some provisions in this bill that contain somewhat more substantive policy changes. Most of these provisions seek to correct implementation problems which have come to our attention since enactment of the 1990 Farm Act. These problems involve unclear wording in last year's farm bill or issues raised by farmers and others in the initial interpretations of the law made by the U.S. Department of Agriculture.

This bill also contains some substantative policy changes that originated in the other body that were found acceptable by our side and are included in this House amendment.

We have worked closely with the Department of Agriculture in drafting this bill, and although we do not have a formal statement of administration views on this bill, I believe the administration will support this legislation.

Basically, the compromise on H.R. 3029 seeks to achieve the original intent of the 1990 farm bill by providing the Department of Agriculture the direction it needs to carry out these programs in a fair and equitable manner.

Mr. Speaker, I briefly want to highlight the major provisions in each title of the House amendment to the Senate amendment of H.R. 3029:

TITLE I—AGRICULTURAL COMMODITY PROGRAMS

The bill clarifies various provisions in the operations of various commodity programs that were reauthorized in the 1990 Farm Act. Provisions contained in the bill also ensure that farmers can take full advantage of the planting flexibility provisions of last year's farm act.

TITLE II—CONSERVATION

The bill contains several provisions making technical improvements to the conservation and environmental aspects of commodity program operations authorized or reauthorized in the 1990 Farm Act.

TITLE III—AGRICULTURAL TRADE

The bill contains mainly technical corrections to the 1990 Farm Act's trade title.

TITLE IV—RESEARCH

The bill contains various technical corrections to the 1990 Farm Act's research title, including a clarification on the number of regional Alternative Agricultural Research and Commercialization Centers to be created out of appropriated funds.

TITLE V—CREDIT

The bill requires Farmers Home Administration to allow a farmer borrower who has been affected by disaster during at least 2 previous crop years to exclude the lowest yield from the calculation of the farm's future yields. The bill also authorizes the bank for cooperatives to make loans for the export of agricultural commodities if certain conditions are met.

TITLE VI—CROP INSURANCE AND DISASTER ASSISTANCE

The bill makes a limited number of technical corrections in the wording of the 1990 Farm Act's crop insurance and disaster relief title.

TITLE VII—RURAL DEVELOPMENT

The bill makes various technical changes to the operations of the rural development lending programs administered by Farmers Home Administration and the Rural Electrification Administration. The bill also authorizes the establishment of a rural health leadership development program by the U.S. Department of Agriculture, in consultation with the Department of Health and Human Services, to help rural areas develop health care services and facilities.

TITLE VIII—AGRICULTURAL PROMOTION

The bill makes various technical corrections to the research and promotion programs for pecans, mushrooms, potatoes, limes, soybeans, honey, cotton, fluid milk, and wool that were authorized in the 1990 Farm Act.

TITLE IX—FOOD AND NUTRITION PROGRAMS

The bill has several provisions which clarify and makes explicit certain changes in the Food Stamp and Nutrition Programs to benefit low-income Americans. The bill also establishes a grant program and technical assistance to help Indian tribes and Alaska Natives develop and operate subsistence farming programs to improve the nutrition and health of Indians living on or near Indian reservations.

TITLE X—MISCELLANEOUS TECHNICAL CORRECTIONS

The bill makes various technical changes or corrections in the 1990 Farm Act's provisions on organic certification, pesticide programs, forestry programs, and the maintenance fees authorized for pesticide registrations, for international passenger inspection services, and for laboratory accreditation. In addition, the bill contains provisions regarding the inspection of eggs, preventive measures to stop the spread of brown tree snakes from Guam, and exempting pizzas containing meat products from duplicative inspection under certain circumstances.

The Committee on Agriculture has been and wants to continue to be sensitive to the budget problems our Nation faces. I would point out to my colleagues that this technical corrections bill is not only budget neutral—it actually provides us with some budget savings over the next 5 years.

Based on preliminary estimates by the Congressional Budget Office, the bill is scored as saving about $2 million in fiscal year 1992 and $0.3 million over the next 5 years. Preliminary estimates by the Department of Agriculture indicates the bill will cost nothing in fiscal year 1992 and save $7 million over the next 5 years.

Mr. Speaker, this bill will help our farm programs operate more effectively and as we in Congress intended when we debated and passed the 1990 farm bill. This bill will benefit the entire agricultural sector of our economy and it will strengthen the interests of consumers who are concerned about the availability of a safe, abundant and affordable supply of food and fiber. I urge my colleagues to support passage of this very necessary piece of legislation.

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

Mr. COLEMAN of Missouri. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3029, a bill making technical corrections to the 1990 Food, Agriculture, Conservation, and Trade Act.

This bill passed the House last July 31 by a vote of 417 to 5, and the legislation has changed relatively little since it was acted upon by the House. It does make minor, technical corrections to the 1990 farm bill, and I understand the administration has no objections to its adoption.

For instance, the bill deals with conserving use acres, double cropping on 0/92 acres, clarifying corn and sorghum bases, and deficiency payments for wheat, barley, and oats to name four of the technical provisions contained in the commodity program title.

Other provisions of the bill concern conservation, agricultural trade, research, credit, rural development, agricultural promotion programs, food and nutrition matters and other technical, miscellaneous corrections to the bill.

In concluding, Mr. Speaker, I want to assure my colleagues in the Banking Committee who are concerned about the provisions dealing with Farmer Mac's linked portfolio strategy: the Agriculture Committee will actively oversee the Farm Credit Administration's regulation of Farmer Mac. We will work closely with the Banking Committee in carrying out that responsibility. I appreciate the Banking Committee's agreeing to this compromise.

Mr. Speaker, I urge the House to agree to the Senate amendments and finish this important piece of legislation.

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

Mr. BEREUTER. Mr. Speaker, I rise to support the 1990 farm bill technical corrections measure since it has many important provisions including the provisions related to feed grain base flexibility, introduced by my distinguished colleague from Nebraska [Mr. BARRETT], and this Member and important provisions on wheat deficiency payments. It also clarifies the authority of the Federal Agricultural Mortgage Corporation, so called Farmer Mac, to engage in certain activities. However, I support the legislation with reservations because of some of the provisions related to the Farm Credit Administration relations to Farmer Mac.

As provided by the bill, the Corporation, known as Farmer Mac, would be allowed to undertake secondary market activities—for example, set up subsidiaries and go to debt markets—in a manner similar to those engaged by the Fannie Mae and Freddie Mac. Farmer Mac has called its activity the linked portfolio strategy and is intended to offer more attractive interest rates to borrowers.

Specifically, however, this Member would like to draw the attention of this body to other provisions pertaining to regulation of Farmer Mac. In exchange for authorizing the linked portfolio strategy, some members of the Agriculture Committee have insisted that the Farm Credit Administration retain regulatory and rulemaking authority over Farmer Mac—through a separate Office of Secondary Market Supervision to be established within the Farm Credit Administration.

This Member again states that allowing the Farm Credit Administration to regulate Farmer Mac is the worst of all options. It is a blatant conflict of interest to allow a regulator to supervise a secondary market as well as the market's participants, in this case, the Farm Credit System institutions.

Mr. Speaker, this Member expects only the worst in terms of quality of regulation from the Farm Credit Administration and it will be up to the agency to prove me wrong.

Mr. DE LA GARZA. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Oklahoma [Mr. ENGLISH], the chairman of the Subcommittee on Conservation, Credit and Rural Development.

Mr. ENGLISH. Mr. Speaker, I, too, would like to rise in support of this legislation. I think that as the chairman has stated, whenever this legislation left the House of Representatives it was primarily a technical corrections bill. Most of the provisions in it still are.

The other body did add a few substantive items, and one of those dealt with, as has been referred to before, Farmer Mac. The provisions that are contained in the bill are a compromise between various concerns with regard to the Farmer Mac operation.

Mr. Speaker, I think this legislation contains a proper approach, one that is balanced and one that I wholeheartedly support.

Mr. COLEMAN of Missouri. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. COMBEST].

Mr. COMBEST. Mr. Speaker, I rise in strong support of the conference report to the 1990 farm bill technical corrections bill. This legislation contains technical changes to the 1990 farm bill. These alterations resolve minor prob-

lems which have been discovered during implementation of farm programs. Section 107, black-eyed peas for donation, is one such provision which will help ease the ability of farmers to satisfy the rising demand for food donations to food banks, food pantries and soup kitchens. This is the same provision, with minor modifications, which was offered to the House Agriculture Cotton, Rice and Sugar Subcommittee mark-up of the technical corrections legislation.

The intent of the language is to give the U.S. Department of Agriculture [USDA] the authority to allow mechanical harvesting of black-eyed peas on cotton-conserving-use acres and set-aside acreage for donation to charitable organizations. The language in section 107 provides that the Secretary of Agriculture shall not prohibit implementation of this section unless he determines that it would disrupt the normal channels of trade. The Secretary should implement the section in such a manner to ensure optimum producer participation. Clearly, the intent of the legislation is not designed to negatively impact the market for black-eyed peas raised for sell but rather it is designed to provide for the mechanical harvest of black-eyed peas for donation to food-bank-type charitable organizations.

Mr. DE LA GARZA. Mr. Speaker, I yield such time as he may consume to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Speaker, I rise in support of H.R. 3029 which makes technical changes to farm programs enacted by the farm bill, the Food, Agriculture, Conservation, and Trade Act of 1990.

Since February, the Committee on Agriculture has taken an active oversight role in the implementation of the 1990 farm bill. I appreciate and compliment Chairman DE LA GARZA and ranking member, Mr. COLEMAN, for their efforts in getting this bill to the floor today. I know producers in Kansas and all over rural America, preparing for spring planting, appreciate your efforts as well.

Last March the Subcommittee on Wheat, Soybeans, and Feed Grains, held a hearing in Washington to discuss with producer groups their problems with the farm bill. The subcommittee then traveled to Bonner Springs, KS, to hear from farmers themselves about how they are dealing with the farm bill's new programs.

I am sure the subcommittee will stay active in overseeing this farm bill as the years progress, but I must say these two hearings were very helpful in outlining a few issues the House and Senate Agriculture Committees overlooked when completing the details of the 1990 farm act.

Mr. Speaker, the provisions contained in H.R. 3029 are budget neutral, so they will not cost the Government any additional money to implement. They will, however, make sure the programs of the 1990 act are implemented the way in which we intended.

Second, Mr. Speaker, the provisions in H.R. 3029 expand upon a number of objectives established in the 1985 Food Security Act and then again extended in the 1990 Farm Act. First and foremost of these objectives was the committee's desire to include more planting options for producers participating in farm programs. For many years, farmers were restricted to growing only the crops for which they have a history of planting. The committee remedied this in the 1990 farm bill by allowing them to divert a percentage of their acres to other crops.

Because producers are receiving less Government support on their acres than ever before, H.R. 3029 comes at an important time. In short, the bill lifts planting restrictions to enable farmers to respond even better to market prices. The provisions outlined below, which are amendments to the wheat, feed grains, and oilseeds titles of the 1990 farm bill, are an attempt to do just that; they loosen program constraints and expand certain programs.

One, H.R. 3029 allows the planting of certain minor use, experimental, and industrial-use crops on conserving-use acres—0/92 program.

Two, H.R. 3029 allows producers who plant minor oilseeds, or minor use, experimental, or industrial-use crops, on conserving use acres to double crop that acreage with soybeans. However, the producer must have a history of double-cropping soybeans to take advantage of this option.

Three, H.R. 3029 gives the State and county ASCS committees more control over the types of cover crops that must be planted on set-aside acres. It also gives the State committees discretion to exempt certain arid areas of their States from this planting requirement.

Four, H.R. 3029 requires the Department of Agriculture to provide wheat, oats, and barley producers' income-support payments more expeditously than provided in the 1990 farm bill.

Five, corn and grain-sorghum producers will be allowed once again, as they were under the 1985 farm bill, to combine their corn and grain-sorghum acreages and plant whichever crop best fits their crop rotation practice. This provision is particularly important to producers in Kansas and the Plains States.

Six, H.R. 3029 allows producers, through the 1995 crop year, to plant as much as 20 percent of a crop-acreage base to peas and lentils. This provision extends a similar provision which was in effect for the 1989 through 1991 crop years.

Mr. Speaker, I know that my producers in Kansas and all other wheat and feed grains producers in this country will benefit from these changes in the farm programs. In fact they have been waiting for us to act on this bill. At a time when Government support for agriculture is declining, farmers need the flexibility to grow different crops for the best market return without being penalized by the farm program. My subcommittee worked very hard in analyzing different flexibility options and I believe this bill incorporates the best of those options.

Finally, Mr. Speaker, in the 1990 farm bill, we created a new oilseed program, providing marketing loans or price supports to oilseeds such as sunflower, canola, flaxseed, and rapeseed. As with all new programs, the potential for problems to arise is not uncommon. I want to take this time to recognize one potential problem and assure my colleagues that I will actively monitor this and, if required, to address it further through legislation.

In implementing the new minor oilseeds program, the Department decided to establish separate loan programs for oil-type and confection sunflowerseed. Under normal circumstances, processors of confection seed must offer a premium of 2 to 3 cents per pound over prevailing prices for oil-type seed to ensure sufficient production. This incentive is required to offset higher management and input costs and risk involved in production of confection seed.

With loan support of 8.9 cents per pound under the 1990 farm bill for oil-type seed, confection processors will, under normal circumstances, need to offer 11 cents or higher to encourage production of confection seed. In the event prices for oil-type sunflower fall below the prevailing loan level, the price differential between oil-type and confection seed could widen beyond the traditional 2 to 3 cent spread. This situation could well result in making U.S. confection seed and products uncompetitive in foreign markets, and encourage confection seed production in other countries.

If this happens, I will take the necessary action to correct it. This program was created to spur the production of minor oilseeds, especially sunflowers, not to spur the growth of imports.

In closing, I strongly encourage my colleagues to vote for this bill. To jog your memories, the House passed almost the same bill on July 30th of this year. These technical changes, will undoubtedly make the 1990 farm bill a better bill and a better bill for farmers.

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

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank members of the committee and staff on both sides who have worked so diligently to get us to the point where we are at. Everything to my knowledge is in agreement and accord. Not everyone is entirely happy, but I appreciate this very much.

Mr. WEBER. Mr. Speaker, I intend to support this legislation because it will help Minnesota farmers. However, I rise to express my opposition to the provision concerning exemptions from inspection under the Federal Meat Inspection Act. While the amendment does contain significant provision to assure protection of public health, I remain concerned that the structure of this amendment grants an exemption from Federal meat inspection before undertaking the assessment of public health implications. It is shoot public health first and ask questions later approach. A sounder policy for granting exemptions from a major requirement of a public health protection statue would be for the assessment of the public health implications to precede the grant of the exemption.

The Federal Meat Inspection Act and the Poultry Products Inspection Act are among the Nation's oldest statutes designed to protect the public health. These acts achieve their purpose by requiring the daily presence of a Government inspector at facilities manufacturing meat and poultry products for resale. Such inspection ensures that exacting manufacturing and processing requirements result in wholesome and properly labeled meat and

poultry products. In effect, these inspectors are the eyes of consumers.

This continuous inspection is necessary because products of animal origin can be carriers for disease and microbiological contaminants that could jeopardize the public. Hence inspection is generally required of all further processing of the cured/cooked product when it is used in further processed products designated for resale. There are many reasons for such inspection. First, further processing of the meat may reintroduce old dangers or create new dangers, such as under processing a canned meat product. Second, a safe cooked/cured product may be recontaminated during processing or distribution. Third, manufacture for resale, by definition, means a third party will handle the product and may introduce new dangers of mishandling.

Notwithstanding the above, it is appropriate, from time to time, to review whether inspection is necessary in every instance. There may be limited situations when the risks discussed above are not present, or where there are protections available other than continuous Federal inspection. If such situations are identified, consideration should be given to exempting the processing of such products from inspection.

However, before protections are lowered or altered, it must be clearly established that consumers will not be placed at risk; microbiological contaminants are an ever present threat. This provision does not abandon these principles nor, if properly implemented, does it lower public health protections.

SECTION-BY-SECTION ANALYSIS

This section requires the Secretary to exempt pizzas from inspection requirements of the FMIA. However, this authority is limited both procedurally and substantively. Further, the section mandates the Secretary, in consultation with NAS, to conduct a study to evaluate present and future exemptions.

Subsection (a) would amend section 23 of the FMIA, 21 U.S.C. §623, to require the Secretary to exempt from inspection, by regulation, the processing of pizzas containing previously inspected and passed meat components in a cured or cooked form. In promulgating regulations to implement this provision, the Secretary shall prescribe whatever terms and conditions are necessary to ensure food safety and public health. These terms and conditions are to be issued under §§21 and 24 of the FMIA. Section 21 is the Secretary's general rulemaking authority to adopt regulations for the efficient execution of the act. It is not expressly cited in the statute as the Secretary has the clear authority to adopt any and all needed conditions for the exemption. Section 24 authorizes the establishment of storage and handling requirements for facilities not processing under inspection. It is anticipated that these requirements will include those applicable to inspected establishments, as is the case for exempt custom operations. 9 CFR §30.31(a)(2)(i). It is also expected the Secretary will impose whatever additional requirements may be necessary to ensure that public health problems do not arise. Thereby, the Secretary will ensure public safety in the absence of the daily inspection.

Further, the exemption may be granted for the processing of pizzas which contain only cooked or cured meat and if the product will be distributed only to public or private nonprofit institutions that operate under supervision that the Secretary determines will protect public health, such as the direct supervision of a registered dietician. The Secretary has broad authority to withdraw or modify any exemption.

Subsection (b) requires the Secretary to implement subsection (a) through notice and comment rulemaking, which shall include at least one public hearing examining public health and food safety issues raised by the granting of this exemption. In such rulemaking, the Secretary is required to develop such terms and conditions as may be necessary to ensure food safety and protect the public health from any increased risk associated with granting of an exemption under subsection (a). This rulemaking should be completed by August 1, 1992.

Subsection (c) requires the Secretary, in consultation with the National Academy of Sciences, to conduct a study to evaluate and develop criteria for exemptions from inspection of meat food products, as well as reviewing existing exemptions.

ANALYSIS

The legislation would provide a procedural and substantive framework for the Secretary to grant an exemption from inspection of pizzas.

As an initial matter, the new authority granted by this legislation would exempt the processing of pizzas from the requirement of daily inspection if certain conditions are met. The processing operation and products manufactured under such an exemption would still remain within the Secretary's authority and would be subject to the adulteration, misbranding, and other provisions of the FMIA or the PPIA, including storage, handling, processing and facility requirements.

The Secretary has broad authority to impose additional requirements upon an exemption as necessary to assure the exemption does not endanger public health. Moreover, the Secretary has broad discretionary authority to withdraw or modify such exemptions to effectuate the purposes or provisions of the act. The Secretary would expressly be given the authority to withdraw or modify any exemption in particular instances or at particular facilities, subject to appropriate due process protections. Further, the Secretary may indefinitely suspend a previously granted exemption and then reassess the exemption through a new rulemaking proceeding if there is basis to believe a risk to public health exists.

Subsections (a) would impose several procedural preconditions on the grant of an exemption. The requirement to grant an exemption applies only where such an exemption would not enganger public health. Since an exemption from inspection would not necessitate continuous inspection, the Secretary must obtain the broadest public review and comment in assessing whether an exemption creates unacceptable public health risks. Notice and comment rulemaking provides an appropriate structure for the Secretary to receive such input, and hence is required. Such rulemaking, which includes a public hearing, shall focus on evaluating the public health implications of granting any proposed exemption. The notice and comment rulemaking is to identify public health problems that may arise through such an exemption, and to guarantee that such risks must be fully eliminated through the terms and conditions, the Secretary must adopt as a precondition of implementation of the exemption. The Secretary's duty with respect to such terms and conditions could not be cast in stronger terms. School children and, perhaps, the ill or elderly are likely consumers of these noninspected pizzas. Therefore, such terms and conditions must go beyond merely providing for food safety.

The requirement for the Secretary to grant an exemption from inspection of pizzas must not be construed as a statutory mandate to lower food safety protections for the vulnerable populations of private and nonprofit institutions. Indeed, the mandate to ensure food safety and protect public health in the absence of continuous inspection premised on the expectation that the Secretary will prescribe existing terms and conditions on these facilities. Even if the inspector is not present on a daily basis, equipment and facilities must adhere to high standards of cleanliness and safe food handling must be assured. Only when the Secretary has developed such terms and conditions should the Secretary promulgate a final rule to implement subsection (a). If such terms and conditions cannot be established, no regulations to grant the exemption should be published.

Earlier versions of this provision, passed by both the House and Senate, authorized, but did not require, the Secretary to grant exemptions. In this provision, the word "shall" replaces the word "may" to make clear that it is the firm intent of Congress that the Secretary must address this issue. The new authority established herein is not mere discretionary authority for the Secretary to exercise to the extent, and at whatever time, the Secretary deems appropriate. The Secretary is obliged by this authority to prosecute a thorough and carefully considered rulemaking. However, this requirement does not relieve the Secretary of his public health protection duties.

The substantive requirements of the legislation have been designed to make certain that a product exemption will not be granted where there are substantial risks inherent in manufacturing the pizza for resale. To be eligible for exemption, the meat component of the pizza must have been previously inspected and passed by USDA in a cured or cooked form. Failure to start with such meat would clearly entail risk. Furthermore, there are risks inherent in the storage handling and processing of meat. The legislation requires the Secretary to mandate requirements for facilities processing without daily inspection. Sanitary specifications for facilities, equipment, and storage rules, as well as acceptable processing methods must be adopted to fully eliminate the risks preparing meat food products. Finally, the pizza may only be distributed to public or nonprofit private institutions. Such institutions may purchase such products for immediate consumption, thereby avoiding some food handling risks. Given that these institutions, by definition, do not have a profit motive, there is a presumption that they are insulated from pressures to compromise public health. The sponsors envision that such institutions will be op-

erated under supervision that assures that food handling and sanitation practices protect public health, such as the direct supervision of a registered dietician.

Admittedly, the Secretary bears a substantial burden to develop terms and conditions that are so effective as to ensure food safety when an inspector is not present on a daily basis. However, development of such terms and conditions is more appropriately within the exercise of the Secretary's informed expertise, including consideration of pertinent operational data and the relevant scientific basis, and public comment. In the evaluation of information from these sources, the Secretary would consider the history and nature of the product, whether a pattern of insanitary conditions may exist in the industry, educational level and training of personnel, compliance with ingredient specifications, and the health status and vulnerabilities of likely consumers, among others.

The Secretary retains broad discretion to withdraw or modify such exemption to effectuate the purposes of the act. When this authority is exercised with respect to a particular facility, due process protections must, of course, be afforded. Regarding an exemption generally, in the event new evidence arises or the Secretary, in his discretion, otherwise determines that a risk to public health exists, such exemption should be suspended pending completion of a rulemaking to reevaluate the matters and promulgate such new terms and conditions as are required to ensure food safety and protect public health or eliminate the exemption.

In addition, the Secretary is expected to assure that manufacturers of exempt products comply with all relevant labeling requirements. Failure to require scrupulous adherence to such labeling requirements would result in an unlevel playing field for competitors and disserve institutional consumers who increasingly rely on product labeling. The Secretary is expected to promptly exercise his discretionary authority to refuse or withdraw an exemption from inspection in any case where an exempt facility manufactures for resale a product that fails to fully comply with relevant labeling requirements.

In the development of this legislation, concerns were expressed regarding current exemption provisions of the FMIA. It is alleged that these provisions have resulted in a patchwork of inconsistent exemption decisions, not based on a public health standard. Accordingly, subsection (c) of the legislation would require the Secretary to begin reviewing these exemptions by directing the Secretary to undertake a study, in consultation with the National Academy of Sciences, to develop criteria for, and evaluate, present and future exemptions for meat and poultry products, as well as the affects those exemptions would have on public health. Once that study is completed, within 24 months from the date of enactment, it is anticipated that the Secretary will work with the Congress to resolve the controversy and ensure public health protection. The sponsors envision the fruit of this study to be a coherent policy for product exemptions.

Mr. Roberts. Mr. Speaker, I rise in support of H.R. 3029, the Flood, Agriculture, Conservation and Trade Act Amendments of 1991.

It was about this time 1 year ago when we completed action on the 1990 farm bill—a bill designed to bring consistency and predictabiliy into our Federal farm programs, and to assist this Nation's farmers and stockmen in their efforts to provide this Nation's consumers with a high quality, low cost, food supply second to none in terms of wholesomeness and variety.

Unfortunately during our efforts to complete the 1990 farm bill, technical mistakes with the language were overlooked. And, as the USDA worked to implement the legislation, they discovered the authority to make common sense adjustments to the Federal farm programs in certain areas, was severly limited.

This legislation is aimed at correcting those mistakes and providing other critically needed technical changes to the 1990 farm bill.

For example, this bill will correct the problem faced by feed grain producers who lost an important flexibility option. In the 1985 farm bill, Congress authorized USDA to allow corn and grain sorghum producers to interchange plantings of these two feed grains on their crop bases. Congress fully intended to extend this option for the term of the 1990 farm bill.

A technical glitch in the commodity program provisions effectively eliminated the corn/sorghum substitution option.

I strongly support this bill's correction provision to restore the feed grain flexibility needed by corn and sorghum producers to meet farm management challenges such as safer pest control, water conservation and marketing options.

I also appreciate the provisions to correct the Secretary of Agriculture's problem in implementing the high moisture loan program. This program option helps stockmen meet the feeding needs of their livestock operations, as well as providing a viable marketing option for feed grain farmers.

I am disappointed that the urgency of adjournment has affected the reconciliation of the differences between the two technical correction bills, forcing the omission of various report language statements intended to clarify congressional intent relative to certain 1990 farm bill provisions.

Originally, for example H.R. 3029 included report language addressing concerns over the administration of the sunflower marketing loan program relative to the establishment of separate loan programs for oil and confection sunflowers. Historically, confection sun seed processors must pay a 2-to 3-cent premium to ensure sufficient production to meet processing needs.

The major concern involves a scenario where sunflower oilseed prices fall below the announced loan rate forcing confection sunflower seed market rates to be set at an uncompetitive price relative to foreign markets. USDA's Foreign Agriculture Service has worked hand-in-glove with the U.S. sunflower industry to establish stable markets for U.S. grown confection sunflower seed products.

I remain concerned that if the current two-program loan system causes confection sunflower market prices to go beyond the historical price spread, there is a significant potential for our domestic sunflower industry to be dealt a severe blow by foreign competitors. I strongly urge the USDA to keep vigilant in monitoring the sunflower marketing loan programs, market prices and the activities of U.S. competitors in these newly developed markets. In addition, I ask my colleagues to be prepared to address this issue in the future.

Finally, Mr. Speaker, I want to mention this bill contains language to address a problem faced by the Environmental Protection Agency in their efforts to fulfill the mandates of the 1988 amendments of FIFRA. Due to unforseen circumstances, the EPA has been unable to meet the goal of collecting $14 million in reregistration fees as was agreed to by EPA and the chemical industry. The provisions in this bill, which were cooperatively worked out by the Agency and registrants, will enable EPA to meet the fee collection goal and help keep the reregistration process on schedule to the extent possible.

I would inform my colleagues that FIFRA will be a major item on agriculture's agenda next year and look forward to working with my colleagues on the issues of food and pesticide safety.

Certainly there are many other noteworthy provisions of this package that time does not permit us to discuss in detail. I want to commend the staff who worked very hard and diligently to prepare this urgently needed corrections package for our consideration before adjournment. I urge my colleagues support of its passage.

Mr. PENNY. Mr. Speaker, I strongly support the technical amendments to the 1990 farm bill. I applaud the efforts of Chairman DE LA GARZA, Congressman THOMAS COLEMAN, ranking minority member, and our counterparts on the Senate Aguriculture Committee for their hard work on this legislation. Included in this package are several provisions of great importance to farmers in Minnesota, and throughout the nation.

The amendments will restore the price support loan program for high-moisture corn established in the 1985 Food Security Act. This program is especially important for dairy farmers for corn used on the farm for feed or sold as silage. This loan program has kept many of our family dairy farmers in Minnesota in business by providing short-term operating loan funds.

The legislation also makes clarifications of the planting requirements for cover crops on acreage set aside for conserving uses. This is an important provision for plantings to reduce erosion and provide wildlife habitat on farms that are enrolled in commodity acreage reduction programs. The bill will allow producers to plant and maintain perennial grasses as cover crops rather than planting a new crop each year.

Finally, the bill gives producers additional flexibility to plant alternative crops on acreage enrolled in the acreage reduction programs. A major focus of the 1990 farm bill was increased planting flexibility for farmers to allow them to respond more easily and quickly to rapidly changing market forces and reduced federal agricultural price supports. This amendment will allow the planting of certain minor-use, industrial, and experimental crops on such acreage, thus giving our farmers more viable options in their cropping programs.

Mr. BARRETT. Mr. Speaker, I rise in support of H.R. 3029, legislation making technical

corrections and amendments to the 1990 farm bill. I'm particularly pleased with a provision of the bill that addresses problems farmers would face in coming seasons, because of an unintended effect of last year's farm bill.

Under the 1985 farm bill, producers could plant corn or grain sorghum on a combined corn and grain base, in a manner that is best suited to their rotation and production needs. Unfortunately, the 1990 farm bill unintentionally took away that flexibility. The 1990 act separates corn and sorghum base acres and does not allow their interchange—thereby eliminating the farmer's ability to undertake the best management practices in the farm operation.

The loss of this flexibility could have a dramatic impact on Nebraska's economy. The value of our corn and grain sorghum production reaches over $2.2 billion annually, and generated more than $1.8 billion in cash receipts in 1989 for Nebraska farmers. If Secretary of Agriculture Clayton Yeutter had not found a way to provide for the fair and equitable establishment of corn and sorghum bases during the 1991 crop year, we would have seen a decline in farm income.

To address this problem, I introduced H.R. 980, the Corn and Grain Sorghum Base Clarification Act. This would expressly provide the Secretary of Agriculture the authority to allow producers to interchange corn and sorghum base acres. I am pleased that the committee included language in section 105, similar to H.R. 980 in the legislation we are considering.

Mr. Speaker, I strongly urge my colleagues to join me in supporting H.R. 3029.

Mr. FASCELL. Mr. Speaker, I rise in support of H.R. 3029. I would like to take this opportunity to thank Chairman DE LA GARZA for the cooperation of the Committee on Agriculture in working to accommodate the concerns of the Committee on Foreign Affairs with regard to the trade title of this bill, over which the Foreign Affairs Committee has a jurisdictional interest.

The bill before us today contains an agricultural information program to support collaboration between the United States Department of Agriculture, United States agri-businesses, and appropriate agricultural institutions in the Soviet Union. At the request of the Committee on Foreign Affairs, the bill now provides that the Secretary of Agriculture is required to consult and coordinate with the Secretary of State and the Administrator of the Agency for International Development on the formulation and implementation of this program. While it is my understanding that the primary purpose of this program is to promote United States agricultural exports, coordination with other United States Government programs being developed for the Soviet Union is necessary to assure that various agencies of the United States Government do not work at cross purposes or with incomplete information as to what other agencies may be undertaking.

Chairman DE LA GARZA has proposed that United States land-grant universities should receive support for the establishment of programs of linkage and exchange with agricultural institutions in the republics of the former Soviet Union. Indeed, I understand that a number of U.S. universities have already on their own initiated such programs. The Agency for International Development has for many years supported the land-grant universities and other universities with similar programs in other countries, and I urge A.I.D. to support the efforts of United States universities to establish linkages with institutions in the Soviet Union. I would hope, however, that other United States Government agencies would not seek to establish similar programs of university-to-university exchange just for the former Soviet Union.

I appreciate the concern of the Committee on Agriculture concerning the need for stability in the agricultural sector of the former Soviet Union as it seeks to make a difficult and perhaps painful transition to a free-market agricultural economy. I hope that resources of the Department of Agriculture can be used effectively in coordination with other resources of the U.S. Government to support this transition.

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

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. DE LA GARZA] that the House suspend the rules and agree to the resolution House Resolution 305.

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

A motion to reconsider was laid on the table.

AUTHORIZING CORRECTION OF ENROLLMENT OF H.R. 3029, FOOD, AGRICULTURE, CONSERVATION AND TRADE ACT AMENDMENTS OF 1991, PURSUANT TO H. RES. 305

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that the clerk be authorized to correct spelling, punctuation, section designation, errors, and conform the table of contents necessary to reflect the action of the House in agreeing to H. Res. 305.

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

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, the Chair will now redesignate the time for further proceedings on questions postponed on today and on the legislative day of November 23. Such proceedings will be resumed today after further consideration of H.R. 2929 in the Committee of the Whole pursuant to House Resolution 279.

MODIFICATION TO BLAZ AMENDMENTS EN BLOC NO. 10 TO H.R. 2929, THE CALIFORNIA DESERT PROTECTION ACT OF 1991

Mr. BLAZ. Mr. Speaker, I ask unanimous consent that when H.R. 2929 is considered in the Committee of the Whole, in lieu of my amendment No. 10 made in order under the rule, I be permitted to offer a modified amendment in the form of an amendment at the desk.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Guam [Mr. BLAZ]?

Mr. VENTO. Mr. Speaker, I reserve the right to object so that I may again ask the gentleman from Guam to confirm that this is the same proposed amendment that he and I agreed upon earlier.

Mr. BLAZ. Mr. Speaker, will the gentleman from Minnesota yield under his reservation?

Mr. VENTO. I am glad to yield to the gentleman.

Mr. BLAZ. Mr. Speaker, I thank the gentleman for yielding, and I can assure him that this is the same modification to my amendment that he and I have worked out together. I am renewing my unanimous-consent request of Friday.

Mr. VENTO. Mr. Speaker, I again thank the gentleman from Guam for his cooperation and persistence with regard to this important matter. I believe that this Vento-Blaz form of the Blaz amendment fully and properly addresses both the genuinely necessary renewal of the military withdrawals of the China Lake and Chocolate Mountain areas, and the perceived need of the military for a disclaimer concerning continued overflights by military aircraft of the lands dealt with in this bill. I fully support the proposed amendment, and so I withdraw my reservation of objection.

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

There was no objection.

The SPEAKER pro tempore. The modification will be printed in the RECORD at this point.

The text of the amendment, as modified, is as follows:

Amendment as modified, offered by Mr. BLAZ: Instead of the matter proposed to be inserted, insert the following: Page 65, after line 15, and the following new title:

TITLE VIII—MILITARY LANDS AND OVERFLIGHTS

SEC. 801. SHORT TITLE AND FINDINGS.

(a) SHORT TITLE.—This title may be cited as the "California Military Lands Withdrawal and Overflights Act of 1991".

(b) FINDINGS.—The Congress finds that—

(1) the Federal lands within the desert regions of California have provided essential opportunities for military training, research, and development for the Armed Forces of the United States and allied nations;

(2) alternative sites for military training and other military activities carried out on

Federal lands in the California desert area are not readily available;

(3) While changing world conditions have lessened to some extent the immediacy of military threats to the national security of the United States and its allies, there remains a need for military training, research, and development activities of the types that have been carried out on Federal lands in the California desert area; and

(4) continuation of existing military training, research, and development activities, under appropriate terms and conditions, is not incompatible with the protection and proper management of the natural, environmental, cultural, and other resources and values of the Federal lands in the California desert area.

SEC. 802. WITHDRAWALS.

(a) CHINA LAKE.—(1) Subject to valid existing rights and except as otherwise provided in this title, the Federal lands referred to in paragraph (2), and all other areas within the boundary of such lands as depicted on the map specified in such paragarph which may become subject to the operation of the public land laws, are hereby withdrawn from all forms of appropriation under the public land laws (including the mining laws and the mineral leasing laws). Such lands are reserved for use by the Secretary of the Navy for—

(A) use as a research, development, test, and evaluation laboratory;

(B) use as a range for air warfare weapons and weapon systems;

(C) use as a high hazard training area for aerial gunnery, rocketry, electronic warfare and countermeasures, tactical maneuvering and air support; and

(D) subject to the requirements of section 804(f), other defense-related purposes consistent with the purposes specified in this paragraph.

(2) The lands referred to in paragraph (1) are the Federal lands, located within the boundaries of the China Lake Naval Weapons Center, comprising approximately 1,100,000 acres in Inyo, Kern, and San Bernardino Counties, California, as generally depicted on a map entitled "China Lake Naval Weapons Center Withdrawal—Proposed", dated January 1985, and filed in accordance with section 803.

(b) CHOCOLATE MOUNTAIN.—(1) Subject to valid existing rights and except as otherwise provided in this title, the Federal lands referred to in paragraph (2), and all other areas within the boundary of such lands as depicted on the map specified in such paragraph which may become subject to the operation of the public land laws, are hereby withdrawn from all forms of appropriation under the public land laws (including the mining laws and the mineral leasing and the geothermal leasing laws). Such lands are reserved for use by the Secretary of the Navy for—

(A) testing and training for aerial bombing, missile firing, tactical maneuvering and air support; and

(B) subject to the provisions of section 804(f), other defense-related purposes consistent with the purposes specified in this paragraph.

(2) The lands referred to in paragraph (1) are the Federal lands comprising approximately 226,711 acres in Imperial County, California, as generally depicted on a map entitled "Chocolate Mountain Aerial Gunnery Range Proposed—Withdrawal" dated November 1991 and filed in accordance with section 803.

SEC. 803. MAPS AND LEGAL DESCRIPTIONS.

(a) PUBLICATION AND FILING REQUIREMENT.—As soon as practicable after the date of enactment of this title, the Secretary of the Interior shall—

(1) publish in the Federal Register a notice containing the legal description of the lands withdrawn and reserved by this title; and

(2) file maps and the legal description of the lands withdrawn and reserved by this title with the Committee on Energy and Natural Resources of the United States Senate and with the Committee on Interior and Insular Affairs of the United States House of Representatives.

(b) TECHNICAL CORRECTIONS.—Such maps and legal descriptions shall have the same force and effect as if they were included in this title except that the Secretary of the Interior may correct clerical and typographical errors in such maps and legal descriptions.

(c) AVAILABILITY FOR PUBLIC INSPECTION.—Copies of such maps and legal descriptions shall be available for public inspection in the Office of the Director of the Bureau of Land Management, Washington, District of Columbia; the Office of the Director, California State Office of the Bureau of Land Management, Sacramento, California; the office of the commander of the Naval Weapons Center, China Lake, California; the office of the commanding officer, Marine Corps Air Station, Yuma Arizona; and the Office of the Secretary of Defense, Washington, District of Columbia.

(d) REIMBURSEMENT.—The Secretary of Defense shall reimburse the Secretary of the Interior for the cost of implementing this section.

SEC. 804. MANAGEMENT OF WITHDRAWN LANDS.

(a) MANAGEMENT BY THE SECRETARY OF THE INTERIOR.—(1) Except as provided in subsection (g), during the period of the withdrawal the Secretary of the Interior shall manage the lands withdrawn under section 802 pursuant to the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) and other applicable law, including this title.

(2) To the extent consistent with applicable law and Executive orders, the lands withdrawn under section 802 may be managed in a manner permitting—

(A) the continuation of grazing pursuant to applicable law and Executive orders where permitted on the date of enactment of this title;

(B) protection of wildlife and wildlife habitat;

(C) control of predatory and other animals;

(D) recreation (but only on lands withdrawn by section 802(a) (relating to China Lake));

(E) the prevention and appropriate suppression of brush and range fires resulting from nonmilitary activities; and

(F) geothermal leasing on the lands withdrawn under section 802(a) (relating to China Lake).

(3)(A) All nonmilitary use of such lands, including the uses described in paragraph (2), shall be subject to such conditions and restrictions as may be necessary to permit the military use of such lands for the purposes specified in or authorized pursuant to this title.

(B) The Secretary of the Interior may issue any lease, easement, right-of-way, or other authorization with respect to the nonmilitary use of such lands only with the concurrence of the Secretary of the Navy.

(b) CLOSURE TO PUBLIC.—(1) If the Secretary of the Navy determines that military operations, public safety, or national security require the closure to public use of any road, trail, or other portion of the lands withdrawn by this title, the Secretary may take such action as the Secretary determines necessary or desirable to effect and maintain such closure.

(2) Any such closure shall be limited to the minimum areas and periods which the Secretary of the Navy determines are required to carry out this subsection.

(3) Before and during any closure under this subsection, the Secretary of the Navy shall—

(A) keep appropriate warning notices posted; and

(B) take appropriate steps to notify the public concerning such closures.

(c) MANAGEMENT PLAN.—The Secretary of the Interior (after consultation with the Secretary of the Navy) shall develop a plan for the management of each area withdrawn under section 802 during the period of such withdrawal. Each plan shall—

(1) be consistent with applicable law;

(2) be subject to conditions and restrictions specified in subsection (a)(3);

(3) include such provisions as may be necessary for proper management and protection of the resources and values of such area; and

(4) be developed not later than three years after the date of enactment of this title.

(d) BRUSH AND RANGE FIRES.—The Secretary of the Navy shall take necessary precautions to prevent and suppress brush and range fires occurring within and outside the lands withdrawn under section 802 as a result of military activities and may seek assistance from the Bureau of Land Management in the suppression of such fires. The memorandum of understanding required by subsection (e) shall provide for Bureau of Land Management assistance in the suppression of such fires, and for a transfer of funds from the Department of the Navy to the Bureau of Land Management as compensation for such assistance.

(e) MEMORANDUM OF UNDERSTANDING.—(1) The Secretary of the Interior and the Secretary of the Navy shall (with respect to each land withdrawal under section 802) enter into a memorandum of understanding to implement the management plan developed under subsection (c). Any such memorandum of understanding shall provide that the Director of the Bureau of Land Management shall provide assistance in the suppression of fires resulting from the military use of lands withdrawn under section 802 if requested by the Secretary of the Navy.

(2) The duration of any such memorandum shall be the same as the period of the withdrawal of the lands under scction 802.

(f) ADDITIONAL MILITARY USES.—(1) Lands withdrawn by section 802 may be used for defense-related uses other than those specified in such section. The Secretary of Defense shall promptly notify the Secretary of the Interior in the event that the lands withdrawn by this title will be used for defense-related purposes other than those specified in section 802. Such notification shall indicate the additional use or uses involved, the proposed duration of such uses, and the extent to which such additional military uses of the withdrawn lands will require that additional or more stringent conditions or restrictions be imposed on otherwise-permitted nonmilitary uses of the withdrawn land or portions thereof.

(g) MANAGEMENT OF CHINA LAKE.—(1) The Secretary of the Interior may assign the management responsibility for the lands withdrawn under section 802(a) to the Secretary of the Navy who shall manage such lands, and issue leases, easements, rights-of-

way, and other authorizations, in accordance with this title and cooperative management arrangements between the Secretary of the Interior and the Secretary of the Navy. In the case that the Secretary of the Interior assigns such management responsibility to the Secretary of the Navy before the development of the management plan under subsection (c), the Secretary of the Navy (after consultation with the Secretary of the Interior) shall develop such management plan.

(2) The Secretary of the Interior shall be responsible for the issuance of any lease, easement, right-of-way, and other authorization with respect to any activity which involves both the lands withdrawn under section 802(a) and any other lands. Any such authorization shall be issued only with the consent of the Secretary of the Navy and, to the extent that such activity involves lands withdrawn under section 802(a), shall be subject to such conditions as the Secretary of the Navy may prescribe.

(3) The Secretary of the Navy shall prepare and submit to the Secretary of the Interior an annual report on the status of the natural and cultural resources and values of the lands withdrawn under section 802(a). The Secretary of the Interior shall transmit such report to the committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(4) The Secretary of the Navy shall be responsible for the management of wild horses and burros located on the lands withdrawn under section 802(a) and may utilize helicopters and motorized vehicles for such purposes. Such management shall be in accordance with laws applicable to such management of public lands and with an appropriate memorandum of understanding between the Secretary of the Interior and the Secretary of the Navy.

(5) Neither this title nor any other provision of law shall be construed to prohibit the Secretary of the Interior from issuing and administering any lease for the development and utilization of geothermal steam and associated geothermal resources on the lands withdrawn under section 802(a) pursuant to the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) and other applicable law, but no such lease shall be issued without the concurrence of the Secretary of the Navy.

(6) This title shall not affect the geothermal exploration and development authority of the Secretary of the Navy under section 2689 of title 10, United States Code, except that the Secretary of the Navy shall obtain the concurrence of the Secretary of the Interior before taking action under that section with respect to the lands withdrawn under section 802(a).

SEC. 805. DURATION OF WITHDRAWALS.

(a) DURATION.—The withdrawal and reservation established by this title shall terminate 15 years after the date of enactment of this title.

(b) DRAFT ENVIRONMENTAL IMPACT STATEMENT.—No later than 12 years after the date of enactment of this title, the Secretary of the Navy shall publish a draft environmental impact statement concerning continued or renewed withdrawal of any portion of the lands withdrawn by this title for which that Secretary intends to seek such continued or renewed withdrawal. Such draft environmental impact statement shall be consistent with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) applicable to such a draft environmental impact statement. Prior to the termination date specified in subsection (a), the Secretary of the Navy shall hold a public hearing on any draft environmental impact statement published pursuant to this subsection. Such hearing shall be held in the State of California in order to receive public comments on the alternatives and other matters included in such draft environmental impact statement.

(c) EXTENSIONS OR RENEWALS.—The withdrawals established by this title may not be extended or renewed except by an Act or joint resolution.

SEC. 806. ONGOING DECONTAMINATION.

(a) PROGRAM.—Throughout the duration of the withdrawals made by this title, the Secretary of the Navy, to the extent funds are made available, shall maintain a program of decontamination of lands withdrawn by this title at least at the level of decontamination activities performed on such lands in fiscal year 1986.

(b) REPORTS.—At the same time as the President transmits to the Congress the President's proposed budget for the first fiscal year beginning after the date of enactment of this title and for each subsequent fiscal year, the Secretary of the Navy shall transmit to the Committees on Appropriations, Armed Services, and Energy and Natural Resources of the Senate and to the Committees on Appropriations, Armed Services, and Interior and Insular Affairs of the House of Representatives a description of the decontamination efforts undertaken during the previous fiscal year on such lands and the decontamination activities proposed for such lands during the next fiscal year including:

(1) amounts appropriated and obligated or expended for decontamination of such lands;

(2) the methods used to decontaminate such lands;

(3) amount and types of contaminants removed from such lands;

(4) estimated types and amounts of residual contamination on such lands; and

(5) an estimate of the costs for full decontamination of such lands and the estimate of the time to complete such decontamination.

SEC. 807. REQUIREMENTS FOR RENEWAL.

(a) NOTICE AND FILING.—(1) No later than three years prior to the termination of the withdrawal and reservation established by this title, the Secretary of the Navy shall advise the Secretary of the Interior as to whether or not the Secretary of the Navy will have a continuing military need for any of the lands withdrawn under section 802 after the termination date of such withdrawal and reservation.

(2) If the Secretary of the Navy concludes that there will be a continuing military need for any of such lands after the termination date, the Secretary shall file an application for extension of the withdrawal and reservation of such needed lands in accordance with the regulations and procedures of the Department of the Interior applicable to the extension of withdrawals of lands for military uses.

(3) If, during the period of withdrawal and reservation, the Secretary of the Navy decides to relinquish all or any of the lands withdrawn and reserved by this title, the Secretary shall file a notice of intention to relinquish with the Secretary of the Interior.

(b) CONTAMINATION.—(1) Before transmitting a notice of intention to relinquish pursuant to subsection (a), the Secretary of Defense, acting through the Department of Navy, shall prepare a written determination concerning whether and to what extent the lands that are to be relinquished are contaminated with explosive, toxic, or other hazardous materials.

(2) A copy of such determination shall be transmitted with the notice of intention to relinquish.

(3) Copies of both the notice of intention to relinquish and the determination concerning the contaminated state of the lands shall be published in the Federal Register by the Secretary of the Interior.

(c) DECONTAMINATION.—If any land which is the subject of a notice of intention to relinquish pursuant to subsection (a) is contaminated, and the Secretary of the Interior, in consultation with the Secretary of the Navy, determines that decontamination is practicable and economically feasible (taking into consideration the potential future use and value of the land) and that upon decontamination, the land could be opened to operation of some or all of the public land laws, including the mining laws, the Secretary of the Navy shall decontaminate the land to the extent that funds are appropriated for such purpose.

(d) ALTERNATIVES.—If the Secretary of the Interior, after consultation with the Secretary of the Navy, concludes that decontamination of any land which is the subject of a notice of intention to relinquish pursuant to subsection (a) is not practicable or economically feasible, or that the land cannot be decontaminated sufficiently to be opened to operation of some or all of the public land laws, or if Congress does not appropriate a sufficient amount of funds for the decontamination of such land, the Secretary of the Interior shall not be required to accept the land proposed for relinquishment.

(e) STATUS OF CONTAMINATED LANDS.—If, because of their contaminated state, the Secretary of the Interior declines to accept jurisdiction over lands withdrawn by this title which have been proposed for relinquishment, or if at the expiration of the withdrawal made by this title the Secretary of the Interior determines that some of the lands withdrawn by this title are contaminated to an extent which prevents opening such contaminated lands to operation of the public land laws—

(1) the Secretary of the Navy shall take appropriate steps to warn the public of the contaminated state of such lands and any risks associated with entry onto such lands;

(2) after the expiration of the withdrawal, the Secretary of the Navy shall undertake no activities on such lands except in connection with decontamination of such lands; and

(3) the Secretary of the Navy shall report to the Secretary of the Interior and to the Congress concerning the status of such lands and all actions taken in furtherance of this subsection.

(f) REVOCATION AUTHORITY.—Notwithstanding any other provision of law, the Secretary of the Interior, upon deciding that it is in the public interest to accept jurisdiction over lands proposed for relinquishment pursuant to subsection (a), is authorized to revoke the withdrawal and reservation established by this title as it applies to such lands. Should the decision be made to revoke the withdrawal and reservation, the Secretary of the Interior shall publish in the Federal Register an appropriate order which shall—

(1) terminate the withdrawal and reservation;

(2) constitute official acceptance of full jurisdiction over the lands by the Secretary of the Interior; and

(3) state the date upon which the lands will be opened to the operation of some or all of the public lands laws, including the mining laws.

SEC. 808. DELEGABILITY.

(a) DEFENSE.—The functions of the Secretary of Defense or the Secretary of the Navy under this title may be delegated.

(b) INTERIOR.—The functions of the Secretary of the Interior under this title may be delegated, except that an order described in section 807(f) may be approved and signed only by the Secretary of the Interior, the Under Secretary of the Interior, or an Assistant Secretary of the Department of the Interior.

SEC. 809. HUNTING, FISHING, AND TRAPPING.

All hunting, fishing, and trapping on the lands withdrawn by this title shall be conducted in accordance with the provisions of section 2671 of title 10, United States Code.

SEC. 810. IMMUNITY OF UNITED STATES.

The United States and all departments or agencies thereof shall be held harmless and shall not be liable for any injury or damage to persons or property suffered in the course of any geothermal leasing or other authorized nonmilitary activity conducted on lands described in section 802 of this title.

SEC. 811. EL CENTRO RANGES.

The Secretary of the Interior is authorized to permit the Secretary of the Navy to use until January 1, 1994, the approximately 44,870 acres of public lands in Imperial County, California, known as the East Mesa and West Mesa ranges, in accordance with the Memorandum of Understanding dated June 29, 1987, between the Bureau of Land Management, the Bureau of Reclamation, and the Department of the Navy. Such use shall be consistent with such Memorandum of Understanding and such additional terms and conditions as the Secretary of the Interior may require in order to protect the natural, scientific, environmental, cultural, and other resources and values of such lands and to minimize the extent to which use of such lands for military purposes impedes or restricts use of such or other public lands for other purposes. All military uses of such lands shall cease on January 1, 1994, unless authorized by subsequent Act of Congress.

SEC. 812. MILITARY OVERFLIGHTS.

(a) DISCLAIMER.—Nothing in this Act shall preclude low-level overflights by military aircraft, the designation of new units of special airspace, or the use or establishment of military flight training routes over the new units of the National Park or National Wilderness Preservation Systems (or any additions to existing units of such Systems) designated by this Act.

(b) MONITORING.—The Secretary of the Interior shall monitor the effects of aircraft overflights on the resources and values of the units of the National Park System and National Wilderness Preservation System designated or expanded by this Act, and on visitor enjoyment of such units. The Secretary of the Interior shall actively seek the assistance of the Secretary of Defense, consistent with national security needs, to resolve concerns related to such overflights and to prevent, eliminate, or minimize the derogation of resources and values and of visitor enjoyment associated with overflight activities.

□ 1320

PRESS CONFERENCE FROM THE OVAL OFFICE

(Mr. GINGRICH asked and was given permission to address the House for 1 minute.)

Mr. GINGRICH. Mr. Speaker, as I promised earlier, I wanted to read into the RECORD the transcript, 11:35 a.m. this morning, the Oval Office.

QUESTION. Mr. President, what do you really think about the economic package that was presented to you yesterday?

The PRESIDENT. I'm for it.

QUESTION. You're for it?

The PRESIDENT. Yes.

QUESTION. How strongly?

The PRESIDENT. That's what I've said.

QUESTION. Enough to keep Congress in session?

The PRESIDENT. Listen, Congress has been here all year long. If they want to pass this, let them pass it today.

QUESTION. You're not going to ask them to stay in?

The PRESIDENT. I want the package passed and I want to see it done fast. And I've wanted a lot of legislation that they've had all year to pass. And this kind of ploy at the end is just that—it's a ploy. We've got a good package up there. I've had one up there all year long. Now there's another good one. Let's see them vote on it. They can vote if they want to. This idea of dancing around, that's not good enough for the American people.

QUESTION. The Republicans——

The PRESIDENT. Look, we've got to get on with our business here. Put me down as enthusiastically for it.

QUESTION. You were misinterpreted, weren't you?

The PRESIDENT. Misinterpreted. If they just print what I say, what our statements say, then we would avoid some of this intepretation. I am for this; would like to see it voted on today. And there's no point in Congress sticking around, in my view.

QUESTION. Sir, the economy troubled ordinary Americans wonder why not keep them in?

The PRESIDENT. Because they've been here all year long and the economy is in trouble. That's the answer.

PARLIAMENTARY INQUIRY

Mr. ABERCROMBIE. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. MAZZOLI). The gentleman will state it.

Mr. ABERCROMBIE. Mr. Speaker, did the gentleman read the entire transcript or read it selectively? I have the transcript here, and I notice he has left key words out at key points.

The SPEAKER pro tempore. The Chair would advise the gentleman that that is not a parliamentary inquiry.

CALIFORNIA DESERT PROTECTION ACT OF 1991

The SPEAKER pro tempore. Pursuant to House Resolution 279 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2929.

□ 1322

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2929) to designate certain lands in the California desert as wilderness, to establish the Death Valley, Joshua Tree, and Mojave National Park, and for other purposes, with Mr. GLICKMAN, Chairman pro tempore, in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore (Mr. GLICKMAN). When the Committee of the Whole rose on Friday, November 22, 1991, amendment No. 1 offered by the gentleman from California [Mr. LEWIS] has been disposed of.

It is now in order to consider amendment No. 2 printed in House Report 102–314.

Mr. LEHMAN of California. Mr. Chairman, if I might, that amendment will be offered later in the en bloc amendment offered by the gentleman from California [Mr. MILLER]. We are not going to offer it at this time.

The CHAIRMAN pro tempore. Since that amendment will be deferred, it is now in order to consider amendment No. 3 printed in House Report 102–314.

PARLIAMENTARY INQUIRY

Mr. LEWIS of California. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state it.

Mr. LEWIS of California. Mr. Chairman, the bill has been brought up in relatively short notice in terms of the circumstance of these closing moments. Is there a way of giving reasonable notice, of deferring this?

I do not want to see a Member lose their opportunity because they do not know that we are up yet.

Mr. LEHMAN of California. Mr. Chairman, I have no objection, if the gentleman from California [Mr. DANNEMEYER] wants to reserve his space.

Mr. LEWIS of California. Mr. Chairman, it is clear that really none of these Members are here. It is a delicate circumstance.

The CHAIRMAN pro tempore. Without objection, the gentleman may strike the last word. In the Committee of the Whole, the Chair cannot entertain the request to change the order of amendments when it was stated in the rule.

There was no objection.

Mr. LEWIS of California. Mr. Chairman, I move to strike the last word.

My concern is that we do have a number of amendments that Members are serious about because we are in the closing day and because of the confusing schedule.

I would hope that we could give Members who have amendments filed notice immediately, if we could proceed with that, so that we do not literally cut the sand from under the feet of a Member who is legitimately in line to be heard but may not know that he is up yet, if there is a way we can handle that.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. LEWIS of California. I yield to the gentleman from Minnesota.

PARLIAMENTARY INQUIRY

Mr. VENTO. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state it.

Mr. VENTO. Mr. Chairman, I note that the gentleman from Guam [Mr. BLAZ] has an amendment that is not controversial and the gentleman is present. If we could ask unanimous consent, I thought perhaps we could move ahead with that.

The CHAIRMAN pro tempore. The Chair would state that the gentleman from California [Mr. MILLER] chairman of the committee can offer amendments en bloc at any time. The Chair unfortunately cannot by unanimous consent recognize for amendments out of order since in the Committee of the Whole and the order was provided in the rule.

The Chair would recommend either that the gentleman from California be recognized or else the Chair would recognize Members to strike the last word, without objection, if there is no objection, for a short period of time until such time as we get reasonable notice to Members.

The Chair agrees with the gentleman from California, this bill did come up instantly.

It is now in order to consider amendment No. 3 printed in House Report 102-314.

AMENDMENTS EN BLOC OFFERED BY MR. DANNEMEYER

Mr. DANNEMEYER. Mr. Chairman, I offer amendments en bloc.

The CHAIRMAN pro tempore. The Clerk will designate the amendments en bloc.

The text of the amendments en bloc is as follows:

Amendments en bloc offered by Mr. DANNEMEYER:

Page 43, strike line 11 and all that follows through line 7 on page 54 (all of title IV), and redesignate succeeding titles accordingly.

Page 55, strike lines 11 through 20, and on line 21 strike "(4)" and insert "(3)".

The CHAIRMAN pro tempore. Under the rule, the gentleman from California [Mr. DANNEMEYER] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Chairman, I rise in support of this amendment to strike from the bill the inclusion of what is known as the East Mohave area. I think it is appropriate to talk about the political force that essentially is driving the consideration by the House to lock up this area of our State.

Three years ago I sent an intern to the records of the Federal Elections Commission and asked that intern to check an analysis of the records on file there for some of the organizations that comprise the Environmental Party in American politics.

This list is by no means exclusive, but the organizations in that unit include the following: The Center for Marine Conservation, the Clean Water Action Project, the Environmental Defense Fund, Greenpeace U.S.A., National Audubon Society, National Wildlife Federation, Natural Resources Defense Council, the Nature Conservancy, Public Interest Research Groups, the Sierra Club, the Wilderness Society, and the World Wildlife Fund.

This is a short list, by no means exclusive. These organizations have a combined membership in the country of a little less than 13 million people who annually put up $335 million to influence public policy.

□ 1330

Of that sum, about $127 million is spent on grassroots lobbying. The two major political parties in the country, the Democratic Party and the Republican Party, have a contributing base of about 2.3 million people, that is at the national level, who annually put up about $93 million to influence all aspects of public policy. So the Environmental Party has four times the contributing base and four times the resources to influence public policy.

No one who hears my comments should believe that these people do not have the right to organize into a party and influence public policy. I am not saying that at all. I am just saying that we Americans better wake up to the reality that this Environmental Party seeks to change our society to one that worships the creation rather that the creator. If you wander through life and you do not believe in a hereafter, which I believe the leaders of the Environmental Party do not, what they see in this world is all there ever will be and they get disturbed when anybody wants to tear down a tree and make a piece of lumber to build a house, or if somebody wants to catch a fish or if somebody wants to bag a deer and eat that meat or share it with somebody else, these people in the Environmental Party get real uptight. This is the movement we are dealing with in this issue.

In the East Mojave area I think we should understand something. It is comprised of 210,000 acres. The Union Pacific Transcontinental Railroad cuts across the area for 55 miles and forms 35 miles of the southwest boundary. We have about 40,000 miners mining the minerals in the State of California, and about 20,000 have their jobs in this area. The reality is if this bill passes is that these 20,000 jobs are going to be gone.

I have never been able to understand why the proponents of this legislation who profess such a tender concern for the working men and women of our society; namely, the members of the Democratic Party, are so unconcerned about the loss of jobs and economic growth and activity that is going to take place in the State of California if this measure is adopted.

Let me just recite to my colleagues some of the activity that is going on in this area. Over 10,000 mining claims exist. Four hundred and thirty thousand acres in the East Mojave have been leased for oil and gas development. Over 2,500 miles of major and secondary roads cover the proposed monument. Since grazing allotments encompass more than 90 percent of the East Mojave, over 700 miles of cattle fence, water pipelines, tanks, troughs, an corrals exist in this area.

AT&T, Sprint, and Wiltel have miles of cable, including fiberoptics, running across the area. A natural gas pipeline runs almost 40 miles along the southern section of the proposed monument. Southern California Edison maintains 75 miles of wood pole power lines. Pacific telephone lines wind on for 120 miles inside the designated area. High voltage steel tower transmission lines criss-cross the area. Southern California Edison shares 425 miles of power lines with the Los Angeles Department of Water and Power.

In short, this is a developed area of southern California. It is desert area, it is true, but it is a vast resource of minerals that the people of this country need, the 20,000 people working in this region of our State need for a livelihood.

I ask for an "aye" vote for this amendment that would delete this portion from the bill.

The CHAIRMAN. The time of the gentleman from California [Mr. DANNEMEYER] has expired.

Does the gentleman from California [Mr. LEHMAN] oppose the amendment?

Mr. LEHMAN of California. Mr. Speaker, I am opposed to the amendment.

The CHAIRMAN. The gentleman from California [Mr. LEHMAN] is recognized for 5 minutes.

Mr. LEHMAN of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, it is hard to take this amendment seriously, but I will, and it is certainly not my intention to get into a theological discussion this afternoon with my good friend, the gentleman from California [Mr. DANNEMEYER].

This is one of the most important parts of this legislation that Mr. DANNEMEYER seeks to gut, the designation of the East Mojave as a national monument. When we examined all of the areas in the California Desert, 25 million acres, we found the East Mojave to be one of the most deserving of protection, and in fact so well deserving that we decided to give it a higher designation. The original proposal had this area designated as a national park. We made it as a national monument in the legislation on the floor to facilitate some more multiple use planning.

Both the Bureau of Land Management and the National Park Service

professional staff have studied the Mojave's resources and have made strong recommendations for designation of the area as a national park. I quote from the Park Service study on the East Mojave:

Cultural and natural resource values of the East Mojave study area are so diverse and outstanding that the area readily qualifies for national park or monument status. In all the California Desert, and I am quoting from this study by the Park Service, there is no finer grouping of different wildlife habitats than the East Mojave.

What about the mineral and geological aspects of the East Mojave? Well, it is not as Mr. DANNEMEYER has stated. According to a recent U.S. Geological Survey report on the East Mojave, and I quote from it,

The prospects for further mineral discoveries in the Mojave are relatively poor.

In the parlance of mineral resources, this does not appear to be an area of world class deposits.

Again with respect to the wilderness areas in this bill, the mining can continue. Mining has not been prohibited and will not be. Indeed, with respect to the major mine in the East Mojave we have not designated that land as wilderness to even give them a further protection there in the park to continue to mine under the auspices of the Park Service.

The East Mojave is the gem of the California Desert. We recognize it as such in this legislation. Not even the gentleman from California [Mr. LEWIS], who in his substitute last week changed the designations of this area went as far as the gentleman from California [Mr. DANNEMEYER] and removed all protections of this area, whether it is wilderness or Park Service. This takes all protection from the East Mojave and keeps the status quo.

Mr. Chairman, I yield 1 minute to the gentleman from Minnesota [Mr. VENTO], the chairman of the Subcommittee on National Parks and Public Lands.

Mr. VENTO. Mr. Chairman, I rise in opposition to these Dannemeyer amendments en bloc.

These amendments would delete from the bill the sections that establish the East Mojave National Monument and that designate as wilderness some of the lands within that unit of the National Park System.

As has been noted before, national monument status for the East Mojave area has been supported by the professional judgment of the land managers: In 1979, the BLM reported that—

Cultural and natural resource value of the East Mojave area are so diverse and outstanding that the area readily qualifies for national park or monument status.

And in 1987, after reviewing the proposed designation of the area as a national park, the professional staff of the National Park Service's western region found that the area met the required criteria specified in the service's management policies, and they concluded that the area would be a worthy and valuable addition to the National Park System.

The Interior Committee agreed with those professional judgments, and the House should do so, too, and should reject these Dannemeyer amendments en bloc.

The Dannemeyer amendments also should be rejected because they would delete from the bill all the wilderness designations for lands within the East Mojave area. The President has proposed that some of these lands be designated as wilderness.

The substitute offered by the gentleman from California [Mr. LEWIS], designated some of these lands as wilderness. The gentleman offering these amendments voted for that substitute, so he evidently supports designation of some wilderness in the East Mojave. The gentleman's amendment has consequences that he doesn't intend or he has changed his views.

The lands that would be designated as wilderness by the bill have wilderness values, and they should be so designated and managed, which would not occur if these Dannemeyer en bloc amendments were adopted. I urge the House to reject the Dannemeyer amendments.

Mr. LEHMAN of California. Mr. Chairman, I yield 1 minute to the distinguished gentleman from California [Mr. LEVINE].

Mr. LEVINE of California. Mr. Chairman, I rise in opposition to this amendment. The amendment would gut the essence of this legislation. It is extremely important to protect this extraordinarily fragile and vital resource. The East Mojave, as the chairman of the subcommittee indicated, was originally designated a national park. It is now designated a national monument. The subcommittee chairman read quotes that are extremely important that emphasize that the staff of both the BLM and the National Park Service have come to the conclusion that the East Mojave is worthy of national park status.

I would like to respond briefly to two points of the proponent, one to suggest that this is a lockup, a canard. The fact is this is a preservation provision that is essential to this extraordinary resource. Second, although I do not intend, either, to get into a theological debate, to suggest that this amendment should be passed because somehow environmentalists are subversive or ungodly is not worthy of a response, but certainly is not an appropriate reason to not protect this extraordinarily precious resource.

Mr. LEHMAN of California. Mr. Chairman, I yield myself the remaining time.

The CHAIRMAN. The gentleman from California is recognized for 1 minute.

Mr. LEHMAN of California. Mr. Chairman, the quote I read earlier was from the Bureau of Land Management desert planning staff that was submitted to the Park Service on the study of the East Mojave. As I alluded to, a study was also done by the National Park Service. The Regional Director of the Park Service recommended that the Mojave, and I quote, "would be a worthy and valuable addition to the National Park System."

□ 1340

In addition, we have allowed for in the bill under national monument status that we can make some adjustments outside just the domain of being in the park as far as land use management in the area is concerned. We have accommodated the utilities that exist in the area and none of them are opposed to this legislation. We have worked with the cattle interests in the area and have gone beyond what is usually done in a national park in terms of the 10-year phaseout or an immediate phaseout and given them up to 25 years for those six operations in the area.

Mr. Speaker, this is a bad amendment. It kills our bill. I ask for a "no" vote.

The CHAIRMAN. The question is on the amendments en bloc offered by the gentleman from California [Mr. DANNEMEYER].

The amendments en bloc were rejected.

The CHAIRMAN. It is now in order to consider amendment No. 4 printed in House Rept. 102-314.

For what purpose does the gentleman from Montana [Mr. MARLENEE] rise?

AMENDMENTS OFFERED BY MR. MARLENEE

Mr. MARLENEE. Mr. Chairman, I offer amendments.

The CHAIRMAN. The Clerk will designate the amendments.

The text of the amendments is as follows:

Amendments offered by Mr. MARLENEE: Page 44, line 16, insert "(a)" after "402.".

Page 44, after line 25, add the following:

(b) The Secretary shall permit hunting on all lands within the monument in accordance with applicable Federal and State law. The Secretary may, after consultation with the California Department of Fish and Game, designate zones where, and establish periods when, such activities will not be permitted for reasons of public safety, administration, fish and wildlife habitat, or public use and enjoyment, subject to terms and conditions as he deems necessary in furtherance of this Act. Nothing in this Act shall be construed as affecting the jurisdiction or responsibilites of the State of California with respect to fish and wildlife.

The CHAIRMAN. Under the rule, the gentleman from Montana [Mr. MARLENEE] will be recognized for 5 minutes and a Member opposed will be recognized for 5 minutes.

Mr. LEHMAN of California. Mr. Chairman, I oppose the amendment.

The CHAIRMAN. The gentleman from California [Mr. LEHMAN] will be recognized for 5 minutes.

The Chair recognizes the gentleman from Montana [Mr. MARLENEE].

Mr. MARLENEE. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. SCHULZE].

Mr. SCHULZE. Mr. Chairman I rise in strong support of the Marlenee amendment to H.R. 2929, the California Desert Protection Act. The Marlenee amendment would protect hunters rights in the Mojave National Monument created by H.R. 2929.

Public lands provide access to hunters who don't have the financial ability to own their own land or belong to a private hunting club.

Restricting access to an additional 1.5 million acres would further diminish the multiple use of our public lands. In addition to prohibiting hunting on the Mojave Monument, the designation of 4.3 million acres of wilderness in H.R. 2929 further restricts the opportunity for hunters.

Although hunting is allowed in wilderness areas, restricted access to those areas makes it much more difficult for the hunter to utilize the area.

Hunting and hunters have contributed greatly to wildlife and wildlife management. The foundation for the conservation of desert bighorn sheep and many other conservation organizations should be commended for their work in reestablishing viable wildlife populations.

They should not be punished by having access to public lands denied or restricted.

Allowing hunting in this area will contribute greatly to the management of wildlife species. In my home State of Pennsylvania, we have the Gettysburg National Military Park and the Eisenhower National Historic Site. Both of these areas are managed by the Park Service and hunting is not allowed.

Because no hunting is allowed, deer populations have soared and are six times greater than the carrying capacity of the ecosystem. This is causing severe economic and environmental stress.

Do not let this happen in the Mojave National Monument. For the conservation of our Nation's wildlife, I urge my colleagues to support the Marlenee amendment.

Mr. LEHMAN of California. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I oppose this amendment. The gentleman from Minnesota [Mr. VENTO] will go into the arguments with regard to Park Service rules.

The desert has 25 million acres in it, my friends. Three million acres are in the Mojave area and have always been off limits to hunting. Less than 1 million acres are in Joshua Tree and have always been off limits. That leaves 21 million acres.

With this bill, an additional 1.5 million acres out of the mix would be put in the national monument and hunting will not be allowed in that area. There will still be almost 19 million acres on the desert where you can hunt.

Now, the good gentleman talks about wildlife in this area. The facts should be clearly on top, especially with respect to deer. Last year in California we shot 30,000 deer statewide. How many were shot in the East Mojave? Exactly 25.

In response to that statistic, in committee the gentleman from Montana [Mr. MARLENEE] said, well, a lot of us like maybe not just to shoot, but to go walk around out there.

Well, that is fine, but you still have 19 million acres on which to do that.

Everyone in this bill in order to protect the California desert is being asked to give just a little. The utilities have given a little. The cattle interests are giving a little. The mining interests are giving a little. This should not be the only group not to give anything to protect the species in the area.

Mr. Chairman, I ask for a no vote.

Mr. MARLENEE. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, recently a "Dear Colleague" letter was circulated by those who oppose this amendment. That "Dear Colleague" letter said this would destroy the few remaining big game species in that area. What a misleading statement that is; what a blatantly/misleading statement that is.

I assure you and I assure all my colleagues that it must be an insult to the California State Fish and Game Department, under those whose control the harvesting of wild game takes place.

It further states that there are very few animals to hunt and very few animals taken. That is not the question. What we are trying to do here is protect the areas and the accessibility and the opportunity for sportsmen across the United States of America, sportsman who in fact have put waterholes and water out there, reintroduced the big horn desert sheep in that particular area, and now the antihunters are going to tell those sportsmen they are going to remove 1.5 million acres because somebody said we ought not to allow hunting.

They will also tell you that this is unprecedented that we are allowing hunting on national parks, but there is a precedent. In these particular areas, Big Cypress Reserve of Florida, Delware Water, Fire Island National, Glenn Canyon area, all these areas are in the National Park System and allow hunting to take place.

The harvesting of game is natural and it must take place to prevent overpopulation and degradation of the environment.

I am chagrined that such a misleading "Dear Colleague" letter would be sent out.

You know, this amendment is simple. It is either you are for the sportsmen or you are against them.

We want no net loss of hunting or hunting areas to take place.

Mr. LEHMAN of California. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I rise in strong opposition to the amendment, which would open to hunting the new East Mojave National Monument designated by this bill.

I am a hunter and I do not think we need to hunt in national parks and monuments.

The fact of the matter is the list the gentleman from Montana placed up there are not national parks or monunments. There is only one national park on that list, and that is the Grand Tetons, and that is the hunting of elk, and the individuals who do that have to be deputize to do so, so what we are about to do or what the gentleman proposes to do is to throw our a 75-year history of policy with regard to national parks and monuments that are established to preserve the species in perpetuity, but the gentleman would say we are going to reverse this whole policy. We are going to stand it on its head because the hunters of America look at this as a symbol. I do not think this is a symbol. I think we have to get down to the facts, and the facts are that in order for people to hunt, there has to be game in these particular areas. There is very little game in these areas.

What we are saying in this type of Mojave Desert area is that we want to see the natural processes take place without being interfered with by man, permitting the types of desert species that occur there to live in as natural a condition as possible.

We know that most hunters are good people; they are conservationists. We also know that there are a lot of directional and informational signs that get shot up and a lot of other damage that goes on in some of these areas because some people—some hunters—are not as responsible.

So I will just emphasize, Mr. Chairman, we are being asked here to reverse a 75-year time-honored policy with regard to the National Park System. All the other units that permit such activities are preserves. In Alaska we have some examples, and the Tetons, where individuals have to be deputized in order to hunt.

The amendment would undermine one of the basic, longstanding principles under which National Park System monuments and national parks are managed—that they are sanctuaries for wildlife, and are off limits to sport hunting.

I understand that supporters of this amendment claim that it is necessary in order to save hunting on public lands in California. Of course, that is not the case. Just in the California desert alone, there are millions and millions of acres of public lands that

would be left wide open to hunting by this bill. Establishment of the East Mojave National Monument is not a threat to hunting on these other lands, and there is no need to save hunting through this amendment.

Furthermore, hunters hunt game—they don't hunt acres. It's true the East Mojave is a fairly large area, but it is not really one that is important for hunters. We have been told that of some 30,000 deer taken by hunters in California annually, only about 25 or 30 come from the East Mojave area.

Twenty-five or thirty deer out of 30,000 deer taken annually in California. Obviously, the East Mojave is not an important part of the deer hunting scene in California. And the story is the same for other game species as well.

The fact is, the East Mojave is a rugged desert area, remote from any major population centers. Closing it to hunting will not have any significant effect on hunting opportunities for the sportsmen of California.

The author of the amendment is well aware that there are some types of National Park System units where hunting is permitted—but he is not proposing to change the designation of the East Mojave. So, what is the purpose of this amendment? The answer is, It is an attack on the principle that national parks and national monuments are off limits to hunting.

Finally, Mr. Chairman, I note that many of the backers of this amendment are opposed to the bill, and at the same time they urge a vote for the amendment, they urge opposition to final passage. That tells me that this amendment isn't intended to address any real need to save hunting, but is strictly an attempt to derail the conservation designations in this overall desert legislation and it generally damages 75 years of time honored policy. Not to hunt in national parks and monuments.

I urge the House to reject the amendment.

Mr. MARLENEE. Mr. Speaker, I yield 30 seconds to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Chairman and my colleagues, this is another part of the desert lockout bill. I told you the other day that the desert lockout bill locks out 100,000 blue collar families from the California desert, and the South Algodones is doomed.

In this particular area, they are locking out 22,000 blue collar families that, yes, they cannot go deer hunting north in Montana or Wyoming, but they do take the kids and they go out with their campers from L.A., from San Diego and other points in the inland empire to go hunting for a couple days for dove, for quail, and for rabbits in the desert.

□ 1350

This is another part of the Democrat lockout bill.

Support the Marlenee amendment.

Mr. MARLENEE. Mr. Chairman, I reserve the balance of my time.

Mr. LEHMAN of California. Mr. Chairman, I yield my remaining 2 minutes to the gentleman from California [Mr. LEVINE].

Mr. LEVINE of California. I thank the gentleman for yielding.

Mr. Chairman, let me begin by responding to my friend from California who talked about 22,000 hunters in this area. Those 22,000 hunters bagged all of 25 deer last year in the East Mojave.

Now there may be 22,000 hunters, there may be 22,000 hunters in the entire wilderness area, but let us get our facts straight. This bill leaves 9 million wilderness acres available for hunting. The part of the bill that we are talking about is an area which claimed 25 deer, 25 deer.

Now we are talking about the East Mojave. When people claim this is a lockout, which the other side consistently does, let us talk about what we are protecting. We are protecting an essential part of the fragile resource, which we discussed in the last amendment, which was defeated on a voice vote.

This amendment is nothing more than a subterfuge for eroding protection in National Park Service land, national parks and national mounuments in those areas.

It is an effort to allow hunting in parks. It is extraordinarily important to understand what is at stake here. We are simply suggesting that this fragile resource in the East Mojave, leaving 9 million wilderness acres available for hunting, should be protected.

To my friends on the other side who suggest that somehow there is an overpopulation-of-wildlife problem here, that is simply contravened by the facts. This area, this entire area, netted 25 deer. And for the extraordinary effort that is occurring to try to keep hunting in an area which claimed 25 deer in the last year, I believe that tells us what the real intent of this amendment is. The real intent of the amendment is to open up our national parks and to open up our national monuments to hunting.

The CHAIRMAN. The Chair recognizes the gentleman from Montana [Mr. MARLENEE] for 30 seconds.

Mr. MARLENEE. I yield myself 30 seconds.

Mr. Chairman, this is not to open up a national park. They are the ones on that side of the aisle who are creating a new national park that will reserve, 1.5 million acres and take it away from the sportsmen, the sportsmen who have developed the area, who provided watering holes and reintroduced species.

We are not talking about how many game animals that have been harvested during this period of time. We are talking about the opportunities, as my good friend, DUNCAN HUNTER, understands very well, the opportunity to go out there with your family and enjoy a day of hunting and field activity.

The CHAIRMAN. The time of the gentleman from Montana [Mr. MARLENEE] has expired. All time has expired.

Mr. BLAZ. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I yield to the gentleman from Montana.

The CHAIRMAN. The gentleman is recognized.

Mr. VENTO. Regular order, Mr. Chairman.

Mr. Chairman, under the rule there are 10 minutes given to this amendment. I would ask would it not be appropriate at this time to call for the question?

The CHAIRMAN. The Chair would remind the gentleman from Minnesota [Mr. VENTO] that under the rule the chairman or ranking minority member of the Committee on Interior and Insular Affairs may offer pro forma amendments.

PARLIAMENTARY INQUIRY

Mr. VENTO. Mr. Chairman, as the chairman, I would make a parliamentary inquiry: Has Mr. BLAZ assumed that role?

The CHAIRMAN. Yes. Mr. BLAZ assumed that position during the entire general debate.

The Chair is trying to be consistent.

The gentleman from Montana [Mr. MARLENEE] is recognized.

Mr. MARLENEE. Mr. Chairman, I realize there is an attempt to muzzle this side of the aisle continually, and particularly to muzzle this side of the aisle——

PARLIAMENTARY INQUIRY

Mr. VENTO. Mr. Chairman, a point of parliamentary inquiry. Is a different amendment being offered by the gentleman from Guam?

Mr. MARLENEE. Mr. Chairman, I do not yield. I do not yield. I do not yield.

The CHAIRMAN. The Chair would remind the gentleman from Minnesota the gentleman from Montana [Mr. MARLENEE] has been recognized.

Mr. MARLENEE. Mr. Chairman, as I said, I realize there is a continual attempt by the animal activists to eliminate hunting wherever that opportunity exists. If it was of no significance, why is this amendment supported to such a great degree by the National Rifle Association and other conservation groups such as Quail Unlimited, California Wildlife Federation, California Chapter of the Izaak Walton League, Society for the Conservation of Bighorn Sheep, Safari Club International, Fish and Wildlife Legislative Fund, the International Association of Fish and Wildlife Agencies.

They recognize that we have got to be in a position of no net loss on hunting. Otherwise, we are going to have those strict preservationists take from

the American sportsman all of the opportunity to enjoy and participate in outdoor activity.

The CHAIRMAN. The gentleman from Guam [Mr. BLAZ] controls the time, and it will be designated by the gentleman from Guam and not by the Chair.

Mr. BLAZ. I thank the Chair.

Mr. Chairman, I yield to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. I thank the gentleman for yielding.

Mr. Chairman, at this point in the debate I also want to offer my thanks to the gentleman from Guam for his very statesmanlike handling of this particular piece of legislation that has been, I think, a very difficult piece of legislation.

Let me just say to the people on the other side of the aisle who have talked about deer hunting on the Mojave and said, "You are not shooting any deer, so let us lock it up," the Mojave is not a deer hunting area. The Mojave is a place where blue-collar families can get on highway 10 from Los Angeles, millions of them, and you will see literally thousands and thousands of pickups and campers leaving on an exodus every Friday night to go out to the Mojave with their family and to go hunting for a few duck, quail, chukar partridge, maybe jackrabbits and cotton-tail rabbits.

It is not a deer hunting area, but it is a place where the average family in California that cannot afford to go fly fishing in New Zealand, like some of the Sierra Clubbers can, can go out and have a decent time.

We are locking up California, and we are locking it up from precisely the same people, blue-collar people who lost 114,000 jobs over the last year. The Democratic leadership ought to be concentrating on a jobs package, which they refused to bring up today, that will help middle-class America instead of locking them out of national lands.

Mr. SCHULZE. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I am happy to yield to the gentleman from Pennsylvania.

Mr. SCHULZE. I thank the gentleman for yielding.

Mr. Chairman, earlier one of our colleagues referred to the fact that there were something like 30,000 deer harvested in all of California. Let me tell you that close to 40,000 deer a year are killed on the highways in the Commonwealth of Pennsylvania, at an average cost of about $1,000 per incident, not counting the loss of life and limb and hospital bills associated with that. Much of this is due to some unwise utilization of hunting and preservation in certain areas. We have got to have a balance.

The greatest conservationists in the United States of America are the sportsmen of America. They do not want to eliminate species. They have spent thousands and thousands of dollars continuing the propagation of bighorn sheep in this very area.

Mr. HUNTER. I thank the gentleman for his comments. The people who built water guzzlers, they have gone out there and built water guzzlers for small game and big game in the 110-degree heat in the desert, have been sportmen. They have been people who like to hunt and fish. They developed this desert so that Californians can use it.

We are now in the process of locking Californians out of their own desert.

Mr. MARLENEE. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from Montana.

Mr. MARLENEE. I thank the gentleman for yielding.

Mr. Chairman, I note the "Dear Colleague" said that opening up this hunting would destroy the few remaining species of big-game species. How would they do that? That is an incredible statement. How would they do that?

Mr. HUNTER. In the first place, they would not do it because the vast majority of the people who hunt in the Mojave are people who hunt small game, like dove and quail and rabbits.

Second, you have very stringent game laws, and you have game management very effective in California. We can see to it that you have no overharvest.

The facts are that American sportsmen and Californians ought to be trusted. The whole theme of the Democratic side is you cannot trust Californians to use their own public lands. Let us lock them out with their off-road vehicles, they cannot use them in the desert where you have sand dunes; let us lock them out of the hunting areas because you cannot trust them.

You cannot trust them. You have to trust people who live in condominiums in San Francisco and who can go off to foreign countries and have great vacations and come back and say, "Now, for an encore, I am going to lock out some middle-class people."

The CHAIRMAN. The time of the gentleman from Guam [Mr. BLAZ] has expired.

The question is on the amendments offered by the gentleman from Montana [Mr. MARLENEE].

The question was taken, and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. VENTO. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 235, noes 193, not voting 6, as follows:

[Roll No. 429]

AYES—235

Alexander	Anderson	Archer
Allard	Anthony	Armey
Allen	Applegate	Baker
Ballenger	Harris	Petri
Barnard	Hastert	Pickett
Barrett	Hatcher	Pickle
Barton	Hayes (LA)	Poshard
Bateman	Hefley	Pursell
Bentley	Hefner	Quillen
Bevill	Herger	Rahall
Bilbray	Hobson	Ramstad
Billey	Holloway	Ray
Boehner	Hopkins	Regula
Brewster	Horton	Rhodes
Brooks	Houghton	Ritter
Broomfield	Hubbard	Roberts
Browder	Huckaby	Roemer
Bruce	Hunter	Rogers
Bryant	Hutto	Rohrabacher
Bunning	Hyde	Roth
Burton	Inhofe	Rowland
Callahan	Ireland	Santorum
Camp	Jefferson	Sarpalius
Campbell (CO)	Jenkins	Saxton
Carper	Johnson (CT)	Schaefer
Carr	Johnson (TX)	Schiff
Chandler	Kasich	Schulze
Chapman	Klug	Sensenbrenner
Clinger	Kolbe	Shaw
Coble	Kolter	Shuster
Coleman (MO)	Kopetski	Sikorski
Combest	Kyl	Sisisky
Condit	Lagomarsino	Skeen
Costello	LaRocco	Skelton
Coughlin	Laughlin	Slattery
Cox (CA)	Leach	Smith (IA)
Cramer	Lent	Smith (NJ)
Crane	Lewis (CA)	Smith (OR)
Cunningham	Lightfoot	Smith (TX)
Dannemeyer	Livingston	Snowe
Darden	Lloyd	Solomon
Davis	Marlenee	Spence
DeFazio	Martin	Spratt
DeLay	Martinez	Staggers
Derrick	McCandless	Stallings
Dickinson	McCollum	Stearns
Dingell	McCrery	Stenholm
Doolittle	McCurdy	Stump
Dorgan (ND)	McDade	Sundquist
Dornan (CA)	McEwen	Tallon
Dreier	McMillan (NC)	Tanner
Duncan	McNulty	Tauzin
Edwards (TX)	Michel	Taylor (MS)
Emerson	Miller (OH)	Taylor (NC)
English	Mollohan	Thomas (CA)
Erdreich	Montgomery	Thomas (GA)
Espy	Moorhead	Thomas (WY)
Ewing	Morrison	Traxler
Fields	Murphy	Unsoeld
Franks (CT)	Myers	Upton
Frost	Nagle	Valentine
Gallegly	Neal (NC)	Vander Jagt
Gallo	Nichols	Volkmer
Gaydos	Nussle	Vucanovich
Gekas	Olin	Walker
Geren	Ortiz	Walsh
Gilchrest	Orton	Weber
Gillmor	Owens (UT)	Weldon
Gingrich	Oxley	Williams
Glickman	Packard	Wilson
Goodling	Parker	Wise
Gordon	Pastor	Wolf
Gradison	Patterson	Wyden
Grandy	Paxon	Yatron
Gunderson	Payne (VA)	Young (AK)
Hall (TX)	Penny	Young (FL)
Hammerschmidt	Perkins	Zeliff
Hancock	Peterson (FL)	
Hansen	Peterson (MN)	

NOES—193

Abercrombie	Bonior	de la Garza
Ackerman	Borski	DeLauro
Andrews (ME)	Boucher	Dellums
Andrews (NJ)	Boxer	Dicks
Andrews (TX)	Brown	Dixon
Annunzio	Bustamante	Donnelly
Aspin	Campbell (CA)	Dooley
Atkins	Cardin	Downey
AuCoin	Clay	Durbin
Bacchus	Clement	Dwyer
Beilenson	Coleman (TX)	Dymally
Bennett	Collins (IL)	Early
Bereuter	Collins (MI)	Eckart
Berman	Conyers	Edwards (CA)
Bilirakis	Cooper	Engel
Blackwell	Cox (IL)	Evans
Boehlert	Coyne	Fascell

Fawell	Lewis (GA)	Riggs
Fazio	Lipinski	Rinaldo
Feighan	Long	Roe
Fish	Lowey (NY)	Ros-Lehtinen
Flake	Luken	Rose
Foglietta	Machtley	Rostenkowski
Ford (TN)	Manton	Roukema
Frank (MA)	Markey	Roybal
Gejdenson	Matsui	Russo
Gephardt	Mavroules	Sabo
Gibbons	Mazzoli	Sanders
Gilman	McCloskey	Sangmeister
Gonzalez	McDermott	Savage
Goss	McGrath	Sawyer
Green	McHugh	Scheuer
Guarini	McMillen (MD)	Schroeder
Hall (OH)	Meyers	Schumer
Hamilton	Mfume	Serrano
Hayes (IL)	Miller (CA)	Sharp
Henry	Miller (WA)	Shays
Hertel	Mineta	Skaggs
Hoagland	Mink	Slaughter
Hochbrueckner	Moakley	Smith (FL)
Horn	Molinari	Solarz
Hoyer	Moody	Stark
Hughes	Moran	Stokes
Jacobs	Morella	Studds
James	Mrazek	Swett
Johnson (SD)	Murtha	Swift
Johnston	Natcher	Synar
Jones (GA)	Neal (MA)	Thornton
Jones (NC)	Nowak	Torres
Jontz	Oakar	Torricelli
Kanjorski	Oberstar	Traficant
Kaptur	Obey	Vento
Kennedy	Olver	Visclosky
Kennelly	Owens (NY)	Washington
Kildee	Pallone	Waters
Kleczka	Panetta	Waxman
Kostmayer	Payne (NJ)	Weiss
LaFalce	Pease	Wheat
Lancaster	Pelosi	Whitten
Lantos	Porter	Wolpe
Lehman (CA)	Price	Wylie
Lehman (FL)	Rangel	Yates
Levin (MI)	Ravenel	Zimmer
Levine (CA)	Richardson	
Lewis (FL)	Ridge	

NOT VOTING—6

Byron	Ford (MI)	Reed
Edwards (OK)	Lowery (CA)	Towns

□ 1420

The Clerk announced the following pairs:

On this vote:

Mr. LOWERY of California for, with Mr. TOWNS against.

Mrs. SCHROEDER, Mr. JAMES, and Mr. HUGHES changed their vote from "aye" to "no."

Mrs. LLOYD and Messrs. TRAXLER, WILSON, CARR, PICKLE, SIKORSKI, BARNARD, ERDREICH, MARTINEZ, and BRYANT changed their vote from "no" to "aye."

So the amendments were agreed to.

The result of the vote was announced as above recorded.

□ 1420

The CHAIRMAN. It is now in order to consider amendment No. 5 printed in House Report 102–314.

AMENDMENTS EN BLOC OFFERED BY MR. DELAY

Mr. DELAY. Mr. Chairman, I offer amendments en bloc.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendments en bloc is as follows:

Amendments en bloc offered by Mr. DELAY: Page 54, beginning on line 1, strike "thereof" and all that follows through "title." on line 7, and insert "thereof.".

Page 65, after line 6, insert the following new section:

LAND ACQUISITION ON A WILLING SELLER BASIS

SEC. 612. Lands may not be acquired by the Secretary for the purposes of this Act without the consent of the owner thereof.

Mr. DELAY (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. Under the rule, the gentleman from Texas [Mr. DELAY] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

Is the gentleman from California [Mr. LEHMAN] opposed to the amendments?

Mr. LEHMAN of California. I am opposed to the amendments, Mr. Chairman.

The CHAIRMAN. The Chair recognizes the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Chairman, currently the Federal government may acquire land without the consent of the owner. This is an infringement on property rights, and should not be allowed to occur except in the gravest of situations. The situation described in H.R. 2929 is not grave. In fact, the bill has been criticized by many, including members of the California delegation, for designating lands that do not meet minimum wilderness protection standards, as well as protecting more land than necessary to preserve the California desert.

My amendment would establish some reason and fairness by requiring that the Federal Government obtain the consent of the property owner before taking his or her land for public use. Already the Federal Government owns, manages, or controls approximately one-third of all of the Nation's land. If one includes State and local government holdings, the total Government land ownership of the United States jumps to about 40 percent. Most of this federally-owned land is located in the West, with about 63 percent of all the land in the 13 Western States owned by the Federal Government.

We have to establish some restraints on this outrageous land grab. Do you realize that the millions of acres of land affected by this bill will be the second largest land withdrawal in U.S. history after Alaska? As Mr. John Kenneth Galbraith, a well-known liberal perceptfully observed:

The public lands of the United States exceed the combined areas of Germany, France, Italy, Belgium, Holland, Switzerland, Denmark, Hungary, and Albania. Where socialized ownership of land is concerned, only the U.S.S.R. and China can claim company with the United States.

This statement clearly shows that the U.S. Government is far exceeding its bounds in the taking of land. The irony is that the Soviet Government is finally selling its land to private citizens, while the United States continues to move in the opposite direction by taking land away from its citizens. Considering our country was founded with the belief that the cornerstone of all our freedom depends upon the widest possible distribution of property, securely protected under a system of private ownership, this is a staggeringly high percentage of government ownership of land and resources.

H.R. 2929, the California Desert Protection Act, if passed, will add another 828,000 acres of State and privately owned land to the Federal inventory. This may be a silly question, but do we need this?

Furthermore, this bill does not account for either the wishes of the landowners or how they will be compensated. H.R. 2929 allows the Federal Government to acquire these lands through exchange, but considering there are only 550,000 acres of suitable land available in California for exchange, this still leaves several hundred thousand acres of land unaccounted for. And, although the bill also allows for the purchase of land, we must keep in mind that we are deeply in debt at this time. While the Constitution allows the taking of land for public use, the fifth amendment requires that there be just compensation. This bill does not reflect the constitutional mandate.

Giving the Government the power to take land without any restraints regarding the willingness of the property owner will only tempt it to continue to acquire more land which we do not need. My amendment will require the consent of the owners of the land included in this bill before the Federal Government may purchase it, which will help curb the Government's hungry appetite. I urge you to support this amendment to H.R. 2929 and help keep these lands in the hands of citizens, where it belongs.

□ 1430

Mr. LEHMAN of California. Mr. Chairman, I yield myself 1½ minutes.

Mr. Chairman, the gentleman from Texas has completely misstated the language in the bill and has completely misinterpreted existing law. Under existing law, condemnation is prohibited in the Wilderness Act and thus, in over half the acreage in the bill, no condemnation could take place anyway.

Second, there is language in this bill which we inserted requiring consent of a property owner in the Mojave before an action could take place unless they were using the land in such a way that was adverse to the monument.

Third, over seven eighths of the holdings in this bill, that is over 85 percent, are owned by two entities, the State of California and the Catellus Land Co.

We have already worked out the details for change with regard to those, those entities, at their request. There is no taking of private land in the bill, as I just said. We have developed an exchange procedure for seven eighths of the holdings.

The experience in the area is exactly the contrary to what the gentleman has stated. In the Death Valley National Monument there has been absolutely no condemnation since it was created.

It is interesting how some opponents get upset regarding Federal ownership of land. Remember that this is BLM desert land, leftover land in the West that no one else wanted. Suddenly, when we try to protect it from destruction, we are told it ought to be put in private hands.

It has long been the goal of the land management agencies to consolidate land holdings.

Mr. Chairman, I yield 1 minute to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I rise in opposition to these amendments en bloc by the gentleman from Texas. This legislation has no or insignificant impact on public land ownership. It deals with how we manage such lands. Public lands are the heritage of all Americans. We don't have to apologize for that.

The amendments would restrict the authority of the Secretary of the Interior with respect to acquisition of lands—authority that he has today. The effect of the amendments would be to limit the Secretary so that acquisitions would occur only on a willing-seller basis. The basic law that governs BLM lands provides this authority nationwide. Just the classification changes are no basis for such a restriction; if anything, such a tool is needed even more under these designations.

As a practical matter, Mr. Chairman, it is unlikely that there will be any significant acquisitions in the desert on any other basis. The American people, through the National Government, are already the major landowner there. The second largest landowner is the State of California which has school lands granted by the United States at the time California was admitted to the Union—and the State is not only willing, but eager, to transfer these lands to the National Government under the exchange provisions of the bill.

So, the amendments are not necessary. Furthermore, Mr. Chairman, as a matter of sound land management, the National Government should retain the option of making unrestricted acquisitions in those exceptional circumstances that may arise where that would be necessary to protect the public interest. By denying that option, these amendments en bloc would place an unnecessary and unwise restriction on the National Government.

Mr. Chairman, it is interesting that the gentleman from Texas wants to amend the bill in order to restrict the National Government in this way. The substitute bill offered by the Gentleman from California [Mr. LEWIS] did not include any such restriction—and the gentleman from Texas voted for that substitute, which suggests that his support for these restrictions is selective, and not across the board.

The en bloc amendments are unnecessary, unwise, and would be bad public policy. I urge their rejection by the House.

Mr. DELAY. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Mr. Chairman, I rise in support of this amendment. If there is no private land under this bill that is taken without the consent of the owner, then there should be no objection to the amendment. May I suggest respectfully, we have already $3 and $5 billion authorized private land that the Congress has not acquired. I believe very strongly that the protection of the private land is crucial. In fact, if the individual does not want to sell his land, he should not be required to do that.

The gentleman from Texas is absolutely correct. We own over 647 million acres of land in the United States and it does not take one nickel of taxes.

Remember, every acre of land that we take out and put into public ownership does not produce $1 for the workingman, nor does it produce any dollar for the Treasury to conduct the programs. Yet we continue to do that. So this is wrong. This is a simple amendment that says if the owner does not wish to sell that land, he does not have to sell the land. There is private land in this bill.

I urge adoption of the amendment.

Mr. LEHMAN of California. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. MILLER], chairman of the Committee on Interior and Insular Affairs.

Mr. MILLER of California. Mr. Chairman, the suggestion is somehow that this is a great land grab if we look here at the map, the blue is the State land. In the bill it says upon request of the State Lands Commission. The same is true for the biggest private land holder; 735 acres out of 830,000 acres is upon request of those landowners to engage in the exchange. The rest of it is protected not by the amendment of the gentleman from Texas [Mr. DELAY], not by this bill, but by the Constitution of the United States.

There is nothing we can do about that. People are entitled to that compensation should there be a taking. There will be no taking without compensation. That is the Constitution.

So the gentleman ought not to misrepresent the bill or misrepresent the facts. It is about upon request. On page 51, section 610 "Upon request the California State Lands Commission," and I think it is very important for Members to understand that.

The suggestion is here somehow this committee is willy-nilly going around scooping up lands in the California desert, and that is simply not the case. This is after years of study, and the private landowners, the State landowners have come to us and asked for those exchanges.

Mr. LEHMAN of California. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. Mr. Chairman, I thank the gentleman for yielding time to me.

The last amendment passed, and I think a number of Members were not aware fully of its impact. But they better be aware of the full impact of what this amendment does. This is the Liberty Lobby amendment.

Oh, it hurts. This will start unraveling the capability of the Federal Government to protect anything in this country; the Liberty Lobby would like to take all Government lands away from Government ownership.

This will start the ball rolling in that direction. Be very careful, my colleagues, there will be no protection of anything in this country, not the Everglades in Florida, not the national parks, and certainly not this property in California if we vote yes.

I urge my colleagues to vote "no." This can be one of the most devastating votes that they could make on this bill. It is wrong and the concept is wrong.

I say to our Republican colleagues, if they do not like it, they can vote against it, too.

Mr. LEHMAN of California. Mr. Chairman, I yield 30 seconds to the gentleman from California [Mr. LEVINE].

Mr. LEVINE of California. Mr. Chairman, I would just like to underscore two of the key issues here. No. 1, there is no taking of private land required by this bill, and we ought to get the facts straight.

In terms of the Catellus property and the State Lands property, seven-eighths of the properties here, those entities prefer exchanges. The exchange has been worked out. This is a red herring.

It is not necessary. It presents a danger that does not exist in the bill. I strongly urge a no vote on the DeLay amendment. It raises an assertion that is flatly false.

Mr. BLAZ. Mr. Chairman, I move to strike the last word.

Mr. DANNEMEYER. Mr. Chairman, will the gentleman yield?

Mr. BLAZ. I yield to the gentleman from California.

Mr. DANNEMEYER. Mr. Chairman, I would like to ask the gentleman from California [Mr. LEHMAN] a question. I

do not want to misstate him, but I thought I heard him say there is no private land to be taken in this land grab.

Mr. LEHMAN of California. Mr. Chairman, will the gentleman yield?

Mr. BLAZ. I yield to the gentleman from California.

Mr. LEHMAN of California. Mr. Chairman, that is correct.

Mr. DANNEMEYER. Mr. Chairman, if the gentleman will continue to yield, I ask the gentleman from California [Mr. LEHMAN] does he see this map?

Mr. LEHMAN of California. Mr. Chairman, if the gentleman will continue to yield, that is by request, as the gentleman from California stated it.

Mr. DANNEMEYER. Mr. Chairman, this is a map of the East Mojave area. On the legend the white is the private ownership that has existed there for sometime. The blue is the State land. The yellow is the BLM and look at the checkered white land on this map. This is private land. People are using it for all of the purposes for which private property exists in this country. And all the amendment of the gentleman from Texas [Mr. DELAY] says is that before this land grab can be successful with this private land, these private property owners have to consent.

I concede that the Government could take private land for building a road, or a school, or a highway, that is part of America.

1440

But this is different. Right now the Environmental Party in America wants to grab to itself all the land that it can. There are people in this movement in this country who believe that all undeveloped land belongs only in public ownership. I suggest that these private property owners have the right to say that before their land is part of this land grab they have to consent.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. BLAZ. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I thank the gentleman for yielding.

I want to follow up on the point Mr. DANNEMEYER has been making. There are a minimum of 584,000 acres of private land which would be affected by passage of H.R. 2929. Some suggest that these lands can be negotiated away by way of a trade for other public lands. The fact is that there has been no trade. Any private holder, whether they are a public interest or otherwise, that wants to try to trade with our agencies faces considerable delay and substantial doubt as to the final outcome.

In the meantime, the private landholders have been there for generations. They deserve a fair hearing, and assurance that they will get fair compensation for their land. Their voice should be heard when they agree to a transfer, before they agree to a transfer of that land.

Mr. THOMAS of California. Mr. Chairman, will the gentleman yield?

Mr. BLAZ. I yield to the gentleman from California.

Mr. THOMAS of California. Mr. Chairman, I thank the gentleman for yielding.

I think we should listen to the chairman of the committee very carefully. What he said was a right was guaranteed in the Constitution, and that is correct, a right for compensation. That is not what this amendment is about. The Chairman knows that.

There was the only asbestos-free talc mine in the United States that was taken, that was taken. Was there compensation? Yes. Was there permission? No. This amendment requires permission. That is all.

Mr. DELAY. Mr. Chairman, will the gentleman yield?

Mr. BLAZ. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Chairman, I appreciate the gentleman yielding.

I cannot believe what I am hearing. I have to charge that there are some serious misrepresentations going on here. I am not trying to inflame the passions of people that want to grab this land. All I am saying is let us have a little fairness here. If a group does not want to give up their land, then they should not have to. I am not attempting to do anything to compensation. If they have a land swap deal with private ownerships that went consent, my amendment does not touch that at all. But if in this case, if there is a landowner here that does not want to give up his land and there are private landowners here that do not want to give up their land, then they should not be made to do so.

I have a list of 23 organizations that agree with me. I think Members ought to really pay attention to what is going on here. What I am talking about is a land grab for no outrageous reason other than an environmental group wants to take land, more land, and put land into the environmental system. I am just trying to slow down what is happening here.

Mr. LEHMAN of California. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. The gentleman from California is recognized for 5 minutes under the rule.

Mr. LEHMAN of California. Mr. Chairman, I yield to the gentleman from Minnesota, [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I will just reiterate that we are not changing any of the laws with regard to the powers of the Secretary of the Interior. The Secretary of the Interior has the same powers under the proposals that are being made here generally that he has in terms of the public domain. In fact, with respect to the lands that have been illustrated here in terms of the Mojave National Monument, there is a special provision on page 53 of the bill that points out, and I will read it, Mr. Chairman, "Lands or interests therein within the boundary of the monument which are not owned by the State of California or any political subdivision may be acquired only with the consent of the owner," only with the consent of the owner.

There is an exception made if after written notice the owner had the opportunity for comment that the property was to somehow be developed in an adverse way within a national monument, that then we would have the opportunity, for instance, to stop such development, Mr. Chairman.

So the provisions of this bill are very reasonable. The powers that the Secretary has today are reasonable. We are not changing those powers generally. If anything, we are restricting them in this bill. We should not accept this type of general amendment which would take away the power of the Secretary of the Interior to manage the public lands and the designations that we are making in this bill.

Mr. Chairman, I request a no vote on the DeLay amendment.

Mr. LEHMAN of California. Mr. Chairman, it is amazing to me how selective Mr. DELAY is being with this amendment. Imagine the mischief in this country if this amendment were applied to the highway system. Imagine the mischief in this country if this amendment were applied to the military and expansion of military bases, one of which is being proposed under this legislation. There are no trades in the bill. There is a provision to allow for trades, a provision that has already been negotiated out with the entities that own seven-eighths of the property. There is no controversy over it.

We are talking here also, the Members should know, about State lands in California, land use for the State Teachers Retirement System. I hope the gentleman from California on the other side has no objection to that.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. LEHMAN of California. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Speaker, I think the gentleman from California [Mr. LEHMAN] just put his finger on it. Later tonight hopefully or early tomorrow morning you are going to vote on a $151 billion highway bill and transit bill. Which of you would put in the way of the transit or highway system in your State or your district this requirement, that one willing seller would hold up a highway, or buyer, because they chose not to do it?

For 75 years the Department of Interior has amassed what many of us refer to when we go back to our districts as

the crown jewels of this country: The National Park System, the national monuments, some of the wilderness areas. We talk about how proud we are, and the millions and millions of Americans that have visited them every day. This bill seeks to do for the desert that which we do for the Grand Tetons, that which we did for Yellowstone or for Glacier or for Olympic National Park, that which we did for Fire Island.

It is the same process but now we are into an ideological debate here about the Environmentalist Party seeking to violate the Constitution or people's rights.

But when you come here to expand a military base there will be no amendment about willing sellers and willing buyers. Later tonight, in a $151 billion transportation bill, none of you will give the right to a landowner in your district to delay a single highway, an off ramp, an access road, or a transit pass. None of you will do that because you know what this amendment does. This amendment simply creates mischief.

Yes, utilities and cities and States and the Federal Government from time to time have a right under eminent domain to take property. In this particular case, we have some three-quarters of the land where the sellers are excited to engage in an exchange. So let us keep our eye and understanding out of the ideological debate here about whether or not this is a taking or a willing seller and willing buyer. The gentleman knows exactly what his amendment does.

There will later be amendments offered in this process to expand Fort Irwin or to engage in the military, and I suspect that not the gentleman or anyone else will suggest that the willing seller, willing buyer provision would stand in the way of that provision.

The CHAIRMAN. All time has expired.

The question is on the amendment en bloc offered by the gentleman from Texas [Mr. DELAY].

The question was taken; and the Chair being in doubt, the Committee divided and there were—ayes 43, noes 43,

RECORDED VOTE

Mr. DELAY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 143, noes 289, not voting 2, as follows:

[Roll No. 430]

AYES—143

Allard	Ballenger	Bruce
Allen	Barrett	Bunning
Anderson	Barton	Burton
Anthony	Bentley	Byron
Applegate	Bilirakis	Callahan
Archer	Billey	Chandler
Armey	Boehner	Chapman
Baker	Broomfield	Clinger
Coble	Houghton	Poshard
Coleman (MO)	Hunter	Pursell
Combest	Hutto	Quillen
Costello	Hyde	Regula
Cox (CA)	Inhofe	Rhodes
Crane	Ireland	Ridge
Cunningham	Johnson (TX)	Ritter
Dannemeyer	Kasich	Roberts
Davis	Kolbe	Rogers
DeLay	Kyl	Rohrabacher
Dickinson	Lagomarsino	Santorum
Doolittle	Laughlin	Schaefer
Dorgan (ND)	Leach	Schulze
Dornan (CA)	Lewis (CA)	Sensenbrenner
Dreier	Lewis (FL)	Shaw
Duncan	Lightfoot	Shuster
Edwards (OK)	Livingston	Skeen
Emerson	Marlenee	Smith (IA)
Ewing	Martin	Smith (OR)
Fields	McCandless	Smith (TX)
Franks (CT)	McCrery	Snowe
Gallegly	McEwen	Solomon
Gallo	McMillan (NC)	Spence
Gekas	Michel	Stallings
Gilchrest	Miller (OH)	Stenholm
Gillmor	Molinari	Stump
Gingrich	Moorhead	Sundquist
Goodling	Morrison	Tallon
Grandy	Myers	Tauzin
Hall (TX)	Nichols	Taylor (MS)
Hammerschmidt	Nussle	Taylor (NC)
Hancock	Ortiz	Thomas (CA)
Hansen	Orton	Thomas (WY)
Hastert	Oxley	Vucanovich
Hayes (LA)	Packard	Walker
Hefley	Panetta	Walsh
Herger	Paxon	Wylie
Hobson	Penny	Young (AK)
Holloway	Peterson (MN)	Young (FL)
Hopkins	Petri	

NOES—289

Abercrombie	Dellums	Hoagland
Ackerman	Derrick	Hochbrueckner
Alexander	Dicks	Horn
Andrews (ME)	Dingell	Horton
Andrews (NJ)	Dixon	Hoyer
Andrews (TX)	Donnelly	Hubbard
Annunzio	Dooley	Huckaby
Aspin	Downey	Hughes
Atkins	Durbin	Jacobs
AuCoin	Dwyer	James
Bacchus	Dymally	Jefferson
Barnard	Early	Jenkins
Bateman	Eckart	Johnson (CT)
Beilenson	Edwards (CA)	Johnson (SD)
Bennett	Edwards (TX)	Johnston
Bereuter	Engel	Jones (GA)
Berman	English	Jones (NC)
Bevill	Erdreich	Jontz
Bilbray	Espy	Kanjorski
Blackwell	Evans	Kaptur
Boehlert	Fascell	Kennedy
Bonior	Fawell	Kennelly
Borski	Fazio	Kildee
Boucher	Feighan	Kleczka
Boxer	Fish	Klug
Brewster	Flake	Kolter
Brooks	Foglietta	Kopetski
Browder	Ford (MI)	Kostmayer
Brown	Ford (TN)	LaFalce
Bryant	Frank (MA)	Lancaster
Bustamante	Frost	Lantos
Camp	Gaydos	LaRocco
Campbell (CA)	Gejdenson	Lehman (CA)
Campbell (CO)	Gephardt	Lehman (FL)
Cardin	Geren	Lent
Carper	Gibbons	Levin (MI)
Carr	Gilman	Levine (CA)
Clay	Glickman	Lewis (GA)
Clement	Gonzalez	Lipinski
Coleman (TX)	Gordon	Lloyd
Collins (IL)	Goss	Long
Collins (MI)	Gradison	Lowey (NY)
Condit	Green	Luken
Conyers	Guarini	Machtley
Cooper	Gunderson	Manton
Coughlin	Hall (OH)	Markey
Cox (IL)	Hamilton	Martinez
Coyne	Harris	Matsui
Cramer	Hatcher	Mavroules
Darden	Hayes (IL)	Mazzoli
de la Garza	Hefner	McCloskey
DeFazio	Henry	McCollum
DeLauro	Hertel	McCurdy
McDade	Pickle	Spratt
McDermott	Porter	Staggers
McGrath	Price	Stark
McHugh	Rahall	Stearns
McMillen (MD)	Ramstad	Stokes
McNulty	Rangel	Studds
Meyers	Ravenel	Swett
Mfume	Ray	Swift
Miller (CA)	Reed	Synar
Miller (WA)	Richardson	Tanner
Mineta	Riggs	Thomas (GA)
Mink	Rinaldo	Thornton
Moakley	Roemer	Torres
Mollohan	Ros-Lehtinen	Torricelli
Montgomery	Rose	Towns
Moody	Rostenkowski	Traficant
Moran	Roth	Traxler
Morella	Roukema	Unsoeld
Mrazek	Rowland	Upton
Murphy	Roybal	Valentine
Murtha	Russo	Vander Jagt
Nagle	Sabo	Vento
Natcher	Sanders	Visclosky
Neal (MA)	Sangmeister	Volkmer
Neal (NC)	Sarpalius	Washington
Nowak	Savage	Waters
Oakar	Sawyer	Waxman
Oberstar	Saxton	Weber
Obey	Scheuer	Weiss
Olin	Schiff	Weldon
Olver	Schroeder	Wheat
Owens (NY)	Schumer	Whitten
Owens (UT)	Serrano	Williams
Pallone	Sharp	Wilson
Parker	Shays	Wise
Pastor	Sikorski	Wolf
Patterson	Sisisky	Wolpe
Payne (NJ)	Skaggs	Wyden
Payne (VA)	Skelton	Yates
Pease	Slattery	Yatron
Pelosi	Slaughter	Zeliff
Perkins	Smith (FL)	Zimmer
Peterson (FL)	Smith (NJ)	
Pickett	Solarz	

NOT VOTING—2

Lowery (CA)	Roe

□ 1512

Mr. REED changed his vote from "aye" to "no."

Mr. APPLEGATE and Mr. RIDGE changed their vote from "no" to "aye."

So the amendments en bloc were rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 6 printed in House Report 102-314.

AMENDMENTS EN BLOC OFFERED BY MR. ALLARD

Mr. ALLARD. Mr. Chairman, pursuant to the rule, I offer amendments en bloc.

The CHAIRMAN. The Clerk will designate the amendments en bloc.

The text of the amendments en bloc is as follows:

Amendments en bloc offered by Mr. ALLARD:

Page 60, line 17, after "by this Act," insert the following: "and subject to the limitations set forth in subsection (e),".

Page 61, after line 15, insert the following:

(e) With respect to the Havasu and Imperial Wilderness areas designed by section 111(a) of this Act, no rights to water of the Colorado are reserved, either expressly, impliedly, or otherwise.

The CHAIRMAN. Under the rule, the gentleman from Colorado [Mr. ALLARD] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

Does the gentleman from California [Mr. LEHMAN] rise in opposition to the amendment?

Mr. LEHMAN of California. Yes, Mr. Chairman.

The CHAIRMAN. The gentleman from California [Mr. LEHMAN] will be recognized for 5 minutes in opposition to the amendment.

The Chair recognizes the gentleman from Colorado [Mr. ALLARD].

Mr. ALLARD. Mr. Chairman, I offer amendments en bloc today to prevent a Federal reserve water right created in the California Desert Protection Act from interfering with the Colorado River Compact. The amendment I have today has been voted on by this body before. It was passed in the Arizona Wilderness Act of 1990.

Mr. Chairman, this amendment has been taken word for word from that provision. This amendment applies to the same refugee areas, the Imperial and the Havasu refuge areas. It has an unintended consequence not brought to our attention until after the full committee. The only difference is this bill affects the California side of the Colorado River which divides these same refuge areas.

Mr. Chairman, this is an important issue. I know it was not the intent of the sponsors to introduce a bill to this body that will undo the extremely complicated and fragile Colorado River Compact system. We must not let Federal reserve water rights take precedence over the Colorado River Compact worked out by California, Arizona, Nevada, Utah, New Mexico, Colorado, and Wyoming.

Mr. Chairman, the Committee on Interior and Insular Affairs in its report on H.R. 2889 states its intent that the bill would not affect water rights on the Colorado River, but the report is not legally binding. The report language offered by the committee after passing the Arizona bill recognized the fact that it does not have the law behind it. My amendment puts into law this clarification.

I hope the sponsors will view this as a friendly amendment.

Mr. Chairman, I yield 1 minute to the gentleman from Colorado [Mr. HEFLEY].

Mr. HEFLEY. Mr. Chairman, I thank the gentleman from Colorado [Mr. ALLARD] for yielding this time to me.

Mr. Chairman, I rise in support of the amendment offered by my friend, the gentleman from Colorado [Mr. ALLARD]. Mr. ALLARD's amendment clarifies the intent of Congress with respect to wilderness water rights for the Colorado River. This amendment is identical to one added to last year's Arizona Desert Wilderness Act. That law has now been embraced as boilerplate for the water law throughout the Western States.

Mr. Chairman, the Colorado River supplies water for the rest of the West. The Colorado is at the center of a body of law intended to safeguard the rights and needs of all. It is essential then that any legislation be neutral in its impact on the river or on the water compacts and water rights associated with it.

The amendment of the gentleman from Colorado [Mr. ALLARD] provides this safeguard in a way that builds on past precedent and improves the underlying bill, and I urge my colleagues to join me in voting for this amendment.

Mr. ALLARD. Mr. Chairman, I reserve the balance of my time.

Mr. LEHMAN of California. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I am rising in opposition to the amendments en bloc offered by the gentleman from Colorado [Mr. ALLARD], and I understand the gentleman's statement, that he means this not as a harmful amendment to the bill. He is trying to clarify something.

Mr. Chairman, we are opposed on this side. We think the amendment is unnecessary, and we fear it could create problems that might not be anticipated right now.

The boundaries of the wilderness area in question were specifically drawn above the historic high-water mark just to make sure that there was no question as to whether the Colorado River would be involved. The lines were drawn above the high water mark.

The report language specifically states, and I quote from it:

> The Committee notes, with regard to this section on water rights, that boundaries of both of the Wildlife Refuge wilderness units designated in section 111 are above the historic high water mark of the Colorado River. Neither of these wilderness areas include any portion of the Colorado River. Therefore, the express reservation of water for wilderness purposes in section 608 does not affect the Colorado River, its water management or any compacts associated with it.

□ 1520

Finally, the Colorado River is 100 percent appropriated whether we in California like that or not, and there is no water right there for the Federal Government to obtain. We have taken care of the problem in the legislation. The area in question is not included, and the report language adequately clarifies that.

Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, I appreciate what the gentleman from Colorado [Mr. ALLARD] is trying to do, and I understand why they are offering the amendment, but I must say that I think that in fact this amendment is somewhat mischievous as to what is really settled law with respect to the compact, and to suggest that somehow a Federal water right could be perfected in the lower basin and then somebody could go to the northern basin to perfect that water right is to stand the compact on its head. I would really raise the question with the gentleman that to pursue this amendment and lend that suggestion, whether it is in this bill or whether it is the question of that being opened up, raises a question, and I would ask him if he might reconsider.

We have worked with the gentleman. We recognize the concerns of all the parties to the compact. As the gentleman from California [Mr. LEHMAN] pointed out, the boundaries have been drawn in a very conservative fashion, recognizing there is no abutment to the Colorado River. I really raise this issue in all sincerity, that to suggest anybody in the southern basin could perfect a water right in any fashion where there is no water and then somehow go and deal with that in the north, I think the legislation speaks to that and I would hope the Members would oppose the amendment.

The CHAIRMAN. The time of the gentleman from California [Mr. MILLER] has expired.

Mr. LEHMAN of California. Mr. Chairman, I yield 1 additional minute to the gentleman from California [Mr. MILLER].

Mr. ALLARD. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Colorado.

Mr. ALLARD. Mr. Chairman, I would just like to point out to the gentleman from California that the language we have in this amendment is the exact same language that is in the Arizona Wilderness Act, and this particular language was a hard-fought compromise in 1990 when that language came through, and the same set of facts that applied in that period of time still apply at this time.

I think this is a very important amendment, and I would ask that the sponsor of the bill go ahead and accept the amendment. It is really a technical amendment.

Mr. MILLER of California. Mr. Chairman, reclaiming my time, I understand that.

The CHAIRMAN. The time of the gentleman from California [Mr. MILLER] has expired.

Mr. ALLARD. Mr. Chairman, I yield 1 minute to the gentleman from Arizona [Mr. RHODES.]

Mt. RHODES. Mr. Chairman, I thank the gentleman for yielding time to me.

The Imperial Havasu Refuge is astraddle the river. On the Arizona side of the river, the law specifically says that as to those refuges there is no Federal reserve water right in the Colorado River. If as to the California side of the two refuges we are silent except for report language, my concern is that we are lending confusion to the managers of those lands.

My concern also is having the report language refer to the historical high-water mark of the river. Those of us who live in both Arizona and California know that that river fluctuates both in terms of width and breadth and also

height frequently and historically, and the historical high-water mark of the river could well not be the historical high-water mark of the river once you Californians get over your drought and the river gets back to where it is supposed to be.

It simply seems to me that consistency calls for having the language defining the water rights or the lack of water rights of these two refuges be consistent on both sides of the river.

Mr. Chairman, I urge adoption of the Allard amendment.

The CHAIRMAN. The gentleman from Colorado [Mr. ALLARD] has 1 minute remaining, and the gentleman from California [Mr. LEHMAN] has 2½ minutes remaining.

Mr. LEHMAN of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would just like to reiterate what Chairman MILLER suggested here. We do not mean any mischief on this side as far as what water rights are going to be under the legislation. There is a possibility of talking about this and trying to work it out. If you think the language on this side does some harm to you, let me just say that we are not willing at this time to accept the language that you have, not knowing what the impacts of it might be down the line.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. LEHMAN of California. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I would ask the gentleman from Colorado whether there are any areas of this wilderness in the bill that touch the Colorado River. The fact is that they do not, so that being the case, does the gentleman believe a wilderness could have a water right outside the wilderness boundaries?

That is what this is about. We are setting some precedents here in terms of granting water rights outside. A lot of people argue about water rights within a wilderness. Now, this language would suggest that the water rights of the wildness somehow go outside. This does not even touch the Colorado River.

I might say, with reference to the hard-fought Arizona water language, that we really did not have any debate at all on that particular portion of the water rights. It came back from the Senate. I was the manager, along with Congressman Udall. We accepted it. It was not necessary in the Arizona bill, and it is not necessary in this bill.

I think the mischief is that you are, I think, accidentally trying to create water rights outside of a wilderness that do not exist. We argue about them within. There is no reason to try to suggest there are water rights outside. We are not suggesting that, and we hope the gentleman from Colorado is not suggesting it.

Mr. ALLARD. Mr. Chairman, will the gentleman yield?

Mr. LEHMAN of California. I yield to the gentleman from Colorado.

Mr. ALLARD. The precedent has been set in the Arizona wilderness bill. We are just using the same language. We are even applying it to the same refuge area.

Mr. VENTO. Mr. Chairman, if the gentleman from California will yield further, yes, the precedent has been set. It is a bad precedent, and we ought not duplicate it here, because you are extending it outside the wilderness where there is no wilderness designation. It is a bad precedent, and we should not set it.

Mr. LEHMAN of California. Mr. Chairman, I would suggest that the gentleman is also setting a bad precedent for his own purposes in that if this were to pass, in future acts, if there were nothing done with respect to rivers outside a wilderness area, somebody might interpret that because nothing was done, there might be a right there, and that would certainly harm interests that were not intended to be harmed under this legislation.

Mr. Chairman, I urge a "no" vote on the amendment.

The CHAIRMAN. The gentleman from Colorado [Mr. ALLARD] has 1 minute remaining.

Mr. ALLARD. Mr. Chairman, I yield my remaining 1 minute to the gentleman from Utah [Mr. ORTON].

Mr. ORTON. Mr. Chairman, I rise in strong support of this amendment. It is designed to accomplish one simple but essential goal. It clarifies that the California Desert Protection Act has absolutely no impact on the carefully balanced compact which determines water rights in the Colorado River.

Water is absolutely essential to life for those of us who live in the arid west. Our agriculture, industry, and even the population density in our dry Western States could not exist without a very well-developed system to store, transport and efficiently utilize water. My own State of Utah is the second driest in the Nation. Water is our life blood and is an issue of overriding importance to us. I realize that it is hard for those of my colleagues from States with higher levels of precipitation to understand our overriding preoccupation with water.

Almost 40 years ago, the States in the Colorado River Basin finally arrived at an agreement on how the flow of the Colorado River would be utilized. This Colorado River Basin compact was enacted into law and has worked well in the years since. Like most water agreements, it is a very delicately balanced compromise between competing interests.

In the Western States there is never enough water. That is the reality we must always live with. So the water which is available must be clearly allocated among many competing uses.

What this amendment will do is simply ensure that the carefully crafted agreement among the Colorado River Basin States is not inadvertently upset by the legislation before us to designate wilderness in California.

This is a simple amendment which is identical to one which the House has placed in previous legislation. When the Congress enacted the Arizona wilderness bill in the last session, it included this identical provision. We are asking for nothing more than what has already been agreed to in the past to ensure that the rights to water in the Colorado are not affected by wilderness designation.

There is another important element of this issue which I hope all of my colleagues will consider. When the Congress enacted the Wilderness Act in 1964, and FLPMA in 1976, it created wilderness designation as a category or system of management of public lands. I can find no provision of either act which would create any water rights attached to public lands or being reserved to the Federal Government. Water rights lie within the jurisdiction of the separate States and must be reserved to the States, not preempted by the Federal Government. While water is perhaps more essential to those of us who live in areas where it is scarce, the question raised by claims of Federal reserved water rights is one which goes far beyond the arid public land States of the West. I would submit that ownership of water rights is vital to every State. Whether it is for municipal use, transportation, agriculture, industry, or recreation, the rights and responsibilities of the various States versus the Federal Government is a question which must be reserved to State statute.

I would urge all my colleagues to realize the true implications of this amendment and support it.

The CHAIRMAN. All time for debate has expired.

Mr. BLAZ. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. The gentleman from Guam [Mr. BLAZ] is recognized for 5 minutes.

Mr. BLAZ. Mr. Chairman, I yield to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Chairman, I thank the gentleman for his time.

There is no question for those of us who come from the arid public land States that there is nothing more important than water rights. There is nothing more important to us than having it clearly defined in the law where we stand in the future with regard to water. It has to do with the shifting of rivers, it has to do with the use of the boundary, a boundary of the wilderness or a park area. The shifting may change that. It has particular importance in the Colorado River where

we have now congressionally approved compacts between the upper and the lower.

I think this amendment is simply designed to make it certain that we do not find ourselves in court wondering what the interpretation of the law would be, and I certainly stand in support of the amendment offered by the gentleman from Colorado [Mr. ALLARD].

Mr. BLAZ. Mr. Chairman, I yield to the gentleman from Utah [Mr. HANSEN].

Mr. HANSEN. Mr. Chairman, I rise in strong support of the Allard amendment.

Mr. BLAZ. Mr. Chairman, I yield to the gentleman from Colorado [Mr. ALLARD].

□ 1530

MR. ALLARD. Mr. Chairman, I would just summarize by quickly saying I think this is an important amendment. I think a precedent has been set prior to this time, and we need to continue it in order to honor it in this body. So I am going to ask for a yes vote on the Allard amendment.

Mr. OWENS of Utah. Mr. Chairman it is clear from the report language of the committee that there is no intention to effect a reserved water right to the Colorado River in this wilderness bill. The boundaries of the wilderness areas in the Imperial and Havasu National Wildlife Refuges next to the river do not even extend to the historic high water mark—a sure indication that no reserved water right is sought on the Colorado River.

That having been said, while there is no clear need for this amendment, I also do not see the harm in clarifying the committee's intent directly in the text of the bill. In any case, this legislation is not likely to emerge from the Senate without this language which mirrors the language the Senate added to the Arizona Wilderness Area last year for the same refuges on the other side of the Colorado River.

Nothing causes as much suspicion and consternation in the West, especially in Upper Basin States like Utah, as the possibility that rights under the Colorado River Compact might be affected. We can allay those fears simply by establishing that the intent of this bill was not to establish a Federal reserved water right on the Colorado. When proponents of wilderness, myself included, can make rational compromises, then I think we should. Even as I vote for this amendment, I want my colleagues to understand that I am in no way repudiating the Winters Doctrine and the importance of Federal reserved water rights to wilderness areas. I believe that wilderness is entitled to the water necessary to fulfill the purpose of its establishment. I am simply saying that we should, as much as possible, signal our willingness to work to calm fears and exhibit a spirit of compromise on issues this emotionally powerful.

Mr. BLAZ. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendments en bloc offered by the gentleman from Colorado [Mr. ALLARD].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. ALLARD. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 155, noes 274, not voting 5, as follows:

[Roll No. 431]

AYES—155

Allard	Hall (TX)	Packard
Allen	Hancock	Pastor
Archer	Hansen	Paxon
Armey	Hastert	Pickle
Baker	Hayes (LA)	Porter
Ballenger	Hefley	Pursell
Barrett	Henry	Quillen
Barton	Herger	Ramstad
Bateman	Hobson	Regula
Bentley	Holloway	Rhodes
Bereuter	Hopkins	Riggs
Bilirakis	Houghton	Roberts
Bliley	Hunter	Rogers
Boehner	Hyde	Rohrabacher
Broomfield	Inhofe	Santorum
Bunning	Ireland	Schaefer
Burton	James	Schiff
Callahan	Johnson (TX)	Schulze
Camp	Kasich	Sensenbrenner
Campbell (CO)	Klug	Shaw
Chandler	Kolbe	Shuster
Clinger	Kolter	Sisisky
Coble	Kyl	Skeen
Coleman (MO)	LaRocco	Skelton
Combest	Laughlin	Smith (OR)
Cox (CA)	Lewis (CA)	Smith (TX)
Crane	Lewis (FL)	Solomon
Cunningham	Lightfoot	Spence
Dannemeyer	Livingston	Stallings
Davis	Lowery (CA)	Stearns
DeLay	Marlenee	Stenholm
Dickinson	Martin	Stump
Doolittle	McCandless	Sundquist
Dornan (CA)	McCollum	Swift
Dreier	McCrery	Tauzin
Duncan	McDade	Taylor (NC)
Early	McEwen	Thomas (CA)
Edwards (OK)	McMillan (NC)	Thomas (WY)
Emerson	Meyers	Upton
Ewing	Michel	Vander Jagt
Fawell	Miller (OH)	Volkmer
Fields	Miller (WA)	Vucanovich
Franks (CT)	Molinari	Walker
Gallo	Moorhead	Weber
Gekas	Moran	Williams
Gillmor	Morrison	Wolf
Gingrich	Myers	Wylie
Goodling	Nichols	Young (AK)
Goss	Nussle	Young (FL)
Gradison	Orton	Zeliff
Grandy	Owens (UT)	Zimmer
Gunderson	Oxley	

NOES—274

Abercrombie	Boxer	Coyne
Ackerman	Brewster	Cramer
Alexander	Brooks	Darden
Anderson	Browder	de la Garza
Andrews (ME)	Brown	DeFazio
Andrews (NJ)	Bruce	DeLauro
Andrews (TX)	Bryant	Dellums
Annunzio	Bustamante	Derrick
Anthony	Byron	Dicks
Applegate	Campbell (CA)	Dingell
Aspin	Cardin	Dixon
Atkins	Carper	Donnelly
AuCoin	Carr	Dooley
Bacchus	Chapman	Dorgan (ND)
Barnard	Clay	Downey
Beilenson	Clement	Durbin
Bennett	Coleman (TX)	Dwyer
Berman	Collins (IL)	Dymally
Bevill	Collins (MI)	Eckart
Bilbray	Condit	Edwards (CA)
Blackwell	Conyers	Edwards (TX)
Boehlert	Cooper	Engel
Bonior	Costello	English
Borski	Coughlin	Erdreich
Boucher	Cox (IL)	Espy
Evans	Lipinski	Ritter
Fascell	Lloyd	Roemer
Fazio	Long	Ros-Lehtinen
Feighan	Lowey (NY)	Rose
Fish	Luken	Rostenkowski
Flake	Machtley	Roth
Foglietta	Manton	Roukema
Ford (MI)	Markey	Rowland
Ford (TN)	Martinez	Roybal
Frank (MA)	Matsui	Russo
Frost	Mavroules	Sabo
Gallegly	Mazzoli	Sanders
Gaydos	McCloskey	Sangmeister
Gejdenson	McCurdy	Sarpalius
Gephardt	McDermott	Savage
Geren	McGrath	Sawyer
Gibbons	McHugh	Saxton
Gilchrest	McMillen (MD)	Scheuer
Gilman	McNulty	Schroeder
Glickman	Mfume	Schumer
Gonzalez	Miller (CA)	Serrano
Gordon	Mineta	Sharp
Green	Mink	Shays
Guarini	Moakley	Sikorski
Hall (OH)	Mollohan	Skaggs
Hamilton	Montgomery	Slattery
Harris	Moody	Slaughter
Hatcher	Morella	Smith (FL)
Hayes (IL)	Mrazek	Smith (IA)
Hefner	Murphy	Smith (NJ)
Hertel	Murtha	Snowe
Hoagland	Nagle	Solarz
Hochbrueckner	Natcher	Spratt
Horn	Neal (MA)	Staggers
Horton	Neal (NC)	Stark
Hoyer	Nowak	Stokes
Hubbard	Oakar	Studds
Huckaby	Oberstar	Swett
Hughes	Obey	Synar
Hutto	Olin	Tallon
Jacobs	Olver	Tanner
Jefferson	Ortiz	Taylor (MS)
Jenkins	Owens (NY)	Thomas (GA)
Johnson (CT)	Pallone	Thornton
Johnson (SD)	Panetta	Torres
Jones (GA)	Parker	Torricelli
Jones (NC)	Patterson	Towns
Jontz	Payne (NJ)	Traficant
Kanjorski	Payne (VA)	Traxler
Kaptur	Pease	Unsoeld
Kennedy	Pelosi	Valentine
Kennelly	Penny	Vento
Kildee	Perkins	Visclosky
Kleczka	Peterson (FL)	Walsh
Kopetski	Peterson (MN)	Waters
Kostmayer	Petri	Waxman
LaFalce	Pickett	Weiss
Lagomarsino	Poshard	Weldon
Lancaster	Price	Wheat
Lantos	Rahall	Whitten
Leach	Rangel	Wise
Lehman (CA)	Ravenel	Wolpe
Lehman (FL)	Ray	Wyden
Lent	Reed	Yates
Levin (MI)	Richardson	Yatron
Levine (CA)	Ridge	
Lewis (GA)	Rinaldo	

NOT VOTING—5

Hammerschmidt	Roe	Wilson
Johnston	Washington	

□ 1554

Mr. HYDE changed his vote from "no" to "aye."

So the amendments en bloc were rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 7 printed in House Report 102-314.

AMENDMENT OFFERED BY MR. DANNEMEYER

Mr. DANNEMEYER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. DANNEMEYER: Page 61, line 7, after section 611 insert the following new section:

ECONOMIC IMPACT STATEMENT

SEC. 612. (a) Notwithstanding any other provision of this Act, lands in the State of California designated in sections 102, 402, and 501 of this Act shall not be designated as wilderness or established as a national park or monument unless—

(1) the Secretary has prepared an economic impact analysis with respect to each land designation;

(2) the Secretary determines, based on that analysis, that the environmental benefits of each land designation outweigh the economic costs of each land designation; and

(3) the Secretary publishes an economic impact statement describing the findings of that analysis.

(b)(1) The Secretary shall perform an economic impact analysis in accordance with this paragraph with respect to each land designation in sections 102, 402, and 501.

(2) An economic impact analysis under this paragraph shall include the following:

(A) The economic consequences of each land designation, including aggregate statistical data which indicates—

(i) identifiable and potential job losses or diminishments resulting from a designation,

(ii) identifiable losses or diminishments in the value of real property resulting from a designation; and

(iii) losses or diminishments in the value of business enterprises resulting from a designation.

(B) The effect that a designation will have on revenues received by the Federal Government or by State and local governments, including any revenue losses attributable to losses or diminishments in value described in clause (i).

(C) The effects that a designation will have on outlays by Federal, State, and local governments, including—

(i) effects on payments made pursuant to paragraph (1),

(ii) effects on expenditures required for Federal unemployment compensation, aid to families with dependent children, medicaid, and other Federal, State, and local programs,

(iii) the effect that a designation will have on the competitive position of any individual business or aggregate industry affected by a designation, determined jointly with the Secretary of Commerce, and

(iv) any other potential economic, budgetary, or ecological effects that the Secretary considers appropriate.

(c) Not later than one year after the date of enactment, the Secretary shall determine, based on the analysis performed under paragraph (2), whether the economic costs of each designation outweigh the environmental benefits of each designation.

(d) In implementing this Act with respect to each land designation in subsections 102, 402, and 501, the Secretary shall limit losses incurred by persons as a result of each land designation.

(e) The Secretary shall pay to any person who incurs an economic loss as a result of a land designation the amount of that loss, including—

(1) any diminishment in the value of tangible or intangible property, and

(2) any loss resulting from the loss or diminishment of a job.

(f) The Secretary shall issue regulations establishing procedures for obtaining payments under this subsection.

(g) A person may not recover any amount under this subsection for any de minimis or wholly speculative loss.

(h) Any denial by the Secretary of an application for payment under this subsection may be appealed in the appropriate Federal district court of the United States, including any determination by the Secretary that a person is ineligible for payment by reason of paragraph (3).

(i) Any person (including any State or local governmental entity) may intervene in any proceeding under this subsection for the purpose of assisting the Secretary in issuing payments under this subsection to individuals or businesses who suffer demonstrable loss as a result of a land designation.

The CHAIRMAN. Under the rule, the gentleman from California [Mr. DANNEMEYER] will be recognized for 5 minutes and a Member opposed will be recognized for 5 minutes.

Is the gentleman from California [Mr. LEHMAN] opposed to the amendment?

Mr. LEHMAN of California. I am, Mr. Chairman.

The CHAIRMAN. The gentleman from California [Mr. LEHMAN] will be recognized for 5 minutes.

The Chair recognizes the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this map to my left tells quite a story. The western United States is owned predominantly by the Federal Government. Government ownership of land in my State of California is about 46 percent of the 100 million acres.

These landgrabbers today want some more land, another 4.5 million acres.

Our world really is turned upside down, because we have an Endangered Species Act which has been in the law since 1973, which requires an environmental impact statement to determine whether or not we are going to list one of these critters on the list of endangered species.

In my State of California we have seen thousands of people in the lumber industry in northern California out of work because of the spotted owl. In my area of southern California, the Least Bell's bireo, a little bird, threatens the whole Santa Ana River flood control project.

There is nothing in this Endangered Species Act that gives any consideration to the impact on jobs and businesses and private property when we list one of these critters. I say it is high time in this country, Mr. Chairman, that we have a law which says that we should recognize jobs, and people, and businesses, and private property at least on the same basis as we recognize critters. What is more important in this world, people or animals?

Our world is turned upside down. The Environmental Party likes it that way. They want to preserve the creation, worship the creation rather than the Creator, and I say just the opposite should be the case.

All my amendment does is say that we have to prepare an economic impact statement in order to determine what the impact is going to be on jobs, on property and businesses if this law comes into existence.

When Members read the report on pages 70 and 71, it is uncertain as to what the cost is going to be. Now they have conveniently shunted aside any evaluation of the minerals under the ground. It so happens in my State of California that the mineral reserves are estimated at $360 billion.

Mr. ROHRABACHER. Mr. Chairman, will the gentleman yield?

Mr. DANNEMEYER. I yield to my friend from California.

Mr. ROHRABACHER. Mr. Chairman, let us note that in the middle of the worst drought in California history, 1.8 billion gallons of water were dumped into the ocean because of a bird nest on the Prado Dam. Things are topsy-turvy. The gentleman is right. We are putting more value on the life of small critters and things rather than on human life and the lifestyles of the people themselves.

I think that this body should have some reflection on the values that our legislation maintains in this country.

□ 1600

Mr. DANNEMEYER. I thank my colleague for his comment.

Mr. Chairman, this economic impact statement that I ask be adopted would show that we in California lead all States in the production of asbestos, borates, portland cement, diatomite, calcined gypsum, construction sand and gravel, tungsten, yttrium, and rare earths.

We have over 40,000 people working in the mining industry in the State of California, about 20,000 of them are going to be put out of work.

Now, the unemployment rate in California today is 7.3 percent. That is a half a percentage point higher than the Nation.

We have been talking in this Chamber in the last few days about jobs creation. This bill is a Job Unemployment Act of 1991 waiting to be adopted.

Where in the world in the tender concern in the hearts of the Democrat leadership who are pushing this bill for the 20,000 people who are going to be put out of work in the mining industry in the State of California if this turkey becomes law?

I do not understand this at all, and this is the reason for this economic impact statement which would also show that each $1 million in mining output in the desert provides about 15.1 jobs, $334,000 plus of personal income, $28,000 in local tax revenues, $47,000 in State tax revenues, and $1.8 million overall to the southern California economy.

Gold production in the desert area is about 400,000 ounces in 1989.

We have 12 of 21 geothermal sites in California or in the desert that supply about 450,000 watts of power.

Mr. ROHRABACHER. Mr. Chairman, will the gentleman yield for a question?

Mr. DANNEMEYER. I yield to my colleague, the gentleman from California.

Mr. ROHRABACHER. Mr. Chairman, there has been a lot of talk in this body about which party represents the working men and women of America.

I would like to know how this proposal the gentleman is making today affects them.

The CHAIRMAN. The time of the gentleman from California [Mr. DANNEMEYER] has expired.

Mr. LEHMAN of California. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, the other gentleman from California has talked here for 5 minutes about the Endangered Species Act. The Endangered Species Act is not in this bill. The Endangered Species Act is not affected by this bill, nor will it be affected by the gentleman's amendment.

No one who wants any level of protection, no matter how minimal it is on the California desert, could support the amendment of the gnetleman from California [Mr. DANNEMEYER].

The gentleman from California [Mr. LEWIS] did not have this provision in his substitute before us last week. Even in the substitute of the gentleman from California [Mr. LEWIS] the findings state:

It is in the national interst that these wilderness areas be promptly designated as components of the National Wilderness Preservation system.

The purpose of this amendment is to make sure that they are never designated. It is an amendment to delay forever.

But what about the economic consequencies? It is not as if they had not been studied.

Again I quote from the U.S. Geological Survey:

The prospects for future mineral discoveries in the Mojave are relatively poor. In the parlance of mineral resources, this does not appear to be an area of world calss deposits.

None of the 14 minerals identified by the Office of Technology Assessment of meeting the criteria for strategic minerals is produced anywhere in the Calfiornia desert conservation area.

The Mountain Pass Mine which produces 97 percent of the U.S. output of rare earth minerals is excluded from the boundaries of the Mojave Monument.

This idea that there are thousands of jobs lost is ludicrous. In 1990, the U.S. Department of Commerce statistics state there were 1,100 mining jobs in all of San Bernardino County, and understand that the mines in wilderness areas are protected. Understand that the other major ones have been taken out. Understand that when the national monument is created there will be many, many new jobs associated with that monument in its place.

Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. LEVINE].

Mr. LEVINE of California. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, I actually think in general in concept the idea of an economic impact statement has some merit, I do not believe it has any merit as applied to this particular bill for several reasons.

First of all, this bill has been around now for 5 years. This is the third Congress that has looked at this bill. We have had extensive hearings.

This proposal, this suggestion, has never been made at the committee level, has never been made at the subcommittee level, and frankly what an impact statement would be designed to review has been studied very thoroughly in the deliberations leading up to the floor consideration of this bill.

As the gentleman from California [Mr. LEHMAN] has indicated, mines within the boundaries of this legislation are protected.

This does not put people out of work. This does not cost jobs. This bill simply does not deal with any of the things that the author of the amendment suggested that it would do.

The fact of the matter is that this is a proposal in terms of Death Valley, in terms of Johua Tree, in terms of the East Mojave. It has been looked at carefully. It has been analyzed carefully.

The economic consequences of these provisions have been evaluated and analyzed and studied and all the representations that have been made have been found wanting.

I would say that if there was a serious suggestion to have an economic impact statement, that that could have been made at any point in time during the 5 years in which this bill was considered, but to bring it up today at the 11th hour on the House floor and to support it with a range of arguments that have been repudiated thoroughly throughout this process simply is an effort again to delay extraordinarily important desert protection legislation that Congress should act upon positively today.

Mr. LEHMAN of California. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I rise in opposition to the amendment.

The Dannemeyer amendment providing for an economic impact statement may sound appealing on the surface, but I assure my colleagues that this would lead us into unchartered waters.

The bottom line of this amendment as an example states that the Secretary of the Interior shall pay to any person who incurs any economic loss as the result of land designation the amount of that loss.

Then it goes on to include all sorts of tangible and intangible losses, an appeals process. This could subject the Federal Government to unreasonable and unlimited costs.

Where is the CBO estimate on this?

The fact of the matter is they have been arguing in the courts and the Supreme Court for years about whether the classification or zoning of land is an authority of the National Government or any local government.

This particular amendment makes a finding in favor of the landowners. It comes down and states that classification changes must be paid for by the Federal Government.

The truth of the matter is that we have very little understanding of many of the impacts of the environmental classification and the species. The fauna and flora. We ought to do a much better job regarding the science of such ecosystems.

This is not a debate about the Endangered Species Act. This is simply a stumbling block that is attempting to be placed in the way of the designation of the California Desert Act, and as such it should be defeated.

Mr. BLAZ. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I yield to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Chairman, I thank my colleague, the delegate from Guam [Mr. BLAZ] for yielding to me.

I want to say one more time to the Members that I appreciate the very fine job the gentleman has done in helping to add some balance to this debate.

Mr. Chairman, it was suggested earlier by the gentleman from California [Mr. LEVINE] and others that I did not include an economic impact statement in my substitute.

Mr. Chairman, we do have economic impacts regarding this bill versus the substitute that I had before the House the other day. The Bureau of Land Management did give us a guesstimate. If H.R. 2929 became law, the cost would be somewhere between $290 and $610 million.

If our substitute had been implemented instead, the Bureau of Land Management suggested the spread might be between $45 and $170 million.

To say the least, there is a huge difference reflected in these estimates.

The guesstimates were that if H.R. 29 was implemented that the loss of jobs would be in the neighborhood of 20,000 jobs, versus less than 2,000 jobs in the substitute.

Indeed, this proposal is going to have a huge economic effect. Detailed economic impact analysis is appropriate for H.R. 2929 since it was not a product of a public process.

□ 1610

Let me make the point in this way: Two organizations have very sizable

holdings in this territory. The California Public Employees Retirement System has large holdings that they had planned to be developed for the benefit of retirees. Everybody admits that there is potential resource value that has not been evaluated or tapped.

The California Teachers Association has similar holdings. Their retirees are at risk without effective evaluation of the underlying resource potential here. To suggest that economic impact evaluation would not help them in their eventual decisions as to what is required for a trade of land, for example, is unreasonable.

These lands have great economic potential for the retired teachers of California and for the retired employees of California.

Mr. Chairman, are the ranking members suggesting that we should ask them to trade their land without an economic evaluation first? Certainly not.

Mr. DANNEMEYER is simply suggesting that, up front, such evaluation should be made because the studies, the detailed have not been done. The people who will lose if you do not accept this kind of approach are the people of California. A very significant number of the landholders are the retired former employees of the people of California.

Mr. BLAZ. Mr. Chairman, I yield to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. I thank the gentleman for yielding.

Let me tell my colleagues just what my amendment would do. It would require the Secretary to determine that environmental benefits must outweigh economic losses or costs before land in the above sections can be designated. Now, that is a balance in our law that I think is missing in a very significant way today because what we have done—look at this map. At least a third of the western part of the United States is already in public ownership.

How much land is enough? How much land does the environmental party need before it satisfies its lust to take all land in private ownership and put it into public ownership?

Now, it may create a world where we have clean air and clean water in America, but I ask you one simple question: Where are the jobs going to be for the people of this country who want to work and make a living? Somebody has to watch out for these people, and that is what this amendment does. It just says there has got to be balance when we make these environmental decisions.

The CHAIRMAN. The time of the gentleman from Guam [Mr. BLAZ] has expired.

Mr. LEHMAN of California. Mr. Chairman, I move to strike the penultimate word.

Mr. Chairman, first of all, contrary to the presentation just made, there is no increase in the amount of Federal land owned under this legislation. The land that is being changed is having its designation changed, not its ownership. The Federal Government owns the land now, and the Federal Government will continue to own the land in the future. We are changing the way in which the land is managed.

The provisions in the bill allowing for acquisition on a case-by-case basis in the future provide for exchange of land. Again, there is not going to be a change in the value of land owned by the Federal Government, and probably not in the amount.

So that is not really an issue here. The CBO estimate of the cost of this legislation shows that it is negligible. As far as mining is concerned, it says:

> Loss of receipts from mining activities relative to current law, we do not expect the loss of receipts to the Federal Government from mineral leasing activities to be significant over the next 5 years.

The report shows zero, zero outlays for 1990, 1991, 1992, 1993, 1994, and 1995.

The costs here are not significant. The great cost is not acting to protect the desert. The great cost is to those of us in California and those around the country if we fail to act to save the desert now while we still have a chance.

Are we going to let amendments like this drive off the day of decision until it is too late to protect the endangered species? Until it is too late to protect the land from total degradation?

Or are we going to do it now while we still have a chance?

That is the issue. That is the heart of the matter.

Mr. Chairman, I yield to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. I thank the gentleman for yielding.

Mr. Chairman, the gentleman's amendment goes to a different direction; it has nothing to do with public ownership of land versus nonpublic. It has to do with how we conduct the policy on public lands, the designations. He is saying that the Secretary "shall pay to any person who incurs an economic loss as a result of land designation, that means zoning, the amount that that loss, including," and then he goes through all that. So he is on uncharted waters in terms of in fact committing the Congress and the U.S. Government to such payment.

The other thing the gentleman says is that we are going to turn over to the Secretary of the Interior the right to make the decision on how this land should be designated.

Well, Mr. Chairman, the reason that our committee has so many measures on the floor is because Congress has reserved to itself the right to make designations as to wilderness, as to parks and other uses of our land.

We do not give that job to the bureaucrats the unelected in this country. We think it is an important decision that ought to rest with Congress.

I do not care if it is done under an economic impact statement excuse or done on some other basis; in other words, Congress ought to be involved in the terms of making such decisions.

I think that that by itself is enough reason to vote "no" on this amendment. We should not transfer this unlimited power in the California desert to the Secretary of the Interior or to anyone else. We ought to make the decisions on the floor ourselves with regard to wilderness, with regard to parks and monuments. That is what we have been struggling to do this week, and I hope we will do so by defeating this poorly crafted amendment.

Mr. LEHMAN of California. Mr. Chairman, I yield to the gentleman from California [Mr. LEVINE].

Mr. LEVINE of California. I thank the gentleman for yielding.

Mr. Chairman, in a nutshell this amendment is an amendment designed to kill desert protection. Let us be candid about what we are trying to do here.

This is an amendment that seeks to impose requirements on this legislation that simply cannot be met. It is impossible, it is simply impossible to quantify the educational, the scientific, the scenic, the historic, and natural values associated with preserving desert lands for future generations. That is the essence of this legislation.

One point on cost: Mr. LEWIS raises a number of cost figures. It is important to understand that CBO spells out $6 million in cost beyond those that are currently undertaken by the Federal Government in order to provide this type of desert protection.

For an additional $6 million a year, that is an extraordinary good deal for the American taxpayer, for the American citizen and those future taxpayer, for the American citizen and those future generations who will, I think, be pleased that this legislation is enacted into law.

Mr. LEHMAN of California. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from California [Mr. DANNEMEYER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. DANNEMEYER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 110, noes 316, not voting 8, as follows:

[Roll No. 432]

AYES—110

Allard	Ewing	Moorhead
Allen	Fields	Myers
Anderson	Franks (CT)	Nichols
Archer	Gallegly	Oxley
Armey	Gekas	Packard
Baker	Gilman	Paxon
Ballenger	Grandy	Pursell
Barrett	Hall (TX)	Rhodes
Barton	Hammerschmidt	Roberts
Bateman	Hancock	Rogers
Bentley	Hansen	Rohrabacher
Bilirakis	Hayes (LA)	Roth
Bliley	Hefley	Schaefer
Boehner	Herger	Schulze
Broomfield	Holloway	Sensenbrenner
Bunning	Hopkins	Shaw
Burton	Houghton	Shuster
Byron	Hunter	Sisisky
Callahan	Hyde	Skeen
Chandler	Inhofe	Smith (OR)
Clinger	Johnson (TX)	Solomon
Coble	Kolbe	Spence
Coleman (MO)	Kyl	Stearns
Combest	Lagomarsino	Stenholm
Cox (CA)	Lent	Stump
Crane	Lewis (CA)	Sundquist
Cunningham	Lewis (FL)	Tauzin
Dannemeyer	Lightfoot	Taylor (NC)
Davis	Livingston	Thomas (CA)
DeLay	Lowery (CA)	Thomas (WY)
Dickinson	Marlenee	Vander Jagt
Doolittle	Martin	Vucanovich
Dornan (CA)	McCandless	Walker
Dreier	McEwen	Wolf
Duncan	McMillan (NC)	Young (AK)
Edwards (OK)	Michel	Young (FL)
Emerson	Miller (OH)	

NOES—316

Abercrombie	Darden	Gunderson
Ackerman	de la Garza	Hall (OH)
Alexander	DeFazio	Hamilton
Andrews (ME)	DeLauro	Harris
Andrews (NJ)	Dellums	Hastert
Andrews (TX)	Derrick	Hatcher
Annunzio	Dicks	Hayes (IL)
Anthony	Dingell	Hefner
Applegate	Dixon	Henry
Aspin	Donnelly	Hertel
Atkins	Dooley	Hoagland
AuCoin	Dorgan (ND)	Hobson
Bacchus	Downey	Hochbrueckner
Barnard	Durbin	Horn
Beilenson	Dwyer	Horton
Bennett	Dymally	Hoyer
Bereuter	Early	Hubbard
Berman	Eckart	Huckaby
Bevill	Edwards (CA)	Hutto
Bilbray	Edwards (TX)	Ireland
Blackwell	Engel	Jacobs
Boehlert	English	James
Bonior	Erdreich	Jefferson
Borski	Espy	Jenkins
Boucher	Evans	Johnson (CT)
Boxer	Fascell	Johnson (SD)
Brewster	Fawell	Johnston
Brooks	Fazio	Jones (GA)
Browder	Feighan	Jones (NC)
Brown	Fish	Jontz
Bruce	Flake	Kanjorski
Bryant	Foglietta	Kaptur
Bustamante	Ford (MI)	Kasich
Camp	Ford (TN)	Kennedy
Campbell (CA)	Frank (MA)	Kennelly
Campbell (CO)	Frost	Kildee
Cardin	Gallo	Kleczka
Carper	Gaydos	Klug
Carr	Gejdenson	Kolter
Chapman	Gephardt	Kopetski
Clay	Geren	Kostmayer
Clement	Gibbons	LaFalce
Coleman (TX)	Gilchrest	Lancaster
Collins (IL)	Gillmor	Lantos
Collins (MI)	Gingrich	LaRocco
Condit	Glickman	Laughlin
Conyers	Gonzalez	Leach
Cooper	Goodling	Lehman (CA)
Costello	Gordon	Lehman (FL)
Coughlin	Goss	Levin (MI)
Cox (IL)	Gradison	Levine (CA)
Coyne	Green	Lewis (GA)
Cramer	Guarini	Lipinski
Lloyd	Parker	Skaggs
Long	Pastor	Skelton
Lowey (NY)	Patterson	Slattery
Luken	Payne (NJ)	Slaughter
Machtley	Payne (VA)	Smith (FL)
Manton	Pease	Smith (IA)
Markey	Pelosi	Smith (NJ)
Martinez	Penny	Snowe
Matsui	Perkins	Solarz
Mavroules	Peterson (FL)	Spratt
Mazzoli	Peterson (MN)	Staggers
McCloskey	Petri	Stallings
McCollum	Pickett	Stark
McCrery	Pickle	Stokes
McCurdy	Porter	Studds
McDade	Poshard	Swett
McDermott	Price	Swift
McGrath	Quillen	Synar
McHugh	Rahall	Tallon
McMillen (MD)	Ramstad	Tanner
McNulty	Rangel	Taylor (MS)
Meyers	Ravenel	Thomas (GA)
Mfume	Ray	Thornton
Miller (CA)	Reed	Torres
Miller (WA)	Regula	Torricelli
Mineta	Richardson	Towns
Mink	Rinaldo	Traficant
Moakley	Ritter	Traxler
Molinari	Roe	Unsoeld
Mollohan	Roemer	Upton
Montgomery	Ros-Lehtinen	Valentine
Moody	Rose	Vento
Moran	Rostenkowski	Visclosky
Morella	Roukema	Volkmer
Morrison	Rowland	Walsh
Murphy	Roybal	Washington
Murtha	Russo	Waters
Nagle	Sabo	Waxman
Natcher	Sanders	Weber
Neal (MA)	Sangmeister	Weiss
Neal (NC)	Santorum	Weldon
Nowak	Sarpalius	Wheat
Nussle	Savage	Williams
Oakar	Sawyer	Wise
Oberstar	Saxton	Wolpe
Olin	Scheuer	Wyden
Olver	Schiff	Wylie
Ortiz	Schroeder	Yates
Orton	Schumer	Yatron
Owens (NY)	Serrano	Zeliff
Owens (UT)	Sharp	Zimmer
Pallone	Shays	
Panetta	Sikorski	

NOT VOTING—8

Hughes	Ridge	Whitten
Mrazek	Riggs	Wilson
Obey	Smith (TX)	

□ 1638

Mr. GLICKMAN changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 8 printed in House Report 102–314.

AMENDMENT OFFERED BY MR. NICHOLS

Mr. NICHOLS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. NICHOLS: Page 61, line 17, insert "(a)" after "SEC. 609.

Page 61, after line 19, insert the following:

(b) EFFECTIVE DATE.—This section shall take effect in the fiscal year following the first fiscal year after the date of enactment of this Act in which Federal revenues are equal to or greater than Federal expenditures.

□ 1640

The CHAIRMAN. Under the rule, the gentleman from Kansas [Mr. NICHOLS] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

Mr. LEHMAN of California. Mr. Chairman, I am opposed to the amendment.

The CHAIRMAN. The gentleman from California [Mr. LEHMAN] will be recognized for 5 minutes.

The Chair recognizes the gentleman from Kansas [Mr. NICHOLS].

Mr. NICHOLS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Department of Interior already faces a budget shortfall of astronomical proportions. When I say astronomical, I mean approaching $8½ to $10½ billion. That may not seem like much here in Washington, but that is an awful lot of money to the citizens of this country.

To break that down, this means that the U.S. Department of the Interior already faces a $3 to $5 billion backlog of land acquisition—a $5 billion backlog in major repairs and construction—and a $375 million shortfall in their annual operations budget. Why are we proposing to spend more money than the department has?

We, as a nation, must learn fiscal responsibility. We are writing checks on a line of credit that long ago went bad—the pot of gold is empty. We have absolutely no right, no right whatsoever, to authorize any additional spending unless it is an urgent investment in the ongoing prosperity and well-being of the citizen taxpayers of this country. And that, my colleagues, is why I offer this amendment today.

I am not against protecting the very fragile and uniquely beautiful environment and ecosystem of the California desert. I have visited the area with my family. We have driven through Death Valley and marveled at the region.

I wholeheartedly understand the desire to add to the already existing expanses of protected desert wilderness in the California desert. However, now is not the time. Not with a record deficit of $269 billion this year alone. Not at a time when our Government needs to drastically reevaluate its spending practices. Not when the taxpayers of our Nation are frustrated by the political process that is supposed to be protecting them.

My amendment merely places a condition on the expenditures of funds for the enactment of this act until Congress is able to balance the budget.

All across America, families are having to carefully limit their spending for the upcoming holiday season, while Congress continues to spend like everyday is Christmas. Why can't this great body, full of so many honorable and distinguished Members, use good, sound judgment when it comes to spending money. The time to reduce spending is not some time in the future, it is now. . .

I urge you to vote "aye" on my balanced budget amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. LEHMAN of California. Mr. Chairman, I yield myself 1 minute.

This is not a balanced budget amendment. In fact, it has nothing to do with the balanced budget. All of the expenditures by the Park Service can continue to go on even with this amendment.

All the amendment affects is the ability of the Federal Government to enter into the land exchange after 1996 with the State teachers retirement system in California. Under this amendment none of those exchanges will be allowed to take place. Those exchanges are not going to cost the Federal Government any money.

As the bill states, property will be exchanged value for value and we will have an even playing field.

We have done that to ensure that the Federal Government does not lose any money and that the State teachers retirement system is held whole in its land holdings and so that we can consolidate the national monument.

This amendment will not pay them any money. It will piace a hardship on the State teachers retirement system and do great damage to this bill.

Mr. Chairman, I yield 1 minute to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I rise in opposition to the Nichols so-called balanced-budget amendment. The fact of the matter is that almost all these lands that are being designated here are already managed by the Federal land management agencies, by the Park Service, by the Bureau of Land Management. So we are transferring some of these lands from the jurisdiction of the BLM to the Park Service. There may be some turf battles involved, but the fact of the matter is the money within the Department of the Interior can flow to the Park Service in these instances.

Likewise, they may, for instance, as we look at these designations, we are asking the BLM to manage some of the lands as wilderness area and releasing other lands from being managed as wilderness.

Furthermore the private land would be insignificant because most of this is public land.

I would challenge the gentleman's figures that he has on the chart concerning the backlog; the figure is closer to $3 billion. In any case the land acquisition funding is not based on a pot of gold. It is based on a pot of oil, offshore Continental Shelf receipts, the land-water conservation fund which are credited to the land-water acquisition programs which has over $7 billion available until appropriated.

Mr. NICHOLS. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Smoke and mirrors, Mr. Chairman. They say there will be no cost. What about the cost of the 20,000 jobs that will be lost?

I would hate to manage millions of dollars and millions of acres myself. The gentleman said it is all BLM land. I thought we were just talking about exchange of millions of acres of land that would come into this. Who is going to maintain that? Who is going to maintain the roads? Who is going to maintain the water? Who is going to maintain the rest of it?

We the taxpayers are going to do that. It is going to take this public land off the tax rolls.

What about the revenue from the mineral sources? The other side of the aisle and many Members on this side of the aisle are always looking for alternative fuel sources. What about the geothermal that will not be looked into because this bill only covers, as I understand it, existing lines, existing coverages.

Some of my friends say, I've got to protect my environment vote. My heart bleeds for them. How about protecting the people instead of their environmental vote?

Take a look at the map that was up here before. If Members on the east coast had to live with the amount of Government-owned land, I do not think they could stand it. Remember the four Congressmen that represent that area want "no" on 2929 and "yes" on this amendment.

Mr. LEHMAN of California. Mr. Chairman, I yield 1 minute and 30 seconds to the gentleman from California [Mr. LEVINE].

Mr. LEVINE of California. Mr. Chairman, I will just mention briefly that the common thrust of these amendments is to do one thing. It is to delay this bill so long that California desert protection will never occur. I do not know that there is a coordinated effort with regard to these amendments. I suspect there is not. But there is one common theme. It is delay, delay, delay until this basically cannot occur.

The other point that I just want to emphasize is that that the subcommittee chairman emphasized. We have gone to great lengths to protect the retired teachers of the States of California in this bill. The lands that are being exchanged are lands that are very important to the retired teachers in California. This provision would hurt California's retired teachers by blocking the exchange that has been very carefully worked out and that the State retired teachers and the public lands commission are strongly supporting.

I strongly urge a "no" vote on this amendment.

□ 1650

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. LEVINE of California. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, the House had a similar amendment before us when we were dealing with the Flint Hills Prairie Park. That amendment was defeated on a vote of 153 to 249. I think the House would do well to defeat this amendment on the same basis it defeated that amendment.

Mr. NICHOLS. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Chairman, I appreciate the gentleman from California trying to make this my amendment by saying this is delay, delay, delay, delay, but I must point out that it is the gentleman from Kansas [Mr. NICHOLS] that brought the amendment and it is not a delay tactic. What it is is fiscal responsibility.

What we are saying is right now we cannot pay for the land that we have tried to acquire. I am told that the Park Service is in arrears right now $4 to $5 billion, trying to pay for the land they have already acquired. Since they cannot pay for it, land not only in this desert but in other areas of the country, this land cannot be used, it cannot be sold, nobody will use it. It is amazing to me that if we do not have the money now to pay for land, and we do not have the money, even if it is not true, I am just told that it is true, but even if it is not true, we do not have the money when we are talking about a $350 billion deficit, we do not have the money for this kind of action. All the gentleman is saying is we cannot do it until we have the money.

Mr. LEHMAN of California. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. MILLER], the chairman of the full committee.

Mr. MILLER of California. Mr. Chairman, I would hope that we would reject this amendment. I think we should understand that what is happening in this legislation is that we seek for the most part the exchange of lands. There are very substantial private inholdings within the boundaries of this area. Many in the private sector would like to exchange those lands out. Their lands are not productive for any economic purpose. They are valuable from an environmental point of view, from a cultural point of view, from an anthropological point of view, but the fact is they have no economic value for that company, that holding. They believe they can trade those off for lands of economic value which they can then use, they can use in their endeavors to create jobs, to create economic activity. We will be able to put the park and the monument and others together for the purposes of better management.

So this makes sense all around. This is a win-win. This allows the private sector to go out and utilize its expertise and talents on those lands. It allows the public sector to have the most economical unit in order to run. This is a very foolish amendment.

The CHAIRMAN. The gentleman from California [Mr. LEHMAN] has 45 seconds remaining.

Mr. LEHMAN of California. Mr. Chairman, I yield myself the 45 seconds.

Again, this amendment has nothing to do with anything except some land that the State teachers' retirement system in California owns. It has nothing to do with purchasing any other land. The provisions of the bill allow that the State of California, the State lands commission, may exchange those lands with lands offered to it by the Federal Government after the year 1996. That is all we allow for in the bill.

The losers, if this amendment is going to pass, are going to be the State of California and the State teachers' retirement system in California, an innocent party. It is not going to be anything else and it is not going to be anyone else.

We have carefully worked out the compromise with the State lands commission and the state teachers' retirement system over months and months of work. This House should abide by that work at this time.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Kansas [Mr. NICHOLS].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. NICHOLS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 133, noes 292, not voting 9, as follows:

[Roll No. 433]

AYES—133

Allard	Duncan	Lent
Allen	Edwards (OK)	Lewis (CA)
Anderson	Emerson	Lewis (FL)
Applegate	Ewing	Lightfoot
Archer	Fields	Livingston
Armey	Franks (CT)	Lowery (CA)
Baker	Gallegly	Marlenee
Ballenger	Gekas	Martin
Barrett	Geren	McCandless
Barton	Gingrich	McCrery
Bentley	Goodling	McDade
Bilirakis	Goss	McEwen
Boehner	Grandy	McMillan (NC)
Brewster	Hall (TX)	Michel
Broomfield	Hammerschmidt	Miller (OH)
Bunning	Hancock	Molinari
Burton	Hansen	Montgomery
Callahan	Hastert	Moorhead
Camp	Hayes (LA)	Murphy
Chandler	Hefley	Myers
Clinger	Herger	Nichols
Coble	Hobson	Nussle
Coleman (MO)	Holloway	Oxley
Combest	Hopkins	Packard
Cox (CA)	Hunter	Parker
Crane	Hutto	Paxon
Cunningham	Hyde	Petri
Dannemeyer	Inhofe	Porter
Davis	Ireland	Quillen
DeLay	James	Ramstad
Dickinson	Johnson (TX)	Ray
Doolittle	Kasich	Regula
Dornan (CA)	Kolbe	Rhodes
Dreier	Kyl	Riggs
Ritter	Skeen	Taylor (MS)
Roberts	Skelton	Taylor (NC)
Rogers	Smith (OR)	Thomas (CA)
Rohrabacher	Smith (TX)	Thomas (WY)
Ros-Lehtinen	Solomon	Vander Jagt
Roth	Spence	Vucanovich
Schaefer	Stearns	Walker
Schulze	Stenholm	Wylie
Sensenbrenner	Stump	Young (AK)
Shuster	Sundquist	
Sisisky	Tauzin	

NOES—292

Abercrombie	Foglietta	McGrath
Ackerman	Ford (MI)	McHugh
Alexander	Ford (TN)	McMillen (MD)
Andrews (ME)	Frank (MA)	McNulty
Andrews (NJ)	Frost	Meyers
Andrews (TX)	Gallo	Mfume
Annunzio	Gaydos	Miller (CA)
Aspin	Gejdenson	Miller (WA)
Atkins	Gephardt	Mineta
AuCoin	Gibbons	Mink
Bacchus	Gilchrest	Moakley
Barnard	Gillmor	Mollohan
Bateman	Glickman	Moody
Beilenson	Gonzalez	Moran
Bennett	Gordon	Morella
Bereuter	Gradison	Morrison
Berman	Green	Mrazek
Bevill	Guarini	Murtha
Bilbray	Gunderson	Nagle
Blackwell	Hall (OH)	Natcher
Bliley	Hamilton	Neal (MA)
Boehlert	Harris	Neal (NC)
Bonior	Hatcher	Nowak
Borski	Hayes (IL)	Oakar
Boucher	Hefner	Oberstar
Boxer	Henry	Obey
Brooks	Hertel	Olin
Browder	Hoagland	Olver
Brown	Hochbrueckner	Ortiz
Bruce	Horn	Orton
Bryant	Horton	Owens (NY)
Bustamante	Houghton	Owens (UT)
Byron	Hoyer	Pallone
Campbell (CA)	Hubbard	Panetta
Campbell (CO)	Huckaby	Pastor
Cardin	Hughes	Patterson
Carper	Jacobs	Payne (NJ)
Carr	Jefferson	Payne (VA)
Chapman	Jenkins	Pease
Clay	Johnson (CT)	Penny
Clement	Johnson (SD)	Perkins
Coleman (TX)	Johnston	Peterson (FL)
Collins (IL)	Jones (GA)	Peterson (MN)
Collins (MI)	Jones (NC)	Pickett
Condit	Jontz	Pickle
Conyers	Kanjorski	Poshard
Cooper	Kaptur	Price
Costello	Kennedy	Pursell
Coughlin	Kennelly	Rahall
Cox (IL)	Kildee	Rangel
Coyne	Kleczka	Ravenel
Cramer	Klug	Reed
Darden	Kolter	Richardson
de la Garza	Kopetski	Rinaldo
DeFazio	Kostmayer	Roe
DeLauro	LaFalce	Roemer
Dellums	Lagomarsino	Rose
Dicks	Lancaster	Rostenkowski
Dingell	Lantos	Roukema
Dixon	LaRocco	Rowland
Donnelly	Laughlin	Roybal
Dooley	Leach	Russo
Dorgan (ND)	Lehman (CA)	Sabo
Downey	Lehman (FL)	Sanders
Durbin	Levin (MI)	Sangmeister
Dwyer	Levine (CA)	Santorum
Dymally	Lewis (GA)	Sarpalius
Early	Lipinski	Savage
Eckart	Long	Sawyer
Edwards (CA)	Lowey (NY)	Saxton
Edwards (TX)	Luken	Scheuer
Engel	Machtley	Schiff
English	Manton	Schroeder
Erdreich	Markey	Schumer
Espy	Martinez	Serrano
Evans	Matsui	Sharp
Fascell	Mavroules	Shaw
Fawell	Mazzoli	Shays
Fazio	McCloskey	Sikorski
Feighan	McCollum	Skaggs
Fish	McCurdy	Slattery
Flake	McDermott	Slaughter
Smith (FL)	Thomas (GA)	Weber
Smith (IA)	Thornton	Weiss
Smith (NJ)	Torres	Weldon
Snowe	Torricelli	Wheat
Solarz	Towns	Whitten
Spratt	Traficant	Wilson
Staggers	Traxler	Wolf
Stallings	Unsoeld	Wolpe
Stark	Upton	Wyden
Stokes	Valentine	Yates
Studds	Vento	Yatron
Swett	Visclosky	Young (FL)
Swift	Volkmer	Zeliff
Synar	Walsh	Zimmer
Tallon	Waters	
Tanner	Waxman	

NOT VOTING—9

Anthony	Lloyd	Washington
Derrick	Pelosi	Williams
Gilman	Ridge	Wise

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Mr. MOODY change is vote from "aye" to "no."

Mr. JAMES and Mr. RAY changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 10, printed in House Report 102-314.

AMENDMENT AS MODIFIED OFFERED BY MR. BLAZ

Mr. BLAZ. Mr. Chairman, I offer an amendment as modified.

The CHAIRMAN. The Clerk will designate the amendment as modified.

The text of the amendment, as modified, is as follows:

Amendment as modified; offered by Mr. BLAZ; instead of the matter proposed to be inserted, insert the following:

Page 65, after line 15, add the following new title:

TITLE VIII—MILITARY LANDS AND OVERFLIGHTS

SEC. 801. SHORT TITLE AND FINDINGS.

(a) SHORT TITLE.—This title may be cited as the "California Military Lands Withdrawal and Overflights Act of 1991".

(b) FINDINGS.—The Congress finds that—

(1) the Federal lands within the desert regions of California have provided essential opportunities for military training, research, and development for the Armed Forces of the United States and allied nations;

(2) alternative sites for military training and other military activities carried out on Federal lands in the California desert area are not readily available;

(3) while changing world conditions have lessened to some extent the immediacy of military threats to the national security of the United States and its allies, there remains a need for military training, research, and development activities of the types that have been carried out on Federal lands in the California desert area; and

(4) continuation of existing military training, research, and development activities, under appropriate terms and conditions, is not incompatible with the protection and proper management of the natural, environmental, cultural, and other resources and values of the Federal lands in the California desert area.

SEC. 802. WITHDRAWALS.

(a) CHINA LAKE.—(1) Subject to valid existing rights and except as otherwise provided in this title, the Federal lands referred to in paragraph (2), and all other areas within the

boundary of such lands as depicted on the map specified in such paragraph which may become subject to the operation of the public land laws, are hereby withdrawn from all forms of appropriation under the public land laws (including the mining laws and the mineral leasing laws). Such lands are reserved for use by the Secretary of the Navy for—

(A) use as a research, development, test, and evaluation laboratory;

(B) use as a range for air warfare weapons and weapon systems;

(C) use as a high hazard training area for aerial gunnery, rocketry, electronic warfare and countermeasures, tactical maneuvering and air support; and

(D) subject to the requirements of section 804(f), other defense-related purposes consistent with the purposes specified in this paragraph.

(2) The lands referred to in paragraph (1) are the Federal lands, located within the boundaries of the China Lake Naval Weapons Center, comprising approximately 1,100,000 acres in Inyo, Kern, and San Bernardino Counties, California, as generally depicted on a map entitled "China Lake Naval Weapons Center Withdrawal—Proposed", dated January 1985, and filed in accordance with section 803.

(b) CHOCOLATE MOUNTAIN.—(1) Subject to valid existing rights and except as otherwise provided in this title, the Federal lands referred to in paragraph (2), and all other areas within the boundary of such lands as depicted on the map specified in such paragraph which may become subject to the operation of the public land laws, are hereby withdrawn from all forms of appropriation under the public land laws (including the mining laws and the mineral leasing and the geothermal leasing laws). Such lands are reserved for use by the Secretary of the Navy for—

(A) testing and training for aerial bombing, missile firing, tactical maneuvering and air support; and

(B) subject to the provisions of section 804(f), other defense-related purposes consistent with the purposes specified in this paragraph.

(2) The lands referred to in paragraph (1) are the Federal lands comprising approximately 226,711 acres in Imperial County, California, as generally depicted on a map entitled "Chocolate Mountain Aerial Gunnery Range Proposed—Withdrawal" dated November 1991 and filed in accordance with section 803.

SEC. 803. MAPS AND LEGAL DESCRIPTIONS.

(a) PUBLICATION AND FILING REQUIREMENT.—As soon as practicable after the date of enactment of this title, the Secretary of the Interior shall—

(1) publish in the Federal Register a notice containing the legal description of the lands withdrawn and reserved by this title; and

(2) file maps and the legal description of the lands withdrawn and reserved by this title with the Committee on Energy and Natural Resources of the United States Senate and with the Committee on Interior and Insular Affairs of the United States House of Representatives.

(b) TECHNICAL CORRECTIONS.—Such maps and legal descriptions shall have the same force and effect as if they were included in this title except that the Secretary of the Interior may correct clerical and typographical errors in such maps and legal descriptions.

(c) AVAILABILITY FOR PUBLIC INSPECTION.—Copies of such maps and legal descriptions shall be available for public inspection in the Office of the Director of the Bureau of Land Management, Washington, District of Columbia; the Office of the Director, California State Office of the Bureau of Land Management, Sacramento, California; the office of the commander of the Naval Weapons Center, China Lake, California; the office of the commanding officer, Marine Corps Air Station, Yuma Arizona; and the Office of the Secretary of Defense, Washington, District of Columbia.

(d) REIMBURSEMENT.—The Secretary of Defense shall reimburse the Secretary of the Interior for the cost of implementing this section.

SEC. 804. MANAGEMENT OF WITHDRAWN LANDS.

(a) MANAGEMENT BY THE SECRETARY OF THE INTERIOR.—(1) Except as provided in subsection (g), during the period of the withdrawal the Secretary of the Interior shall manage the lands withdrawn under section 802 pursuant to the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) and other applicable law, including this title.

(2) To the extent consistent with applicable law and Executive orders, the lands withdrawn under section 802 may be managed in a manner permitting—

(A) the continuation of grazing pursuant to applicable law and Executive orders where permitted on the date of enactment of this title;

(B) protection of wildlife and wildlife habitat;

(C) control of predatory and other animals;

(D) recreation (but only on lands withdrawn by section 802(a) (relating to China Lake));

(E) the prevention and appropriate suppression of brush and range fires resulting from nonmilitary activities; and

(F) geothermal leasing on the lands withdrawn under section 802(a) (relating to China Lake).

(3)(A) All nonmilitary use of such lands, including the uses described in paragraph (2), shall be subject to such conditions and restrictions as may be necessary to permit the military use of such lands for the purposes specified in or authorized pursuant to this title.

(B) The Secretary of the Interior may issue any lease, easement, right-of-way, or other authorization with respect to the nonmilitary use of such lands only with the concurrence of the Secretary of the Navy.

(b) CLOSURE TO PUBLIC.—(1) If the Secretary of the Navy determines that military operations, public safety, or national security require the closure to public use of any road, trail, or other portion of the lands withdrawn by this title, the Secretary may take such action as the Secretary determines necessary or desirable to effect and maintain such closure.

(2) Any such closure shall be limited to the minimum areas and periods which the Secretary of the Navy determines are required to carry out this subsection.

(3) Before and during any closure under this subsection, the Secretary of the Navy shall—

(A) keep appropriate warning notices posted; and

(B) take appropriate steps to notify the public concerning such closures.

(c) MANAGEMENT PLAN.—The Secretary of the Interior (after consultation with the Secretary of the Navy) shall develop a plan for the management of each area withdrawn under section 802 during the period of such withdrawal. Each plan shall—

(1) be consistent with applicable law;

(2) be subject to conditions and restrictions specified in subsection (a)(3);

(3) include such provisions as may be necessary for proper management and protection of the resources and values of such area; and

(4) be developed not later than three years after the date of enactment of this title.

(d) BRUSH AND RANGE FIRES.—The Secretary of the Navy shall take necessary precautions to prevent and suppress brush and range fires occurring within and outside the lands withdrawn under section 802 as a result of military activities and may seek assistance from the Bureau of Land Management in the suppression of such fires. The memorandum of understanding required by subsection (e) shall provide for Bureau of Land Management assistance in the suppression of such fires, and for a transfer of funds from the Department of the Navy to the Bureau of Land Management as compensation for such assistance.

(e) MEMORANDUM OF UNDERSTANDING.—(1) The Secretary of the Interior and the Secretary of the Navy shall (with respect to each land withdrawal under section 802) enter into a memorandum of understanding to implement the management plan developed under subsection (c). Any such memorandum of understanding shall provide that the Director of the Bureau of Land Management shall provide assistance in the suppression of fires resulting from the military use of lands withdrawn under section 802 if requested by the Secretary of the Navy.

(2) The duration of any such memorandum shall be the same as the period of the withdrawal of the lands under section 802.

(f) ADDITIONAL MILITARY USES.—(1) Lands withdrawn by section 802 may be used for defense-related uses other than those specified in such section. The Secretary of Defense shall promptly notify the Secretary of the Interior in the event that the lands withdrawn by this title will be used for defense-related purposes other than those specified in section 802. Such notification shall indicate the additional use or uses involved, the proposed duration of such uses, and the extent to which such additional military uses of the withdrawn lands will require that additional or more stringent conditions or restrictions be imposed on otherwise-permitted nonmilitary uses of the withdrawn land or portions thereof.

(g) MANAGEMENT OF CHINA LAKE.—(1) The Secretary of the Interior may assign the management responsibility for the lands withdrawn under section 802(a) to the Secretary of the Navy who shall manage such lands, and issue leases, easements, rights-of-way, and other authorizations, in accordance with this title and cooperative management arrangements between the Secretary of the Interior and the Secretary of the Navy. In the case that the Secretary of the Interior assigns such management responsibility to the Secretary of the Navy before the development of the management plan under subsection (c), the Secretary of the Navy (after consultation with the Secretary of the Interior) shall develop such management plan.

(2) The Secretary of the Interior shall be responsible for the issuance of any lease, easement, right-of-way, and other authorization with respect to any activity which involves both the lands withdrawn under section 802(a) and any other lands. Any such authorization shall be issued only with the consent of the Secretary of the Navy and, to the extent that such activity involves lands withdrawn under section 802(a), shall be subject to such conditions as the Secretary of the Navy may prescribe.

(3) The Secretary of the Navy shall prepare and submit to the Secretary of the Interior an annual report on the status of the natural and cultural resources and values of the lands withdrawn under section 802(a). The Secretary of the Interior shall transmit such report to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(4) The Secretary of the Navy shall be responsible for the management of wild horses and burros located on the lands withdrawn under section 802(a) and may utilize helicopters and motorized vehicles for such purposes. Such management shall be in accordance with laws applicable to such management on public lands and with an appropriate memorandum of understanding between the Secretary of the Interior and the Secretary of the Navy.

(5) Neither this title nor any other provision of law shall be construed to prohibit the Secretary of the Interior from issuing and administering any lease for the development and utilization of geothermal steam and associated geothermal resources on the lands withdrawn under section 802(a) pursuant to the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) and other applicable law, but no such lease shall be issued without the concurrence of the Secretary of the Navy.

(6) This title shall not affect the geothermal exploration and development authority of the Secretary of the Navy under section 2689 of title 10, United States Code, except that the Secretary of the Navy shall obtain the concurrence of the Secretary of the Interior before taking action under that section with respect to the lands withdrawn under section 802(a).

SEC. 805. DURATION OF WITHDRAWALS.

(a) DURATION.—The withdrawal and reservation established by this title shall terminate 15 years after the date of enactment of this title.

(b) DRAFT ENVIRONMENTAL IMPACT STATEMENT.—No later than 12 years after the date of enactment of this title, the Secretary of the Navy shall publish a draft environmental impact statement concerning continued or renewed withdrawal of any portion of the lands withdrawn by this title for which that Secretary intends to seek such continued or renewed withdrawal. Such draft environmental impact statement shall be consistent with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) applicable to such a draft environmental impact statement. Prior to the termination date specified in subsection (a), the Secretary of the Navy shall hold a public hearing on any draft environmental impact statement published pursuant to this subsection. Such hearing shall be held in the State of California in order to receive public comments on the alternatives and other matters included in such draft environmental impact statement.

(c) EXTENSIONS OR RENEWALS.—The withdrawals established by this title may not be extended or renewed except by an Act or joint resolution.

SEC. 806. ONGOING DECONTAMINATION.

(a) PROGRAM.—Throughout the duration of the withdrawals made by this title, the Secretary of the Navy, to the extent funds are made available, shall maintain a program of decontamination of lands withdrawn by this title at least at the level of decontamination activities performed on such lands in fiscal year 1986.

(b) REPORTS.—At the same time as the President transmits to the Congress the President's proposed budget for the first fiscal year beginning after the date of enactment of this title and for each subsequent fiscal year, the Secretary of the Navy shall transmit to the Committees on Appropriations, Armed Services, and Energy and Natural Resources of the Senate and to the Committees on Appropriations, Armed Services, and Interior and Insular Affairs of the House of Representatives a description of the decontamination efforts undertaken during the previous fiscal year on such lands and the decontamination activities proposed for such lands during the next fiscal year including:

(1) amounts appropriated and obligated or expended for decontamination of such lands;

(2) the methods used to decontaminate such lands;

(3) amount and types of contaminants removed from such lands;

(4) estimated types and amounts of residual contamination on such lands; and

(5) an estimate of the costs for full decontamination of such lands and the estimate of the time to complete such decontamination.

SEC. 807. REQUIREMENTS FOR RENEWAL.

(a) NOTICE AND FILING.—(1) No later than three years prior to the termination of the withdrawal and reservation established by this title, the Secretary of the Navy shall advise the Secretary of the Interior as to whether or not the Secretary of the Navy will have a continuing military need for any of the lands withdrawn under section 802 after the termination date of such withdrawal and reservation.

(2) If the Secretary of the Navy concludes that there will be a continuing military need for any of such lands after the termination date, the Secretary shall file an application for extension of the withdrawal and reservation of such needed lands in accordance with the regulations and procedures of the Department of the Interior applicable to the extension of withdrawals of lands for military uses.

(3) If, during the period of withdrawal and reservation, the Secretary of the Navy decides to relinquish all or any of the lands withdrawn and reserved by this title, the Secretary shall file a notice of intention to relinquish with the Secretary of the Interior.

(b) CONTAMINATION.—(1) Before transmitting a notice of intention to relinquish pursuant to subsection (a), the Secretary of Defense, acting through the Department of Navy, shall prepare a written determination concerning whether and to what extent the lands that are to be relinquished are contaminated with explosive, toxic, or other hazardous materials.

(2) A copy of such determination shall be transmitted with the notice of intention to relinquish.

(3) Copies of both the notice of intention to relinquish and the determination concerning the contaminated state of the lands shall be published in the Federal Register by the Secretary of the Interior.

(c) DECONTAMINATION.—If any land which is the subject of a notice of intention to relinquish pursuant to subsection (a) is contaminated, and the Secretary of the Interior, in consultation with the Secretary of the Navy, determines that decontamination is practicable and economically feasible (taking into consideration the potential future use and value of the land) and that upon decontamination, the land could be opened to operation of some or all of the public land laws, including the mining laws, the Secretary of the Navy shall decontaminate the land to the extent that funds are appropriated for such purpose.

(d) ALTERNATIVES.—If the Secretary of the Interior, after consultation with the Secretary of the Navy, concludes that decontamination of any land which is the subject of a notice of intention to relinquish pursuant to subsection (a) is not practicable or economically feasible, or that the land cannot be decontaminated sufficiently to be opened to operation of some or all of the public land laws, or if Congress does not appropriate a sufficient amount of funds for the decontamination of such land, the Secretary of the Interior shall not be required to accept the land proposed for relinquishment.

(e) STATUS OF CONTAMINATED LANDS.—If, because of their contaminated state, the Secretary of the Interior declines to accept jurisdiction over lands withdrawn by this title which have been proposed for relinquishment, or if at the expiration of the withdrawal made by this title the Secretary of the Interior determines that some of the lands withdrawn by this title are contaminated to an extent which prevents opening such contaminated lands to operation of the public land laws—

(1) the Secretary of the Navy shall take appropriate steps to warn the public of the contaminated state of such lands and any risks associated with entry onto such lands;

(2) after the expiration of the withdrawal, the Secretary of the Navy shall undertake no activities on such lands except in connection with decontamination of such lands; and

(3) the Secretary of the Navy shall report to the Secretary of the Interior and to the Congress concerning the status of such lands and all actions taken in furtherance of this subsection.

(f) REVOCATION AUTHORITY.—Notwithstanding any other provision of law, the Secretary of the Interior, upon deciding that it is in the public interest to accept jurisdiction over lands proposed for relinquishment pursuant to subsection (a), is authorized to revoke the withdrawal and reservation established by this title as it applies to such lands. Should the decision be made to revoke the withdrawal and reservation, the Secretary of the Interior shall publish in the Federal Register an appropriate order which shall—

(1) terminate the withdrawal and reservation;

(2) constitute official acceptance of full jurisdiction over the lands by the Secretary of the Interior; and

(3) state the date upon which the lands will be opened to the operation of some or all of the public lands laws, including the mining laws.

SEC. 808. DELEGABILITY.

(a) DEFENSE.—The functions of the Secretary of Defense or the Secretary of the Navy under this title may be delegated.

(b) INTERIOR.—The functions of the Secretary of the Interior under this title may be delegated, except that an order described in section 807(f) may be approved and signed only by the Secretary of the Interior, the Under Secretary of the Interior, or an Assistant Secretary of the Department of the Interior.

SEC. 809. HUNTING, FISHING, AND TRAPPING.

All hunting, fishing, and trapping on the lands withdrawn by this title shall be conducted in accordance with the provisions of section 2671 of title 10, United States Code.

SEC. 810. IMMUNITY OF UNITED STATES.

The United States and all departments or agencies thereof shall be held harmless and shall not be liable for any injury or damage to persons or property suffered in the course of any geothermal leasing or other author-

ized nonmilitary activity conducted on lands described in section 802 of this title.

SEC. 811. EL CENTRO RANGES.

The Secretary of the Interior is authorized to permit the Secretary of the Navy to use until January 1, 1994, the approximately 44,870 acres of public lands in Imperial County, California, known as the East Mesa and West Mesa ranges, in accordance with the Memorandum of Understanding dated June 29, 1987, between the Bureau of Land Management, the Bureau of Reclamation, and the Department of the Navy. Such use shall be consistent with such Memorandum of Understanding and such additional terms and conditions as the Secretary of the Interior may require in order to protect the natural, scientific, environmental, cultural, and other resources and values of such lands and to minimize the extent to which use of such lands for military purposes impedes or restricts use of such or other public lands for other purposes. All military uses of such lands shall cease on January 1, 1994, unless authorized by subsequent Act of Congress.

SEC. 812. MILITARY OVERFLIGHTS.

(a) DISCLAIMER.—Nothing in this Act shall preclude low-level overflights by military aircraft, the designation of new units of special airspace, or the use or establishment of military flight telephone routes over the new units of the National Park or National Wilderness Preservation Systems (or any additions to existing units of such Systems) designated by this Act.

(b) MONITORING.—The Secretary of the Interior shall monitor the effects of aircraft overflights on the resources and values of the units of the National Park System and National Wilderness Preservation System designated or expanded by this Act, and on visitor enjoyment of such units. The Secretary of the Interior shall actively seek the assistance of the Secretary of Defense, consistent with national security needs, to resolve concerns related to such overflights and to prevent, eliminate, or minimize the derogation of resources and values and of visitor enjoyment associated with overflight activities.

The CHAIRMAN. Under the rule, the gentleman from Guam, Mr. BLAZ, will be recognized for 5 minutes, and a member opposed will be recognized for 5 minutes.

Does the gentleman from California [Mr. LEHMAN] oppose the amendment?

Mr. LEHMAN of California. I do not, Mr. Chairman.

The CHAIRMAN. The gentleman from California [Mr. LEHMAN] does not oppose the amendment.

The Chair recognizes the gentleman from Guam [Mr. BLAZ].

Mr. BLAZ. Mr. Chairman, I have an inquiry then. If the gentleman from California [Mr. LEHMAN] does not oppose the amendment, since 10 minutes are allowed for this amendment, do I have 10 minutes to dispense?

The CHAIRMAN. The Chair will then ask is there any opposition to the amendment?

Without objection, the gentleman from Guam [Mr. BLAZ] will be recognized for 10 minutes.

There was no objection.

Mr. BLAZ. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, prior to the debate I sought unanimous consent that the proposed Blaz amendment and the proposed vento amendment be merged. That was granted. My comments, then, relate to the Vento-Blaz formulation.

Mr. Chairman, I offer this amendment in conjunction with Mr. Vento because it has become apparent to all of us that the end of the cold war has, sadly, not opened an era of world peace. Rather, the fall of the Iron Curtain has revealed an array of regional conflicts which previously had been concealed by the global nature of the stand-off between the United States and the Soviet Union.

The Persian Gulf war is only one example of how these smaller conflicts can reach the United States with devastating impact. Or course, we all applaud the military cutbacks which the end of the cold war will permit. But we must not persuade ourselves that our military is superfluous. Indeed, if we learned anything from the Persian Gulf, it is that as our military becomes smaller, its training must be enhanced to assure that our vital interests as a Nation will be preserved.

As technologically advanced as our arsenal is, it will prove no more effective than a club and a rock, unless the personnel who man it have acquired the necessary skills. The California desert provides the area and the facilities where these skills can be honed. This amendment, which I join Mr. VENTO in offering, will help assure that when we must next send our young people in harm's way, they will be going forth fully prepared. It is the most that we can do for our brave men and women in uniform, and it is the least that should be expected of us as a Nation.

I urge all my colleagues in the House to support this amendment.

Mr. Chairman, it is my understanding since some of my colleagues on both sides would like some time, that I am now prepared to yield time to those who wish time. But before I yield to the gentleman who is standing, let me say I mentioned last week and I mentioned today again this gentleman absolutely enjoyed working with the gentleman from Minnesota [Mr. VENTO], the gentleman from California [Mr. LEHMAN], and the gentleman from California [Mr. MILLER], and the gentleman from California [Mr. LEVINE] as well.

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Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I rise in support of this amendment. As modified by the gentleman from Guam under his unanimous-consent request, the new Vento-Blaz amendment is similar to my own amendment, which is made in order under the rule.

Mr. Chairman, this amendment would add to the bill provisions related to continued military use by the Navy of more than 1.3 million acres of Federal lands in the California desert and continued low-level overflights by military aircraft of other areas covered by the bill.

The amendment is similar to a bill—H.R. 3565—which I introduced last month and that was cosponsored by Chairman MILLER of the Interior Committee and the gentlemen from California, Mr. LEHMAN and Mr. LEVINE. It is also similar to a bill, sponsored by our colleague from Maryland, Mrs. BYRON, that the House passed in 1987 but on which the Senate did not complete action.

The lands covered by this amendment have been used by the Navy for many yuears and for a variety of important purposes. Past withdrawals for military use have expired—and under the Engle Act such withdrawals in peacetime can be renewed only by congressional action such as this amendment.

The amendment would add a new title, title VIII, to the bill, It would renew the military withdrawal of the China Lake Naval Weapons Center and the Chocolate Mountain Aerial Gunnery Range and would also authorize continued military use of certain other lands in Imperial County, CA, by the Navy.

The Subcommittee on National Parks and Public Lands, which I chair, held a hearing on these provisions on November 5, and this Vento-Blaz amendment includes some revisions made in response to suggestions by the administration.

For example, the amendment would delete from the Chocolate Mountain withdrawal 640 acres, as proposed by the Interior Department, to accommodate mineral exploration. At the hearing, the Defense Department indicated that this was acceptable to them. Similarly, language related to possible recreational use of the withdrawn lands has been narrowed so that it applies only to China Lake—again, as suggested by the Interior Department.

In the same way, this Vento-Blaz amendment includes language related to military overflights that is based on administration suggestions at that same hearing. That language would add to H.R. 2929 a provision stating that nothing in the bill is to be construed as precluding low-level military overflights of lands covered by the bill or as prohibiting either the designation of new units of special airspace of the establishment of military flight training routes over the lands covered by the bill.

Mr. Chairman, provisions related to overflights are not actually a necessary part of this or any bill designating wilderness areas or to provide for adding lands to the National Park System. Such designations, by themselves, do not have any direct effect on low-level overflights, civilian or military,

which are regulated by other existing laws and policies.

However, because some have argued that enactment of legislation like H.R. 2929 could have such a direct effect on existing patterns of military overflights, I think adding language to clarify this matter may be helpful—and that is what this amendment does.

In summary, Mr. Chairman, this amendment will assure continued military use of the important China Lake and Chocolate Mountain areas, and will clarify that the designation of other California desert lands as wilderness or National Park System areas will not by itself block continued military overflights of those lands. I urge adoption of the amendment.

Mr. BLAZ. Mr. Chairman, I have an inquiry at this point. I must admit that I did not hear what was said at the beginning. Do I have 5 minutes or do I have 10 minutes?

The CHAIRMAN. There was no Member rising in opposition. The gentleman from Guam [Mr. BLAZ] had 10 minutes, and he has 3½ minutes remaining.

Mr. BLAZ. Mr. Chairman, in that case, I yield 2 minutes to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Chairman, I would like to have the Members of the House consider that, if they think there is no cost in H.R. 2929, when they come to pay for their parks and recreation on the east coast, think about where the money is going to come from. It is all going to California.

Mr. Chairman, I would like to thank the gentleman from Guam [Mr. BLAZ]. Not many people know General BLAZ. He, as a boy, came from Guam, and looked at the 9th Marine Regiment and said, "I think I can do that." Well, General BLAZ grew up to lead the 9th Marine Regiment and is very noteworthy in his attempts in what he is trying to do.

However, Mr. Chairman, I would like to point out some shortfalls. I rise in support of the amendment of the gentleman from Guam [Mr. BLAZ], but opposed to H.R. 2929.

The amendment of the gentleman from Guam [Mr. BLAZ] does a lot of different things. One of the points in the whip notice is it says 30 years for renewals. It is actually 15 years, as combined, as I understand it, with Mr. VENTO'S. One of the things with the gentleman from Minnesota [Mr. VENTO] is the El Centro ranges that go out in 1994. Those are the ranges where I, as a pilot, Jonathan Livingston Seagull trained on Inky Barley Pitty Baggage Rakey's Litter. That is where we drop our practice bombs, and I know that they can request a renewal, but then they have to support and requisition an environmental-impact statement, and the Navy has to give a report of decontamination.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I would just point out that this is because they had not made a formal request under the Engel Act. We have no illusions about anything, and these are standard procedures under the Engel Act, as is the 15 years.

Mr. Chairman, I thank the gentleman from California [Mr. CUNNINGHAM] for yielding.

Mr. CUNNINGHAM. Mr. Chairman, 15 years is not my point. It is that they phased out in 1994, and that this training is critical. This is where our young pilots train from the training squadrons, and without that we are lost. If my colleagues want to cut the military, they want them well equipped, well trained, well, there needs more in this amendment. We also need buffer zones around.

Mr. BLAZ. Mr. Chairman, I yield 1 minute to the gentlewoman from Maryland [Mrs. BYRON].

Mrs. BYRON. Mr. Chairman, let me thank the gentleman from Guam [Mr. BLAZ] and the gentleman from California [Mr. CUNNINGHAM] who has just spoken from the well.

Mr. Chairman, I have been assured by the Department of Defense that by 1994, that is adequate time for them to get the request in for a continuation of the use of those areas.

Let me say to my colleague, the gentleman from Guam [Mr. BLAZ] who serves on both the Committee on Armed Services and the Committee on Interior and Insular Affairs with me, and also to the gentleman from Minnesota [Mr. VENTO], chairman of the Subcommittee on National Parks and Public Lands, that I want to thank him for putting the language of a bill that I had passed by this body in 1987. Once again DOD was here in November to testify in a hearing that we had, and the testimony was that they stated at the time with a modification of the gentleman's amendment it met all of their concerns and, therefore, they are in favor of the amendment as drafted.

As my colleagues know, we spent a great deal of time on Friday discussing this amendment. My colleagues from California, Top Gun CUNNINGHAM, and I had a discussion, but I think this amendment answers the questions that DOD was concerned about.

Mr. LEHMAN of California. Mr. Chairman, I move to strike the last word, and I will only take 30 seconds. I just want to get on the record the answer to two questions.

I ask the gentleman from Guam, "Mr. BLAZ, are the land withdrawal provisions in your amendment the ones the Navy wants?"

Mr. BLAZ. Mr. Chairman, will the gentleman yield?

Mr. LEHMAN of California. I yield to the gentleman from Guam.

Mr. BLAZ. Yes, it is.

Mr. LEHMAN of California. And is the overflight language which is put forth in the amendment the overflight language that the Defense Department has asked for?

Mr. BLAZ. Yes, it is.

Mr. LEHMAN of California. Mr. Chairman, I thank the gentleman from Guam for his good work in this area.

Mr. BLAZ. Mr. Chairman, I move to strike the last word on my own amendment.

The CHAIRMAN. The gentleman from Guam is recognized for 5 minutes.

Mr. BLAZ. Mr. Chairman, I yield to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Chairman, I appreciate the gentleman from Guam [Mr. BLAZ] yielding this time to me.

Mr. Chairman, the amendment presented by the gentleman from Guam and the gentleman from Minnesota is very helpful to some of the concerns that we have about the military mission that is so critical to this country's role in the world. The National Training Center for the Army and the Marine Corps base at Twentynine Palms were very fundamental to the kind of training that caused us to be so successful in our venture in the Middle East. I know that the gentleman presenting this amendment and the Department of Defense feel very strongly that this amendment does not solve all of the problems involved.

I have a letter dated November 21 of this year to the chairman of the Committee on Armed Services that says:

DEAR MR. CHAIRMAN: We oppose the California Desert Protection Act, 2929, and support the California Public Lands Wilderness Act, H.R. 3066. Adoption of amendments to H.R. 2929 expected to be offered by Congressman VENTO and Congressman BLAZ would address defense concerns relating to military overflight, the National Training Center and land withdrawals, but H.R. 2929 still would not address the following needs.

They list three critical needs which have been previously addressed in the RECORD. Can we carry forward the training mission that is so vital to the future of our national defense H.R. 2929 is in effect?

The answer to that according to the Secretary of Defense is no.

So, Mr. Chairman, while I rise in support of the amendment of the gentleman from Guam [Mr. BLAZ], let us state clearly for the record that we have not met the challenge of meeting the tremendous potential of this region. Our ability to defend ourselves and to move forward in our support of freedom throughout the world, depends on resolving these issues.

□ 1730

Mr. BLAZ. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendments en bloc, as modified, offered by the gentleman from Guam [Mr. BLAZ].

The amendments en bloc, as modified, were agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 12 printed in House Report 102–314.

AMENDMENT OFFERED BY MR. DELAY

Mr. DELAY. Mr. Chairman, I offer an amendment made in order under the rule.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. DELAY:

Page 65, after line 15, add the following new title:

TITLE VIII—REQUIREMENT FOR LAND DISPOSAL UPON LAND ACQUISITION

LAND DISPOSAL UPON LAND ACQUISITION

SEC. 801. Within one year of acquiring any non-Federal land or interest therein for any purpose of this Act, the Secretary shall dispose of all right, title, and interest in and to a quantity of Federal lands equal in value to the non-Federal land or interest acquired, as determined by the Secretary.

The CHAIRMAN. Under the rule, the gentleman from Texas [Mr. DELAY] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

Mr. LEHMAN of California. Mr. Chairman, I am opposed to the amendment and would ask for the time.

The CHAIRMAN. The gentleman from California [Mr. LEHMAN] will be recognized for 5 minutes.

The Chair now recognizes the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, although our operating deficit currently stands at $412 billion, H.R. 2929 requires the Federal Government to spend even more money for the management and acquisition of land. This is simply fiscally irresponsible.

The Federal Government already owns approximately one-third of all of the land in the United States. We certainly do not need more. More importantly, we cannot afford it.

The Bureau of Land Management [BLM] estimates that there are 828,000 acres of non-Federal land included in the land covered by the conservation and protection provisions of H.R. 2929. Using current appraisal data and mapping the area by value, BLM has estimated that the value of these 828,000 acres of land ranges from a low of $180 million to a high of $500 million. In addition, the total of all administrative costs and clearances could exceed $49 million. These are not insignificant amounts of money which we would have to spend if this bill were passed.

Furthermore, as these figures provided by the National Park Service show, the NPS currently has a total shortfall of $8.38 to $10.38 billion; $3–$5 billion of this shortfall is in land it is authorized to acquire and has not yet paid for. It also has a shortfall of $5 billion in major facility repair and construction costs, and needs $375 million for annual park operations. It is unbelievable that some Members of this body are supporting H.R. 2929, a bill which will only add to the National Park Service's debt and burden it with additional land it will not be able to care for.

H.R. 2929 would also add to the Federal backlog of land it owes. Most people do not realize that the State of California is still negotiating for 51,000 acres of land that were part of its original statehood grant and have not yet been received. How can we even consider acquiring more of California's land before we have paid off our decades-old debt?

Even more outrageous is the fact that H.R. 2929 delays payment for the acquisition of land until after the budget agreement expires. The supporters of this bill know that we do not have the money or enough California land to pay for what it requires and are blatantly trying to avoid following the rules that this House passed to try to stem the growth of the deficit. The bill instead establishes the California desert lands credit account in the amount of the appraised value of the remaining land which has not been accounted for, with the intent to pay for it after October 1, 1995. If this is not a sign of fiscal irresponsibility then I don't know what is.

I am offering an amendment which will curb these fiscal excesses. My amendment will require the Federal Government to sell land of an equal value in exchange for acquiring additional land. If the land in question is considered truly vital for the public good and the Federal Government feels it necessary to acquire it, there must be some other less valuable piece of land which the Government could exchange for it. This will serve to keep the Government from purchasing more and more land which it cannot pay for.

I am merely asking that we maintain an equilibrium. I am not asking that we get rid of land, just that we have no net gain of Federal land so as not to continue to plunge further into debt. I urge you to support my amendment as an act of fiscal responsibility.

Mr. Chairman, I reserve the balance of my time.

Mr. LEHMAN of California. Mr. Chairman, I yield myself such time as I may consume, and I rise in opposition to the amendment.

Mr. Chairman, I think that Members should be aware of the ramifications of this. It is hard to take this amendment too seriously due to the enormous impact it might have beyond the bill we are talking about today.

The requirement that we sell off Federal land whenever we acquire any Federal land, as written in this amendment, would impact all the 50 States, not just the State of California vis-a-vis the actions we take in the California desert. If we acquire land with respect to the desert, we would have to sell land anywhere in the United States, not just in the vicinity of the desert.

Again we have required in the bill, in the exchange provisions, that there be a value-for-value trade at the time each exchange is made. Where there is Federal land available and where we need to acquire Federal land from the State teachers or in the amendment that the gentleman from California [Mr. MILLER] will offer in a couple of minutes, from Catallas, we will be able to do so by trading for other Federal land of equal appraised value somewhere else. The requirement placed here would make it virtually impossible to carry out the purposes of the act.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The Chair will state that the gentleman from Texas [Mr. DELAY] has 1 minute remaining, and the gentleman from California [Mr. LEHMAN] has 3½ minutes remaining.

Mr. DELAY. Mr. Chairman, I will just quickly use my remaining 1 minute.

Mr. Chairman, I appreciate what the chairman of the subcommittee is saying, but it is obvious that they do not want to stop here. They want to increase the bank of Federal lands in this country. The fiscal irresponsibility embodied in this bill is truly astounding. How much clearer can it be?

Proponents of the Desert Protection Act claim that the land would be paid for through the exchange, as the subcommittee chairman says. However, there is only 550,000 acres of Federal land available in California for disposal, and H.R. 2929 will require the acquisition of 828,000 acres. To pay for all that land through equal exchange, California would have to be given Federal land outside the State, which means California would end up owning land in Oklahoma or New York, it is that crazy. Obviously this would not be a very good solution.

I am just saying that we should not be increasing the bank of Federal land in this country if we do not have the money for it. We can sell land if we want more land, but we should sell land in an equivalent amount.

Mr. LEHMAN of California. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I rise in opposition to the amendment.

The amendment provides a solution where no problem exists. California has no problem in terms of the exchanges because there is Federal land in California which can provide the exchanges to block up and provide for the conservation units in the California desert. This reaches out and grabs into every 1 of the 50 States. You could have a 100-acre exchange in California and

lose land in Minnesota or Washington or someplace else. The truth of the matter is that there is no great Federal grab that is going on. Our Nation has tried throughout its history to provide lands for homesteads, for schools, and for other purposes.

□ 1740

The lands that remain here are the lands that nobody wanted. These were considered the wastelands.

We see special value in these lands. We want to take and preserve them for the parks, for the wilderness, and other areas in this country for future generations. This is our American heritage. Let us try and hold it together.

Mr. LEHMAN of California. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, I would just say that the President had a policy of no new net wetlands. This is a sort of a no new net national park.

If we create the Mojave National Park, then we have to give back land out of the Grand Tetons. And if we want to expand Yellowstone to protect the park, we can give back some of Colorado, the Colorado National Park. Or if we want to expand Yosemite, we can give back Fire Island.

The bill provides for the exchange of lands between the private sector and the public sector. That is what the legislation does. For this amendment to come along is just ludicrous at this point, to suggest that somehow this is a workable policy or that this will save the taxpayers money.

These lands are there. They are there to be exchanged. For the gentleman from the State of Texas, which has so much RTC property, he ought to be happy that the California State teachers retirement system is even thinking of bidding on RTC properties down the road.

Mr. LEHMAN of California. Mr. Chairman, I yield myself such time as I may consume.

I think the amendment is seriously flawed from a practical aspect. The requirement that Federal lands be disposed of within 1 year is totally impractical and in fact would have serious consequences right now when there is so much real estate on the market. It is flawed. We have worked out the problems in this bill with respect to exchange. I ask for a no vote on the amendment.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. DELAY].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. DELAY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 49, noes 379, not voting 6, as follows:

[Roll No. 434]

AYES—49

Archer	Hall (TX)	Nichols
Armey	Hancock	Packard
Ballenger	Hayes (LA)	Payne (VA)
Barton	Herger	Rhodes
Burton	Holloway	Rohrabacher
Coble	Hunter	Skeen
Combest	Inhofe	Smith (OR)
Crane	Johnson (TX)	Smith (TX)
Dannemeyer	Kolbe	Stump
DeLay	Kyl	Tauzin
Doolittle	Lightfoot	Taylor (NC)
Duncan	Livingston	Thomas (WY)
Edwards (OK)	Marlenee	Vucanovich
Emerson	McCandless	Young (AK)
Fields	McEwen	Zimmer
Gekas	Miller (OH)	
Grandy	Myers	

NOES—379

Abercrombie	Cox (IL)	Harris
Ackerman	Coyne	Hastert
Alexander	Cramer	Hatcher
Allard	Cunningham	Hayes (IL)
Allen	Darden	Hefley
Anderson	Davis	Hefner
Andrews (ME)	de la Garza	Henry
Andrews (NJ)	DeFazio	Hertel
Andrews (TX)	DeLauro	Hoagland
Annunzio	Dellums	Hobson
Anthony	Derrick	Hochbrueckner
Applegate	Dickinson	Hopkins
Aspin	Dicks	Horn
Atkins	Dingell	Horton
AuCoin	Dixon	Houghton
Bacchus	Donnelly	Hoyer
Baker	Dooley	Hubbard
Barnard	Dorgan (ND)	Huckaby
Barrett	Dornan (CA)	Hughes
Bateman	Downey	Hutto
Beilenson	Dreier	Hyde
Bennett	Durbin	Ireland
Bentley	Dwyer	Jacobs
Bereuter	Early	James
Berman	Eckart	Jefferson
Bevill	Edwards (CA)	Jenkins
Bilbray	Edwards (TX)	Johnson (CT)
Bilirakis	Engel	Johnson (SD)
Blackwell	English	Johnston
Bliley	Erdreich	Jones (GA)
Boehlert	Espy	Jones (NC)
Boehner	Evans	Jontz
Bonior	Ewing	Kanjorski
Borski	Fascell	Kaptur
Boucher	Fawell	Kasich
Boxer	Fazio	Kennedy
Brewster	Feighan	Kennelly
Brooks	Fish	Kildee
Broomfield	Flake	Klug
Browder	Foglietta	Kolter
Brown	Ford (MI)	Kopetski
Bruce	Ford (TN)	Kostmayer
Bryant	Frank (MA)	LaFalce
Bunning	Franks (CT)	Lagomarsino
Bustamante	Frost	Lancaster
Byron	Gallegly	Lantos
Callahan	Gallo	LaRocco
Camp	Gaydos	Laughlin
Campbell (CA)	Gejdenson	Leach
Campbell (CO)	Geren	Lehman (CA)
Cardin	Gibbons	Lehman (FL)
Carper	Gilchrest	Lent
Carr	Gillmor	Levin (MI)
Chandler	Gilman	Levine (CA)
Chapman	Gingrich	Lewis (CA)
Clay	Glickman	Lewis (FL)
Clement	Gonzalez	Lewis (GA)
Clinger	Goodling	Lipinski
Coleman (MO)	Gordon	Lloyd
Coleman (TX)	Goss	Long
Collins (IL)	Gradison	Lowery (CA)
Collins (MI)	Green	Lowey (NY)
Condit	Guarini	Luken
Conyers	Gunderson	Machtley
Cooper	Hall (OH)	Manton
Costello	Hamilton	Markey
Coughlin	Hammerschmidt	Martin
Cox (CA)	Hansen	Martinez
Matsui	Peterson (FL)	Smith (IA)
Mavroules	Peterson (MN)	Smith (NJ)
Mazzoli	Petri	Snowe
McCloskey	Pickett	Solarz
McCollum	Pickle	Solomon
McCrery	Porter	Spence
McCurdy	Poshard	Spratt
McDade	Price	Staggers
McDermott	Pursell	Stallings
McGrath	Quillen	Stark
McHugh	Rahall	Stearns
McMillan (NC)	Ramstad	Stenholm
McMillen (MD)	Ravenel	Stokes
McNulty	Ray	Studds
Meyers	Reed	Sundquist
Mfume	Regula	Swett
Michel	Richardson	Swift
Miller (CA)	Riggs	Synar
Miller (WA)	Rinaldo	Tallon
Mineta	Ritter	Tanner
Mink	Roberts	Taylor (MS)
Moakley	Roe	Thomas (CA)
Molinari	Roemer	Thomas (GA)
Mollohan	Rogers	Thornton
Montgomery	Ros-Lehtinen	Torres
Moody	Rose	Torricelli
Moorhead	Rostenkowski	Towns
Moran	Roth	Traficant
Morella	Roukema	Traxler
Morrison	Rowland	Unsoeld
Mrazek	Roybal	Upton
Murphy	Russo	Valentine
Murtha	Sabo	Vander Jagt
Natcher	Sanders	Vento
Neal (MA)	Sangmeister	Visclosky
Neal (NC)	Santorum	Volkmer
Nowak	Sarpalius	Walker
Nussle	Savage	Walsh
Oakar	Sawyer	Washington
Oberstar	Saxton	Waters
Obey	Schaefer	Waxman
Olin	Scheuer	Weber
Olver	Schiff	Weiss
Ortiz	Schroeder	Weldon
Orton	Schulze	Wheat
Owens (NY)	Schumer	Whitten
Owens (UT)	Sensenbrenner	Williams
Oxley	Serrano	Wilson
Pallone	Sharp	Wise
Panetta	Shaw	Wolf
Parker	Shays	Wolpe
Pastor	Shuster	Wyden
Patterson	Sikorski	Wylie
Paxon	Sisisky	Yates
Payne (NJ)	Skaggs	Yatron
Pease	Skelton	Young (FL)
Pelosi	Slattery	Zeliff
Penny	Slaughter	
Perkins	Smith (FL)	

NOT VOTING—6

Dymally	Kleczka	Rangel
Gephardt	Nagle	Ridge

□ 1801

Mr. HEFLEY and Mr. ROSTENKOWSKI changed their vote from "aye" to "no."

Mr. SMITH of Texas changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENTS, EN BLOC AS MODIFIED, OFFERED BY MR. MILLER OF CALIFORNIA

Mr. MILLER of California. Mr. Chairman, I offer amendments en bloc.

The CHAIRMAN. The Clerk will report the amendments en bloc.

The Clerk read as follows:

Amendments en bloc, as modified, offered by Mr. MILLER of California:

Page 7, lines 1 and 2, strike "seven hundred and thirty" and insert in lieu thereof "three hundred and eighty".

Page 13, line 14, move section 102(25) to page 8, line 10, and renumber all the remaining wilderness areas in section 102 in sequential order.

Page 16, line 2, strike "twenty-eight thousand eight hundred and twenty" and insert

in lieu thereof "twenty-nine thousand five hundred and eighty".

Page 16, lines 3 through 8, strike "two maps" and everything that follows through line 8, and insert in lieu thereof "a map entitled 'Kelso Dunes Wilderness—Proposed 1', dated October 1991, a map entitled 'Kelso Dunes Wilderness—Proposed 2', dated May 1991, and a map entitled 'Kelso Dunes Wilderness—Proposed 3', dated September 1991, and which shall be known as the Kelso Dunes Wilderness.".

Page 16, line 21, strike "forty-eight acres" and insert in lieu thereof "three hundred and sixty-eight acres".

Page 17, line 6, strike "forty-five thousand six hundred and eighty acres" and insert in lieu thereof with "forty-six thousand four hundred and sixty acres".

Page 17, line 15, strike "three hundred", and insert in lieu thereof "four hundred".

Page 18, line 6, strike "twenty-five", and insert in lieu thereof "five".

Page 19, line 16, strike "five hundred and eighty", and insert in lieu thereof "two hundred and forty".

Page 20, lines 7 through 11, strike "two maps" and everything that follows and insert in lieu thereof "a map entitled 'Old Woman Mountains Wilderness—Proposed 1', dated May 1991 and a map entitled 'Old Woman Mountains Wilderness—Proposed 2', dated October 1991, and which shall be known as the Old Woman Mountains Wilderness.".

Page 25, line 23, strike "five hundred and forty", and insert in lieu thereof "eight hundred".

Page 25, line 25, strike "dated May 1991", and insert in lieu thereof "dated October 1991".

Page 33, line 12 and 13, strike "a map entitled 'Havasu Wilderness'" and insert in lieu thereof "a map entitled 'Havasu Wilderness—Proposed'".

Page 33, lines 18 and 19, strike "a map entitled 'Imperial Refuge Wilderness'", and insert in lieu thereof "two maps entitled 'Imperial Refuge Wilderness—Proposed '' and 'Imperial Refuge Wilderness—Proposed 2,'".

Page 33, line 20, strike "known as Imperial Wilderness" and insert in lieu thereof "known as Imperial Refuge Wilderness".

Page 40, line 7, strike "dated May 1991 or prior" and insert in lieu thereof "dated October 1991 or prior".

Page 44, line 8, strike "service" and insert in lieu thereof "services".

Page 48, line 23, strike "in a right-of-way identified in paragraph (1)" and insert "in the Southern California Edison Company validly issued Eldorado-Lugo Transmission Line right-of-way and Mojave-Lugo Transmission Line right-of-way".

Page 49, line 14, strike "replacement" and insert "upgraded".

Page 49, line 23, strike "Eldorado rights-of-way" and insert in lieu thereof "Eldorado rights-of-way and Mojave right-of-way".

Page 50, line 3, strike "in the Mojave right-of-way".

Page 55, line 3, strike "six hundred" and insert "seven hundred".

Page 55, lines 12 and 13, strike "ninety-four thousand five hundred acres" and insert in lieu thereof "ninety-five thousand fifty-six acres".

Page 55, line 16, strike "dated September 1991 or prior" and insert in lieu thereof "dated October 1991 or prior".

Page 55, line 19, strike "dated September 1991 or prior" and insert in lieu thereof "dated October 1991 or prior".

Page 64, line 5, strike "October 1, 1995" and insert "October 1, 1996".

Page 26 lines 17 through 23; page 26, strike lines 11 through 19; page 27, strike lines 3 through 9; and redesignated the paragraphs in section 102 accordingly.

Page 31, line 20, insert "(a)" after "Sec. 108.".

Page 31, line 23, insert ", except for those areas provided for in subsection (b)," after "Act".

Page 32, after line 5, insert the following new subsection:

(b) Subject to valid existing rights, the Federal lands identified on maps as "Avawatz Mountains Wilderness—Proposed", dated May 1991; "South Avawatz Wilderness—Proposed", dated May 1991; and two maps entitled "Soda Mountains Wilderness—Proposed 1", dated May 1991, and "Soda Mountains Wilderness—Proposed 2", dated January 1989, are hereby withdrawn from disposition under the public lands laws and from entry or appropriation under the mining laws of the United States, from the operation of the mineral leasing laws of the United States, and form operation of the Geothermal Steam Act of 1970.".

Page 65, lines 5 and 6 and insert in lieu thereof the following:

EXCHANGES

SEC. 611. (a) Upon request of the Catellus Development Corporation (hereafter in this section referred to as "Catellus"), the Secretary shall enter into negotiations for an agreement or agreements to exchange Federal lands or interests therein on the list referred to in subsection (b)(2) of this section for lands of Catellus or interests therein which are located within the boundaries of one or more of the wilderness areas or park units designated by this Act.

(b) Within six months after the date of enactment of this Act, the Secretary shall send to Catellus and to the Committees a list of the following:

(1) Lands of Catellus or interests therein (including mineral interests) which are located within the boundaries of the wilderness areas or park units designated by this Act.

(2) Lands, wherever located, under the Secretary's jurisdiction to be offered for exchange, in the following priority:

(A) Lands, including lands with mineral and geothermal interests, which have the potential for commercial development but which are not currently under lease or producing Federal revenues.

(B) Federal lands managed by the Bureau of Reclamation that the Secretary determines are not needed for any Bureau of Reclamation project.

(C) Any public lands that the Secretary, pursuant to the Federal Land Policy and Management Act of 1976, has determined to be suitable for disposal through exchange.

(c)(1) If an agreement under this section is for (A) an exchange involving lands outside the State of California, (B) more than 5,000 acres of Federal land or interests therein in California, or (C) Federal lands in any State valued at more than $5,000,000, the Secretary shall provide to the Committees a detailed report of such land exchange agreements.

(2) All land exchange agreements shall be consistent with the Federal Land Policy and Management Act of 1976.

(3) Any report submitted to the Committee under this subsection shall include the following:

(A) A complete list and appraisal of the lands or interests in land proposed for exchange.

(B) A complete list of the lands, if any, to be acquired by the United States which contain any hazardous waste, toxic waste, or radioactive waste which requires removal or remedial action under Federal or State law, together with the estimated costs of any such action.

(4) An agreement under this subsection shall not take effect unless approved by a joint resolution enacted by the Congress.

(d) The Secretary shall provide the California State Lands Commission with a 180-day right of first refusal to exchange for any federal lands or interests therein, located in the State of California, on the list referred to in subsection (b)(2). Any lands with respect to which a right of first refusal is not noticed within such period or exercised under this subsection shall be available to Catellus for exchange in accordance with this section.

(e) On January 3, 1996, the Secretary shall provide to the Committees a list and appraisal consistent with the Federal Land Policy and Management Act of 1976 of all Catellus lands eligible for exchange under this section for which an exchange has not been completed. With respect to any of such lands for which an exchange has not been completed by October 1, 1996 (hereafter in this section referred to as "remaining lands"), the Secretary shall establish an account in the name of Catellus (hereafter in this section referred to as the "exchange account"). Upon the transfer of title by Catellus to all or a portion of the remaining lands to the United States, the Secretary shall credit the exchange account in the amount of the appraised value of the transferred remaining lands at the time of such transfer.

(f) Catellus may use the credit in the exchange account to bid, as any other bidder, for any property real, personal, or mixed, wherever located, owned or controlled by the United States, including in a corporate capacity or as a receiver, conservator, or similar fiduciary capacity to be sold in accordance with the applicable laws and regulations of the Federal agency or instrumentality, or any element thereof, offering such property for sale. Upon approval by the Secretary in writing, the credits in Catellus's exchange account may be transferred or sold in whole or in part by Catellus to any other party, thereby vesting such party with all the rights formerly held by Catellus. The exchange account shall be adjusted to reflect successful bids under this section or payments or forfeited deposits, penalties, or other costs assessed to the bidder in the course of such sales.

(g)(1) The Secretary shall not accept title pursuant to this section to any lands unless such title includes all right, title, and interest in and to the fee estate.

(2) Notwithstanding paragraph (1), the Secretary may accept title to any subsurface estate where the United States holds title to the surface estate.

(3) This subsection does not apply to easements and rights-of-way for utilities or roads.

(h) In no event shall the Secretary accept title under this section to lands which contain any hazardous waste, toxic waste, or radioactive waste which requires removal or remedial action under Federal or State law unless such remedial action has been completed prior to the transfer.

(i) For purposes of the section, any appraisal shall be consistent with the provisions of section 206 of the Federal Land Policy and Management Act of 1976.

(j) As used in this section, the term "Committees" means the Committee on Interior and Insular Affairs of the House of Rep-

resentatives and the Committee on Energy and Natural Resources of the Senate.

Mr. MILLER of California (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Under the rule, the gentleman from California [Mr. MILLER] will be recognized for 10 minutes and the gentleman from Guam [Mr. BLAZ] will be recognized for 10 minutes.

The Chair recognizes the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, it is my understanding that the amendment that we are now offering has no opposition. There is no controversy to the amendment. We will quickly move and hopefully pass this by a voice vote and then we will go to a vote immediately on final passage. That is my understanding from the other side of the aisle. Is that correct?

Mr. BLAZ. Mr. Chairman, if the gentleman will yield, that is correct.

Mr. MILLER of California. Mr. Chairman, I offer these en bloc amendments. They are mainly technical amendments to the bill that have been worked out with the minority and the majority of the staffs of the subcommittee. I would hope the Members would support them.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to my colleague, the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I appreciate my colleague yielding to me.

Mr. Chairman, as I understand the amendment, it is designed to address certain public employee lands in order that those lands might be disposed of in a way that at least the author of the amendment deems to be appropriate. Is that correct?

Mr. MILLER of California. That is correct.

Mr. LEWIS of California. The point of this amendment that does concern me is that there are very sizable numbers of acres of land in the territory that we are dealing with here in this bill in which a combination of two very important groups of public employees have significant investments.

The Members should know that in this case the California Teachers' Association has very sizable investments in thousands of acres of land. The teachers have investments by way of their retirement funds in thousands of acres of lands, invested because they hoped they would be kept for various natural resources to benefit their retirees.

There is a process whereby those lands will be dealt with.

As I understand, this amendment deals with public employees who have a similar investment in acres of land. They invested those retirement dollars in order to hope for future potential resources that might be discovered. So I have a couple of questions in connection with that.

The provisions that relate to the teachers indicate that the teachers get a buyout after the year 2000 for whatever is left in their credit exchange account, as I understand it.

Mr. MILLER of California. Should the money be appropriated; that is correct.

Mr. LEWIS of California. Should the money be appropriated—I do not think there is any doubt about that, is there?

Mr. MILLER of California. The teachers do not doubt it; the gentleman is correct.

Mr. LEWIS of California. The State teachers get a buyout after the year 2000 for any amount left in their credit account, and I am asking, do the public employees have such a right?

Mr. MILLER of California. That is correct. That is in the body of the bill.

Mr. LEWIS of California. I am not sure it is correct. My understanding is that the teachers have that right, but the public employees do not have that right.

Mr. MILLER of California. Mr. Chairman, I cannot hear the gentleman.

Mr. LEWIS of California. It is my understanding that the teachers have that right, but the public employees' language does not provide them with that right; they have a different disposal mechanism.

Mr. MILLER of California. That is correct.

Mr. LEWIS of California. The public employees, as I understand it, can exchange for public lands outside the State of California, is that correct?

Mr. MILLER of California. That is provided that it is approved by the Congress.

Mr. LEWIS of California. It is my understanding that the State teachers cannot—they cannot exchange lands outside the State of California under this bill.

Mr. MILLER of California. That is at their request; the gentleman is correct. They have requested that they not be provided lands outside of California.

Mr. LEWIS of California. Well, Mr. Chairman, I appreciate the gentleman responding to my questions. I will ask for my own time and then comment on the amendment on my own time.

Mr. Chairman, I thank the gentleman.

Mr. BLAZ. Mr. Chairman, I yield myself such time as I may consume, and I yield to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Chairman, I take this time because I believe a very important problem continues to exist with the bill.

Mr. Chairman, one of the complications of this bill that is very, very important to the citizens of California, but particularly important to retired former employees in California, is the fact that this bill has not settled the potential erosion of very significant investments for the retired teachers and the retired public employees in our State.

I had planned a motion to recommit in order to have a thorough and extensive discussion of this matter, but I am not sure that the House is either patient enough to put up with more dialog on this bill or that all that time is necessary. The points I wish to make now are pretty fundamental.

A wilderness package was put together that provided for 2.3 million acres of wilderness land and minimized these conflicts. If it had been enacted, it would have become the largest wilderness area in the continental United States.

□ 1810

That bill did not begin to create problems that might erode the future retirement benefits of former public employees of our State. As of this moment, the California Teachers Association literally owns nearly 300,000 acres of land in the territory that would be put in a wilderness area under H.R. 2929. Those lands were purchased because of their considered judgment about future retirement potential from the natural resources that can be tapped over time.

The teachers were somewhat ahead of the game. Some time ago they recognized the tremendous potential and resource value in those lands.

Looking around the scene, the investment advisers for the public employees said, "I wonder why the teachers are investing in all that land out there?" After they got a lot of advice and counsel from highly paid experts, they came to the conclusion it was because the teachers saw a tremendous profit potential there.

The public employees said, "How can we possibly take advantage of a similar circumstance for our retired employees?" Well, there was not very much land left that had huge investment potential. So they looked around in the private sector. It turned out, lo and behold, that the Santa Fe Railroad had an investment corporation that held hundreds of thousands of acres of land in this same territory.

What happened? The public employees bought 20 percent of the Santa Fe Railroad's property firm. Can you imagine that? Now, why would the public employees do that? Well, simply because they were looking for the investment potential in terms of America's natural resources in that very land.

They both were negotiating with the public commission that was drafting

the bill which I offered earlier as a substitute. That bill excluded most of these territories, so that the teachers and the public employees could take advantage of that speculation for their future retirees' benefit.

In this bill, we give them a beg and a promise. We kiss them on the cheek, and we say, "Hey, we are your friends. We will give you a promise about the future. We will trade that land off. But remember, friend, you teachers, you retired employees, you are our constituents. We got the votes, we will tell you what to do." So they forced some of their leadership to sign off in a haphazard fashion to a solution that is not a solution at all.

There is huge investment potential here that can cause retired employees and retired teachers in our State to hope that they will be able to keep up with inflation from those investments. This bill will totally undermine that future potential.

It is important that the Members know that this bill, H.R. 2929, does create unnecessary problems for retired teachers and retired public employees in our State. That is the reason I was asking for an "aye" vote the other day on our substitute. It is one of the many substantive reasons why we ought to vote "no" on this bill on final passage.

Mr. MILLER of California. Mr. Chairman, I yield 2 minutes to the subcommittee chairman, the gentleman from California [Mr. LEHMAN].

Mr. LEHMAN of California. Mr. Chairman, the facts here ought to be very clear. There is a difference between the land owned by the old Santa Fe Land Co. and the land owned by the California State retired teachers.

Over 100 years ago, the Federal Government gave land to the State of California, land that no one else wanted, including the Federal Government, for the purposes of education. The State of California turned the land over to State teachers, and it ended up in their retirement system.

It was a land grant over 100 years ago from the Federal Government, far different from the situation with Catellus, the successor to the Santa Fe Land Co., which 1 year ago was invested in by CALPERS, the California Public Employee Retirement System. Now, this bill has been around for over 5 years, and it has been around the House, and this issue, in a form very similar to what it is today.

They made that investment 1 year ago, a 20-percent investment in Catellus.

They could sell that land tomorrow, just like they could sell any investment, but the obligation of the Federal Government here with respect to the two, I believe, is quite different. The State teachers system did not select their lands on the basis of any plan as the gentleman suggested. They received those lands as a grant from the National Government when California was admitted as a State. And all during the 100 years, the teachers retirement system has held that land, they have not sought to develop that land in any manner whatsoever. We have worked this out. I ask for a "no" vote.

Mr. BLAZ. Mr. Chairman, may I inquire how much time remains?

The CHAIRMAN. The gentleman from Guam [Mr. BLAZ] has 5 minutes remaining, and the gentleman from California [Mr. MILLER] has 5 minutes remaining.

Mr. BLAZ. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. THOMAS].

Mr. THOMAS of California. I thank the gentleman for yielding.

I just think it is kind of telling that what we have in this amendment is an offering for a land exchange. We had an amendment defeated earlier, in which people who had paid their own money privately invested in the land were going to be forced from the land even if they were unwilling sellers.

They were going to be forced from the land because the gentleman from California, the chairman of the committee, has said there was a constitutional provision which would allow the Government to take the land and give them what the Government thought was reasonable compensation.

Mr. Chairman, I think it is ironic that the company that was mentioned in this amendment is the successor to the railroad which the Government gave the land to as an inducement for it to build the railroad.

What the chairman is engaged in is taking the public's land, which was given to a private corporation as a stimulus to build the railroad and which has been held over the years and has accumulated value, and now they have a special amendment to allow them to exchange that land, some of it valuable, some of it less valuable, for other land, some of it valuable, some of it less valuable, rather than using another approach. It just seems to me that for all of the arguments about the encroachment of corporations, of individuals, and of rights, that most ironic amendment offered today is the fact that the public-used land to induce growth through a private company, and here we are coming full circle with an amendment which will bribe these folks with yet more land.

It was public land, should be public land, and you are going to use public land to buy them out.

Mr. MILLER of California. Mr. Chairman, I yield 30 seconds to the author of the bill, the gentleman from California [Mr. LEVINE].

Mr. LEVINE of California. I thank the gentleman for yielding.

I think, for the record, in light of the comments we have just heard on a technical amendment that does not deal with a land exchange, but with regard to the land exchange the record should reflect, No. 1, the California Retired Teachers Association, in a letter to the committee on October 25, supports the bill. And the company that includes the public employees retirement investors, in a letter to the committee of November 13, states, "We fully support the amendment and would no longer oppose the bill if the amendment is adopted." Both TERS and the retired teachers are happy with the amendment and urge support for the bill.

Mr. BLAZ. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. I thank the gentleman for yielding.

Mr. Chairman, I rise only to make a final point regarding this measure.

I want to remind those Members who either may have forgotten or were not able to be here when we had the first discussion regarding this bill: There were four Members of Congress who stood at once as we began this debate. We represent the territory that we are dealing with in this bill. Together, the population they represent would make us the 23d largest State in the country.

□ 1820

We represent territory that would make us the 29th State in terms of size, and yet as this bill went together the four Members who represent the territory, as well as the people they represent, were not consulted. In turn, those Members supported the substitute on the floor that was the result of almost 10 years of public dialog, 4 years of public hearings, and some 40,000 individual citizens' input.

Mr. Chairman, if we care about anything around here as a body, at least we should be willing to focus upon the Members who represent these districts.

The CHAIRMAN. The gentleman from California [Mr. MILLER] is recognized for 2 minutes.

Mr. MILLER of California. Mr. Speaker and Members of the House, perhaps the California delegation is giving the Members the finest Christmas present they could have received today because those of my colleagues who feared a powerful, unified delegation of 52 Members after reapportionment can now rest easy.

This bill has been attacked by my colleagues within the delegation and by those from without the delegation. They have tried numerous efforts today. My colleagues have voted every 10 minutes as they have attacked this bill, trying to lead us to believe that this is some kind of effort to create a park where a park is not justified.

The fact is over the last decade a park has been justified, and that is what all of the studies have found, and now we seek to implement it. We seek to implement it through the regular order. We seek to implement it through

the hearings that were held, and the witnesses that were heard and the participation of all the members of our committee.

Now we come to the last noncontroversial amendment, an amendment that was asked for, and I cannot quite get this clear between my two colleagues whether we are doing too much for the teachers and these people or whether we are doing too little. That is not quite clear, but they asked for this amendment because they want to be able to exchange their lands out, and that is what we do in this bill which my colleagues have already voted on. This is just a technical amendment.

Mr. Chairman, I say to my colleagues, "One of these groups was given the lands when California became a State. Can't do much with the land. It's valuable from an environmental point of view, but it doesn't generate much income. They'd like to see if they can swap it out. The other is a private sector company that believes that they would like to swap their land out of the holdings of the monument so that they could see if they could become more productive on some other land because this land isn't terribly productive."

That is what we do, that is the regular order, that is what we have done in parks, and monuments and wilderness all over the country.

Mr. Chairman, I would urge my colleagues to support this amendment, there is no opposition to it, and then I would urge my colleagues to support the final passage of this legislation because this has been a long tortuous task, but is is clearly the right thing to do, and I urge an aye vote.

This amendment addresses concerns raised by the Catellus Development Corporation and the 950,000 members of the California Public Employees Retirement System.

Catellus and its stockholders, including the members of the California Public Employees Retirement System, own approximately 410,000 acres of land that would become inholdings within the park unit and monument areas designated in the California Desert Protection Act.

Mr. Chairman, using the numbers provided in the BLM's report inholding acquisition costs, the lands owned by Catellus are located in areas where land values range from $100 to $400 per acre. If we assume BLM's numbers are accurate, and some people including Catellus say they are high—this means the 410,000 acres of Catellus lands are worth from $41 to $164 million. Our amendment would allow Catellus to realize the value of these lands, while at the same time protecting the taxpayer's pocketbook.

The amendment is very similar to a provision included in the California Desert Protection Act to address concerns raised by the California State Lands Commission and the retired teachers in California.

The amendment directs the Secretary of the Interior to enter into land exchange negotiations with Catellus. The agreement would provide for the exchange of lands owned by Catellus for surplus nonrevenue producing Federal lands under the Interior Department's jurisdiction.

All land exchange agreements must be consistent with the Federal Land Policy and Management Act. Any land exchange agreement involving more than 5,000 acres of Federal land, any transaction valued at more than $5,000,000, or any exchange involving lands outside the State of California must be approved by a joint resolution of Congress.

Mr. Chairman, it is our hope that land exchanges will be successfully completed. However, if Catellus continues to own inholdings in the park units, and monument or wilderness areas after October 1, 1996, the Secretary is directed to establish a monetary credit account in the name of Catellus. The amount of the account shall be equivalent to the appraised value of the remaining inholdings. Catellus could then use this account to bid as any other bidder for excess or Federal property offered in a public sale.

Mr. Chairman, this amendment has the support of environmental organizations, as well as the California Public Employees Retirement System, and Catellus. It is an attempt to fairly deal with the largest inholder within the park, wilderness, and monument areas designated by this bill. The amendment allows the landowner to receive fair market value for its lands at the same time as it ensures that Federal taxpayers will receive fair market value for their public land. The exchange only occurs if Catellus wishes to give the Federal Government title to the Catellus lands.

Mr. BLAZ. Mr. Chairman, I am about to yield back the remaining time, but, before I do that, I just want to say to you that I appreciate more than I can express your indulgence and your courtesy to the gentleman from Guam.

Mrs. SCHROEDER. Mr. Chairman, I rise in support of the Vento-Blaz amendment to H.R. 2929, the California Desert Protection Act. The amendment is similar to H.R. 3565, which was referred jointly to the Committees on Armed Services and Interior and Insular Affairs.

This amendment withdraws 1.3 million acres of land from appropriation under the public land laws, allowing for its continued use for military purposes. The withdrawal for China Lake Naval Weapons Center in Inyo, Kern, and San Bernardino Counties and the Chocolate Mountain Aerial Gunnery Range in Imperial County would last for 15 years.

The area covered by the withdrawal meets the requirement of the Department of Defense for these two locations. Previous withdrawals of these lands for military purposes expired many years ago. The amendment also permits use by the Navy of the El Centro Ranges, also in Imperial County, until January 1, 1994.

The Vento-Blaz amendment also addresses the issue of military overflights. In section 812, the amendment clearly states that nothing in this bill precludes current or future military use of airspace. The section requires the Secretary of Interior to monitor the effects of overflights, and to work with the Secretary of Defense to prevent, eliminate, and minimize any adverse impact on resources, values, and visitor enjoyment caused by overflights.

This amendment is very similar to a bill passed by the House in the 100th Congress, H.R. 1548, and is modeled closely on the Military Lands Withdrawal Act of 1986, Public Law 99–606, 100 Stat. 3457–68. It has been slightly modified from the bill originally introduced this year, H.R. 3565, to address concerns raised by the Departments of Interior and Defense during hearings by the Interior Committee.

As chairwoman of the Armed Services Subcommittee on Military Installations and Facilities, I support the withdrawal of these lands from the protected California desert to allow for the continuation of military purposes set forth in the amendment. I salute the chairman of the National Parks and Public Lands Subcommittee, the gentleman from Minnesota [Mr. VENTO] and my colleague on the Armed Services Committee, the gentleman from Guam [Mr. BLAZ] for offering this amendment to address specific military concerns raised by the California Desert Protection Act.

Mr. BLAZ. Mr. Chairman, I yield back the balance of my time.

Mr. MILLER of California. Mr. Chairman, I yield back the balance of my time

Mr. LEHMAN of California. Mr. Chairman, I yield back the balance of our time.

The CHAIRMAN. The question is on the amendments en bloc, as modified, offered by the gentleman form California [Mr. MILLER].

The amendments en bloc, as modified, were agreed to.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mrs. KENNELLY) having assumed the chair, Mr. BARNARD, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2929) to designate certain lands in the California desert as wilderness, to establish the Death Valley, Joshua Tree, and Mojave National Parks, and for other purposes, pursuant to House Resolution 279, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. LEWIS of California. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 297, noes 136, not voting 1, as follows:

[Roll No. 435]

AYES—297

Abercrombie	Fazio	Martinez
Ackerman	Feighan	Matsui
Alexander	Fish	Mavroules
Andrews (ME)	Flake	Mazzoli
Andrews (NJ)	Foglietta	McCloskey
Andrews (TX)	Ford (MI)	McCollum
Annunzio	Ford (TN)	McCurdy
Anthony	Frank (MA)	McDermott
Applegate	Frost	McGrath
Aspin	Gallo	McHugh
Atkins	Gaydos	McMillen (MD)
AuCoin	Gejdenson	McNulty
Bacchus	Gephardt	Meyers
Barnard	Geren	Mfume
Beilenson	Gibbons	Miller (CA)
Bennett	Gilchrest	Miller (WA)
Berman	Gilman	Mineta
Bevill	Glickman	Mink
Bilbray	Gonzalez	Moakley
Blackwell	Gordon	Mollohan
Boehlert	Goss	Moody
Bonior	Green	Moran
Borski	Guarini	Morella
Boucher	Gunderson	Morrison
Boxer	Hall (OH)	Mrazek
Brooks	Hamilton	Murphy
Browder	Harris	Murtha
Brown	Hatcher	Nagle
Bruce	Hayes (IL)	Natcher
Bryant	Hefner	Neal (MA)
Bustamante	Henry	Neal (NC)
Byron	Hertel	Nowak
Campbell (CA)	Hoagland	Oakar
Campbell (CO)	Hochbrueckner	Oberstar
Cardin	Horn	Obey
Carper	Hoyer	Olin
Carr	Huckaby	Olver
Clay	Hughes	Ortiz
Clement	Jacobs	Owens (NY)
Coleman (TX)	James	Owens (UT)
Collins (IL)	Jefferson	Pallone
Collins (MI)	Jenkins	Panetta
Condit	Johnson (CT)	Pastor
Conyers	Johnson (SD)	Patterson
Cooper	Johnston	Payne (NJ)
Costello	Jones (GA)	Payne (VA)
Coughlin	Jones (NC)	Pease
Cox (IL)	Jontz	Pelosi
Coyne	Kanjorski	Penny
Cramer	Kaptur	Perkins
Darden	Kennedy	Peterson (FL)
de la Garza	Kennelly	Peterson (MN)
DeFazio	Kildee	Petri
DeLauro	Kleczka	Pickett
Dellums	Klug	Pickle
Derrick	Kolter	Porter
Dicks	Kopetski	Poshard
Dingell	Kostmayer	Price
Dixon	LaFalce	Pursell
Donnelly	Lancaster	Rahall
Dooley	Lantos	Ramstad
Dorgan (ND)	LaRocco	Rangel
Downey	Leach	Ravenel
Durbin	Lehman (CA)	Reed
Dwyer	Lehman (FL)	Richardson
Dymally	Levin (MI)	Rinaldo
Early	Levine (CA)	Ritter
Eckart	Lewis (FL)	Roe
Edwards (CA)	Lewis (GA)	Roemer
Edwards (TX)	Lipinski	Ros-Lehtinen
Engel	Lloyd	Rose
English	Long	Rostenkowski
Erdreich	Lowey (NY)	Roukema
Espy	Luken	Rowland
Evans	Machtley	Roybal
Fascell	Manton	Russo
Fawell	Markey	Sabo
Sanders	Smith (NJ)	Upton
Sangmeister	Snowe	Valentine
Santorum	Solarz	Vento
Sarpalius	Spratt	Visclosky
Savage	Staggers	Volkmer
Sawyer	Stark	Walsh
Saxton	Stokes	Washington
Scheuer	Studds	Waters
Schiff	Swett	Waxman
Schroeder	Swift	Weber
Schumer	Synar	Weiss
Serrano	Tallon	Weldon
Sharp	Tanner	Wheat
Shaw	Taylor (MS)	Whitten
Shays	Thomas (GA)	Williams
Sikorski	Thornton	Wilson
Sisisky	Torres	Wise
Skaggs	Torricelli	Wolpe
Slattery	Towns	Wyden
Slaughter	Traficant	Yates
Smith (FL)	Traxler	Yatron
Smith (IA)	Unsoeld	Zimmer

NOES—136

Allard	Gingrich	Myers
Allen	Goodling	Nichols
Anderson	Gradison	Nussle
Archer	Grandy	Orton
Armey	Hall (TX)	Oxley
Baker	Hammerschmidt	Packard
Ballenger	Hancock	Parker
Barrett	Hansen	Paxon
Barton	Hastert	Quillen
Bateman	Hayes (LA)	Ray
Bentley	Hefley	Regula
Bereuter	Herger	Rhodes
Bilirakis	Hobson	Riggs
Bliley	Holloway	Roberts
Boehner	Hopkins	Rogers
Brewster	Horton	Rohrabacher
Broomfield	Houghton	Roth
Bunning	Hubbard	Schaefer
Burton	Hunter	Schulze
Callahan	Hutto	Sensenbrenner
Camp	Hyde	Shuster
Chandler	Inhofe	Skeen
Chapman	Ireland	Skelton
Clinger	Johnson (TX)	Smith (OR)
Coble	Kasich	Smith (TX)
Coleman (MO)	Kolbe	Solomon
Combest	Kyl	Spence
Cox (CA)	Lagomarsino	Stallings
Crane	Laughlin	Stearns
Cunningham	Lent	Stenholm
Dannemeyer	Lewis (CA)	Stump
Davis	Lightfoot	Sundquist
DeLay	Livingston	Tauzin
Dickinson	Lowery (CA)	Taylor (NC)
Doolittle	Marlenee	Thomas (CA)
Dornan (CA)	Martin	Thomas (WY)
Dreier	McCandless	Vander Jagt
Duncan	McCrery	Vucanovich
Edwards (OK)	McDade	Walker
Emerson	McEwen	Wolf
Ewing	McMillan (NC)	Wylie
Fields	Michel	Young (AK)
Franks (CT)	Miller (OH)	Young (FL)
Gallegly	Molinari	Zeliff
Gekas	Montgomery	
Gillmor	Moorhead	

NOT VOTING—1

Ridge

□ 1845

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. GILMAN. Mr. Speaker, although I was present on the floor of the House, my vote was not recorded on rollcall No. 433, the Nichols amendment to H.R. 2929. Had my vote been recorded it would have been a "nay."

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENROLLMENT OF H.R. 2929, CALIFORNIA DESERT PROTECTION ACT OF 1991

Mr. LEHMAN of California, Madam Speaker, I ask unanimous consent that in the enrollment of H.R. 2929, the Clerk may correct cross-references, change section, subsection, and paragraph numbers, and make other necessary technical and conforming changes.

The SPEAKER pro tempore (Mrs. KENNELLY). Is there objection to the request of the gentleman from California?

There was no objection.

GENERAL LEAVE

Mr. LEHMAN of California. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 2929, the bill just passed.

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

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2797

Mr. VOLKMER. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 2797.

The SPEAKER pro tempore (Mr. SHARP). Is there objection to the request of the gentleman from Missouri?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2540

Mr. DEFAZIO. Mr. Speaker, I ask unanimous consent that to have my name removed from cosponsorship of H.R. 2540.

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

There was no objection.

CEILING WITH RESPECT TO HEALTH EDUCATION ASSISTANCE LOANS

Mr. WAXMAN. Mr. Speaker, I ask unainmous consent to take from the Speaker's table the Senate bill (S. 2050) to ensure that the ceiling established with respect to health education assistance loans does not prohibit the provision of Federal loan insurance to new and previous borrowers under such loan program, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

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

Mr. LENT. Mr. Speaker, reserving the right to object, while I do not object, I make this reservation for the purpose of asking the gentleman from California [Mr. WAXMAN] if he will explain what is in this bill.

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

Mr. LENT. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Speaker, I thank the gentleman for yielding.

The purpose of S. 2050 is to authorize the Secretary of Health and Human Services to approve Federal loan insurance to new borrowers in the Health Education Assistance Loan [HEAL] Program. We have been advised by the Department that in the absence of legislation reauthorizing the HEAL Program for fiscal year 1992, the Department would be limited to insuring loans only to students who had previously received assistance. This would impose severe hardship upon students entering school who had depended upon these loans for their tuition. Legislation extending the HEAL Program has passed the House and is awaiting conference with the Senate. Although we anticipate swift resolution of the differences between House and Senate bills, this cannot occur until early next year. In the interim it is essential that the Department have sufficient authority to make new loans.

At the appropriate time, I will offer an amendment that will make a technical correction in the Senate-passed bill and authorize a small pilot program for training individuals in clinical pharmacology. If successful, this program can assist the Food and Drug Administration in attracting skilled scientific personnel to promote public health by improving the quality and speed of the drug approval process.

I know of no objection to the legislation.

Mr. LENT. Mr. Speaker, continuing my reservation, I rise in support of S. 2050, as amended. This legislation has been worked out with the Senate and includes the following two provisions.

An extension of the credit limit for the Health Education Assistance Loan [HEAL] Program for new borrowers. Since the Congress has not yet completed its work on the reauthorization of the health manpower programs contained in title VII of the Public Health Service Act, this provision is necessary to address an immediate problem. For students who are first time borrowers under the HEAL Program, current law only authorizes such loans through fiscal year 1991. This bill extends that authority for another year.

A provision to authorize $750,000 per year for fiscal year 1992–1996 for a pilot Clinical Pharmacology Training Program to be administered by the Food and Drug Administration. There is currently a shortage of trained clinical pharmacologists, which is hindering the development of new drugs. In addressing this need, it is particularly important to determine the feasibility of expanding clinical pharmacology programs into medical schools currently without such programs.

Mr. Speaker, I know of no objection to this bill.

Mr. LENT. Mr. Speaker, I withdrew my reservation of objection.

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

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2050

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

SECTION 1. HEALTH EDUCATION ASSISTANCE LOANS.

Notwithstanding section 728(a) of the Public Health Service Act (42 U.S.C. 294a(a)), or any other provision of law, Federal loan insurance may be provided under subpart I of part C of the Public Health Service Act for loans to new and previous borrowers under such subpart in fiscal year 1992. With respect to fiscal year 1992, the ceiling referred to in such section 728(a) shall be $290,000,000, as provided for in the Act entitled an Act "Making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1992, and for other purposes".

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. WAXMAN

Mr. WAXMAN. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. WAXMAN:

Strike all after the enacting clause and insert the following:

SECTION 1. HEALTH EDUCATION ASSISTANCE LOANS.

Notwithstanding section 728(a) of the Public Health Service Act (42 U.S.C. 294a(a)), or any other provision of law, Federal loan insurance may be provided under subpart I of part C of title VII of the Public Health Service Act for loans to new and previous borrowers under such subpart in fiscal year 1992. With respect to fiscal year 1992, the ceiling referred to in such section 728(a) shall be $290,000,000, as provided for in the Act entitled "An Act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1992, and for other purposes.".

SEC. 2. PILOT PROGRAM IN CLINICAL PHARMACOLOGY.

(a) ESTABLISHMENT.—The Commissioner of Food and Drugs is authorized to award through a competitive bid process a grant for a pilot program for the training of individuals in clinical pharmacology at an appropriate medical school without such a program. Such grant shall be for the purpose of evaluating the extent to which such a program can contribute to an identifiable increase in the number of trained biomedical, scientific personnel in clinical pharmacology.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for fiscal years 1992 through 1996 $750,000 for each fiscal year to carry out this section.

Mr. WAXMAN (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

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

There was no objection.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from California [Mr. WAXMAN].

The amendment in the nature of a substitute was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY TO HAVE UNTIL MIDNIGHT, FRIDAY, DECEMBER 6, 1991, TO FILE SUNDRY REPORTS

Mr. BROWN. Mr. Speaker, I ask unanimous consent that the Committee on Science, Space, and Technology have until midnight, Friday, December 6, 1991 to file the following late reports: H.R. 191, Technology Transfer Improvements Act of 1991, H.R. 2941, Surface Transportation Research and Development Act of 1991, and, H.R. 3507, American Industrial Quality and Training Act of 1991.

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

There was no objection.

□ 1850

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SHARP). Pursuant to clause 5 of rule I, the Chair will now redesignate the time for further proceedings on suspension requests postponed on today and on the legislative day of Saturday, November 23, 1991. Such proceedings will be resumed later today.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 3595. An act to delay until September 30, 1992, the issuance of any regulations by the Secretary of Health and Human Services changing the treatment of voluntary contributions and provider-specific taxes by States as a source of a State's expenditures

for which Federal financial participation is available under the Medicaid program and to maintain the treatment of intergovernmental transfers as such a source.

The message also announced that the Senate had passed a bill and joint resolution of the following titles, in which the concurrence of the House is requested:

S. 754. An act to provide that a portion of the income derived from trust or restricted land held by an individual Indian shall not be considered as a resource or income in determining eligibility for assistance under any Federal or federally assisted program; and

S.J. Res. 229. Joint resolution designating the month of May, 1992, as "National Trauma Awareness Month".

The message also announced that the Senate agrees to the Report of the Committee of Conference on the disagreeing votes of the two Houses on the amendment of the House to the amendment of the Senate to the bill (H.R. 1724) "An act to provide for the termination of the application of title IV of the Trade Act of 1974 to Czechoslovakia and Hungary."

REPORT ON RESOLUTION WAVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 1724, EXTENSION OF NONDISCRIMINATORY TREATMENT TO CERTAIN COUNTRIES, EXTENSION OF UNEMPLOYMENT BENEFITS; AND CHEMICAL AND BIOLOGICAL WEAPONS CONTROL, AND AGAINST CONSIDERATION OF SUCH CONFERENCE REPORT

Ms. SLAUGHTER of New York, from the Committee on Rules, submitted a privileged report (Rept. No. 102-389) on the resolution (H. Res. 306) waiving all points of order against the conference report on the bill (H.R. 1724) to provide for the termination of the application of title IV of the Trade Act of 1974 to Czechoslovakia and Hungary, and against consideration of such conference report, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2212, UNITED STATES-CHINA ACT OF 1991

Ms. SLAUGHTER of New York, from the Committee on Rules, submitted a privileged report (Rept. No. 102-390) on the resolution (H. Res. 307) waiving all points of order against the conference report on the bill (H.R. 2212) regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes, and against consideration of such conference report, which was referred to the House Calendar and ordered to be printed.

CONFERENCE REPORT ON H.R. 1724, EXTENSION OF NONDISCRIMINATORY TREATMENT TO CERTAIN COUNTRIES, EXTENSION OF UNEMPLOYMENT BENEFITS: AND CHEMICAL AND BIOLOGICAL WEAPONS CONTROL

Ms. SLAUGHTER of New York. Mr. Speaker, by the direction of the Committee on Rules, I call up House Resolution 306 and, pursuant to House Resolution 294, ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 306

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report on the bill (H.R. 1724) to provide for the termination of the application of title IV of the Trade Act of 1974 to Czechoslovakia and Hungary. All points of order against the conference report and against its consideration are hereby waived. The conference report shall be considered as having been read when called up for consideration.

The SPEAKER pro tempore. The gentlewoman from New York [Ms. SLAUGHTER] is recognized for 1 hour.

Ms. SLAUGHTER of New York. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], 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 306 waives all points of order against the conference report on H.R. 1724 and against its consideration. The rule also provides that the conference report will be considered as having been read.

The House passed H.R. 1724 under suspension of the rules on October 8, 1991. The Senate, after enacting the Emergency Unemployment Compensation Act of 1991 without amendment, took up H.R. 1724 and added one amendment, to change the extended unemployment benefits.

Mr. Speaker, the Senate unemployment amendment provides all States with at least 13 weeks of extended unemployment benefits and provides reachback for all States. The program is shortened from July 4, 1992, the program would now expire June 13, 1992.

Last week, the House took up H.R. 1724, agreed to the Senate amendment and further amended the bill to add the text of four bills: H.R. 3347, repeal of the ban on importing Soviet gold coins; H.R. 3313, extension of MFN treatment to Estonia, Latvia, and Lithuania; H.R. 661, trade preference for the Andean region; and H.R. 3409, control of chemical and biological weapons act.

Mr. Speaker, the conference report is identical to the most recent House-passed version, with one exception. The conference report strikes certain provisions from the text of H.R. 3409, the chemical and biological weapons; the provisions that are removed are identical to provisions already enacted into law in Public Law 102-138, the State Department Authorization Act for fiscal year 1992.

Mr. Speaker, this is the customary rule for conference reports. I urge my colleagues to adopt the rule and move this important legislation forward.

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

Mr. Speaker, the gentlewoman from New York [Mrs. SLAUGHTER] has ably described the rule.

This conference report contains a number of important trade provisions. Among other things, it extends most-favored-nation treatment to Hungrary and Czechoslovakia, repeals the ban on importation of Soviet gold coins, and provides for controls and sanctions against foreign persons and countries involved in the production and use of chemical and biological weapons.

The conference report also includes the Andean initiative to provide trade alternatives for the Andean nations of South America to combat illegal drugs. This initiative was proposed by the administration. I would like to note here, Mr. Speaker, that the administration does support this conference report.

Most importantly, Mr. Speaker, this conference report provides for modifications to the Emergency Unemployment Compensation Act of 1991 which the President recently signed. It replaces the three-tier benefit system of 6, 13, or 20 weeks of extended benefits in that legislation with a two-tier system. This new system provides all States with at least 13 weeks of extended unemployment benefits and 20 weeks for unemployed in the same 9 States plus Puerto Rico that would have received 20 weeks under the prior legislation.

Mr. Speaker, I support this rule so that the House may proceed with passage of the conference report.

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

Ms. SLAUGHTER of New York. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. JACOBS].

ADJOURNMENT TOMMYROT

(By unanimous consent, Mr. JACOBS was allowed to proceed out of order.)

Mr. JACOBS. Mr. Speaker, a few nights ago CBS rebroadcast some of Ed Sullivan's old programs, and they included Richard Burton in Camelot.

That, together with the nasty rumor that is going about whether the sun will rise on Wednesday of this week at adjournment, has brought out the poet in me.

Each evening between now and December,
Before you drift to sleep upon your cot,
Think back on all the tales that you remember,
About adjournment tommyrot.

Ms. SLAUGHTER of New York. Mr. Speaker, 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.

□ 1900

Mr. ROSTENKOWSKI. I submitted the following conference report and statement on the bill (H.R. 1724) to provide for the termination of the application of title IV of the Trade Act of 1974 to Czechoslovakia and Hungary:

CONFERENCE REPORT (H. REPT. 102-391)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the amendment of the Senate to the bill (H.R. 1724) to provide for the termination of the application of title IV of the Trade Act of 1974 to Czechoslovakia and Hungary, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the amendment of the Senate and agree to the same with an amendment as follows:

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

SEC. 4. REPEAL OF THE PROHIBITION ON THE IMPORTATION OF SOVIET GOLD COINS.

Section 510 of the Comprehensive Anti-Apartheid Act of 1986 (22 U.S.C. 5100) is repealed.

TITLE I—EXTENSION OF NONDISCRIMINATORY TREATMENT TO ESTONIA, LATVIA, AND LITHUANIA.

SEC. 101. CONGRESSIONAL FINDINGS.

The Congress finds the following:

(1) The Government of the United States extended full diplomatic recognition to Estonia, Latvia, and Lithuania in 1922.

(2) The Government of the United States entered into agreements extending most-favored-nation treatment with the Government of Estonia on August 1, 1925, the Government of Latvia on April 30, 1926, and the Government of Lithuania on July 10, 1926.

(3) The Union of Soviet Socialist Republics incorporated Estonia, Latvia, and Lithuania involuntarily into the Union as a result of a secret protocol to a German-Soviet agreement in 1939 which assigned those three states to the Soviet sphere of influence; and the Government of the United States has at no time recognized the forcible incorporation of those states into the Union of Soviet Socialist Republics.

(4) The Trade Agreements Extension Act of 1951 required the President to suspend, withdraw, or prevent the application of trade benefits, including most-favored-nation treatment, to countries under the domination or control of the world Communist movement.

(5) In 1951, responsible representatives of Estonia, Latvia, and Lithuania stated that they did not object to the imposition of "such controls as the Government of the United States may consider to be appropriate" to the products of those countries, for such time as those countries remained under Soviet domination or control.

(6) In 1990, the democratically elected governments of Estonia, Latvia, and Lithuania declared the restoration of their independence from the Union of Soviet Socialist Republics.

(7) The Government of the United States established diplomatic relations with Estonia, Latvia, and Lithuania on September 2, 1991, and on September 6, 1991, the State Council of the transitional government of the Union of Soviet Socialist Republics recognized the independence of Estonia, Latvia, and Lithuania, thereby ending the involuntary incorporation of those countries into, and the domination of those countries by, the Soviet Union.

(8) Immediate action should be taken to remove the impediments, imposed in response to the circumstances referred to in paragraph (5), in United States trade laws to the extension of nondiscriminatory treatment (most-favored-nation treatment) to the products of those countries.

(9) As a consequence of establishment of United States diplomatic relations with Estonia, Latvia, and Lithuania, these independent countries are eligible to receive the benefits of the Generalized System of Preferences provided for in title V of the Trade Act of 1974.

SEC. 102. EXTENSION OF NONDISCRIMINATORY TREATMENT TO THE PRODUCTS OF ESTONIA, LATVIA, AND LITHUANIA.

(a) IN GENERAL.—Notwithstanding any provision of title IV of the Trade Act of 1974 (19 U.S.C. 2431 et seq.) or any other provision of law, nondiscriminatory treatment (most-favored-nation treatment) applies to the products of Estonia, Latvia, and Lithuania.

(b) CONFORMING TARIFF SCHEDULE AMENDMENTS.—General Note 3(b) of the Harmonized Tariff Schedule of the United States is amended by striking out "Estonia", "Latvia", and "Lithuania".

(c) EFFECTIVE DATE.—Subsection (a) and the amendments made by subsection (b) apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

SEC. 103. TERMINATION OF APPLICATION OF TITLE IV OF THE TRADE ACT OF 1974 TO THE BALTICS.

Title IV of the Trade Act of 1974 (19 U.S.C. 2431 et seq.) shall cease to apply to Estonia, Latvia, and Lithuania effective as of the 15th day after the date of the enactment of this Act.

SEC. 104. SENSE OF THE CONGRESS REGARDING PROMPT PROVISION OF GSP TREATMENT TO THE PRODUCTS OF ESTONIA, LATVIA, AND LITHUANIA.

It is the sense of the Congress that the President should take prompt action under title V of the Trade Act of 1974 to provide preferential tariff treatment to the products of Estonia, Latvia, and Lithuania pursuant to the Generalized System of Preferences.

TITLE II—TRADE PREFERENCE FOR THE ANDEAN REGION

SEC. 201. SHORT TITLE.

This title may be cited as the "Andean Trade Preference Act".

SEC. 202. AUTHORITY TO GRANT DUTY-FREE TREATMENT.

The President may proclaim duty-free treatment for all eligible articles from any beneficiary country in accordance with the provisions of this title.

SEC. 203. BENEFICIARY COUNTRY.

(a) DEFINITIONS.—For purposes of this title—

(1) The term "beneficiary country" means any country listed in subsection (b)(1) with respect to which there is in effect a proclamation by the President designating such country as a beneficiary country for purposes of this title.

(2) The term "entered" means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.

(3) The term "HTS" means Harmonized Tariff Schedule of the United States.

(b) COUNTRIES ELIGIBLE FOR DESIGNATION; CONGRESSIONAL NOTIFICATION.—(1) In designating countries as beneficiary countries under this title, the President shall consider only the following countries or successor political entities:

Bolivia
Ecuador
Colombia
Peru.

(2) Before the President designates any country as a beneficiary country for purposes of this title, he shall notify the House of Representatives and the Senate of his intention to make such designation, together with the considerations entering into such decision.

(c) LIMITATIONS ON DESIGNATION.—The President shall not designate any country a beneficiary country under this title—

(1) if such country is a Communist country;

(2) if such country—

(A) has nationalized, expropriated or otherwise seized ownership or control of property owned by a United States citizen or by a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens,

(B) has taken steps to repudiate or nullify—

(i) any existing contract or agreement with, or

(ii) any patent, trademark, or other intellectual property of,

a United States citizen or a corporation, partnership, or association, which is 50 percent or more beneficially owned by United States citizens, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of property so owned, or

(C) has imposed or enforced taxes or other exactions, restrictive maintenance or operational conditions, or other measures with respect to property so owned, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of such property, unless the President determines that—

(i) prompt, adequate, and effective compensation has been or is being made to such citizen, corporation, partnership, or association,

(ii) good-faith negotiations to provide prompt, adequate, and effective compensation under the applicable provisions of international law are in progress, or such country is otherwise taking steps to discharge its obligations under international law with respect to such citizen, corporation, partnership, or association, or

(iii) a dispute involving such citizen, corporation, partnership, or association, over compensation for such a seizure has been submitted to arbitration under the provisions of the Convention for the Settlement of Investment Disputes, or in another mutually agreed upon forum, and

promptly furnishes a copy of such determination to the Senate and House of Representatives;

(3) if such country fails to act in good faith in recognizing as binding or in enforcing arbitral awards in favor of United States citizens or a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens, which have been made by arbitrators appointed for each case or by permanent arbitral bodies to which the parties involved have submitted their dispute;

(4) if such country affords preferential treatment to the products of a developed country, other than the United States, and if such preferential treatment has, or is likely to have, a significant adverse effect on United States commerce, unless the President—

(A) has received assurances satisfactory to him that such preferential treatment will be eliminated or that action will be taken to assure that there will be no such significant adverse effect, and

(B) reports those assurances to the Congress;

(5) if a government-owned entity in such country engages in the broadcast of copyrighted material, including films or television material, belonging to United States copyright owners without their express consent or such country fails to work towards the provision of adequate and effective protection of intellectual property rights;

(6) unless such country is a signatory to a treaty, convention, protocol, or other agreement regarding the extradition of United States citizens; and

(7) if such country has not or is not taking steps to afford internationally recognized worker rights (as defined in section 502(a)(4) of the Trade Act of 1974) to workers in the country (including any designated zone in that country).

Paragraphs (1), (2), (3), (5), and (7) shall not prevent the designation of any country as a beneficiary country under this title if the President determines that such designation will be in the national economic or security interest of the United States and reports such determination to the Congress with his reasons therefor.

(d) FACTORS AFFECTING DESIGNATION.—In determining whether to designate any country a beneficiary country under this title, the President shall take into account—

(1) an expression by such country of its desire to be so designated;

(2) the economic conditions in such country, the living standards of its inhabitants, and any other economic factors which he deems appropriate;

(3) the extent to which such country has assured the United States it will provide equitable and reasonable access to the markets and basic commodity resources of such country;

(4) the degree to which such country follows the accepted rules of international trade provided for under the General Agreement on Tariffs and Trade, as well as applicable trade agreements approved under section 2(a) of the Trade Agreements Act of 1979;

(5) the degree to which such country uses export subsidies or imposes export performance requirements or local content requirements which distort international trade;

(6) the degree to which the trade policies of such country as they relate to other beneficiary countries are contributing to the revitalization of the region;

(7) the degree to which such country is undertaking self-help measures to protect its own economic development;

(8) whether or not such country has taken or is taking steps to afford to workers in that country (including any designated zone in that country) internationally recognized worker rights;

(9) the extent to which such country provides under its law adequate and effective means for foreign nationals to secure, exercise, and enforce exclusive rights in intellectual property, including patent, trademark, and copyright rights;

(10) the extent to which such country prohibits its nationals from engaging in the broadcast of copyrighted material, including films or television material, belonging to United States copyright owners without their express consent;

(11) whether such country has met the narcotics cooperation certification criteria set forth in section 481(h)(2)(A) of the Foreign Assistance Act of 1961 for eligibility for United States assistance; and

(12) the extent to which such country is prepared to cooperate with the United States in the administration of the provisions of this Act.

(e) WITHDRAWAL OR SUSPENSION OF DESIGNATION.—(1) The President may—

(A) withdraw or suspend the designation of any country as a beneficiary country, or

(B) withdraw, suspend, or limit the application of duty-free treatment under this title to any article of any country,

if, after such designation, the President determines that as a result of changed circumstances such a country should be barred from designation as a beneficiary country.

(2)(A) The President shall publish in the Federal Register notice of the action the President proposes to take under paragraph (1) at least 30 days before taking such action.

(B) The United States Trade Representative shall, within the 30-day period beginning on the date on which the President publishes under subparagraph (A) notice of proposed action—

(i) accept written comments from the public regarding such proposed action,

(ii) hold a public hearing on such proposed action, and

(iii) publish in the Federal Register—

(I) notice of the time and place of such hearing prior to the hearing, and

(II) the time and place at which such written comments will be accepted.

(f) TRIENNIAL REPORT.—On or before the 3rd, 6th, and 9th anniversaries of the date of the enactment of this title, the President shall submit to the Congress a complete report regarding the operation of this title, including the results of a general review of beneficiary countries based on the considerations described in subsections (c) and (d). In reporting on the considerations described in subsection (d)(11), the President shall report any evidence that the crop eradication and crop substitution efforts of the beneficiary are directly related to the effects of this title.

SEC. 204. ELIGIBLE ARTICLES.

(a) IN GENERAL.—(1) Unless otherwise excluded from eligibility by this title, the duty-free treatment provided under this title shall apply to any article which is the growth, product, or manufacture of a beneficiary country if—

(A) that article is imported directly from a beneficiary country into the customs territory of the United States; and

(B) the sum of—

(i) the cost or value of the materials produced in a beneficiary country or 2 or more beneficiary countries under this Act, or a beneficiary country under the Caribbean Basin Economic Recovery Act or 2 or more such countries, plus

(ii) the direct costs of processing operations performed in a beneficiary country or countries (under this Act or the Caribbean Basin Economic Recovery Act),

is not less than 35 percent of the appraised value of such article at the time it is entered.

For purposes of determining the percentage referred to in subparagraph (B), the term "beneficiary country" includes the Commonwealth of Puerto Rico and the United States Virgin Islands. If the cost or value of materials produced in the customs territory of the United States (other than the Commonwealth of Puerto Rico) is included with respect to an article to which this paragraph applies, an amount not to exceed 15 percent of the appraised value of the article at the time it is entered that is attributed to such United States cost or value may be applied toward determining the percentage referred to in subparagraph (B).

(2) The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out subsection (a) including, but not limited to, regulations providing that, in order to be eligible for duty-free treatment under this title, an article must be wholly the growth, product, or manufacture of a beneficiary country, or must be a new or different article of commerce which has been grown, produced, or manufactured in the beneficiary country; but no article or material of a beneficiary country shall be eligible for such treatment by virtue of having merely undergone—

(A) simple combining or packaging operations, or

(B) mere dilution with water or mere dilution with another substance that does not materially alter the characteristics of the article.

(3) As used in this subsection, the phrase "direct costs of processing operations" includes, but is not limited to—

(A) all actual labor costs involved in the growth, production, manufacture, or assembly of the specific merchandise, including fringe benefits, on-the-job training and the cost of engineering, supervisory, quality control, and similar personnel; and

(B) dies, molds, tooling, and depreciation on machinery and equipment which are allocable to the specific merchandise.

Such phrase does not include costs which are not directly attributable to the merchandise concerned or are not costs of manufacturing the product, such as (i) profit, and (ii) general expense of doing business which are either not allocable to the specific merchandise or are not related to the growth, production, manufacture, or assembly of the merchandise, such as administrative salaries, casualty and liability insurance, advertising, interest, and salesmen's salaries, commissions or expenses.

(4) If the President, pursuant to section 223 of the Caribbean Basin Economic Recovery Expansion Act of 1990, considers that the implementation of revised rules of origin for products of beneficiary countries designated under the Caribbean Basin Economic Recovery Act (19 U.S.C. 2701 et seq.) would be appropriate, the President may include similarly revised rules of origin for products of beneficiary countries designated under this title in any suggested legislation transmitted to the Congress that contains such rules of origin for products of beneficiary countries under the Caribbean Basin Economic Recovery Act.

(b) EXCEPTIONS TO DUTY-FREE TREATMENT.—The duty-free treatment provided under this title shall not apply to—

(1) textile and apparel articles which are subject to textile agreements;

(2) footwear not designated at the time of the effective date of this Act as eligible for the purpose of the generalized system of preferences under title V of the Trade Act of 1974;

(3) tuna, prepared or preserved in any manner, in airtight containers;

(4) petroleum, or any product derived from petroleum, provided for in headings 2709 and 2710 of the HTS;

(5) watches and watch parts (including cases, bracelets and straps), of whatever type including, but not limited to, mechanical, quartz digital or quartz analog, if such watches or watch parts contain any material which is the product of any country with respect to which HTS column 2 rates of duty apply;

(6) articles to which reduced rates of duty apply under subsection (c);

(7) sugars, syrups, and molasses classified in subheadings 1701.11.03, 1701.12.02, 1701.99.02, 1702.90.32, 1806.10.42, and 2106.90.12 of the HTS; or

(8) rum and tafia classified in subheading 2208.40.00 of the HTS.

(c) DUTY REDUCTIONS FOR CERTAIN GOODS.—(1) Subject to paragraph (2), the President shall proclaim reductions in the rates of duty on handbags, luggage, flat goods, work gloves, and leather wearing apparel that—

(A) are the product of any beneficiary country; and

(B) were not designated on August 5, 1983, as eligible articles for purposes of the generalized system of preferences under title V of the Trade Act of 1974.

(2) The reduction required under paragraph (1) in the rate of duty on any article shall—

(A) result in a rate that is equal to 80 percent of the rate of duty that applies to the article on December 31, 1991, except that, subject to the limitations in paragraph (3), the reduction may not exceed 2.5 percent ad valorem; and

(B) be implemented in 5 equal annual stages with the first 1/5 of the aggregate reduction in the rate of duty being applied to entries, or withdrawals from warehouse for consumption, of the article on or after January 1, 1992.

(3) The reduction required under this subsection with respect to the rate of duty on any article is in addition to any reduction in the rate of duty on that article that may be proclaimed by the President as being required or appropriate to carry out any trade agreement entered into under the Uruguay Round of trade negotiations; except that if the reduction so proclaimed—

(A) is less than 1.5 percent ad valorem, the aggregate of such proclaimed reduction and the reduction under this subsection may not exceed 3.5 percent ad valorem, or

(B) is 1.5 percent ad valorem or greater, the aggregate of such proclaimed reduction and the reduction under this subsection may not exceed the proclaimed reduction plus 1 percent ad valorem.

(d) SUSPENSION OF DUTY-FREE TREATMENT.—(1) The President may by proclamation suspend the duty-free treatment provided by this title with respect to any eligible article and may proclaim a duty rate for such article if such action is proclaimed under chapter 1 of title II of the Trade Act of 1974 or section 232 of the Trade Expansion Act of 1962.

(2) In any report by the United States International Trade Commission to the President under section 202(f) of the Trade Act of 1974 regarding any article for which duty-free treatment has been proclaimed by the President pursuant to this title, the Commission shall state whether and to what extent its findings and recommendations apply to such article when imported from beneficiary countries.

(3) For purposes of section 203 of the Trade Act of 1974, the suspension of the duty-free treatment provided by this title shall be treated as an increase in duty.

(4) No proclamation providing solely for a suspension referred to in paragraph (3) of this subsection with respect to any article shall be taken under section 203 of the Trade Act of 1974 unless the United States International Trade Commission, in addition to making an affirmative determination with respect to such article under section 202(b) of the Trade Act of 1974, determines in the course of its investigation under such section that the serious injury (or threat thereof) substantially caused by imports to the domestic industry producing a like or directly competitive article results from the duty-free treatment provided by this title.

(5)(A) Any action taken under section 203 of the Trade Act of 1974 that is in effect when duty-free treatment is proclaimed under section 202 of this title shall remain in effect until modified or terminated.

(B) If any article is subject to any such action at the time duty-free treatment is proclaimed under section 202 of this title, the President may reduce or terminate the application of such action to the importation of such article from beneficiary countries prior to the otherwise scheduled date on which such reduction or termination would occur pursuant to the criteria and procedures of section 204 of the Trade Act of 1974.

(e) EMERGENCY RELIEF WITH RESPECT TO PERISHABLE PRODUCTS.—(1) If a petition is filed with the United States International Trade Commission pursuant to the provisions of section 201 of the Trade Act of 1974 regarding a perishable product and alleging injury from imports from beneficiary countries, then the petition may also be filed with the Secretary of Agriculture with a request that emergency relief be granted pursuant to paragraph (3) of this subsection with respect to such article.

(2) Within 14 days after the filing of a petition under paragraph (1) of this subsection —

(A) if the Secretary of Agriculture has reason to believe that a perishable product from a beneficiary country is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing a perishable product like or directly competitive with the imported product and that emergency action is warranted, he shall advise the President and recommend that the President take emergency action; or

(B) the Secretary of Agriculture shall publish a notice of his determination not to recommend the imposition of emergency action and so advise the petitioner.

(3) Within 7 days after the President receives a recommendation from the Secretary of Agriculture to take emergency action pursuant to paragraph (2) of this subsection, he shall issue a proclamation withdrawing the duty-free treatment provided by this title or publish a notice of his determination not to take emergency action.

(4) The emergency action provided by paragraph (3) of this subsection shall cease to apply—

(A) upon the taking of action under section 203 of the Trade Act of 1974,

(B) on the day a determination by the President not to take action under section 203(b)(2) of such Act becomes final,

(C) in the event of a report of the United States International Trade Commission containing a negative finding, on the day of the Commission's report is submitted to the President, or

(D) whenever the President determines that because of changed circumstances such relief is no longer warranted.

(5) For purposes of this subsection, the term "perishable product" means—

(A) live plants and fresh cut flowers provided for in chapter 6 of the HTS;

(B) fresh or chilled vegetables provided for in headings 0701 through 0709 (except subheading 0709.52.00) and heading 0714 of the HTS;

(C) fresh fruit provided for in subheadings 0804.20 through 0810.90 (except citrons of subheadings 0805.90.00, tamarinds and kiwi fruit of subheading 0810.90.20, and cashew apples, mameyes colorados, sapodillas, soursops and sweetsops of subheading 0810.90.40) of the HTS; or

(D) concentrated citrus fruit juice provided for in subheadings 2009.11.00, 2009.19.40, 2009.20.40, 2009.30.20, and 2009.30.60 of the HTS.

(f) SECTION 22 FEES.—No proclamation issued pursuant to this title shall affect fees imposed pursuant to section 22 of the Agricultural Adjustment Act of 1933 (7 U.S.C. 624).

SEC. 205. RELATED AMENDMENTS.

(a) INCREASE IN DUTY-FREE TOURIST ALLOWANCE.—Note 4 to subchapter IV of chapter 98 of the HTS is amended by inserting before the period the following: "or a country designated as a beneficiary country under the Andean Trade Preference Act".

(b) TREATMENT OF INSULAR POSSESSIONS PRODUCTS.—General Note 3(a)(iv) of the HTS (relating to products of the insular possessions) is amended by adding at the end thereof the following:

"(E) Subject to the provisions in section 204 of the Andean Trade Preference Act, goods which are imported from insular possessions of the United States shall receive duty treatment no less favorable than the treatment afforded such goods when they are imported from a beneficiary country under such Act.".

SEC. 206. INTERNATIONAL TRADE COMMISSION REPORTS ON IMPACT OF THE ANDEAN TRADE PREFERENCE ACT.

(a) IN GENERAL.—The United States International Trade Commission (hereinafter in this section referred to as the "Commission") shall prepare, and submit to the Congress, a report regarding the economic impact of this title on United States industries and consumers, and, in conjunction with other agencies, the effectiveness of this title in promoting drug-related crop eradication and crop substitution efforts of the beneficiary countries, during—

(1) the 24-month period beginning with the date of enactment of this title; and

(2) each calendar year occurring thereafter until duty-free treatment under this title is terminated under section 208(b).

For purposes of this section, industries in the Commonwealth of Puerto Rico and the insular possessions of the United States shall be considered to be United States industries.

(b) REPORT REQUIREMENTS.—(1) Each report required under subsection (a) shall include, but not be limited to, an assessment by the Commission regarding—

(A) the actual effect, during the period covered by the report, of this title on the United States economy generally as well as on those specific domestic industries which produce articles that are like, or directly competitive with, articles being imported into the United States from beneficiary countries;

(B) the probable future effect that this title will have on the United States economy generally, as well as on such domestic industries, before the provisions of this title terminate; and

(C) the estimated effect that this title has had on the drug-related crop eradication and crop substitution efforts of the beneficiary countries.

(2) In preparing the assessments required under paragraph (1), the Commission shall, to the extent practicable—

(A) analyze the production, trade and consumption of United States products affected by this title, taking into consideration employment, profit levels, and use of productive facilities with respect to the domestic industries concerned, and such other economic factors in such industries as it considers relevant, including prices, wages, sales, inventories, patterns of demand, capital investment, obsolescence of equipment, and diversification of production; and

(B) describe the nature and extent of any significant change in employment, profit levels, and use of productive facilities, and such other conditions as it deems relevant in the domestic industries concerned, which it believes are attributable to this title.

(c) SUBMISSION DATES; PUBLIC COMMENT.—(1) Each report required under subsection (a) shall be submitted to the Congress before the close of the 9-month period beginning on the day after the last day of the period covered by the report.

(2) The Commission shall provide an opportunity for the submission by the public, either orally or in writing, or both, of information relating to matters that will be addressed in the reports.

SEC. 207. IMPACT STUDY BY SECRETARY OF LABOR.

The Secretary of Labor, in consultation with other appropriate Federal agencies, shall undertake a continuing review and analysis of the impact that the implementation of the provisions of this title has with respect to United States labor; and shall make an annual written report to Congress on the results of such review and analysis.

SEC. 208. EFFECTIVE DATE AND TERMINATION OF DUTY-FREE TREATMENT.

(a) EFFECTIVE DATE.—This title shall take effect on the date of enactment.

(b) TERMINATION OF DUTY-FREE TREATMENT.—No duty-free treatment extended to beneficiary countries under this title shall remain in effect 10 years after the date of the enactment of this title.

TITLE III—CONTROL AND ELIMINATION OF CHEMICAL AND BIOLOGICAL WEAPONS

SEC. 301. SHORT TITLE.

This title may be cited as the "Chemical and Biological Weapons Control and Warfare Elimination Act of 1991".

SEC. 302. PURPOSES.

The purposes of this title are—

(1) to mandate United States sanctions, and to encourage international sanctions, against countries that use chemical or biological weapons in violation of international law or use lethal chemical or biological weapons against their own nationals, and to impose sanctions against companies that aid in the proliferation of chemical and biological weapons;

(2) to support multilaterally coordinated efforts to control the proliferation of chemical and biological weapons;

(3) to urge continued close cooperation with the Australia Group and cooperation with other supplier nations to devise ever more effective controls on the transfer of materials, equipment, and technology applicable to chemical or biological weapons production; and

(4) to require Presidential reports on efforts that threaten United States interests or regional stability by Iran, Iraq, Syria, Libya, and others to acquire the materials and technology to develop, produce, stockpile, deliver, transfer, or use chemical or biological weapons.

SEC. 303. MULTILATERAL EFFORTS.

(a) MULTILATERAL CONTROLS ON PROLIFERATION.—It is the policy of the United States to seek multilaterally coordinated efforts with other countries to control the proliferation of chemical and biological weapons. In furtherance of this policy, the United States shall—

(1) promote agreements banning the transfer of missiles suitable for armament with chemical or biological warheads;

(2) set as a top priority the early conclusion of a comprehensive global agreement banning the use, development, production, and stockpiling of chemical weapons;

(3) seek and support effective international means of monitoring and reporting regularly on commerce in equipment, materials, and technology applicable to the attainment of a chemical or biological weapons capability; and

(4) pursue and give full support to multilateral sanctions pursuant to United Nations Security Council Resolution 620, which declared the intention of the Security Council to give immediate consideration to imposing "appropriate and effective" sanctions against any country which uses chemical weapons in violation of international law.

(b) MULTILATERAL CONTROLS ON CHEMICAL AGENTS, PRECURSORS, AND EQUIPMENT.—It is also the policy of the United States to strengthen efforts to control chemical agents, precursors, and equipment by taking all appropriate multilateral diplomatic measures—

(1) to continue to seek a verifiable global ban on chemical weapons at the 40 nation Conference on Disarmament in Geneva;

(2) to support the Australia Group's objective to support the norms and restraints against the spread and the use of chemical warfare, to advance the negotiation of a comprehensive ban on chemical warfare by taking appropriate measures, and to protect the Australia Group's domestic industries against inadvertent association with supply of feedstock chemical equipment that could be misused to produce chemical weapons;

(3) to implement paragraph (2) by proposing steps complementary to, and not mutually exclusive of, existing multilateral efforts seeking a verifiable ban on chemical weapons, such as the establishment of—

(A) a harmonized list of export control rules and regulations to prevent relative commercial advantage and disadvantages accruing to Australia Group members,

(B) liaison officers to the Australia Group's coordinating entity from within the diplomatic missions,

(C) a close working relationship between the Australia Group and industry,

(D) a public unclassified warning list of controlled chemical agents, precursors, and equipment,

(E) information-exchange channels of suspected proliferants,

(F) a "denial" list of firms and individuals who violate the Australia Group's export control provisions, and

(G) broader cooperation between the Australia Group and other countries whose political commitment to stem the proliferation of chemical weapons is similar to that of the Australia Group; and

(4) to adopt the imposition of stricter controls on the export of chemical agents, precursors, and equipment and to adopt tougher multilateral sanctions against firms and individuals who violate these controls or against countries that use chemical weapons.

SEC. 304. UNITED STATES EXPORT CONTROLS.

(a) IN GENERAL.—The President shall—

(1) use the authorities of the Arms Export Control Act to control the export of those defense articles and defense services, and

(2) use the authorities of the Export Administration Act of 1979 to control the export of those goods and technology,

that the President determines would assist the government of any foreign country in acquiring the capability to develop, produce, stockpile, deliver, or use chemical or biological weapons.

(b) EXPORT ADMINISTRATION ACT.—Section 6 of the Export Administration Act of 1979 (50 U.S.C. App. 2405) is amended—

(1) by redesignating subsections (m) through (r) as subsections (n) through (s), respectively; and

(2) by inserting after subsection (l) the following:

"(m) CHEMICAL AND BIOLOGICAL WEAPONS.—

"(1) ESTABLISHMENT OF LIST.—The Secretary, in consultation with the Secretary of State, the Secretary of Defense, and the heads of other appropriate departments and agencies, shall establish and maintain, as part of the list maintained under this section, a list of goods and technology that would directly and substantially assist a foreign government or group in acquiring the capability to develop, produce, stockpile, or deliver chemical or biological weapons, the licensing of which would be effective in barring acquisition or enhancement of such capability.

"(2) REQUIREMENT FOR VALIDATED LICENSES.—The Secretary shall require a validated license for any export of goods or technology on the list established under paragraph (1) to any country of concern.

"(3) COUNTRIES OF CONCERN.—For purposes of paragraph (2), the term 'country of concern' means any country other than—

"(A) a country with whose government the United States has entered into a bilateral or multilateral arrangement for the control of goods or technology on the list established under paragraph (1); and

"(B) such other countries as the Secretary of State, in consultation with the Secretary and the Secretary of Defense, shall designate consistent with the purposes of the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991.".

SEC. 305. SANCTIONS AGAINST CERTAIN FOREIGN PERSONS.

(a) AMENDMENT TO EXPORT ADMINISTRATION ACT.—The Export Administration Act of 1979 is amended by inserting after section 11B the following:

"CHEMICAL AND BIOLOGICAL WEAPONS PROLIFERATION SANCTIONS

"SEC. 11C. (a) IMPOSITION OF SANCTIONS.—

"(1) DETERMINATION BY THE PRESIDENT.—Except as provided in subsection (b)(2), the President shall impose both of the sanctions described in subsection (c) if the President determines that a foreign person, on or after the date of the enactment of this section, has knowingly and materially contributed—

"(A) through the export from the United States of any goods or technology that are subject to the jurisdiction of the United States under this Act, or

"(B) through the export from any other country of any goods or technology that would be, if they were United States goods or technology, subject to the jurisdiction of the United States under this Act,

to the efforts by any foreign country, project, or entity described in paragraph (2) to use, develop, produce, stockpile, or otherwise acquire chemical or biological weapons.

"(2) COUNTRIES, PROJECTS, OR ENTITIES RECEIVING ASSISTANCE.—Paragraph (1) applies in the case of—

"(A) any foreign country that the President determines has, at any time after January 1, 1980—

"(i) used chemical or biological weapons in violation of international law;

"(ii) used lethal chemical or biological weapons against its own nationals; or

"(iii) made substantial preparations to engage in the activities described in clause (i) or (ii);

"(B) any foreign country whose government is determined for purposes of section 6(j) of this Act to be a government that has repeatedly provided support for acts of international terrorism; or

"(C) any other foreign country, project, or entity designated by the President for purposes of this section.

"(3) PERSONS AGAINST WHICH SANCTIONS ARE TO BE IMPOSED.—Sanctions shall be imposed pursuant to paragraph (1) on—

"(A) the foreign person with respect to which the President makes the determination described in that paragraph;

"(B) any successor entity to that foreign person;

"(C) any foreign person that is a parent or subsidiary of that foreign person if that parent or subsidiary knowingly assisted in the activities which were the basis of that determination; and

"(D) any foreign person that is an affiliate of that foreign person if that affiliate knowingly assisted in the activities which were the basis of that determination and if that affiliate is controlled in fact by that foreign person.

"(b) CONSULTATIONS WITH AND ACTIONS BY FOREIGN GOVERNMENT OF JURISDICTION.—

"(1) CONSULTATIONS.—If the President makes the determinations described in subsection (a)(1) with respect to a foreign person, the Congress urges the President to initiate consultations immediately with the government with primary jurisdiction over that foreign person with respect to the imposition of sanctions pursuant to this section.

"(2) ACTIONS BY GOVERNMENT OF JURISDICTION.—In order to pursue such consultations with that government, the President may delay imposition of sanctions pursuant to this section for a period of up to 90 days. Following these consultations, the President shall impose sanctions unless the President determines and certifies to the Congress that that government has taken specific and effective actions, including appropriate penalties, to terminate the involvement of the foreign person in the activities described in subsection (a)(1). The President may delay imposition of sanctions for an additional period of up to 90 days if the President determines and certifies to the Congress that that government is in the process of taking the actions described in the preceding sentence.

"(3) REPORT TO CONGRESS.—The President shall report to the Congress, not later than 90 days after making a determination under sub-

section (a)(1), on the status of consultations with the appropriate government under this subsection, and the basis for any determination under paragraph (2) of this subsection that such government has taken specific corrective actions.

"(c) SANCTIONS.—

"(1) DESCRIPTION OF SANCTIONS.—The sanctions to be imposed pursuant to subsection (a)(1) are, except as provided in paragraph (2) of this subsection, the following:

"(A) PROCUREMENT SANCTION.—The United States Government shall not procure, or enter into any contract for the procurement of, any goods or services from any person described in subsection (a)(3).

"(B) IMPORT SANCTIONS.—The importation into the United States of products produced by any person described in subsection (a)(3) shall be prohibited.

"(2) EXCEPTIONS.—The President shall not be required to apply or maintain sanctions under this section—

"(A) in the case of procurement of defense articles or defense services—

"(i) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy United States operational military requirements;

"(ii) if the President determines that the person or other entity to which the sanctions would otherwise be applied is a sole source supplier of the defense articles or services, that the defense articles or services are essential, and that alternative sources are not readily or reasonably available; or

"(iii) if the President determines that such articles or services are essential to the national security under defense coproduction agreements;

"(B) to products or services provided under contracts entered into before the date on which the President publishes his intention to impose sanctions;

"(C) to—

"(i) spare parts,

"(ii) component parts, but not finished products, essential to United States products or production, or

"(iii) routine servicing and maintenance of products, to the extent that alternative sources are not readily or reasonably available;

"(D) to information and technology essential to United States products or production; or

"(E) to medical or other humanitarian items.

"(d) TERMINATION OF SANCTIONS.—The sanctions imposed pursuant to this section shall apply for a period of at least 12 months following the imposition of sanctions and shall cease to apply thereafter only if the President determines and certifies to the Congress that reliable information indicates that the foreign person with respect to which the determination was made under subsection (a)(1) has ceased to aid or abet any foreign government, project, or entity in its efforts to acquire chemical or biological weapons capability as described in that subsection.

"(e) WAIVER.—

"(1) CRITERION FOR WAIVER.—The President may waive the application of any sanction imposed on any person pursuant to this section, after the end of the 12-month period beginning on the date on which that sanction was imposed on that person, if the President determines and certifies to the Congress that such waiver is important to the national security interests of the United States.

"(2) NOTIFICATION OF AND REPORT TO CONGRESS.—If the President decides to exercise the waiver authority provided in paragraph (1), the President shall so notify the Congress not less than 20 days before the waiver takes effect. Such notification shall include a report fully articulating the rationale and circumstances which led the President to exercise the waiver authority.

"(f) DEFINITION OF FOREIGN PERSON.—For the purposes of this section, the term 'foreign person' means—

"(1) an individual who is not a citizen of the United States or an alien admitted for permanent residence to the United States; or

"(2) a corporation, partnership, or other entity which is created or organized under the laws of a foreign country or which has its principal place of business outside the United States.".

(b) AMENDMENT TO ARMS EXPORT CONTROL ACT.—The Arms Export Control Act is amended by inserting after chapter 7 the following:

"CHAPTER 8—CHEMICAL OR BIOLOGICAL WEAPONS PROLIFERATION

"SEC. 81. SANCTIONS AGAINST CERTAIN FOREIGN PERSONS.

"(a) IMPOSITION OF SANCTIONS.—

"(1) DETERMINATION BY THE PRESIDENT.—Except as provided in subsection (b)(2), the President shall impose both of the sanctions described in subsection (c) if the President determines that a foreign person, on or after the date of the enactment of this section, has knowingly and materially contributed—

"(A) through the export from the United States of any goods or technology that are subject to the jurisdiction of the United States,

"(B) through the export from any other country of any goods or technology that would be, if they were United States goods or technology, subject to the jurisdiction of the United States, or

"(C) through any other transaction not subject to sanctions pursuant to the Export Administration Act of 1979,

to the efforts by any foreign country, project, or entity described in paragraph (2) to use, develop, produce, stockpile, or otherwise acquire chemical or biological weapons.

"(2) COUNTRIES, PROJECTS, OR ENTITIES RECEIVING ASSISTANCE.—Paragraph (1) applies in the case of—

"(A) any foreign country that the President determines has, at any time after January 1, 1980—

"(i) used chemical or biological weapons in violation of international law;

"(ii) used lethal chemical or biological weapons against its own nationals; or

"(iii) made substantial preparations to engage in the activities described in clause (i) or (ii);

"(B) any foreign country whose government is determined for purposes of section 6(j) of the Export Administration Act of 1979 (50 U.S.C. 2405(j)) to be a government that has repeatedly provided support for acts of international terrorism; or

"(C) any other foreign country, project, or entity designated by the President for purposes of this section.

"(3) PERSONS AGAINST WHOM SANCTIONS ARE TO BE IMPOSED.—Sanctions shall be imposed pursuant to paragraph (1) on—

"(A) the foreign person with respect to which the President makes the determination described in that paragraph;

"(B) any successor entity to that foreign person;

"(C) any foreign person that is a parent or subsidiary of that foreign person if that parent or subsidiary knowingly assisted in the activities which were the basis of that determination; and

"(D) any foreign person that is an affiliate of that foreign person if that affiliate knowingly assisted in the activities which were the basis of that determination and if that affiliate is controlled in fact by that foreign person.

"(b) CONSULTATIONS WITH AND ACTIONS BY FOREIGN GOVERNMENT OF JURISDICTION.—

"(1) CONSULTATIONS.—If the President makes the determinations described in subsection (a)(1) with respect to a foreign person, the Congress urges the President to initiate consultations immediately with the government with primary jurisdiction over that foreign person with respect to the imposition of sanctions pursuant to this section.

"(2) ACTIONS BY GOVERNMENT OF JURISDICTION.—In order to pursue such consultations with that government, the President may delay imposition of sanctions pursuant to this section for a period of up to 90 days. Following these consultations, the President shall impose sanctions unless the President determines and certifies to the Congress that that government has taken specific and effective actions, including appropriate penalties, to terminate the involvement of the foreign person in the activities described in subsection (a)(1). The President may delay imposition of sanctions for an additional period of up to 90 days if the President determines and certifies to the Congress that that government is in the process of taking the actions described in the preceding sentence.

"(3) REPORT TO CONGRESS.—The President shall report to the Congress, not later than 90 days after making a determination under subsection (a)(1), on the status of consultations with the appropriate government under this subsection, and the basis for any determination under paragraph (2) of this subsection that such government has taken specific corrective actions.

"(c) SANCTIONS.—

"(1) DESCRIPTION OF SANCTIONS.—The sanctions to be imposed pursuant to subsection (a)(1) are, except as provided in paragraph (2) of this subsection, the following:

"(A) PROCUREMENT SANCTION.—The United States Government shall not procure, or enter into any contract for the procurement of, any goods or services from any person described in subsection (a)(3).

"(B) IMPORT SANCTIONS.—The importation into the United States of products produced by any person described in subsection (a)(3) shall be prohibited.

"(2) EXCEPTIONS.—The President shall not be required to apply or maintain sanctions under this section—

"(A) in the case of procurement of defense articles or defense services—

"(i) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy United States operational military requirements;

"(ii) if the President determines that the person or other entity to which the sanctions would otherwise be applied is a sole source supplier of the defense articles or services, that the defense articles or services are essential, and that alternative sources are not readily or reasonably available; or

"(iii) if the President determines that such articles or services are essential to the national security under defense coproduction agreements;

"(B) to products or services provided under contracts entered into before the date on which the President publishes his intention to impose sanctions;

"(C) to—

"(i) spare parts,

"(ii) component parts, but not finished products, essential to United States products or production, or

"(iii) routine servicing and maintenance of products, to the extent that alternative sources are not readily or reasonably available;

"(D) to information and technology essential to United States products or production; or

"(E) to medical or other humanitarian items.

"(d) TERMINATION OF SANCTIONS.—The sanctions imposed pursuant to this section shall

apply for a period of at least 12 months following the imposition of sanctions and shall cease to apply thereafter only if the President determines and certifies to the Congress that reliable information indicates that the foreign person with respect to which the determination was made under subsection (a)(1) has ceased to aid or abet any foreign government, project, or entity in its efforts to acquire chemical or biological weapons capability as described in that subsection.

"(e) WAIVER.—

"(1) CRITERION FOR WAIVER.—The President may waive the application of any sanction imposed on any person pursuant to this section, after the end of the 12-month period beginning on the date on which that sanction was imposed on that person, if the President determines and certifies to the Congress that such waiver is important to the national security interests of the United States.

"(2) NOTIFICATION OF AND REPORT TO CONGRESS.—If the President decides to exercise the waiver authority provided in paragraph (1), the President shall so notify the Congress not less than 20 days before the waiver takes effect. Such notification shall include a report fully articulating the rationale and circumstances which led the President to exercise the waiver authority.

"(f) DEFINITION OF FOREIGN PERSON.—For the purposes of this section, the term 'foreign person' means—

"(1) an individual who is not a citizen of the United States or an alien admitted for permanent residence to the United States; or

"(2) a corporation, partnership, or other entity which is created or organized under the laws of a foreign country or which has its principal place of business outside the United States.".

SEC. 306. DETERMINATIONS REGARDING USE OF CHEMICAL OR BIOLOGICAL WEAPONS.

(a) DETERMINATION BY THE PRESIDENT.—

(1) WHEN DETERMINATION REQUIRED; NATURE OF DETERMINATION.—Whenever persuasive information becomes available to the executive branch indicating the substantial possibility that, on or after the date of the enactment of this title, the government of a foreign country has made substantial preparation to use or has used chemical or biological weapons, the President shall, within 60 days after the receipt of such information by the executive branch, determine whether that government, on or after such date of enactment, has used chemical or biological weapons in violation of international law or has used lethal chemical or biological weapons against its own nationals. Section 307 applies if the President determines that that government has so used chemical or biological weapons.

(2) MATTERS TO BE CONSIDERED.—In making the determination under paragraph (1), the President shall consider the following:

(A) All physical and circumstantial evidence available bearing on the possible use of such weapons.

(B) All information provided by alleged victims, witnesses, and independent observers.

(C) The extent of the availability of the weapons in question to the purported user.

(D) All official and unofficial statements bearing on the possible use of such weapons.

(E) Whether, and to what extent, the government in question is willing to honor a request from the Secretary General of the United Nations to grant timely access to a United Nations fact-finding team to investigate the possibility of chemical or biological weapons use or to grant such access to other legitimate outside parties.

(3) DETERMINATION TO BE REPORTED TO CONGRESS.—Upon making a determination under paragraph (1), the President shall promptly report that determination to the Congress. If the determination is that a foreign government had used chemical or biological weapons as described in that paragraph, the report shall specify the sanctions to be imposed pursuant to section 307.

(b) CONGRESSIONAL REQUESTS; REPORT.—

(1) REQUEST.—The Chairman of the Committee on Foreign Relations of the Senate (upon consultation with the ranking minority member of such committee) or the Chairman of the Committee on Foreign Affairs of the House of Representatives (upon consultation with the ranking minority member of such committee) may at any time request the President to consider whether a particular foreign government, on or after the date of the enactment of this title, has used chemical or biological weapons in violation of international law or has used lethal chemical or biological weapons against its own nationals.

(2) REPORT TO CONGRESS.—Not later than 60 days after receiving such a request, the President shall provide to the Chairman of the Committee on Foreign Relations of the Senate and the Chairman of the Committee on Foreign Affairs of the House of Representatives a written report on the information held by the executive branch which is pertinent to the issue of whether the specified government, on or after the date of the enactment of this title, has used chemical or biological weapons in violation of international law or has used lethal chemical or biological weapons against its own nationals. This report shall contain an analysis of each of the items enumerated in subsection (a)(2).

SEC. 307. SANCTIONS AGAINST USE OF CHEMICAL OR BIOLOGICAL WEAPONS.

(a) INITIAL SANCTIONS.—If, at any time, the President makes a determination pursuant to section 306(a)(1) with respect to the government of a foreign country, the President shall forthwith impose the following sanctions:

(1) FOREIGN ASSISTANCE.—The United States Government shall terminate assistance to that country under the Foreign Assistance Act of 1961, except for urgent humanitarian assistance and food or other agricultural commodities or products.

(2) ARMS SALES.—The United States Government shall terminate—

(A) sales to that country under the Arms Export Control Act of any defense articles, defense services, or design and construction services, and

(B) licenses for the export to that country of any item on the United States Munitions List.

(3) ARMS SALES FINANCING.—The United States Government shall terminate all foreign military financing for that country under the Arms Export Control Act.

(4) DENIAL OF UNITED STATES GOVERNMENT CREDIT OR OTHER FINANCIAL ASSISTANCE.—The United States Government shall deny to that country any credit, credit guarantees, or other financial assistance by any department, agency, or instrumentality of the United States Government, including the Export-Import Bank of the United States.

(5) EXPORTS OF NATIONAL SECURITY-SENSITIVE GOODS AND TECHNOLOGY.—The authorities of section 6 of the Export Administration Act of 1979 (50 U.S.C. 2405) shall be used to prohibit the export to that country of any goods or technology on that part of the control list established under section 5(c)(1) of that Act (22 U.S.C. 2404(c)(1)).

(b) ADDITIONAL SANCTIONS IF CERTAIN CONDITIONS NOT MET.—

(1) PRESIDENTIAL DETERMINATION.—Unless, within 3 months after making a determination pursuant to section 306(a)(1) with respect to a foreign government, the President determines and certifies in writing to the Congress that—

(A) that government is no longer using chemical or biological weapons in violation of international law or using lethal chemical or biological weapons against its own nationals,

(B) that government has provided reliable assurances that it will not in the future engage in any such activities, and

(C) that government is willing to allow on-site inspections by United Nations observers or other internationally recognized, impartial observers, or other reliable means exist, to ensure that that government is not using chemical or biological weapons in violation of international law and is not using lethal chemical or biological weapons against its own nationals,

then the President, after consultation with the Congress, shall impose on that country the sanctions set forth in at least 3 of subparagraphs (A) through (F) of paragraph (2).

(2) SANCTIONS.—The sanctions referred to in paragraph (1) are the following:

(A) MULTILATERAL DEVELOPMENT BANK ASSISTANCE.—The United States Government shall oppose, in accordance with section 701 of the International Financial Institutions Act (22 U.S.C. 262d), the extension of any loan or financial or technical assistance to that country by international financial institutions.

(B) BANK LOANS.—The United States Government shall prohibit any United States bank from making any loan or providing any credit to the government of that country, except for loans or credits for the purpose of purchasing food or other agricultural commodities or products.

(C) FURTHER EXPORT RESTRICTIONS.—The authorities of section 6 of the Export Administration Act of 1979 shall be used to prohibit exports to that country of all other goods and technology (excluding food and other agricultural commodities and products).

(D) IMPORT RESTRICTIONS.—Restrictions shall be imposed on the importation into the United States of articles (which may include petroleum or any petroleum product) that are the growth, product, or manufacture of that country.

(E) DIPLOMATIC RELATIONS.—The President shall use his constitutional authorities to downgrade or suspend diplomatic relations between the United States and the government of that country.

(F) PRESIDENTIAL ACTION REGARDING AVIATION.—(i)(I) The President is authorized to notify the government of a country with respect to which the President has made a determination pursuant to section 306(a)(1) of his intention to suspend the authority of foreign air carriers owned or controlled by the government of that country to engage in foreign air transportation to or from the United States.

(II) Within 10 days after the date of notification of a government under subclause (I), the Secretary of Transportation shall take all steps necessary to suspend at the earliest possible date the authority of any foreign air carrier owned or controlled, directly or indirectly, by that government to engage in foreign air transportation to or from the United States, notwithstanding any agreement relating to air services.

(ii)(I) The President may direct the Secretary of State to terminate any air service agreement between the United States and a country with respect to which the President has made a determination pursuant to section 306(a)(1), in accordance with the provisions of that agreement.

(II) Upon termination of an agreement under this clause, the Secretary of Transportation shall take such steps as may be necessary to revoke at the earliest possible date the right of any foreign air carrier owned, or controlled, directly or indirectly, by the government of that country to engage in foreign air transportation to or from the United States.

(iii) The Secretary of Transportation may provide for such exceptions from clauses (i) and (ii) as the Secretary considers necessary to provide for emergencies in which the safety of an aircraft or its crew or passengers is threatened.

(iv) For purposes of this subparagraph, the terms "air transportation", "air carrier", "foreign air carrier", and "foreign air transportation" have the meanings such terms have under section 101 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301).

(c) REMOVAL OF SANCTIONS.—The President shall remove the sanctions imposed with respect to a country pursuant to this section if the President determines and so certifies to the Congress, after the end of the 12-month period beginning on the date on which sanctions were initially imposed on that country pursuant to subsection (a), that—

(1) the government of that country has provided reliable assurances that it will not use chemical or biological weapons in violation of international law and will not use lethal chemical or biological weapons against its own nationals;

(2) that government is not making preparations to use chemical or biological weapons in violation of international law or to use lethal chemical or biological weapons against its own nationals;

(3) that government is willing to allow on-site inspections by United Nations observers or other internationally recognized, impartial observers to verify that it is not making preparations to use chemical or biological weapons in violation of international law or to use lethal chemical or biological weapons against its own nationals, or other reliable means exist to verify that it is not making such preparations; and

(4) that government is making restitution to those affected by any use of chemical or biological weapons in violation of international law or by any use of lethal chemical or biological weapons against its own nationals.

(d) WAIVER.—

(1) CRITERIA FOR WAIVER.—The President may waive the application of any sanction imposed with respect to a country pursuant to this section—

(A) if—

(i) in the case of any sanction other than a sanction specified in subsection (b)(2)(D) (relating to import restrictions) or (b)(2)(E) (relating to the downgrading or suspension of diplomatic relations), the President determines and certifies to the Congress that such waiver is essential to the national security interests of the United States, and if the President notifies the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives of his determination and certification at least 15 days before the waiver takes effect, in accordance with the procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961, or

(ii) in the case of any sanction specified in subsection (b)(2)(D) (relating to import restrictions), the President determines and certifies to the Congress that such waiver is essential to the national security interest of the United States, and if the President notifies the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives of his determination and certification at least 15 days before the waiver takes effect; or

(B) if the President determines and certifies to the Congress that there has been a fundamental change in the leadership and policies of the government of that country, and if the President notifies the Congress at least 20 days before the waiver takes effect.

(2) REPORT.—In the event that the President decides to exercise the waiver authority provided in paragraph (1) with respect to a country, the President's notification to the Congress under such paragraph shall include a report fully articulating the rationale and circumstances which led the President to exercise that waiver authority, including a description of the steps which the government of that country has taken to satisfy the conditions set forth in paragraphs (1) through (4) of subsection (c).

(e) CONTRACT SANCTITY.—

(1) SANCTIONS NOT APPLIED TO EXISTING CONTRACTS.—(A) A sanction described in paragraph (4) or (5) of subsection (a) or in any of subparagraphs (A) through (D) of subsection (b)(2) shall not apply to any activity pursuant to any contract or international agreement entered into before the date of the presidential determination under section 306(a)(1) unless the President determines, on a case-by-case basis, that to apply such sanction to that activity would prevent the performance of a contract or agreement that would have the effect of assisting a country in using chemical or biological weapons in violation of international law or in using lethal chemical or biological weapons against its own nationals.

(B) The same restrictions of subsection (p) of section 6 of the Export Administration Act of 1979 (50 U.S.C. App. 2405), as that subsection is so redesignated by section 304(b) of this title, which are applicable to exports prohibited under section 6 of that Act shall apply to exports prohibited under subsection (a)(5) or (b)(2)(C) of this section. For purposes of this subparagraph, any contract or agreement the performance of which (as determined by the President) would have the effect of assisting a foreign government in using chemical or biological weapons in violation of international law or in using lethal chemical or biological weapons against its own nationals shall be treated as constituting a breach of the peace that poses a serious and direct threat to the strategic interest of the United States, within the meaning of subparagraph (A) of section 6(p) of that Act.

(2) SANCTIONS APPLIED TO EXISTING CONTRACTS.—The sanctions described in paragraphs (1), (2), and (3) of subsection (a) shall apply to contracts, agreements, and licenses without regard to the date the contract or agreement was entered into or the license was issued (as the case may be), except that such sanctions shall not apply to any contract or agreement entered into or license issued before the date of the presidential determination under section 306(a)(1) if the President determines that the application of such sanction would be detrimental to the national security interests of the United States.

SEC. 308. PRESIDENTIAL REPORTING REQUIREMENTS.

(a) REPORTS TO CONGRESS.—Not later than 90 days after the date of the enactment of this title, and every 12 months thereafter, the President shall transmit to the Congress a report which shall include—

(1) a description of the actions taken to carry out this title, including the amendments made by this title;

(2) a description of the current efforts of foreign countries and subnational groups to acquire equipment, materials, or technology to develop, produce, or use chemical or biological weapons, together with an assessment of the current and likely future capabilities of such countries and groups to develop, produce, stockpile, deliver, transfer, or use such weapons;

(3) a description of—

(A) the use of chemical weapons by foreign countries in violation of international law,

(B) the use of chemical weapons by subnational groups,

(C) substantial preparations by foreign countries and subnational groups to do so, and

(D) the development, production, stockpiling, or use of biological weapons by foreign countries and subnational groups; and

(4) a description of the extent to which foreign persons or governments have knowingly and materially assisted third countries or subnational groups to acquire equipment, material, or technology intended to develop, produce, or use chemical or biological weapons.

(b) PROTECTION OF CLASSIFIED INFORMATION.—To the extent practicable, reports submitted under subsection (a) or any other provision of this title should be based on unclassified information. Portions of such reports may be classified.

SEC. 309. REPEAL OF DUPLICATIVE PROVISIONS.

(a) REPEAL.—Title V of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138), and the amendments made by that title, are repealed.

(b) REFERENCES TO DATE OF ENACTMENT.—The reference—

(1) in section 11C(a)(1) of the Export Administration Act of 1979, as added by section 305(a) of this Act, to the "date of the enactment of this section",

(2) in section 81(a)(1) of the Arms Export Control Act, as added by section 305(b) of this Act, to the "date of the enactment of this section", and

(3) in section 306(a)(1) of this Act to the "date of the enactment of this title",

shall be deemed to refer to the date of the enactment of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138).

And the House agree to the same.

DAN ROSTENKOWSKI,
SAM GIBBONS,
Managers on the Part of the House.

LLOYD BENTSEN,
BOB PACKWOOD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the amendment of the Senate to the text of the bill (H.R. 1724) to provide for the termination of the application of title IV of the Trade Act of 1974 to Czechoslovakia and Hungary, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment to the text of the bill inserted a new section at the end of the bill.

The House agreed to the Senate amendment with an amendment which inserted after the matter inserted by the Senate the combined texts of H.R. 3347, H.R. 3313, H.R. 661, and H.R. 3409 as reported to the House.

The Senate recedes from its disagreement to the amendment of the House inserting the texts of H.R. 3347, H.R. 3313, H.R. 661, and H.R. 3409, with an amendment to the text of H.R. 3409. The House recedes to the amendment of the Senate. The differences between the text of the bill as amended by the Senate, the House amendment, and the amendment agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TERMINATION OF THE APPLICATION OF TITLE IV OF THE TRADE ACT OF 1974 TO CZECHOSLOVAKIA AND HUNGARY

(Sections 1 and 2 of House bill; sections 1 and 2 of House bill as amended by Senate; sections 1 and 2 of conference agreement.)

CONGRESSIONAL FINDINGS AND PREPARATORY PRESIDENTIAL ACTION

(Section 1 of House bill; section 1 of House bill as amended by Senate; section 1 of conference agreement.)

Present Law

No provision.

Section 1 contains Congressional findings and notes preparatory Presidential action. Subsection (a) makes a number of findings related to Hungary's and Czechoslovakia's respect for fundamental human rights; their policies of free emigration for their citizens; and the political and economic reforms undertaken by both countries. Subsection (b) notes that the President, in anticipation of the enactment of the bill, has directed the U.S. Trade Representative to negotiate with both countries to preserve the commitments contained in the bilateral commercial agreements that are consistent with the General Agreement on Tariffs and Trade; and to obtain other appropriate commitments.

House Bill as Amended by Senate

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

TERMINATION OF APPLICATION OF TITLE IV OF THE TRADE ACT OF 1974 TO CZECHOSLOVAKIA AND HUNGARY

(Section 2 of House bill; section 2 of House bill as amended by Senate; section 2 of conference agreement.)

Present Law

Title IV of the Trade Act of 1974, as amended by the Customs and Trade Act of 1990, sets forth three requirements relating to freedom of emigration which must be met, or waived by the President, in order for the President to grant nondiscriminatory, most-favored-nation (MFN) status to a nonmarket economy country. Title IV also requires that a trade agreement providing MFN status remain in force between the United States and the nonmarket economy country receiving MFN status and sets forth minimum provisions which must be included in such an agreement.

Presidential waivers and reports under Title IV—and thus a country's MFN status—are subject to disapproval by Congress. If the President determines that a country is in full compliance with the Jackson-Vanik freedom of emigration requirements, section 402(b) requires that he submit a report to the Congress by June 30 and December 31 of each year that such country receives MFN treatment, describing the nature of the country's emigration laws and policies. The country's MFN status may be revoked, if a joint resolution disapproving the December 31 compliance report is enacted into law within 90 legislative days of the delivery of the report to Congress. If such a resolution is enacted, the country's MFN status is rescinded, effective 60 calendar days after enactment.

Annual Presidential recommendations under section 402(d) for a 12-month extension of authority to waive Jackson-Vanik freedom of emigration requirements (either generally or for specific countries) are subject to a joint resolution of disapproval passed by the Congress within 60 calendar days after expiration of the previous waiver extension. An additional 15 legislative days, following the 60 calendar day period for initial passage, is available for consideration of any veto message. If such a resolution is enacted, the country's MFN status is rescinded, effective 60 calendar days after enactment.

House Bill

Section 2 provides for the termination of application of Title IV of the Trade Act of 1974 to Czechoslovakia and Hungary. Subsection (a) authorizes the President to determine that such title should no longer apply to Hungary or Czechoslovakia, or to both; and after making such a determination, proclaim the extension of nondiscriminatory, MFN treatment to the products of that country. Subsection (b) provides that after the extension under subsection (a) of MFN treatment to the products of a country, Title IV of the Trade Act of 1974 shall cease to apply to that country.

House Bill as Amended by Senate

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

AMENDMENTS TO THE EMERGENCY UNEMPLOYMENT COMPENSATION ACT OF 1991

(Section 3 of House bill as amended by Senate; section 3 of conference agreement.)

Present Law

All States are eligible to provide Emergency Unemployment Compensation (EUC) benefits to unemployed workers who have exhausted their unemployment benefits under existing programs. These benefits are available between November 17, 1991, and July 4, 1992.

There are three levels of weeks of eligibility for EUC benefits. The number of weeks of benefits payable to an unemployed worker in a particular State is determined by combinations of State adjusted insured unemployment rates (AIURs), exhaustion rates (ERs), and total unemployment rates (TURs). All rates are rounded to the nearest tenth of a percentage point. For example, 2.95 percent would be rounded to 3.0 percent.

The AIUR for a State is the insured unemployment rate for a given month plus the number of workers who have exhausted their regular State benefits in the last three months added to the numerator.

The ER is the percentage obtained by dividing the average monthly number of workers who have exhausted their regular State benefits during the last 12 months by the average monthly number of individuals filing initial claims for regular State benefits during the last 12-month period ending 6 months earlier. (For the reachback and initial benefit periods an eight-month average ending with September was used.)

The TUR is the percentage obtained from the ratio of all unemployed workers to all workers in the labor force in that State during the last six months for which data are published.

States can receive 6, 13, or 20 weeks as follows:

All States get at least 6 weeks.

States with AIURs of at least 4 percent *or* AIURs of at least 2.5 percent *and* exhaustion rates of at least 29 percent get at least 13 weeks.

States with AIURs of at least 5 percent or TURs of at least 9 percent get 20 weeks.

Once a State has "triggered on" for a 6, 13, or 20 weeks period of EUC benefits, the State remains triggered on that tier for at least 13 weeks, even if it drops to a lower tier during that period. Alternatively, if a State's moves to a higher tier during that period, workers in that State qualify for the additional benefits.

Also, once an unemployed worker becomes eligible for 6, 13, or 20 weeks of EUC benefits, the worker is paid for all weeks to which he is entitled, even if the State drops to a lower tier or the program expires before the worker has received the full number of weeks of benefits.

Unemployed workers who have exhausted their benefits under the regular unemployment program between March 1 and November 16 are eligible to receive EUC benefits in States which qualify as 13- or 20-week States or which had AIURs of at least 3 percent. Qualifying States are eligible for a minimum of 6 weeks of "reachback" benefits, however, States on the second and third tiers are eligible to pay for 13 or 20 weeks, respectively.

House Bill

No provision.

Senate Amendment

The Senate amendment replaces the three tier system of 20, 13, and 6 weeks of emergency unemployment compensation with a two tier system of 20 and 13 weeks. The 9 States and Puerto Rico with total unemployment rates of at least 9 percent or adjusted insured unemployment rates of at lest 5 percent still would receive 20 weeks of benefits. The other 41 States and the District of Columbia and Virgin Islands would receive 13 weeks of benefits. In addition, reachback coverage would be added for all States so that the 18 States and the Virgin Islands that do not currently receive these benefits would become eligible to provide them. Finally, the expiration date of the program would change from July 4, 1992, to June 13, 1992.

Conference Agreement

The conferees agree to the Senate amendment.

REPEAL OF THE PROHIBITION ON THE IMPORTATION OF SOVIET GOLD COINS

(Section 4 of House amendment; section 4 of conference agreement.)

Present Law

Section 510 of the Comprehensive Anti-Apartheid Act of 1986 prohibits the importation into the United States by any person, including a bank, of any gold coins minted in the Union of Soviet Socialist Republics (USSR) or offered for sale by the Government of the USSR. Any individual who violates the prohibition or implementing regulations is subject to a fine of not more than five times the value of the gold coins involved.

Imports of gold coins enter the United States duty-free.

House Amendment

Section 4 repeals section 510 of the Comprehensive Anti-Apartheid Act of 1986.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

EXTENSION OF NONDISCRIMINATORY TREATMENT TO ESTONIA, LATVIA, AND LITHUANIA

(Title I of House amendment; Title I of conference agreement.)

CONGRESSIONAL FINDINGS

(Section 101 of House amendment; section 101 of conference agreement.)

Present Law

No provision.

House Amendment

Section 101 makes a number of findings relating to the history of U.S. diplomatic relations with the Baltic states; their forcible incorporation into the Soviet Union in 1940; and their successful efforts to restore their

independence from the Soviet Union, which occurred on September 6, 1991.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

EXTENSION OF NONDISCRIMINATORY TREATMENT TO THE PRODUCTS OF ESTONIA, LATVIA, AND LITHUANIA

(Section 102 of House amendment; section 102 of conference agreement.)

Present Law

The law governing U.S. trade relations with nonmarket economy counties is Title IV of the Trade Act of 1974 (the so-called Jackson-Vanik amendment), as amended by the Customs and Trade Act of 1990. That title requires the President to deny MFN status to those nonmarket economy countries which did not receive such status on the date of enactment. Because Estonia, Latvia, and Lithuania on the date of enactment were under the forcible control of the Soviet Union, this prohibition applied to those states.

Title IV also authorizes the President to extend MFN status to a nonmarket economy country, if that country meets three requirements relating to the freedom of emigration of its citizens. Alternatively, the President may waive those requirements and extend MFN status on an annual basis to a nonmarket economy country, subject to disapproval by Congress. Finally, Title IV requires that a trade agreement providing MFN status remain in force between the United States and the nonmarket economy country receiving MFN status; and it sets forth minimum provisions which must be included in such an agreement.

General Note 3(b) of the Harmonized Tariff Schedule of the United States includes Estonia, Latvia, and Lithuania on the list of countries subject to Column 2 (non-MFN) rates of duty.

House Amendment

Section 102 applies nondiscriminatory, MFN treatment to the products of Estonia, Latvia, and Lithuania, notwithstanding Title IV or any other provision of law. It amends General Note 3(b) to remove these three countries from the application of Column 2 (non-MFN) rates of duty.

These provisions apply with respect to goods imported on or after the 15th day after the date of enactment of the Act.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

TERMINATION OF APPLICATION OF TITLE IV OF THE TRADE ACT OF 1974 TO THE BALTICS

(Section 103 of House amendment; section 103 of conference agreement.)

Present Law

Title IV of the Trade Act of 1974, as amended, has applied to Estonia, Latvia, and Lithuania by virtue of their forcible incorporation into the Soviet Union in 1940.

House Amendment

Section 103 provides that title IV shall cease to apply to Estonia, Latvia, and Lithuania, effective as of the 15th day after the date of enactment.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

SENSE OF THE CONGRESS REGARDING PROMPT PROVISION OF GSP TREATMENT TO THE PRODUCTS OF ESTONIA, LATVIA, AND LITHUANIA

(Section 104 of House amendment; section 104 of conference agreement.)

Present Law

Title V of the Trade Act of 1974 authorizes the President to provide duty-free, Generalized System of Preferences (GSP) treatment to any eligible article from designated beneficiary developing countries, subject to certain conditions and limitations. Under Section 502, the President is prohibited from designating as beneficiary developing countries certain specified developed countries, including the Soviet Union; communist countries unless certain criteria are satisfied; and countries which do not meet other specified criteria. Because Estonia, Latvia, and Lithuania are now independent of the Soviet Union, they are eligible for GSP benefits, subject to the criteria of Title V.

House Amendment

Section 104 expresses the sense of the Congress that the President should take prompt action under Title V to provide GSP benefits to the products of Estonia, Latvia, and Lithuania.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

TRADE PREFERENCE FOR THE ANDEAN REGION

(Title II of House amendment.)

SHORT TITLE

(Section 201 of House amendment.)

Present Law

No provision.

House Amendment

Section 201 provides that the title may be cited as the "Andean Trade Preference Act" (ATPA).

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

AUTHORITY TO GRANT DUTY-FREE TREATMENT

(Section 202 of House amendment.)

Present Law

Bolivia, Ecuador, Colombia, and Peru receive most-favored-nation, column 1 rate of duty treatment and are designated as beneficiary countries for duty-free treatment on eligible articles under the Generalized System of Preferences (GSP) program.

House Amendment

Section 202 authorizes the President to proclaim duty-free treatment for all eligible articles from any beneficiary country in accordance with the provisions of the ATPA.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

BENEFICIARY COUNTRY

(Section 203 of House amendment.)

Present Law

No provision. The designation authority and criteria that apply under section 212 (b) and (c) of the Caribbean Basin Economic Recovery Act (CBERA) to beneficiary countries under the Caribbean Basin Initiative (CBI) program, are nearly identical to the provisions of section 203. Section 212 of the CBERA has similar withdrawal and suspension authorities and notification and reporting requirements with respect to CBI beneficiary countries.

House Amendment

Section 203 authorizes the President to consider only Bolivia, Ecuador, Colombia, and Peru for designation as beneficiary countries under the ATPA. Before designating any country, the President must notify the Congress of his intention to make the designation, together with the considerations entering into the decision. Designation by the President of a country as a beneficiary country is subject to 7 specific conditions, most of which are subject to waiver if he determines that designation of the country will be in the national economic or security interest of the United States and reports that determination and the reasons therefor to the Congress. The President must also take 12 other specific factors into account in designating any beneficiary country.

The President may withdraw or suspend beneficiary country status or duty-free treatment on any article of any beneficiary country if he determines after designation that the country should be barred from designation because of changed circumstances. The President must submit to the Congress every 3 years a complete report on the operation of the ATPA.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

ELIGIBLE ARTICLES

(Section 204 of House amendment.)

Present Law

Imports from the Andean countries are subject to normal customs provisions for determining origin, except that articles eligible for duty-free treatment under the GSP program are subject to the rules-of-origin specified under section 503 of the Trade Act of 1974. The rule-of-origin requirements for duty-free treatment under the ATPA are nearly identical to the requirements under section 213(a) of the CBERA for determining origin under the CBI program.

Section 223 of the CBERA provides that if the President considers that implementation of revised rules of origin for products of CBI beneficiary countries would be appropriate, he shall transmit such legislation to the Congress, after taking into account a report and recommendations of the U.S. International Trade Commission (ITC) and advice from various sources.

The product exclusions from eligibility for duty-free treatment and the duty reductions on imports of certain leather products under the CBI program are identical to the ATPA, except that rum is eligible for duty-free treatment under the CBERA.

Additional U.S. Notes 2, 3, and 4 of Chapter 17 of the Harmonized Tariff Schedule of the United States (HTS) authorize the imposition of duties or quotas on imports of sugars, syrups, and molasses. Presidential Proclamation 6179, signed on September 13, 1990, provided for the establishment of tariff-rate quotas on sugar imports beginning on October 1, 1990, to replace the system of absolute quotas. Under the tariff-rate quota system, the Secretary of Agriculture announces a quantity of sugar that will be subject to current tariff rates (the "lower tier" tariff rate), which is then allocated among country suppliers. Any additional quantities of sugar above these allocated amounts are subject to a tariff rate of 16 cents per pound, raw value (the "upper tier" tariff rate). GSP and CBI beneficiary countries are eligible to receive

duty-free treatment on the quantities of sugar permitted entry at the lower tier tariff rate. All four Andean countries currently have sugar import allocations subject to GSP duty-free treatment.

The CBI program contains identical authorities for granting import relief and taking emergency action on agricultural perishable products.

House Amendment

Section 204 requires duty-free treatment on any article, not otherwise excluded from eligibility, which is the growth, product, or manufacture of a beneficiary country if (1) that article is imported directly from a beneficiary country into the U.S. customs territory; and (2) the sum of (a) the cost or value of materials produced in one or more Andean beneficiary countries or one or more CBI beneficiary countries, plus (b) the direct costs of processing operations performed in one or more Andean or CBI beneficiary countries is not less than 35 percent of the appraised value of the article (which may include Puerto Rico and Virgin Islands content and up to 15 percent of the value of U.S. content). Section 204 also specifies requirements which the Secretary of the Treasury must prescribe in regulations. The President may include revised rules of origin for duty-free treatment under the ATPA similar to revised rules for CBI duty-free treatment in any suggested legislation submitted to the Congress pursuant to section 223 of the CBERA.

Section 204 excludes from eligibility for duty-free treatment: (1) Textiles and apparel articles, which are subject to textile agreements; (2) footwear ineligible for GSP duty-free treatment; (3) canned tuna; (4) petroleum or petroleum products; (5) certain watches and watch parts; (6) handbags, luggage, flat goods, work gloves, and leather wearing apparel ineligible for GSP duty-free treatment, which are subject to 20 percent duty reductions not to exceed 2.5 percent ad valorem implemented over 5 years; (7) sugars, syrups, and molasses subject to over-quota rates of duty; and (8) rum.

The President may suspend duty-free treatment on any eligible article under import relief or national security authorities. In any report to the President on an import relief investigation involving a duty-free article under the ATPA, the ITC must state whether and to what extent its injury findings and remedy recommendations apply to imports from beneficiary countries. Under emergency relief provisions for imports of perishable agricultural products, within 7 days after receiving a recommendation from the Secretary of Agriculture (within 14 days after the filing of a petition) that emergency action is warranted, the President must withdraw duty-free treatment or determine not to take emergency action. No proclamation under the ATPA shall affect fees imposed pursuant to section 22 of the Agricultural Adjustment Act of 1933.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

RELATED AMENDMENTS

(Section 205 of House amendment.)

Present Law

Note 4 and tariff items under subchapter IV of chapter 98 of the HTS provide a duty-free tourist allowance to returning U.S. residents arriving directly or indirectly from foreign countries (including Andean countries) of $400, or $600 in the case of CBI beneficiary countries. U.S. residents returning from foreign countries may bring in not more than one liter of alcoholic beverages duty-free and excise-tax free; residents returning from CBI beneficiary countries may enter one additional liter duty-free if produced in a CBI beneficiary country.

General Note 3(a)(iv) of the HTS provides that goods imported from U.S. insular possessions shall receive no less favorable duty treatment than accorded to eligible articles imported from beneficiary countries under the GSP or CBI programs.

House Amendment

Section 205 increases the duty-free tourist allowances for U.S. residents returning directly or indirectly from Andean beneficiary countries from $400 to $600 and for one additional liter of alcoholic beverages if produced in an Andean country.

Goods imported from U.S. insular possessions will receive duty treatment no less favorable than the treatment afforded such goods imported from a beneficiary country under the ATPA.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

INTERNATIONAL TRADE COMMISSION REPORTS ON IMPACT OF THE ANDEAN TRADE PREFERENCE ACT

(Section 206 of House amendment.)

Present Law

No provision. Section 215 of the CBERA requires a similar report by the ITC with respect to the CBI program.

House Amendment

Section 206 requires the ITC to prepare and submit to the Congress a report on the economic impact of the ATPA on U.S. industries and consumers and on the effectiveness of duty-free treatment in promoting drug-related crop eradication and crop substitution efforts of the beneficiary countries, initially on the first two years of the program and annually thereafter.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

IMPACT STUDY BY SECRETARY OF LABOR

(Section 207 of House amendment.)

Present law

No provision. Section 216 of the CBERA contains an identical requirement with respect to the CBI program.

House Amendment

Section 207 requires the Secretary of Labor to make an annual report to the Congress of its review and analysis of the impact of the ATPA on U.S. labor.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

EFFECTIVE DATE AND TERMINATION OF DUTY-FREE TREATMENT

(Section 208 of House amendment.)

Present Law

No provision.

House Amendment

Section 208 provides that the ATPA takes effect on the date of enactment, and that duty-free treatment terminates 10 years after the date of enactment.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

CONTROL AND ELIMINATION OF CHEMICAL AND BIOLOGICAL WEAPONS

(Title III of House amendment; Title III of conference agreement.)

SHORT TITLE

(Section 301 of House amendment; section 301 of conference agreement.)

Present Law

Title V of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138) entitles the provisions of that title the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991.

House Amendment

Same as present law.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

PURPOSES

(Section 302 of House amendment; section 302 of conference agreement.)

Present Law

Title V of Public Law 102–138 states the purposes of the title as mandating U.S. sanctions and encouraging international sanctions against chemical and biological weapons (CBW) country violators, supporting multilateral proliferation controls, urging cooperation with the Australia Group and other suppliers' groups, and requiring Presidential reports on chemical and biological weapons proliferation.

House Amendment

Same as present law.

Senate Amendment.

No provision.

Conference Agreement

The Senate recedes.

MULTILATERAL EFFORTS

(Section 303 of House amendment; section 303 of conference agreement.)

Present Law

Title V of Public Law 102–138 specifies measures that the United States shall take to lead and coordinate multilateral efforts to control the proliferation of chemical and biological weapons.

House Amendment

Same as present law.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

UNITED STATES EXPORT CONTROLS

(Section 304 of House amendment; section 304 of conference agreement.)

Present Law

Title V of Public Law 102–138 directs the President to use the authorities of the Arms Control Act and the Export Administration Act of 1979 to control the exports of defense articles and services and other goods and technologies which he determines would assist a country in acquiring the capability to develop, produce, stockpile, deliver, or use chemical or biological weapons. It also provides for a list of goods and technology.

House Amendment

Same as present law.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

SANCTIONS AGAINST CERTAIN FOREIGN PERSONS

(Section 305 of House amendment; section 305 of conference agreement.)

Present Law

Title V of Public Law 102–138 directs the President to impose sanctions on foreign persons who have knowingly and materially contributed to efforts by certain countries, projects, or entities to use, develop, produce, stockpile, or acquire chemical or biological weapons. It urges the President to undertake consultation with the country of jurisdiction in order to secure corrective action. It permits the President to delay imposition of sanctions against a foreign person for up to 90 days to pursue consultations and corrective action. It requires the President to report within 90 days after his determination on the status of the consultations and permits him to delay the imposition of sanctions for an additional 90 days if the President determines and certifies to Congress that the government is pursuing corrective actions. Upon making a determination that a foreign person has engaged in the prohibited activities, the President is required to impose government procurement sanctions against that person for at least 12 months, after which the sanctions may be terminated if the President determines and certifies that the violations have ceased. Certain exceptions also are provided (e.g., for certain defense articles and services or existing contracts). This section also provides for a Presidential waiver after 12 months, based on the President's determination that such a waiver is important to the national security interests of the United States.

House Amendment

Section 305 adds import sanctions to the sanctions which must be imposed against a foreign person found to be engaged in prohibited activities.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

DETERMINATIONS REGARDING USE OF CHEMICAL OR BIOLOGICAL WEAPONS

(Section 306 of House amendment; section 306 of conference agreement.)

Present Law

Title V of Public Law 102–138 directs the President, once information becomes available to him, to determine, within 60 days of his receipt of pertinent information, whether any foreign country has used or made substantial preparation to use chemical weapons in violation of international law or against its own nationals. It also stipulates that the Senate Foreign Relations Committee and House Foreign Affairs Committee Chairmen, upon consultation with their ranking Minority Members, may request from the President a report on the information held by the Executive branch pertinent to the suspected violation.

House Amendment

Same as present law.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

SANCTIONS AGAINST USE OF CHEMICAL OR BIOLOGICAL WEAPONS

(Section 307 of House amendment; section 307 of conference agreement.)

Present Law

Title V of Public Law 102–138 applies to any government which the President determines has used, or is making substantial preparation to use, chemical or biological weapons in violation of international law or against its own nationals. It establishes a two-tier sanctions regime. Once a determination is made, the President shall impose immediately the specified U.S. Government-associated sanctions (foreign assistance, arms sales, arms sales financing, government credit or financing, exports of national security-sensitive goods and technology). If, after 3 months, the President is not able to certify to Congress that the violation has ceased, that the government in question has provided assurances about no further use, and that the government is willing to allow on-site inspections by international observers, then the President shall impose three out of five possible sanctions (multilateral development bank assistance, bank loans, further export restrictions, diplomatic relations, landing rights). The President may remove the country sanctions after 12 months if he determines and can certify these same changes in conduct by the government in question.

The Presidential waiver authority in present law allows the President to waive the imposition of sanctions if he determines and certifies to Congress that it is essential to the national security interests of the United States; and if the President notifies the Committee on Foreign Relations in the Senate and the Committee on Foreign Affairs in the House of Representatives of his determination and certification at least 15 days before the waiver takes effect, in accordance with foreign aid reprogramming procedures. The President also must report on the rationale for, and circumstances of, his waiver.

The President also may waive the sanctions if he determines and certifies to the Congress that there has been a fundamental change in the leadership and policies of the government of the sanctioned country, and if the President notifies the Congress at least 20 days before the waiver takes effect.

Present law also provides contract sanctity for contracts and agreements entered into before the date on which the President imposes sanctions unless such contract sanctity would assist the country in using chemical or biological weapons in violation of international law.

House Amendment

The landing rights sanction in section 307 specifies the steps to be taken by the Secretary of Transportation in implementing this sanction and providing for emergency procedures.

With respect to import sanctions, the President must notify the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives, rather than the Committees on Foreign Relations and Foreign Affairs, of his determination and certification at least 15 days before the waiver takes effect. The notification requirement with respect to sanctions other than import sanctions is unchanged.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

PRESIDENTIAL REPORTING REQUIREMENTS

(Section 308 of House amendment; section 308 of conference agreement.)

Present Law

Title V of Public Law 102–138 requires a Presidential report to Congress 90 days after enactment of the amendment and every 12 months thereafter. This report is intended to be comprehensive and to include such information as a description of actions taken to carry out this title; efforts by countries and subnational groups to develop, produce, and use chemical or biological weapons; and any use of such weapons by a country in violation of international law.

House Amendment

Same as present law.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

REPEAL OF DUPLICATIVE PROVISIONS

(Section 309 of Senate amendment to House amendment; section 309 of conference agreement.)

Present Law

Title V of Public Law 102–138 establishes a framework of sanctions for the proliferation and use of chemical and biological weapons.

House Amendment

No provision.

Senate Amendment to House Amendment

Section 309 repeals Title V of Public Law 102–138 and the amendments to other laws made by that title. It establishes the effective date of Title III of H.R. 1724 and the amendments to other laws contained therein as the date of enactment of Public Law 102–138.

Conference Agreement

The House recedes.

DAN ROSTENKOWSKI,
SAM GIBBONS,
Managers on the Part of the House.

LLOYD BENTSEN,
BOB PACKWOOD,
Managers on the Part of the Senate.

Mr. ROSTENKOWSKI. Mr. Speaker, pursuant to House Resolution 306, I call up the conference report on the bill (H.R. 1724) to provide for the termination of the application of title IV of the Trade Act of 1974 to Czechoslovakia and Hungary, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. SHARP). Pursuant to the rule, the conference report is considered as having been read.

The gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 30 minutes, and the gentleman from Texas [Mr. ARCHER] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois [Mr. ROSTENKOWSKI].

GENERAL LEAVE

Mr. ROSTENKOWSKI. 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 presently being considered.

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

There was no objection.

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

Mr. Speaker, I rise in support of the conference report on H.R. 1724. This report contains modifications to the recently enacted Emergency Unemployment Compensation Act of 1991 and a number of very important trade provisions.

The original bill provides for termination of the Jackson-Vanik provisions of the Trade Act of 1974 and permanent extension of most-favored-nation treatment to Hungary and Czechoslovakia.

On November 20, the House concurred in the Senate amendment to H.R. 1724, which replaces the three-tier benefit system enacted in the Emergency Unemployment Compensation Program of 6, 13, and 20 weeks with a two-tier system of 13 and 20 weeks. An additional 24 State programs could provide 13 weeks of extended benefits instead of 6 weeks, and 19 additional State programs would be eligible for the reachback provisions under the new program. To pay for these two changes, the duration of the program would be cut by 3 weeks, from July 4 to June 13, 1992, but no State would lose benefits.

Because this bill will be enacted after the effective date of the program, there are certain requirements in present law relating to eligibility requirements for extended benefits that States will not be able to meet. I want to clarify that it is the expectation of the conferees that the Department of Labor will waive these requirements, in order that States will not be penalized for failure to take actions that, given the retroactive nature of this legislation, they cannot reasonable be expected to take.

The conference report includes the provisions of all four trade bills which the House passed by voice voter on November 20 as a composite amendment to the Senate-passed bill. The Senate agreed to repeal of the ban in the Comprehensive Anti-Apartheid Act of 1986 on importation of Soviet gold coins, the extension of unconditional most-favored-nation status to the Baltic States of Estonia, Latvia, and Lithuania, and United States export controls and sanctions against foreign persons and countries involved in the production and use of chemical and biological weapons.

Finally, Mr. Speaker, the Senate agreed to the provisions of H.R. 661, the Andean Trade Preference Act, an administration initiative to provide economic alternatives for the Andean nations to combat illegal drugs. The conference agreement fulfills the instruction passed on November 21 to the House conferees to insist on the position of the House with regard to this legislation.

Mr. Speaker, I urge my colleagues to support the conference report on H.R. 1724.

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

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

Mr. Speaker, House conferees were very successful in winning approval of all of H.R. 1724's trade provisions. Those initiatives are important. The conference acted wisely.

Several of the provisions are reflective of the improved international situation in which we find ourselves.

They achieve permanent normalized trade relations with Hungary, Czechoslovakia, and the Baltic nations of Estonia, Latvia, and Lithuania.

Permanent most-favored-nation treatment is a positive signal we can send those who have struggled for economic reform and political freedom.

MFN for the Soviet Union is not contained in this bill. It is addressed, however, in a separate resolution which we passed last week—and which passed the Senate yesterday. This conference report does, however, contain a related measure.

It repeals the prohibition on the importation of gold coins from the Soviet Union—fulfilling a commitment made by the United States during talks on the bilateral trade agreement.

The chemical and biological weapons control measure contained in the conference report retains important waiver authority and flexibility for the President. It will be helpful in crafting an effective and judicious response to violations in this area.

I was particularly pleased by the inclusion of the Andean trade initiative in the final agreement. It is an important part of the President's war on illicit drug production. It fulfills his commitment to the Presidents of Bolivia, Columbia, Ecuador, and Peru to help them stimulate other exports.

Last week's 416-to-0 vote in the House on PHIL CRANE's motion to instruct conferees sent a clear signal to the Senate. This antidrug initiative is important.

The Senate got our message. The measure stayed in the conference agreement.

Final passage will send an equally clear signal to the Andean nations. The United States stands with them in their efforts to combat illegal drug trafficking by developing other products for export.

I can't say enough about the tireless efforts of our colleague PHIL CRANE, the ranking Republican on the Trade Subcommittee. He has been the congressional leader on the Andean initiative and deserves great credit for moving it forward. So does Chairman ROSTENKOWSKI—for holding firm on the House position in the face of last minute Senate hesitancy.

These trade issues are important. They deserve our support. I want to vote for them. Once again I can't. They remain packaged with still another unemployment benefit expansion—at levels I cannot support.

Less than 2 weeks ago, President Bush signed into law a $5.2 billion program of temporary extended benefits.

That plan had serious flaws—but at least it targeted relief to workers in States with high unemployment levels.

The package before us today amends that brand new law. It provides 7 more weeks of benefits in States which need them the least. Sixteen of those States have insured unemployment rates under 2 percent. Once again, Congress has cringed before the icon of political expediency.

This expansion strikes a blow at the foundation of the unemployment compensation program. It perverts the basic premise of extended benefits—that they should be concentrated in those areas where it's hardest for unemployed workers to find a job.

It's no fun being a lonely dissenting voice on this issue. The conference report will be adopted with little opposition.

It's important, though, that someone reminds this body of the groundwork we are laying today.

The next time we see the extended benefits issue, the call will be for a costly, permanent, nontargeted program which will require a significant tax increase.

I reserve the balance of my time.

Mr. PEASE. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma [Mr. MCCURDY].

Mr. MCCURDY. Mr. Speaker, the conference report on H.R. 1724 contains virtually all of the provisions on chemical and biological weapons proliferations found in the conference report on H.R. 1415, the State Department authorization for fiscal years 1992 and 1993, which was passed by the House on October 8, 1991.

When the State Department authorization conference report was on the floor, I engaged in a colloquy with the gentleman from California [Mr. BERMAN]. The purpose of the colloquy was to clarify the circumstances in which the President could delay a determination that a foreign person had knowing and materially contributed to the proliferation of chemical or biological weapons.

Inasmuch as the provisions which gave rise to the colloquy are contained in the conference report now before us, and the purpose of legislative history, I include at this point in the RECORD a reflection of the colloquy between Mr. BERMAN and myself as it appeared on page H7640 of the CONGRESSIONAL RECORD for October 8, 1991.

Mr. MCCURDY. Mr. Speaker, will the gentlemen yield?

Mr. BERMAN. I yield to the gentlemen from Oklahoma.

Mr. MCCURDY. Mr. Speaker, if the chairman of the subcommittee would allow it, I would like to engage him in a colloquy.

I would like to clarify the provisions in H.R. 1415 that amend the Export Ad-

ministration Act and the Arms Export Control Act to provide for sanctions against foreign companies involved in the development or production of chemical and biological weapons. These provisions mandate sanctions once the President makes a determination that a foreign person has "knowingly and materially" contributed to the efforts by any foreign country to develop or use biological or chemical weapons.

I strongly endorse this effort to sanction foreign companies involved in the proliferators of chemical and biological weapons. I rise to clarify one point concerning the Presidential determinations called for in these provisions. It has come to my attention that, in rare circumstances, a premature determination might inhibit the flow of information which is necessary to the full imposition of sanctions against all violators. It seems to me that the President should be allowed to delay such a determination where it is necessary to protect intelligence sources and methods which are being used to acquire further, possibly more important, information on CBW proliferation.

Is it your understanding that the protection of intelligence sources or methods for the stated purpose may be a factor in deciding on the timing of a Presidential determination that a foreign person is contributing to CBW proliferation?

Mr. BERMAN. Mr. Speaker, reclaiming any time, to answer the gentleman from Oklahoma [Mr. MCCURDY], chairman of the House Permanent Select Committee on Intelligence, it is my understanding that the President, in rare circumstances, could delay a determination that a foreign person has knowingly and materially contributed to CBW proliferation if such a delay is necessary to protect intelligence sources or methods essential to the acquisition of further intelligence about CBW proliferation. Such a delay would be appropriate, for example, where the United States is using the sensitive intelligence sources or methods to gather information on other CBW proliferation, or where additional time is needed to develop nonsensitive information that could be used to explain publicly the imposition of sanctions. However, such a delay should not be indefinite, because the ultimate purpose of these provisions is to sanction those foreign persons that we know to be knowingly and materially involved in CBW proliferation. Moreover, the delay should only be for the purpose of furthering our policy of sanctioning those proliferators. A delayed determination would not be justified to further any other policy.

Mr. MCCURDY. Mr. Speaker, if the gentleman would continue to yield, I thank my colleague for this clarification. I, too, would like to add my congratulations to the chairman of the subcommittee for his stewardship of this bill this year.

□ 1910

Mr. ARCHER. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois. [Mr. CRANE].

Mr. CRANE. Mr. Speaker, I am forced to rise in opposition to this conference report despite the fact that I strongly favor many of the trade-related initiatives within it, including a measure which I sponsored myself. I cannot, however, in good conscience support an unemployment measure which would expand benefits to States which have an unemployment rate of less than 2 or 3 percent. Surely, our country cannot afford to be so generous as to expand such benefits to States which clearly do not have an unemployment problem.

Despite my strong objection to the unemployment provision, I would like to remind my colleagues of the positive aspects of this legislation. H.R. 1724 includes two measures to extend Most-Favored-Nation trading status to Czechoslovakia and Hungary as well as to each of the individual Baltic States. Granting MFN to these deserving nations will show that America is committed to helping the growing number of Democratic nations throughout the world.

I am particularly pleased that the Andean Trade Preference Act has been incorporated into H.R. 1724. Having introduced the bill earlier this year, I have been very interested in seeing it move rapidly through the legislative process. The fact that it has come to the floor this quickly is evidence of this body's firm commitment to the war against drugs.

Drafted by the Administration, the Andean Trade Preference Act is a very important aspect of the President's enterprise for the Americas initiative. This bill is designed to assist the Andean Nations; Colombia, Bolivia, Ecuador, and Peru, in their struggle to eliminate the production, processing and shipment of illegal drugs by removing the duties on a number of products originating in the region. As a result of this measure, the poor peasant farmers—who have been forced to rely on the drug trade to earn their daily bread—will be provided with an opportunity to engage in legitimate crop production.

Since nearly all of the cocaine entering the United States originates in the Andean region, our country stands to gain a great deal from the Andean Trade Preference Act. And while this act alone will not eliminate the flow of cocaine into the United States, this program coupled with the others which fall under the purview of the enterprise for the Americas initiative, will contribute significantly to the growth and prosperity of the Andean countries, thereby giving them the means to address the serious drug problems facing our hemisphere.

In addition, passage of this measure will in effect be an acknowledgement of the substantial sacrifices the Andean countries have already made in the war against drugs. And perhaps today's actions will spur even greater efforts in that direction.

I wish to thank Chairman GIBBONS, Chairman ROSTENKOWSKI, and the ranking Republican on the Ways and Means Committee, BILL ARCHER, for all their efforts in helping to move the Andean legislation so swiftly.

It is truly with deep regret that I must vote against H.R. 1724.

Mr. PEASE. Mr. Speaker, I yield 1 minute to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Speaker, I thank the gentleman from Ohio, the acting chairman, for yielding this time to me, and commend the full committee chairman, the gentleman from Illinois [Mr. ROSTENKOWSKI], and our congressional classmate, the gentleman from Texas [Mr. ARCHER] for the work they have done.

Mr. Speaker, certainly I rise in support of permanent MFN status for the emerging East Bloc nations of Hungary and Czechoslovakia, and also for those brave nations, formerly a part of the U.S.S.R.; but in addition to those wonderful things, I would like to speak momentarily in favor of the amendments made by the distinguished Committee on Ways and Means on the formulas for the extension of unemployment benefits to the states.

My home State of Kentucky was one which would have received only 6 weeks, a very welcome 6 weeks, I must say, under the original bill, but now it will receive 13 weeks, which is even more important to the many thousands upon thousands of unemployed in Louisville and Jefferson County and throughout the Commonwealth of Kentucky.

So I realize it took a lot of doing to reach this point tonight. I want to thank all those responsible and rise in very strong support of this conference report.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. SANTORUM].

Mr. SANTORUM. Mr. Speaker, I thank the distinguished ranking minority member for whom I have as much respect for as any Member in this body for yielding me this time.

I was not going to speak on this bill, but when I heard the gentleman say he was a lone voice speaking out against this unemployment compensation switch, I wanted to join him in that. I voted against this bill the last time for that specific reason.

We in Pennsylvania are hurting and have been hurting for a long time in my area. This recession has taken a very heavy toll, but the people in Pennsylvania under this bill are going to get less benefits than they would

under the bill that is currently the law right now, because they shortened the timeframe that allows us to get benefits, so I am voting against this bill. I think every Member from Pennsylvania should vote against this bill.

If we are really serious about extending unemployment compensation benefits to the people who are hurting, who cannot get jobs, not in States in which we have 3-percent unemployment and have healthy economies, but in States where people are really hurting, if that is what this body cares about, about people who are hurting out there who cannot find jobs, then this is a sham. We should be giving those benefits to people who need them and in the States where it is hard to find jobs, and this is the State of Pennsylvania.

So I rise in support of the position of the gentleman on that and I will be opposing the vote, even though there may be many things in this bill, as the gentleman from Illinois just said, that I support and in fact was a cosponsor of the legislation; but I find this absolutely repugnant for this precedent and for this insult to the people who are really hurting in this country.

I also find it very ironic that we are here discussing unemployment compensation extensions when what we should be discussing is getting these people a job and considering a growth package right now before we get out of here for Thanksgiving.

Mr. PEASE. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, I must say it pains me that my colleagues on the Ways and Means Committee, the distinguished gentleman from Texas [Mr. ARCHER] and the distinguished gentleman from Illinois [Mr. CRANE] like this bill a lot, but they cannot quite bring themselves to vote for it. Some of us, I guess, on this side, are going to have to provide the votes to give not only trade preferences to some very important nations around the world, but also unemployment benefits to workers who badly need them.

I rise to support of all the sections of this bill, particularly the portions dealing with MFN for Czechoslovakia and Hungary and the Batlic states.

Eastern Europe is going through a dramatic transformation. The people of those countries need a great deal of help in adjusting to changing their systems from one of communism to one of free enterprise and democracy. There is a limit to how much we can do in terms of actual aid to those countries, but certainly providing them with trading privileges, allowing them to join the community of nations in the trading arena can mean a great deal to them, can encourage investment in those countries, can allow them over a period of a few years hopefully to transform their economies and that will be the best contribution we can make to those countries.

Mr. Speaker, I had the privilege of being in Estonia in the first part of September of this year on the day that the Supreme Soviet officially recognized the independence of Estonia. On that occasion we were speaking to some Estonian officials about granting MFN and saying that we were going to do it for the Soviet Union and we were not sure whether we ought to make the granting of MFN for Estonia a part of the granting of that MFN for the Soviet Union or whether we ought to act separately.

I remember vividly that the Estonian official with whom we are talking turned and said, "As of today, the Soviet Union is a foreign nation as far as Estonia is concerned."

Last week, as has been noted, we did provide MFN to the Soviet Union. Today we do so for Estonia, Latvia, and Lithuania as well. I think that is a very appropriate step on our part.

Now, as far as unemployment compensation is concerned, I think we ought to set their record straight. We have heard three speakers now on the Republican side of the aisle complain about this bill, complain about what they would term I guess excessive generosity of these benefits.

I would hope perhaps the gentleman from Pennsylvania [Mr. SANTORUM] who spoke just before myself would leave his home in Pittsburgh and drive down the turnpike a little ways to Youngstown, OH, and tell unemployed workers in Youngstown that they are not entitled, that they are not worthy of the employment benefits which we provide in this bill.

□ 1920

I am from Ohio. We have serious economic problems, high levels of unemployment in Ohio, and I certainly take exception to anybody who claims that we are not deserving, that our workers are not deserving of 13 weeks of unemployment compensation.

Let me enter into the RECORD a little history, as far as the unemployment compensation is concerned.

Early in the Reagan administration, at the insistence of the Reagan administration, the trigger mechanism for extended benefits was changed so it made it virtually impossible for States to trigger onto extended benefits, which I guess is the way the Reagan administration wanted it to be.

We had the anomaly that later on in the 1980's when we had extremely high unemployment in some States it still was not high enough to trigger onto extended benefits because the trigger was what they called the insured unemployment rate, which is those people who are collecting unemployment at any given time. And in many, many States with very high lingering, continuing high unemployment the number of people who are insured and collecting unemployment was rather small because they, most of them, had already exhausted their benefits.

So I and others during the 1980's have been working to make the trigger something other than the insured unemployment rate. We tried to use the total unemployment rate, much more indicative in deciding whether a State needs extended benefits or not. We passed two bills in this House and sent them to the President. Both of them used the total unemployment rate as the trigger mechanism.

The President thwarted our effort both times.

Three weeks ago we reported out of the Committee on Ways and Means again a bill that uses the total unemployment rate as the trigger mechanism. Using that trigger mechanism many States qualify for 6 weeks, some for 13, some for 20, and many of them qualified for reachback, for the persons who had already exhausted their benefits.

But the Bush administration was not happy with that. They could not tolerate so many unemployed people getting benefits. So they insisted on going back to the insured unemployment rate. And what that did was to knock several States back from 13 to 6 weeks and it knocked a number of States out of eligibility for reachback provisions at all.

The Senate in its wisdom during deliberations last week insisted that that injustice be corrected. That injustice has been corrected in the legislation before us now.

Under this legislation those in all States would be eligible for at least 13 weeks, some for 20 weeks, and most would be eligible, in fact, all would be eligible for some reachback provisions.

If my colleagues from the other side of the aisle want to complain that an arbitrary eligibility for at least 13 weeks goes contrary to reasoned determination of how many people are unemployed in any State, I would remind them that the real atrocity of the last 10 years has been the insistence of the Republican administrations, two of them, on using the insured unemployment rate, which certainly did not measure in any reasoned or rational way the necessity in one State or another to have extended benefits.

I think this is a very good package. I commend it to the support of my colleagues.

Mr. GUARINI. Mr. Speaker, I rise in strong support of the conference report on H.R. 1724, particularly as it relates to the Andean Trade Preference Act. I am pleased to be one of the original cosponsors of this most important piece of legislation, and it has been one of my top legislative priorities.

The Andean Trade Preference Act is targeted at four countries—Colombia, Boliva, Peru, and Ecuador. These countries have been waging a life and death struggle against illegal drugs. They are also emerging democracies. This legislation will help promote their

economic development. In so doing, these nations will be able to combat more effectively the narcotics problem and provide a standard of living for their people conducive to democratic development.

Nearly all the world's coca is produced in Peru and Bolivia. Colombia, as we all know, is the major processing point for cocaine. Although there is much that must be done in the United States to curb the demand for drugs, we cannot ignore the supply side of the equation. These countries, at great cost, have made considerable progress in dealing with the drug problem. Assassination and terrorism are scourges that they must live with.

President Bush, at the Cartagena summit, recognized the importance of increasing economic opportunities for these countries if they are to have any chance in their fight against illegal drugs. The President also recognized the mutual economic benefit to both Latin America and the United States of increased trading opportunities within our hemisphere.

This legislation will serve both purposes. The United States will have increased access to goods from the Andean region, as well as new export opportunities. This bill will improve economic prospects in the Andean region and create growth opportunities. It will lead to progress in eradicating the production, processing and shipment of illegal drugs. Improved trade will also enable these countries to buy more of our goods.

I urge my colleagues to support this conference report.

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

Mr. ROSTENKOWSKI. Mr. Speaker, I have no further requests for time and I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

CORRECTING TECHNICAL ERROR IN ENROLLMENT OF H.R. 1724

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent for the immediate consideration of the concurrent resolution (H. Con. Res. 249) correcting a technical error in the enrollment of the bill, H.R. 1724.

The Clerk read the title of the concurrent resolution.

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

Mr. ARCHER. Mr. Speaker, reserving the right to object, I shall not object, but I take this time for the purpose of requesting the chairman of the Committee on Ways and Means to explain what is involved.

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

Mr. ARCHER. I yield to the gentleman from Illinois.

Mr. ROSTENKOWSKI. I thank the gentleman for yielding.

Mr. Speaker, this resolution makes clear that individuals whose unemployment insurance benefit year expired after February 28, 1991 would be eligible for so-called reachback benefits under the Emergency Unemployment Compensation Act of 1991. It was requested by the administration, and it is consistent with the intent of this act.

Mr. ARCHER. Mr. Speaker, there is no opposition to this resolution as I understand it.

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

The SPEAKER pro tempore. The reading of the concurrent resolution will be dispensed with.

The text of the concurrent resolution is as follows:

H. CON. RES. 249

Resolved by the House of Representatives (the Senate concurring),

That, in the enrollment of the bill (H.R. 1724) to provide for the termination of the application of title IV of the Trade Act of 1974 to Czechoslovakia and Hungary, the Clerk of the House of Representatives shall make the following correction:

Strike section 3(a)(3) of the bill and insert the following:

(3) Section 102(f)(3)(A) of the Emergency Unemployment Compensation Act of 1991 is amended to read as follows:

"(A) IN GENERAL.—If any individual has a benefit year which ends after February 28, 1991, such individual shall be entitled to emergency unemployment compensation under this Act in the same manner as if such individual's benefit year ended no earlier than the last day of the first week following November 16, 1991."

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 2212, UNITED STATES-CHINA ACT OF 1991

Mr. FROST. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 307 and ask for its immediate consideration.

The SPEAKER pro tempore. The Clerk read the resolution, as follows:

H. RES. 307

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report on the bill (H.R. 2212) regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes. All points of order against the conference report and against its consideration are hereby waived. The conference report shall be considered as having been read when called up for consideration.

The SPEAKER pro tempore. The question is, Will the House now consider House Resolution 307?

The question was taken; and (two-thirds having voted in favor thereof) the House agreed to consider House Resolution 307.

The SPEAKER pro tempore. The gentleman from Texas [Mr. FROST] is recognized for 1 hour.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from New York, [Mr. SOLOMON], pending which I yield myself such time as I may consume. During debate on this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, H. Res. 307 waives all points of order against the conference report on H.R. 2212 and against its consideration. The rule also dispenses with the reading of the conference report.

Mr. Speaker, H.R. 2212 stipulates that the President may not waive the Jackson-Vanik requirements with respect to granting MFN status to the products of the People's Republic of China unless he reports that China has met certain human rights objectives. In particular, China must account for and release citizens held for the 1989 Tiananmen Square incident.

In addition, Mr. Speaker, the President must report that China has made significant progress on trade and weapons proliferation issues.

Mr. Speaker, Representative PELOSI deserves our praise for her patience and perseverance. This measure is in large part due to her hard work. Chairman ROSTENKOWSKI also deserves our gratitude as does Mr. SOLOMON. They have worked hard to shepherd this measure through the Congress. We hope the President will sign it.

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

Mr. Speaker, I rise in support of this rule, providing consideration for the conference report on the Pelosi bill which places conditions on the further extension of most-favored-nation trade status to the People's Republic of China. And I pay special tribute to the bill's sponsor, the gentlewoman from California [Ms. PELOSI], for without her driving determination, my colleagues, this bill would not be before us today.

I can assure you of that, Mr. Speaker, there are so many problems in our relations with Communist China that it's just hard to know where to start.

Whether we look at Chinese missile sales to unsavory governments throughout the World—at Chinese assistance to countries in building nuclear reactors, capable of producing fissionable materials for nuclear bombs—at Chinese repression in Tibet and slave labor production of goods—and so on, it's just plain clear that the Chinese Communist Government must change its ways.

Mr. Speaker, of course, nothing sticks in our craw more than the massacre perpetrated by Communist-led troops in Tiananmen Square, a little over 2 years ago.

Yes. Hundreds of innocent people died.

No. We have not forgotten.

Mr. Speaker, I am pleased to stand here and offer my support for the rule-making in order the conference report on H.R. 2212, a bill that will place conditions on any further extension of United States trade benefits to the so-called People's Republic of China.

Frankly, Mr. Speaker, I would have preferred, to cut off those benefits completely—to place punishing tariffs on their goods, goods—often made with slave labor and often bearing the counterfeit trademark of American-made goods—often secreted into the United States through third countries in clear violation of the bilateral trade agreements that that Government solemnly signed with us.

Mr. Speaker, in each of the last 2 years, I offered this House a chance to end most-favored-nation status for Communist China—to end it outright.

In both cases, an overwhelming majority of the Members voted for that course of action in passing my bills that recinded special trade preference for China.

Regrettably, the Senate failed to uphold the House's action in both cases.

Mr. Speaker, when I stood in the well of this House speaking on behalf of my first effort to cut off most-favored-nation status for Communist China, I pointed out that an article in the Chinese Communist Press, at that time, indicated that the Chinese Communist leadership felt, as early as 1 year after its Tiananmen massacre, that the world was already losing its concern for justice in that bloody crime.

I said then that Communist China would not respect democratic rights any more after the extension of most-favored-nation status, than it did before.

I believe that the facts since then, have borne me out.

Mr. Speaker, the Tiananmen Square massacre took place so soon after the extension of most-favored-nation status in 1989, that we could not act in time.

In 1990, our efforts died in the Senate.

Now, in 1991, a conference report is before us. One that will make it difficult for the so-called People's Republic of China, to get another extension next year without changing its ways.

Yes; I am disappointed that we have not yet cut off MFN.

But, yes; I am pleased at the progress that we are making toward that goal and this bill is a strong step in that direction.

The Communist Chinese Government knows now that we have not forgotten and that we will not forget.

Mr. Speaker, in closing, let me say this. I greatly respect President Bush and how hard he is working—using a carrot-and-stick approach—to get the Communists to respect their people's freedom and rights.

He is working to strengthen the international controls covering Chinese arms sales, and working to cut off Chinese counterfeit and slave-labor-manufactured goods.

□ 930

He just recently sent Secretary of State Baker to Beijing with, what I am sure, was a clear message that their actions will have consequences.

But our purpose here today is to show that there is indeed a stick—a big stick—and that there will indeed be consequences for Communist China—if his calls for reform continue to fall on deaf ears.

My colleagues, passage of the bill this rule makes in order will help President Bush get the message across to the old men in the so called Great Hall of the People that we, the American people, will not tolerate a ruthless regime that has no respect for the human rights of decent, helpless people, the citizens of China. Mr. Speaker, that is why I urge support of this rule, and I urge support of the conference report that will follow it.

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

Mr. FROST. Mr. Speaker, for the purposes of debate only, I yield 2 minutes to the gentleman from Ohio [Mr. PEASE].

Mr. PEASE. Mr. Speaker, I rise in support of this bill, in very strong support, and I thank our chairman, the gentleman from Illinois [Mr. ROSTENKOWSKI], for his active leadership in bringing it to the floor today.

Mr. Speaker, It is going to be unusual, I think for almost anybody to stand up on the floor today and discuss this bill without making reference to the gentlewoman from California [Ms. PELOSI]. If ever there was a bill which owed its progress to one person, this is it. She has been absolutely tenacious in advancing the bill, pushing and retrieving it from various backwaters, making sure that it did not get forgotten and getting it on the floor today, and I would like to commend her for the outstanding job that she has done in getting this piece of legislation before us.

Mr. Speaker, after Tiananmen Square I tried to figure out what our response should be. I introduced very shortly thereafter a bill to condition MFN for China. We had a debate 2 years ago, and last year, earlier this year on that, my bill, and that of the gentlewoman from California [Ms. PELOSI] and others. I am pleased that my bill played a small part in this effort but whatever role I played is small compared to that of the gentlewoman from California [Ms. PELOSI], and I want to give full credit to her.

Mr. Speaker, I rise then in support of this rule and in support of the conference report.

Mr. SOLOMON. Mr Speaker, I yield such time as he may consume to the distinguished gentleman from California. [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, I rise in strong support of the gentlewoman from California [Ms. PELOSI]. She chose to come over to this side of the aisle with her fight against the MFN for China unless they met certain requirements, and I think that these requirements are in order. It is very seldom, I think, that we can find that on foreign issues that we can support the other side of the aisle, and this is one that I am glad to. Every country that I would ever have fought against in combat, the Chinese, and the Soviets, and even the French, would supply weapons to those countries. It is not just the slavery, it is not just the drug trade, but I think the weapons sales and how they could influence the future of the world.

Mr. Speaker, I think to give them most-favored-nation status would be a crime in itself, and I thank the gentlewoman from California [Ms. PELOSI] for her foresight.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Speaker, I thank the distinguished gentleman from New York [Mr. SOLOMON] for yielding this time to me and for his hard work on this bill, and also the distinguished gentlewoman from California [Ms. PELOSI] for her leadership on this bill.

Mr. Speaker, let me simply say that we are right now facing a world in which dangerous technology is being transferred at a very rapid rate, and this technology is going to result in over 15 nations having ICBM capability within a very short period of time, and other lesser missile technology and lesser missile capability that can mean in the end dead Americans in a conflict and dead allies of America.

Mr. Speaker, we saw in the Iraqi situation a lot of Western technology coming back at us and back at our soldiers and sailors in the sands of the Middle East. China can either have a salutary effect on this situation, or they can exacerbate this enormous problem of technology transfer to irresponsible parties. So far China has opted for the latter route, and they have in transferring Silkworm missiles and other technology to adversaries of America placed the men and women of America's Armed Forces in harm's way.

Mr. Speaker, I applaud the authors of this measure for the conditions that they are laying down for China to follow.

□ 1940

I think China is going to largely determine whether or not the terrorists with high technology, in this new era we are moving into as we leave the Soviet-United States confrontation era, the era with terrorists and their high technology, will be largely affected by the political decisions that China

makes. I hope that China makes the right decisions. If they do not make the right decisions, they certainly should not be the beneficiaries of American trade preferences.

Second, Members of this House have visited Chinese labor camps and have seen for themselves that slave labor indeed is being used to make products that are competing with American products on American shelves at American retail outlets. That is absolutely unacceptable, and I know that this measure offered by the gentlewoman from California [Ms. PELOSI] and the gentleman from New York addresses this area also, that of slave labor being utilized to create indeed exports to the very country that is condemning the activities that took place at Tiananmen Square in actions subsequent to those.

Let me thank the gentlewoman from California [Ms. PELOSI] and the gentleman for their leadership in this area, and I thank the chairman of the full committee, the gentleman from Illinois [Mr. ROSTENKOWSKI].

Mr. Speaker, I stand in full support of the resolution.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to another distinguished Californian, the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Speaker, I thank the gentleman for yielding time to me, and I rise in strong support of this rule and of the measure.

I want to join in congratulating the gentlewoman from California [Ms. PELOSI] as well as the gentleman from New York [Mr. SOLOMON], along with the many others who have been working on this legislation for a long time now.

I would like to join in the remarks that the gentleman from New York made about President Bush and Secretary of State Baker with regard to this issue. Recently I had the occasion to hear Jim Baker explain what had happened in China. I think some progress is being made, but I think—and he probably would not agree with this—that by passing this resolution we will help them, not hurt them, and get the Chinese to do the right thing.

Mr. SOLOMON. Mr. Speaker, I yield 4 minutes to the gentleman from South Carolina [Mr. RAVENEL].

Mr. RAVENEL. Mr. Speaker, I rise in strong support of the legislation, and I want to associate myself with the remarks previously made by the gentlewoman from California [Ms. PELOSI] and the gentleman from New York [Mr. SOLOMON].

I was over there during the summer with a group that was sponsored by the Chamber of Commerce of Hong Kong. Quite frankly, I had never been to the Far East, and we were just absolutely amazed by what we encountered when we went over there. Senator Brown headed the delegation, and there were about a dozen Members of Congress who went with us.

We found that the Chinese people were well-fed and well-clothed, but if they professed themselves politically, they were grabbed up off the street or wherever they happened to be and they were summarily thrown into jail. They disappeared and, I imagine, in some instances worse.

The estimates over there are that there are approximately 10 million people working in prisons in China, and they manufacture every conceivable thing under the sun. Most of those manufactured items are shipped to Hong Kong. The labels are changed, and then they are sold throughout the world. A great many of those prison-made items are sold in the United States.

In my State of South Carolina we are losing approximately 5,000 textile jobs a year, so it affects us directly.

We were denied permission to visit the dissidents who were in prison over there, one in particular, a young man by the name of Wang Juntao. Everywhere we went, we requested permission to see the leaders, and finally we got to the First Secretary of the Communist party in China, and he said, no, he could not make arrangements for us to meet Wang Juntao, who was being held under very severe conditions.

So I asked the man, I said, "Let me tell you something, man. You are the head knocker here in China. If you can't make arrangements for us to meet Mr. Wang Juntao, who in the world can?"

Well, he sloughed that answer off, but subsequently, through some efforts of some good Caucasians who were over there, we were able to meet with his wife, Mrs. Ho. You probably read just the other day when Mrs. Ho tried to meet with some of Secretary Baker's delegation, she was arrested and held overnight. This is a charming young lady. She confirmed what we had been told about the conditions under which these young folks were held.

At one of the meetings we had with the Chinese officials, one of them approached me on a lesser level, I feel sure, and he said, "What do you think we ought to do?"

I said, "We need a sign. We need an expression of good will back in the United States, in the Congress, before we vote on most-favored-nation status."

He said, "What would you suggest?"

I said, "Why don't you let these young kids go? You've got less than a hundred of them now still in jail from the Tianamen Square situation. Why don't you just let them go and let them come to the United States? We will take them as political refugees. They will all continue their education at colleges and universities around our country, and probably in 10 or 15 years they will all be Chinese millionaires. That is the kind of thing you need to do as an expression of good will."

Of course, we have heard nothing from them. They are just as intransigent now as they were back then. I thought surely when Mr. Baker went to China as a representative of the President, he would have more success than our delegation and Ms. PELOSI'S delegation had. But absolutely not. They have absolutely stonewalled the situation.

What they cannot understand is why we associate trade with human rights. They just cannot understand this. We told them repeatedly all of this. We said that in our country the two are inseparable, and the American people do not want to do business with people who treat folks like they are treating them

So I think the legislation provided by this rule is apropos and very much on time. I hope that all the Members will vote for the rule by a substantial margin.

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Texas [Mr. BARTON], who has been so active and helpful in this area.

Mr. BARTON of Texas. Mr. Speaker, I, too, rise in strong support of the rule and the legislation, the conference report granting most-favored-nation trade status for China.

I would like to commend the gentlewoman from California [Ms. PELOSI] for the continuing good work she has done on this issue, as well as the gentleman from New York [Mr. SOLOMON], the gentleman from New York [Mr. GREEN], the gentleman from Washington [Mr. MILLER], the gentleman from Georgia [Mr. JONES], and many, many others for the fine work they have done.

I consider this bill to be a continuing step in our efforts to make the current leadership in communist China understand that the American people will not forget what happened at Tiananmen Square, that we are sincerely dedicated to keeping hope alive that one day freedom will be allowed to flourish in that land. This is another bill that would do that.

I would point out that last week several of my colleagues and I introduced another piece of legislation that will allow those Chinese students and adult nonstudents who are in this country and were in this country when Tiananmen Square occurred to stay in this country permanently should they choose to do so, if the President has not certified that conditions exist so that they would be allowed to return peacefully to China.

We all know that Secretary of State Jim Baker recently returned to China. He went there with high hopes, and unfortunately those hopes were frustrated.

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The Chinese Government refused to make any concessions. In fact, several individuals that wanted to meet with the Secretary were prevented forcefully from meeting with him.

While the Secretary went with all the good intentions, he did not come back with any substantive progress.

This bill that we will vote on later this evening is a cleaned up version of the bill that passed the House overwhelmingly not too many months ago. It is a much cleaner bill. It is much more narrowly drawn, much more straightforward, but still has real conditions for MFN to be granted. It would require that the Chinese release the prodemocracy demonstrators currently imprisoned in China or Tibet; it would require that they commit not to sell missiles to Syria or Iran; it would require that there be significant progress in human rights, in nuclear proliferation, and in trade.

It is a straightforward piece of legislation. If we pass it tonight overwhelmingly, I am sure that when we reconvene in the second session of this Congress, that it will also pass in the Senate, and hopefully the President will sign it and it will set the stage to really begin the process of bringing China back into the League of Nations.

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

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

Mr. Speaker, I would like to take a minute to commend my colleague from Texas [Mr. BARTON] who just spoke, who has consistently spoken out on this issue over a long period of time, even when other Members were not calling attention to it.

Mr. SOLOMON. Mr. Speaker, in yielding back the balance of my time, let me just point out that there are few countries left in the world that still operate under the failed political philosophy of communism, a philosophy that has no respect for human life and human decency at all. I guess there is still Cuba, there is still Vietnam, there is still North Korea, and, of course, there is still the People's Republic of China with one-fifth of the world's population.

That is a shame. Many countries throughout the world are throwing off the shackles of communism and moving toward democracy. But it isn't happening yet in China.

If we are going to be successful in China, I just want to say once again that the gentlewoman from California [Mr. PELOSI] in her dogged determination to see this bill through the House and the Senate and back here with this conference report in what we hope are the waning hours of this session this year, will certainly have to get all the credit in the world. I pay deep tribute to her for that.

Mr. Speaker, I hope that every Member will support this rule and then give unanimous support to a very fine bill that will send the right message to the Chinese leadership: That we will not tolerate this kind of treatment of decent human beings.

Mr. Speaker, I urge support of the rule.

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

Mr. FROST. Mr. Speaker, 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. ROSTENKOWSKI submitted the following conference report and statement on the bill (H.R. 2212) regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes:

CONFERENCE REPORT (H. REPT. 102-392)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2212), regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States-China Act of 1991".

SEC. 2. FINDINGS AND POLICY.

(a) FINDINGS.—The Congress makes the following findings:

(1) The Chinese people have provided a dramatic demonstration of their desire for democratic freedoms. Thousands of courageous Chinese students and workers, men and women, demonstrated on June 4, 1989, that they were willing to die, or face imprisonment or exile, in pursuit of democratic self-determination and human rights.

(2) The Government of the People's Republic of China, which is a member of the United Nations and obligated to uphold the Charter of the United Nations and the Universal Declaration of Human Rights, continues to engage in flagrant violations of internationally recognized human rights, including—

(A) torture and cruel, inhuman, or degrading treatment or punishment;

(B) prolonged detention without charges and trial and sentencing of persons solely for the nonviolent expression of their political views;

(C) arbitrary arrest and the unacknowledged detention of persons; and

(D) use of forced labor of prisoners to produce cheap products for export to countries, including the United States, in violation of international labor treaties and United States law.

(3) The Government of the People's Republic of China has denied Chinese citizens who support the pro-democracy movement and others the right of free, unimpeded emigration.

(4) The Government of the People's Republic of China has restricted the number of students permitted to study abroad, required some college students to attend military indoctrination courses, and required university graduates to work 5 years after graduation and to pay large sums of money before being eligible to apply for study outside China.

(5) The Government of the People's Republic of China continues to violate the internationally recognized human rights of the people of Tibet and uses the People's Liberation Army and police forces to intimidate and repress Tibetan and Chinese citizens peacefully demonstrating for democratic change and religious freedom.

(6) The Government of the People's Republic of China is engaging in unfair trade practices against the United States by failing to protect intellectual property rights, raising tariffs, employing taxes as a surcharge on tariffs, using discriminatory customs rates, imposing import quotas and other quantitative restrictions, barring the importation of some items, using licensing and testing requirements to limit imports, and falsifying country of origin documentation to transship textiles to the United States through third countries.

(7) The Government of the People's Republic of China has not demonstrated its willingness and intention to participate as a full and responsible party in good faith efforts to control the proliferation of dangerous military technology and weapons, including biological, chemical, and nuclear weapons technologies.

(8) The Government of the People's Republic of China has interfered with the movement toward self-rule by the people of Hong Kong in their political, cultural, and economic activities.

(9) The President of the United States has suspended all government-to-government sales and commercial exports of defense articles and services to China and issued an Executive order to treat sympathetically requests by Chinese students in the United States to extend their stay.

(10) United States policy toward China has failed to prevent or discourage the People's Republic of China from—

(A) committing violations of internationally recognized human rights, including the rights of the people of Tibet;

(B) taking action that results in the proliferation of dangerous military technology and weapons; and

(C) engaging in unfair trade practices against the United States.

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

(1) with respect to the actions of the People's Republic of China in the areas of human rights, weapons proliferation, and unfair trade practices, the President should take such actions as necessary to achieve the purposes of this Act, including, but not limited to—

(A) instructing the United States delegation to the United Nations Commission on Human Rights to actively seek the appointment of a special rapporteur to investigate violations of internationally recognized human rights in China and to seek allied and Soviet support for such an investigation;

(B) directing the United States Trade Representative to take appropriate action pursuant to section 301 of the Trade Act of 1974 with respect to the trade practices of the People's Republic of China which are unreasonable, unjustifiable, or discriminatory and which burden or restrict United States commerce;

(C) interacting more forcefully with our allies, especially Japan and European countries, to accomplish the restriction of transfers of technology to China; and

(D) encouraging members of the Missile Technology Control Regime, and other countries, as appropriate, to set up a working group to develop a common policy concerning missile transfers to other countries by the People's Republic of China;

(2) the sanctions being applied against the People's Republic of China on the date of enactment of this Act should be continued and strictly enforced; and

(3) the President should submit the report required by the Joint Resolution relating to the approval and implementation of the proposed agreement for nuclear cooperation between the United States and the People's Republic of China (Public Law 99–183; 99 Stat. 1174).

SEC. 3. ADDITIONAL OBJECTIVES WHICH THE GOVERNMENT OF CHINA MUST MEET IN ORDER TO RECEIVE NONDISCRIMINATORY TREATMENT.

(a) IN GENERAL.—The President may not recommend the continuation of a waiver in 1992 for a 12-month period under section 402(d) of the Trade Act of 1974 for the People's Republic of China unless the President reports in the document required to be submitted by such section that the government of that country—

(1) has, in regard to the events that led up to, and occurred during and after, the violent repression of dissent in Tiananmen Square on June 3, 1989—

(A) provided an accounting of citizens who were detained, accused, or sentenced as a result of the nonviolent expression of their political beliefs during those events; and

(B) released citizens who were imprisoned after such detention, accusation, or sentencing; and

(2) has made overall significant progress in achieving the objectives outlined in each of the categories of—

(A) human rights, as described in subsection (b);

(B) trade, as described in subsection (c); and

(C) weapons proliferation, as described in subsection (d).

(b) HUMAN RIGHTS.—The human rights objectives described in this subsection are—

(1) taking appropriate action to prevent gross violations of internationally recognized human rights in the People's Republic of China, including Tibet;

(2) preventing exports of products made by prisoners and detainees assigned to labor camps, prisons, detention centers, and other facilities holding detainees, and allowing United States officials and international humanitarian and intergovernmental organizations to inspect the places of detention suspected of producing export goods to ensure that appropriate steps have been taken and are in effect;

(3) terminating religious persecution in the People's Republic of China, including Tibet, and releasing leaders and members of all religious groups detained, incarcerated, or under house arrest as a result of the expression of their religious beliefs;

(4) removing restrictions in the People's Republic of China, including Tibet, on freedom of the press and on broadcasts by the Voice of America;

(5) terminating the acts of intimidation and harassment of Chinese citizens in the United States, including the return and renewal of passports confiscated by authorities as retribution for prodemocracy activities;

(6) ensuring access of international human rights monitoring or humanitarian groups to prisoners, trials, and places of detention;

(7) ensuring freedom from torture and from inhumane prison conditions;

(8) terminating prohibitions on peaceful assembly and demonstration imposed after June 3, 1989;

(9) fulfilling its commitment to engage in high-level discussions on human rights issues; and

(10) adhering to the Joint Declaration on Hong Kong that was entered into between the United Kingdom and the People's Republic of China.

(c) TRADE.—The trade objectives described in this subsection are—

(1) providing adequate protection of United States patents, copyrights, and other intellectual property rights;

(2) providing American exporters fair access to Chinese markets, including lowering tariffs, removing nontariff barriers, and increasing the purchase of United States goods and services; and

(3) ceasing unfair trade practices against the United States which are unreasonable and discriminatory and which burden or restrict United States commerce.

(d) WEAPONS PROLIFERATION.—The weapons proliferation objectives described in this subsection are—

(1) adopting a national policy which adheres to, and ceasing activities inconsistent with—

(A) the limitations and controls contained in the Missile Technology Control Regime;

(B) the standards and guidelines set by the Nuclear Suppliers Group; and

(C) the standards and guidelines set by the Australia Group on chemical and biological arms proliferation; and

(2) taking clear and unequivocal steps to assure that the People's Republic of China is not assisting and will not assist any nonnuclear weapons state, directly or indirectly, in acquiring nuclear explosive devices or the materials and components for such devices.

SEC. 4. SANCTIONS BY OTHER COUNTRIES.

If the President decides not to seek a continuation of a waiver in 1992 under section 402(d) of the Trade Act of 1974 for the People's Republic of China, he shall, during the 30-day period beginning on the date that the President would have recommended to the Congress that such waiver be continued, undertake efforts to ensure that members of the General Agreement on Tariffs and Trade take similar action with respect to the People's Republic of China.

SEC. 5. ENFORCEMENT OF PROHIBITION AGAINST IMPORTATION OF CONVICT-MADE GOODS.

Section 307 of the Tariff Act of 1930 (19 U.S.C. 1307) is amended—

(1) by striking "All goods" and inserting "(a) IN GENERAL.—All goods";

(2) by striking "'Forced Labor,'" and inserting "(b) FORCED LABOR.—'Forced Labor,'"; and

(3) by adding at the end thereof the following new subsection:

"(c) PENALTIES.—

"(1) IN GENERAL.—Any person who—

"(A) enters or imports, or attempts to enter or import, goods, wares, articles, or merchandise into the customs territory of the United States in violation of subsection (a); and

"(B) knew or should have known that such entry or importation, or attempted entry or importation, was in violation of such subsection,

shall be liable to pay to the United States a civil penalty.

"(2) AMOUNT OF PENALTY.—Any civil penalty imposed under paragraph (1) shall be in an amount not to exceed—

"(A) $10,000 for one violation;

"(B) $100,000 in the case of a person previously subject to a penalty for one violation under this section; or

"(C) $1,000,000 in the case of a person previously subject to penalties for more than one violation under this section.

"(3) The Secretary of the Treasury shall by regulation prescribe procedures for imposing penalties under this section, including, but not limited to, prepenalty notice.

SEC. 6. REPORT BY THE PRESIDENT.

If the President recommends in 1992 that the waiver referred to in section 3 be continued with respect to the People's Republic of China, the President shall include in the document required to be submitted to the Congress by section 402(d) of the Trade Act of 1974 a report on the extent to which the Government of the People's Republic of China has, during the period covered by the report, complied with the provisions of section 3.

SEC. 7. DEFINITIONS.

For the purposes of this Act:

(1) ACTS OF INTIMIDATION AND HARASSMENT.—The term "acts of intimidation and harassment" in section 3(b)(5) means actions taken by the Government of the People's Republic of China that are intended to deter or interfere with, or to be in retaliation for, the nonviolent expression of political beliefs by Chinese citizens within the United States.

(2) DETAINED AND IMPRISONED.—The terms "detained" and "imprisoned" include, but are not limited to, incarceration in prisons, jails, labor reform camps, labor reeducation camps, and local police detention centers.

(3) FORCED LABOR.—The term "forced labor" has the meaning given to such term by section 307 of the Tariff Act of 1930 (19 U.S.C. 1307).

(4) GROSS VIOLATIONS OF INTERNATIONALLY RECOGNIZED HUMAN RIGHTS.—The term "gross violations of internationally recognized human rights" in section 3(b)(1) includes, but is not limited to, torture, cruel, inhuman, or degrading treatment or punishment, prolonged detention without charges and trial, causing the disappearance of persons by the abduction and clandestine detention of those persons, secret judicial proceedings, and other flagrant denial of the right to life, liberty, or the security of any person.

(5) MISSILE TECHNOLOGY CONTROL REGIME.—The term "Missile Technology Control Regime" means the agreement, as amended, between the United States, the United Kingdom, the Federal Republic of Germany, France, Italy, Canada, and Japan, announced on April 16, 1987, to restrict sensitive missile-relevant transfers based on an annex of missile equipment and technology.

(6) SIGNIFICANT PROGRESS.—(A) The term "significant progress" in section 3(a)(2) means the implementation of measures that will meaningfully reduce, or lead to the termination of, the practices identified in that paragraph.

(B) With respect to section 3(d)(1), progress may not be determined to be "significant progress" if the President determines that, on or after November 26, 1991, the People's Republic of China has transferred to Syria or Iran—

(i) ballistic missiles or missile launchers for the weapons systems known as the M–9 or the M–11; or

(ii) material, equipment, or technology which would contribute significantly to the manufacture of a nuclear explosive device.

And the Senate agree to the same.

From the Committee on Ways and Means:
DAN ROSTENKOWSKI,
SAM GIBBONS,
ED JENKINS,
THOMAS J. DOWNEY,
DONALD J. PEASE,

From the Committee on Foreign Affairs:
DANTE B. FASCELL,
STEPHEN J. SOLARZ,

Managers on the Part of the House.

From the Committee on Finance:
LLOYD BENTSEN,
DANIEL PATRICK MOYNIHAN,
GEORGE J. MITCHELL,
BOB PACKWOOD,

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 disagree-

ing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2212) regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

H.R. 2212, REGARDING THE EXTENSION OF MOST-FAVORED-NATION TREATMENT TO THE PRODUCTS OF THE PEOPLE'S REPUBLIC OF CHINA, AND FOR OTHER PURPOSES

1. Short Title (Section 1 of Senate Amendment; Section 1 of Conference Agreement)

Present law

No provision.

House bill

No provision.

Senate amendment

United States-China Act of 1991.

Conference agreement

House recedes.

2. Findings and Policy (Section 2 of Senate Amendment; Section 2 of Conference Agreement)

Present law

No provision.

House bill

No provision.

Senate amendment

Sets forth certain findings relating to the prodemocracy demonstrations of the Chinese people; the actions and policies of the Government of China, including its continuing violations of internationally-recognized human rights, the denial of free emigration to citizens supporting the prodemocracy movement, weapons proliferation, support for the Khmer Rouge, restrictive trade practices, and interference in Hong Kong; and the policies of the United States toward China. States the sense of the Congress that U.S. sanctions in the areas of technology exports and international monetary loans should be continued and strictly enforced and that the U.S. Government should consult with the U.S. business community regarding guidelines for corporate activity in China.

Conference agreement

House recedes with an amendment: (1) to make various conforming, clarifying, and technical changes; (2) to drop the finding relating to the Khmer Rouge, and the policy statement relating to guidelines for corporate activity; (3) to merge section 3 of the Senate amendment (relating to Presidential action) into the policy section, with conforming changes; and (4) to add to the policy section a provision that the President should submit the report required by Public Law 99-183 regarding China's nuclear nonproliferation policies.

3. Renewal of MFN Status—Additional Objectives (Section 1(a) of House Bill; Section 4 of Senate Amendment; Section 3 of Conference Agreement)

A. HUMAN RIGHTS OBJECTIVES

Present law

Section 402 of the Trade Act of 1974, as amended by the Customs and Trade Act of 1990, sets forth three objectives relating to freedom of emigration which must be met, or waived by the President, before a nonmarket economy country may be granted MFN status. A Presidential waiver must be renewed annually, in order for a country's MFN status to remain in effect.

Section 307 of the Tariff Act of 1930 prohibits the importation of goods made by convict or forced labor, and directs the Secretary of the Treasury to prescribe regulations for the enforcement of the prohibition.

House bill

Provides that the President may not recommend the continuation of a waiver in June 1992 for a 12-month period for China, unless the President reports that the Chinese government—

(1) has provided an accounting of citizens detained, accused, or sentenced as a result of the nonviolent expression of their political beliefs during and after the June 1989 Tiananmen Square incident;

(2) has released citizens who were imprisoned after such detention, accusation, or sentencing;

(3) is adhering to the Joint Declaration on Hong Kong;

(4) does not support or administer any program of coercive abortion or involuntary sterilization; and

(5) has taken appropriate steps to prevent exports of products made by prisoners and detainees, and has allowed U.S. and international inspection of places of detention.

Senate amendment

Provides that China may not be granted MFN status for the 12-month period beginning July 3, 1992, unless the President reports that the Chinese government—

(1) has accounted for those citizens detained, accused, or sentenced as a result of the nonviolent expression of their political beliefs;

(2) has released those citizens who were imprisoned after such detention, accusation or sentencing;

(3) is adhering to the Joint Declaration on Hong Kong;

(4) does not support or administer any program of coercive abortion or involuntary sterilization; and

(5) has ceased exporting to the United States products made by convict, forced, or indentured labor under penal sanctions.

Conference agreement

Senate recedes with an amendment: (1) dropping the objective relating to abortion; and (2) moving the objectives relating to prison labor exports and Hong Kong to the "significant progress" section, with conforming changes.

B. WEAPONS PROLIFERATION OBJECTIVES

Present law

The Missile Technology Control Act (Title VII of Public Law 101-510) establishes requirements for negotiations and controls on the proliferation of missiles and technology, with trade and foreign policy sanctions required for violations.

House bill

Provides that the President may not recommend the continuation of a wavier in June 1992 for a 12-month period for China, unless the President reports that the Chinese government has provided assurances that it—

(1) is not assisting and will not assist any nonnuclear state is acquiring nuclear explosive devices or the materials and components for such devices; and

(2) will not contribute to the proliferation of missiles and adheres to the Missile Technology Control Regime, at least with respect to countries in the Middle East and South Asia.

Senate amendment

Provides that China may not be granted MFN status for the 12-month period beginning July 3, 1992, unless the President reports that the Chinese government has ceased supplying arms and military assistance to the Khmer Rouge.

Conference agreement

The conferees agreed to merge the various provisions in the bill relating to weapons proliferation into one provision and to move that provision to the "significant progress" category. The provision sets forth two objectives relating to weapons proliferation and adds a definition which states that progress may not be determined to be "significant progress," if the President determines that, on or after November 26, 1991, the People's Republic of China has transferred to Syria or Iran certain missiles or nuclear technologies or devices.

Senate recedes on the Khmer Rouge objective.

C. TRADE OBJECTIVES

Present law

No provision.

House bill

Provides that the President may not recommend the continuation of a waiver in June 1992 for a 12-month period for China, unless the President reports that the Chinese government has moderated its position on Taiwan's accession to the GATT.

Senate amendment

No provision.

Conference agreement

Senate recedes, with an amendment moving the provision to the "significant progress" section.

D. "SIGNIFICANT PROGRESS" OBJECTIVES

(1) Human rights

Present law

No provision.

House bill

Provides that the President may not recommend the continuation of a waiver in June 1992 for a 12-month period for China, unless the President reports that the Chinese government has made overall significant progress in:

(1) taking appropriate action to prevent gross violations of internationally recognized human rights in China, including Tibet;

(2) ending religious persecution in China, including Tibet;

(3) removing restrictions in China, including Tibet, on press freedom and VOA broadcasts;

(4) terminating intimidation and harassment of China citizens in the United States;

(5) ensuring access of international human rights groups to prisoners, trials, and places of detention;

(6) ensuring freedom from torture and inhumane prison conditions; and

(7) terminating prohibitions on peaceful assembly and demonstration imposed after June 3, 1989.

Senate amendment

Provides that China may not be granted MFN status for the 12-month period beginning July 3, 1992, unless the President reports that the Chinese government has made significant progress in:

(1) taking appropriate action to prevent gross violations of internationally-recognized human rights and fundamental freedoms in China and Tibet, including ending religious persecution and restriction on press freedom and VOA broadcasts;

(2) terminating intimidation and harassment of Chinese citizens in the United States;

(3) ensuring access of international human rights groups to prisoners, trials, and places of detention;

(4) fulfilling its commitment to engage in high-level discussions on human rights;

Conference agreement

Senate recedes with an amendment adding an objective relating to high-level discussions on human rights.

(ii) Weapons proliferation

Present law

See description under item 3(b) above.

House bill

No provision

Senate amendment

Provides that China may not be granted MFN status for the 12-month period beginning July 3, 1992, unless the President reports that the Chinese government has made significant progress in adopting a national policy which adheres to, and ceasing activities inconsistent with, the Missile Technology Control Regime and the standards and guidelines set by the Nuclear Suppliers group and the Australia Group on chemical and biological arms proliferation.

Conference agreement

See description under item 3(b).

(iii) Trade

Present law

Section 301 of the Trade Act of 1974 authorize the U.S. Trade Representative (USTR) to take action to enforce U.S. rights under trade agreements or eliminate foreign practices that violate trade agreements or are unjustifiable and burden or restrict U.S. commerce.

"Special" 301 authorizes the USTR to take action to achieve protection of U.S. intellectual property rights, and market access for U.S. persons that rely on intellectual property rights, in priority foreign countries.

House bill

No provision.

Senate amendment

Provides that China may not be granted MFN status for the 12-month period beginning July 3, 1992, unless the President reports that the Chinese government has made significant progress in—

(1) providing adequate protection of U.S. intellectual property rights;

(2) providing American exporters fair market access, including lowering tariffs, removing nontariff barriers, and increasing the purchase of U.S. goods and services; and

(3) ceasing unfair trade practices against the United States which are unreasonable and discriminatory and burdensome and restrict U.S. commerce through a variety of unfair trade practices.

Conference agreement

House recedes with an amendment dropping the detailed list of unfair trade practices (which is retained in the "Findings" section).

(iv) Other

Present law

Public Law 99-183, relating to nuclear cooperation between the U.S. and China, prohibits exports and transfers of U.S. nuclear material, facilities, or components to China unless the President certifies and reports to Congress that China has met certain requirements related to nuclear nonproliferation.

House bill

Provides that the President may not recommend the continuation of a waiver in June 1992 for a 12-month period for China, unless the President has made the certification and submitted the report required by Public Law 99-183 on China's nuclear nonproliferation policies.

Senate amendment

Provides that China may not be granted MFN status for the 12-month period beginning July 3, 1992, unless the President reports that the Chinese government is reducing assistance to Cuba, whether in the form of subsidized trade, management of trade balances, or in any other form.

Conference report

House recedes, with an amendment to add statement to policy section that the President should submit the report required by Public Law 99-183 regarding China's nuclear nonproliferation policies. See also description under item 3(b) with respect to weapons proliferation.

Senate recedes on objective relating to Cuba.

4. Presidential Action (Section 3 of Senate Amendment; Section 1(b) of Conference Agreement

Present law

No provision.

House bill

No provision.

Senate amendment

Directs the President to take the following actions:

(1) interact more forcefully with U.S. allies and multilateral lending institutions to restrict technology transfer to China;

(2) encourage members of the Missile Technology Control Regime to set up a working group to develop a common policy concerning China's missile transfers to other countries;

(3) direct the USTR to take appropriate action under section 301;

(4) encourage the UN Human Rights Commission to issue a report on human rights conditions in China, and encourage U.S. allies and the Soviet Union to encourage issuance of such a report; and

(5) take any other action the President deems advisable to achieve the purposes of the Act.

Conference agreement

House recedes with an amendment moving the provision to the "Policy" section, with conforming changes.

5. Termination of MFN Status (Section 5 of Senate Amendment)

Present law

Section 402(c)(3) of the Trade Act of 1974, states that the President may, at any time, terminate by Executive order any waiver granted under that subsection. (In addition, the President may choose not to extend the annual waiver of any country upon expiration of the waiver.)

House bill

No provision.

Senate amendment

Requires termination of China's MFN status no later than July 3, 1992, if the President determines after enactment of this Act that China has transferred to Syria or Iran (1) ballistic missiles or missile launchers for the M-9 or M-11 weapons systems or (2) material equipment, or technology which would contribute significantly to the manufacture of a nuclear explosive device.

Conference agreement

See description under item 3(c).

6. Sanctions by Other Countries (Section 6 of Senate Amendment; Section 4 of Conference Agreement)

Present law

No provision.

House bill

No provision.

Senate amendment

Delays effective date of any denial of China's MFN status pursuant to this Act for a 60-day period, during which time the President is required to undertake efforts to ensure that GATT members take similar action with respect to China.

Conference agreement

House recedes with an amendment, conforming the provision to the timetable in Title IV of the Trade Act of 1974 relating to the President's waiver notice (i.e., 30 days prior to the expiration of the previous waiver).

7. Enforcement of Ban on Imports of Convict-Made Goods (Section 7 of Senate Amendment; Section 5 of Conference Agreement)

Present law

Section 307 of the Tariff Act of 1930 prohibits the importation of goods made by convict or forced labor. Current regulations outline detailed procedures to be followed in enforcing the prohibition.

House bill

No provision.

Senate amendment

Establishes civil penalties for violations of the import prohibition under section 307 of the Tariff Act of 1930 and a procedure for parties to petition the Department of Commerce to enforce such prohibition.

Specifically, requires civil penalties of $10,000 for one violation; $100,000 for two violations; and $1,000,000 for three or more violations. Establishes detailed procedures for prepenalty notice and hearings; and for private petitions by "any public interest group, human rights organization, or entity representing an industry adversely affected by imports of convict-made goods." Provides that the Secretary of the Treasury may prescribe sanctions for abuse of discovery and abuse of process.

Conference agreement

House recedes on provision establishing civil penalties for violations of the import ban, with an amendment adding a "knowing" standard.

Senate recedes on the provision establishing private petition procedures. The conferees note that existing Customs regulations to enforce section 307 (19 CFR 12.42-12.62) establish detailed procedures for petitions from "any person" who has reason to believe that prohibited merchandise is being, or is likely to be, imported into the United States.

8. Report by the President (Section 2 of House Bill; Section 4 of Senate amendments; Section 6 of Conference Agreement)

Present law

Section 402(d) of the Trade Act of 1974 provides that if the President determines that further extension of the waiver authority will substantially promote the objectives of freedom of emigration, he may recommend extension of such authority for successive 12-month periods. Any such recommendation must be accompanied a document transmitted to Congress, setting forth his reasons for recommending extension of the waiver authority, and a statement setting forth his reasons for determining that extension of the waiver will substantially promote Title IV's objectives with respect to a particular country.

House bill

Provides that if the President recommends extension of China's waiver in 1992, he must submit as part of the document required in section 402(d) a report on the extent to which the government of China has implemented the measures listed in section 1(a).

Senate amendment

Similar provision.

Conference agreement

Senate recedes.

9. Definitions (Section 1(b) of House Bill; Section 8 of Senate Amendment; Section 7 of Conference Agreement)

Present law

No provision.

House bill

Provides definitions of a number of terms used in the bill, among which: "the term significant progress means the implementation of measures that will meaningfully reduce, or lead to the termination of, the repressive practices identified under item 3."

Senate amendment

Similar provision. However, it defines significant progress as "specific actions taken to achieve the objectives stated" under item 3.

Conference agreement

The conferees agree generally to merge the House and Senate definitions, with conforming amendments. However, the Senate recedes on the definition of "significant progress."

From the Committee on Ways and Means:
DAN ROSTENKOWSKI,
SAM GIBBONS,
ED JENKINS,
THOMAS J. DOWNEY,
DONALD J. PEASE,
From the Committee on Foreign Affairs:
DANTE B. FASCELL,
STEPHEN J. SOLARZ,
Managers on the Part of the House.

From the Committee on Finance:
LLOYD BENTSEN,
DANIEL PATRICK MOYNIHAN,
GEORGE J. MITCHELL,
BOB PACKWOOD,
Managers on the Part of the Senate.

Mr. ROSTENKOWSKI. Mr. Speaker, pursuant to House Resolution 307, I call up the conference report on the bill (H.R. 2212) regarding the extension of most-favored-nation to the products of the People's Republic of China, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to order of the House of today, Tuesday, November 26, 1991, the conference report is considered as having been read.

The gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 30 minutes, and the gentleman from Illinois [Mr. CRANE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois [Mr. ROSTENKOWSKI].

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on the conference report on H.R. 2212.

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

There was not objection.

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

Mr. Speaker, the conference report on H.R. 2212, relating to the extension of China's most-favored-nation [MFN] status, is the culmination of months of hard work and tireless effort on the part of a number of Members of Congress. However, I particularly want to commend Congresswoman NANCY PELOSI for the dedicated efforts that she has devoted to keeping the issue of human rights in China squarely before us. The fact that we are here today considering this conference report is due in large measure to her efforts.

H.R. 2212 passed the House on July 10, 1991, with a number of amendments relating to human rights and weapons proliferation. The Senate passed the bill on July 23, with additional amendments, relating not only to human rights and weapons proliferation, but also to trade and other matters.

The conference report on H.R. 2212, in general, merges the two bills, with amendments. It provides that the President may not recommend the continuation of a Jackson-Vanik waiver for China in 1992, unless he reports that China has met two objectives relating to the accounting for, and release of, citizens detained, accused, or sentenced after the June 1989 Tiananmen Square incident. It also provides that the waiver may not be extended unless the President reports that China has made overall significant progress in a number of objectives relating to human rights, trade, and weapons proliferation.

Mr. Speaker, although I had a number of reservations about the bill as it passed the House and Senate, I support the conference report today. The Chinese Government does not seem to have gotten the message which the United States Congress has been trying to send loud and clear—that the American people expect the Chinese leaders to live up to a much higher standard of behavior toward their own people and the security concerns of other countries than they have exhibited to date. Adoption of the conference report on H.R. 2212 should leave no doubt in the minds of China's leaders as to where the American people and their elected representatives stand. I urge my colleagues to join me in support of the conference report.

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

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

Mr. Speaker, I rise in opposition to the conference report on H.R. 2212. I would like at the outset, however, to pay tribute to our distinguished colleague from California [Ms. PELOSI] for what I deem intentions that are an expression of the sentiments of the overwhelming majority, probably 99.9 percent, of the American people. The gentlewoman is concerned, and properly so, about the condition human rights for minorities in China, she is concerned about issues of arms proliferation, and she would like to see a significant change in the move in direction that more truly reflects the values that we mutually share.

However, I must say that I have serious reservations as to whether doing it in this manner, where you dictate specific terms and in effect back the rulers of the People's Republic of China into a corner and expect them to make concessions, is a way to accomplish the goal.

The Chinese are very proud people. In fact, the Oriental nations are comprised of very proud people.

I remember one time when we were negotiating with some of the Japanese Government officials back in 1981, in terms of seeking to get concessions from them. We were tutored on the eve of each one of those meetings as to how to diplomatically put our proposals on the table, let them mull them over, sleep on it for a night, come back the next day, and move another inch or two in the direction of our goals. It took us the better part of a week before finally the representatives of the Japanese Government said they had listened to our arguments, they found them persuasive, and they accepted our positions.

Mr. Speaker, that was a diplomatic process that runs contrary to our tendency to just lock horns and wrestle across the table and insist that before sundown, or before the crack of dawn, we are going to get the concessions we would like to see.

Mr. Speaker, the administration has been maintaining multilevels of negotiations with the Chinese Government to effect reforms in areas other than trade, but trade is one of those where we are locked into a confrontation with them right now on intellectual property rights, and it does not look good.

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We have the capacity under existing law to effect some kind of retaliatory action, and the administration is going to speak to this point tomorrow. But what I submit to my colleagues is that if these conditions are viewed as demands by the Chinese Government that they do not feel they are capable of capitulating to without losing face, where are we?

The fact of the matter is, we have other nations in this world, in fact, major trading partners of our own that are engaged in routine trade. They tender the equivalent of most-favored-nation treatment to China and simultaneously make no effort whatsoever to effect meaningful reforms in the areas that the gentlewoman from California [Ms. PELOSI] wants to address.

In other words, it is make a buck, get in, get out. We are, I think, the only Nation that has endeavored to try and effect these kinds of reforms. And the only way in which I take issue with the gentleman from California is whether what we are doing is designed to accomplish that objective. I fear quite the contrary, that if they view this as out of the question and slam the door in our faces, as a consequence of that, when we have had this escalating trade, and I think we are now, they are our 10th largest trading partner. And there is a lot of American investment going on in southern China. There is, in addition, by their probably worst enemy in their own perception, namely the Republic of China on Taiwan, they are investing finally and providing jobs and improvement of the economic condition in China.

What if the door is slammed in our face as a consequence of this? What have we accomplished? Did we help the students? Did we cause a deterrence from further commission of this sin that they perpetrated in Tiananmen Square? We enhanced our negotiating condition in terms of trying to get an end to nuclear arms proliferation?

I would argue that quite the contrary, we are putting these same people at risk because the rulers in that country have nothing to worry about. No one is in a position to overthrow them.

They control the guns. They control the Government. And so they go on and only the people suffer.

In addition to that, I would argue that there is a risk involved in this affecting Hong Kong. As we know, in 1997, Hong Kong will, under the agreement between Great Britain and China, be transferred back to the government of the mainland. And when we were over there on a trip that was referred to earlier this summer, there was suddenly a shift in outlook on the part of business people in Hong Kong who initially figured they are going to sell it off and throw it out and sink it or else they were going to incorporate Hong Kong into a slave state. And they concluded that is changing, that there are meaningful reforms that are taking place on the mainland that are positive.

As a result of that, they had a hopeful outlook. And they said this had occurred just within the last 12 months. And primarily because of the business ties and connections especially in southern China.

As the gentleman who spoke about that trip earlier mentioned, what we saw in Beijing, what we saw in Shanghai was mindboggling. We saw all kinds of billboards advertising products in English and Chinese. We saw happy, flourishing people. We saw all the young people in Western attire. We saw kids with English logos on all their T-shirts. We saw a distinct absence of any military presence except for an occasional guard at a government building.

In addition to that, in the middle of the week we visited the Great Wall of China. There were easily a quarter of a million people that we could see there, 99 percent of whom were Chinese, fathers, mothers, children. And we saw hucksters with their little temporary shops peddling goods and wares to the Chinese as well as to Americans.

We went to Shanghai and went down streets that would just boggle the mind where there was shop after shop after shop lining both sides of the street and considerable business activity going on in daylight hours, even a florist shop doing business. We do not find florist shops thriving in impoverished countries.

But this level of economic activity by entrepreneurs, not time clock punchers, these are people that had to make the distinction between gross and net income. These are people who had to understand marketing skills. People who had to understand servicing products. There people had an understanding of free enterprise.

And this Communist representative sitting next to me on the bus, I reminded her that they believe in a command autonomy in communism, and we are the champions of free enterprise in this world, right? I said we can afford to send some people over here and learn from your entrepreneurs on both sides of the street.

What I am saying is the situation is not hopeless but I am arguing is that with this well-intentioned effort on the part of the gentlewoman from California, we run the risk of cutting off our contacts. We run the risk of terminating forthwith the positive influence that we have exerted and we alone have exerted on mainland China.

To be sure, none of us will forget Tiananmen Square and to be sure come next December 7, none of us will forget Pearl Harbor. But on the other hand, there has been progress made, not as great as we would like to see by any manner of means, but I would suggest that we run the very real risk, if we adopt this measure, which the President has indicated he will veto for the same reasons I am advancing, if we terminate this contact, we run the risk of inflicting even greater injury on the very people we want to help.

For that reason, I urge my colleagues to vote no on H.R. 2212.

Mr. Speaker, I rise in strong opposition to the conference report on H.R. 2212. Let there be no mistake. These provisions would end U.S. economic ties to China and plunge this strategically important country into isolationism and economic stagnation. The President has vowed to veto it.

The United States would no longer be able to employ its influence to improve human rights and ensure political freedoms in China, and to preserve democracy and economic independence in Hong Kong. A normalized trade relationship, highlighted by MFN, is essential if we are to reform Chinese policies, both by example and by political and economic leverage. Trade must exist for this strategy to be successful.

This bill is replete with lofty goals and good intentions.

Congress understandably wants to end repression, guarantee human rights, resolve all trade problems and eliminate nuclear proliferation with the stroke of a pen. However, I think we all know how unrealistic this legislation is. We understand the President is right to want to stay engaged in dialog with the Chinese.

This very day, we are engaged in tough negotiations with China on specific trade problems.

So far China has not been responsive on intellectual property rights, and the United States will retaliate in a precise and effective way. The retaliation list will be announced tomorrow.

We should not throw everything out the window with a bill like H.R. 2212. No dialog means no solutions.

The actions of the current Chinese leadership against their own people are abhorrent and painful to contemplate.

The world is outraged at the notorious events in Tiananmen Square. However, these repressive policies will not be transformed by legislation that undermines our President and sacrifices American economic interests.

The President has demonstrated strength of will and purpose in dealing with the complicated foreign policy and economic interests of the United States in China.

For that, he is admired throughout the world. I believe Americans are proud of the leadership role of the United States in defending democracy and individual freedoms.

This bill will save no student from prison and no dissident from censure. Our disengagement will only make their fate more uncertain and shrouded in secrecy. Normalized trade relations are an essential tool for the President

in crafting an effective China policy that will result in meaningful reforms.

Mr. Speaker, I urge my colleagues to vote "no" on the conference report to accompany H.R. 2212.

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

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 6 minutes to the gentlewoman from California [Ms. PELOSI], pointing out that the gentlewoman from California did a tremendous amount of work and, a great deal of credit for considering this legislation at this point in time is due to her efforts.

Ms. PELOSI. Mr. Speaker, I thank the chairman for making this opportunity possible for us to bring this legislation to the floor today. He is indeed generous with his remarks, but he is also indeed responsible for us having reached, to be able to reach this compromise.

Many people on the floor said to me today, I want a tougher bill, or I do not want any bill at all. But that is what this is, it is a compromise which I believe reflects the concerns of this body but achieves some doable clear and concise conditions of which China can easily understand in order to receive renewal of most-favored-nation status next year.

I want to also thank the gentleman from Florida [Mr. GIBBONS], the gentleman from New York [Mr. SOLARZ], the gentleman from Ohio [Mr. PEASE], who spoke during rule when the gentleman from Illinois [Mr. ROSTENKOWSKI], brought us all together to begin the forging of a compromise.

I want to thank the gentleman from New York [Mr. SOLOMON], and the gentleman from Massachusetts, [Mr. MOAKLEY], for helping us; the gentleman from Texas [Mr. FROST] for getting the rule to come to the floor so quickly and so many Members on both sides of the aisle who worked so hard, the gentleman from New York [Mr. GILMAN], many of the Members are present and will speak to this.

I would also like, before proceeding, to thank Rob Leonard, Joanna, Shelton, and George Wise of the committee and subcommittee staff and my own staff person, Craig Middleton, for all of their hard work because it has been indeed months that we have been working on this. So to the chairman and the ranking member, the committee and the subcommittee, the staff, I thank them all very much. By persevering with this and not letting this legislation be forgotten, we are sending a clear message that those prisoners who were arrested for peacefully demonstrating in Tiananmen Square are not forgotten by this body as well.

Others have mentioned some of the concerns that are addressed in this legislation. The conditions address three areas of concern: human rights, trade, and nuclear proliferation. Much has been written and said about the repressive policies of the Chinese regime in regard to freedom of speech, religion and press. We were stunned by the massacre in Tiananmen Square 2½ years ago and continue to deplore the ongoing arrest and detention because of the practice of religion, the violations of freedom of the press and jamming of Voice of America.

Americans have heard this over and over. It is well-documented by Asia Watch and Amnesty International and indeed included in the findings in this conference report. Many of us have addressed this issue on the floor before. Improvement of human rights and basic freedoms were the conditions for our original bill.

However, actions taken by the Chinese Government have caused Members of the House and Senate to insist that language regarding nuclear proliferation and violations of our trade relationship be included in this bill. I do not agree that there have been great improvements made as far as the Chinese Government is concerned.

So in addition to principle, there are some very practical reasons, Mr. Speaker, why we ask our colleagues to support conditional renewal.

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As we develop working relations with China we must, I believe, insist that our relationship make the political situation there freer, the world safer, and the trade fairer to American workers. That is why this legislation is important to our constituents.

Since 1989, the Chinese Government has blatantly violated our trade relationship by refusing to remove barriers to our products in China. As a result we have a growing trade deficit—$6 billion in 1989, $9 billion in 1990, and a projected $15 billion for 1991—$30 billion since 1989, nearly all of it since Tiananmen Square.

In addition, American workers are placed at a disadvantage by having to compete costwise with prison labor. The use of transshipments also hurts American workers. This is the process by which fake labels are placed on products or put onto products to indicate that they come from someplace other than China in order to circumvent our import quotas.

This legislation, this conference report, also addresses violation of our copyright and intellectual property rights by the Chinese. We have just heard that the trade representative is going to take action because they have failed to address the situation adequately.

Mr. Speaker, in almost every way the Chinese have violated our trade relationship.

Next, I would like to move on, in the interest of time, to the issue of China's role in nuclear proliferation. In a year when we went to war because of Saddam Hussein's development of nuclear weapons, it is clear that this is an overriding concern to the American people. The conference report clarifies the nuclear proliferation condition by requiring that most-favored-nation status not be granted in 1992, if China sells missiles to Syria or Iran. China must also assure that it will not sell nuclear weapons to nonnuclear states, unsafeguarded states, and will abide by the missile technology control regime.

I commend the Chairman for forging this compromise, because I believe it has resulted in an excellent conference report that is clear, concise, focused—a true instrument for leverage. We do not want to break off the relationship with China or isolate China, so we do want to relate to them based on principle and the practical aspects of our fairness to American workers and making the world safer.

So I think that this bill is not only good for our relationship with China but will stand the scrutiny of being legislation that says in our bilateral relationships we should have terms that make the world safer by addressing nuclear proliferation, that makes trade fairer by being fairer to American workers, instead of clobbering them with the violations that the Chinese have, and by making the world freer by allowing a free discourse on issues in all countries in the world.

I am proud that we are taking up this issue today. I thank all the Members, Democrat and Republican alike, for their assistance in this.

Mrs. KENNELLY. Mr. Speaker, I yield 1 minute to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Speaker, I voted against the original bill but I did so because of my concern over the sale of agricultural products to China. But over the past few months, particularly after talking with my colleague, the gentlewoman from California, [Ms. PELOSI], I have had some serious misgivings and reflections.

In the case of Iraq, it was my amendment to the farm bill a year ago that cut off agricultural sale because of their human rights violations. In the case of the USSR I fought against the renewal of Jackson-Vanik and MFN until their human rights policy changed. The same with El Salvador.

So would China, with an abysmal human rights policy and nuclear proliferation problems, be different? Should it be spared from a uniquely American effort to modify the way it treats its own citizens? I think not.

This conference report is better than the original bill on the merits and it is easier to support on that basis, but I support it because it is right and it may just increase the prospects for freedom in China.

Mr. CRANE. Mr. Speaker, I yield 3 minutes to our distinguished colleague the gentleman from Michigan [Mr. BROOMFIELD].

Mr. BROOMFIELD. Mr. Speaker, despite the efforts of the administration, China has continued to violate the norms of international behavior. Some progress has been made in restraining the actions of the Chinese Government, but China still threatens to become the world's largest outlaw state.

We have all seen what mischief can result when even a smaller country like Iraq flouts the principles of acceptable international behavior. Through its policies on human rights, exports of military technology, and trade China threatens the stability of the entire world order.

The world was shocked and stunned when the Chinese Government, in June 1989, turned the guns of the military against peaceful protesters. Since then we have watched in horror as repression continued. And we have been disappointed again and again by the failure of the Chinese to address the fundamental issues in United States-China relations.

We can never close our eyes to what the Chinese Government did at Tiananmen Square. Nor can we, however, afford to close the doors entirely to China.

Despite our repugnance for its government, we must continue if at all possible to engage the Chinese Government and try to aid the Chinese people. The best way to promote political change in China is to continue cooperating toward steady economic growth.

The conference report absolutely requires—for continued MFN trade status—only that the Chinese Government address the unresolved human rights issues associated with the Tiananmen Square massacre and its aftermath. On other major issues it requires only "overall significant progress." With respect to missile or nuclear proliferation the only absolute condition is that China not transfer such technology to Iran or Syria.

Mr. Speaker, the conditions set in this bill can easily be met by the Chinese Government. Indeed, they should be our bottom line in dealing with China.

I believe that this bill contains enough flexibility for the President to use in putting pressure on the Chinese Government to resolve human rights abuses and remedy other violations of generally accepted international norms. The administration, through Secretary Baker's recent trip and other actions, has already done much to address these issues.

Let us hope that our action today will help the administration work to change the policies of the Chinese Government.

Mr. KENNELLY. Mr. Speaker, I yield 1 minute to the gentleman from North Dakota, [Mr. DORGAN].

Mr. DORGAN of North Dakota. Mr. Speaker, I appreciate the gentlewoman yielding time to me.

Following on the heels of the discussion of my colleague, the gentleman from Kansas [Mr. GLICKMAN], let me say that this is not an issue of boycott. With respect to those of us who come from grain country, and we are concerned about selling grain around the world, this is not a boycott issue. We are not suggesting shutting off trade with the Chinese. The issue here is do we expect, for the extension of MFN, for the Chinese to meet certain acceptable standards, standards we expect them to meet in the course of human dignity.

□ 2020

The Chinese, frankly, have an enormous trade deficit with us. We have a deficit with them and it is growing radically. It seems to me we ought to expect the People's Republic of China to buy much more grain from us than they now buy.

I support the initiatives of the gentlewoman from California. I think we ought to stand up for something in the country and say that we expect a certain level of behavior coming from that country.

No, I do not want to shut off grain shipments. That is not what the issue is about. The issue is about trying to get the Chinese Government to conform to certain patterns of behavior in exchange for the extension of most-favored-nation status.

Mr. CRANE. Mr. Speaker, I yield 4 minutes to our distinguished colleague, the gentleman from New York [Mr. SOLOMON].

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

As I said before in the debate on the rule, I strongly support this conference report.

Mr. Speaker, at this late hour, and with the politics of the Presidential season now coming upon us, there are many issues that divide us as Democrats and Republicans. However, today there are many other issues that should unite us, and no such issue on which we can all unite is more important than the encouragement and protection of human rights—at home and abroad.

To that end, I believe the conference report on this bill, H.R. 2212, should make a very substantial contribution.

Chairman ROSTENKOWSKI is to be commended for his initiative in putting together a conference report which we can all support on both sides of the aisle. America is always most effective when it speaks with just voice on trade and foreign policy issues. This conference report will enable America's message of support for the suffering people of China to come through loudly and clearly.

And, of course, Mr. Speaker, whenever we consider the plight of the Chinese people, we really have to pay tribute to their champion in this House the gentlewoman from California [Ms. PELOSI], believe me.

Her tenacity in moving this bill forward, and in keeping our attention constantly focused on the needs of the Chinese people, in both the Senate and the House, is an inspiration to us all. It really is to me.

But Mr. Speaker, the Chinese leadership does not seem to get it—it does not seem to understand that membership in the community of nations confers responsibilities along with the privileges that they enjoy from us. The Chinese leadership is always enthused about the privileges, but accepting the responsibilities is another story altogether.

Beijing's continued defiance of every international standard concerning the proliferation of weapons of mass destruction, as well as its continued denial of basic human rights for the Chinese people demands a response from this congress, and we are getting that here today with this bill. The assurances that were supposedly given on these subjects to Secretary Baker 10 days ago just are not enough.

The Chinese leadership has given assurance repeatedly—oftentimes to members of this Chamber from both sides of the aisle. You heard members speak about being there last month, 2 months ago, 3 months ago and the Chinese gave all of us those assurances. But they just do not mean anything.

The Chinese record is filled with broken promises, abusive behavior, and yes, outright lies. But just mention privileges, and the Chinese leadership pushes to the head of the line.

Mr. Speaker, for this year—1991—the Chinese trade surplus against the United States will reach $13 billion, thanks to MFN. Mr. Speaker, we are running a trade deficit with China that is second only to the one we have with Japan. Just think of that.

Mr. Speaker, to run such a deficit with a Government which is undemocratic, which specializes in slave labor for export, and which thumbs its nose at every international norm, is as morally wrong as it is economically idiotic.

Mr. Speaker, many months ago this House passed my resolution to immediately cutoff MFN for China. It passed overwhelmingly, but never got through the other body.

I would have preferred that approach here tonight, but this legislation will send a strong message to the Chinese leadership: Treat people with human decency, or else you are not going to trade with us, with Americans.

Mr. Speaker, I urge unanimous support for the legislation of the gentlewoman from California [Ms. PELOSI]. Please vote for it.

Mrs. KENNELLY. Mr. Speaker, I yield 2 minutes to the gentleman from Oregon [Mr. AUCOIN].

Mr. AUCOIN. Mr. Speaker, I was deeply offended, as were the Oregonians that I represent, with the indifferent stonewalling treatment that the Chinese gave our Secretary of State when he recently visited China. He merely asked in the name of all Americans for attention to basic human rights, and to this day the Chinese rulers are resisting and are stonewalling.

So I rise in strong support of this conference agreement tonight because it puts the United States of America on the side of human rights, democracy and justice in China. Since the House passed this bill in July there has been no meaningful improvement in the Chinese Government's incarceration of political prisoners, its oppression in Tibet, or its denial of the most basic human rights for its citizens. Instead, we have seen more reports of China's irresponsible readiness to supply nuclear technology and weapons of mass destruction to Iran, to Iraq, to Algeria, and to other such regimes in unstable parts of the world. These actions by China pose a grave threat to world peace.

Now we are told that high-ranking Chinese officials have promised to behave more responsibly in the future.

Well, I say and Oregonians say, promises are not enough. That is why we must pass this conference agreement.

This bill would allow the President to renew most-favored-nation status for China only if China releases pro-democracy demonstrators imprisoned in China and Tibet, does not sell missiles to Syria or Iran, and makes significant progress in improving human rights, preventing nuclear proliferation, removing trade barriers to United States products and ending the export of prison-made goods. It is a good proposal and it deserves our support tonight.

Mrs. KENNELLY. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. ENGEL].

Mr. ENGEL. Mr. Speaker, I thank my friend for yielding me this time.

Mr. Speaker, I, too, was a part of the delegation back in August which visited China. I must say, first of all, that I rise in strong support of the conference report.

What frustrated all of us and my colleague, the gentleman from South Carolina [Mr. RAVENEL] explained it very genuinely on the floor, he and I held a press conference in Benjing expressing our frustration.

The Chinese officials were personally friendly to all of us. They were very gracious hosts and were very nice personally, but when it came to discussing human rights, they did not budge an inch. In fact, it was as if they had prerecorded their answers to us, anticipating what we would say and they could have just as well pushed a button and that would have been the pre-recorded answer; because we certainly did not get any satisfaction to any of the questions that were asked.

When we spoke about human rights, we were told that there were no human rights violations.

When we said we were very concerned about the actions in Tiananmen Square, we were told that they acted very cautiously and prudently in Tiananmen Square. They said that no other nation on this Earth would have allowed the demonstrations to continue and they said that they actually were very restrained in what they did.

It is almost an insult to one's intelligence to receive the kinds of answers we got from the Chinese officials.

When we spoke about Tibet, they told us that the Tibetan people welcomed them with open arms.

When we asked about sales of missiles to Syria, we were stonewalled.

When we asked the Secretary General, the head man in China, to allow us to see one of the prisoners who was jailed in the Tiananmen Square uprising, he told us that he did not have the power to allow us to see dissidents.

It was very, very frustrating. They tell us not to interfere with the internal affairs of China.

I would say that what is going on in China with the human rights abuses is not simply internal affairs, but it is a concern for all the world, certainly a concern for the United States of America.

Yes, it is important to have good relations with China and I would like to see nothing better than for Chinese-United States relations to improve, but not at the price of terrorism, not at the price of people not having freedom, not at the price to allow those brave young men and women who stood in Tiananmen Square and yearned for the same kinds of freedom that we in America yearn for and take for granted, not at the price of selling them out.

We have to stand up and say that we will never allow these human rights abuses to continue with business as usual. We will never allow the tyranny that goes on.

□ 2030

The insult to injury was when Secretary Baker came back last week and was really not given anything at all. It is time this Congress acted. I am pleased to enthusiastically support the conference report.

Mr. CRANE. Mr. Speaker, I yield 3 minutes to our distinguished colleague, the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. I thank the gentleman for yielding.

Mr. Speaker, I rise in strong support of the Conference Report on H.R. 2212, legislation to condition renewal of most-favored-nation status to the People's Republic of China [PRC] and I commend the gentlewoman from California [Ms. PELOSI] for her dedicated efforts in support of this measure and Ways and Means Chairman, Mr. ROSTENKOWSKI, for putting together a reasonable compromise measure. The House Foreign Affairs Committee has conducted extensive hearings with regard to China's human rights violations.

Since the Tiananmen Square massacre in 1989, human rights conditions in the PRC have not improved. The PRC government continues to repress any form of prodemocracy sentiments, engages in continuing violations of internationally recognized human rights, uses forced labor on a vast scale to produce exports, and brutally occupies Tibet.

Some of my colleagues have argued that China is an extensively poor country and that we should help it progress by keeping the doors open. Economic progress, we are told, will eventually lead to political pluralism. It is not too difficult to recognize that they have been wrong and that unconditional MFN for China has only served to close the door to progress in both areas. If we truly want a sound economic environment that supports investment, then we should help nurture a democratic form of government in Beijing. By permitting the renewal of unconditional MFN we would be bankrolling the communist regime and perpetuating a fragile political and economic system.

Let me also add that the Communist government ruling the People's Republic of China sells nuclear technology and ballistic missiles to just about any middle eastern tyrant who wants them, nurtures the despicable Khmer Rouge, threatens the emerging democracies in Mongolia, Nepal and Taiwan, undercuts the President's efforts to mount an international campaign to persuade North Korea to halt its nuclear weapons program, and arms the authoritarian rulers of Burma who have placed the latest Nobel prize winner under house arrest and who have oppressed their people.

To understand why China seems so determined to sell arms indiscriminately to practically everyone without regard to the international destabilization it causes, it would help to know a little more about the level of corruption in China's ruling circles. My colleagues should be made aware that we are informed that Deng Xiaoping's son-in-law and the PRC's vice president's son are personally profiting from China's arms sales. They run a company by the name of Polytechnology which is China's leading exporter of arms. Costind, another Chinese arms exporter, is run by the children and spouse of China's military leaders.

If my colleagues really want to see both economic and political progress in China then we need to start pressuring the clans that run, own and enslave it. Accordingly, I urge my colleagues to support the Conference Report on H.R. 2212, which imposes significant condi-

tions on any consideration of most-favored-nation status for the People's Republic of China.

Mrs. KENNELLY. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia [Mr. JONES].

Mr. JONES of Georgia. I thank the gentlewoman for yielding this time to me.

Mr. Speaker, I would also like to thank the gentlewoman from California [Ms. PELOSI] for her leadership on this issue. I have heard her speak in Washington quite eloquently and I have heard her speak in Beijing eloquently. And I think she speaks in the best tradition of the American spirit, but also she has displayed those Chinese traits of patience, perseverance, compassion that make the Chinese people such a great culture.

Mr. Speaker, about 2½ years ago, in June 1989, in Beijing, a young man stood in front of a long column of tanks, and he stopped them, if only momentarily, as the world watched, our imagination captured by his courage.

Tonight, as we deliberate here, in prisons throughout China are hundreds, perhaps thousands of young people who are sitting in prisons, who are looking to us for a sign. They were arrested for doing things that we take for granted, for assembling, for speaking, for speaking freely about their dreams of a democratic China.

The distinguished gentleman from Illinois has talked of face, that Oriental tradition of saving face. I would suggest that it is not just the Marxists, the brutal Marxist dictators who have the Chinese people under their heels that have face, but also the 1.1 billion Chinese people, such as those we speak of in those prisons, who have face and who want to save it.

We can do something about that. We can send a clear message tonight. If you believe that China should release those nonviolent prodemocracy demonstrators from Tiananmen Square and if you believe they should stop the practice of slave labor and prison labor, if you believe they should stop the practice of transshipments, stop the practice of shipping nuclear technology to Syria and Iran, then you should support this resolution.

Mr. CRANE. Mr. Speaker, I yield 2 minutes to our distinguished colleague, the gentleman from Indiana [Mr. BURTON].

I rise in support of the conference report which places conditions on the renewal of most-favored-nation status [MFN] for the People's Republic of China [PRC].

On November 17, 1991, Secretary of State James Baker returned from his 3-day visit to China, the first by a high-ranking United States official since the Tiananmen Square massacre in 1989. The visit brought back memories of President Nixon's trip in 1972. The purpose of each was founded in an effort to mend strained Sino-U.S. relations.

The context of the two trips, though, could not have been more different. Efforts to cajole the Chinese into entering strategic partnerships to keep the Soviet Union off balance were not discussed, nor were attempts made to woo the Chinese into the American corner. Rather, the emergence of democracy around the world has placed the U.S. firmly in a position of strength in dealing with China. The content of the meetings last week reflected the shifts: the U.S. consistently demanded change. Meanwhile China is becoming increasingly isolated.

The results of Secretary Baker's trip verify what we already know to be true. One official present at the meetings described the Chinese officials as "recalcitrant"—obstinately defiant. Was there ever any doubt? The Chinese continue to export forced labor products, practice unfair trade policy, and recklessly sell nuclear technology to states such as Pakistan, Syria, Algeria, and now Iran. If this Congress were to step back and observe, I think we would quickly conclude that China is following a well-designed plan to ruin its chances of getting MFN. China remains obstinately defiant.

Today we are considering the conference report which would extend MFN status to China. We have an opportunity to strengthen our position with China, or weaken it. The conference report, if passed, would allow the President to renew MFN for China only if the Chinese Government agrees to a short list of fair and concise conditions.

We have before us an opportunity to help the Chinese people and I encourage my colleagues to send a strong message to China that the United States will no longer tolerate defiance to internationally recognized standards of fundamental human rights.

Mr. BURTON of Indiana. I thank the gentleman for yielding.

Mr. Speaker, 10 million people, 10 million people in prisons, gulags in China, 10 million.

Think about that. That is twice as many people, almost, as there are in the State of Indiana, which I represent. That is more people than there are in the Los Angeles County, one of the biggest counties in the United States. Ten million people suffering under the tyranny of the Communist slave system.

They are providing the slave labor which is making goods that we are buying in this country.

Mr. Speaker, we had a $13 billion trade deficit with them last year. That means we bought $13 billion more in goods then they bought from us. And we do not know about the underground staff that they were sending over here.

It is made by 10 million slave laborers. Now, I do not know how many people saw that "60 Minutes" piece that was on television not long ago, but I watched it twice. They had people going undercover, making deals with people who are in those prisons. Then they would flash over to the people running that government. The people running the governmet said, "No, we don't use any slave labor." Then they would cut back to the guy running the prison and the guy running the prison would say, "Well, yes, we can get you the goods you people want. Our people will make them." Any they said, "Well, what about the the quality? Now are we going to guarantee that?" And the guys running the prison said, "Well, if they don't produce quality goods, we will beat them, we will torture them," and they said that on national television here in the United States, and we saw it time and again.

And yet, we still do business with these guys.

It is my opinion if we really believe in democracy, freedom and human rights, we will send a message to the Communist Government of China that we are not going to do business with them if they continue this attitude and continue using people as slave laborers.

We saw the manifestations of their attitude when they ground those young people who wanted freedom and democracy in Tiananmen Square into dog meat with their tanks. Yet, we still do business with them.

I want to congratulate the gentlewoman from California [Ms. PELOSI]. She has done yeoman service for this body, for the country and for the people who are fighting for freedom and democracy in China.

Mrs. KENNELLY. Mr. Speaker, I yield 2 minutes to the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Mr. Speaker, I commend the chairman, the committee and the very persistent gentlewoman from California [Ms. PELOSI].

This conference report sends the right message at the right time. It tells China, that America will not stand idly by while an isolated leadership tramples on human rights and peddles dangerous military technologies.

All of us applauded the recent release of hostages in Lebanon. But what about the hundreds of hostages languishing in Chinese prisons, facing deprivation, forced labor, and torture? The only crime these people committed was to demonstrate principle and courage. Are we going to remain silent in the face of their suffering?

The Chinese Government calculates that they can violate any internationally held norm of decency and the United States will do nothing. They believe they can sell missiles and nuclear technology to anyone who will pay—and the U.S. will do nothing. They believe they can keep their markets closed to most U.S. exports—(adding $15 billion to the U.S. trade deficit this year alone), and the U.S. will do nothing.

□ 2040

Mr. Speaker, our vote today will send a clear and simple message to Beijing: "Don't be so smug. Don't assume the United States will turn a blind eye while you trample upon rights which we hold sacred and upon which our Nation was founded." These are rights for

which Chinese men and women and Tibetan men and women have gone to prison for and died for. It is time for all of us in Congress to stand up with them in their struggle for freedom.

Mr. Speaker, we can do so tonight with our vote.

Mr. CRANE. Mr. Speaker, I yield 3 minutes to our distinguished colleague from Virginia [Mr. WOLF].

Mr. WOLF. Mr. Speaker, I want to begin by paying tribute to the gentlewoman from California [Ms. PELOSI] for her efforts, and I know, as a result of this bill tonight, people will be released from prison.

The two points that I would like to cover is, first, when I was there several months ago with Congressman CHRIS SMITH, we visited Beijing Prison No. 1. There were 41 or 42 Tiananmen Square demonstrators who were in the prison for speaking out for democracy. It was a cold day, about 25 degrees and snowing, and the prison was absolutely freezing. They were working on manufacturing socks and plastic shoes called jelly shoes for export around the world in competition with textile manufacturers in South Carolina, and North Carolina, and New England and around this country.

For those men who are in prison tonight this passage of this bill by an overwhelming vote will be so important.

Second, Mr. Speaker, many Members, when we went to Beijing, signed a letter to Li Peng asking that they release those who are in prison for religious freedom. There are 70 priests, ministers, and bishops who are in prison, some up to 32 years, that have not been out of prison for 32 years. The passage of this legislation by an overwhelming vote I believe will open up the prison doors and allow those bishops, and priests and ministers to leave.

Thirdly, for those of my colleagues on my side who voted no the last time I say, "You can vote yes this time. This is a much more watered-down bill. It is a bill that perhaps can even be signed by the President. But your vote makes a difference tonight, and I want to tell you why."

As we met with the families of those people, they told us that, when the Congress acts, and Voice of America then records what happens in this body, it makes a difference. So, tomorrow night, when they are listening with their little crystal sets somewhere in Beijing, or wherever they are, and know that the United States Congress stood with the Chinese people, it will make a difference.

So, Mr. Speaker, I strongly urge those on my side who voted no before on the other bill to please vote yes on this bill to open up the prisons, to let the bishops, and the priests, and the rabbis out, to prohibit the export of slave-labor-made goods into the United States and send a message that we care.

I say to the gentlewoman from California, "Ms. PELOSI, I want to again take may hat off to you and what you're doing here tonight. I know it will make a tremendous difference in the lives of so many people."

Mrs. KENNELLY. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I thank the gentlewoman from Connecticut [Mrs. KENNELLY] for yielding this time to me.

Mr. Speaker, I want to join my colleague on the Helsinki Commission, the gentleman from Virginia [Mr. WOLF], who is such a strong fighter for human rights, both within the Helsinki process and around the world. I also want to join him in congratulating the gentlewoman from California [Ms. PELOSI]. Rarely does a single Member make such an impact on an issue as she has done.

The Universal Declaration of Human Rights that the United Nations promulgated said that there was a certain standard that we would expect human beings to be treated by all nations. Subsequently, the United States, the Soviet Union, and 33 other nations signed the Helsinki Final Act, again reiterating a commitment to a certain level of standards for the treatment of human beings by governments. The United States was in the leadership of raising the issue time, after time, after time that the Soviet Union and the other Eastern European nations were not in fact, according to human beings, at that level to which they had agreed. They protested repeatedly year in and year out that those issues were the internal affairs of those nations. We rejected that premise. Instead the United States and most of the Western world adopted the premise that the well-being of any individual human being was the concern of the international community and that there were certain international standards which we would expect those with whom we did business, either politically, or socially, or culturally, in whatever way, would meet those standards. It was not, frankly, just until a few years ago that the Soviet Union, and with the freedom of the Eastern European nations, that the premise of international affairs justifying mistreatment and human abuse was banned.

Mr. Speaker, this bill says the United States will expect certain levels of performance from those with whom we do business. It is the right thing to do. It ought to be adopted unanimously. I urge my colleagues, each and every one, to strongly support this legislation.

Mr. CRANE. Mr. Speaker, I yield 2 minutes to our distinguished colleague from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Speaker, we are not asking that the Communist regime in China be perfect, but we do expect that any regime that has most-favored-nation status at least be evolving in the right direction. The Communist regime is not only tyrannical, not only does it have hands that are dripping with blood of those who are struggling for democracy, but it is not getting any better. It is not going in the right direction.

This administration begged us not to threaten China's most-favored-nation status. Now the boneheads at the State Department act surprised when the gangsters in Peking tell Secretary Jim Baker to shove off and to get our noses out of their business. Well, Mr. Speaker, the butchers of Tiananmen Square are thumbing their nose. They are laughing at us while profiting from a trade policy that should be reserved for free countries.

I believe in free trade. Our goal should be free trade between free people. It is an absolute abomination that products made by slave labor are making their way onto the shelves of America's markets.

Let us set conditions on giving most-favored-nation status to the Communist regime in China. They can still think of us as ugly Americans, but at least they will not think of us as dumb Americans. If we want to get their attention, let us start turning a smiling face toward Taiwan, where they have made great progress in democracy, but, most importantly, let us make it clear to the Communist regime and those struggling for freedom whose side America is on. If there is any question in anybody's mind whose side we are on, something is dreadfully wrong. The legislation of the gentlewoman from California [Ms. PELOSI] will help correct that and make it clear that America is still the land of the free and the home of the brave, the last and best hope for all of mankind.

Mrs. KENNELLY. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. SOLARZ].

Mr. SOLARZ. Mr. Speaker, when the President asked the Congress to renew most-favored-nation tariff status for China, the challenge we faced was to fashion a response which would make it clear both to the people and to the leaders of China that the United States was on the side of democracy rather than dictatorship, of reform rather than repression, but which was also designed to enhance, rather than diminish, the prospects for democracy and human rights in China.

□ 2050

Basically, we had three options. First, we could have unconditionally renewed MFN, as the President wanted us to do, on the theory that this would enable us to better persuade the leaders of China to make the kind of changes and reforms we sought. But I would suggest that a policy of constructive engagement vis-a-vis China is

no more likely to succeed than was the policy of constructure engagement vis-a-vis South Africa.

Unless the Chinese leaders know that there is a price to be paid, in the absence of their willingness to address our concerns, there can be little hope for any real progress in the PRC.

The second option was to reject MFN for China entirely. But however emotionally satisfying such a response would have been, I suggest that it would have also been counterproductive. It would not have brought the gerontocracy which had seized power in Bejing to its knees. It would have more likely resulted in a decision on the part of the Chinese leaders to crack down than to open up, and this would have badly hurt Hong Kong, in whose economic vitality we have a significant national interest.

The third option was to make the renewal of MFN conditional, as we do in this conference report, on overall progress toward the achievement of our objectives in the area of human rights, economic relations, and the proliferation of weapons of mass destruction.

This conference report gives the President enormous flexibility. It does not require perfection, but it does require progress, and I think the gentlewoman from California [Ms. PELOSI], together with the chairman of the committee, the gentleman from Illinois [Mr. ROSTENKOWSKI], and the distinguished ranking minority member, all deserve enormous credit for fashioning a formula which is truly responsible. It encourages the Chinese leaders to move in the right direction. It gives the President ample flexibility in implementing the legislation.

Mr. Speaker, I not only urge its adoption by the House but I urge the President to sign it because I truly believe this is the best way to say to the people of China that we are on the side of democracy, while encouraging the Chinese leaders to move in that direction.

Mr. CRANE. Mr. Speaker, I yield two minutes to our distinguished colleague, the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Speaker, I thank my friend, the gentleman from Illinois, for yielding time to me.

Mr. Speaker, I rise in support of the conference report conditioning MFN for the People's Republic of China.

Mr. Speaker, the legislation before us permits the President to renew MFN for the PRC provided the Chinese Government:

Releases nonviolent prodemocracy demonstrators imprisoned during and after the Tiananmen Square incident;

Does not sell missiles to Syria or Iran; and

Makes overall significant progress in each of the following three categories:

Human rights: Allowing human rights monitoring groups access to prisoners, ceasing the jamming of Voice of America, ending restrictions on freedom of religion, speech, press and assembly in China and Tibet.

Nuclear proliferation: Assuring that it will not sell nuclear weapons technology to non-nuclear states and will abide by guidelines of the Missile Technology Control Regime, MTCR.

Trade: Removing barriers to United States products entering Chinese markets, ending the export of prison-made goods, stopping violations of intellectual property rights, ending the use of transshipments to evade U.S. import quotas.

In late March, Mr. Speaker, Congressman FRANK WOLF and I spent the better part of a week in Beijing and Shanghai to promote human rights as part of an ongoing human rights effort.

We talked and argued with several government officials and visited Beijing Prison No. 1, a prison that unjustly incarcerates at least 40 political prisoners. We also met with Premier Li Peng and made a strong case—face to face—for human rights with the Chinese leader.

We told Li Peng that all Americans—including the President and Congress—continue to be outraged concerning the brutality by Chinese troops in Tiananmen Square. We urged the immediate release of all political prisoners.

The conference report I am pleased to point out appropriately uses our economic clout to encourage the release of these brave souls.

We raised the issue of convict labor and told Li Peng that products made by inmates—especially political prisoners—are absolutely unwelcomed on our shores and in our markets. The conference report includes language to address this concern.

We asked Li Peng to take steps to reverse the current crackdown on religious freedom. The evidence clearly suggests an all-out assault on people of faith is underway in China. Mr. WOLF presented Li Peng a list of 78 known prisoners of conscience—men and women who languish in gulags solely because of their religious beliefs. The conference report accommodates this concern for which I am grateful.

Finally, we expressed our outrage over the systematic exploitation of women and children—the family—who suffer terribly as a direct result of the PRC's brutal one child per couple policy with its heavy reliance on forced abortion and forced sterilization.

On two occasions this House has condemned this violation of women's rights and children's rights as "crimes against humanity." We have also withheld funds to the U.N. Population Fund for its support and comanagement of coercive abortion. But these modest steps need to be augmented by additional action. This conference report fails on that score.

Mr. Speaker, since 1979, it is estimated that over 120 million babies have been slaughtered by the state—approximately 90 percent of these abortions being the result of coercion. Forced abortion—coercive population control—is a horrible crime against women and babies.

Thus, while I support this compromise conference report, it deeply saddens the heart that the anti-coercion language adopted by this House when the bill was originally considered was dropped in conference.

Chinese women and children deserve better than that.

Mr. CRANE. Mr. Speaker, I yield 1 minute to our distinguished colleague, the gentleman from Washington [Mr. MILLER].

Mr. MILLER of Washington, Mr. Speaker, I see so many of my colleagues here who have worked so hard on this issue, including the gentlewoman from California [Ms. PELOSI] and the gentleman from Georgia [Mr. JONES], with whom I traveled to China just a short time ago to discuss this subject of human rights.

People listening to this debate must be wondering, why are we so exorcised about this Chinese Government? Well, this is a government that sends missiles to make trouble in the Middle East. This is a government that sends prison-made goods into our country to compete with goods made by our own labor. This is a government that sends its own people to prison for worshiping God and for speaking out for political freedom.

Now we have a chance to send this Chinese Government a message, and the message is this: that access on favorable terms to the United States market depends in the future on the Chinese Government stopping this conduct and obeying the norms that civilized nations follow.

Mr. Speaker, I am from a trade-dependent area in Washington State. My constituents, however, understand that we cannot ignore what is going on in China. We understand, sure, that in the short run we may risk losing trade by this measure, but we understand that in the longrun there will be more trade and investment in a world where human rights are honored and not ignored.

Mr. Speaker, let us pass this conference report.

Mrs. KENNELLY. Mr. Speaker, I yield 1 minute to the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Speaker, this is really the least that we can do. This is the world's leading democratic government. This is the country that set the standard for the world for human rights and civil liberties, and there should not be one standard for Europeans and one standard for the rest of the world.

The courage of those young people at Tiananmen Square crushed by the Chi-

nese tanks ought not be forgotten. Whether they labor today in prisons to manufacture goods shipped to the United States or whether the entire society with its lack of freedom is the issue, this country's voice ought to be loud and clear, and it gives me great pride that on this issue there is a bipartisan effort within this House to condemn the actions of the Chinese Government and to take a far stronger stand than our own administration has been willing to take.

Mr. Speaker, I would particularly like to commend the gentlewoman from California [Ms. PELOSI] and all the others on both sides of the aisle, including the gentleman from Washington [Mr. MILLER] and the gentleman from Georgia [Mr. JONES], who have led this effort to make sure that America stands on the side of those who are oppressed and not on the side of the oppressors.

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

Mr. CRANE. Mr. Speaker, I yield 1 minute to our distinguished colleague, the gentleman from California [Mr. CUNNINGHAM].

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

Mr. Speaker, I have heard that the Chinese are proud. The Asian-American is proud. He has helped to build this country. The families have stressed education in the home, and they teach that if you work hard, you can make it in this country.

These are the same Asian-Americans who have asked us to support conditional renewal of MFN. We need to send a strong message. We support a norm of international behavior that the Chinese will not adhere to. This is a message that life, liberty, and the pursuit of happiness is part of our new world order.

□ 2100

Yes, if they call if face, if they call it arrogance and they spurn the United States' offer, so be it. There are many countries that want our trade.

Hal Lindsey in "The Lake Great Planet Earth" gives us an inside look at future China. Support conditional renewal of MFN for a safer world, for a better world, and thank the gentleman from Illinois [Mr. ROSTENKOWSKI] and the gentlewoman from California [Ms. PELOSI] for this legislation.

Mr. CRANE. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Speaker, I rise in support of the conference report on H.R. 2212, most-favored-nations status for China.

Mr. Speaker, I will not repeat all that has been so eloquently stated by my colleagues about human rights abuses in China, slave labor, near genocide in Tibet and arms sales to terrorist nations.

I do want to add to the charges against the brutal Communist dictators of China one that is seldom mentioned—probably even little known. That is the cruel actions it has taken against the Mongolian people of Inner Mongolia.

The Mongolian people of what used to be called Inner Mongolia, just to the south of the Mongolian Republic have been deliberately subjected to extremely cruel treatment, and because of the sending of thousands of ethnic Chinese to the area, are now a minority in their own land.

Mr. Speaker, in August, as the Chairman of the National Republican Institute, I led a delegation to the Mongolian Republic, the second country in the world to become Communist, the first Communist country in Asia to throw out a Communist government, to see if we could be of assistance in the move toward democracy.

While we were there, we met dissidents who had escaped from imprisonment in Inner Mongolia and fled to Mongolia. Their crime? To say that they would like to have democracy as well.

Mr. Speaker, I want to join in commending Ms. PELOSI, who certainly has been the leader in this fight.

Mr. SCHULZE. Mr. Speaker, I rise in support of the conference report to H.R. 2212.

As I and many of my colleagues have noted during this and last year's debate on whether to extend most-favored-nation trading status to China, that country's emigration and human rights policies clearly have worsened since the brutal massacre at Tiananmen Square. Further, China is steadily adding to its nearly $15 billion trade surplus with the United States through the use of cheap prison labor.

No mystery are they, the worsening conditions within China have been confirmed by several organizations: Amnesty International, ASIA's Watch, the Library of Congress and, even our very own Department of State.

Given that China's emigration policy is not in compliance with title 4 of the Trade Act of 1974, I have argued strenuously that this Nation is not legally entitled to the preferential tariff rates accorded under the MFN program.

For this reason, I and some very committed colleagues—including Messrs. SOLOMON, MARKEY and ROSE—have led a 2-year effort to terminate China's MFN status. In fact, in 1980, I was just as vehement in my opposition to President Carter's recommendation that China be granted MFN treatment in the first place.

Regrettably, over the past decade, the State Department has argued just as strenuously that a policy of appeasement—as opposed to the more heavy-handed approach preferred by most of us—is the way to yield positive change in China. This policy failed in the 1980's, and it will continue to fail in the 1990's. Chinese leaders neither respect nor respond to the carrot approach. Indeed, they arrogantly chew up the carrots and spit them in the faces of those who naively offer them. It is time to wield a stick!

I regret being in the position in which I find myself today. Whether I vote for or against the legislation before us, China still receives most-favored-nation status—and that truly disgusts me!

However, I commend the gentlelady from California, Ms. PELOSI, for her tireless efforts in bringing this conference report to the floor. At this stage, H.R. 2212 represents the strongest message we can sent to the Chinese leaders, and it and its author deserve our strong support.

Mr. LANCASTER. I speak today in full support of the conference report on H.R. 2212, which would allow the President to renew MFN for China only if the Chinese Government does three things: Releases imprisoned pro-democracy demonstrators held in China and Tibet; stops selling missiles to Syria or Iran; and makes "significant progress" in improving human rights, stemming nuclear proliferation, and practicing equitable trade policy.

Each of those provisions is completely defensible in its own right. In combination they represent a package worthy of strong bipartisan support.

The Chinese Government battles words with tanks. The Chinese Government denies its citizens the most basic of human rights. The Chinese Government abides by its own rules as it contributes to nuclear proliferation while most civilized countries work to stem such activity. The Chinese Government enjoys a growing multibillion-dollar trade surplus with the United States as it denies entry of United States products into its own markets. And the Chinese Government remains confident that the United States will continue to extend MFN to China irrespective of its ignoble practices and policies.

It is time for the United States Congress to speak with a loud and unified voice in telling the Chinese Government they are very much mistaken. We will not reward their shameful ways with preferential trade treatment. We will instead pass into law this conference report. We will send the signal that we will do business with China on our terms, not on terms dictated by the Chinese Government—especially when those terms work to the disadvantage of American interests.

The conference report is clear, it makes sense, and it is simply the right thing to do. I urge my colleagues to support the conference report.

Mr. OWENS of Utah. Mr. Speaker, I rise in strong support of the conference report and to express my appreciation to the chairman [Mr. ROSTENKOWSKI] and the gentlelady from California [Ms. PELOSI] for their support and leadership.

Mr. Speaker, we are tired of the new China syndrome, where Chinese leaders promise to change, yet China continues to supply nuclear technology to pariah states and sophisticated missiles to terrorist countries. And while the blood of the Tianenmen Square massacre is still fresh, America rewarded China with a high level visit from Secretary Baker.

I do not doubt the President's commitment to human rights, fair trade, and restrictions on the proliferation of nuclear and missile technology. By passing this conference report with a two-thirds majority, we will help the President press these important principles with the

Government of the People's Republic of China.

Nearly 2 decades ago, I voted for the Jackson-Vanik Amendment. As my colleagues know, this amendment conditioned the extension of MFN to the Soviet Union on the Soviet's emigration policies.

Today, Mr. Speaker, we can point to a changed Soviet Union. It can no longer be viewed as the evil empire. It has changed its emigration policies, and while minorities still face an uncertain future, the historic Jackson-Vanik Amendment has been waived.

The Soviet Union has changed.

Sadly, the situation in China has deteriorated. Since the Tianenmen Square massacre, over 30,000 pro-democracy activists have been detained. Some, and we don't know exactly whom and how many, have been executed. More than 800 activists have been imprisoned and the Chinese secret police continues to investigate, harass, and persecute others thought to support the democracy movement.

This President, this Congress, this country, must not send a message of weakness. We must not disappoint those Chinese citizens who have sacrificed their lives and their futures for democracy.

As Jackson-Vanik helped lay the groundwork for the changes we are seeing today in the Soviet Union, conditioning MFN to China will set a similar standard for our relations with China and pose a vital, tangible symbol of hope and American commitment for democratic activists in China.

Mr. Speaker, this is not a partisan issue. An overwhelming bipartisan majority voted for the bill. And this is not a political issue. The President shares our goals.

Clearly, the issue here is one of tactics.

I was one who thought that Secretary Baker's trip was premature. That the Chinese had not given even a glint of hope of progress. But I was willing to give the administration the benefit of the doubt.

Secretary Baker was tough. He pressed the hardliners but there was no give. They even arrested two activists just prior to his arrival just to remind us who is boss.

I can imagine the thoughts of Chinese leaders. They are thinking that there will be no price to pay for their intransigence. They are thinking that their gross human rights violations will go without any real American response. That they can continue to provide nuclear and missile technology to terrorist states with impunity. That they can violate U.S. trade laws, export prison-made goods and stomp on the American worker without censure.

Now, after Secretary Baker returned form Beijing empty-handed, we have an obligation to put up or shut up.

I urge my colleagues to support this conference report, and I hope that the other body and the President are listening.

Mr. MARKEY. Mr. Speaker, I rise in reluctant support of the conference report on H.R. 2212, regarding the extension of most-favored nation status for the People's Republic of China.

There is much in the conference report which I strongly endorse, particularly provisions in the bill relating to human rights in China and the status of the pro-democracy protesters who have been imprisoned and mistreated since the Tiananmen Square massacre. At the same time, I must note that the nuclear non-proliferation requirements contained in the conference report are significantly weaker than the language of the House resolution.

Last June I testified in favor of tough nuclear non-proliferation conditions on MFN extension before the Ways and Means Committee last June and I worked with the gentleman from New York [Mr. DOWNEY] and my Republican colleague [Mr. SOLOMON] to craft the language which Mr. DOWNEY attached to H.R. 2212 in the Ways and Means Committee.

The House China MFN resolution would have conditioned extension of MFN status for the People's Republic of China on two factors:

First, the Chinese Government would have had to provide clear and unequivocal assurances to the United States that it is not assisting any non-weapons state—either directly or indirectly—to acquire nuclear explosive devices or the materials and components for such devices.

Second, the House resolution would have required that before MFN status could be extended, the President of the United States must certify to Congress that based on the assurances provided by the Chinese Government, as well as all other information available to the President, that the Chinese were in fact not assisting any state in acquiring nuclear explosives.

Specifically, under the House resolution, in order for MFN status to be extended for the People's Republic of China, the President would be required to submit the report and make the certifications required under the 1985 congressional resolution which approved the United States-People's Republic of China Nuclear Cooperation Agreement. The 1985 legislation conditioned United States-Chinese nuclear cooperation on the People's Republic of China Government providing the United States with additional information regarding its nuclear non-proliferation policies and practices.

Based on this information, the President was required to certify that China was not in violation of section 129 of the Atomic Energy Act. Section 129 of the act bars U.S. nuclear cooperation with any country which has "assisted, encouraged, or induced any non-nuclear-weapons state to engage in activities involving source or special nuclear material and having direct significance for the manufacture or acquisition of nuclear explosive devices." Section 129 also bars such cooperation with nations which have transferred reprocessing equipment, materials, or technology to the sovereign control of a non-nuclear-weapons state. To date, neither the report or the certifications required under the 1985 resolution have been made, and administration officials have acknowledged that this failure is directly tied to Chinese continuing misbehavior on nuclear non-proliferation.

Unfortunately, the conference report has substantially weakened the nuclear non-proliferation requirements set forth in the original House and Senate resolutions.

Instead of a tough nuclear non-proliferation requirement that actually ties MFN extension to a requirement that China's reckless nuclear non-proliferation practices come to an end, the conference report requires only that China make "overall significant progress" in "adopting a national policy" which: First, adheres to, and ceasing activities inconsistent with the standards and guidelines set by the Nuclear Suppliers Group; and, second takes clear and unequivocal steps to assuring the PRC is not assisting any non-weapons state in acquiring nuclear explosives.

The conference report states that the "significant progress standard" would not be met if the President determined that on or after November 26, 1991, the People's Republic of China had transferred to Syria or Iran material, equipment, or technology which would contribute significantly to the manufacture of a nuclear explosive device. Interestingly, this requirement would not apply to any transfers of equipment or technology to Iran which occurred before today's date—such as the Chinese transfers of calutrons and reactor technology to Iran, which was reported on by the Washington Post earlier this year. It would also not apply to Chinese nuclear assistance to other potential proliferators—such as Algeria or Pakistan—despite substantial evidence that China has previously assisted these countries in acquiring nuclear weapons technologies.

The conference report also expresses the sense of the Congress that the President should submit the report required under the 1985 congressional resolution on United States-People's Republic of China nuclear cooperation.

While I would have preferred tougher nuclear non-proliferation requirements as a condition of MFN extension, I am reluctantly supporting the conference report today because I believe the final language, while less stringent than the house resolution, nonetheless represents an improvement over current law, which does not link MFN for China to nuclear non-proliferation.

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

Mrs. KENNELLY. 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 conference report.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MFUME). The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mrs. KENNELLY. 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 409, nays 21, answered "present" 1, not voting 3, as follows:

[Roll No. 436]

YEAS—409

Abercrombie	Downey	Jontz
Ackerman	Dreier	Kanjorski
Alexander	Duncan	Kaptur
Allard	Durbin	Kasich
Allen	Dwyer	Kennedy
Anderson	Dymally	Kennelly
Andrews (ME)	Early	Kildee
Andrews (NJ)	Eckart	Kleczka
Andrews (TX)	Edwards (CA)	Klug
Annunzio	Edwards (OK)	Kolter
Anthony	Edwards (TX)	Kostmayer
Applegate	Emerson	Kyl
Aspin	Engel	LaFalce
Atkins	English	Lagomarsino
AuCoin	Erdreich	Lancaster
Bacchus	Espy	Lantos
Baker	Evans	Laughlin
Ballenger	Ewing	Leach
Barnard	Fascell	Lehman (CA)
Barrett	Fazio	Lehman (FL)
Barton	Feighan	Lent
Bateman	Fields	Levin (MI)
Bellenson	Fish	Levine (CA)
Bennett	Flake	Lewis (CA)
Bentley	Foglietta	Lewis (GA)
Bereuter	Ford (MI)	Lightfoot
Berman	Ford (TN)	Lipinski
Bevill	Frank (MA)	Livingston
Bilbray	Franks (CT)	Lloyd
Bilirakis	Frost	Long
Blackwell	Gallegly	Lowery (CA)
Bliley	Gallo	Lowey (NY)
Boehlert	Gaydos	Luken
Boehner	Gejdenson	Machtley
Bonior	Gekas	Manton
Borski	Gephardt	Markey
Boucher	Geren	Marlenee
Boxer	Gibbons	Martin
Brewster	Gilchrest	Mavroules
Brooks	Gillmor	Mazzoli
Broomfield	Gilman	McCloskey
Browder	Gingrich	McCollum
Brown	Glickman	McCrery
Bruce	Gonzalez	McCurdy
Bryant	Goodling	McDade
Bunning	Gordon	McDermott
Burton	Goss	McEwen
Bustamante	Gradison	McGrath
Byron	Green	McHugh
Callahan	Guarini	McMillan (NC)
Camp	Gunderson	McMillen (MD)
Campbell (CO)	Hall (OH)	McNulty
Cardin	Hall (TX)	Meyers
Carper	Hamilton	Mfume
Carr	Hammerschmidt	Michel
Chandler	Hancock	Miller (CA)
Chapman	Hansen	Miller (OH)
Clay	Harris	Miller (WA)
Clement	Hastert	Mineta
Clinger	Hatcher	Mink
Coble	Hayes (IL)	Moakley
Coleman (MO)	Hayes (LA)	Molinari
Coleman (TX)	Hefley	Mollohan
Collins (IL)	Hefner	Montgomery
Collins (MI)	Henry	Moody
Combest	Herger	Moorhead
Condit	Hertel	Moran
Conyers	Hoagland	Morella
Cooper	Hobson	Morrison
Costello	Hochbrueckner	Mrazek
Coughlin	Holloway	Murtha
Cox (CA)	Hopkins	Nagle
Cox (IL)	Horn	Natcher
Coyne	Horton	Neal (MA)
Cramer	Houghton	Neal (NC)
Cunningham	Hoyer	Nichols
Dannemeyer	Hubbard	Nowak
Darden	Huckaby	Oakar
de la Garza	Hughes	Oberstar
DeFazio	Hunter	Obey
DeLauro	Hutto	Olin
DeLay	Hyde	Olver
Dellums	Inhofe	Ortiz
Derrick	Ireland	Orton
Dickinson	Jacobs	Owens (NY)
Dicks	James	Owens (UT)
Dingell	Jefferson	Oxley
Dixon	Jenkins	Packard
Donnelly	Johnson (SD)	Pallone
Dooley	Johnson (TX)	Panetta
Doolittle	Johnston	Parker
Dorgan (ND)	Jones (GA)	Pastor
Dornan (CA)	Jones (NC)	Patterson
Paxon	Santorum	Synar
Payne (NJ)	Sarpalius	Tallon
Payne (VA)	Savage	Tanner
Pease	Sawyer	Tauzin
Pelosi	Saxton	Taylor (NC)
Penny	Schaefer	Thomas (CA)
Perkins	Scheuer	Thomas (GA)
Peterson (FL)	Schiff	Thomas (WY)
Peterson (MN)	Schroeder	Thornton
Petri	Schulze	Torres
Pickle	Schumer	Torricelli
Porter	Sensenbrenner	Towns
Poshard	Serrano	Traxler
Price	Sharp	Unsoeld
Pursell	Shaw	Upton
Quillen	Shuster	Valentine
Rahall	Sikorski	Vander Jagt
Ramstad	Sisisky	Vento
Rangel	Skaggs	Visclosky
Ravenel	Skeen	Volkmer
Ray	Skelton	Walker
Reed	Slattery	Walsh
Regula	Slaughter	Washington
Rhodes	Smith (FL)	Waters
Richardson	Smith (IA)	Waxman
Ridge	Smith (NJ)	Weber
Riggs	Smith (OR)	Weiss
Rinaldo	Smith (TX)	Weldon
Ritter	Snowe	Wheat
Roberts	Solarz	Whitten
Roe	Solomon	Williams
Rogers	Spence	Wilson
Rohrabacher	Spratt	Wise
Ros-Lehtinen	Staggers	Wolf
Rose	Stallings	Wolpe
Rostenkowski	Stark	Wylie
Roth	Stearns	Yates
Roukema	Stenholm	Yatron
Rowland	Stokes	Young (AK)
Roybal	Studds	Young (FL)
Russo	Stump	Zeliff
Sabo	Sundquist	Zimmer
Sanders	Swett	
Sangmeister	Swift	

NAYS—21

Archer	Kolbe	Pickett
Armey	Kopetski	Roemer
Campbell (CA)	Lewis (FL)	Shays
Crane	Matsui	Taylor (MS)
Fawell	McCandless	Traficant
Grandy	Myers	Vucanovich
Johnson (CT)	Nussle	Wyden

ANSWERED "PRESENT"—1

Murphy

NOT VOTING—3

Davis	LaRocco	Martinez

□ 2120

Mr. McCANDLESS, Mrs. VUCANOVICH, and Mr. LEWIS of Florida changed their vote from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MFUME). The Chair announces that pursuant to the provisions of clause 5, rule I, that he will postpone further proceedings today on each scheduled motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, and votes previously postponed, will be taken after the expiration of a recess.

CRANSTON-GONZALEZ NATIONAL AFFORDABLE HOUSING ACT AMENDMENTS

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3576) to amend the Cranston-Gonzalez National Affordable Housing Act to reserve assistance under the HOME Investment Partnership Act for certain insular areas, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Senate Amendment:

Strike out all after the enacting clause and insert:

SECTION 1. RESERVATION OF ASSISTANCE.

Section 217(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12747(a)) is amended—

(1) in the first sentence of paragraph (1), by inserting "and after reserving amounts for the insular areas under paragraph (3)" before the first comma; and

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

"(3) INSULAR AREAS.—

"(A) IN GENERAL.—For each fiscal year, of any amount approved in an appropriations Act to carry out this title, the Secretary shall reserve for grants to the insular areas an amount that reflects—

"(i) their share of the total population of eligible jurisdictions; and

"(ii) any adjustments that the Secretary determines are reasonable in light of available data that are related to factors set forth in subsection (b)(1)(B).

"(B) SPECIFIC CRITERIA.—The Secretary shall provide for the distribution of amounts reserved under this paragraph among the insular areas in accordance with specific criteria to be set forth in a regulation promulgated by the Secretary after notice and public comment.

"(C) TRANSITIONAL PROVISIONS.—For fiscal year 1992, the reservation for insular areas specified in subparagraph (A) shall be made from any funds which become available for reallocation in accordance with the provisions of section 216(6)(A).".

SEC. 2. DEFINITIONS.

Section 104 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704) is amended—

(1) in paragraph (1), by striking "Guam" and all that follows through "the Marshall Islands" and inserting "the insular areas"; and

(2) by adding at the end the following new paragraph;

"(24) The term 'insular areas' means Guam, the Northern Mariana Islands, the United States Virgin Islands, and American Samoa."

SEC. 3. EXTENSION OF TIME TO SUBMIT CDBG STATEMENT.

Notwithstanding any other provision of law, the City of Petersburg, Virginia is authorized to submit not later than 10 days following the enactment of this Act, and the Secretary of Housing and Urban Development shall consider and accept, the final statement of community development objectives and projected use of funds required by section 104(a)(1) of the Housing and Community Development Act of 1974 (42 U.S.C. 5304(a)(1) in connection with a grant to the

City of Petersburg under title I of such Act for fiscal year 1991.

SEC. 4. LOW-INCOME HOUSING COVENANTS.

Section 515(p)(4) of the Housing Act of 1949 (42 U.S.C. 1485(p)(4)) is amended by adding at the end "The preceding sentence shall not be interpreted as authorizing the Secretary to—

"(A) limit the ability of a housing credit agency to require an owner of housing, in order to receive a low-income housing tax credit, to enter into a restrictive covenant, in such form and for such period as the housing credit agency deems appropriate, to maintain the occupancy characteristics of the project as prescribed in section 42(h)(6) of the Internal Revenue Code of 1986; or

"(B) deny or delay closing of financing under this section of the existence, or occupancy terms, of any such restrictive covenant.".

SEC. 5. FLOOD ELEVATION DETERMINATION.

Notwithstanding the time limit set forth in section 1363(c) of the National Flood Insurance Act of 1968 (42 U.S.C. 4104(c) and (d)), St. Charles Parish, Louisiana, may file an appeal with the Director of the Federal Emergency Management Agency with respect to certain flood elevation determinations for the area in and near the Ormond Country Club Estates located in St. Charles Parish, Louisiana, not later than June 1, 1992.

Mr. GONZALEZ (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

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

There was no objection.

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

Mr. McCANDLESS. Mr. Speaker, reserving the right to object, I do so to ask my honorable chairman, the gentleman from Texas, Mr. GONZALEZ, if he would explain the basis for his request and the subject matter in the request.

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

Mr. McCANDLESS. I yield to the gentleman from Texas.

Mr. GONZALEZ. Mr. Speaker, the House passed H.R 3576 as amended, which is what we are offering here, on October 21, and it passed it under suspension of the rules as a technical amendment to the HOME Program to correct a series of unintended problems which would have prevented the four U.S. territories from participating in the HOME Program.

On Saturday last the Senate passed an amendment to H.R. 3576 and has returned the bill to the House for a final consideration. One, in addition to providing funding to the territories under the HOME Program, the bill extends the deadline for filing a final statement under the CDBG Program for Petersburg, Virginia;

Two, it corrects a glitch in the law governing the FmHA section 515 Rural Rental Housing Program to enable loan closings for projects using the low-income housing tax credit, and it extends a time deadline for filing an appeal for floodplain determinations in St. Charles Parish, LA.

These additional provisions have been accepted by both sides of the aisle, and I urge the adoption of H.R. 3576.

Mr. McCANDLESS. Mr. Speaker, I thank the gentleman. It is my understanding that the ranking minority member of our committee has concurred in this.

Mr. RIGGS. Mr. Speaker, I rise today in support of this urgently needed legislation. Amidst all the partisan rhetoric and bitterness generated by our debate over an economic growth package, I ask for a moment of reason and careful consideration of the legislation before us. This body has an opportunity to rise above the petty politics and, by extending this package of productive tax credits, show the American people that the Congress is still looking out for their best interests.

I have heard it said that you can claim to be an advocate for the people all year, but it's your vote that counts. That statement is particularly germane today, while we consider whether we will provide housing for literally hundreds of thousands of people. I would argue that passing this bill does not go far enough and that Congress should make all of the credits contained in this package permanent provisions of the tax code.

My concern with the extension of these tax credits stems from my background as a small businessman in the real estate industry. I know from personal experience how effective incentives can be in driving policy, and how well the low income housing tax credit in particular has been received in the market. I would remind my colleagues that the low income housing tax credit is the last Federal tax incentive remaining which encourages private sector production of affordable housing stock.

I represent the First Congressional District of California, which happens to include 2 of the 10 least affordable housing markets in the entire United States. Based on my own personal experience and the outcry from my constituents, I must conclude that much of America is the victim of a serious social illness in the form of increasing homelessness and general poverty. These programs we are considering have developed an excellent track record of combatting such social problems since their enactment. Thus, unless we're philosophically opposed to the creation of affordable housing or we think that helping low-income families achieve the American dream of home ownership isn't a worthwhile goal, the House of Representatives has no excuse for failing to pass this bill.

As Members of Congress, it is our responsibility to act in a timely manner to extend these successful credits. I honestly do not believe I would be doing my job if I voted against this legislation. I urge my colleagues to affirm the American dream as well as the faith of the people in their leadership by doing what is right and voting for this bill. I am submitting for the RECORD an editorial which speaks eloquently on the need for action and was written by my constituent, Mr. Arnold Sternberg, Director of Burbank Housing Development Corp. of Sonoma County, California.

HOUSING AID VITAL TO SONOMA COUNTY—CLOSE TO HOME

(By Arnold Sternberg)

Ken Harney's syndicated column in Sunday's real estate supplement paints a bleak picture for the future of affordable housing across the nation. In his column, Harney reports that the two federal programs which are the backbone of the nation's affordable housing effort may disappear at the end of this year.

The two programs whose demise he predicts are the mortgage revenue bond program, which provides permanent financing at below market interest rates for the first-time home buyers, and the federal low-income housing tax credit program, which is designed to attract private investment to make low-rent apartment development possible.

To understand what these two programs mean to Sonoma County, one need look no further than the Burbank Housing Development Corporation's experience in utilizing these programs:

In Petaluma, two sweat-equity projects, the 32-unit Magnolia Hills and the 8-house Madison Manor as well as the just-completed 29-unit Cherry Hill home ownership opportunity and the soon-to-start Hillview Oaks (30 town homes in the Corona-Ely annexation area), all rely on mortgage revenue bonds for financing.

In Santa Rosa, the 40-house self-help Rancho Miguel and Gardner Construction's 62-house development—Parkside—now going up at Piner and Fulton, are also largely financed with the same mortgage revenue bond program.

On the rental side, Burbank developed the 23-unit Madrone Village in Petaluma and the 20 senior apartments, Mountain Terrace II, in Healdsburg, using the tax-credit program. Also slated for tax-credit financing is Burbank's 50-unit apartment development in Rohnert Park and the 24-bed Burbank-Community Support Network joint venture, for which ground was just broken on Aston Avenue in Santa Rosa, a development designed to house formerly homeless people with a history of mental illness and other disabilities.

Burbank also utilized mortgage revenue bond financing in developing the 60-unit Gravenstein Apartments in Sebastopol, the 40 apartments at West Avenue in Santa Rosa and the 7-unit Cubernet project for seniors in Sonoma.

Virtually none of these 208 home-ownership opportunities would have been available to first-home buyers without the mortgage revenue bond program and none of these 225 below market rent apartments could have been built without the federal low-income housing tax credit program and mortgage revenue bond financing.

Harney's column should be read, therefore, as a "call to arms" for all those interested in solving, at least in part, the affordable housing program in Sonoma County. Our elected representatives need to know what has been done by just one small nonprofit developer in this county using these two programs.

Harney's predictions notwithstanding, the two programs can be saved and extended if this community, beginning with the Chamber of Commerce's November 15, symposium on affordable housing, can put this effort at the top of its legislative "must" list.

In the House of Representatives the extension vehicle for tax credits is HR-413 and for the mortgage revenue bond bill, it is HR-1067. Congressman Riggs and Congresswoman Boxer, Senators Cranston and Seymour need to hear from you on this subject now.

Mr. McCANDLESS. Mr. Speaker, based upon that explanation, I withdraw my reservation of objection.

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

There was no objection.

A motion to reconsider was laid on the table.

IMPROVING OPERATIONAL EFFICIENCY OF JAMES MADISON MEMORIAL FELLOWSHIP FOUNDATION

Mrs. LOWEY of New York. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3932) to improve the operational efficiency of the James Madison Memorial Fellowship Foundation, and for other purposes.

The Clerk read as follows:

H.R. 3932

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

SECTION 1. AMENDMENT OF JAMES MADISON MEMORIAL FELLOWSHIP ACT

The James Madison Memorial Fellowship Act (20 U.S.C. 4501 et seq.) is amended—

(1) in subsection (b) of section 803, by adding at the end the following new paragraph:

"(3) A member of the Board whose term has expired may continue to serve until the earlier of—

"(A) the date on which a successor has taken office; or

"(B) the date on which the Congress adjourns sine die to end the session of Congress that commences after the date on which the member's term expired."; and

(2) in subsection (a) of section 811—

(A) in paragraph (1)—

(i) by striking "an other" and inserting "and other"; and

(ii) by striking "(1)"; and

(B) by striking paragraph (2).

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from New York [Mrs. LOWEY] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY of New York, Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3932 is important legislation to allow the James Madison Memorial Fellowship Foundation to begin full operation of its scholarship program.

In general, we all recognize that our Nation urgently needs to expand Federal student aid programs. The James Madison Memorial Fellowship Program, which is aimed at strengthening the teaching of the principles and development of the United States Constitution, is a particularly worthy and important fellowship program.

The bill is very simple. When the Fellowship Foundation was created, it was endowed with a trust fund that has subsequently accrued interest. This bill permits the Madison Foundation to get down to the business of awarding fellowships by using the interest which has accrued on its endowment to fund its fellowship program, while protecting the trust fund itself.

It is important to point out that this legislation requires no Federal funding. It has received bipartisan support within the Committee on Education and Labor, from Chairman BILL FORD and ranking member BILL GOODLING, and it has been endorsed by the administration.

Mr. Speaker, this legislation will help us improve the quality of education in our Nation and will help broaden the understanding and appreciation of our Constitution and our democratic system of government. There are few objectives that are more worthy of our strong support.

I would urge all Members to support this bill, and at this point, I would yield to the gentleman from Virginia, who introduced this important legislation and has worked hard to see that it is enacted.

Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia [Mr. SISISKY] who has produced this important legislation and has worked hard to see that it is enacted.

Mr. SISISKY. Mr. Speaker, I rise today in support of legislation to allow the James Madision Memorial Fellowship Foundation to begin full operation of its fellowship program. It is only fitting that in the year we commemorate the bicentennial of the ratification of the Bill of Rights, we also grant to the foundation—named after the Bill of Right's principal author—the ability to perform its worthy mission assigned by Congress.

Mr. Speaker, the Madison Foundation is a living memorial to James Madison: Father of the Constitution, fourth President of the United States, and truly a great Virginian. It was established by Congress in 1986 as a part of the bicentennial commemoration of the U.S. Constitution. This program will award fellowships nationwide to outstanding graduate students preparing to become secondary school teachers in the fields of American history and government. This program will also award fellowships to experienced high school teachers seeking to strengthen their knowledge in the same area. Madison fellows will agree to teach full-time in secondary schools for at least 1 year for each year of assistance, and will emphasize the U.S. Constitution in their teaching.

The legislation we are considering today is actually very simple. In addition to two house-keeping provisions, this measure permits the Madison Foundation to embark on its mission of strengthening the teaching in our Nation's schools of the framing, principles, and development of the U.S. Constitution. It does so by allowing the Madison Foundation to use the interest which has accrued on its endowment to fund its fellowship program, while protecting the corpus of the Foundation's trust fund.

While enacting this important legislation will require no Federal funding, it will pay dividends for years to come. These dividends will be deeper understanding of American government, increased knowledge of the rights and responsibilities of citizens under the Constitution, and an enhanced spirit of civic participation in both teachers and students * * * the same spirit which inspired our Nation's Founding Fathers.

This bill has the support of the Education and Labor Committee Chairman, Mr. FORD, and the committee's ranking minority member, Mr. GOODLING. In addition, the measure is supported by Senators HATCH and KENNEDY in the other body. Furthermore, it has been scrutinized and endorsed by the Office of Management and Budget. I urge my colleagues to support this worthwhile legislation which promotes a program that emphasizes the Constitution and higher education. It is indeed deserving of our support.

□ 2130

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

Mr. Speaker, the program envisioned here is very laudable. We have a serious problem, however, in that when we put up the $20 million, the Foundation indicated putting up $10 million would be an easy kind of thing to do. Unfortunately, they have not done it.

I just want to make it very, very clear, that when they come back next year and ask to use the interest on the $20 million that the taxpayers put up, that I will do my very best to make sure that it is not granted, unless they have shown a very good faith effort to get their $10 million which they originally said would be easy to do.

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

Mr. GOODLING. Yes, I am happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, this is sounding a little like a shell game to me. The taxpayers put up $20 million with the idea that the foundation was going to put up $10 million, and now they have not gotten their $10 million, but they are going to come back and use the interest on the money originally put up by the taxpayers, is that right?

Mr. GOODLING. That is right, $4 million.

Mr. WALKER. Now, how much money has been raised by the Foundation so far?

Mr. GOODLING. I will yield to the gentleman from Virginia [Mr. [SISISKY] to anwer that.

Mr. SISISKY. Mr. Speaker, they are in the process of raising money.

Mr. WALKER. Have they raised half of it?

Mr. SISISKY. Mr. Speaker, if the gentleman will yield, I do not believe they have. I do not know the figure, but if the gentleman will let me explain. One of the projects was a coin bill which we are waiting to do in 1993 and this was the problem. We have not yet passed a coin bill for the James Madison Foundation to raise the money.

Mr. WALKER. But as I understand it, this is not a coin bill either. What this is doing is simply saying that we are going to now use the interest money, which is essentially money that the taxpayers have already forwarded.

Now, I am a little confused. How are we going to raise the $10 million that was a part of the $20 million guarantee?

Mr. SISISKY. Mr. Speaker, if the gentleman will yield further, we are in the process of raising the money from foundations and other things. We are having trouble, in all honesty, on the issue of raising the money.

Mr. WALKER. Well, does the figure of $50,000 sound right?

Mr. SISISKY. I think we raised more than $50,000. Is the gentleman saying $50,000?

Mr. WALKER. I have had it indicated to me that the total that has been raised so far out of the $10 million is $50,000.

Mr. SISISKY. I think we have raised more than $50,000, but I am really not sure of the figure, honestly, I am not.

Mr. WALKER. Well, I am concerned about the process that we are using here at the very last minute.

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

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

Mr. GOODLING. I am happy to yield to the gentleman from Pennsylvania.

Mr. WELDON. Mr. Speaker, I thank my colleague for yielding to me.

I would just like to ask a question. I am not against this particular bill or the concept, but I understand there was an attempt made, or there has been a bill introduced to offer a coin that would generate approximately $10 million in funding, and now instead of that coin bill, we are offering a bill that will in fact allow the interest to be used, to which I am not objecting.

My question is do the sponsores plan to continue to move the coin bill forward to raise the additional amount of funds necessary to match the $20 million of public funding?

Mr. SISISKY. Mr. Speaker, if the gentleman will yield, we would like to move the coin bills forward.

Mr. WELDON. Well, the only thing I would say to my colleagues in the House, and once again not being against this, but the scenario of what happened here today was that there was going to be a package of four coin bills offered shortly that my colleagues are going to be asked to vote upon.

In the initial package of those coin bills the Madison coin bill was included in that package. It was only removed because there was an outcry nationally from the American Fire Service, the 3 million people who have been working for 2 years to pass a Ben Franklin coin in 1993, which the Madison bill would completely knock out.

Now we are finding that not only are we going to pass this bill, which is going to allow the interest to be used, the $4 million, but we are going to come back and pursue a 1993 coin bill to raise additional funds for the James Madison Foundation, and again jeopardize the number one priority of the National Fire Service, which is the Ben Franklin coin bill.

I really find this somewhat outrageous.

While I do not want to disagree with my friend and told him I did not want to stand up here and oppose it, what is happening is we are going to have the coin bill come back again that will raise the money for this, and I do not know where the Foundation is raising its money on its own.

As a matter of fact, my friend and colleague on the Republican side who is offering the bill with my good colleague and friend, the gentleman from Virginia, was not even aware what this bill was 5 minutes ago. He thought this was the coin bill, because the staff had not told him that they changed it from a coin bill that now allows the Foundation to use the interest on the money generated.

I find this offensive, especially in light of the fact that with the coin bill that was being proposed, there was no limitation on the administrative overhead, the funds to be used for salaries.

I just find this an outrageous way to try to fund what in fact is a very worthwhile project.

Mr. GOODLING. Taking back my time, Mr. Speaker, I again reiterate that I have no objection to the legislation tonight.

I will be very much in opposition to any attempt next year to use the interest, unless the foundation has made a very good-faith effort to raise their part of the money.

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

Mr. GOODLING. I yield to the gentleman from Colorado.

Mr. ALLARD. Mr. Speaker, today I join with my distinguished colleague, Congressman NORMAN SISISKY, in supporting H.R. 3932, a bill which will improve the operational efficiency of the James Madison Memorial Fellowship Foundation. Since coming to Congress, I have been a strong supporter of the education programs of the Madison Foundation.

Under the direction of Adm. Paul A Yost, the former Commandant of the U.S. Coast Guard, the foundation is in its first year of full operation. However, Admiral Yost, and the trustees of the foundation have indicated that there are several provisions which need to be addressed in order to improve the operations of the foundation.

This legislation does three things: First, it allows existing members of the board of trustees of the foundation to continue serving at the end of their term until the President of the United States either reappoints that trustee or he appoints that trustee's successor. This will allow the foundation to continue its operations more efficiently because there will be a fully functioning board of trustees at all times to oversee the foundation's activities.

Second, a typographical error is corrected in the foundation's original legislation.

Third, the foundation will be relieved of its current mandate to raise an additional $10 million from private and other sources before fellowships can be awarded. Raising this large amount of funds has proven to be difficult, and there is a great need for the foundation to be in operation before potential donors are comfortable in funding the foundation's educational programs.

I want to assure the members of the House that this legislation does not allow the foundation to spend any of its original $20 million trust fund. The foundation will only be able to use the interest the trust fund has accrued. The foundation fully intends to continue to raise funds from private and other sources.

Finally, I would like to point out to my colleagues that the Office of Management and Budget has reviewed this legislation and has given its approval of its enactment.

I ask that my colleagues join me in supporting this important legislation which will help the Madison Foundation accomplish the mandate on educating our Nation's secondary school teachers.

Mr. GOODLING. Mr. Speaker, I want to make sure that the third gentleman from Pennsylvania just speaking was not speaking of this gentleman, the first gentleman from Pennsylvania, when he said that he did not know what was in the legislation. I know very well what is in the legislation.

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

Mrs. LOWEY of New York. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MFUME). The question is on the motion offered by the gentlewoman from New York [Mrs. LOWEY] that the House suspend the rules and pass the bill, H.R. 3932.

The question was taken; and on a division (demanded by Mr. WALKER) there were—yeas 14, nays 3.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

□ 2140

GENERAL LEAVE

Mrs. LOWEY of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3932 the bill just considered.

The SPEAKER pro tempore (Mr. MFUME). Is there objection to the request of the gentlewoman from New York?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONOR OF H.R. 2797

Mr. HANCOCK. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 2797.

The SPEAKER pro tempore is there objection to the request of the gentleman from Missouri?

There was no objection.

COMMENDING PEOPLE OF GUAM AND HAWAII FOR SACRIFICES AND CONTRIBUTIONS MADE DURING WORLD WAR II

Mr. DE LUGO. Mr. Speaker, I move the House suspend the rules and pass the resolution (H. Res. 293) commending the people of Guam and Hawaii for the sacrifices and contributions they made during World War II.

The Clerk read as follows:

H. RES. 293

Whereas on December 8, 1941, the Imperial Japanese Forces attacked the territory of Guam;

Whereas such forces bombed the marine barracks of the United States in the village of Sumay, the Piti Navy Yard, the U.S.S. Penguin, and the U.S.S.R.L. Barnes;

Whereas on December 10, 1941, Guam became the only populated community of the United States to be invaded and forcibly occupied by such forces;

Whereas the residents of Guam, particularly the resident forces of the United States Navy and Marine Corps and the local force known as the Navy Insular Force, valiantly defended the territory in the face of overwhelming opposition;

Whereas the Navy Insular Force was singled out by its commander for its defense of the Governor's Palace at the Plaza de Espana;

Whereas Guam was occupied by the enemy for 32 months, until the armed forces of the United States liberated the territory in July 1944;

Whereas, throughout the occupation, individuals on Guam were beaten or executed for remaining loyal to the United States, for aiding and providing food to imprisoned members of the armed forces of the United States, and for hiding members of the armed forces of the United States from the enemy;

Whereas the people of Guam were denied basic civil liberties and were forced to construct airstrips, dig caves, install antilanding barriers, grow food, and raise livestock for the Imperial Japanese Forces;

Whereas the people of Guam were deprived of sufficient food, clothing, and medical care by such forces;

Whereas a number of Chamorro men were executed for refusing to reveal the whereabouts of a sailor from the United States who was hiding on Guam;

Whereas the people of Guam were forced to live in a concentration camp under inhuman conditions;

Whereas in Tinta on July 15, 1944, and again in Faha on July 16, 1944, 30 residents of Merizo, Guam were taken into a cave and executed by members of the Imperial Japanese Forces;

Whereas on December 7, 1941, military installations of the United States in the territory of Hawaii, including Pearl Harbor, were attacked by armed forces of Japan;

Whereas among the defenders of Hawaii were the 298th and 299th Infantry Regiments, which included large numbers of Hawaii National Guardsmen who had been mobilized previously and residents of Hawaii who had been drafted in 1940 and 1941;

Whereas the 2,403 Americans killed in that attack included 68 civilian residents of Hawaii;

Whereas residents of Hawaii employed in civilian jobs at Pearl Harbor and other military installations responded courageously by manning anti-aircraft guns, fighting fires, tending to the wounded, and performing rescue operations;

Whereas individuals at Pearl Harbor Naval Ship Yard performed heroic work in raising and repairing the ships of the Pacific Fleet of the United States which had sunk or sustained damage during the December 7th attack, which work resulted in the return to active service of 18 out of 21 such ships;

Whereas such individuals played a vital role in making the Pacific fleet fit to fight in subsequent battles of World War II;

Whereas the University of Hawaii Reserve Officers' Training Corps was mobilized to defend Hawaii against the threat of imminent enemy invasion, making such corps the only unit of the Reserve Officers' Training Corps to be mobilized for active duty;

Whereas the members of the such corps and other residents of Hawaii were activated into the Hawaii Territorial Guard for the purpose of defending the Hawaiian islands;

Whereas the loyalty of Americans of Japanese Ancestry came under unjustified suspicion in the aftermath of the attack on Pearl Harbor even though many of the residents of Hawaii who assisted courageously in the defense of Pearl Harbor and other military installations on December 7, 1941, as well as many of those uniform poised in defense of Hawaii, were Americans of Japanese Ancestry;

Whereas such unjustified suspicion resulted in the wrongful internment of some 110,000 Americans of Japanese Ancestry;

Whereas Hawaii was placed under martial law from 1941 to 1944 and its people were denied a number of fundamental constitutional rights, such as the right to petition for habeas corpus;

Whereas the imposition of martial law suspended the constitutional provisions which protected minorities, compounding the difficult situation of Americans of Japanese Ancestry;

Whereas Americans of Japanese Ancestry in the territory of Hawaii were unjustly discharged from the Hawaii Territorial Guard and removed from combat units;

Whereas such individuals, who resolved to demonstrate their loyalty, engaged in volunteer defense work by enlisting in the Varsity Victory Volunteers and similar organizations;

Whereas such individuals, when they were permitted to serve in combat units, demonstrated beyond question their loyalty by volunteering to serve in the armed forces of the United States in record numbers; and

Whereas such individuals compiled extraordinarily distinguished records in the 100th Infantry Battalion, the 442nd Regimental Combat Team, and the Military Intelligence Service: Now, therefore, be it

Resolved, That the House of Representatives commends—

(1) the people of Guam for their patriotism, bravery, loyalty to the United States, and many sacrifices during World War II, particularly during the invasion and occupation of the territory of Guam;

(2) the members of the Navy Insular Force and United States Navy and Marine Corps for the efforts and sacrifices they made in defense of the United States;

(3) the people of Hawaii for their sacrifices and contributions to the war effort of the United States, particularly during the attack on Pearl Harbor on December 7, 1941; and

(4) the members of the Hawaii Territorial Guard, the Varsity Victory Volunteers, the civilian workers at Pearl Harbor Naval Ship Yard and other military installations in Hawaii, the 100th Infantry Battalion, the Military Intelligence Service, and the 442nd Regimental Combat Team for their sacrifices and contributions to the war effort of the United States, particularly during the attack on Pearl Harbor on December 7, 1941.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virgin Islands [Mr. DE LUGO] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

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

Mr. Speaker, as the title of the resolution states, House Resolution 293 would commend our fellow Americans in Guam and Hawaii for the sacrifices and contributions they made during World War II.

It recounts some of these sacrifices and contributions in great and—in some cases—painful, detail. And as dramatic and horrifying as some of these details may sound, they are not exaggerated.

In fact, there is even more that could be said if a complete description of the suffering of our fellow Americans in Guam and Hawaii were given.

The resolution, further, commends the people of Guam for their patriotism, bravery, loyalty, and sacrifices during the war; those who defended our Nation in what were then both territories; and the people of Hawaii for their sacrifices and contributions, particularly during the attack on Pearl Harbor.

We certainly cannot say too much in these areas.

The 50th anniversary of the attack on Pearl Harbor—and the 50th anniversary

of the invasion of Guam—is, of course, an appropriate time for the House to remember the deeds of these Americans and thank them for what they did.

And we should do so with more than just a mere passing through.

One reason is that their sacrifices and contributions were so great and so important.

Another, though, is that while World War II may now be a distant memory for some Americans, the painful memories have not faded for many of the people who were in the front line in the Pacific.

In fact, some of the sadder legacies of World War II are the very real problems related to it that we still face in Guam. Indeed, they are such powerful issues that they affect consideration of the island's relationship to the rest of our country, a matter that is now being reconsidered.

Guam is the only present United States territory with a sizable population occupied by enemy forces during the war. The attack on lightly-fortified Guam—which occurred almost simultaneously with the attack on Pearl Harbor—was followed by the subjugation of the people to enemy military rule.

The hardships of this time were tremendous: Guamanian people were denied basic human rights in their own homeland; they were imprisoned, forced to labor, tortured, and murdered, often by beheading.

They were made to suffer precisely because of their patriotism.

Then, their island was virtually destroyed during its liberation by U.S. forces. And, later, their land was often unfairly taken by their liberators.

I first came to understand the emotion and importance attached to the issues dating to this period when I learned of them from our late colleague Antonio Won Pat, whose own brother was, I believe, executed by the enemy when it occupied the island. Of course, Tony served with distinction for many years in this House.

I have also come to understand this matter from Tony's successor, our colleague BEN BLAZ, who himself suffered hardships inflicted by the enemy during his youth.

The gentleman from Guam has pressed for action on two measures to respond to these issues. One would return land unfairly taken from his people by the U.S. military that is no longer needed by the military. The other would compensate his people for war suffering and losses, an issue on which we have also worked with Senator George Bamba of Guam.

The Subcommittee on Insular and International Affairs, which I am privileged to chair, has spent a lot of time—through oversight and legislation—on both of these matters as well as on the very important question of the future Guam-United States relationship, which they influence.

I know that I am joined by the gentleman from California [Mr. LAGOMARSINO] the ranking Republican of the subcommittee, as well as the gentleman from Guam, when I say that we very much hope that we will be able to reach agreement with all concerned on these matters.

So, I regard this resolution, in part, as a step that we can take now to demonstrate our sincere appreciation to the people of Guam along a path of concluding our responsibilities to them arising out of World War II.

Another step that we can certainly take next year is to provide the funds needed to acquire the land designated as the war in the Pacific National Park in 1978.

I hope that the park will be fully operational before the 50th anniversary of the liberation of Guam 2½ years from now. I also hope that the American Memorial Park in the nearby North Mariana Islands, which would also commemorate World War II suffering, will be fully funded by then.

While it is difficult to resolve many of these issues relating to World War II in our Pacific insular areas, the extent of the sacrifices and the fervor of the people compel us to continue to keep trying to do so.

So, it is with a deep sense of duty and appreciation that I urge the House to approve this resolution, recalling the immeasurable suffering of the people of Guam and Hawaii during that time of adversity and commending them for their bravery and loyalty. It should never be forgotten.

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

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

Mr. Speaker, I rise in strong support of House Resolution 293 introduced by my colleague BEN GILMAN, Which commends our fellow United States citizens in Guam and Hawaii for their courageous sacrifices and contributions made during World War II. Many of their individual efforts have become legendary particularly among those who joined the U.S. Armed Forces and served with great distinction. SENATOR DANIEL INOUYE of Hawaii is a great example of one who took up the call to arms in defense of our country and was decorated for his bravery on the battlefield.

My good friend from Guam, BEN BLAZ, also lived through the occupation of Guam seeing firsthand the terrors of war and the joys of liberation by the United States Armed Forces. He later joined the Marine Corps and rose through the ranks to become general. It has indeed been a pleasure and an honor to work with General Blaz and to serve with him on the Committee on Interior and Insular Affairs and the Committee on Foreign Affairs. Not only has he distinguished himself in his prior military career, he has made his mark here in the Congress as well. His handling of the very complicated California Desert Protection Act is a testament to the excellence of his work.

There are also many unsung heroes from Guam and Hawaii who gave their lives or parts of their lives as a result of their loyalty to the United States during the war. This became dramatically evident during hearings which were held by the Subcommittee of Insular and International Affairs on which I serve regarding World War II war reparations. Many of the survivors of the atrocities of World War II told horrific tales of torture and forced labor during the occupation of Guam. One woman showed the broad red scar stretching across the back of her neck where enemy forces had attempted a beheading and left her for dead among other victims. This U.S. citizen is only one of many who suffered the trials of World War II while remaining loyal to the United States and who deserve more than public recognition.

I have worked closely with the Chairman of the Subcommittee on Insular and International Affairs, RON DE LUGO, to develop Guam war reparations legislation which would be equitable to all and acceptable to the Senate and the administration. In spite of our efforts in the last Congress, opposition in Guam arose to the war reparations legislative compromise based on the false assumption that greater reparation levels could be obtained.

As we approach the 50th anniversary of the start of World War II, it is fully appropriate and necessary to remember the challenges endured by our fellow U.S. citizens in two great Pacific archipelagoes: the Marianas and Hawaii. I urge my colleagues to join in commending the people of Guam, the southernmost island of the Mariana Islands, and Hawaii for the sacrifices and contributions made during World War II. Perhaps one day restitution will be provided for those who suffered the tribulations of occupation in the same spirit which recognition is given through this resolution.

□ 2150

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

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

Mr. Speaker, I again want to urge my colleagues to approve this measure so that the people of Guam and Hawaii will know how much the House of Representatives appreciates their tremendous sacrifices and contributions made during World War II. Finally, I want to commend our colleagues, the gentleman from Guam [Mr. BLAZ], the gentleman from New York [Mr. GILMAN], the gentleman from Hawaii [Mr. ABERCROMBIE] and others for proposing this resolution.

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

Mr. LAGOMARSINO. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN], the author of the resolution.

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of House Resolution 293 along with my colleagues, the gentleman from Guam [Mr. BLAZ], the gentleman from New York [Mr. SOLARZ], the gentleman from Hawaii [Mr. ABERCROMBIE], the gentleman from Iowa [Mr. LEACH], the gentleman from American Samoa [Mr. FALEOMAVAEGA], and the gentleman from California [Mr. LAGOMARSINO] who joined with me in sponsoring this legislation commending the people of Guam and Hawaii for their sacrifices and their contributions to the allied effort during World War II. I want particularly to commend my good friend, the gentleman from Guam [Mr. BLAZ], for his dedication and diligent work on behalf of his constituents and all the veterans, as well as the gentleman from Hawaii [Mr. ABERCROMBIE] on behalf of his constituents, and I thank the gentleman from the Virgin Islands [Mr. DE LUGO], the distinguished subcommittee chairman, and the distinguished ranking minority member of that committee, the gentleman from California [Mr. LAGOMARSINO].

Mr. Speaker, the date of December 7, 1941, is the day that will long live in infamy and will live forever in the minds of all Americans. Virtually every American recognizes the significance of that fateful day which brought the United States into the Second World War. However December 8 also represents a terrible day for Americans and freedom. On that day the Imperial Japanese forces attacked the Territory of Guam, bombing the village of Sumay, the Piti Navy Yard, the U.S.S. *Penguin* and the U.S.S. *R.L. Barnes*, and on December 10, 1941, Guam became the only populated community of the United States to be invaded and forcefully occupied by Japanese forces.

Mr. Speaker, one unfortunate result of these terrible attacks was the suspicion and internment of some 110,000 Americans of Japanese ancestry. This measure appropriately recognizes the partiotism and loyalty of many Americans of Japanese ancestry who served during World War II in the Armed Forces of the United States.

This resolution also specifically recognizes the outstanding contributions of individuals of the 100th Infantry Battalion, the 44th Regimental Combat Team and the Military Intelligence Service, all of whom served in World War II.

Finally, Mr. Speaker, this resolution recognizes the efforts of the Navy Insular Force, and the U.S. Navy and Marine Corps for their efforts and many sacrifices on behalf of our Nation in that part of the world.

Mr. Speaker, the original cosponsor of this resolution, the gentleman from Guam [Mr. BLAZ], regretted that an overseas mission prevented him from taking part in this discussion, and he has asked that his remarks be made part of the RECORD of this debate. The gentleman from Guam, in noting "America's Forgotten Patriots," stated:

> I'd like to remind my colleagues that the word "forgotten" is used bittersweetly, for all too often the people of Guam have had to ask, "How can we be forgotten when we were not remembered in the first place?"

Mr. Speaker, I thank my colleagues for their generous support for this measure, and I again commend the people of Guam and Hawaii for their extensive sacrifices.

Mr. LAGOMARSINO. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Speaker, I would just like to add my voice of support to this piece of legislation.

As we have heard this evening, the people of Guam were attacked simultaneously with the people of Hawaii and Pearl Harbor, the American sailors there at Pearl Harbor, and, as we also have noted tonight, there was a great deal of heroism that some of our fellow Americans have not remembered, that the people of Guam, they were probably some of the most heroic citizens of the war, and yet for so often now, as we are looking at this 50th anniversary, their heroism has been totally forgotten.

Mr. Speaker, that is why this legislation is so important. These were Americans. The Japanese who invaded those islands knew they were Americans, and they treated them like they were occupying American territory.

Now I will never forget as a kid my dad was a Marine lieutenant colonel, and we know a lot about the Marines and about what was going on in World War II, but one story that I heard about was some of the Marines and some of the military people there who survived the Japanese attack and went into the countryside in Guam, for years Guamanians went and took them at great personal risk. These people, if they would have been caught giving aid to these Americans hiding out from the Japanese; as a matter of fact, some of them were executed, and I think a couple of the Americans survived. I remember reading the story about one of these men, and Harry was telling me about brave Guamanians who would come and give them food. That was the only thing that helped them survive, and then of course, after the harsh years of occupation, what happened? The Americans came to liberate the island, and of course, as is true with a great military, we obliterated everything in our path, and these heroic people who loved this country; their heart just tingles when they see the American flag, and, after going through all this suffering from World War II, and then to have their island obliterated while it was being liberated, it is just something that we Americans cannot afford to forget at this 50th anniversary.

What always brings this to mind is of course that our colleague, this gentleman, but this brave man, this courageous man who serves with us, the gentleman from Guam [Mr. BLAZ], and he of course, as we know, he himself is an American hero, not necessarily for what he did in World War II because I am not sure what it was, and he has told us he did some things then, but we know what he did in Vietnam, we know what he did as a soldier, and we know what Guamanians have been doing these last 50 years to protect this country and to promote the cause of human freedom throughout the world.

Mr. Speaker, this is something we should all be grateful for. This resolution helps us express that in just one little way, just to say we are grateful to these people. We are grateful to the people of Hawaii, but, yes, we are grateful to these Americans, these Americans in Guam who have been such wonderful Americans, and done so much for our country and shown us what kind of people Americans are all about, and they are the people of Guam.

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of House Resolution 293, legislation I introduced along with my colleagues Mr. BLAZ, Mr. SOLARZ, Mr. ABERCROMBIE, Mr. LEACH, Mr. FALEOMAVAEGA, and Mr. LAGOMARSINO commending the people of Guam and Hawaii for their sacrifices and their contributions to the Allied effort during World War II, and I want to particularly commend my good friend, the gentleman from Guam [Mr. BLAZ] for his dedication and diligent work on behalf of his constituents and the gentleman from Hawaii, Mr. Mr. ABERCOMBIE, and all veterans and I thank the gentleman from the Virgin Islands, the distinguished Committee Chairman, Mr. DELUGO, and the distinguished ranking Minority member, the gentleman from California, Mr. LAGOMARSINO.

The day of December 7, 1941, is a day that will live in infamy forever in the minds of Americans. Virtually every American recognizes the significance of that fateful day which brought the United States into the Second World War. However, December 8, 1941, also represents a terrible day for Americans and freedom. On that day the Imperial Japanese forces attacked the Territory of Guam, bombing the village of Sumay, the Piti Navy Yard, the U.S.S. *Penguin,* and the U.S.S. *R.L. Barnes.* On December 10, 1941, Guam became the only populated community of the United States to be invaded and forcibly occupied by Japanese forces.

One unfortunate result of these terrible attacks was the suspicion and internment of some 110,000 Americans of Japanese ancestry. This measure appropriately recognizes the patriotism and loyalty of many Americans of Japanese ancestry who served during World War II in the Armed Forces of the United States. The resolution specifically recognizes

the outstanding contributions of individuals of the 100th Infantry Battalion, the 44th Regimental Combat Team, and the Military Intelligence Service.

Finally, this resolution recognizes the efforts of the Navy Insular Force, and the United States Navy and Marine Corps for their efforts and sacrifices on behalf of the United States.

Mr. Speaker, the original cosponsor of this resolution, the gentleman from Guam, Mr. BLAZ, regreted that an overseas mission prevented him from taking part in this discussion and has asked that his remarks be made a part of the record of this debate. Mr. BLAZ, in noting "America's Forgotten Patriots," stated: I would like to remind my colleagues that the word forgotten is used bittersweetly, for all too often the people of Guam have to ask "How can we be forgotten when we were not remembered in the first place?"

Mr. Speaker, I thank my colleagues for their support for this measure and I again commend the people of Guam and Hawaii for their sacrifices.

Mr. BLAZ. Mr. Speaker, as we prepare to celebrate this Thanksgiving holiday, I am particularly humbled that the Congress is extending this accommodation and expression of gratitude to the people of Guam for their service to America. At this time, I would like to insert in the Record "America's Forgotten Patriots" remarks I delivered in the House on November 21, 1991. I would like to remind my colleagues, however, that the word forgotten is used bittersweetly, for all to often the people of Guam have to ask "How can we be forgotten, when we were not remembered in the first place?"

I am very grateful to the gentleman from New York, Mr. BENJAMIN GILMAN for extending this courtesy to the people of Guam. It is the most this Congress can give for them, and it is the least that they deserve.

AMERICA'S FORGOTTEN PATRIOTS

Mr. BLAZ. Mr. Speaker, as thousands gather in Hawaii on December 7 to commemorate the 50th anniversary of America's entry in World War II, hundreds of journalists and photographers will memorialize the event and broadcast it to the entire world. A million words will be spoken by the President of the United States and other dignitaries to honor the memories of the hundreds of soldiers, sailors, Marines and civilians who were killed and wounded on that infamous day 50 years ago at Pearl Harbor.

As tragic and as devastating as that assault on Pearl Harbor was 50 years ago, we have learned that little note has been made and even less has been remembered about the attack on that other harbor—Apra Harbor, on Guam. This other attack bears striking similarities to the one at Pearl Harbor: same time, same enemy, same American blood, same shattering of a peaceful island community.

Yet, for all these similarities, there is at least one major difference worth noting: Whereas Hawaii was attacked, Guam was attacked * * * and invaded * * * and captured * * * and occupied. For almost 3 years, our people quietly suffered the burden of hostile occupation by enemy forces. No other American territory has suffered the same fate.

As excruciating and as harrowing as this occupation would later prove to be, our people did not surrender without a fight and did not stop fighting after the surrender. In the face of an overwhelmingly larger enemy force, a handful of U.S. sailors and U.S. Marines stood their ground. Standing beside them, with equal valor and courage but with even greater pride and determination, were the members of the Navy Insular Force. For these men, native Chamorros all, the defense of Guam meant the defense of home, family and honor. Although they wore the same U.S. Navy uniforms, their pay was exactly 1/2 that of their stateside comrades. Although they fought under the same U.S. flag, they were considered only half-brothers in the patronizing, colonial society on Guam at that time. Yet, when it came time to shed blood against foreign invaders, the Chamorros of the Navy Insular Force demonstrated their loyalty to the U.S. in the same way they demonstrated their love for the U.S. principles of freedom and democracy: not halfheartedly, but totally and whole-heartedly.

Regrettably, this chapter of American history appears to have slowly faded into the recesses of our Nation's collective subconsciousness. While our country may not remember the lives that were lost, the families that were torn asunder and the homes that were destroyed on that tragic day 50 years ago, these sacrifices are no less real to us and will forever be burned into the psyches of our people.

As a 13-year-old boy who witnessed these events half a century ago, I am often asked by friends and acquaintances to share my memories of that momentous and pivotal period in our history. There are many horrible and appalling stories I could tell about the atrocities inflicted upon our people—about mysterious disappearances of friends, about discoveries of decapitated corpses tied to trees, about clearing jungles under the barrel of a gun and about the hunger and deprivation of concentration camps. While the sting of remembering these events is very real to those who lived through them and should never be forgotten, I have decided over the years to remember also the brighter sides of that dark period.

There were long hours sitting on a log with our parents sharing their thoughts and experiences with us much like the generations before them had done.

There were the groups of neighboring farmers who pooled their strength to push back the jungle so we could plant.

There were men echoing each other's folk song at twilight as they cut tuba.

There were devout men who emerged among our group as natural leaders to lead us in prayer during our most trying and fearful moments as we labored to finish the airfield under incredible duress.

There was the young Japanese officer who taught me Japanese in exchange for my father teaching him English and who, after getting to know us, innocently asked my father why we were at war.

There were the U.S. Marines who, after hopping island to island, eventually liberated one of their own and seemed almost as glad as we were that they came back to Guam.

Under the adverse conditions of that time, I learned things that no school could ever teach me. I learned to give freely, even when there was nothing to share. I learned to be tolerant, even when conditions were intolerable. I learned to be strong, even though my body was weak. I learned to speak volumes in the silence of eye contact. And I learned the sweetness that can be found in the saltiness of sweat.

Looking around me now, 50 years later, I wonder if those of us who lived and died through those trying times were really ever forgotten—how can we be forgotten if we were never really remembered in the first place?

And those who claim to remember us now, do not really know us: Like the U.S. Postal Commission that just issued in 1991 a set of commemorative stamps for World War II that trivializes and dishonors Guam by labeling it a mere "outpost." Like some of the leaders of our great Nation who will congregate at Pearl Harbor in memory of the brave men and women who died there, but whose continuing unawareness of the Guam chapter of this momentous period in our history prevents them from returning the salute extended by the brave men and women of Guam 50 years ago.

On this, the 50th anniversary of World War II, and for the fathers, mothers, brothers, sisters, sons and daughters of Guam who lived and died through that period, I offer these humble words in proud salute and in eternal gratitude to those patriots whom America may have forgotten but whom Guam shall always remember.

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

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

□ 2200

The SPEAKER pro tempore (Mr. MFUME). The question is on the motion offered by the gentleman from the Virgin Islands [Mr. DE LUGO] that the House suspend the rules and agree to the resolution, H. Res. 293.

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

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DE LUGO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution just agreed to.

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

There was no objection.

RELEASE OF FUNDS FOR PROVIDING MEDICAL AND HUMANITARIAN ASSISTANCE TO IRAQI CITIZENS

Mr. DYMALLY. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 168) expressing the sense of the Congress that a portion of Iraq's frozen assets be released to UNICEF for the sole purpose of providing medical and humanitarian assistance to Iraqi citizens, as amended.

The Clerk read as follows:

H. CON. RES. 168

Whereas the suffering of Iraqi citizens, especially children, continues as verified by studies by the International Study Team led by representatives of Harvard University, by the United Nations, and by UNICEF in conjunction with representatives of Tufts Uni-

versity, and by reports of relief agencies working in Iraq;

Whereas infant and child mortality rates in Iraq reportedly have doubled since Iraq's invasion of Kuwait;

Whereas acute shortages of food and essential medicine, poor sanitation, and lack of clean drinking water have placed a substantial portion of Iraq's population of 18,000,000 at risk to water-borne diseases;

Whereas the Iraqi health care system is operating at a fraction of its former capacity;

Whereas the United States Government and the United Nations Security Council have established a mechanism to provide relief to Iraq through United Nations Security Council Resolutions 706 and 712;

Whereas Saddam Hussein is responsible for the continuing suffering of Iraqi citizens because of his continued intransigence in not cooperating with United Nations Security Council resolutions, his refusal to allow equitable distribution of food and medicines, and his obstruction of the delivery of humanitarian assistance by the United Nations and private relief agencies; and

Whereas the condition of Iraqi children is an international humanitarian concern that must be addressed immediately: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) condemns Saddam Hussein for refusing to comply with United Nations Security Council resolutions 706 and 712, preventing an equitable distribution of food and medicine to the Iraqi people, and blocking the delivery of humanitarian assistance by the United Nations and private relief agencies;

(2) commends the President and the United Nations Security Council for their efforts to address humanitarian concerns in Iraq through United Nations Security Council Resolutions 706 and 712 and supports their continued effort to gain Iraqi compliance with these resolutions; and

(3) urges the President, consistent with United Nations Security Council resolutions 706 and 712, to explore alternatives under the auspices of the United Nations to utilize and mobilize resources necessary to get an adequate supply of food and medicine to the vulnerable populations of Iraq, especially children.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. DYMALLY] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. DYMALLY].

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

Mr. Speaker, the resolution we have before us tonight should be examined very carefully because this resolution has nothing to do with praising or giving any credit to Iraq or Saddam Hussein. It is very specific, and it directs its attention to the vulnerable people of Iraq, especially the children, and directs that we provide some benefit through UNICEF to help these children of Iraq.

Mr. Speaker, I want to commend the gentleman from Minnesota [Mr. PENNY] for his commitment and his courage, because this is not a very popular issue to champion now, because once you mention the word "Iraq," people begin to have reverse reactions to the whole country. But these are children who are victims of man's inhumanity to man, and we are very pleased that the gentleman from Minnesota brought this to the attention of the Committee on Foreign Affairs, and we have today presented it to the Members of the House.

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

Mr. PENNY. Mr. Speaker, this resolution has gone through a variety of changes in the last several days and hours, and I appreciate the work of the many, many Members who have participated in assisting in the development of this legislation.

Mr. Speaker, for 6 long months we have watched as the death toll among young children in Iraq mounts. For the children of Iraq are in peril—not from bombs or bullets but from the effects of malnutrition and disease. This Thanksgiving while thousands of American children are feasting on roast turkey and all the trimmings, one thousand Iraqi children will likely die from starvation or illness.

Since May, study teams from a variety of institutions have been to Iraq and have reported on the troubling situation there. Much credit for drawing attention to the problems of Iraqi children in the aftermath of the gulf crisis should be given to the original Harvard study team whose initial findings reported that 55,000 Iraqi children had already died from starvation and disease and that thousands more would continue to die if conditions did not improve. Nearly concurrent with the Harvard study, a group of Arab-American doctors of the Arab-American Medical Association visited Iraq and publicized their findings with a report and videotape that was shared with every Member of Congress. Dr. Afran J. Al-Hani, a cardiologist from Chicago, has been tireless in his efforts to get assistance to Iraqi children, and it was my personal contact with him that gave me added incentive to move forward with my original resolution in June.

It was already clear in June that the children of Iraq needed assistance from the world community in order to guarantee their survival. Since many of their country's resources, such as the ability to provide electrical power, basic sanitation and clean water had been destroyed and Iraq's assets remained frozen, Iraq's ability to respond to its own children was terribly limited. It seemed that the best way to meet these needs was to use Iraq's own funds, in the form of assets frozen by coalition governments, to pay for humanitarian assistance delivered under United Nations' supervision. The original version of H. Con. Res. 168 proposed that a portion of Iraq's frozen assets be released to UNICEF for the sole purpose of providing medical and humanitarian assistance to Iraqi citizens. This resolution has gained the support of 91 of our House colleagues and I am grateful for their concern.

Other studies—one done on behalf of UNICEF by representations of Tufts University and one done under United Nations' auspices and led by Prince Sadruddin Aga Khan—corroborated and expanded the earlier findings. On August first, the International Task Force of the Select Committee on Hunger held a hearing on the situation in Iraq. Witnesses from Tufts University, UNICEF and Catholic Relief Services—all of which had "on the ground" experience in Iraq—testified to uniformly desperate conditions there—children wading through raw sewage on the streets, the lack of basic medicine, the ever-growing shortage of food.

The United Nations finally addressed the humanitarian crisis in Iraq in August when the Security Council passed Resolution 706 allowing Iraq to sell $1.6 billion worth of oil to pay for relief materials. Even as the resolution was passed, it was already known that the $1.6 billion would fall far short of the true amount needed to finance a minimum humanitarian aid effort in Iraq. The U.S. own estimate of the amount needed was $2.265 billion. However, in order for the flow of oil to begin, the resolution required that Iraq accept U.N. monitoring of relief efforts and oil pumping and that Iraq pay its first installment of reparations to Kuwait. Claiming that the resolution violates its sovereignty, the Iraqi government has thus far refused to comply with terms of the resolution. As a result, the country's children continue to suffer and die.

From August 23 to September 5, the international study team on the gulf crisis comprehensively surveyed the impact of the gulf crisis on the health and welfare of the Iraqi population. The team consisted of 87 researchers from a wide variety of disciplines including agriculture, electrical engineering, environmental sciences, medicine, economics, child psychology, sociology, and public health. The team visited all areas of Iraq and prepared an in-depth report on conditions there. They found: "The economic and social disruption and destruction caused by the gulf crisis has had a direct impact on the health conditions of the children of Iraq. Iraq desperately needs not only food and medicine, but also spare parts to repair basic infrastructure in electrical power generation, water purification, and sewage treatment. Unless Iraq quickly obtains food, medicine and spare parts, millions of Iraqis will continue to experience malnutrition and disease. Children by the tens of thousands will remain in jeopardy. Thousands will die."

With yet another study before us confirming what we had already known

and with Saddam Hussein's continued intransigence in refusing to accept the U.N. mechanism that would bring help and health to the Iraqi people, it left me and others concerned with this situation still asking the question: What can we do?

In an effort to answer that question, on November 13, the Select Committee on Hunger held a second hearing with witnesses from the International Study Team, Catholic Relief Services and the Department of State. In addition, Representative JIM MCDERMOTT from the Seventh District of Washington, who is also a physician, told of his experiences in Iraq during the month of August. By whatever standards used, the situation has not improved since the initial visits by monitoring teams last spring.

Although House Concurrent Resolution 168 proposed the use of assets to provide assistance, I was most willing to go along with either oil sales under the U.N. resolution or with the release of assets as the means by which humanitarian aid gets to Iraq. Since the Iraqis were not accepting the mechanism for oil sales, it seemed that release of assets might again be a reasonable approach to follow. While U.N. Resolution 706 does permit the use of frozen assets for humanitarian purposes in Iraq, the Bush Administration remains opposed to this approach and has advised other governments not to release assets.

It appears that we are at a stalemate on this issue. All the while, time is running out for the children of Iraq. Hundreds more children are dying or having their futures put at risk by lack of proper nutrition and medical care during critical developmental stages in their lives.

The time has passed when we can continue to wait for oil sales to move forward. Therefore, I believe we should press for another creative solution to this situation. One thing is certain: Saddam has put politics ahead of children's lives and futures. In order to save these children it is time for the world community to marshal an international effort equal to the cooperative effort demonstrated during the gulf crisis.

Passage of House Concurrent Resolution 168 as amended makes it clear that we want to act now. The resolution condemns Saddam for refusing to comply with the U.N. resolutions and calls upon President Bush to explore other U.N. alternatives consistent with resolutions 706 and 712 to get an adequate supply of food and medicine to the vulnerable populations of Iraq, especially Iraq's children.

I am grateful for the support and help of many individuals in bringing this resolution to the floor today. My thanks to the Foreign Affairs Committee, particularly Chairman FASCELL and ranking member Mr. BROOMFIELD; and to Chairman HAMILTON and Mr. YATRON whose subcommittees held jurisdiction over the legislation and to their ranking members Mr. GILMAN and Mr. BEREUTER. These subcommittees also graciously allowed me to sit with them on two occasions and ask questions of U.N. Ambassador Pickering on this issue.

The continued activity of the Select Committee on Hunger, under the direction of Chairman HALL and ranking member EMERSON, and, especially the strong leadership demonstrated by International Task Force Chairman DORGAN, was vital to keeping the plight of the children before the Congress and the public. The personal interest of Representative JIM MCDERMOTT in making a private trip to Iraq speaks volumes of the depth of his commitment. Additionally, I gratefully acknowledge the staffs of the Foreign Affairs and Hunger Committees for their assistance and the courtesy shown to me and my staff.

As we act on this legislation today, we say to the children of Iraq: we hear you and we will find a way to help you.

I urge adoption of this resolution.

Mr. DYMALLY. Mr. Speaker, briefly, let me express my thanks to the gentleman from Michigan [Mr. BROOMFIELD] for his cooperation in this matter, as well as to the gentleman from Indiana [Mr. HAMILTON], the gentleman from New York [Mr. GILMAN], and the gentleman from Nebraska [Mr. BEREUTER].

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

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

Mr. Speaker as a cosponsor, I strongly support House Concurrent Resolution 168 as amended, and commend Congressman Penny for his perseverance in bringing this matter before the House. I also commend the subcommittees for their work under Chairmen HAMILTON, and YATRON and Congressmen GILMAN and BEREUTER. Finally, I wish to recognize Committee Chairman Fascell for his leadership on this important issue.

This resolution, in its current form, was drafted in close consultation with the administration. The administration has no objection.

Mr. Speaker, what we are witnessing now in Iraq is but the latest chapter in a long saga of contempt for human life by Saddam Hussein. Just when it seemed that the Iraqi dictator had committed every atrocity imaginable, he has manifested a new resourcefulness for inflicting human suffering.

Reports by the United Nations and other organizations indicate that in Iraq there are acute shortages of food and medicine, that there is inadequate sanitation, and that clean drinking water is increasingly scarce. As a result, malnutrition and disease are increasing substantially, particularly among women and children.

How did this catastrophe happen? Did the United Nations target the civilian population of Iraq? Did the United States seek to punish the people of Iraq, or stand in the way of humanitarian relief to vulnerable populations in Iraq? Of course not.

Mr. Speaker, the responsibility for this disaster—like the responsibility for the war which preceded it—lies squarely with the Tyrant from Tikrit, Saddam Hussein. The fact is that food and medicine are not included in the U.N. embargo of Iraq.

Moreover, U.N. Security Council Resolutions 706 and 712—which were adopted under the leadership of the United States—established a mechanism for the Iraqi government to alleviate the suffering that is taking place. These resolutions permit Iraq to sell up to $1.6 billion worth of oil in order to pay for urgently needed food, medicine, and other humanitarian items.

What has been Saddam Hussein's response? He has refused to comply with these Resolutions. Worse, he has thwarted the distribution of food and medicine to vulnerable populations inside Iraq. Instead, he has actually directed humanitarian assistance to his supporters.

This resolution condemns these deplorable actions, and it commends President Bush and the U.N. Security Council for their efforts to alleviate the suffering of the people of Iraq. It also urges the President, in coordination with the United Nations, to explore alternative ways of delivering humanitarian aid to Iraq.

Mr. Speaker, this is an important and timely resolution, and I urge its adoption.

□ 2210

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

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN], a member of the Committee on Foreign Affairs.

Mr. GILMAN. Mr. Speaker, I am pleased to rise to strongly endorse H. Con. Res. 168 and I commend the gentleman from Minnesota, Mr. PENNY, for introducing this resolution.

Saddam Hussein's barbarity toward the people of Kuwait is now being exceeded by the atrocities that he is inflicting on his own people. This brutal dictator is engaged in systematically depriving the Iraqi people of access to food, medicine, and other humanitarian supplies. Saddam Hussein continues to flout United Nations security council resolutions number 706 and number 712, diverting supplies to his supporters, and blocking the delivery of humanitarian relief by the United Nations and private relief organizations.

Mr. Speaker, I join in saluting President Bush and the U.N. Security Council for their diligence in establishing a

special mechanism to facilitate humanitarian relief for Iraq, and in continuing to seek to obtain Iraq's compliance with security council resolutions number 706 and number 712.

I urge my colleagues to encourage the President, through the United Nations, to consider alternatives to bring timely relief to the people of Iraq as they continue to suffer under the deprivations of their despotic dictator.

Mr. BROOMFIELD. Mr. Speaker, I yield such time as he may consume to the gentleman from Nebraska [Mr. BEREUTER], a member who worked very hard on this resolution.

Mr. BEREUTER. Mr. Speaker, as ranking member of the Subcommittee on Human Rights and International Organizations, this member rises in strong support of House Concurrent Resolution 168.

Few things have been more heartbreaking, Mr. Speaker, than the suffering that the Iraqi people have experienced because of the leadership of Saddam Hussein since the end of the gulf war. Because of Saddam Hussein's continued flaunting of the cease-fire agreement and the subesequent U.N. Security Council resolutions, the country of Iraq faces a situation where hundreds of thousands of innocent civilians are at risk. And we know, Mr. Speaker, that countless thousands would have perished had not the United States and other nations come to the assistance of the Kurdish population in northern Iraq through "Operation Provide Comfort."

It is clear that Saddam Hussein is using the suffering of his people for his own perverse political gains. He refuses to use revenue to be generated by the sale of Iraqi oil under U.N. direction. Regions that did not unwaiveringly support Saddam's war effort are now paying the price. We know, for example, that Saddam has targeted specific communities where existing stocks of food and medicine have been seized. It is these communities, in turn, that Saddam Hussein has displayed to visiting media and dignitaries to reflect the suffering of his people. Such is the character of Saddam Hussein.

Moreover, Saddam Hussein has done his best to manipulate international relief efforts. He has diverted food supplied by the World Food Program [WFP], and given that food to the army and to party loyalists. His interference has been so serious that organizations such as the WFP and UNICEF refused to participate as long as Saddam Hussein continues to control the distribution of aid.

There is a U.N. mechanism to fund relief activities through the sale of Iraqi oil, but thus far Saddam Hussein is trying to wait out the international community. He is refusing to sell oil as long as the profits go to support U.N. humanitarian activities.

While we are all rightly outraged at the intolerable behavior of the Iraqi Government, we cannot ignore the starvation of the innocent civilians of that nation. The suffering and starvation are real. The disease and lack of medicine are real. House Concurrent Resolution 168 says that we do not quitely accept the barbarism of Saddam Hussein. It says that the United States should work with the U.N. to look for creative ways to assist the suffering people of Iraq.

Mr. Speaker, while House Cononcurrent Resolution 168 addresses the immediate problem of disease and malnutrition in Iraq, we should not delude ourselves. The problem will persist so long as the Iraq leadership has no regard for its own population. The Subcommittee on Human Rights and International Organizations, together with the Subcommittee on Europe and the Middle East, already have conducted a series of hearings on this very subject. This Member has no doubt that these hearings and appropriate pressure will continue as long as Saddam Hussein remains in power. Simply put, we will not let this issue fade away.

Mr. Speaker, this Member would take a moment to recognize the dedicated efforts of the author of this resolution, the distinguished gentleman from Minnesota [Mr. PENNY]. As a member of the Select Committee on Hunger, he has performed yeoman's work. He has effectively worked to make us all aware of the terrible suffering that is taking place in Iraq and to advance this resolution; this body is in his debt.

Mr. Speaker, this Member urges the adoption of House Concurrent Resolution 168.

Mr. HALL of Ohio. Mr. Speaker, I rise in support of the resolution offered by my colleague from Minnesota, TIM PENNY. I would also like to commend Mr. PENNY for all his fine work and leadership on the issue of humanitarian aid to Iraq. He has pursued this issue tirelessly and with great compassion since he first became aware of the growing humanitarian disaster in much of Iraq. I believe this resolution shows great flexibility in urging the President to assert greater leadership at the United Nations to find more resources to get food and medicine to the vulnerable populations of Iraq, especially children.

Mr. Speaker, this is a resolution that I believe deserves support from every Member of Congress. The United States has tried hard, through United Nations Security Council Resolutions 706 and 712, to get the Iraqi Government to allow more humanitarian aid in by using revenues from its oil sales. However, tragically, Iraq refuses to cooperate with even this measure to help their own people. But this does not mean we can give up trying—we cannot stand by and let the innocent women and children of Iraq continue to die. We have a moral obligation to try harder.

The International Task Force of the Select Committee on Hunger has held two hearings on the humanitarian situation in Iraq. The most recent one, on November 13, was even more depressing than the one last summer. Conditions have continued to deteriorate to the point where the infant and child mortality rates have at least doubled, if not tripled, since the gulf crisis. The International Study Team, a group of public health experts from Harvard and elsewhere, has just issued a second report on conditions in Iraq which paints a picture of a continuing downward spiral. There are widespread shortages of food, essential medicines, and safe water. A witness from the study team reported seeing raw sewage running through a hospital. Not surprising, these conditions have led to a public health disaster; water-borne diseases, such as cholera, are epidemic; and have increased by as much as one hundredfold in some areas.

Mr. Speaker, I know, from my constituents, that the American people don't want the children of Iraq to pay for Saddam Hussein's actions. I know that they strongly support providing humanitarian aid to the children and mothers of Iraq. This resolution urges the administration to do its utmost to provide that aid. I urge my colleagues to support the resolution.

Mr. MCDERMOTT. Mr. Speaker, I commend my colleague, Mr. PENNY for sponsoring House Concurrent Resolution 168 and for his efforts to find a way to provide humanitarian aid to the people of Iraq. Mr PENNY has worked for months on this issue. His original proposal to use Iraqi frozen assets to pay for humanitarian aid is worthwhile and I am one of the 92 Members of the House who cosponsored this legislation. However, it is clear this idea is unacceptable to the administration and so we must urge the administration to seek other solutions.

House Concurrent Resolution 168, as it is now written, will not solve the public health crisis in Iraq, but certainly this resolution will send a message to the State Department and the United Nations that Congress is becoming increasingly concerned about the disasterous conditions in Iraq and the United States' response to this situation.

I traveled to Iraq in August with a human rights group as a physician examining the state of its public health system. I saw the devastation of Iraq's infrastructure wrought by the strategic bombing of the Allied Forces. The most essential aspects of a society's public health system—water, electricity, and sewage systems—were destroyed by our military assault, and these systems have yet to be adequately reconstructed.

The health of the Iraqi people is spiraling downward. The hospitals are filled with malnourished children suffering from cholera and typhoid because there is no clean water. Women are dying in childbirth because there is no anesthesia to perform cesearean sections. Diabetics are in comas because there is no insulin, and people are suffering strokes because there is no high blood pressure medication. The health care situation was critical when I was there in August, and surely it is worse today. The recent report released by

the Harvard School of Public Health investigative team confirms this.

A massive humanitarian aid effort is desperately needed in Iraq. This effort must be coordinated among the International Red Cross, the Red Crescent and the Iraqi distribution system. The relief organizations cannot deliver aid in a country of 18 million people without the use of its existing distribution system.

The administration apparently is hopeful that the U.N. resolution allowing Iraq to use proceeds from its oil sales to purchase food and medical supplies will alleviate the suffering of its people. However, the most recent negotiations between the U.N. and Saddam have failed. It is time to explore other options. The prospect that U.S. policy may well remain unchanged while negotiations on the oil sale option continue is distressing. For many innocent Iraqis, death will not wait.

The United States must find a way to move beyond its political agenda to help the people of Iraq. I urge our State Department to make this effort a priority. I realize that it is not our sole responsibility—Hussein must be willing to negotiate—but certainly the United States can increase its efforts to try to find some workable solution to the desperate situation in Iraq. We must do absolutely all that we can to achieve a solution to the food and medical crisis in Iraq.

I hope that House Concurrent Resolution 168 will send the much needed signal to the Bush administration that there is growing concern in the Congress for the health and welfare of the Iraqi people. It was not this country's policy to harm innocent Iraqis in the gulf war and it certainly should not be United States policy today.

I commend Mr. PENNY for his efforts and offer my full support to House Concurrent Resolution 168.

Mr. YATRON. Mr. Speaker, I rise in strong support of the resolution and commend the author, Mr. PENNY as well as Chairman FASCELL, Congressmen BROOMFIELD, HAMILTON, GILMAN, and BEREUTER for their leadership in bringing this legislation to the House floor.

Mr. Speaker, this resolution appropriately commends the President and the U.N. for seeking to address the humanitarian crisis in Iraq through the relevant Security Council resolutions.

The resolution calls for the President and the U.N. to explore alternatives, consistent with U.N. Resolutions 706 and 712, to bring much needed relief to hundreds of thousands of starving and sick people including children. But the resolution rightly places the blame for this tragedy squarely on the shoulders of Saddam Hussein.

Mr. Speaker, in the last year, the Subcommittee on Human Rights and International Orgranizations, which I chair, and the Europe and the Middle East Subcommittee, chaired by Congressman HAMILTON, conducted joint hearings on the U.N. role in the gulf.

Based on the testimony at these hearings, it is clear that Saddam is cynically manipulating the food supply to starve vulnerable populations centers while at the same time ensuring that his political cronies and military leaders are well fed. There are cases in which Saddam has either blocked or diverted U.N. food shipments destined for the suffering people of Iraq.

Saddam is starving the Iraqi people so as to generate anti-Americanism which he hopes will bolster his tenuous political position and he is starving his people to build a case for breaking the strict U.N. sanctions arrayed against his regime.

The current sanctions permit U.N.-administered humanitarian relief operations and the U.N. Security Council has adopted a resolution approving the sale of $1.6 billion of Bagdad's oil of which the bulk of the proceeds would be used for humanitarian assistance under strict U.N. supervision.

Saddam has rejected these arrangements because it prevents him from purchasing goods and technologies to rebuild his warmaking capacity.

The world community has justly maintained the sanctions against Saddam but it must be equally resolute in not allowing Saddam to starve hundreds of thousands of innocent people.

This resolution calls for a more assertive effort, under U.N. auspices, to remedy this ongoing tragedy. Our commitment to human rights and justice calls for no less and I urge the adoption of the resolution.

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

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

The SPEAKER pro tempore (Mr. MFUME). The question is on the motion offered by the gentleman from California [Mr. DYMALLY] that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 168, as amended.

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

The title of the concurrent resolution was amended so as to read:

"Concurrent Resolution condemning Saddam Hussein for refusing to comply with United Nations Security Council resolutions 706 and 712 and urging the President under the auspices of the United Nations to provide humanitarian assistance to the vulnerable populations of Iraq.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that all Members may have five legislative days within which to revise and extend their remarks and include therein extraneous material on H. Con. Res. 168; the concurrent resolution just agreed to.

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

There was no objection.

1992 WHITE HOUSE COMMEMORATIVE COIN ACT

Mr. TORRES. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3337) to require the Secretary of the Treasury to mint a coin in commemoration of the 200th anniversary of the White House, as amended.

The Clerk read as follows:

H.R. 3337

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 "1992 White House Commemorative Coin Act".

SEC. 2. COIN SPECIFICATIONS.

(a) ONE DOLLAR SILVER COINS.—

(1) ISSUANCE.—The Secretary shall issue not more than five hundred thousand (500,000) one dollar coins which shall weigh 26.73 grams, have a diameter of 1.500 inches, and shall contain 90 percent silver and 10 percent copper.

(2) DESIGN.—The design of such dollar coins shall be emblematic of the White House. On each such coin there shall be a designation of the value of the coin, an inscription of the year "1992", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(b) LEGAL TENDER.—The coins issued under this Act shall be legal tender as provided in section 5103 of title 31, United States Code.

SEC. 3. SOURCES OF BULLION.

The Secretary shall obtain silver for the coins minted under this Act from stockpiles established under the Strategic and Critical Minerals Stock Piling Act (50 U.S.C. 98 et seq.).

SEC. 4. SELECTION OF DESIGN.

The design for each coin authorized by this Act shall be selected by the Secretary after consultation with the Curator of the White House, the Commission of Fine Arts, and the White House Historical Association.

SEC. 5 SALE OF COINS.

(a) SALE PRICE.—Notwithstanding any provision of law, the coins issued under this Act shall be sold by the Secretary at a price equal to the face value, plus the cost of designing and issuing such coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) BULK SALES.—The Secretary shall make bulk sales at a reasonable discount to reflect the lower costs of such sales.

(c) PREPAID ORDERS AT A DISCOUNT.—The Secretary shall accept prepaid orders for the coins prior to the issuance of such coins. Sales under this subsection shall be at a reasonable discount to reflect the benefit of prepayment.

(d) SURCHARGE REQUIRED.—All sales shall include a surcharge of $10 per coin.

SEC. 6. ISSUANCE OF THE COINS.

(a) TIME FOR ISSUANCE.—The coins authorized under this Act shall be issued beginning on May 1, 1992.

(b) PROOF AND UNCIRCULATED COINS.—The coins authorized under this Act shall be issued in uncirculated and proof qualities. Not more than one facility of the Bureau of the Mint may be used to strike any particular combination of denomination and quality.

SEC. 7. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

No provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out the provisions of this Act. Nothing in this section shall relieve any person entering into a contract under the authority of this Act from complying with any law relating to equal employment opportunity.

SEC. 8. DISTRIBUTION OF SURCHARGES.

The total surcharges received by the Secretary from the sale of the coins issued under this Act shall be promptly paid by the Secretary to The White House Endowment Fund (The Fund) to assist The Fund's efforts to raise an endowment to be a permanent source of support for the White House Collection of fine art and historic furnishings, and for the maintenance of the historic public rooms of the White House.

SEC. 9. AUDITS.

The Comptroller General shall have the right to examine such books, records, documents, and other data of The Fund as may be related to the expenditure of amount paid under section 8.

SEC. 10. COINAGE PROFIT FUND.

Notwithstanding any provision of law—

(1) all amounts received from the sale of coins issued under this Act shall be deposited in the coinage profit fund;

(2) the Secretary shall pay the amounts authorized under this Act from the coinage profit fund to The White House Endowment Fund; and

(3) the Secretary shall charge the coinage profit fund with all expenditures under this Act.

SEC. 11. FINANCIAL ASSURANCES.

(a) The Secretary shall take such actions as may be necessary to ensure that the minting and issuance of the coins referred to in section 2 shall not result in any net cost to the Federal Government.

(b) No coin shall be issued under this Act unless the Secretary has received—

(1) full payment thereof;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration.

TITLE I—1992 WHITE HOUSE COMMEMORATIVE COINS

SEC. 101. SHORT TITLE.

This title may be cited as the "1992 White House Commemorative Coin Act".

SEC. 102. COIN SPECIFICATIONS.

(a) ONE DOLLAR SILVER COINS.—

(1) ISSUANCE.—The Secretary shall issue not more than five hundred thousand (500,000) one dollar coins which shall weigh 26.73 grams, have a diameter of 1,500 inches, and shall contain 90 percent silver and 10 percent copper.

(2) DESIGN.—The design of such dollar coins shall be emblematic of the White House. On each such coin there shall be a designation of the value of the coin, an inscription of the year "1992", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(b) LEGAL TENDER.—The coins issued under this title shall be legal tender as provided in section 5103 of title 31, United States Code.

SEC. 103. SOURCES OF BULLION.

The Secretary shall obtain silver for the coins minted under this title from stockpiles established under the Strategic and Critical Minerals Stock Piling Act (50 U.S.C. 98 et seq.).

SEC. 104. SELECTION OF DESIGN.

The design for each coin authorized by this title shall be selected by the Secretary after consultation with the Curator of the White House, the Commission of Fine Arts, and the White House Historical Association.

SEC. 105. SALE OF COINS.

(a) SALE PRICE.—Notwithstanding any provision of law, the coins issued under this title shall be sold by the Secretary at a price equal to the face value, plus the cost of designing and issuing such coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) PREPAID ORDERS AT A DISCOUNT.—The Secretary shall accept prepaid orders for the coins prior to the issuance of such coins. Sales under this subsection shall be at a reasonable discount to reflect the benefit of prepayment.

(c) SURCHARGE REQUIRED.—All sales shall include a surcharge of $10 per coin.

SEC. 106. ISSUANCE OF THE COINS.

(a) PERIOD FOR ISSUANCE.—The coins authorized under this title shall be available for issue not later than May 1, 1992, but shall be issued only during the 1-year period beginning on such date.

(b) PROOF AND UNCIRCULATED COINS.—The coins authorized under this title shall be issued in uncirculated and proof qualities. Not more than one facility of the Bureau of the Mint may be used to strike any particular combination of denomination and quality.

SEC. 107. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

No provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out the provisions of this title. Nothing in this section shall relieve any person entering into a contract under the authority of this title from complying with any law relating to equal employment opportunity.

SEC. 108. DISTRIBUTION OF SURCHARGES.

The total surcharges received by the Secretary from the sale of the coins issued under this title shall be promptly paid by the Secretary to The White House Endowment Fund (The Fund) to assist The Fund's efforts to raise an endowment to be a permanent source of support for the White House Collection of fine art and historic furnishings, and for the maintenance of the historic public rooms of the White House.

SEC. 109. AUDITS.

The Comptroller General shall have the right to examine such books, records, documents, and other data of The Fund as may be related to the expenditure of amount paid under section 108.

SEC. 110. COINAGE PROFIT FUND.

Notwithstanding any provision of law—

(1) all amounts received from the sale of coins issued under this title shall be deposited in the coinage profit fund;

(2) the Secretary shall pay the amounts authorized under this title from the coinage profit fund to The White House Endowment Fund; and

(3) the Secretary shall charge the coinage profit fund with all expenditures under this title.

SEC. 111. FINANCIAL ASSURANCES.

(a) The Secretary shall take such actions as may be necessary to ensure that the minting and issuance of the coins referred to in section 102 shall not result in any net cost to the Federal Government.

(b) No coin shall be issued under this title unless the Secretary has received—

(1) full payment for such coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration.

TITLE II—WORLD CUP USA 1994 COMMEMORATIVE COINS

SEC. 201. SHORT TITLE.

This title may be cited as the "World Cup USA 1994 Commemorative Coin Act".

SEC. 202. COIN SPECIFICATIONS.

(a) FIVE DOLLAR GOLD COINS.—The Secretary of the Treasury (hereafter in this title referred to as the "Secretary") shall issue not more than 750,000 five dollar coins which shall weigh 8.359 grams, have a diameter of 0.850 inches, and shall contain 90 percent gold and 10 percent alloy.

(b) ONE DOLLAR SILVER COINS.—The Secretary shall issue not more than 5,000,000 one dollar coins which shall weigh 26.73 grams, have a diameter of 1.500 inches, and shall contain 90 percent silver and 10 percent copper.

(c) HALF DOLLAR CLAD COINS.—The Secretary shall issue not more than 5,000,000 half dollar coins which shall be minted to the specifications for half dollar coins contained in section 5112(b) of title 31, United States Code.

(d) LEGAL TENDER.—The coins issued under this title shall be legal tender as provided in section 5103 of title 31, United States Code.

SEC. 203. SOURCES OF BULLION.

(a) GOLD.—The Secretary shall obtain gold for the coins minted under this title pursuant to the authority of the Secretary under existing law.

(b) SILVER.—The Secretary shall obtain silver for the coins minted under this title from stockpiles established under the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.).

SEC. 204. DESIGN.

(a) DESIGN REQUIREMENTS.—The design of each coin authorized hereunder shall include the official 1994 World Cup logo adopted by World Cup USA 1994, Inc., the organizing committee for the event (hereafter referred to as the "Organizing Committee") and shall reflect the unique appeal of soccer. On each coin authorized hereunder there shall be a designation of the value of the coin, and inscriptions of the words "United States of America", "E Pluribus Unum", "In God We Trust", "Liberty" and "World Cup USA 1994".

(b) DESIGN COMPETITION.—The Director of the United States Mint shall sponsor a nationwide open competition for the design of each coin authorized hereunder beginning not later than 3 months and concluding not later than 9 months after the date of the entitlement of this title. The Director of the United States Mint shall select 10 designs for each coin to be submitted to the Secretary, who shall select the final design for each such coin in consultation with the Organizing Committee.

SEC. 205. SALE OF COINS.

(a) SALE PRICE.—Notwithstanding any other provision of law, the coins issued under

this title shall be sold by the Secretary at a price equal to the face value, plus the cost of designing and issuing such coins (including labor, materials, dies, use of machinery, overhead expenses, marketing and shipping).

(b) BULK SALES.—The Secretary shall make bulk sales at a reasonable discount.

(c) PREPAID ORDERS AT A DISCOUNT.—The Secretary shall accept prepaid orders for the coins prior to the issuance of such coins. Sales under this subsection shall be at a reasonable discount.

(d) SURCHARGE REQUIRED.—All sales shall include a surcharge of $35 per coin for the five dollar coins, $7 per coin for the one dollar coins, and $1 for the half dollar coins.

(e) WORLD CUP COMMUNITIES.—The Secretary shall use best efforts to market World Cup coins in the United States with particular focus on communities in which World Cup games are held.

(f) INTERNATIONAL SALES.—The Secretary, in cooperation with the Organizing Committee, shall develop an International Marketing Program to promote and sell coins outside the United States.

(g) REPORTS TO CONGRESS.—

(1) REQUIRED.—Not later than 15 days after the last day of each month which begins before January 1, 1996, the Secretary shall submit a report describing in detail the activities carried out under this title to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(2) CONTENTS OF REPORT.—Each report submitted pursuant to paragraph (1) shall include a review of all marketing activities under this section and a financial statement which details sources of funds, surcharges generated, and expenses incurred for manufacturing, materials, overhead, packaging, marketing, and shipping.

SEC. 206. ISSUANCE OF THE COINS.

(a) PERIOD FOR ISSUANCE.—The coins authorized under this title shall be minted and available for issue no later than January 3, 1994, but shall be issued only during 1994.

(b) PROOF AND UNCIRCULATED COINS.—The coins authorized under this title shall be issued in uncirculated and proof qualities.

(c) BUREAU OF THE MINT.—Not more than 1 facility of the Bureau of the Mint may be used to strike any particular combination of denomination and quality.

SEC. 207. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out the provisions of this title.

(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not relieve any person entering into a contract under the authority of this title from complying with any law relating to equal employment opportunity.

SEC. 208. DISTRIBUTION OF SURCHARGES.

(a) IN GENERAL.—All surcharges which are received by the Secretary from the sale of coins issued under this title shall be promptly paid by the Secretary to the Organizing Committee.

(b) USE OF PROCEEDS.—Amounts received under subsection (a) shall be used by the Organizing Committee for purposes of organizing and staging the 1994 World Cup, with 10 percent of such funds to be made available through the United States Soccer Federal Foundation, Inc., for distribution to institutions for scholastic scholarships to qualified students.

SEC. 209. AUDITS.

The Comptroller General shall have the right to examine such books, records, documents and other data of the Organizing Committee as may be related to the expenditure of amounts paid under section 208.

SEC. 210. COINAGE PROFIT FUND.

Notwithstanding any other provision of law—

(1) all amounts received from the sale of coins issued under this title shall be deposited in the coinage profit fund;

(2) the Secretary shall pay the amounts authorized under this title from the coinage profit fund to the Organizing Committee; and

(3) the Secretary shall charge the coinage profit fund with all expenditures under this title.

SEC. 211. FINANCIAL ASSURANCES.

(a) NO NET COST.—The Secretary shall take such actions as may be necessary to ensure that the minting and issuance of the coins referred to in section 202 shall not result in any net cost to the Federal Government.

(b) PAYMENT ASSURANCES.—No coin shall be issued under this title unless the Secretary has received—

(1) full payment for such coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment;

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration.

TITLE III—SILVER MEDALS FOR VETERANS OF THE PERSIAN GULF CONFLICT

SEC. 301. PURPOSE.

It is the purpose of this title to commemorate the sacrifices made and service rendered to the United States by members of the United States Armed Forces who serve in a combat zone in connection with the Persian Gulf conflict.

SEC. 302. SILVER CONGRESSIONAL COMMEMORATIVE MEDAL.

(a) IN GENERAL.—The Secretary of the Treasury shall design and strike a silver medal with suitable emblems, devices, and inscriptions to be determined by the Secretary in commemoration of the sacrifices made and service rendered to the United States by members of the United States Armed Forces referred to in section 303(a).

(b) SOURCE OF BULLION.—The Secretary of the Treasury shall obtain silver for minting coins under this title only from stockpiles established under the Strategic and Critical Minerals Stock Piling Act (50 U.S.C. 98 et seq.) and such silver shall be furnished to the Secretary at no cost by the custodian of the stockpile.

SEC. 303. ELIGIBILITY TO RECEIVE MEDAL.

(a) IN GENERAL.—Any member of the United States Armed Forces who serves in a combat zone in connection with the Persian Gulf conflict shall be eligible for a silver medal referred to in section 302.

(b) DETERMINATION.—Eligibility under subsection (a) shall be determined by the Secretary of Defense and such Secretary shall establish a list of the names of such eligible individuals before the end of the 120-day period beginning on the date of the entitlement of this title.

(c) NEXT OF KIN.—If any member referred to in subsection (a) is deceased, the next of kin of such member may receive the medal referred to in section 302.

(d) DELIVERY.—The medals struck pursuant to section 302(a) shall be delivered by the Secretary of the Treasury to the Secretary of Defense and the Secretary of Defense shall arrange for the distribution of the medals to the eligible individuals.

SEC. 304. NATIONAL MEDALS.

The medals struck pursuant to this title are national medals for purposes of chapter 51 of title 31, United States Code.

SEC. 305. DUPLICATE MEDALS.

(a) STRIKING AND SALE.—The Secretary of the Treasury may strike and sell duplicates in bronze of the silver medal described in section 302 under such regulations as the Secretary may prescribe, at a price sufficient to cover the cost of duplicates and the cost of designing and striking the medals under section 302, including labor, materials, dies, use of machinery, and overhead expenses.

(b) PROCEEDS IN EXCESS OF COST TO BE USED TO REDUCE THE NATIONAL DEBT.—Any amount received by the Secretary of the Treasury from the sale of duplicate medals under subsection (a) in excess of the costs described in such subsection shall be deposited in the general fund of the Treasury and shall be used for the sole purpose of reducing the national debt.

SEC. 306. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this title.

(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not relieve any person entering into a contract under the authority of this title from complying with any law relating to equal employment opportunity.

SEC. 307. FINANCIAL ASSURANCES.

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing medals under this title will not result in any net cost to the United States Government.

(b) NO EXPENDITURES IN ADVANCE OF RECEIPT OF FUNDS.—The Secretary of the Treasury shall not strike, mint, or distribute the medals described in section 302 until such time as the Secretary certifies that sufficient funds have been received by the Secretary under section 305 or from donations from private persons to ensure that striking, minting, and issuing medals described in section 302 will not result in any net cost to the United States Government.

TITLE IV—CHRISTOPHER COLUMBUS QUINCENTENARY COINS AND FELLOWSHIP FOUNDATION

SUBTITLE A—CHRISTOPHER COLUMBUS QUINCENTENARY COINS

SEC. 401. SHORT TITLE.

This subtitle may be cited as the "Christopher Columbus Quincentenary Coin Act".

SEC. 402. SPECIFICATIONS OF COINS.

(a) FIVE DOLLAR GOLD COINS.—

(1) ISSUANCE.—The Secretary of the Treasury (hereinafter in this subtitle referred to as the "Secretary") shall mint and issue not more than 500,000 five dollar coins each of which shall—

(A) weigh 8.359 grams;

(B) have a diameter of .850 inches; and

(C) be composed of 90 percent gold and 10 percent alloy.

(2) DESIGN.—The design of the five dollar coins shall, in accordance with section 404, bear a likeness of Christopher Columbus. Each five dollar coin shall bear a designation of the value of the coin, an inscription of the

year "1992", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(b) ONE DOLLAR SILVER COINS.—

(1) ISSUANCE.—The Secretary shall mint and issue not more than 4,000,000 one dollar coins each of which shall—

(A) weigh 26.73 grams;

(B) have a diameter of 1.500 inches; and

(C) be composed of 90 percent silver and 10 percent copper.

(2) DESIGN.—The design of the one dollar coins shall, in accordance with section 404, be emblematic of the quincentenary of the discovery of America. Each one dollar coin shall bear a designation of the value of the coin, an inscription of the year "1992", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(c) HALF DOLLAR CLAD COINS.—

(1) ISSUANCE.—The Secretary shall issue not more than 6,000,000 half dollar coins each of which shall—

(A) weigh 11.34 grams;

(B) have a diameter of 1.205 inches; and

(C) be minted to the specifications for half dollar coins contained in section 5112(b) of title 31, United States Code.

(2) DESIGN.—The design of the half dollar coins shall, in accordance with section 404, be emblematic of the quincentenary of the discovery of America. Each half dollar coin shall bear a designation of the value of the coin, an inscription of the year "1992", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(d) LEGAL TENDER.—The coins minted under this subtitle shall be legal tender as provided in section 5103 of title 31, United States Code.

SEC. 403. SOURCES OF BULLION.

(a) GOLD.—The Secretary shall obtain gold for minting coins under this subtitle pursuant to the authority of the Secretary under existing law.

(b) SILVER.—The Secretary shall obtain silver for minting coins under this subtitle only from stockpiles established under the Strategic and Critical Minerals Stock Piling Act (50 U.S.C. 98 et seq.).

SEC. 404. DESIGN OF COINS.

The design for each coin authorized by this subtitle shall be selected by the Secretary after consultation with the Christopher Columbus Fellowship Foundation and the Commission of Fine Arts.

SEC. 405. ISSUANCE OF COINS.

(a) FIVE DOLLAR COINS.—The five dollar coins minted under this subtitle may be issued in uncirculated and proof qualities and shall be struck at the Untied State Mint at West Point, New York.

(b) ONE DOLLAR AND HALF DOLLAR COINS.—The one dollar and half dollar coins minted under this subtitle may be issued in uncirculated and proof qualities, except that not more than one facility of the Bureau of the Mint may be used to strike any particular combination of denomination and quality.

(c) PERIOD OF ISSUANCE.—The Secretary may issue the coins minted under this subtitle during the period beginning on January 1, 1992, and ending on June 30, 1993.

SEC. 406. SALE OF COINS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall sell the coins minted under this subtitle at a price equal to the face value, plus the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, and overhead expenses).

(b) BULK SALES.—The Secretary shall make any bulk sales of the coins minted under this subtitle at a reasonable discount.

(c) PREPARED ORDERS.—The Secretary shall accept prepaid orders for the coins minted under this subtitle prior to the issuance of each coins. Sale prices with respect to such prepaid orders shall be at a reasonable discount.

(d) SURCHARGES.—All sales of coins minted under this subtitle shall include a surcharge of $35 per coin for the five dollar coins, $7 per coin for the one dollar coins, and $1 per coin for the half dollar coins.

SEC. 407. FINANCIAL ASSURANCES.

(a) No Net Cost to the Government.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this subtitle will not result in any net cost to the United States Government.

(b) PAYMENT FOR COINS.—A coin shall not be issued under this subtitle unless the Secretary has received—

(1) full payment for the coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board.

SEC. 408. USE OF SURCHARGES.

(a) IN GENERAL.—The surcharges that are received by the Secretary from the sale of coins minted under this subtitle shall be deposited in the Christopher Columbus Fellowship Fund and be available to the Christopher Columbus Fellowship Foundation.

(b) AUDITS.—The Comptroller General shall have the right to examine such books, records, documents, and other data of the Christopher Columbus Fellowship Foundation as may be related to the expenditure of amounts paid under subsection (a).

SEC. 409. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this subtitle.

(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not relieve any person entering into a contract under the authority of this subtitle from complying with any law relating to equal employment opportunity.

SEC. 410. COINAGE PROFIT FUND.

(a) DEPOSITS.—All amounts received from the sale of coins issued under this subtitle shall be deposited in the coinage profit fund.

(b) PAYMENTS.—The Secretary shall make the deposits of the amounts required under section 408(a) from the coinage profit fund.

(c) EXPENDITURES.—The Secretary shall charge the coinage profit fund with all expenditures under this subtitle.

SEC. 411. REPORTS TO CONGRESS

(A) REQUIRED.—Not later than 15 days after the last day of each month which begins before July 1, 1993, the Secretary shall submit a report describing in detail the activities carried out under this subtitle to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(b) CONTENTS OF REPORT.—Each report submitted pursuant to subsection (a) shall include a review of all marketing activities under section 406 and a financial statement which details sources of funds, surcharges generated, and expenses incurred for manufacturing, materials, overhead, packaging, marketing, and shipping.

SUBTITLE B—CHRISTOPHER COLUMBUS FELLOWSHIP FOUNDATION

SEC. 421. SHORT TITLE.

This subtitle may be cited as the "Christopher Columbus Fellowship Act".

SEC. 422. PURPOSE.

The purpose of this subtitle is to establish the Christopher Columbus Fellowship Program to encourage and support research, study, and labor designed to produce new discoveries in all fields of endeavor for the benefit of mankind.

SEC. 423. CHRISTOPHER COLUMBUS FELLOWSHIP FOUNDATION.

(a) ESTABLISHMENT AND PURPOSES.—There is established, as an independent establishment of the executive branch, the Christopher Columbus Fellowship Foundation (hereinafter in this subtitle referred to as the "Foundation").

(b) MEMBERSHIP.—The Foundation shall be subject to the supervision and direction of the Board of Trustees. The Board shall be composed of 13 members as follows:

(1) 2 members appointed by the President in consultation with the President pro tempore of the Senate.

(2) 2 members appointed by the President in consultation with the Minority Leader of the Senate.

(3) 2 members appointed by the President in consultation with the Speaker of the House of Representatives.

(4) 2 members appointed by the President in consultation with the Minority Leader of the House of Representatives.

(5) 5 members appointed by the President.

(c) CHAIRMAN AND VICE CHAIRMAN OF THE FOUNDATION.—The President shall designate a chairman and a Vice Chairman from among the members appointed by the President.

(d) TERMS OF OFFICE; VACANCIES.—Each member of the Board of Trustees appointed under subsection (b) shall serve for a term of 6 years from the expiration of the term of such member's predecessor, except that—

(1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which such member's predecessor was appointed shall be appointed for the remainder of such term; and

(2) of the members first appointed—

(A) 4 shall be appointed for a term of 2 years;

(B) 5 shall be appointed for a term of 4 years; and

(C) 4 shall be appointed for a term of 6 years,

as designated by the President.

(e) EXPENSES; NO ADDITIONAL COMPENSATION.—Members of the Board shall serve without pay, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Board.

SEC. 424. FELLOWSHIP RECIPIENTS.

(a) AWARD.—The Foundation is authorized to award fellowships to outstanding individuals to encourage new discoveries in all fields of endeavor for the benefit of mankind. Recipients shall be known as "Columbus Scholars".

(b) TERM.—Fellowships shall be granted for such periods as the Foundation may prescribe but not to exceed 2 years.

(c) SELECTION.—The Foundation may provide, directly or by contract, for the conduct

of a nationwide competition for the selection of fellowship recipients.

SEC. 425. STIPENDS.

Each person awarded a fellowship under this subtitle shall receive a stipend as determined by the Foundation.

SEC. 426. CHRISTOPHER COLUMBUS FELLOWSHIP FUND.

(a) IN GENERAL.—There is established in the Treasury a fund to be known as the Christopher Columbus Scholarship Fund (hereafter in this subtitle referred to as the "fund"), which shall consist of—

(1) amounts deposited under subsection (d);

(2) obligations obtained under subsection (c);

(3) amounts contributed to the Foundation; and

(4) all surcharges received by the Secretary of the Treasury from the sale of coins minted under the Christopher Columbus Quincentenary Coin Act.

(b) INVESTMENTS.—

(1) DUTY OF SECRETARY TO INVEST.—The Secretary of the Treasury shall invest in full any amount appropriated or contributed to the fund.

(2) AUTHORIZED INVESTMENTS.—Investments pursuant to paragraph (1) may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired—

(A) on original issue at the issue price; or

(B) by purchase of outstanding obligations at the market price.

(3) SPECIAL OBLIGATIONS.—The purposes for which obligations of the United States may be issued under chapter 31 of title 31, United States Code, are hereby extended to authorize the issuance at par of special obligations exclusively to the fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt; except that, if such average rate is not a multiple of ⅛ of 1 percent, the rate of interest of such special obligations shall be the multiple of ⅛ of 1 percent next lower than such average rate. Such special obligations shall be issued only if the Secretary determines that the purchase of other obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States or original issue at the market price, is not in the public interest.

(c) SALE OF OBLIGATIONS.—Any obligations acquired by the fund (except special obligations issued exclusively to the fund in accordance with subsection (b)(3)) may be sold by the Secretary at the market price, and such special obligations may be redeemed at par plus accrued interest.

(d) INTEREST.—The interest on, and the proceeds from, the sale or redemption of any obligations held in the fund shall be credited to and form a part of the fund.

(e) AVAILABILITY OF FUND.—

(1) STIPENDS.—The fund shall be available to the Foundation for payment of stipends awarded under section 425.

(2) EXPENSES.—The Secretary of the Treasury is authorized to pay to the Foundation from the interest and earnings of the funds such sums as the Board determines are necessary and appropriate to enable the Foundation to carry out the provision of this subtitle.

(f) DISBURSEMENTS.—Disbursements from the fund shall be made on vouchers approved by the Foundation and signed by the Chairman.

SEC. 427. AUDITS.

The activities of the Foundation under this subtitle may be audited by the Comptroller General of the United States. The Comptroller General shall have access to all books, accounts, records, reports, and files and all other papers, things, or property belonging to or in use by the Foundation, pertaining to such activities and necessary to facilitate the audit.

SEC. 428. EXECUTIVE SECRETARY OF FOUNDATION.

(a) DUTIES.—There shall be an Executive Secretary of the Foundation who shall be appointed by the Board. The Executive Secretary shall be the chief executive officer of the Foundation and shall carry out the functions of the Foundation subject to the supervision and direction of the Board.

(b) COMPENSATION.—The Executive Secretary of the Foundation shall be compensated at an annual rate of basic pay not in excess of the amount payable for Executive Level V.

SEC. 429. ADMINISTRATIVE PROVISIONS.

(a) The Foundation may—

(1) appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this subtitle, except that in no case shall employees (other than the Executive Secretary) be compensated at a rate in excess of the rate of basic pay payable for GS–15 of the General Schedule;

(2) procure temporary and intermittent services of such experts and consultants as are necessary to the extend authorized by section 3109 of title 5, but at rates not in excess of the rate of basic pay payable for Executive Level V;

(3) prescribe such regulations as the Foundation may determine to be necessary governing the manner in which its functions shall be carried out;

(4) receive money and other property or restriction other than it be used for the purposes of the Foundation; and to use, sell, or otherwise dispose of such property for the purpose of carrying out its functions;

(5) accept and utilize the services of voluntary and uncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5, United States Code;

(6) enter into contracts, grants, or other arrangements, or modifications thereof, to carry out the provisions of this chapter, and such contracts or modifications thereof may, with the concurrence of two-thirds of the members of the Board, be entered into without performance or other bonds, and without regard to section 3709 of the Revised Statutes;

(7) make advances, progress, and other payments which the Board deems necessary under this chapter without regard to the provisions of section 529 of title 31, United States Code;

(8) rent office space;

(9) conduct programs in addition to or in conjunction with the Fellowship program which shall further the Foundation's purpose of encouraging new discoveries in all fields of endeavor for the benefit of making; and

(10) to make other necessary expenditures.

(b) ANNUAL REPORT.—The Foundation shall submit to the President and to the Congress an annual report of its operations under this subtitle.

Amend the title so as to read: "A Bill to require the Secretary of the Treasury to mint coins in commemoration of the 200th anniversary of the White House, and for other purposes.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. TORRES] will be recognized for 20 minutes, and the gentleman from California [Mr. MCCANDLESS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. TORRES].

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

Mr. Speaker, as chairman of the Subcommittee on Consumer Affairs and Coinage of the Committee on Banking, Finance and Urban Affairs, I am calling for consideration of the White House Commemorative Coinage Act.

Mr. Speaker, I might also point out that this particular bill as amended would also involve the World Cup USA, which has passed both the House and the Senate, the Christopher Columbus coin, which has passed the House on three previous occasions, and, moreover, silver medals for veterans of Desert Storm, which has passed this House. It should be noted that the White House commemorative coin has passed the Senate.

Mr. Speaker, the three coins have all had public hearings and have been marked up by the Subcommittee on Consumer Affairs and Coinage. In this instance, the White House commemorative coin has the 40 cosponsors required in the U.S. Senate, and has the strong support of this House, including the sponsorship of the chairman and ranking minority members of the House Committee on Banking, Finance and Urban Affairs.

WORLD CUP USA 1994 COMMEMORATIVE COIN BILL DESCRIPTION OF PROVISIONS

SECTION 2

This section sets forth the specifications of the gold, silver and clad coins. The specifications are identical to previous programs which will allow the Mint a smooth transition into this program.

The mintage levels established in the bill have been questioned by some claiming the level is too low while others argue it is too high. It is impossible to predict with perfect accuracy exactly what the level of sales may be. The mintage level set in the bill is designed to strike a balance.

Since the World Cup is the largest single-sport spectacle in the world, the Committee believes the potential markets are much larger which will present the Mint with a unique opportunity for international sales. The Committee expects the Mint to work closely with the World Cup Organizing Committee in marketing the coins. The Mint's experience combined with the World Cup's international sports and marketing skills will provide an opportunity to reach the sales levels specified.

SECTION 4

This section requires the Mint to sponsor a nationwide open competition for the design of each coin. This section was added to comply with the Mint's view that the American public should be allowed to participate in the design of these coins.

SECTION 5

Subsection (b): The Mint has been criticized for not issuing bulk sale information to dealers until after the programs have begun.

In the case of the Korean Coin Program, the bulk purchase conditions were not released until the final quarter of the program. This does not provide adequate time for bulk dealers to plan marketing programs.

The Committee expects the Mint to consult with leading coin dealers and the respective trade associations in 1993 and to prepare suitable bulk sales terms and conditions. These terms and conditions should be released as soon as possible in 1993.

Subsection (c): The Committee expects the Mint to be very aggressive in marketing the coins. Since the World Cup tournament will not be held until 1994, it is very important that the Mint work closely with the World Cup to secure a substantial number of prepaid orders. The Committee directs the Mint to work closely with the World Cup Organizing Committee to take advantage of every opportunity for early sales.

The Committee expects the Mint to pay the surcharges from prepaid orders to the World Cup Organizing Committee within a reasonable time after they are received.

Subsection (e): The World Cup will be held in several cities across the nation. This affords excellent marketing opportunities for the Mint. The Committee expects the Mint to work with banks and retailers in those venue cities to establish distribution outlets. The Mint may designate these distributors as "Official U.S. Mint World Cup Coin Distributors." The Mint should include in their reports to Congress a report detailing their efforts to develop this distribution system.

Subsection (f): The World Cup is an international sporting event. The Committee believes there is an excellent opportunity for international marketing. The Committee expects the Mint to work with the World Cup Organizing Committee to establish international marketing and distribution systems. The Mint may designate international distributors as "Official U.S. Mint World Cup Coin Distributors" with concurrence of World Cup 1994.

Subsection (g): The Committee intends for the Mint to work in a cooperative fashion with the Congress and World Cup to provide timely information on the performance of the coin program.

The Committee would like to see a very successful program and believes that cooperative reporting will provide the information necessary to help the Mint and World Cup maximize the potential of this program.

Since coin programs are short-term (i.e. one year in duration), it is difficult to react quickly to any potential marketing opportunities unless there is an ongoing update of what is actually occurring with the program.

The Committee anticipates the format of the reports will follow the example provided by the Mint in the Mint Budget Authorization Report—H.R. 2631; July 15, 1987; Page 77. Furthermore, we acknowledge that the Mint was required to provide similar reports by the 1984 Olympic Coin Program (P.L. 97-220). This reporting amendment attempts to follow the earlier reporting requirements so as not to be unnecessarily disruptive to the Mint operations.

The Committee understands that it will be difficult for the Mint to provide actual numbers in the early days of the program. Therefore, we recognize that the Mint will have to estimate many of the early costs. However, the Committee expects the Mint to update their estimates with the actual costs when they become available. Even the estimates will be helpful to show early trends in the programs performance.

SECTION 6

The Committee's intent is to have coins available for sale January 3, 1994. The terms "issued" and "issuance" are to be interpreted broadly, not restrictively. The Committee understands that coins sold on December 31, 1994 cannot practically be delivered to customers until 1995. The Committee expects the Mint to push coin sales through the end of the calendar year even if some deliveries have to be made in 1995.

SECTION 8

Subsection (a): The Committee intends that the purpose of the World Cup 1994 Commemorative Coin Program is to raise surcharges for the World Cup USA 1994 Organizing Committee. However, it is also our intent that the program shall not result in any net cost to the Federal Government.

In prior coin programs, there has often been a residual operating profit at the conclusion of a program. This residual operating profit is the balance remaining from a specific program after the Federal Government has recovered all its costs to operate a program. The profit accrues because in order to comply with Section 11(a), the Mint must make sure it has raised sufficient funds from the sale of each coin to cover the costs associated with producing and marketing the coin. Since it is extremely difficult to predict exactly what those costs may be, the Mint must make sure their estimates are conservative so there is not a shortfall. In other words, this residual operating profit is the difference between the Mint's estimated costs and their actual costs.

While the Committee accepts this practice as a means to insure that a coin program results in no net cost to the Federal Government, the Committee feels strongly that the Mint should not use this practice to generate profits for the Mint. As stated earlier, the intent of the legislation is to generate surcharges for World Cup while incurring no net cost to the Federal Government. If the Committee finds that the Mint has used this practice to generate excessive profits for the Mint, the Committee will revisit this issue.

Subsection (b): Ten percent of the funds made available by subsection 8(a) will be available to the United States Soccer Federation Foundation, Inc. for distribution to institutions for scholastic scholarships to qualified students. The scholastic scholarships shall go to any groups for distribution to qualified students that meet the following criteria:

Definition of "Institutions"—In selecting institutions to provide scholastic scholarships to qualified students, the Committee expects that the United States Soccer Federation Foundation shall select no more than five recipients, provided that the institution:

Is a 501(c)(3) non-profit which includes as its mission increasing the representation of qualified students, as defined in the following section, in higher education by providing scholarship assistance to students pursuing college degrees;

Serves all of the geographic and ethnic subgroups of a target population consisting principally of qualified students; and

Provides educational services, scholastic scholarships and related services to qualified students.

The Committee does not intend that institutions of higher learning, trade associations, for-profit institutions, units of state or local government, or other organizations or entities providing scholastic scholarships that are generally available to persons other than qualified students be considered by the United States Soccer Federation Foundation for participation in the programs authorized by this section.

Definition of "qualified student"—The Committee intends that the term "qualified students" be interpreted narrowly by institutions providing scholastic scholarships. The Committee intends to limit scholarships under this section to the most undereducated persons and groups in American society. The Committee expects that "qualified students" shall be identified based on the following criteria:

Individuals who are "first-generation" college students, i.e., whose parents did not complete a course of study at an accredited institution of higher learning; and

Individuals who are "economically disadvantaged", i.e., who come from families with incomes at or below the median family income of the U.S. population, or who are members of communities with median incomes at or below 70% of the median family income of the U.S. population; and

Individuals who are "educationally disadvantaged," because of developmental disability, national origin, nativity or limited-English proficiency, or attended school districts with dropout rates at least twice as high as the national average; and

The scholastic scholarship fund will be targeted to minority student groups that have a high school completion rate of less than 60 percent.

Provided further,

That at least one such institution serves as an umbrella organization for at least 125 affiliated local community-based organizations. Such institution provides capacity-building assistance, public policy analysis and advocacy, public information efforts, and special catalytic efforts on behalf of economically and educationally disadvantaged persons. Such institution is governed by organizational by-laws that require a Board of Directors reflective of the geographic, gender and ethnic composition of a target population consisting principally of qualified students and their families, as defined in this section. Such institution includes a corporate board of advisors composed of at least twenty senior executives of major corporations.

That at least one such institution is a 501(c)(3) nonprofit organization whose sole mission is to provide scholarship assistance to qualified students in all fifty states and Puerto Rico. Scholarship recipients are selected on the basis of academic achievement and personal strengths, and represent hundreds of both public and private colleges and universities across the nation. Recipients are also reflective of the composition of five national regions. Such institution annually selects scholarship recipients using a process of regional review committees. In addition, such institution is governed by organizational bylaws which require a board of directors comprised of corporate and educational leaders.

That at least one such institution is a 501(c)(3) nonprofit organization with a national scope and a primary goal to provide post high school scholarship assistance to qualified students in all fifty states and the territories of the United States of America. Scholarship recipients are selected on the basis of academic achievement, community leadership and financial need. Such institution is governed by organizational by-laws that require officers, board of directors, and trustees who are business and community leaders throughout the nation and are dedicated to the educational advancement of a target population of qualified students as defined in this section.

Student eligibility: A qualified student who is in attendance or who has been accept-

ed for admission, as a full-time undergraduate or graduate student at an accredited institution of higher education may apply.

The Committee recognizes that institutions must have some flexibility in the selection of scholarship recipients; however, we expect that, except in unusual or exceptional circumstances, each scholarship recipient shall meet three of the four broad criteria in addition to other criteria set forth by the institution.

SECTION 11

As mentioned earlier, the Committee expects the Mint to use best efforts to insure this program results in no net cost to the Federal Government.

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

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

First, I would like to compliment the subcommittee chairman and his staff for working with us on some areas in which we had some small disagreements and the consensus is a result of a bill that we are able to support entirely. I wanted to express my appreciation here in the House for the cooperation of the gentleman from California [Mr. TORRES] and his staff.

We have before us H.R. 3337, sponsored by the gentleman from Louisiana [Mr. BAKER], and we have essentially four titles to this. The first title is the White House Commemorative Coin, which is to be minted in 1992, given the successful conclusion of this bill. The beneficiary of this coin is the White House Endowment Fund, which has the responsibility of furnishing and preserving the public rooms of the White House.

I might add that no taxpayers' money is used for the preservation and refurbishing of public rooms at the White House. So this indeed is a necessary revenue to continue to perform that function.

Title II deals with the World Cup Commemorative Coin to be minted in 1994, and it is the basis for supporting the World Cup Games here in the United States and the funding necessary to bring that about, one of the first of its kind for the United States.

Title III deals with silver medals, which are to be issued for veterans of the Persian Gulf conflict. And I might add, in that particular case in title III, the funding will be entirely paid for by private donations and the sale of the bronze duplicates. No taxpayers' money or support is going to be involved.

Finally, Part 4, the Christopher Columbus coin, to be minted in 1992, has a beneficiary in the form of the Christopher Columbus Fellowship for scholarships for discoveries, which was passed by the House back in July on a vote of 408 to 2.

That pretty much covers it, Mr. Chairman, along with what our subcommittee chairman has said.

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

Mr. BAKER. Mr. Speaker, I certainly wish to express my appreciation to the gentleman as well as the chairman of the subcommittee, the gentleman from California [Mr. TORRES] for their cooperativeness in bringing this resolution to the floor this evening. Of course, it accomplishes a number of important purposes, but the primary concern to me is the White House Commemorative Coin which accomplishes two very important goals: the first being to recognize the laying of the cornerstone of the White House some 200 years ago, an important historical achievement for the City of Washington. And secondarily, to recognize an important responsibility of proceeds from the sale of this coin, and that is to provide the resources to perform an important refurbishment and remodeling of the White House which has not been done for many years.

For these two reasons I think the issuance of this claim is a very important purpose. I simply rise to commend the chairman and the ranking Member for their cooperativeness in providing this opportunity.

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

Mr. BAKER. I yield to the gentleman from Pennsylvania.

Mr. WELDON. Mr. Speaker, will the gentleman answer a question for me? There have been some rumors circulating that there is some involvement of Hallmark Cards in the issuance of this coin. Is the gentleman aware of any involvement of Hallmark Cards?

Mr. BAKER. Mr. Speaker, the only interest expressed to me so far has been a very nice letter from Barbara Bush explaining her interest in the matter and hoping that it is successful for the benefit of the White House Historical Society as well as for the White House staff.

Mr. WELDON. But there is no involvement of Hallmark Cards?

Mr. BAKER. Mr. Speaker, not to my knowledge.

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

I might add in response to the question of the gentleman, again, this money is used by the White House Endowment Fund for the sole purpose of furnishing and preserving the public rooms of the White House, which no taxpayers' money is used for or has been used for in the past.

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

Mr. RIDGE. Mr. Speaker, I thank the gentleman for yielding.

First of all, let me commend both my colleagues, having served on that subcommittee, most Members cannot appreciate the length of time that it takes normally for a Member of the House or a Member of the Senate to meet the criteria that the subcommittee sets up in order to get a resolution to the floor creating a commemorative coin. I know it takes a great deal of time because I served on that subcommittee and marshalled one through. It took over a period of 2 years to fruition. So I want to commend both gentlemen.

I think particularly the Persian Gulf coin, the World Cup coin and the Christopher Columbus coin were very much involved, my colleague and I, the gentleman from Ohio [TOM SAWYER] have been very much involved in this celebration, the quincentennary celebration, and that will go a long way in meeting some of the goals of that celebration that was identified by Congress in, I think it was 1984, to be enjoyed by this country next year.

I guess just one comment I want to make, and it is perhaps somewhat critical. As I scan the four coins, I certainly support titles II, III and IV. I understand the purpose of title I. I just wish rather than having been sent up a White House commemorative coin, they would have sent out an economic package. I think that is great that they are going to use some of this money to refurbish the White House, and I will question the alacrity with which it managed to get through the hoops and the loops that everybody is normally required to jump through, but I did want to thank my colleagues for their work and recognize publicly that it is normally a very difficult thing to get a commemorative coin to this floor.

I thank them for their efforts and clearly the sponsors of these coins certainly deserve to be congratulated.

Mr. MCCANDLESS. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. WELDON].

Mr. WELDON. Mr. Speaker, I, too, want to thank my colleague, the gentleman from Pennsylvania [Mr. RIDGE] for his cooperation on a number of issues that we have worked together on, one of which is a coin bill that is currently before the Subcommittee on Consumer Affairs and Coinage. I also want to thank the chairman of the Subcommittee on Consumer Affairs and Coinage, the gentleman from California [Mr. TORRES] and the ranking member, the gentleman from California [Mr. MCCANDLESS] for their straightforward dialogue with us as we have tried to push forward a coin that recognizes the Nation's Fire Service in the year 1993.

It is not part of this process. I am disappointed in that, but there is no coin yet designated for 1993, and that option is still open.

I am a cosponsor of the coin bills that are in this particular resolution with the exception of the White House

coin bill, which I understand was just recently put together within the last month or so.

I applaud my colleagues who have brought forward the Christopher Columbus coin, the World Cup coin, the bill of the gentleman from California [Mr. TORRES] and the silver medal honoring the troops from Desert Storm. I think they are all very valuable and worthwhile functions.

I guess I could add the same thing on the White House coin with the exception that I am also disappointed, as my colleague, the gentleman from Pennsylvania [Mr. RIDGE] has mentioned, that it did not go through the full process of committee hearings and markup even though it is for a very valuable cause.

That disappoints me because we have been pressuring the White House for some 2 years to support the 1993 coin that honors the Nation's Fire Service, and I would hope that they would give the same full support and endorsement for that bill in the second half of this session of Congress as they have for the White House commemorative coin.

The Fire Service bill and coin has no overhead money and it would basically go to benefit the 1½ million direct fire fighters and the 3 million total dependents and family members who are part of the Fire Service family. It is the number one priority of the Fire Service Nationwide and currently has over 270 cosponsors.

It passed the Senate in the last session of Congress. Senators JOE BIDEN and BILL ROTH were the cosponsors of that bill this year.

So it is my hope that we can move that bill forward in the second half of this session. I will not oppose this bill, even though I have some concerns about the White House coin, because the other coins I have publicly cosponsored.

I would ask the committee, subcommittee chairman and the ranking member, to work with us next year for a markup process so that we can move forward with a 1993 coin.

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

I think it would be of interest, with the permission of our subcommittee chairman, to maybe comment a little bit about the circumstances surrounding the White House commemorative coin. I include for the record at this point a copy of a letter addressed to Mrs. Earle Craig, Chairman of the White House Endowment Fund, from Mrs. Barbara Bush.

THE WHITE HOUSE
Washington, October 10, 1991.

Mrs. EARLE M. CRAIG, Jr.
Chairman, The White House Endowment Fund, Midland, TX.

DEAR DOTTIE, The 200th anniversary of the laying of the cornerstone of the White House this coming year—October 13, 1992—is a milestone we all look forward to celebrating. I am delighted both that plans for congressional authorization of a commemorative coin are undeway and that the proceeds from the sale of this coin will go to The White House Endowment Fund toward a permanent endowment for the furnishing and preservation of the public rooms of the White House. As we all know, no taxpayers' money is used for the preservation and refurbishing of the public rooms of the White House, and therefore the funds from the sale of this commemorative coin will be an important contribution to a White House endowment.

George and I are both grateful for the work of the White House Historical Association in seeking authorization of a commemorative coin, and we are grateful to all who are working on behalf of what we consider to be a wonderful opportunity to acknowledge an important date and to augment an endowment for the White House.

Warmly,

BARBARA.

□ 2230

Mr. McCANDLESS. Continuing, the White House commemorative coin is scheduled to be introduce at the 200th anniversary of the laying of the cornerstone. It is intended to be introduced in 1992 in conjunction with or in the same year, I should say, as the Christopher Columbus coin.

The coin collectors are very dubious about too many commemorative coins, and as a result encouraged the subcommittee to limit the number. I would point out that in this case we have an unusual situation, not because it is the White House commemorative but because there are only going to be 500,000 silver dollars issued based upon the successful conclusion of this legislation commemorating the 200th anniversary of the White House cornerstone laying, as opposed to the normal type, for example, the Christopher Columbus coin, which is scheduled to be introduced in 1992 and will have 500,000 $5 gold pieces, 4 million silver dollars, and 6 million half dollar class.

So we are not really sending up something special that is going to be in conflict, but what it is the subcommittee and the chairman have been attempting to accomplish, and that is to zero in on excellent subjects to give maximum benefit to the commemorative coin, which in turn produces the revenues that continue to support these kinds of projects.

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

Mr. TORRES. Mr. Speaker, I thank the ranking minority member of the subcommittee for his comments. To be sure, this particular commemorative coin will raise the necessary funds for the endowment fund, which will be utilized, as is well pointed out, for those aspects of the White House, the furnishing, the refurbishing of the rooms, the buying of fine art, the restoration of pieces of furniture and the buying of pieces of antique furniture that are still in private collections.

This is a house for all Americans and I think this is an appropriate way for coins to be sold to the public at no expense to the taxpayers, the money to be used for these important aspects.

Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Ohio, [Mr. SAWYER].

Mr. SAWYER. Mr. Speaker, I thank the gentleman from California [Mr. TORRES], my friend, and welcome this opportunity to rise and join in support of this entire piece of legislation. I am particularly pleased to associate myself with the remarks of my friend and colleague on the Subcommittee on Census and Population, the gentleman from Erie, PA, Mr. RIDGE, in his comments about the importance of the whole range of these undertakings, but particularly with regard to the Christopher Columbus Quincentennary commemorative coin.

As some may know, this has been a difficult year in terms of trying to focus the work of that Commission and to provide appropriate funding for that work. Among the vehicles for that purpose has been the coining of this particular commemorative piece in recognition of the 500th anniversary of Columbus' voyages. That difficulty has received a considerable amount of publicity in recent weeks.

I rise on this particular occasion to recognize the substantial difference in the work that has gone before that may have been troubled at times, and to distinguish that from the work that goes ahead from this time forward as a result of the good work that is being done on the floor here today in providing a vehicle for the support of the Columbus scholarships and the continuing work of the Columbus Quincentennary Commission under the new leadership of its new chairman, Frank Donnatelli, whose efforts have been of the highest order and worthy of the kind of support we are giving him here today.

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

Mr. SAWYER. I am happy to yield to the gentleman from Pennsylvania.

Mr. RIDGE. Mr. Speaker, as the ranking member on the subcommittee privileged to serve with my friend and colleague, the gentleman from Ohio, I just want to associate myself with his remarks. Mr. Donnatelli has steered this celebration, as the *Nina*, the *Pinta*, and the *Santa Maria*, back out of very difficult waters. It looks like the sailing is going to be a lot smoother, particularly with this effort that our colleagues here brought before the House. It gives them a funding vehicle to not only deal with the scholarship fund but I think it also elevates in a very positive way the kind of celebration we want to engage in this year as a country, and I want to associate myself with his remarks.

Mr. SAWYER. Mr. Speaker, I thank the gentleman for his comments.

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

Mr. SAWYER. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding.

I want to commend both the gentleman from Ohio [Mr. SAWYER] and the gentleman from Pennsylvania [Mr. RIDGE] for putting the quincentennary back on the right track. We have had extensive hearings and this coin will certainly help these great ceremonies that they are planning under the direction of Mr. Donnatelli, but it was these two gentleman, the gentleman from Ohio [Mr. SAWYER], and the gentleman from Pennsylvania [Mr. RIDGE], who have helped to bring back the Commission to where it belongs with the proper objectives, the proper resources, and the proper ethics. I thank the gentleman for their work.

Mr. SAWYER. I thank the gentleman for his comments.

Mr. ANNUNZIO. Mr. Speaker, I rise in support of this legislation. The Chairman of the Consumer Affairs and Coinage Subcommittee, Mr. TORRES, is to be congratulated for his work in the field of coinage. His leadership is what has enabled the House to consider this legislation this evening.

I want to address the title of this bill which authorizes the minting of coins in commemoration of the quincentenary of the discovery of America by Christopher Columbus in 1492.

I recognize that there is much debate over whether Columbus was actually the first to discover The New World. There may well have been others that got here first. The difference is that when Columbus discovered America, it stayed discovered.

The Columbus coin title not only provides for the minting of coins in commemoration of the Columbus Quincentenary, but it establishes a Columbus Fellowship program with the surcharges raised from the sale of the coins. These Fellowships would be awarded to scholars, inventors, and the like so that they can work toward discoveries for the benefit of mankind. The scholarships would be awarded by a non-partisan Board of Directors whose members would be appointed by the President after consultation with the leadership of both Bodies of Congress.

If all the coins under this bill were sold, over $50 million would be raised for the Columbus Foundation established under this bill. This money, along with donations which the Foundation could accept, would be used to establish an endowment for the award of the Fellowships.

Mr. Speaker, this bill will establish a lasting memorial to the greatest explorer in history. The time is short for beginning this coin and fellowship program. I urge the passage of the bill.

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

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

The SPEAKER pro tempore (Mr. MFUME). The question is on the motion offered by the gentleman from California [Mr. TORRES] that the House suspend the rules and pass the bill, H.R. 3337, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. TORRES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks in H.R. 3337, the bill just passed.

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

There was no objection.

BICENTENNIAL OF THE DISTRICT OF COLUMBIA

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 356) designating December 1991 as "Bicentennial of the District of Columbia Month," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

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

Mr. RIDGE. Mr. Speaker, reserving the right to object, I do so, first of all, to acknowledge the work of our colleague, the gentleman from Virginia [Mr. BLILEY] who is the chief sponsor of this joint resolution.

Mr. Speaker, further reserving the right to object, I yield to the gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Speaker, I want to thank my colleagues for the honor and recognition they give to the people of the District of Columbia in House Joint Resolution 356 honoring our bicentennial.

Mr. Speaker, this resolution acknowledges the Democratic majesty of the District of Columbia. As the Nation's city, it praises the creation of the District as an important act of self-government designed to strengthen and preserve the political institutions of a free people. We acknowledge with sincere appreciation the role the District of Columbia has been given to play in the development of the Nation's free institutions. We ask only that the act of self-governance inherent in our creation be extended to the 650,000 people who reside in the District.

Through greater home rule and ultimately statehood we seek to join the family of free and equal States that comprise the United States. We live for that day. Pending its sunrise, we are gratified and delighted with the bipartisan praise in this House for the District, its place in history, and the extraordinary dedication and energy of its people.

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

Mr. RIDGE. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Ohio.

Mr. SAWYER. Mr. Speaker, I thank my friend from Pennsylvania for yielding and I rise only to express the real gratitude we owe to the gentlewoman from the District of Columbia for the extraordinary effort that she has brought forth to bring this matter before us today. It may not be known to many who listen, the extraordinary effort that some Members have gone through to accomplish this. The gentleman from Richmond had the foresight to introduce the measure, but as much as anyone, it was the gentlewoman from the District of Columbia who today put together the signatures necessary to bring this before us tonight.

□ 2240

That is an extraordinary accomplishment and I wanted to take just a moment to recognize it.

Mr. RIDGE. Mr. Speaker, I want to join my friend in singing the praises of the gentlewoman. It was definitely through her energetic initiative throughout this day that we were able to bring this matter to the floor this evening.

H.J. RES. 356

Whereas the year 1991 is recognized as the 200th anniversary of the District of Columbia because many of the events important to the founding of the Nation's Capital occurred during that year;

Whereas on January 24, 1791, George Washington selected the site along the Potomac River as the district for the permanent seat of the Government of the United States where the vision of the infant nation dedicated to the principles of self-government could be realized;

Whereas in February 1791, Andrew Ellicott and Benjamin Banneker began to survey the new district, which would become the center of a continent and leader of the free world;

Whereas on September 9, 1791, the Commissioners charged with the founding of the city informed Major Pierre L'Enfant that the Federal district was to be called the Territory of Columbia and the Federal city the City of Washington;

Whereas on December 13, 1791, L'Enfant's grand plan for the development of the Nation's Capital, which included magnificent vistas, radiating avenues, beautiful parks and promenades, cascading fountains, and public spaces for national monuments, and which reflected the patriotic enthusiasm that the Federal city forever serve as a temple to liberty, was submitted to the Congress;

Whereas on December 19, 1791, the State of Maryland forever ceded and relinquished to the Congress and the Government of the United States the final land grant to form the new district;

Whereas the creation of the District of Columbia was an important act of self-govern-

ment by the first Federal Congress designed to strengthen and preserve the political institutions of a free people, and the District itself is a time-honored symbol of the Republic;

Whereas the grandeur and beauty of the District of Columbia are acclaimed throughout the world;

Whereas the sacrifices of a people dedicated to freedom are forever remembered in the inspiring memorials located in the District of Columbia.

Whereas the people of the District of Columbia have made contributions to the arts, law, music, and culture that have been recognized throughout the Nation and the world;

Whereas the District of Columbia is a national treasure as the repository of much of our Nation's history; and

Whereas the District of Columbia is truly where the people of the United States, through our elected representatives, exercise the right of self-governance: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That December 1991 is designated as "Bicentennial of the District of Columbia Month", and the President is authorized and requested to issue a proclamation—

Whereas (1) honoring the 200th anniversary of the founding of the District of Columbia as the Nation's Capital; and

Whereas (2) calling upon the people of the United States to observe such month with appropriate ceremonies and activities.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

The Clerk read the joint resolution, as follows:

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1572

Mr. MACHTLEY. Mr. Speaker, I ask unanimous consent to remove my name as cosponsor of H.R. 1572.

The SPEAKER pro tempore. (Mr. MFUME). Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

BASKETBALL CENTENNIAL DAY

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution, House Joint Resolution 372, designating December 21, 1991, as "Basketball Centennial Day" and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

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

Mr. RIDGE. Reserving the right to object, Mr. Speaker, I do simply to acknowledge the work of our colleague, the gentleman from Massachusetts [Mr. NEAL] who is the chief sponsor of this resolution.

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

The Clerk read the joint resolution, as follows:

Whereas basketball, the only major sport funded in America, was invented by Dr. James Naismith in 1891;

Whereas the first basketball game was played by Dr. James Naismith's gymnastics class, using nine players on each side, peach baskets nailed to the wall at both ends of the gym, and a soccer ball;

Whereas basketball was first played by women in 1893;

Whereas basketball, the American Game, grew in popularity over the next two years throughout the United States and several foreign countries, and by the turn of the century was being played in 20 nations;

Whereas basketball became an official Olympic sport in Berlin in 1936, and the United States defeated Canada to win the first Gold Medal;

Whereas basketball at every level of play has been enjoyed by millions of spectators;

Whereas our youth—the future of our Nation—have become involved in various basketball leagues that have contributed to the ideals of dedication, commitment, and teamwork; and

Whereas basketball, the American Game, is played and enjoyed by many people in America and in the rest of the world; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That December 21, 1991, is designated as "Basketball Centennial Day". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

RECOGNIZING CONTRIBUTIONS OF FEDERAL CIVILIAN EMPLOYEES DURING ATTACK ON PEARL HARBOR AND DURING WORLD WAR II

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate Joint Resolution 198, to recognize contributions Federal civilian employees provided during the attack on Pearl Harbor and during World War II.

The Clerk read the title of the Senate joint resolution.

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

Mr. RIDGE. Reserving the right to object, Mr. Speaker, I do so to identify and acknowledge the work of the sponsor of the resolution, our colleague, the gentleman from Hawaii [Mr. Abercrombie] and also to yield such time as he may consume to our colleague, the gentleman from New York [Mr. GILMAN], a member of the full committee.

Mr. GILMAN. Mr. Speaker I am pleased to rise in support of Senate Joint Resolution 198, a bill recognizing the contributions that Federal employees provided during World War II and specifically during the attack on Pearl Harbor. I would like to commend the gentleman from Hawaii, Mr. ABERCROMBIE for bringing this measure to the floor of the House at this appropriate time.

We all fully recall that infamous date, December 7, 1941 when the Imperial Japanese forces attacked Pearl Harbor, beginning our Nation's involvement in the Second World War. I am pleased to stand here today, nearly 50 years later, as the ranking member of the House Post Office and Civil Service Committee, to recognize the service and self-sacrifice given to our nation by our Federal employees.

The dedication, valor, and contributions made by our Federal employees during the Japanese attack on Pearl Harbor and subsequently throughout World War II exhibited the highest standards of professionalism and patriotism. The men and women employed by the Federal Government provided expertise, vital services to those in uniform, and to the civilian population.

Accordingly, Mr. Speaker, I urge my colleagues to join in supporting the resolution remembering the dedication of our Federal civilian employees.

Mr. ABERCROMBIE. Mr. Speaker, as we approach the 50th anniversary of Pearl Harbor, our thoughts naturally turn to the sacrifices and bravery shown by U.S. personnel on December 7, 1941.

Their heroism inspired the Nation to steel its resolve and settle for nothing less than total victory in World War II.

That ordeal has been seared into our national consciousness.

It is no exageration to say that Pearl Harbor was a defining moment in American history.

This month and next, Pearl Harbor military veterans throughout the Nation are standing tall as they receive the special Pearl Harbor Commemorative Medal authorized last year by Public Law 101–511.

These men and women richly deserve this belated recognition as their memories—and ours—travel a half-century back in time to the day their lives were changed forever in the shattering trauma of Pearl Harbor.

While we rightly commemorate the dedication of the soldiers, sailors and marines of December 7, we can not forget the forgotton heroes of Pearl Harbor.

I am speaking of the Federal civilian employees of the Pearl Harbor Naval Ship Yard, Hickam Field, and other military installations on the island of Oahu.

They, too, demonstrated heroism and suffered casualties in the defense of the United States.

While the attack raged, they fired antiaircraft guns, fought fires, rescued the drowning, rendered first aid and performed a thousand and one other tasks at peril to their lives.

They include—and I cite only a few of the thousands of examples of quiet bravery:

Mary Helen Stevens, the Pearl Harbor base librarian, who organized volunteers to tend the wounded * * *

Ponciano Bernardino, of the submarine base, who led a makeshift group of civilians to fight fires in Drydock One * * *

George Walters, a crane operator, who frustrated dive bombing attacks on the battleship Pennsylvania by moving his crane between the diving planes and the helpless ship * * *

On Tai Pang, of Pearl Harbor's Shop 02, who transported the wounded under fire * * *

And mechanic's helper Clifford Oliver of Hickam Field, who drove a truck into a burning building to remove precious aircraft engines.

As I said, Mr. Speaker, this is only a small sampling of the bravery shown by civilian Federal employees who demonstrated a devotion that went far above and beyond the call of duty for a librarian * * *

a shop worker * * *

a mechanic's helper * * *

a crane operator.

Other civilian employees paid with their lives for their dedication to duty:

August Akina * * *

Philip Eldred * * *

Benigno Cabaay * * *

Tai Ching Loo * * *

Daniel LaVerne.

House Joint Resolution 368 honors these splendid men and women by declaring December 4, 1991, to be Federal Civilian Employee Remembrance Day.

As we mark this turning point in history, I thank every member for their support of this resolution.

Especially the gentleman from Guam and the gentlelady from Hawaii for their help on this measure.

As we remember Pearl Harbor, let us salute its unsung heroes: the Federal civilian employees who rose to the occasion so magnificently.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

The Clerk read the joint resolution, as follows:

S.J. RES. 198

To recognize contributions Federal civilian employees provided during the attack on Pearl Harbor and during World War II.

Whereas on Sunday morning, December 7, 1941, at 7:55 a.m., the first wave of dive and hight level bombers from the Imperial Japanese Combined Fleet attacked Hickam and Wheeler Airfields in the United States territory of Hawaii;

Whereas the first bombs fell on Ford Island at Pearl Harbor;

Whereas American fighter planes were strafed and destroyed on the ground at Pearl Harbor, Hickman Airfield, Kaneohe Naval Air Station, Bellow Airfield, Ewa Marine Corps Air Station, Schofield Barracks, and Wheeler Air field;

Whereas the United States Pacific Fleet was devastated, but its carriers were still afloat, and Pearl Harbor's shipyards, fuel storage area, and submarine base remarkably suffered very little damage;

Whereas Federal civilian employees responded magnificantly that fateful morning and met their country's call to duty with distinction and valor;

Whereas Federal civilian employees were instrumental in the remarkable salvage effort to raise and repair several of the naval vessels that were put back in action before the end of World War II;

Whereas of the 2,403 Americans killed in connection with the attack on Pearl Harbor, 68 were civilians, and of the 1,178 Americans wounded in connection with the attack, 35 were civilians;

Whereas Federal civilian employees exhibited the highest sense of patriotism and exemplary performance at Pearl Harbor and during World War II;

Whereas on December 4, 1991, ceremonies coordinated by the National Park Service will be held in the State of Hawaii to recognize the contributions of Federal civilian employees; and

Whereas we should honor these distinguished individuals during the commemoration of the fiftieth anniversary of the attack on Pearl Harbor: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That December 4, 1991, is designated as "Federal Civilian Employees Remembrance Day". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities recognizing the important contributions Federal civilian employees provided during the attack on Pearl Harbor and during World War II, and thanking such dedicated and committed individuals for their sacrifice and devotion to their country.

The Senate joint resolution was ordered to be read a third time, was read the third time and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on the several resolutions just considered and passed.

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

There was no objection.

HEALTH CARE FOR COAL MINERS

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

Mr. RAHALL. Mr. Speaker, I rise on behalf of the 35,000 retired coal miners and their families in West Virginia who depend on the UMWA health and retirement funds for health care benefits in support of the Coal Industry Retiree Health Benefit Act of 1991 being introduced today in the House of Representatives.

The pressing need to establish a sound and viable health care delivery system for miners and their families is second to none. Yet, today, the health funds are in deficit, threatening the continuity of benefits to both existing and future retirees.

Currently about 60 percent of all beneficiaries under the health funds are miners who retired from companies that have gone out of business. An additional 15 percent are retired from companies which have, simply put, walked away from their responsibilities to provide health care to their former employees. As such, 75 percent of the retirees served by the funds never worked for, or had any connection with, a currently contributing company.

This is not only causing a growing deficit in the funds, but means that the responsibility for providing these retirees with health care coverage is being shouldered by members of the Bituminous Coal Operators Association. The result: For every dollar current BCOA member companies contribute for their own retirees they pay $3 for other companies' retirees.

I would submit that this is an unjust situation.

It should be noted that the funds are unique, and what would normally be a matter solely for the private sector is not in this instance. There is a federal responsibility to these funds. The genesis for the funds dates back to 1946 in an agreement between then-UMW President John L. Lewis and the Federal Government to resolve a long-running labor dispute. At the time, President Truman had ordered the Interior Secretary to take possession of all bituminous coal mines in the country in an effort to break a United Mine Workers of America strike. Eventually, Lewis and Secretary Julius Krug reached an agreement that included an industrywide, miner controlled health plan.

The legislation being introduced today in the House is identical to the measure sponsored by the junior Senator from West Virginia, JAY ROCKEFELLER. The Senator explained the bill in great detail when he introduced it on November 19, 1991, and I would refer my colleagues to his remarks as to the particulars of this measure. I would, however, note that nobody is eager to place a new tax on the coal industry in this country. Nor, should this be viewed as a matter of union versus nonunion companies.

The bottom line is that we, as a Nation, must ensure that retired coal miners and their families are provided with health care coverage, now and in the future. I believe that the bill being introduced today represents our best chance to reach that goal.

RECESS

The SPEAKER pro tempore (Mr. MFUME). The Chair declares the House

in recess subject to the call of the Chair.

Accordingly (at 10 o'clock and 45 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 0040

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. BROWN] at 12 o'clock and 43 minutes a.m., on November 27, 1991 (Legislative day of November 26, 1991).

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 543. An Act to establish the Manzanar National Historic Site in the State of California, and for other purposes.

H.R. 2370. An Act to expand the boundaries of Stones River National Battlefield, Tennessee, and for other purposes.

H.R. 3049. An Act to amend the Immigration and Nationality Act to restore certain exclusive authority in courts to administer oaths of allegiance for naturalization.

H.R. 3508. An Act to amend the Public Health Service Act to revise and extend certain programs relating to the education of individuals as health professionals, and for other purposes.

The message also announced, That the Senate insists upon its amendment to the bill (H.R. 3508) "An Act to amend Public Health Service Act to revise and extend certain programs relating to the education of individuals as health professionals, and for other purposes" requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. KENNEDY, Mr. METZENBAUM, Mr. SIMON, Mr. HATCH, and Mrs. KASSEBAUM to be the conferees on the part of the Senate.

The message also announced, That the Senate agrees to the amendments of the House to bill (S. 1532) entitled "An Act to revise and extend the programs under the Abandoned Infants Assistance Act of 1988, and for other purposes" with an amendment.

The message also announced that the Senate had passed bills and a joint resolution of the following titles, in which the concurrence of the House is requested:

S. 367. An act to amend the Job Training Partnership Act to encourage a broader range of training and job placement for women, and for other purposes.

S. 447. An act to recognize the organization known as The Retired Enlisted Association, Incorporated.

S. 452. An act to authorize a transfer of administrative jurisdiction over certain land to the Secretary of the Interior, and for other purposes.

S. 606. An act to amend the Wild and Scenic Rivers Act by designating certain segments of the Allegheny River in the Commonwealth of Pennsylvania as a component of the National Wild and Scenic Rivers System, and for other purposes.

S. 1187. An act to amend the Stock Raising Homestead Act to provide certain procedures for entry onto Stock Raising Homestead Act lands, and for other purposes.

S. 1528. An act to establish the Mimbres Culture National Monument and to establish an archeological protection system for Mimbres sites in the State of New Mexico, and for other purposes.

S. 1577. An act to amend the Alzheimer's Disease and Related Dementias Services Research Act of 1986 to reauthorize the Act, and for other purposes.

S. 1707. An act to authorize the establishment of the Fort Totten National Historic Site.

S. 1743. An act to amend the Wild and Scenic Rivers Act by designating certain rivers in the State of Arkansas as components of the National Wild and Scenic River System, and for other purposes.

S. 1770. An act to convey certain surplus real property located in the Black Hills National Forest to the Black Hills Workshop and Training Center, and for other purposes.

S. 2098. An act to authorize the President to appoint Major General Jerry Ralph Curry to the Office of Administrator of the Federal Aviation Administration.

S.J. Res 23. Joint resolution to consent to certain amendments enacted by the legislature of the State of Hawaii to the Hawaiian Homes Commission Act, 1920.

ELECTION OF MEMBER TO A STANDING COMMITTEE

Mr. HOYER. Mr. Speaker, by direction of the Democratic Caucus, I offer a privileged resolution (H. Res. 308), and I ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 308

Resolved, That the following named Member be, and is hereby elected to the following standing committee of the House of Representatives:

Committee on Public Works and Transportation: Lucien Blackwell, Pennsylvania.

The resolution was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.J. RES. 157, DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS AND TRANSFERS FOR RELIEF FROM THE EFFECTS OF NATURAL DISASTERS, FOR OTHER URGENT NEEDS, AND FOR INCREMENTAL COST OF OPERATION DESERT SHIELD/DESERT STORM ACT OF 1992

Mr. WHITTEN submitted the following conference report and statement on the joint resolution (H.J. Res. 157) making technical corrections and correcting enrollment errors in certain acts making appropriations for the fiscal year ending September 30, 1991, and for other purposes:

CONFERENCE REPORT (H. REPORT. 102-394)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (H.J. Res. 157) "making technical corrections and correcting enrollment errors in certain Acts making appropriations for the fiscal year ending September 30, 1991, 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 to the joint resolution, 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, to provide dire emergency supplemental appropriations for the fiscal year ending September 30, 1992, and for other purposes, namely:

SUPPLEMENTAL APPROPRIATIONS

DEPARTMENT OF DEFENSE—MILITARY

PROCUREMENT

MISSILE PROCUREMENT, ARMY

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Missile procurement, Army", $78,000,000, to remain available for obligation until September 30, 1994, and in addition, $67,000,000 to be derived by transfer from "Missile procurement, Air Force, 1991/1993", to remain available for obligation until September 30, 1993.

SHIPBUILDING AND CONVERSION, NAVY

For an additional amount for "Shipbuilding and conversion, Navy", for LSD-41 dock landing ship, cargo variant program, advance procurement of engines and generators, $25,000,000, to remain available for obligation until September 30, 1996.

NATIONAL GUARD AND RESERVE EQUIPMENT

For an additional amount for "National Guard and Reserve equipment", $10,100,000, to remain available until September 30, 1994, for the purchase of one MH-60G helicopter.

TITLE I—EMERGENCY SUPPLEMENTAL APPROPRIATIONS

CHAPTER I

DEPARTMENT OF DEFENSE—MILITARY

OPERATION DESERT SHIELD/DESERT STORM

(TRANSFER OF ADDITIONAL FUNDS)

For additional incremental cost of the Department of Defense, the Department of Veterans Affairs, and the Department of Transportation associated with operations in and around the Persian Gulf as part of operations currently known as Operation Desert Shield (including Operation Desert Storm) and under the terms and conditions of the "Operation Desert Shield/Desert Storm Supplemental Appropriations Act, 1991" (Public Law 102-28), in addition to the amounts that may be transferred to appropriations available to the Department of Defense and other Departments pursuant to that Act, not to exceed $3,968,500,000 may be transferred during fiscal year 1992 from either the Defense Cooperation Account, or as appropriate, the Persian Gulf Regional Defense Fund, to the following accounts in not to exceed the following amounts:

OPERATIONS AND MAINTENANCE

(TRANSFER OF FUNDS)

OPERATION AND MAINTENANCE, ARMY

For an additionl amount for "Operation and maintenance, Army", $227,300,000.

OPERATION AND MAINTENANCE, NAVY

For an additional amount for "Operation and maintenance, Navy", $270,000,000.

OPERATION AND MAINTENANCE, MARINE CORPS

For an additional amount for "Operation and maintenance, Marine Corps", $75,000,000.

OPERATION AND MAINTENANCE, ARMY RESERVE

For an additional amount for "Operation and maintenance, Army Reserve", $23,200,000.

OPERATION AND MAINTENANCE, NAVY RESERVE

For an additional amount for "Operation and maintenance, Navy Reserve", $28,300,000.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For an additional amount for "Operation and maintenance, Army National Guard", $41,900,000.

PROCUREMENT

(TRANSFER OF FUNDS)

AIRCRAFT PROCUREMENT, ARMY

For an additional amount for "Aircraft procurement, Army", $270,800,000, to remain available for obligation until September 30, 1994.

MISSILE PROCUREMENT, ARMY

For an additional amount for "Missile procurement, Army", $21,800,000, to remain available for obligation until September 30, 1994.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

For an additional amount for "Procurement of weapons and tracked combat vehicles, Army", $63,000,000, to remain available for obligation until September 30, 1994.

OTHER PROCUREMENT, ARMY

For an additional amount for "Other procurement, Army", $80,500,000, to remain available for obligation until September 30, 1994.

AIRCRAFT PROCUREMENT, NAVY

For an additional amount for "Aircraft procurement, Navy", $521,000,000, to remain available for obligation until September 30, 1994.

WEAPONS PROCUREMENT, NAVY

For an additional amount for "Weapons procurement, Navy", $8,100,000, to remain available for obligation until September 30, 1994.

OTHER PROCUREMENT, NAVY

For an additional amount for "Other procurement, Navy", $112,700,000, to remain available for obligation until September 30, 1994.

PROCUREMENT, MARINE CORPS

For an additional amount for "Procurement, Marine Corps", $4,300,000, to remain available for obligation until September 30, 1994.

AIRCRAFT PROCUREMENT, AIR FORCE

For an additional amount for "Aircraft procurement, Air Force", $309,500,000, to remain available for obligation until September 30, 1994.

OTHER PROCUREMENT, AIR FORCE

For an additional amount for "Other procurement, Air Force", $560,000,000, to remain available for obligation until September 30, 1994.

PROCUREMENT, DEFENSE AGENCIES

For an additional amount for "Procurement, Defense Agencies", $76,900,000, to remain available for obligation until September 30, 1994.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

(TRANSFER OF FUNDS)

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

For an additional amount for "Research, development, test and evaluation, Army", $47,800,000, to remain available for obligation until September 30, 1993.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

For an additional amount for "Research, development, test and evaluation, Navy", $6,100,000, to remain available for obligation until September 30, 1993.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

For an additional amount for "Research, development, test and evaluation, Air Force", $24,300,000, to remain available for obligation until September 30, 1993.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE AGENCIES

For an additional amount for "Research, development, test and evaluation, Defense Agencies", $28,100,000, to remain available for obligation until September 30, 1993.

DEFENSE BUSINESS OPERATIONS FUND

(TRANSFER OF FUNDS)

For an additional amount for "Defense business operations fund", $1,140,000,000.

DEPARTMENT OF TRANSPORTATION

(TRANSFER OF FUNDS)

COAST GUARD

OPERATING EXPENSES

For an additional amount for "Operating expenses", $17,900,000, to remain available for obligation until expended.

DEPARTMENT OF VETERANS AFFAIRS

VETERANS HEALTH ADMINISTRATION—MEDICAL CARE

(TRANSFER OF FUNDS)

For an additional amount for "Medical care", $10,000,000.

DEPARTMENT OF DEFENSE—MILITARY

(TRANSFER OF EXISTING FUNDS)

For the purpose of adjusting amounts which may be transferred pursuant to the "Operation Desert Shield/Desert Storm Supplemental Appropriations Act, 1991" (Public Law 102-28) and under the terms and conditions of that Act, during the fiscal year 1992, the Secretary of Defense may make adjustments to the amounts provided for transfer by such Act in amounts not to exceed $6,282,400,000 and provide for the transfer of such amounts to the following accounts in not to exceed the following amounts to be available to the Department of Defense during fiscal year 1992: Provided, That the Secretary of Defense shall provide prior notification to the Committees on Appropriations of the House of Representatives and the Senate indicating the accounts from which the funds will be derived for such transfers:

MILITARY PERSONNEL

(TRANSFER OF FUNDS)

MILITARY PERSONNEL, ARMY

To be derived by transfer, $685,000,000 for "Military personnel, Army".

MILITARY PERSONNEL, NAVY

To be derived by transfer, $70,000,000 for "Military personnel, Navy".

MILITARY PERSONNEL, MARINE CORPS

To be derived by transfer, $18,000,000 for "Military personnel, Marine Corps".

MILITARY PERSONNEL, AIR FORCE

To be derived by transfer, $81,000,000 for "Military personnel, Air Force".

RESERVE PERSONNEL, ARMY

To be derived by transfer, $80,000,000 for "Reserve personnel, Army".

RESERVE PERSONNEL, AIR FORCE

To be derived by transfer, $4,000,000 for "Reserve personnel, Air Force".

NATIONAL GUARD PERSONNEL, ARMY

To be derived by transfer, $10,000,000 for "National Guard personnel, Army".

NATIONAL GUARD PERSONNEL, AIR FORCE

To be derived by transfer, $3,000,000 for "National Guard personnel, Air Force".

OPERATION AND MAINTENANCE

(TRANSFER OF FUNDS)

OPERATION AND MAINTENANCE, ARMY

To be derived by transfer, $2,717,500,000 for "Operation and Maintenance, Army".

OPERATION AND MAINTENANCE, NAVY

To be derived by transfer, $1,080,000,000 for "Operation and maintenance, Navy".

OPERATION AND MAINTENANCE, MARINE CORPS

To be derived by transfer, $165,000,000 for "Operation and maintenance, Marine Corps".

OPERATION AND MAINTENANCE, AIR FORCE

To be derived by transfer, $1,241,400,000 for "Operation and maintenance, Air Force".

OPERATION AND MAINTENANCE, ARMY RESERVE

To be derived by transfer, $6,000,000 for "Operation and maintenance, Army Reserve".

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

To be derived by transfer, $59,200,000 for "Operation and maintenance, Air Force Reserve".

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

To be derived by transfer, $3,600,000 for "Operation and maintenance, Army National Guard".

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

To be derived by transfer, $58,700,000 for "Operation and maintenance, Air National Guard".

GENERAL PROVISIONS—CHAPTER I

SEC. 101. The prohibition in section 132(a)(2) of Public Law 101-189 (103 Stat. 1383) does not apply to the obligation of $70,200,000 provided in "Aircraft procurement, Army" of chapter I, title I for the procurement of AH-64 Apache attack helicopters.

SEC. 102. Of the funds provided in title III of Public Law 101-165 for "Other procurement, Air Force", not more than $80,000,000 shall be available, and may be obligated and expended, for costs arising from the cancellation of the Alaskan OTH-B radar program and powerplant lease: Provided, That such funds will be available for contract termination, site restoration, modification of facilities and other costs associated with the termination of the Alaskan OTH-B radar program and powerplant lease, or the transfer and modification of facilities and material located at or procured for the Alaskan OTH-B radar program or powerplant to any other Department of Defense activitiy or program at the OTH-B radar powerplant site.

KURDISH PROTECTION FORCE

(TRANSFER OF FUNDS)

SEC. 103. In addition to other transfer authority granted by this or any other Act, and under the terms and conditions of the "Operations Desert Shield/Desert Storm Supplemental Appropriations Act, 1991" (Public Law 102-28), the Secretary of Defense may transfer not to exceed $100,000,000 for costs incurred during fiscal years 1991 and 1992 from the Defense Cooperation Account, or as appropriate, the Persian Gulf Regional Defense Fund to appropriate Department of Defense appropriations for costs incurred through February 1992 in support of U.S. military forces in and around Iraq and Turkey known as the Kurdish Protection or Ready Reaction Force.

RESTRICTION OF ARMS SALES TO SAUDI ARABIA AND KUWAIT

SEC. 104. (a) No funds appropriated or otherwise made available by this or any other Act may be used in any fiscal year to conduct, support, or administer any sale of defense articles or defense services to Saudi Arabia or Kuwait until that country has paid in full, either in cash or in mutually agreed in-kind contributions, the following commitments made to the United States to support Operation Desert Shield/Desert Storm:

(1) In the case of Saudi Arabia, $16,839,000,000.

(2) In the case of Kuwait, $16,006,000,000.

(b) For purposes of this section, the term "any sale" means any sale with respect to which the President is required to submit a number certification to the Congress pursuant to the Arms Export Control Act on or after the effective date of this section.

(c) This section shall take effect 120 days after the date of enactment of this joint resolution.

(d) Any military equipment of the United States, including battle tanks, armored combat vehicles, and artillery, included within the Conventional Forces in Europe Treaty definition of "conventional armaments and equipment limited by the Treaty", which may be transferred to any other NATO country shall be subject to the notification procedures stated in section 523 of Public Law 101–513 and in section 634A of the Foreign Assistance Act of 1961.

MIDDLE EAST HUMANITARIAN RELIEF

SEC. 105. (a) Of the funds appropriated from the Defense Cooperation Account for the Kurdish Ready Reaction Force, up to $15,000,000 may be made available only for the prepositioning of relief supplies in the Middle East to meet emergency Kurdish and other Iraqi-related humanitarian needs and related transportation costs. (b) In addition, the Secretary of Defense may transfer up to $15,000,000 in additional funds from the Defense Cooperation Account to the appropriate appropriations accounts within the Department of Defense for these Kurdish and other Iraqi-related humanitarian purposes.

CLASSIFIED PROGRAM

SEC. 106. (a) In section 110 of the Classified Annex incorporated into the Department of Defense Appropriations Act, 1992, the matter beginning with "Notwithstanding" and ending with "Provided, That" shall have no force or effect.

(b) The funds described in section 110 of such Classified Annex may be obligated for the program described therein only in accordance with the Classified Annex incorporated into the National Defense Authorization Act for Fiscal Years 1992 and 1993.

SEC. 107. None of the funds available to the Department of Defense in fiscal year 1992 may be used by the Department of the Army to award a contract for the procurement of fourton dolly jacks if such equipment is or would be manufactured outside the United States of America and would be procured under any contract, agreement, arrangement, compact or other such instrument for which any provisions including price differential provisions of the Buy American Act of 1933, as amended, or any other Federal buy national law was waived: Provided, That the Secretary of the Army may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes.

(TRANSFER OF FUNDS)

SEC. 108. In addition to other transfer authority available to the Department of Defense, the Secretary of Defense may transfer from amounts appropriated to the Department of Defense for fiscal year 1992 for operation and maintenance or from balances in working capital accounts established under section 2208 of title 10, United States Code, not to exceed $400,000,000, to the appropriate accounts within the Department of Defense for reducing the Soviet nuclear threat and for the purposes set forth in the Soviet Nuclear Threat Reduction Act of 1991 contained in H.R. 3807, as passed the Senate on November 25, 1991, and under the terms and conditions of such Act: Provided, That the readiness of the United States Armed Forces shall not be diminished by such transfer of funds.

(TRANSFER OF FUNDS)

SEC. 109. In addition to other transfer authority available to the Department of Defense, the Secretary of Defense, upon the declaration of an emergency by the President under the terms of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, may transfer from amounts appropriated to the Department of Defense for fiscal year 1992 or from balances in working capital accounts established under section 2208 of title 10, United States Code, not to exceed $100,000,000, to the appropriate accounts within the Department of Defense, in order to transport by military or commercial means, food, medical supplies, and others types of humanitarian assistance to the Soviet Union, or its Republics, or localities therein—with the consent of the relevant Republic government or its independent successor—in order to address emergency conditions which may arise therein, and for the purposes set forth in section 301 of H.R. 3807, as passed the Senate on November 25, 1991, and under the terms and conditions of such section 301 of H.R. 3807: Provided, That the readiness of the United States Armed Forces shall not be diminished by such transfer of funds: Provided further, That the Committees on Appropriations be notified of transfers under this provision fifteen days in advance.

CHAPTER II

DEPARTMENT OF VETERANS AFFAIRS

ADMINISTRATIVE PROVISION

Section 518(a) of the "General Provisions" in H.R. 2519, the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992, is amended by striking out "Section 662A(c)" and inserting in lieu thereof "Section 1722A(c)".

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ADMINISTRATIVE PROVISION—HOME

Section 217(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12747(a)) is amended—

(1) in the first sentence of paragraph (1), by inserting "and after reserving amounts for the insular areas under paragraph (3)" before the first comma; and

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

"(3) INSULAR AREAS.—For each fiscal year, of any amounts approved in appropriations Acts to carry out this title, the Secretary shall reserve for grants to the insular areas the greater of (A) $750,000, or (B) 0.5 percent of the amounts appropriated under such Acts. The Secretary shall provide for the distribution of amounts reserved under this paragraph among the insular areas pursuant to specific criteria for such distribution. The criteria shall be contained in a regulation promulgated by the Secretary after notice and public comment.".

Section 104 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704) is amended—

(1) in paragraph (1), by striking "Guam" and all that follows through "American Samoa,"; and

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

"(24) The term 'insular area' means any of the following: Guam, the Northern Mariana Islands, the Virgin Islands, and American Samoa.".

ADMINISTRATIVE PROVISION—STAFFING

The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992 (H.R. 2519), is amended—

(1) in the appropriation paragraph entitled "Personal Services and Travel, Office of Public and Indian Housing" by striking "$10,424,000" and inserting in lieu thereof "$12,788,000" each time it appears in the paragraph;

(2) in the appropriating paragraph entitled "Personal Services and Travel, Office of Policy Development and Research" by striking "$10,705,000" and inserting in lieu thereof "$8,717,000"' each time it appears in the paragraph; and

(3) in the appropriating paragraph entitled "Personal Services and Travel, Office of General Counsel" by striking "$14,985,000" and inserting in lieu thereof "$14,609,000" each time it appeard in the paragraph.

INDEPENDENT AGENCIES

COURT OF VETERANS APPEALS

SALARIES AND EXPENSES

Of the funds made available under this head in Public Law 102–139, not to exceed $950,000, to remain available until September 30, 1993, shall be available for the purpose of providing financial assistance (through grant or contract made, to the maximum extent feasible, not later than 150 days after enactment of this Act) to facilitate the furnishing of legal and other assistance, without charge, to veterans and other persons who are unable to afford the cost of legal representation in connection with decisions to which section 7252(a) of title 38, United States Code, may apply, or with other proceedings in the Court, through a program that furnishes case screening and referral, training and education for attorney and related personnel, and encouragement and facilitation of pro bono representation by members of the bar and law school clinical and other appropriate programs, such as veterans service organizations, and through defraying expenses incurred in providing representation to such persons: Provided, That such grants or contracts shall be made by the Legal Services Corporation pursuant to a reimbursable payment from the United States Court of Veterans Appeals for the purposes described herein: Provided further, That the Legal Services Corporation is authorized to receive a reimbursable payment from the United States Court of Veterans Appeals for the purpose of providing the financial assistance described herein: Provided further, That no funds made available herein shall be used for the payment of attorney fees: Provided further, That, not later than 180 days after the enactment of this Act, and, again, not later than one year after a grant or contract is made pursuant to the provisions of this paragraph, the Legal Services Corporation and the United States Court of Veterans Appeals shall report to the appropriate committees of the Congress regarding the implementation of the provisions of this paragraph.

ENVIRONMENTAL PROTECTION AGENCY

ADMINISTRATIVE PROVISION

Of the funds appropriated for the wastewater treatment facilities fund under title VI of the Federal Water Pollution Control Act, up to one-half of one per centum may be made available by the Administrator for direct grants to Indian tribes for construction of wastewater treatment facilities.

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

(INCLUDING TRANSFER OF FUNDS)

For emergency disaster assistance payments necessary to provide for expenses in presidentially-declared disasters under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, an additional amount for "Disaster relief", $943,000,000, to remain available until expended, of which $143,000,000 shall be available only after submission to the Congress of a formal budget request by the President designating the $143,000,000 as an emergency: Provided, That up to $1,250,000 of the funds made available under this heading may be transferred to, and merged with, amounts made available to the Federal Emergency Management Agency under the heading "Salaries and expenses" in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies

Appropriations Act, 1992 (Public Law 102–139): Provided further, That hereafter, beginning in fiscal year 1993, and in each year thereafter, notwithstanding any other provision of law, all amounts appropriated for disaster assistance payments under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) that are in excess of either the historical annual average obligation of $320,000,000, or the amount submitted in the President's initial budget request, whichever is lower, shall be considered as "emergency requirements" pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985, and such amounts shall hereafter be so designated.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

RESEARCH AND DEVELOPMENT

The last proviso under this heading in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations, 1990 (Public Law 101–144), is hereby deleted.

NATIONAL COMMISSION ON SEVERELY DISTRESSED PUBLIC HOUSING

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

For necessary expenses of the National Commission on Severely Distressed Public Housing, in carrying out its functions under title V of the Department of Housing and Urban Development Reform Act of 1989 (Public Law 101–235), $250,000, to remain available until expended, to be derived by transfer from amounts provided to the Department of Housing and Urban Development under the heading "Salaries and expenses" in Public Law 102–139.

CHAPTER III

DEPARTMENT OF AGRICULTURE

COMMODITY CREDIT CORPORATION

In view of the occurrence of recent natural disasters—similar to the volcano eruption of 1980, the earthquake of 1989, and the hurricane of 1989—droughts, floods, freezes, tornadoes, and other catastrophes which resulted in billions of dollars in damages, and in an effort to restore the economy and to alleviate the effects of the disasters, an additional $1,750,000,000, to remain available until expended, is hereby made available for losses associated with 1990 crops as authorized by P.L. 101–624, and for losses associated with 1991 and 1992 crops under the same terms and conditions: Provided, That $995,000,000 of this amount is available for payments to producers for losses on either 1990 or 1991 crops, at the producer's option: Provided further, That the remaining $755,000,000 shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted to the Congress: Provided further, That this $755,000,000 shall be available for crop losses for one of the years 1990, 1991 or 1992, at the producer's option, but shall not be for a year for which disaster payments were previously provided to the producer: Provided further, That $100,000,000 of the $755,000,000 is set aside for program crops planted in 1991 for harvest in 1992: Provided further, That, consistent with the amounts made available above, emergency loans made with respect to damage to an annual crop planted for harvest in 1991 under subtitle C of the Consolidated Farm and Rural Development Act shall be made available without regard to the purchase of crop insurance under the Federal Crop Insurance Act by the producer who requests such a loan.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

Notwithstanding any other provision of law, funds available to the Animal and Plant Health Inspection Service of the Department of Agriculture for fiscal year 1992 shall be made available as a grant in the amount of $530,000 to the State of Maine Department of Agriculture, Food and Rural Resources for potato disease detection, control, prevention, eradication and related activities including the payment of compensation to persons for economic losses associated with such efforts conducted or to be conducted in the State of Maine and any unobligated balances of funds previously appropriated or earmarked for potato disease efforts by the Secretary of Agriculture shall remain available until expended by the Secretary.

TITLE II–GENERAL PROVISIONS

SEC. 200. FINDING OF DIRE EMERGENCY CONDITIONS.—The Congress finds that—

(a) the President has designated and requested the Congress to designate over $1,140,000,000 in 1991 international assistance funds to meet emergency needs in foreign lands;

(b) natural disasters (including floods, droughts, tornadoes, hurricanes, earthquakes, freezes, and typhoons) have occurred in the United States and its territories causing loss of life, human suffering, loss of income, and property loss or damage with dire emergency financial situations;

(c) since October 1990, there have been 44 presidentially-declared disasters and 89 disasters declared by the Secretary of Argiculture affecting every area of the Nation in almost every State for which Federal funds are not available to meet emergency needs, resulting in calls for the National Guard and other assistance;

(d) as a consequence of these disasters, millions of acres of land are or were under water, millions of acres of farm land are not able to be planted, and highways, dams, roads, and bridges have not been repaired. Many of the people in communities, counties, States, and many private businesses have been dangerously affected, and the local authorities in many cases are unable to meet the financial costs; and

(e) the combination of the effects of these conditions and the current recession constitutes a dire emergency situation (8,582,000 people are unemployed, total employment has declined by over 1,400,000 jobs in the last year, over 7,500 businesses are failing each month, and foreign purchases of United States land and companies are increasing) which will, if not corrected by increased production, necessitate the need for a Job Creation Bill similar to what was enacted in 1983.

SEC. 201. No part of any appropriation contained in this joint resolution shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

CONGRESSIONAL DESIGNATION OF EMERGENCY

SEC. 202. Although the President has only designated portions of the funds in this joint resolution pertaining to the incremental costs of Desert Shield/Desert Storm and certain Federal Emergency Management Agency costs as "emergency requirements", the Congress believes that the same or higher priority should be given to helping American people recover from natural disaters and other emergency situations as has been given to foreign aid "emergency" needs. The Congress therefore designates all funds in Titles I and II of this joint resolution as "emergency requirements" for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

RESTRICTIONS ON ASSISTANCE FOR KENYA

SEC. 203. (a) Restrictions.—None of the funds appropriated by this joint resolution or any other provision of law under the heading "Economic Support Fund" or "Foreign Military Financing Program" may be made available for Kenya unless the President determines, and so certifies to the Congress, that the Government of Kenya—

(1) has released all political detainees and has ended the prosecution of individuals for the peaceful expression of their political beliefs;

(2) has ceased the physical abuse or mistreatment of prisoners;

(3) has restored judicial independence;

(4) has taken significant steps toward respecting human rights and fundamental freedoms, including the freedom of thought, conscience, belief, expression, and the freedom to advocate the establishment of political parties and organizations; and

(5) has implemented the principle of freedom of movement, including the right of all citizens of Kenya to leave and return to their country.

(b) PROHIBITION.—

(1) LIMITATION ON NEW PROJECT ASSISTANCE.—During fiscal year 1992, funds appropriated by this or any other Act to carry out the provisions of chapters 1 and 10 of part I of the Foreign Assistance Act of 1961 that are provided for assistance to the Government of Kenya for new projects shall be made available only for new projects—

(A) that promote basic human needs, directly address poverty, enhance employment generation, and address environmental concerns; or

(B) to improve the performance of democratic institutions, or otherwise promote the objectives being sought in the certification required by subsection (a).

(2) CONGRESSIONAL NOTIFICATION.—During fiscal year 1992, none of the funds appropriated by this or any other Act to carry out the provisions of chapters 1 and 10 of the Foreign Assistance Act of 1961 shall be obligated unless the Committees on Appropriations are notified at least 15 days in advance in accordance with the regular notification procedures of those Committees.

(3) APPLICABILITY.—The provisions of paragraphs (1), and (2) of this subsection shall cease to apply 30 days after the certification described in subsection (a) is made to the Congress.

(c) DATE OF AVAILABILITY OF FUNDS.—None of the funds appropriated by this joint resolution or any other provision of law under the heading "Economic Support Fund" or "Foreign Military Financing Program" may be obligated or expended for Kenya until 30 days after the certification described in subsection (a) is made to the Congress.

SENSE OF THE SENATE REGARDING UNITED STATES RECOGNITION OF UKRAINIAN INDEPENDENCE.

SEC. 204. (a) FINDINGS.—The Senate makes the following findings:

(1) On August 24, 1991, the democratically elected Ukrainian parliament declared Ukrainian independence and the creation of an independent, democratic state—Ukraine.

(2) That declaration reflects the desire of the people of Ukraine for freedom and independence following long years of communist oppression, collectivization, and centralization.

(3) On December 1, 1991, a republic-wide referendum will be held in Ukraine to confirm the August 24, 1991, declaration of independence.

(4) Ukraine is pursuing a peaceful and democratic path to independence and has pledged to comply with the Helsinki Final Act and other documents of the Conference on Security and Cooperation in Europe.

(5) Ukraine and Russia signed an agreement on August 29, 1991, recognizing each other's rights to state independence and affirming each other's territorial integrity.

(6) Ukraine, a nation of 52,000,000 people, with its own distinct linguistic, cultural, and religious traditions, is determined to take its place among the family of free and democratic nations of the world.

(7) The Congress has traditionally supported the rights of people to peaceful and democratic self-determination.

(8) As recognized in Article VIII of the Helsinki Final Act of the Conference on Security and Cooperation in Europe, "all peoples always have the right, in full freedom, to determine, when and as they wish, their internal and external political status, without external interference, and to pursue as they wish their political, economic, social and cultural development".

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the President—

(1) should recognize Ukraine's independence and undertake steps toward the establishment of full diplomatic relations with Ukraine should the December 1, 1991, referendum confirm Ukrainian parliament's independence declaration; and

(2) should use United States assistance, trade, and other programs to support the Government of Ukraine and encourage the further development of democracy and a free market in Ukraine.

SEC. 205. The appropriation entitled "Fishing Vessel Obligation Guarantees" in Public Law 102–140 is amended by striking the sum "$10,000,000" and inserting in lieu thereof the sum "$24,000,000".

SEC. 206. From the funds made available for Land Acquisition of the United States Fish and Wildlife Service in the fiscal year 1992 Department of the Interior and Related Agencies Appropriations Act (Public Law 102–154), $965,000 is hereby appropriated by transfer to the Resource Management account of the United States Fish and Wildlife Service.

SEC. 207. Notwithstanding any other provisions of law, amounts received by the United States for restitution and future restoration (including replacement or acquisition of equivalent natural resources) in settlement of United States v. Exxon Corporation and Exxon Shipping Company (Case No. A90–015–1CR and 2CR), hereinafter the Plea Agreement, United States v. Exxon Corporation et al. (Civil No. A91–082–CIV) and State of Alaska v. Exxon Corporation et al. (Civil No. A91–083–CIV), hereinafter referred to together as the Agreement and Consent Decree, as approved by the United States District Court for the District of Alaska on October 8, 1991, in fiscal year 1992 and thereafter shall be deposited into the Natural Resource Damage Assessment and Restoration Fund established by Public Law 102–154. Such amounts, and the interest accruing thereon, shall be available to the Federal Trustees identified in the Agreement and Consent Decree for necessary expenses for assessment and restoration of areas affected by the discharge of oil from the T/V EXXON VALDEZ on March 23–24, 1989, for fiscal year 1992 and thereafter in accordance with the Plea Agreement and the Agreement and Consent Decree: Provided, That such amounts (and accrued interest) shall remain available until expended: Provided further, That such amounts may be transferred to any account, as authorized by section 311(f)(5) of the Federal Water Pollution Control Act (33 U.S.C. 1321(f)(5)), to carry out the provisions of the Plea Agreement and the Agreement and Consent Decree: Provided further, That herein and hereafter any amounts deposited into the Natural Resource Damage Assessment and Restoration Fund shall be invested by the Secretary of the Treasury in interest bearing obligations of the United States to the extent such amounts are not, in his judgment, required to meet current withdrawals: Provided further, That interest earned by such investments shall be available for obligation without further appropriation: Provided further, That, for fiscal year 1992, the Federal Trustees shall provide written notification of the proposed transfer of such amounts to the Appropriations Committees of the House of Representatives and the Senate thirty days prior to the actual transfer of such amounts: Provided further, That, for fiscal year 1993 and thereafter, the Federal Trustees shall submit in the President's Budget for each fiscal year the proposed use of such amounts.

WAIVER OF CERTAIN RECOVERY REQUIREMENTS

SEC. 208. Section 2713(d) of the Public Health Service Act (42 U.S.C. 300aaa–12(d)) is amended by striking "(a)(2)" and inserting "(a)".

SEC. 209. (a) Section 307E of the Legislative Branch Appropriations Act, 1989 (40 U.S.C. 216c), is amended to read as follows:

"SEC. 307E. (a) The Architect of the Capitol, subject to the direction of the Joint Committee on the Library, is authorized to—

"(1) construct a National Garden demonstrating the diversity of plans, including the rose, our national flower, to be located between Maryland and Independence Avenues, S.W., and extending from the Botanic Garden Conservatory to Third Streets, S.W., in the District of Columbia; and

"(2) solicit, receive, accept, and hold gifts, including money, plant material, and other property, on behalf of the Botanic Garden, and to dispose of, utilize, obligate, expend, disburse, and administer such gifts for the benefit of the Botanic Garden, including among other things, the carrying out of any programs, duties or, functions of the Botanic Garden, and for constructing, equipping, and maintaining the National Garden referred to in paragraph (1).

"(b)(1) Gifts or bequests of money under subsection (a)(2) shall, when received by the Architect, be deposited with the Treasurer of the United States, who shall credit these deposits as offsetting collections to an account entitled "Botanic Garden, Gifts and Donations". The gifts or bequests described under subsection (a)(2) shall be accepted only in the total amount provided in appropriations acts.

"(2) Receipts, obligations, and expenditures of funds under this section shall be included in annual estimates submitted by the Architect for the operation and maintainance of the Botanic Garden and such funds shall be expended by the Architect, without regard to section 3709 of the Revised Statutes, for the purposes of this section after approval in appropriations Acts. All such sums shall remain available until expended, without fiscal year limitation.

"(c)(1) In carrying out this section and his duties, the Architect of the Capitol may accept personal services, including educationally related work assignments for students in nonpay status, if the service is to be rendered without compensation.

"(2) No person shall be permitted to donate his or her personal services under this section unless such person has first agreed, in writing, to waive any and all claims against the United States arising out of or in connection with such services, other than a claim under the provisions of chapter 81 of title 5, United States Code.

"(3) No person donating personal services under this section shall be considered an employee of the United States for any purpose other than for purposes of chapter 81 of title 5, United States Code.

"(4) In no case shall the acceptance of personal services under this section result in the reduction of pay or displacement of any employee of the Botanic Garden.

"(d) Any gift accepted by the Architect of the Capitol under this section shall be considered a gift to the United States for purposes of income, estate, and gift tax laws of the United States.".

(b) Pursuant to section 307E of the Legislative Branch Appropriations Act, 1989, not more than $2,000,000 shall be accepted and not more than $2,000,000 of the amounts accepted shall be available for obligation by the Architect for preparation of working drawings, specifications, and cost estimates for renovation of the Conservatory of the Botanic Garden.

SEC. 210. (a) The caption for section 713 of title 18, United States Code, is amended as follows:

"§713. Use of likenesses of the great seal of the United States, the seals of the President and Vice President, and the seal of the United States Senate."

(b) Subsection (a) of Section 713 of title 18, United States Code, is amended by inserting "or the seal of the United States Senate," after "Vice President of the United States,".

(c) Subsection (c) of section 713 of title 18, United States Code, is—

(1) amended to read as follows:

"A violation of the provisions of this section may be enjoined at the suit of the Attorney General,

(1) in the case of the great seal of the United States and the seals of the President and Vice President, upon complaint by any authorized representative of any department or agency of the United States; and

(2) in the case of the seal of the United States Senate, upon complaint by the Secretary of the Senate."; and

(3) redesignated as subsection (d).

(d) Section 713 of title 18, United States Code, is amended by inserting after subsection (b) the following new subsection:

"(c) Whoever, except as directed by the United States Senate, or the Secretary of the Senate on its behalf, knowingly uses, manufactures, reproduces, sells or purchases for resale, either separately or appended to any article manufactured or sold, any likeness of the seal of the United States Senate, or any substantial part thereof, except for manufacture or sale of the article for the official use of the Government of the United States, shall be fined not more than $250 or imprisoned not more than six months, or both.".

(e) The table of sections for chapter 33 of title 18, United States Code, is amended by striking the item for section 713 and inserting the following:

"713. Use of likenesses of the great seal of the United States, the seals of the President and Vice President, and the seal of the United States Senate.".

SEC. 211. Section 311(i) of the Legislative Branch Appropriations Act, 1991 (2 U.S.C. 59e(i)) is amended by striking out "with respect to sessions of Congress beginning with the second session of the One Hundred Second Congress," and inserting in lieu thereof "beginning on May 1, 1992,".

SEC. 212. The Secretary of Defense shall continue the construction of a composite medical replacement facility located at Nellis Air Force Base, Nevada, as authorized in the Military Construction Authorization Act for Fiscal Years 1990 and 1991 (division B of Public Law 101–189) and the Military Construction Authorization Act for Fiscal Year 1991 (division B of Public Law 101–510) and as provided for in the Military Construction Appropriations Act, 1990 (Public Law 101–148) and the Military Construction Appropriations Act, 1991 (Public Law 101–519).

SEC. 213. Unobligated funds in the amount of $990,000 authorized and appropriated under Public Law 102–143 for bridge safety repairs in Vermont shall be made available as follows—$350,000 to the City of Barre for the Granite Street Bridge, $350,000 to the City of Montpelier for the Bailey Avenue Bridge, $90,000 to the Town of Brandon for the replacement of the Dean Bridge, and $90,000 for the Town of Williston and $110,000 for the Town of Essex for the North Williston Road Bridge—without regard to whether or not such expenses are in-

curred in accordance with sections 101, 106, 110, and 120 of title 23 of the United States Code.

SEC. 214. Section 4001(a)(14) of the Employment Retirement Income Security Act of 1974 (29 U.S.C. 1301(a)(14)) is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by adding "and" at the end of subparagraph (B); and

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

"(C)(i) notwithstanding any other provision of this title, during any period in which an individual possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of an affected air carrier of which he was an accountable owner, whether through the ownership of voting securities, by contract, or otherwise, the affected air carrier shall be considered to be under common control not only with those persons described in subparagraph (B), but also with all related persons; and

"(ii) for purposes of this subparagraph, the term—

"(I) 'affected air carrier' means an air carrier, as defined in section 101(3) of the Federal Aviation Act of 1958, that holds a certificate of public convenience and necessity under section 401 of such Act for route number 147, as of November 12, 1991;

"(II) 'related person' means any person which was under common control (as determined under subparagraph (B)) with an affected air carrier on October 10, 1991, or any successor to such related person;

"(III) 'accountable owner' means any individual who on October 10, 1991, owned directly or indirectly through the application of section 318 of the Interanl Revenue Code of 1986 more than 50 percent of the total voting power of the stock of an affected air carrier;

"(IV) 'successor' means any person that acquires, directly or indirectly through the application of section 318 of the Internal Revenue Code of 186, more than 50 percent of the total voting power of the stock of a related person, more than 50 percent of the total value of the securities (as defined in section 3(20) of this Act) of the related person, more than 50 percent of the total value of the assets of the related person, or any person into which such related person shall be merged or consolidated; and

"(V) 'individual' means a living human being;".

This joint resolution may be cited as the "Dire Emergency Supplemental Appropriations and Transfers for Relief From the Effects of Natural Disasters, for Other Urgent Needs, and for Incremental Cost of 'Operations Desert Shield-Desert Storm' Act of 1992".

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the joint resolution and agree to the same.

JAMIE L. WHITTEN,
WILLIAM H. NATCHER,
NEAL SMITH,
SIDNEY R. YATES
(except as to the disposition of sections 213 and 214 of the Senate amendment),
DAVID R. OBEY,
TOM BEVILL,
JOHN P. MURTHA,
BOB TRAXLER,
WILLIAM LEHMAN,
VIC FAZIO,
W.G. (BILL) HEFNER,
JOSEPH M. MCDADE,
JOHN T. MYERS,
CLARENCE MILLER,
CARL PURSELL,
BILL GREEN,
JOE SKEEN,
Managers on the Part of the House.

ROBERT C. BYRD,
DANIEL K. INOUYE,
ERNEST F. HOLLINGS,
J. BENNETT JOHNSTON,
QUENTIN N. BURDICK,
PAT LEAHY,
JIM SASSER,
DENNIS DECONCINI,
DALE BUMPERS,
FRANK R. LAUTENBERG,
TOM HARKIN,
BARBARA A. MIKULSKI,
HARRY REID,
BROCK ADAMS,
WYCHE FOWLER, Jr.,
MARK O. HATFIELD,
TED STEVENS,
JAKE GARN,
THAD COCHRAN,
ROBERT W. KASTEN, Jr.,
ALFONSE M. D'AMATO,
WARREN RUDMAN,
ARLEN SPECTER,
PETE V. DOMENICI,
DON NICKLES,
PHIL GRAMM,
CHRISTOPHER S. BOND,
SLADE GORTON,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONGERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes to the two Houses on the amendment of the Senate to the joint resolution (H.J. Res. 157) making dire emergency supplemental appropriations and transfers for relief from the effects of natural disasters, for other urgent needs, and for incremental costs of "Operation Desert Shield/Desert Storm" for the fiscal year ending September 30, 1992, 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.

Report language included by the House in the report accompanying H.R. 3543 (H. Rept 102–255) which is not changed by the report of the Senate (S. Rept 102–216), and Senate report language which is not changed by the conference are approved by the committee of conference. The statement of the managers while repeating some report language for emphasis, is not intended to negate the language referred to above unless expressly provided herein.

The conference agreement deletes technical corrections and enrolling error corrections to four fiscal year 1991 appropriations acts that were proposed by the House and stricken by the Senate. These corrections have already been made in an earlier supplemental appropriations act, Public Law 102–27.

SUPPLEMENTAL APPROPRIATIONS

DEPARTMENT OF DEFENSE—MILITARY PROCURMENT

MISSILE PROCUREMENT, ARMY

(INCLUDING TRANSFER OF FUNDS)

PATRIOT

The conferees have provided $145,000,000, including $67,000,000 derived by transfer from contract savings on the Maverick missile, for the procurement of additional Patriot missiles. The Army is directed to procure as many new missiles as possible with the funding available.

SHIPBUILDING AND CONVERSION, NAVY

The conferees agree to provide $25,000,000 in advance procurement funding to finance long lead items, including engines and generators, for the LSD cargo variant.

NATIONAL GUARD AND RESERVE EQUIPMENT

The conferees agree to provide $10,100,000 for the purchase of one MH–60G helicopter for the Air National Guard.'

TITLE I–EMERGENCY SUPPLEMENTAL APPROPRIATIONS

Chapter I

DEPARTMENT OF DEFENSE—MILITARY

OPERATION DESERT SHIELD/DESERT STORM

(TRANSFER OF ADDITIONAL FUNDS)

The conferees agree to provide $3,968,500,000 for additional incremental costs of the Department of Defense, the Department of Veterans Affairs, and the Department of Transportation, as follows:

MILITARY PERSONNEL

(TRANSFER OF FUNDS)

The conferees agree not to provide an additional amount for National Guard Personnel, Army, as proposed by the Senate instead of $40,200,000 as proposed by the House in H.R. 3543.

OPERATION AND MAINTENANCE

(TRANSFER OF FUNDS)

The conference agreement on additional transfers for Operation and Maintenance is as follows:

	Conference
Operation and Maintenance:	
Army	$227,300,000
Navy	270,000,000
Marine Corps	75,000,000
Army Reserve	23,200,000
Navy Reserve	28,300,000
Army National Guard	41,900,000
Total	665,700,000

PROCUREMENT

The supplemental request proposed transfers from the Defense Cooperation Account or the Persian Gulf Regional Defense Fund to the procurement accounts in the amount of $1,472,900,000. The conference agreement includes transfers totalling $2,028,600,000 as follows:

Appropriation Account/Line Item	Quantity	Amount
Aircraft Procurement, Army:		
AH–64 Helicopter	6	$70,200,000
CH–47D Modification	2	27,000,000
OH–58D Modifications	12	90,200,000
UH–60 Helicopter	6	38,400,000
UH–60 Helicopter (Replaces UH–1)	7	45,000,000
Total		270,800,000
Missile Procurement, Army:		
TOW/STINGER Restockage		21,800,000
Total		21,800,000
Procurement of Weapons and Tracked Combat Vehicles, Army:.		
M1A1 Tanks	18	63,000,000
Total		63,000,000
Other Procurement, Army:		
HMMWV	155	4,800,000
HEMTT M977	42	6,600,000
HEMTT M978	161	27,300,000
5 Ton Truck FMTV	436	41,800,000
Total		80,500,000
Aircraft Procurement, Navy:		
SH–60B Helicopter	1	17,000,000
F/A–18 Aircraft	5	135,000,000
F/A–18 Aircraft (Replaces A–6)	4	108,000,000

Appropriation Account/Line Item	Quantity	Amount
AV–8B Aircraft	6	230,000,000
AH–1W Helicopter (Replaces AH–1J)	2	18,000,000
OV–10 Series Modifications		13,000,000
Total		521,000,000
Weapons Procurement, Navy:		
5–inch 54 Gun Mount	1	8,100,000
Total		8,100,000
Other Procurement, Navy:		
Civil Engineering Equipment		97,700,000
MK–103 Mine Clearing Sleds		2,100,000
Trucks		300,000
Medical Support Equipment		12,600,000
Total		112,700,000
Procurement, Marine Corps:		
Light Armored Vehicle	4	4,300,000
Total		4,300,000
Aircraft Procurement, Air Force:		
F–15E Aircraft	3	268,800,000
F–117A Aircraft		40,700,000
Total		309,500,000
Other Procurement, Air Force:		
Laser Guided Bomb Kits		460,000,000
Combined Effects Munitions		100,000,000
Total		560,000,000
Procurement, Defense Agencies:		
AC–130 Aircraft (Spec. Ops. Command)	1	71,400,000
UH–60L Helicopter (Spec. Ops. Command)	1	5,500,000
Total		76,900,000
Grand Total		2,028,600,000

AVAILABILITY OF FUNDS

The conference agreement retains Senate language in each of the procurement appropriations making the funds available for obligation until September 30, 1994.

AH–64 APACHE HELICOPTER

The conference agreement includes $70,200,000 for procurement of six AH–64 Apache helicopters, as proposed by the Senate. The conference agreement also retains Senate Section 101 which sets aside a provision of Public Law 101–189 to make this procurement possible.

AIR FORCE MUNITIONS

The Senate bill included a provision permitting the use of $100,000,000 of the $460,000,000 included for procurement of laser guided bomb kits for the procurement instead of combined effects munitions. The conference agreement deletes this provision and includes $460,000,000 for procurement of laser guided bomb kits and $100,000,000 for the procurement of combined effects munitions.

AC–130 GUNSHIP

The conferees agree with the House language in H.R. 3543 that an AC–130 "U" model shall be procured with funding provided under Procurement, Defense Agencies.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

The supplemental request proposed transfers from the Defense Cooperation Acccount or the Persian Gulf Regional Defense Fund to the Research, Development, Test and Evaluation accounts in the amount of $108,500,000. The conference agreement includes transfers totalling $106,300,000 as follows:

	Conference
Research, Development, Test and Evaluation, Army:	
Chem-Bio Defense Equipment—Adv. Development	$7,500,000
Night Vision System—Eng. Development	8,000,000
Chemical/Smoke Equipment Defeating Technologies	1,300,000
Special Army Program	1,600,000
Combat Vehicle and Automotive Technology	1,100,000
Military Engineering Technology	1,100,000
TRACTOR HOLE	2,100,000
Materials and Structures Adv. Technology	0
Joint Surveillance and Target Attack Radar System	0
Logistics and Engineer Equipment—Eng. Development	2,100,000
Army Test Ranges	1,400,000
Exploitation of Foreign Items	6,200,000
Base Operations	0
Landmine War/Barrier Adv. Technology	1,700,000
Various Programs Under $1 million	13,700,00
Total, RDT&E, Army	47,800,000
Research, Development, Test and Evaluation, Navy:	
Tactical Command System	1,300,000
Mine Countermeasures	2,200,000
Various Programs Under $1 million	2,600,000
Total, RDT&E, Navy	6,100,000
Research, Development, Test and Evaluation, Air Force:	
Airborne Warning and Control System (AWACS)	7,300,000
C(3) Advanced Development	0
EW Development	1,800,000
Joint Surveillance System	3,300,000
Constant Source	3,800,000
Armament Ordnance Development	700,000
Surface Defense Suppression	3,400,000
Various Programs Under $1 million	4,000,000
Total, RDT&E, Air Force	24,300,000
Research, Development, Test and Evaluation, Defense Agencies:	
Flying Carpet	10,300,000
DART	5,600,000
Other DARPA	6,300,000
OSD	2,800,000
DCA	300,000
SOCOM	2,700,000
DSPO	100,000
Total, RDT&E, Defense Agencies	28,100,000
Total, Research, Development, Test and Evaluation:	$106,300,000

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

MEDICAL RESEARCH

The conferees agree that within the funds appropriated in the Department of Defense Appropriations Act, 1992, for medical technology in Research, Development, Test and Evaluation, Army, $3,000,000 shall be made available for the PYROCAP B–136 project as described in the conference report of the National Defense

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

OVER THE HORIZON TARGETING

The conferees direct that of the $33,977,000 appropriated in fiscal year 1992 for the Tactical Command System (program element 0604231N), $2,974,000 is only for Over the Horizon Targeting which had been requested by the Navy in program element 0604707N. DD Form 1414 for fiscal year 1992 shall show the Over the Horizon Targeting funds as an item of special interest, a decrease to which requires prior Congressional approval.

155MM LIGHTWEIGHT HOWITZER

The report accompanying the National Defense Authorization Act for Fiscal Years 1992 and 1993 recommended the provision of $2,500,000 for the Marine Corps and Army Lightweight 155mm Howitzer program. The conferees on H.J. Res. 157 support that endorsement. The conferees direct that up to $2,500,000 of the funds appropriated in the Department of Defense Appropriations Act, 1992, for Research, Development, Test and Evaluation, Navy, shall be used only for necessary planning and preparation of the fiscal year 1993 Lightweight 155mm Howitzer competitive demonstration program.

DEFENSE BUSINESS OPERATIONS FUND

(TRANSFER OF FUNDS)

The conference agreement on additional transfers for the Defense Business Operations Fund is as follows:

Defense Business Operations Fund:	*Conference*
Army Supply Operations	$410,000,000
Navy Supply Operations	450,000,000
Air Force Supply Operations	280,000,000
Total	1,140,000,000

DEPARTMENT OF TRANSPORTATION

(TRANSFER OF FUNDS)

COAST GUARD

OPERATING EXPENSES

The conferees agree to provide $17,900,000 for an additional amount for operating expenses of the Coast Guard. The conferees further agree that these amounts shall be available until expended.

DEPARTMENT OF VETERANS AFFAIRS

VETERANS HEALTH ADMINSTRATION

MEDICAL CARE

(TRANSFER OF FUNDS)

Transfers $10,000,000 from funds available for the costs of Operation Desert Shield/Desert Storm to medical care, instead of transferring $10,000,000 from the same source and earmarking the funds for marriage and family counseling services for veterans of the Persian Gulf War and their spouses and families, contingent upon authorizing legislation during this Congress, as proposed by the Senate. The conferees agree that the $10,000,000 should be available for a subsequently authorized program for marriage and family counseling services for veterans of the Persian Gulf War and their spouses and families (or for similar, currently authorized services if specific legislation is not enacted) and for other medical services for Persian Gulf veterans.

DEPARTMENT OF DEFENSE—MILITARY

(TRANSFER OF EXISTING FUNDS)

The conferees agree to provide authority to realign $6,282,400,000 of funds previously transferred pursuant to the "Operation Desert Shield/Desert Storm Supplemental Appropriations Act, 1991" (Public Law 102-28).

GENERAL PROVISIONS—CHAPTER I

AH-64 APACHE HELICOPTER

The conferees agree to the Senate general provision (Sec. 101) which enables obligation of funds for the AH-64 Apache helicopter.

OTH-B RADAR

The conferees agree to the Senate provisions (Sec. 102) regarding the Over-the-Horizon Backscatter Radar.

KURDISH PROTECTION FORCE

(TRANSFER OF FUNDS)

The conferees agree to provide $100,000,000 by transfer for expenses resulting from U.S. participation in the Kurdish Protection Force (KPF) (Sec. 103). The conferees direct that no later than March 1, 1992, the Secretary of Defense shall provide the Committees on Appropriations of the House and Senate with a report detailing (1) the full costs of the KPF operation, to include the amount paid by other allied participants; (2) the rules of engagement under which the KPF operates, and (3) the assistance being provided to the KPF by the Government of Turkey.

RESTRICTIONS AND ARMS SALES TO SAUDI ARABIA AND KUWAIT

The conferees have included language proposed by the Senate (Sec. 104), which takes effect 120 days after the date of enactment of this joint resolution, restricting the use of funds to conduct, support, or administer any sale of defense articles or defense services to Saudi Arabia or Kuwait until they have fully paid their mutually agreed commitments to the United States to support Operation Desert Shield/Desert Storm. The House bill contained no similar provision.

The conferees have included further language requiring the notification of United States military equipment transfers to other NATO countries under the provisions of the Conventional Forces in Europe Treaty.

PARKING TICKETS OWED BY DIPLOMATS OF SAUDI ARABIA AND KUWAIT

It has been brought to the attention of the conferees that diplomats of many countries have failed to pay parking fees and fines in both the District of Columbia and the City of New York. Special action was taken to notify foreign ambassadors of the obligation of diplomats to pay these fines in a letter from the Office of Foreign Missions of the Department of State in June, 1991.

Despite this letter, New York City records indicate that for 1989 and 1990 Saudi Arabian diplomats located at the Saudi Consulate and the Saudi Mission in New York City have 1,247 outstanding tickets valued at $41,151. Additionally, District of Columbia records indicate that 2,752 tickets owed by Saudi Arabian diplomats and valued at $121,250 are outstanding from the last three years

Diplomats of Kuwait, according to District of Columbia records, have 56 tickets valued at $2,465 still outstanding despite recent actions clearing up other overdue tickets.

The conferees are disturbed by this failure of foreign diplomats to live within simple domestic laws. The conferees warn that continued failure to pay parking fines by foreign diplomats will result in legislative consideration of measures both to restrict benefits granted to such countries and to restrict diplomatic privileges enjoyed by such countries.

MIDDLE EAST HUMANITARIAN ASSISTANCE

(TRANSFER OF FUNDS)

The conferees have modified language proposed by the Senate (Sec. 105) to give the Secretary of Defense discretionary authority to provide $15,000,000 from the "Defense Cooperation Account for the Kurdish Ready Reaction Force", and $15,000,000 from the "Defense Cooperation Account" for the prepositioning of humanitarian relief supplies in the Middle East. The conferees have included this provision in order to address needs that may occur related to Iraqi Kurds. The House had no similar language.

The conferees also agree that the Department of Defense is to thoroughly coordinate this program with the Office of Disaster Assistance within the Agency for International Development. Fiscal Year 1991 funds remain available for Middle East humanitarian support through the Agency for International Development, and the conferees want to make sure that the AID program and the DOD program are proceeding with proper coordination. The Committees on Appropriations are to be notified in advance on the use of the funds under this authority.

CLASSIFIED PROGRAM

The conferees agree to the Senate amendment (Sec. 106) modifying section 110 of the Classified Annex incorporated by reference into the "Department of Defense Appropriations Act, 1992". Additional guidance by the conferees is contained in a classified letter accompanying this statement of the managers.

FOUR-TON DOLLY JACKS

The conferees agree to include language (Sec. 107) which prohibits the use of fiscal year 1992 appropriated funds to procure four-ton dolly jacks outside the United States unless the Secretary of Defense determines such procurement is necessary in the interest of national security.

In February 1991, the Department awarded a contract to an overseas firm to procure 814 four-ton dolly jacks. Subsequently, this firm has failed to successfully complete first article testing on two occasions.

Therefore, the conferees direct the Department of Defense to terminate contract DAAA09-91-C-0353 if the contractor fails to complete first article testing.

SOVIET NUCLEAR WEAPONS CONTROL AND DESTRUCTION

The conferees agree to a general provision (Sec. 108) which would allow the Secretary of Defense to transfer up to $400,000,000 from fiscal year 1992 operation and maintenance funds and from cash balances in the working capital funds to other Department of Defense appropriation accounts to cover the costs of the United States Government in assisting the Soviet Union and/or emerging political structures on the territory of the former Soviet Union in dismantling nuclear weapons.

The conferees are adamant that any funds used for this purpose cannot come at the expense of the readiness of U.S. forces. In addition, the conferees agree that none of the funds for transfer may be derived from programs which were increased in the Department of Defense Appropriations Act for fiscal year 1992 above the amount requested. Further, no funds shall be transferred from environmental clean-up and natural and cultural resource management activities.

No funds may be transferred to provide U.S. assistance in destroying nuclear weapons unless the President first certifies to the Congress that the potential recipient is committed to making a substantial investment of its resources for dismantling or destroying such weapons; foregoing any military modernization that is designed to replace destroyed weapons of mass destruction; foregoing any use of fissionable and other components of destroyed nuclear weapons in new nuclear weapons; and taking adequate measures to prevent any transfer of nuclear weapons or their components to any third party.

The conferees further stipulate that the Secretary of Defense shall submit to the Committee on Appropriations for prior approval under established reprogramming procedures any proposed transfer authorized by this section.

EMERGENCY TRANSPORTATION

The conferees agree to a general provision (Sec. 109) authorizing the Secretary of Defense at the direction of the President to transfer funds from Department of Defense fiscal year 1992 funds and working capital accounts to the appropriate Department of Defense appropriations to allow the Department of Defense to transport by military or commercial means, food, medical supplies, and other types of humanitarian assistance to the Soviet Union, or its Republics, or localities therein, in order to address emergency conditions which may arise. The provision of humanitarian assistance shall be carried out under the terms and conditions established as authorized by section 301 of H.R. 3807 as passed the Senate on November 25, 1991.

The conferees are adamant that any funds used for the purposes provided herein cannot come at the expense of the readiness of the United States Armed Forces. Further, the conferees stipulate that none of the funds for transfer may be derived from programs which were increased by the Department of Defense Appropriations Act for fiscal year 1992 above the amount requested. Further, no funds shall be transferred from environmental clean-up and natural and cultural resource management activities.

Finally, the conferees agree that the Secretary of Defense shall submit to the Committees on Appropriations for prior approval under established reprogramming procedures any proposed transfer authorized by this section.

CHAPTER II

DEPARTMENT OF VETERANS AFFAIRS

ADMINISTRATIVE PROVISION

Inserts language reflecting a recodification in a general provision in the 1992 VA, HUD, and Independent Agencies Appropriations Act, as proposed by the Senate. An identical provision is contained in H.R. 3543.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ADMINISTRATIVE PROVISIONS

Includes language adjusting the amounts appropriated for three salaries and expenses appropriations in the Department of Housing and Urban Development as proposed by the Senate, amended to permit four U.S. territories to participate in the HOME program. Both of these provisions are in H.R. 3543.

Concern has been expressed regarding potential 1992 staffing restrictions in HUD. The Department has recently indicted that it does not anticipate the need for any furloughs. In the future, HUD needs to more accurately estimate personal service costs and to better monitor employment levels in housing to ensure they do not increase beyond levels that can be funded.

INDEPENDENT AGENCIES

COURT OF VETERANS APPEALS

SALARIES AND EXPENSES

Inserts language as proposed by the Senate authorizing that not to exceed $950,000 of 1992 Court of Veterans Appeals' funds be available through a reimbursable payment to the Legal Services Corporation for grants or contracts to organizations that provide legal assistance to veterans in *pro se* cases before the court. The conferees wish to make clear that these funds will provide for a *demonstration* program in fiscal years 1992 and 1993. Further funding of these types of services will depend upon an independent evaluation of the demonstration program and the availability of funds.

ENVIRONMENTAL PROTECTION AGENCY

ADMINISTRATIVE PROVISION

Inserts language proposed by the Senate providing that up to one half of one percent of funds appropriated may be available as direct grants to Indian tribes for the construction of wastewater treatment facilities.

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF FUND

Appropriates $943,000,000 for the disaster relief fund, as proposed by the Senate in H.J. Res. 157 and the House in H.R. 3543. Of this amount, $800,000,000 has been designated as an emergency and therefore is not subject to the spending caps contained in the Budget Enforcement Act of 1990. The conferees have agreed that the remaining $143,000,000 will be available if the President submits a formal budget request and designates these funds as emergency in nature. This supplemental appropriation is urgently needed for disaster assistance to 38 states and territories. The Committees on Appropriations have been assured by both FEMA and OMB that this amount, when combined with unobligated balances, recoveries from prior years and the regular 1992 appropriation, will be sufficient to meet FEMA's costs for all outstanding prior year disasters, and a normal level of disaster activity for the remainder of the fiscal year.

In addition, language has been included that specifies that in future years, commencing with fiscal year 1993, only amounts in excess of either the historical average for disaster relief of $320,000,000, or the amount submitted in the President's initial budget request, whichever is lower, will be considered "emergency" in nature under the Balanced Budget and Emergency Deficit Control Act of 1985. The conference agreement provides an automatic designation as an emergency on the part of Congress and the President for any amounts that are signed into law in the future that exceed the specified threshold. The conferees and the Administration agree that this language assures that the Committees on Appropriations will not be scored in future years for providing less than the historical average of $320,000,000 for the disaster relief fund.

Language is also included permitting FEMA to transfer up to $1,250,000 to salaries and expenses appropriation, (which would also be designated as an emergency), from the disaster relief fund as proposed by the Senate. These funds will support an additional 25 FTE to meet disaster assistance workload requirements.

The conferees also note that many projects resulting from the Loma Prieta earthquake have not yet been funded. Of the funds allocated for Loma Prieta disaster assistance activities, the conferees urge FEMA to expedit projects, such as Loma Prieta damaged hospitals, where critical and compelling community needs such as health care are at stake.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

RESEARCH AND DEVELOPMENT

Inserts language as proposed by the Senate repealing the development cost "cap" on the Comet Rendezvous Asteroid Flyby/Cassini mission as contained in the fiscal year 1990 VA, HUD, and Independent Agencies Appropriations Act. In the recently enacted 1992 NASA appropriation, the conferees agreed to reduce the CRAF/Cassini mission by $117,300,000. This reduction will cause a delay of approximately one year in the mission. That will result in an increase in the $1,600,000,000 existing development "cap." This proviso would repeal that dollar cap which was included in the 1990 appropriation bill. The conferees direct that a new CRAF/Cassini development cost "cap" be transmitted with the 1992 NASA operating plan. The conferees also want to restate the further direction contained in the conference report accompanying the 1992 bill requiring that NASA submit in connection with the fiscal year 1992 operating plan, proposed "caps" for all development (and where applicable) operations activities covering all programs funded within the agency. The conferees believe that this action is essential in view of the anticipated extremely limited budget resources available in the coming fiscal year.

NATIONAL COMMISSION ON SEVERELY DISTRESSED PUBLIC HOUSING

SALARIES AND EXPENSES

The conferees have included $250,000 for the National Commission on Severely Distressed Public Housing, to be derived by transfer from the salaries and expenses account of the Department of Housing and Urban Development. These funds are necessary to permit the Commission to complete its work. The conferees expect the Commission to deliver its report to the Congress at the earliest possible date, but in no event later than June 1, 1992, to allow for consideration of its contents as part of the fiscal year 1993 appropriations bill.

CHAPTER III

DEPARTMENT OF AGRICULTURE

COMMODITY CREDIT CORPORATION

The conference agreement includes $1,750,000,000 for disaster payments to farmers and ranchers to compensate them for losses suffered from natural disasters during crop years 1990, 1991, and 1992. The agreement provides the same smount proposed by the House in H.R. 3543 and the same amount proposed by the Senate.

The conference agreement earmarks $995,000,000 for disaster payments authorized by Public Law 101-624 for crop year 1990 and for crop year 1991 under the same terms and conditions. Payments are available for losses which occurred in either 1990 or 1991, at the producer's option.

The conference agreement also provides $755,000,000 for crop years 1990, 1991, and 1992 under the same terms and conditions as authorized in P.L. 101-624 which shall be available only upon receipt of an official budget request or requests.

The conference agreement amends Senate language which provided that for purposes of this Act the term "1991 crop" shall include any program crop planted in 1991 for harvest in 1992. The conferees were unable to finance losses of crops planted in 1991 for harvest in 1992 as a dire emergency at this time. But, the conferees have set aside $100,000,000 of the $755,000,000 to meet such problems, subject to receipt of an official budget request or requests.

The conferees will expect that all payment limitations now in law be implemented carefully and all applications for assistance be considered on a case-by-case basis.

CROP INSURANCE WAIVER FOR EMERGENCY LOANS

The conference agreement amends Senate language that waives the requirement to have crop insurance in 1990 and 1991 to obtain emergency loans. H.R. 3543 contained no similar provision. The agreement waives the requirement for 1991 only, since the 1990 requirement was waived previously.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

The conference agreement earmarks $530,000 of existing funds for a grant to the State of Maine Department of Agriculture for potato disease efforts as proposed by the Senate. H.R. 3543 contained no similar provision.

SOIL CONSERVATION SERVICE

EMERGENCY WATERSHED PROTECTION

The conference agreement deletes the $50,000,000 for the Emergency Watershed Protection Program proposed by the House in H.R. 3543 and the $28,000,000 proposed by the Senate.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

EMERGENCY CONSERVATION PROGRAM

The conference agreement deletes the $5,000,000 for the Emergency Conservation Program proposed by the House in H.R. 3543. The Senate resolution contained no similar provision.

FOOD AND NUTRITION SERVICE

SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)

The conference agreement deletes the $100,000,000 for the Special Supplemental Food Program for Women, Infants, and Children (WIC) proposed by both the House and the Senate. The fiscal year 1992 Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act provided $2,600,000,000 for the WIC program, an increase of $250,000,000 or 10.6 percent over the fiscal year 1991 level. Since 1980 Congress has increased WIC funding by 253 percent, resulting in average monthly participation increasing from 1.9 million persons in 1980 to 4.9 million persons in 1991.

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

The conference agreement deletes funding that was proposed by the Senate in H.J. Res. 157 for Flood Control, Mississippi River and Tributaries, Operation and Maintenance, General and Flood Control and Coastal Emergencies.

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

CONSTRUCTION PROGRAM

The conference agreement deletes language proposed by the Senate regarding the Buffalo Bill Dam Modification project in Wyoming.

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

H.J. Res. 157 that would have appropriated $5,000,000 to the State Department, notwith-

standing Sec. 15 of the State Department Basic Authories Act, for rewards for information leading to the arrest, return to trail, and conviction of international terrorists. Neither the House version of H.J. Res. 157 nor the House Bill (H.R. 3453) contained such funds.

The Senate amendment has been deleted because this supplemental appropriation of $5,000,000 would not meet the definition of an emergency, and would result in additional spending and thereby cause a sequester of funds in fiscal year 1992.

DEPARTMENT OF COMMERCE

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH AND FACILITIES

The Conference agreement does not include the Senate amendment to H.J. Res. 157 which would have appropriated $300,000 for the Interjurisdictional Fisheries Program for the restoration of shellfishing beds in Rhode Island damaged by Hurricane Bob. Neither the House version of H.J. Res. 157 nor the House Bill (H.R. 3543) contained funds for this purpose.

In addition, the conference agreement does not include the provision in the House Bill (H.R. 3543) which would have appropriated $1,300,000 to restore lost computer and related telecommunications equipment destroyed by a fire at NOAA's Office of Administration in Suitland, Maryland. Neither the House version of H.J. Res. 157 nor the Senate amendment to H.J. Res. 157 included funds for this purpose.

The conference agreement does not include either the House or the Senate supplemental items for NOAA. The conferees now believe there are sufficient funds currently available to NOAA in fiscal year 1992, both from carryover balances and new appropriations, to handle these requirements.

U.S. INFORMATION AGENCY

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

The conference agreement does not include the Senate language in H.J. Res. 157 that would have provided for a transfer of $5,600,000 to USIA to allow for the continued participation of the United States in the 1992 Columbus Quincentennial Expositions in Seville, Spain, and Genoa, Italy. The transfer comes from funds provided to the Board for International Broadcasting for the Israel Relay Station project. Neither the House version of H.J. Res 157 nor the House Bill (H.R. 3543) contained such a transfer of funds.

The Senate language has been deleted because an identical provision has been included in the conference agreement on the Department of Defense Appropriations Act, 1992, which the House and Senate have already approved.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES

Three provisions with respect to Interior and related agencies appropriations which were adopted by the House in H.R. 3543, Making Dire Emergency Supplemental Appropriations and Transfers for Relief from the Effects of Natural Disasters, for Other Urgent Needs, and for Incremental Costs of "Operation Desert Shield/Desert Storm" for the Fiscal Year Ending September 30, 1992, and for Other Purposes, were not included by the Senate in H.J. Res. 157. The conference agreements with respect to those provisions are as follows:

First, no funding is provided for emergency reclamation projects under the abandoned mine reclamation fund in the Office of Surface Mining Reclamation and Enforcement. The House had provided $10,300,000 in Title I, Chapter V of H.R. 3543 for emergency abandoned mine reclamation projects. The Congress has recently addressed this issue in Public Law 102-154.

Second, no funding is provided for U.S. Geological Survey emergency assistance to local and State governments to assess geologic and hydrologic effects and develop preparedness and response plans for disasters. The House had provided $5,000,000 in Title I, Chapter V of H.R. 3543 for this program.

Third, no funding is provided for the Forest Service in the Department of Agriculture to address critical health and safety projects included in its maintenance, repair and restoration backlog. The House had provided $25,000,000 in Title I, Chapter V of H.R. 3543 to address the maintenance backlog.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

CENTERS FOR DISEASE CONTROL

The conference agreement deletes appropriation of $90,000,000 for the childhood immunization program proposed by the Senate. The House version of H.J. Res. 157 contained no funds for this purpose. H.R. 3543 as passed by the House included $90,000,000 for the program. The 1992 Labor-HHS-ED Appropriations Bill includes $297,845,000 for this purpose, an increase of $80,314,000 over fiscal year 1991. The conferees have deleted supplemental funding because of budgetary constraints.

ADMINISTRATION FOR CHILDREN AND FAMILIES

HUMAN DEVELOPMENT SERVICES

The conference agreement deletes appropriation of $1,200,000,000 for the Head Start program proposed by the Senate. The House version of H.J. Res. 157 contained no funds for this purpose. H.R. 3543 as passed by the House included $1,200,000,000 for the program. The 1992 Labor-HHS-ED Appropriations Bill includes $2,201,800,000 for Head Start, an increase of $250,000,000 over fiscal year 1991. The conferees have deleted supplemental funding because of budgetary constraints.

It was recently brought to the conferees' attention that the White House Conference on Aging will run out of funds by December 31, 1991. While sufficient funds were provided in the fiscal year 1992 Labor, Health and Human Services and Education Appropriations Act for operations of the Conference, these funds were contingent upon enactment of authorizing legislation. This legislation will probably not be enacted until sometime next year. Therefore, the conferees would entertain a reprogramming request to continue current staff and mandatory costs for operation of the White House Conference until authorizing legislation is enacted. The conferees also expect, within thirty days of enactment of this legislation, to receive a full report on carryover balances and needs for the Conference for fiscal year 1992.

DEPARTMENT OF EDUCATION

FOREIGN LANGUAGE ASSISTANCE

It has been brought to the conferees' attention that final regulations regarding the use of fiscal year 1991 foreign language assistance funds have not yet been issued. The conferees feel that the Department has had more than sufficient time to issue these regulations and therefore direct the Department to issue final regulations within fifteen days of enactment of this legislation.

LEGISLATIVE BRANCH

HOUSE OF REPRESENTATIVES

SALARIES AND EXPENSES

The conference agreement provides no funds for "Salaries and expenses, House of Representatives" instead of $50,000 as provided in H.R. 3543.

TITLE II—GENERAL PROVISIONS

The conference agreement inserts a Finding of Dire Emergency Conditions. Such a finding was included in H.R. 3543. No findings was included in H.J. Res. 157, as amended by the Senate. The conferees agree that dire emergency conditions exist and have repeated this finding in the resolution.

The conference agreement includes a limitation on the obligations of all funds in the joint resolution beyond fiscal year 1992 except as expressly provided as proposed by the Senate. The House parallel bill H.R. 3543 contained a similar provision.

CONGRESSIONAL DESIGNATION OF EMERGENCY REQUIREMENTS

The conference agreement includes a Congressional "emergency requirement" designation at section 202 that designates all funds in Titles I and II of the joint resolution as "emergency requirements" for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended. Under section 251(b)(2)(D) of that Act, amounts appropriated for discretionary accounts that are designated as emergency requirements by the President and by Congress shall constitute automatic adjustments to the appropriate Budget Enforcement Act discretionary spending limits.

The conference agreement deletes a provision proposed by the Senate that would have made available only those funds the President designated, prior to enactment, as emergency requirements. There was no similar provision included in H.R. 3543.

The conference agreement deletes language proposed by the Senate in sections 213 and 214 dealing with abortion.

RESTRICTIONS ON FOREIGN ASSISTANCE FOR KENYA

Section 203. The conferees have modified Senate language on prohibiting foreign assistance to Kenya. The new language clarifies that the Presidential determination for Kenya must indicate that the Government of Kenya has taken significant steps toward allowing for the freedom to advocate the establishment of political parties and organizations. The House bill included no language on Kenya.

RECOGNITION OF UKRAINIAN INDEPENDENCE

Section 204. The conferees have agreed to include Sense of the Senate language concerning the recognition of the Ukraine. The Senate had proposed the language as a Sense of Congress. The House had no similar language.

MONITORING OF FOREIGN GRAIN

The conference agreement deletes Senate language in section 218 and 219 that required monitoring of domestic uses made of certain foreign grain after importation; including certification and quarterly reporting, customs and civil penalties, and suspension or debarment for use of foreign grain in certain agricultural trade programs. H.R. 3543 contained no similar provision.

FIRE BLIGHT

The conference agreement deletes Senate language in section 225 which amended the Food, Agriculture, Conservation, and Trade Act of 1990 to provide that fire blight is included in the definition "damaging weather" for purposes of determining eligibility for disaster payments. Fire blight is a highly infectious bacterial disease of apples, pears, and other orchard crops. H.R. 3543 contained no similar provisions.

The conferees agree that fire blight may be a "related condition" for purposes of section 2251 of the Food, Agriculture, Conservation, and Trade Act of 1990 and losses should be eligible for disaster payments where the condition has been accelerated or exacerbated naturally as a result of damaging weather.

ORCHARD CROPS

The conference agreement deletes Senate language in section 226 which amended the Food, Agriculture, Conservation, and Trade Act of 1990 to expand disaster payments to provide for the rehabilitation or restoration of trees damaged rather than just the replanting of trees. The Senate amendment also increased the payment limitation for the losses from $25,000 to $75,000 per person. H.R. 3543 contained no similar provision.

EXTENSION OF CERTAIN FERC-ISSUED LICENSES

The conference agreement deletes language proposed by the Senate in Section 217 regarding extensions of certain FERC-issued licenses.

Section 205. The conference agreement changes, from $10,000,000 to $24,000,000, the limitation for the loan guarantee program level under "Fishing Vessel Obligations Guarantees" in P.L. 102-140, the Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriation Act, 1992. This change in the limitation for the loan program level is consistent with the current subsidy rate estimated by the Office of Management and Budget for that program.

The Senate amendment in Sec. 206 of H.J. Res. 157 would have eliminated the limitation of $10,000,000 on such loan guarantees contained in P.L. 102-140. Neither the House version of H.J. Res. 157 nor the House bill (H.R. 3543) contained any similar provision.

The conference agreement does not include the Senate provision in Sec. 211 of H.J. Res. 157 that would have added language amending Section 511(e) of the Controlled Substances Act to authorize the Attorney General to transfer forfeited real property to States for use as public areas for recreational or historic purposes. Neither the House version of H.J. Res. 157 nor the House bill (H.R. 3543) contained this language.

The Senate language was deleted because this policy issue should be addressed by the appropriate legislative committee of the Congress. In addition, this provision was deleted because it would have violated the Pay-As-You-Go (PAYGO) provisions of the Budget Enforcement Act.

The conference agreement does not include the Senate provision in Sec. 212 of H.J. Res. 157 that would have added language expressing the Sense of the Senate concerning the investigation, arrest and prosecution of individuals involved in the destruction of Pan Am Flight 103. Neither the House version of H.J. Res. 157 nor the House bill (H.R. 3543) contained this language.

The conferees agree that: (1) the President of the United States should pursue by any and all legal means the apprehension for trial of the individuals indicted for the destruction of Pan Am Flight 103; (2) the President should offer awards for information leading to the arrest and return of these individuals; and (3) the investigation of the bombing of Pan Am Flight 103 must continue until all individuals involved in the commission of this crime are brought to justice.

The conference agreement does not include the Senate provision in Sec. 222 of H.J. Res. 157 that would have added language amending subchapter IV of chapter 35, United States Code to allow the Secretary of State to waive, for up to three years, the current five-year employment limitation placed on individuals serving with the Intergovernmental Panel on Climate Change. Neither the House version of H.J. Res. 157 nor the House bill (H.R. 3543) contained this language.

The Senate provision was deleted since this is a policy matter which should be addressed by the appropriate legislative committee of the Congress.

U.S. FISH AND WILDLIFE SERVICE

Section 206. The conference agreement transfers $965,000 from U.S. Fish and Wildlife Service land acquisition to U.S. Fish and Wildlife Service resource management as proposed by the Senate. The $965,000 is derived from the $3,800,000 provided for water rights acquisition for Stillwater National Wildlife Refuge in Nevada and is to be used for various activities under the Truckee-Carson-Pyramid Lake Settlement Act such as NEPA compliance, endangered species protection, fishery technical assistance and ecological contaminant studies. This provision was included as section 205 in the Senate-passed bill. The House has no similar provision.

EXXON VALDEZ

Section 207. The conference agreement amends Senate proposed section 224 to deposit funds from the Exxon settlement with the United States and Alaska into the Natural Resource Damage Assessment and Restoration Fund in the Department of the Interior rather than in the Oil Spill Liability Trust Fund as proposed by the Senate. The House had no similar provision. The agreement also provides for the earning of interest on funds deposited and Congressional review of the use of the funds.

FIREFIGHTING

The conference agreement deletes section 215 proposed by the Senate which adds the words "emergency presuppression" to the Emergency Department of the Interior Firefighting Fund established in Public Law 102-154. The additional language is unnecessary because funding for emergency presuppression activities historically has been part of wildfire suppression activities already included in the account. It was the intent of the conferees on Public Law 102-124 that emergency presuppression continue to be charged to the emergency account along with wildfire suppression, as defined in the Department's fiscal year 1992 budget justification. The conferees on this bill also expect this practice to continue.

The conference agreement also deletes section 216 proposed by the Senate which adds the words "emergency presuppression" to the Emergency Forest Service Firefighting Fund established in Public Law 102-154. The additional language is unnecessary because funding for emergency presuppression activities historically has been part of the "Fighting Forest Fires" activity which was the basis for the new emergency fund. It was the intent of the conferees on Public Law 102-154 that emergency presuppression continue to be charged to the emergency account along with wildfire suppression, as described in the agency's fiscal year 1992 budget justification. The conferees on this bill also expect this practice to continue.

NATIONAL PARK SERVICE

The conference agreement deletes section 220 proposed by the Senate which directs the National Park Service to consult with the Bureau of Indian Affairs and the Crow Tribe of Montana to explore joint opportunities with the private sector for the purpose of implementing the General Management Plan for the Custer Battlefield National Monument. The House had no similar provision. The conferees agree that the National Park Service is to work with the Bureau of Indian Affairs and the Crow Tribe of Montana and the private sector to implement the Custer Battlefield National Monument general management plan.

Also, in response to language included in Senate Report 102-216, the conferees agree that the National Park Service may perform maintenance at the Bureau of Indian Affairs school in Phoenix Arizona to the extent authorized by law.

HEAL LOAN BORROWING

The conference agreement deletes language proposed by the Senate which would have permitted loan authority for Health Education Assistance Loans (HEAL) to be used for new, as well as continuing, borrowers. The conferees believe that the HEAL loan limitation for fiscal year 1992 contained in H.R. 3839, the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1992, provides sufficient legal authority for the Department of Health and Human Services to make HEAL loans to new borrowers. This provision was contained in section 209 of H.J. Res. 157. The House bill did not include a similar provision.

Section 208. Mental Health Facilities Cost Recovery: The conference agreement inserts language proposed by the Senate which amends the Public Health Service Act to permit the Secretary of the Department of Health and Human Services to waive recovery rights to Federal funds used for construction of community mental health facilities if the facility is sold or transferred. The Secretary already has authority to waive recovery if the facility is no longer used for its original purpose, but is retained by the original owners. The conferees agree that this authority will only be used when the proceeds of any sale or transfer are used for purposes which are compatible with the original grant award.

Section 209. The conference agreement provides that, for fiscal year 1992, not more than $2,000,000 of donated funds may be accepted or obligated for the preparation of working drawings, specifications, and cost estimates for renovation of the Botanic Garden conservatory, as was provided in the Senate bill, and amends the FY 1989 Legislative Branch Appropriations Act to authorize the Architect of the Capitol, subject to the direction of the Joint Committee on the Library, to construct a National Garden and to solicit and accept certain gifts on behalf of the United States Botanic Garden for the purpose of constructing the National Garden or for the general benefit of the Botanic Garden, to deposit such gift funds in the Treasury of the United States and, subject to approval in appropriations Acts, to expend such sums. The conference agreement authorizes the Architect of the Capitol to accept non-compensated personal services for these purposes, and any gift accepted shall be considered a gift to the United States for purposes of income, estate, and gift tax laws.

Section 210. The conference agreement amends the language of the Senate bill to establish protection and criminal penalties for the unauthorized use of any likeness of the seal of the United States Senate and sets a $250 fine and six month imprisonment for violations, and provides that violations may be enjoined by suit of the Attorney General

upon complaint by the Secretary of the Senate. The conferees have deleted the inclusion of the seal of the House of Representatives, or changes in criminal penalties imposed on unauthorized use of the great seal of the United States or the seals of the President and Vice President, but urge the Committees on the Judiciary of the House and Senate to study the matter, including the appropriate penalties for unauthorized use of government seals.

Section 211. Upon request of the managers on the part of the Senate, the conference agreement includes a provision not included in either the House or Senate bills. The provision delays until May 1, 1992, the effective date specified in Sec. 311(i) for subsection (d) of the Legislative Branch Appropriations Act, 1991.

Section 212. The Senate amendment to H.J. Res. 157 included Section 203 of Title II, General Provisions, which directs the Secretary of Defense to continue construction of a composite medical replacement facility located at Nellis Air Force Base, Nevada. The conferees agree with the Senate provision to continue construction of the facility but have revised the Senate language to correct the citations. The conference agreement also changes the section number.

Section 213. The conference agreement includes a provision allocating $990,000 of previously appropriated funds to certain bridge safety repair projects in the State of Vermont as proposed by the Senate. The House bill (H.R. 3543) contained no similar provision.

Section 214. The conference agreement inserts a provision amending the Employment Retirement Income Security Act of 1974 to define the accountable owner of Trans World Airlines as any individual who on October 10, 1991, owned directly or indirectly through the application of section 318 of the Internal Revenue Code of 1986 more than 50 percent of the total voting power of the stock of Trans World Airlines.

The conference agreement does not include the House provision in Sec. 301 of H.R. 3543 that contained language making technical corrections to the Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 1992. Neither the House version of H.J. Res. 157 nor the Senate amendment to H.J. Res. 157 contained this provision.

The House language was deleted since an identical provision has been included in the Department of Interior Appropriations Act, 1992.

The conference agreement amends the title of the joint resolution as proposed by the Senate. The original title, as passed the House, is no longer appropriate because this resolution is no longer a technical corrections and enrollment error corrections resolution. H.J. Res. 157, as amended by the Senate, and H.R. 3543 are parallel bills. The title to H.J. Res. 157, as amended by the Senate, and the title to H.R. 3543 are identical, and this same title has been agreed to by the conferees.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1992 recommended by the Committee of Conference, with comparisons to the fiscal year 1992 budget estimates, and the House and Senate bills for 1992 follow:

Budget estimates of new (obligational) authority, fiscal year 1992	[1] $3,641,700,000
House bill, fiscal year 1992	[1] $7,486,250,000
Senate bill, fiscal year 1992	[1] $7,980,500,000
Conference agreement, fiscal year 1992	[1] $6,889,600,000
Conference agreement compared with:	
Budget estimates of new (obligational) authority fiscal year 1992	[1] +3,247,900,000
House bill, fiscal year 1992	[1] −596,650,000
Senate bill, fiscal year 1992	[1] −1,090,900,000

[1] Includes Desert Shield/Desert Storm funds.

JAMIE L. WHITTEN,
WILLIAM H. NATCHER,
NEAL SMITH,
SIDNEY R. YATES
(except as to the disposition of sections 213 and 214 of the Senate amendment),
DAVID R. OBEY,
TOM BEVILL,
JOHN P. MURTHA,
BOB TRAXLER,
WILLIAM LEHMAN,
VIC FAZIO,
W.G. (BILL) HEFNER,
JOSEPH M. MCDADE,
JOHN T. MYERS,
CLARENCE MILLER,
CARL PURSELL,
BILL GREEN,
JOE SKEEN,
Managers on the Part of the House.

ROBERT C. BYRD,
DANIEL K. INOUYE,
ERNEST F. HOLLINGS,
J. BENNETT JOHNSTON,
QUENTIN N. BURDICK,
PAT LEAHY,
JIM SASSER,
DENNIS DECONCINI,
DALE BUMPERS,
FRANK R. LAUTENBERG,
TOM HARKIN,
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WYCHE FOWLER, Jr.,
MARK O. HATFIELD,
TED STEVENS,
JAKE GARN,
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ARLEN SPECTER,
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DON NICKLES,
PHIL GRAMM,
CHRISTOPHER S. BOND,
SLADE GORTON,
Managers on the Part of the Senate.

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102-395) on the resolution (H. Res. 309) waiving all points of order against the conference report on the joint resolution (H.J. Res. 157) making technical corrections and correcting enrollment errors in certain acts making appropriations for the fiscal year ending September 30, 1991, and for other purposes, and against consideration of such conference report, which was referred to the House Calendar and ordered to be printed.

Ms. SLAUGHTER of New York. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 309 and, pursuant to House Resolution 294, ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 309

Resolved, that upon adoption of this resolution it shall be in order to consider the conference report on the joint resolution (H.J. Res. 157) making technical corrections and correcting enrollment errors in certain acts making appropriations for the fiscal year ending September 30, 1991, and for other purposes. All points of order against the conference report and against its consideration are hereby waived. The conference report shall be considered as having been read when called up for consideration.

The SPEAKER pro tempore. The gentlewoman from New York [Ms. SLAUGHTER] is recognized for 1 hour.

Ms. SLAUGHTER of New York. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. DREIER], pending which I yield myself such time as I may consume.

During debate on this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 309 waives all points of order against the conference report on H.J. Res. 157 and against its consideration. The rule also provides that the conference report will be considered as having been read.

The dire emergency supplemental provides necessary funding for the incremental costs of Operation Desert Storm. Funds are appropriated from the Persian Gulf foreign contribution gift account.

Mr. Speaker, the conference report also provides $943 million for disaster assistance through the Federal Emergency Management Agency and provides $1.75 billion for the Commodity Credit Corporation to pay for crop losses caused by agricultural disasters.

There are now 44 Presidentially-declared disasters affecting 33 States. The Secretary of Agriculture has declared 89 agricultural disasters affecting 39 States. It is time, Mr. Speaker, to address American needs. This measure needs to be swiftly enacted.

Finally, Mr. Speaker, we have a bill providing for domestic needs which the President will sign. All funds are either agreed to as an emergency or will only be obligated if the President designates them to be an emergency or the funds are derived from existing funds. The supplemental appropriation act conforms to all budget requirements.

Mr. Speaker, this is the customary rule for conference reports. I urge my colleagues to adopt the rule and move this important legislation forward.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to this rule because it allows this con-

ference report to move forward without a separate vote on a very controversial provision. The conferees inserted into it a transfer of $500 million from our defense budget to aid the Soviet Union. Of that amount, $400 million will be earmarked for the destruction of that country's nuclear arsenal, and the other $100 million to deliver private humanitarian aid.

I have no objection to the humanitarian aid funding and, in concept, I support the use of United States expertise and technology to help the Soviet Union dismantle its menacing nuclear capability. But what concerns me about the $400 million earmark is that it does not require that American personnel and know-how be utilized in the dismantling process. In addition, I am still concerned with reports that Soviet aid continues to flow to third world dictators in spite of assurance that it would end.

In addition to the Soviet giveaway, Mr. Speaker, the conference report goes beyond what is necessary for emergency spending, and it evades the pay-as-you-go requirements by requiring the President to come up with the funds when he submits his fiscal year 1993 budget proposal. Once again, we are shirking our responsibility in setting budget priorities by throwing our dirty laundry onto the lap of the only person in this Government who is willing to lead: President Bush.

Mr. Speaker, it may be late in this session of Congress, but it's not too late to produce responsible legislation. For this reason, I urge my colleagues to defeat this rule, and I reserve the balance of my time.

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

Ms. SLAUGHTER of New York. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentleman from Pennsylvania [Mr. MURTHA].

Mr. MURTHA. Mr. Speaker, I thank the gentlewoman for yielding.

Let me explain exactly what we did. The Defense Subcommittee met in the last 4 or 5 days with Director Gates of the CIA, and also today we met with General Colin Powell and Secretary Dick Cheney. They all agree the Soviet Union is in disarray. They believe that a crisis is imminent. They believe that the biggest danger in the Soviet Union today is the possibility of nuclear proliferation.

The Senate started this idea, passed it overwhelmingly, and their proposal was to authorize $500 million for dismantling nuclear weapons and $200 million for humanitarian aid. The gentleman from Pennsylvania [Mr. MCDADE], and I did not agree with that. We argued vigorously against the way they had laid it out. We believed that it should be reduced to $400 million for dismantling the nuclear weapons. We believed it should be left to the discretion of the President if he wanted to use the aid. We believed that American personnel should be used in dismantling the equipment overseas.

Our biggest concern is that the independent countries who have talked to Secretary Cheney do not want these nuclear weapons moved back to Russia, they want them dismantled in the independent countries, Ukraine being a perfect example.

We believe it has to be done. We think in the long run it will substantially reduce our defense needs and the expense of defense in this country.

The humanitarian side of it, we did not appropriate any money for humanitarian aid. We appropriated money to transport voluntary aid that may be made available in the United States. We think this balance gives the President a legitimate tool to be able to respond to a crisis which may happen in the next couple of months. I am convinced listening to Secretary Cheney that the military is disintegrating, has disintegrated substantially. I believe that if we do not take action to allow the President to have available to him these tools in the next couple of months we will have a real crisis that he could not respond to because we would not be in session.

We also safeguard the process by insisting on observing reprogramming procedures. The money can come from O&M and there is nobody that protects O&M more carefully than the gentleman from Pennsylvania [Mr. MCDADE], and myself. We believe that is the heart of the defense structure of this country. But we also believe that this money will save money in the long run.

Everything we did in this bill was to make sure that Congress safeguards its rights by making sure that the Defense Department has to request reprogramming of the funds so we know exactly where they come from, and at the same time we allow the President the discretion to make the decision about whether he needs to use this aid, but it will be American military personnel trained to dismantle these weapons.

We think that in the long run it will be substantially safer in this country and reduce our defense expenditure if we give the Soviets this aid. The initial proposal was for $1 billion humanitarian aid. Chairman ASPIN brought this to our attention. We had a concern with that, because we were not sure how it will be distributed. We were not sure it would get to the people it needed to get to.

I think this is a legitimate compromise. I think it is necessary. I think the Soviet Union at this point is in a very dangerous situation. I think we would make a grave mistake if we did not make this money available to the President to use at his discretion.

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

Mr. MURTHA. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Speaker, let me simply say I agree with everything said by the gentleman from Pennsylvania, and I would simply say that I wish every Member of this House could have shared the experience that a number of the Members of the House did have in August when we were in Budapest and had a very sober meeting with Boris Yeltsin's Foreign Minister. If the Members could have heard him describe their concerns about the availability of nuclear warheads in a variety of republics, the Members would understand why this is necessary. I think for anybody who participated in that conversation it was one of the most sobering experiences we have ever had.

It seems to me that this is the single most important thing we can do right now to stabilize that situation and to enable us to reach those weapons and assist in their destruction while we have a window of opportunity to do so.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to simply ask the distinguished chairman of the Subcommittee on Defense, I would like to say that I totally agree with everything that has been said, and it is very clear that every single one of us desperately wants to see an elimination of those 2,000 nuclear warheads that exist in the Ukraine and in the other republics. That is the goal that we have.

The concern that emanates from this side is that we may not be using the very best vehicle possible to assure that. Why is it that we could not see the Pentagon in fact move ahead and do that without this, what is perceived by some on this side as rather vague language which could potentially end up as being nothing but a foreign aid package which would go to the Soviet Union. This has been understandably frustrating for the American people and specifically many Members of this House?

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

Mr. DREIER of California. I am happy to yield to my friend from Pennsylvania.

Mr. MURTHA. Mr. Speaker, let me say that we tried to be as specific as possible and yet give the President the flexibility he needed to be able to dismantle these nuclear weapons. The supplemental language relects what happened in the authorization bill, they have to stop production of their nuclear weapons or the President has to be assured that they have stopped production, because we do not want them building new weapons while we are, on the other hand, dismantling old weapons.

I do not think there is any other vehicle. Everything came together at once. Director Gates was just confirmed and Secretary Cheney and Colin Powell had focused on the problem, the

Soviets have deteriorated substantially in the last few months, and I really believe it would be a mistake for us not to allow the President to have this opportunity to respond to what I consider could be the major crisis of this century.

Mr. DREIER of California. Mr. Speaker, I know my friend can understand, and I appreciate that answer, the concern about the prospect of a foreign aid package going to the Soviet Union. That is the fear that many on this side have raised

Mr. MURTHA. I think you are absolutely right. For instance, I remember talking to a steelworker, a volunteer who drives me around back in the district, and I said, "Ozzie, what do you think of the idea of giving the Russians new humanitarian aid?" He said, "I never saw any skinny Russians on television."

I think that is the tone of the American people. This is an entirely different situation. We are talking here about making money available to the President to dismantle a real threat to this country, and I believe it is important, it is the right way to do it. It is not foreign aid, it is helping security of this country, in my estimation.

Mr. DREIER of California. Mr. Speaker, let me thank my very healthy and robust colleague for that very adequate response.

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

Mr. DREIER of California. I am happy to yield to the gentleman from Pennsylvania.

Mr. McDADE. Mr. Speaker, I thank my good friend for yielding.

I want to begin by apologizing to all our colleagues in the House in that this comes in at a very late hour, late in the session, and it is natural there should be concerns raised, indeed, on both sides of the aisle about how exactly this is structured, and where it came from. Let me say that I believe that the gentleman from Pennsylvania, Mr. MURTHA, completely described the process which we went through to arrive at his conclusion to make this money available to the President. I support it. I think it is in the national interest of this country to be in a posture to enable the President, should he decide to, and he must come back to us, may I say to my friend from California, should he decide to utilize the authorities that we have granted him in this legislation.

□ 0100

On Sunday next, as has been mentioned, the Ukraine will vote and in all likelihood they are going to vote for complete independence and become an independent nuclear power.

We had a meeting this morning, as my friend, the gentleman from Pennsylvania said, with the Secretary of Defense and with the Chairman of the Joint Chiefs of Staff, to see if we had the capability should we put this option on the President's list to be able to go into the Ukraine. They are not going to give those missiles back to the Soviet Union, not to Russia, or what was the Soviet Union.

Mr. DREIER of California. We want to assure that they will not.

Mr. McDADE. Well, everybody's opinion is that they will not. I agree with my friend, the gentleman from California.

The question was would we have the capability of using U.S. personnel to be able to go in and demobilize those weapons if the Ukrainians should invite us in and say to the President, "Send us help. We want to get rid of these weapons, but they are not going to go back to the Soviet Union."

The only dismantling plant of the Soviet Union for nuclear weapons is in Russia itself, not in the Ukraine or any of the other Republics.

So we thought it was in the national interest, may I say to my good friend, to make this authority available to the President after it goes through certifications, and he comes back to the Congress.

If he wishes to do it, may I say to my friend, we have given him the authority, but I want to assure my friend there is no pass-through of money to the Soviet Union in any foreign aid form, that this is money going to the President for his discretion.

Mr. DREIER of California. Mr. Speaker, I thank the extraordinarily distinguished ranking member of the subcommittee and the full committee for that excellent explanation.

Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania [Mr. WALKER], the third Pennsylvanian to whom I will yield.

Mr. WALKER. Mr. Speaker, I thank the gentleman for returning to Pennsylvania.

I appreciate the discussion here on the $500 million of the money going to the Soviet Union.

There are a couple other issues in this bill, though, that I think need to be raised that bother me fairly significantly. I am concerned that we do not let it slip through here in the early morning hours.

For example, I understand there is a provision in this bill giving the Senate an additional 4 months to comply with the Ethics Code. Back when the Senate was getting its pay increase to $125,000, part of the reason for giving them the pay increase was that they were going to comply with the Ethics Code.

Now it turns out that the Senate has decided they are not going to live the same as we in the House, that indeed they want another 4 months in order to come into compliance with that code. I think that is a concern.

As a matter of fact, it has been represented to me that this is taking care of one U.S. Senator who would like to pay off some debts and therefore is requesting that we do not take care of this matter for another 4 months. I think that is a concern.

I think it is terribly wrong that the pay raise went forward and we are still going to have the Senate out of compliance with the Ethics Code that was supposed to accompany it.

Second, I think there is another serious matter that has been buried down in this bill which essentially amounts to a bill of attainder, or an ex-post facto law, whichever one you want, and this involves one executive or one owner of an airline who is being told that he has to assume full financial responsibility ex-post facto and who has indicated that if in fact this law is passed, he intends to shut down the airline, thereby putting 30,000 people out of work.

I think we saw the other day that we make mistakes when we do some of these kinds of things, as we did with the credit card. Here is another instance where we may well be responsible for putting 30,000 people on the streets.

At a time of economic problems, I doubt that it is a very good idea for Congress to take a step which apparently will result in 30,000 more people out of work. That also bothers me.

I do not quite understand why when we are dealing with very serious issues that are in this bill, we all of a sudden find buried down in the language in these many pages that are sitting before us these kinds of provisions, which I think a number of the Members may have some concerns about.

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

Mr. WALKER. I am glad to yield to the gentleman from California.

Mr. FAZIO. Mr. Speaker, I cannot speak to the TWA issue affecting Mr. Icahan and the airline employees, the second point the gentleman made.

I just want to point out to my colleagues that the first point was thoroughly discussed in the conference on at least two occasions and there was no effort to bury it down deep in the report.

I think we have given the other body 4 additional months to try to reconcile their procedures so that they can make a clean and clear distinction, as we have in this body, between official expenses and political and politically related expenses.

Mr. WALKER. How many months have they had so far?

Mr. FAZIO. They have had a year.

Mr. WALKER. They have had a year. It seems to me any reconciling that could have been done and should have been done could have taken place within that year.

Mr. FAZIO. Mr. Speaker, I tend to agree with the gentleman from Pennsylvania, but I did so to accommodate

Senator STEVENS and other Members of the other body, who felt that they needed additional time.

Now, we have offered the services of the House staff to help them reach some conclusions.

Mr. WALKER. For what reason? Could the gentleman explain to us, I mean, if there was a thorough discussion, for what reason do they need an additional 4 months over the 1 year that they have already had?

Mr. FAZIO. Mr. Speaker, if the gentleman will yield further, they seem to think they have been stymied on some very difficult questions about how they can extricate themselves from the situation they are in now, whereby they often comingle their political expenses and their official expenses.

Mr. WALKER. Were they not supposed to stop comingling these funds when they took the pay raise in the bill?

Mr. FAZIO. First of all, Mr. Speaker, if the gentleman will yield further, it has nothing to do with the pay raise. This agreement was reached in the context of reaching some sort of compromise on the franking issue. That is the context in which we then said to the Senate, "We will meet you halfway, but in order to make sure that we are playing on the same field, on a level playing field, we would like you to follow the same procedures the House has."

Mr. WALKER. It was directly related to the pay raise, because of course the pay raise when it passed here, we said we were going to comply with certain new ethical standards and so on.

Now, the Senate also having not taken the pay raise, did not agree to do that. When they took the pay raise, they made that agreement. That is where the tie-in is. That is a personal point here.

Mr. FAZIO. Mr. Speaker, if the gentleman will yield further, I do not really need to argue with the gentleman. We are both on the same side here. In fact, it was this subcommittee that I chair that forced the Senate to accept these changes.

Mr. WALKER. I agree with the gentleman.

Mr. FAZIO. So I am only pointing out to the gentleman that it was not done in the context of the pay raise. It was done in the context of another disagreement we had between the two bodies.

I can pledge to the gentleman and all my colleagues in both parties here tonight that this is the last extension the Senate is going to get.

Mr. WALKER. Mr. Speaker, I thank the gentleman.

Ms. SLAUGHTER of New York. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentleman from Wisconsin [Mr. ASPIN], the chairman of the Committee on Armed Services.

Mr. ASPIN. Mr. Speaker, I thank the gentlewoman for yielding this time to me.

Let me commend the Committee for the work they did on this issue of helping the Soviets to dismantle their nuclear weapons.

I think the compromises that the gentleman from Pennsylvania and the gentleman from Wisconsin worked out I think are tremendous.

I think the funding here is about as well as we can do under the circumstances, and I think that the effort here is really something that people will look back on from the future. They will look back and say this was an historic turn of events, that this was a very, very sensible policy, that this was not foreign aid. This was defense by another means.

I think that the gentleman from Pennsylvania [Mr. MURTHA], the gentleman from Wisconsin [Mr. OBEY] and all the Members of the Committee here should be commended for their work.

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield?

Mr. ASPIN. Yes, I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Speaker, I just have a couple questions.

As I understand it, the people from the Ukraine would rather have Americans in there dismantling these weapons than the Soviets?

Mr. ASPIN. Exactly so.

Mr. BURTON of Indiana. Now, what I do not understand, if we are going to have American personnel in there, American military personnel, why is the $400 million for this purpose going to the Soviets? Why is it not going to our Defense Department and the Defense Department will do it? Maybe I missed that point. Perhaps the gentleman could just explain it a little better.

Mr. ASPIN. The $400 million is not going to the Soviets, nor is the $400 million for American transports. Those will be going to Americans to help Americans in the case of the $400 million, and in the case of transportation, technical advisors and other things to get them to the Ukraine, to get them housed and fed and deployed on temporary duty to the Ukraine to help them establish them there so they can dismantle the weapons.

Similarly, for the $100 million, the $100 million does not go to the Soviet Union. It goes to augmenting the costs of transportation of the U.S. military, more fuel, more operating hours of the equipment, so that when they help move the equipment or move the food and medicine to the Soviet Union.

Mr. BURTON of Indiana. One final question, and I think I know the answer. But why did this not come out of the Defense budget instead of having it come out of this Supplemental?

Mr. ASPIN. We would love to have had it come out of the Defense budget. In fact, my original proposal was to take the $100 million out of the Defense budget, but we ran into a buzz saw here a few weeks ago on that issue.

I think as the proposition was reworked by the Appropriations Committee, and indeed the mood has changed slightly, plus the third thing that has happened is that there have been a lot more stories coming out of the Soviet Union about the state of disaster they are in, that therefore the best place they found to put it was on the supplemental.

□ 0110

But my original proposal was to take it out of the Defense budget and to divert the funds from the Defense budget. Now it is on the supplemental because, frankly, that is the only thing that is left.

Let me yield to the gentleman from Pennsylvania.

Mr. MURTHA. Let me add to the answer: Actually, most of this will be operation and maintenance money, and that is why we felt that is an area where it could come from. We resisted and tried to get some from foreign aid, but it really is an American military project; that is the way it looks to us.

Mr. BURTON of Indiana. If the gentleman would yield further, I was just talking to the other gentleman from Pennsylvania [Mr. MCDade] and he indicated it would come out of the Defense budget.

Mr. ASPIN. That is right. It was originally part of the DOD authorization conference report, but that was dropped out of that. It is now part of the supplemental. But the actual money for the funding for it comes out of the O&M account in the Department of Defense.

Mr. DREIER of California. Mr. Speaker, I yield 3 minutes to a very able member of the Committee on Armed Services, the gentleman from San Diego, our top gun, the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, are we are out of our minds? I heard Mr. SANTORUM this afternoon stand up, saying that we did not have enough money to carry over unemployment.

The Members on the other side of the aisle for the last month are saying we need money for unemployment, we need money here.

This money comes out of defense, out of O&M funds. Let me tell you, for the people who have never been in the military: What does that mean? O&M? That means the kids sitting at Miramar do not have enough fuel to fly and train or have parts. At Nellis Air Force Base, the same thing.

That money comes out of defense.

The original cost was supposed to be $1 billion. Remember, the Soviet Union was not supposed to be a threat anymore. That is why you are cutting defense by 25 percent.

I saw Members of the Democratic side sit up here and fight tooth, hook, and nail over base closures because it cost them jobs. You cut defense by 25

percent, and then you try to take out another $1 billion? That is ludicrous. You are costing Americans lives. You are costing Americans jobs, and I am damn tired of it.

O&M funds go for training people, fuel, parts for machines and aircraft.

We cannot do that. Do you have any idea how many jobs? I read today that McDonnell Douglas is sending some of their work for their airliners to Taiwan. I heard a Democratic Senator saying that the President is not doing enough.

Well, let us take half a billion dollars and maybe supplement our own defense work and maybe building those to help the unions. But a billion dollars or a half-a-billion-dollars to the Soviet Union? Not on my watch.

I sit and watch the Committee on Armed Services pork barrel. A Member of the other body wanted 117's built that the Air Force did not even want. Even if they had the money, they did not want it. But yet the pork barrel in the appropriations, that particular Member forced it through and cost this country F–14 upgrade.

That is pork-barrel spending. I would not send one penny to the Soviet Union, not one penny. Even in the foreign aid bill, we sent money and a message to take money out of Jordan. No, the conference put it back in. Not one penny to the Soviet Union, the Ukraine, or anybody else out of defense. You are costing American lives.

The same way they did in Vietnam, the liberals have cut defense by 25 percent.

Do you have any idea how many jobs? Hundreds of thousands of jobs have been cut; electricians, military—if you sell pizzas or cars or real estate, those jobs have been lost. And you still want to cut it more? Not on my watch.

Ms. SLAUGHTER of New York. Mr. Speaker, for purposes of debate, I yield 2 additional minutes to the gentleman from Pennsylvania [Mr. MURTHA].

Mr. MURTHA. I thank the gentlewoman for yielding again.

Let me emphasize this money is not going to the Soviet Union, this money is going to United States personnel to help dismantle weapons that threaten the United States. These independent countries do not want these weapons to go back to Russia.

The Ukraine, for instance, has a couple of thousand nuclear missiles and warheads they want to keep in the Ukraine. They are asking us to help them dismantle those weapons and in the end this will save us substantial amounts of money.

Our O&M budget is $80 billion. Now, there is nobody who protects this budget more than I do. I have offered amendment after amendment over the years to increase O&M. But I think this is a good expenditure of money, not to the Soviet Union but to help the independent countries around the Soviet Union to reduce the threat to this country.

I think it is a wise expenditure of funds in the long run which will allow the President to provide technical assistance if he decides that it is a threat. Listening to Director Gates and Secretary Cheney, they believe, as I believe, that there is a possibility of a real threat in the next couple of months and we need to have U.S. personnel helping them dismantle these weapons systems to reduce the threat to the United States.

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

Mr. MURTHA. I yield to the gentleman from California.

Mr. CUNNINGHAM. I thank the gentleman for yielding.

Mr. Speaker, I sat on the Coral Sea with 20-year-old airplanes because I did not have enough parts and enough fuel to fly them. O&M, and you say you fight for it, is critical to training. We want to cut defense, but you say you want a smaller force, well equipped, well trained, just like the desert act, where they are taking away some of the training that we have now through the environmentalists. Now we are trying to take some of the same training regardless if it goes to personnel, military, it is still taking it away from O&M budget out of military training.

Mr. DREIER of California. Mr. Speaker, I yield such time as he may consume to the distinguished ranking member of the Committee on Rules, the gentleman from New York [Mr. SOLOMON].

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

Ladies and gentlemen, I was not going to speak on this appropriations bill. I was going to wait until we take up the next bill, which is the implementation legislation for the CFE Treaty. We really have the cart before the horse here because we are debating a supplemental appropriations bill concerning a bill we are going to take up in the next few minutes, which is the authorizing bill. And as I read the amendments concerning the provision of aid to the Soviet Union that are going to be adopted in the bill that we will be taking up in a few minutes, the language says, "The program under this section shall be limited to cooperation among the United States, the Soviet Union and its republics." It goes on to say in this amendment, "Such cooperation may also involve the funding of critical short-term requirements related to weapons destruction."

I am just having a very difficult time trying to figure out why we are taking money for this purpose out of the defense budget. If we are going to use this money for American troops and American vehicles, and those troops and vehicles are going to cross through Poland, Czechoslovakia, and Hungary into the Ukraine or into Russia or wherever they are going, why do we have to take the money out of the defense budget? There are funds right now to go in there and dismantle the nuclear weapons and bring them out back through Poland, Czechoslovakia, and Hungary and into our NATO countries.

So I just do not understand that provision. We really should have debated it, the bill itself, the authorizing bill, before we got into this supplemental.

Lastly, without taking too much time, when we had an emergency situation called Desert Storm, we all put our heads together and, over a period of time, we worked out a cumulative fund whereby Japan and Germany and all of the NATO countries pitched in and helped because Desert Storm was to their mutual benefit.

I heard my good friend, JOHN MURTHA, mention that it is in the best interests of the United States that we support this new provision and that we do it now; it is an emergency. Anything could happen.

Well, I think that same kind of emergency that we had in Desert Storm and that same kind of mutual benefit applies to this. I see my friend, PAT SCHROEDER, sitting over there. She and I have worked for years on burden sharing, trying to get our NATO allies to carry their fair share of the burden.

There needs to be a fair share of the burden in this Soviet aid provision. Why should we be committing $700 million? I give my good friends, JOHN MURTHA and JOE MCDADE, credit for saving us $200 million because they reduced the Senate's authorization down to $500 million, and that is great. But, that is still a lot of money we are talking about in this bill.

As my colleagues know, if this Soviet aid package had been subject to regular order and the Committee on Foreign Affairs had been working on it, and the Committee on Armed Services had been working on it, and the same thing was happening over in the Senate, we would not be taking this up in the middle of the night right now.

The gentleman from Florida [Mr. FASCELL] came up to the Committee on Rules a few minutes ago, and said, "Since receiving this legislation last night, we have worked hard." The gentleman from Wisconsin [Mr. ASPIN] and the gentleman from Florida [Mr. FASCELL] have worked hard. But, as my colleagues know, we are rushing into this thing.

Until hearings are held, until there is a demonstrated need, we should not be passing this aid package tonight. The emergency is not here tonight. We are voting on something about which we do not have any idea of what it is. The phrase I just read which says that we are going to cooperate with the Soviets.

Mr. Speaker, to me that means we are going to give the Soviet Union the

money to help them dismantle these weapons. The program under this section shall be limited to cooperation among the United States, the Soviet Union and its republics, and then it goes on again to say, "Such cooperation may also involve the funding."

So, it is just so open-ended, there is no legislative intent written here, no hearings to go by.

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

Mr. SOLOMON. I yield to the gentleman from Wisconsin.

Mr. ASPIN. Mr. Speaker, let me just point out to the gentleman from New York [Mr. SOLOMON] that there have been hearings. The House Committee on Armed Services held hearings on this issue way back at the beginning of September, so there have been hearings.

Second, on the issue of cooperation, indeed part of our hope is that the administration will take whatever is in this bill and this proviso and go out and leverage a bigger effort on behalf of the objectives in this bill by getting help from our allies. Indeed that was what we hoped they would do and encourage them in a lot of language in there that says we would like the President to take the initiative and organize an international effort along these lines, not just take the money that we are talking about here from the United States taxpayers, but actually go out and get it from the Japanese, and from the Germans, and from other NATO countries, from wherever we can to try and get this program.

Indeed part of the program is going to have to come from some of the others because of the humanitarian aid. The only thing we have got in humanitarian aid here is the transportation part, so it is going to have to be an international effort and a cooperation, and again the money is going to essentially Americans.

We are not going to hand over the dollars here. There is no handing over of cash. That is money down a rat hole with a country that has not straightened out its basic economic infrastructure and its basic pricing system and established a rule of law and private property. We cannot funnel economic aid into that country without losing a lot of it, and that is not what we are doing here.

This is essentially providing American expertise on nuclear weapons and American transportation to move food and medicine. That is what this bill is about.

Mr. SOLOMON. Mr. Speaker, I hope that the gentleman from Wisconsin [Mr. ASPIN] is right. And it seems to me that if the total cost here is going to be $500 million, our share of it compared to all of the NATO countries should be, let us say, 10 or 20 percent. Then we only would be putting up a hundred million. And let us pass the hat around and collect the other $400 million from our friends.

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman from New York [Mr. SOLOMON] for yielding. I just have one brief question.

Was there any consultation with our NATO allies about this beforehand, and, if so, did anybody raise the issue that the gentleman from New York has raised, and that is would they be willing to pay part of this $400 million cost for dismantling these weapons?

Mr. OBEY. Mr. Speaker, would the gentleman yield so I can answer?

Mr. SOLOMON. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Speaker, frankly I would be shocked if at this point the costs being incurred by Germany alone for a variety of assistance programs in the Soviet Union, if that cost alone did not exceed $10 billion.

Mr. SOLOMON. Excuse me, gentlemen. There is going to be a meeting in the Committee on Rules on the highway bill. Passing that bill will help us get out of here so that we can go home. And so I yield back the balance of my time.

Ms. SLAUGHTER of New York. Mr. Speaker, I yield 3 additional minutes to the gentleman from Wisconsin [Mr. ASPIN].

Mr. ASPIN. Mr. Speaker, I am going to yield again to the gentleman from Indiana [Mr. BURTON] to make sure that he gets the answer to his question. Basically, let met try to explain.

We, meaning the Committee on Armed Services and people who have been interested in this proposal, have had a chance to explore it with people who have been coming through the country or coming through the Capitol here to see whether in fact they are interested in doing this, and we got generally a favorable response. We are not in a position to negotiate the deal. The President and the Secretary of State and the Secretary of Defense are really the people who are under the Constitution to negotiate this thing. We have explored it with various government leaders who have come through and found that there was a favorable response. That is basically as far as we could go.

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield?

Mr. ASPIN. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Speaker, I do not want to belabor the point, but I would like to just end by saying those weapons are much closer to Germany and the other countries over in NATO than they are to us, and it seems to me that they would be very anxious to participate in paying for this dismantlement.

Mr. ASPIN. No question, and that is why they are interested.

Mr. GREEN of New York. Mr. Speaker, will the gentleman yield to me on this point?

Mr. ASPIN. I yield to the gentleman from New York.

Mr. GREEN of New York. Mr. Speaker, I cannot believe that anyone in this House wants Germans to start playing with nuclear weapons.

Mr. ASPIN. Definitely we do not, but that is why the Germans are interested in having the United States and an international organization go into the Ukraine and help the Ukrainians dismantle their weapons.

I think there is an opportunity here, as the gentleman from Pennsylvania [Mr. MURTHA] talked about. We have an opportunity here that is open now, a window of opportunity that is opened here, while these countries, and particularly we are going to have a vote, as somebody pointed out, very shortly coming up on Ukrainian independence, and that is an opportunity for us to take advantage of the fact that the Ukrainians do not want to transship those nuclear weapons back to Russia and would welcome outside help in dismantling those weapons. It is an opportunity.

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

Mr. ASPIN. I yield to the gentleman from Michigan.

Mr. HENRY. With all due respect, Mr. Speaker, my concern on this, if the Ukrainians need assistance, the quickest thing that is going to stir up a countercoup in the Soviet Union itself or in the Russian republics is going to be unwanted American troops, American vehicles, American assistance dismantling what Russians regard as their armament in the Ukraine, and I think something of this magnitude needs a lot more consideration by this conference, and it concerns me very much.

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

Mr. ASPIN. I yield to the gentleman from Pennsylvania.

Mr. MURTHA. Mr. Speaker, let me say that in talking to Secretary Cheney and to Mr. Gates, they both believe that these countries will welcome American troops into their country to dismantle nuclear weapons.

Mr. HENRY. Well, I raise the question because it is, as the gentleman from Pennsylvania [Mr. MURTHA] said, an historic decision being made on very short notice.

Mr. ASPIN. Absolutely historic.

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

Mr. ASPIN. I yield to the gentleman from Iowa.

Mr. NAGLE. Mr. Speaker, I thank the gentleman from Wisconsin [Mr. ASPIN] for yielding.

I have spent some specific time on that Ukrainian situation the gen-

tleman made reference to, but that is not the situation there. It is very important that we recognize that the current leadership of the Ukrainians are not necessarily consistent with our own interests or consistent with the problem that we have over there.

As a matter of fact, taking the weapons out from the Ukrainians and this current leadership is probably very, very important. They are not necessarily our friends, and I have not been impressed with this peaceful intention towards the Soviet Union itself, or Russia, and, therefore, I think the point of the gentleman from Wisconsin is very well taken.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this has been a fascinating debate on the authorization bill, H.R. 3807, the CFE authorization bill, and actually I should remind our colleagues that at this moment we are debating the rule for the supplemental appropriations bill.

Mr. Speaker, I yield 2 minutes to my very good friend, the gentleman from New York [Mr. GREEN], an able member of the Committee on Appropriations.

□ 0130

Mr. GREEN of New York. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I have long argued in this House that the major risk of nuclear holocaust that this country and the world faced was not a confrontation with the Soviet Union but the "N-nation" problem, the risk that nuclear weapons will proliferate and so many countries will have them that they will become uncontrollable. Suddenly, we have a situation, with the breakup of the Soviet Union, that that very breakup may create the "N-nation" problem, because so many of the Soviet republics may get their hands on nuclear weapons.

What this rule lets us bring to the floor is a bill which provides $400 million from funds previously appropriated so that, if the President chooses to use those funds, he can become a player in this situation and can help in trying to avoid proliferation of nuclear weapons among those new countries.

I do not see how anyone in this House can be fearful of such a provision. I do not see how anyone in this House can help but think that that is a useful tool to provide to the President of the United States. So I hope that my colleagues would put aside the confusion that seems to have been raised about this issue at this late hour.

Understand that all this bill is doing is giving the President of the United States some additional capacity in terms of dollars to deal with this problem.

Vote for the rule, and then vote for the supplemental appropriation.

Ms. SLAUGHTER of New York. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, I want to say that I rarely take the floor to engage in many debates, because I think too much talk goes on here, but I must tell you how very angry I am about this bill that is coming up.

We have just heard all the things we did moving heaven and Earth. Let me tell you what else happened.

Everything we put in there for children we took out, o-u-t, out. When we get to this dire, urgent supplemental, what we are saying is we are breaking our covenant with our children. We are not even making the first year's commitment.

Both the House and the Senate voted to at least meet the first-year commitment on immunizations, on the WIC program defeat, and on Head Start to keep it on track so that by the year 1996 it would be fully funded.

Now, I do not know about you, but I think 1996 is too long, but, OK, we accepted that. We accepted it as a challenge.

We had CEO's from America's major Fortune 500 companies here saying how important this was that every dollar we spent we saved all sorts of money. We have had testimony up to the wazoo, we have had hearings up to the wazoo. Everybody says they are for Head Start, WIC, and immunizations. The Surgeon General has talked about it, and yet when both the House and Senate passed it, nevertheless in conference it came out.

I must say that I find it shocking that everything else in the world is an important disaster that we have to deal with, but not our children.

One-third of the children under the age of 6 are in poverty in this country, and if we do not invest in them, we will never, never be able to compete, and we are really shooting ourselves in the foot when it comes to the future.

Mrs. BOXER. Mr. Speaker, will the gentlewoman yield?

Mrs. SCHROEDER. I am happy to yield to the gentlewoman from California.

Mrs. BOXER. Mr. Speaker, I want to say at this very late hour, or early hour, depending on how you look at it, I want to thank the gentlewoman for her clear voice.

I want to say to the gentlewoman that it is very difficult to come here at this hour and be a voice of discontent, and the fact that the gentlewoman is doing it, she is doing it not only as the gentlewoman from Colorado but as Chair of the Select Committee on Children, Youth and Families.

Our country is in trouble. Our children are in trouble, and if we do not move to make sure that those children are educated and fed and nourished and have health care, you know, we are talking about our allies here. Maybe the gentlemen over there ought to understand that our allies immunize 90 percent of their children, and in this country we immunize 50 percent of our children. I guess they are not particularly interested in it.

But, again, I just want to thank the gentlewoman and tell her that I am with her on this, and I think, you know, children do not write checks. Maybe that is why they do not have a voice. I am glad the gentlewoman is here, and I am glad she made her statement.

Mrs. SCHROEDER. I must say that I am very, very dismayed. We did everything we know how to do. We passed it on both sides, and yet the conference took it out.

There are all sorts of reasons, people can say, but it is interesting to me that continually we see everything else is a disaster but out children. It is also interesting to me that we have studies that would fill this Chamber showing that every dollar we spend in the Federal budget this year on a child, on those three programs, we will save anywhere from $3 to $10 next year in the Federal budget, so forget the children, forget anything, this is a phenomenal investment, and yet somehow they just do not count.

I do not know what we do to make them count. I do not know what we do to keep our covenant to America's children, but to think that we are writing off one-third of our youngest kids, to think that only 25 to 30 percent of the children eligible for Head Start are getting it in this country, when we talk about it, to think that 60 percent of the children in New York City have not had their shots and 50 percent of the children in the Nation's Capital have not, I am shocked. I think that is a disaster.

I am just very ashamed to be part of this body tonight and to see how we are treating our future.

Mr. EDWARDS of California. Mr. Speaker, will the gentlewoman yield?

Mrs. SCHROEDER. I am happy to yield to the gentleman from California.

Mr. EDWARDS of California. Mr. Speaker, I believe the conference also took out the Senate-passed amendment approved by the Senate the other night offered by Senator WIRTH that would have provided or allowed women in the service overseas to pay for their own abortions in military hospitals, and that was also removed by the conference.

Mrs. SCHROEDER. I am so pleased the gentleman from California pointed that out, too. Yes, women and children first.

The Russians got in. We have the Turks off budget. We have the Kurds off budget. Kurds, yes; kids, no. Turks, yes; kids, no.

When do we think about our kids, and when do we think about America's women?

This is a bill that basically is bailing out the final cost of the war, and other things got added to it.

Well, why do not the Kuwaitis help bail us out? They have got megabucks, and gigabucks, and all I can see the main purpose is we got the Emir back on his throne. We can be talking about a little burden-sharing there. He could be helping.

We could find all sorts of things that we could be doing.

But to see American women who went overseas to defend our rights being denied those same rights that they fought for overseas and to see children being treated this way, I think, is an outrage.

Mr. DREIER of California. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. HENRY].

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

Mr. Speaker, I would simply want to once again reflect on the comments I made very briefly in my exchange with the gentleman from Wisconsin [Mr. ASPIN].

This is, indeed, a very historic provision in this bill relative to giving the President funds and discretionary authority to assist in the dismantling of the Soviet Union's nuclear stockpile.

I do want to remind our Members, however, that there are three major actors in the process over there right now: the Soviet Union, what there is left of it; the Russian Republic; and the Ukrainian Republic.

The context of this discussion has taken place in terms of what if the Ukraine asserts its independence, what if the Ukraine then asks for assistance in defusing and dismantling these terrible devices? My question is only: What if, in fact, we give that assistance, and what does that do in terms of the potential for Russian reaction, or what is left of the Soviet Union, the Soviet Union's reaction?

I would simply say that the context of the discussion and the context of the legislation troubles me deeply, because this may very well be a two-edged sword in historicity of the moment maybe quite different than what most of us anticipate at this point in time.

□ 0140

Mr. DREIER of California. Mr. Speaker, I yield 2 minutes to the gentleman from New Mexico [Mr. SCHIFF], who has some important questions to ask.

Mr. SCHIFF. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I would like to ask a question of the distinguished chairman of the Committee on Armed Services [Mr. ASPIN] or the chairman of the Subcommittee on Defense of the Committee on Appropriations [Mr. MURTHA], because I do not think I heard this question answered earlier.

If this aid is primarily for U.S. forces to help dismantle nuclear weapons inside the Soviet Union, why do we have to take this money out of the defense budget and separately identify it for that purpose? If it were to remain in the defense budget, would it not be available for the same purpose?

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

Mr. SCHIFF. I yield to the gentleman from Pennsylvania.

Mr. MURTHA. Mr. Speaker, I think the President had to have authority, and we were very careful to give him specific authority, to allow him to go forward with a program if he saw fit. In international relations, right now I do not think anybody has any peer. I think he is a good one to make the judgments. But it is primarily for American personnel, for American military personnel or experts in dismantling this equipment. So he needed authority, and we are giving him that authority to send troops or experts in, using O&M money.

I think in the long run it will save us money.

Mr. SCHIFF. Mr. Speaker, reclaiming my time, we are taking $500 million out of the O&M budget.

Mr. MURTHA. Mr. Speaker, if the gentleman will yield further, we will actually save money down the road. It is the ultimate SDI. We are destroying these missiles on the ground, is actually what we are doing. We are being invited in by these independent countries.

Mr. SCHIFF. Mr. Speaker, I would again ask the respected subcommittee chairman this question: There is just one aspect of this that I still find not being answered, and that is simply this: Why in the appropriations process are we taking $500 million out of the Department of Defense budget for the President to be able to use Department of Defense, which is to say military, personnel, to accomplish a task? If the funds were to remain in the DOD budget, then, with the proper authority, is the money not there for the President to use if he sees fit now as Commander-in-Chief?

Mr. MURTHA. Mr. Speaker, if the gentleman will yield further, we think the President needs this appropriation in order to go forward. He had to make the judgment. We leave it up to him. We make the money available. If he thinks it is necessary in the next couple of months, it would be in the defense budget. But this specific authority to send troops or experts into the Soviet Union to dismantle weapons, there is a question. We try to eliminate that question.

Mr. DREIER of California. Mr. Speaker, I yield 30 seconds to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, I have a question for the gentleman from Pennsylvania [Mr. MURTHA]. Right now, as I understand it, there are over 30,000 nuclear warheads that we are looking at. Over 10,000 of those warheads as we are sitting here today are involved here. I am concerned about nuclear weapons. When we expend half a billion out of our training, it just concerns me that there is a delta there in which we lose the training versus what we actually get out of the Ukranian nuclear weapons.

The SPEAKER pro tempore [Mr. BROWN]. The time of the gentleman has expired. The Chair would announce that the gentleman from California [Mr. DREIER] has 30 seconds remaining.

Ms. SLAUGHTER of New York. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Pennsylvania [Mr. MURTHA].

Mr. MURTHA. Mr. Speaker, would the gentleman from California [Mr. CUNNINGHAM] repeat his question?

Mr. CUNNINGHAM. Mr. Speaker, with us having 30,000 warheads that we are looking at, over 10,000 of those are looking at us right now, the small amount in the Ukraine is a pittance. I am concerned about nuclear weapons, but how would we ever pay to dismantle all of those? I agree, it is like SDI, getting rid of those missiles.

Mr. MURTHA. Mr. Speaker, I do not think any of us can predict how much it will cost. Nobody could give me an estimate from the Department of Defense or from the White House. We are just making money available in case the President feels he needs to help them if they request it. We hope that they do request it. We hope we can dismantle those weapons in the Ukraine or any of the other independent states surrounding the Soviet Union.

As far as reducing our capability in the United States, we say specifically if you use O&M money, you cannot reduce the readiness of U.S. forces. We think if we reduce the capability of the Russians to fire weapons at the United States, or any other country, we obviously need less defense in the United States.

So it kind of balances off in our estimation. We are going to spend over $4 billion this year for SDI, so this is one way to destroy those weapons on the ground.

Mr. MYERS of Indiana. Mr. Speaker, will the gentleman yield?

Mr. MURTHA. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. Mr. Speaker, section 108 provides money may come from O&M, but it also may come from surplus in the capital account. Section 108 gives discretion to the Department of Defense as well as to the President to use available funds. We suggest two areas. They do have to come back for reprogramming. That all has to be reprogrammed. The President has to

come back and certify that the Soviet Union is doing their part, that none of the fissionable material might be used in building a new weapon.

There are a lot of things we put in here that they must do to get the technical assistance that this provides.

Ms. SLAUGHTER of New York. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Mr. Speaker, I thank the gentlewoman for yielding.

Mr. Speaker, the fact of the matter is that since I have been here in Congress for the last 11 months, there has not been a whole lot of discussion on this floor that has impressed me terribly much. I did not come here to vote $80 billion for the savings and loan institutions. I did not come here to vote $70 billion for a bailout of the commercial banks, or $290 billion for an inflated military budget.

I did come here to try to do something to address the fact that 20 percent of our children are living in poverty. Several weeks ago the gentlewoman from Colorado [Mrs. SCHROEDER] came up with an intelligent and serious proposal that called for $1.4 billion to go to the Head Start Program, to go to the WIC Program, to go to children's immunization programs.

There was a good debate here, and the people on the floor, Members of Congress, voted that $1.4 billion.

Tonight, at a quarter to 2 in the morning, we have learned that out of nowhere the conference committee rejected that money for children in need.

Mr. Speaker, my proposal and thought is we should reject this rule, send it back to the Committee on Rules, and tell them we want a rule which will once again allow us to vote that $1.4 billion for the children of this country.

Mr. DREIER of California. Mr. Speaker, I yield 30 seconds to the gentleman from Lomita, CA, (Mr. ROHRABACHER).

Mr. ROHRABACHER. Mr. Speaker, maybe our colleague from Colorado, (Mrs. SCHROEDER) could answer this, too: Why, if it was so important, did it take until 2½ weeks ago for the gentlewoman to come up with this idea. How come for all this year, if it is so important as we are talking about it now, the gentlewoman waited until 2½ weeks ago? Why did the gentlewoman wait that long?

Ms. SLAUGHTER of New York. Mr. Speaker, I yield 1 minute to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, I pointed out in my speech exactly why where we are is where we are. That is that we are at the end of the year where we have a shortfall. At the beginning of the year we made the commitment to attempt to fully fund these three core programs by 1996. So to get there, there is like a stair step of incremental increases.

The problem was while we made that commitment in January, here we are now taking Polaroid shots as to where we are, and some of that money we were to commit has gotten chipped away, plus more children have fallen into poverty. Even today's newspapers talk about how many more children have fallen into poverty, much faster than was projected. So it takes more money to get to that point.

So we are looking at the year-end, and the dire urgent supplemental was the only thing moving that you could then make that course correction to make sure you kept that covenant that you made to at least get to the first year.

□ 0150

My problem is, if we did this in the very first year, imagine where we are going to be by 1996. There is already talk from the administration and other places to forget it, and maybe we will try and do it by the year 2000.

My question is, How many generations of American kids do we let this happen to?

I really hope that the gentleman understands that.

Ms. SLAUGHTER of New York. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. BROWN). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SANDERS. 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 242, nays 175, not voting 17, as follows:

[Roll No. 437]

YEAS—242

Alexander	Brewster	Coughlin
Anderson	Brooks	Coyne
Andrews (TX)	Broomfield	Cramer
Anthony	Browder	Darden
Applegate	Brown	de la Garza
Aspin	Bruce	DeLauro
Bacchus	Burton	DeLay
Barnard	Bustamante	Derrick
Barrett	Byron	Dicks
Bateman	Campbell (CO)	Dingell
Beilenson	Cardin	Dixon
Bennett	Carr	Donnelly
Bentley	Chandler	Dooley
Bereuter	Chapman	Downey
Bevill	Clement	Dwyer
Bilbray	Clinger	Eckart
Boehlert	Coleman (MO)	Edwards (TX)
Boehner	Coleman (TX)	Emerson
Bonior	Condit	Engel
Borski	Cooper	English
Erdreich	Levin (MI)	Pursell
Espy	Lewis (CA)	Quillen
Evans	Lewis (GA)	Rahall
Ewing	Lightfoot	Ravenel
Fascell	Lipinski	Ray
Fazio	Livingston	Reed
Fish	Long	Regula
Ford (MI)	Lowery (CA)	Richardson
Frank (MA)	Luken	Rinaldo
Frost	Machtley	Roe
Gallo	Manton	Rogers
Gaydos	Marlenee	Rostenkowski
Gephardt	Martin	Roukema
Geren	Mavroules	Rowland
Gibbons	Mazzoli	Roybal
Gilman	McCloskey	Sabo
Glickman	McCrery	Sangmeister
Gonzalez	McCurdy	Sawyer
Goodling	McDade	Sikorski
Gordon	McGrath	Sisisky
Gradison	McHugh	Skaggs
Green	McMillan (NC)	Skeen
Guarini	McMillen (MD)	Skelton
Hall (TX)	McNulty	Slattery
Hamilton	Meyers	Slaughter
Harris	Michel	Smith (FL)
Hatcher	Miller (OH)	Smith (IA)
Hayes (LA)	Miller (WA)	Smith (NJ)
Hefner	Moakley	Smith (OR)
Hertel	Mollohan	Solarz
Hoagland	Montgomery	Spratt
Hochbrueckner	Moorhead	Stallings
Horn	Moran	Studds
Horton	Morella	Sundquist
Houghton	Morrison	Swift
Hoyer	Mrazek	Synar
Hubbard	Murtha	Tallon
Huckaby	Myers	Tanner
Hyde	Nagle	Tauzin
Jefferson	Natcher	Taylor (MS)
Jenkins	Neal (MA)	Thomas (GA)
Johnson (CT)	Nowak	Thornton
Johnson (SD)	Oberstar	Torres
Johnston	Obey	Torricelli
Jones (GA)	Olin	Vander Jagt
Jones (NC)	Olver	Visclosky
Jontz	Orton	Volkmer
Kanjorski	Owens (UT)	Vucanovich
Kaptur	Oxley	Walsh
Kennelly	Pallone	Waxman
Kleczka	Panetta	Weber
Kopetski	Parker	Wheat
Kostmayer	Pastor	Whitten
Kyl	Payne (NJ)	Wilson
Lagomarsino	Payne (VA)	Wise
Lancaster	Pease	Wolf
Lantos	Perkins	Wolpe
LaRocco	Peterson (FL)	Wylie
Laughlin	Peterson (MN)	Yatron
Lehman (CA)	Pickle	Young (FL)
Lent	Price	

NAYS—175

Abercrombie	Cox (IL)	Hancock
Ackerman	Crane	Hansen
Allard	Cunningham	Hastert
Allen	Dannemeyer	Hayes (IL)
Andrews (ME)	Davis	Hefley
Andrews (NJ)	DeFazio	Henry
Annunzio	Dellums	Herger
Archer	Doolittle	Hobson
Armey	Dorgan (ND)	Holloway
Atkins	Dornan (CA)	Hopkins
AuCoin	Dreier	Hughes
Baker	Duncan	Hunter
Barton	Durbin	Hutto
Berman	Early	Inhofe
Bilirakis	Edwards (CA)	Ireland
Blackwell	Edwards (OK)	Jacobs
Bliley	Fawell	James
Boxer	Feighan	Johnson (TX)
Bryant	Fields	Kasich
Bunning	Foglietta	Kennedy
Callahan	Ford (TN)	Kildee
Camp	Franks (CT)	Klug
Campbell (CA)	Gallegly	Kolbe
Carper	Gejdenson	Kolter
Clay	Gekas	LaFalce
Coble	Gilchrest	Leach
Collins (IL)	Gillmor	Levine (CA)
Collins (MI)	Gingrich	Lewis (FL)
Combest	Goss	Lloyd
Conyers	Grandy	Lowey (NY)
Costello	Gunderson	Markey
Cox (CA)	Hammerschmidt	Martinez

Matsui	Rhodes	Spence
McCandless	Ridge	Staggers
McCollum	Ritter	Stark
McDermott	Roberts	Stearns
McEwen	Roemer	Stenholm
Mfume	Rohrabacher	Stokes
Miller (CA)	Ros-Lehtinen	Stump
Mineta	Roth	Swett
Mink	Russo	Taylor (NC)
Molinari	Sanders	Thomas (WY)
Moody	Santorum	Traficant
Murphy	Savage	Unsoeld
Neal (NC)	Schaefer	Upton
Nichols	Scheuer	Valentine
Nussle	Schiff	Vento
Oakar	Schroeder	Walker
Owens (NY)	Schulze	Washington
Packard	Schumer	Waters
Patterson	Sensenbrenner	Weiss
Paxon	Serrano	Weldon
Pelosi	Sharp	Williams
Penny	Shaw	Wyden
Petri	Shays	Young (AK)
Porter	Shuster	Zeliff
Poshard	Smith (TX)	Zimmer
Ramstad	Snowe	
Rangel	Solomon	

NOT VOTING—17

Ballenger	Lehman (FL)	Saxton
Boucher	Ortiz	Thomas (CA)
Dickinson	Pickett	Towns
Dymally	Riggs	Traxler
Flake	Rose	Yates
Hall (OH)	Sarpalius	

□ 0210

Mr. MFUME, Mr. ROBERTS, Ms. PELOSI, and Mr. OWENS of New York changed their vote from "yea" to "nay."

Messrs. MRAZEK, OLVER, and CONDIT changed their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 585

Mr. OLIN. Mr. Speaker, I ask unanimous consent that my name be removed as cosponsor of the bill, H.R. 585, the Biological Diversity Conservation and Environmental Research Act.

The SPEAKER pro tempore (Mr. BROWN of California). Is there objection to the request of the gentleman from Virginia?

There was no objection.

CONFERENCE REPORT ON H.J. 157, DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS AND TRANSFERS FOR RELIEF FROM THE EFFECTS OF NATURAL DISASTERS, FOR OTHER URGENT NEEDS, AND FOR INCREMENTAL COST OF OPERATION DESERT SHIELD/DESERT STORM ACT OF 1992

Mr. WHITTEN. Mr. Speaker, pursuant to the rule just adopted, I call up the conference report on the joint resolution (H.J. Res. 157) making technical corrections and correcting enrollment errors in certain acts, making appropriations for the fiscal year ending September 30, 1991, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Pursuant to House Resolution 309, the conference report is considered as read.

(For conference report and statement, see prior proceedings of the House of today.)

The gentleman from Mississippi [Mr. WHITTEN] will be recognized for 30 minutes, and the gentleman from Pennsylvania [Mr. MCDADE] will be recognized for 30 minutes.

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

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on the joint resolution (H.J. Res. 157) making dire emergency supplemental appropriations and transfers for relief from the effects of natural disasters, for other urgent needs, and for incremental costs of Operation Desert Shield/Desert Storm for the fiscal year ending September 30, 1992, and for other purposes, and that I may be allowed to include tabular and extraneous material.

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

There was no objection.

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

Mr. Speaker, the debate we just heard is illustrative of what we have to deal with in the Committee on Appropriations.

I have said before and I have said it seriously that we are going to have to give our domestic programs a foreign address to get them taken care of.

We have heard the debate here about the WIC Program and others. Let me tell you what the facts are.

I was one, and I apologize for it, who recommended the Budget Act, and it has not worked at all like it was planned. We recommended the Budget Act because funding was going around the Committee on Appropriations and leading us into debt right and left.

We recommended that the Budget Committee be made up of five members from the Ways and Means Committee, five members from the Appropriations Committee and five members from the various legislative committees so that we might hold the spending of the Government in line with revenues and by enabling the Appropriations Committee to have the strong voice to hold it back.

We did not get that. We got a committee weighted in favor of the legislative committees.

May I say, since 1945 we have held the appropriation bills $180 billion below the recommendations of all the Presidents. However, just since 1980, our debt has gone from less than $1 to $4 trillion. With spending going around the Committee on Appropriations the Budget Act has not succeeded. It has not worked and that causes the situation that we saw tonight.

May I say again that in the conference we were faced with the fact that if we kept funding not only this WIC Program, but several others, we would have had sequestration and everything would be cut, and the certainty of that came from the other side of the Capitol.

We tried to hold the things in line that we had. They were sound, not only the programs referred to, but other items which were very sound.

I say again that if we are going to look after our own country, we are going to have to put first things first and see that we are held up, by Budget Act requirements as we were in our conference.

Now, I am not going to argue with my colleagues who spoke so eloquently about the needs of the youth of this country. We strongly recognize those needs, I will say that conditions are a little better than might be expected in that we have $2.6 billion in the WIC section of the fiscal year 1992 Appropriations Act. Not only that, but we provided $250 million above what we had last year. I do not say that complaining. I just say that we have done the best we could within the limits of what is possible, and I want to say this as we begin this debate.

Now, the other side of this, I am going to say I hope you will take time to read my full remarks in the RECORD, but listen to what I say now.

At this time, I call your attention to the fact that economically and financially as a nation we face a national emergency—a dire emergency. All this year I have been saying that anyone who reads a newspaper, watches television, or talks to neighbors is bound to realize we are in a deep recession and, judging by history, it will take a real effort if we are to avoid a long drawn out depression.

Despite the fact that our Committee on Appropriations has held the total of appropriations bills $180,800 million below the recommendations of our Presidents since 1945, today we owe a debt of $4 trillion and have outstanding loan and deposit guarantees of another $5 trillion. We can work our way out of this only by increasing production and regaining our domestic markets and our normal share of foreign markets. History will decide whose fault it is—and our domestic policy of placing foreign relations ahead of the domestic economy, where we are letting our real wealth deteriorate, will figure prominently in that.

On November 22, I pointed out how the trade deficit has grown by over $1.1 trillion since 1981 as follows:

[In billions of dollars]

	Amount
1981	$34.6
1982	38.4
1983	64.2
1984	122.4
1985	133.6
1986	155.1
1987	170.3
1988	137.1
1989	129.4
1990	123.4

In addition, conditions are terrible because of natural disasters—hurricanes, earthquakes, freezes, drought, floods, tornadoes, and more recently, wildfires—which have been declared disasters by the President and the Secretary of Agriculture which affect every State in the Union. These disasters have created a dire emergency which must be addressed to prevent a cutting back on vital ongoing programs.

Mr. Speaker, it will take time if we are to work out of the present problem. We need to get our country moving, to increase production, to again export more than we import—and we need to start now for we live in a competitive world.

The conference agreement provides agricultural disaster assistance for crop years 1990, 1991, and to some extent, 1992 in the amount of $1,750 million—$995 million now and $755 million when the President submits a budget request.

The agreement also includes $943 million for the Federal Emergency Management Agency—$800 million now and $143 million when the President submits a budget request.

In addition, the conferees agreed to provide $4,083,500,000 for the incremental costs of Operation Desert Shield/Desert Storm.

As a start, we must join together to adopt this Dire Emergency Disaster Assistance Bill.

The conditions resulting from the widespread disasters continue to get worse. There are now 44 Presidentially declared disasters which affect 33 States and an additional 89 disasters have been declared by the Secretary of Agriculture which affect 39 States. With reductions in employment, in production, and exports resulting from these disasters, when added to our mistaken policies, it is apparent that the Nation must take action. It has been over 6 months since we called attention to the problem, the facts of which are well known.

In the years 1990 and 1991, disaster declarations have been declared or are pending for 11 States in the East, 8 States in the Southeast, 8 South Central States, 11 North Central States, 6 States in the Northwest, and 6 States in the Southwest. Thus, in connection with this, the Congress and the President have declared these domestic needs to be dire emergencies so that other essential programs won't be reduced by sequestration as has been done to fiscal year 1991 programs which were reduced thirteen ten-thousandths of 1 percent by the Office of Management and Budget based on its own counting without the approval of the Congress.

To begin to meet these problems, this Dire Emergency Supplemental provides funds to meet the disasters which have hit the Nation since last October and to provide more funds for Hurricane Hugo damage and the 1989 California earthquake.

Recently, Hurricane Bob struck the Northeast coast. To date, estimated costs for the disasters declared due to this hurricane are approximately $52 million.

Farmers in Minnesota and Iowa were unable to plant their crops due to an unprecedented spring and summer rainfall. Furthermore, many crops which may have been planted were destroyed because of flooding.

Since early spring of this year, tremendous storms with accompanying torrential rain and winds have hit areas of the country. At one point, over 4 million acres of land in the Mississippi River Delta were inundated, destroying or damaging drainage ditches, bridges, roads, homes, and farms. Additionally, some of the worst drought conditions of the century have affected other parts of the country.

Since October 1990, there have been disasters which resulted in calls for the National Guard and other assistance. Mr. Chairman, in fiscal 1990 the Guard was called out 292 times in 38 States; in fiscal 1991, 337 times in 42 States. This need will continue and shows the tremendous peacetime mission the Guard has. Because they are local, they play a big part in support of the regular services.

Mr. Speaker, this is a good agreement, and I urge it be adopted.

□ 0220

I do not know whether any of you have noticed it, but each week whatever groceries you buy have increased in price. For the years 1990 and 1991 the agricultural related disaster declarations have been getting worse.

What we are trying to do in this bill, and what we have done, is to recommend funds for holding our country together.

May I say again that your committee is trying to save our country and restore it. And I point out again the policies that we have been following have contributed greatly to our decline. We have given away billions of dollars of our domestic markets, and we are the ones who set up the European Common Market, not they; we are the ones that financed the defense of Japan so that they could build up their economy, and then we get stuck.

May I say again that in voting for this bill tonight, we are trying to save our country. I want to say right now that just as sure as I am standing here, we are going to be faced with the need for a jobs bill. Since 1981, the 1981 Tax Act has lost over $2.4 trillion in income. In 1982 we had a disastrous year, a rescission of over $14 billion, and by late 1982 we had a recession.

During Easter 1983, at the request of my colleagues, I stayed here and worked out the jobs bill. We came up with a jobs bill which left it up to the local people so that you had something to show for it. In other words, investment spending. We bailed out the country.

At the local level throughout the United States, we tried to be sure we got our money's worth.

May I say again, so many people do not realize or seem to know that wealth and money are not the same thing. They are not. Wealth is solid, material things. We are going to have to try to look after our own country because all this foreign aid and military spending depends on your own country to finance and support it.

May I say again it is not the fault of this committee or this group of conferees that these items that have been complained about are not included. We were faced with sequestration, which means everything would have been cut. We had to bring back the best we could.

So, if you want to go after the real problem, go after that which holds back what we can do—the Budget Act. If you do not stay within the limits, then sequestration takes effect. That is what we have to work with.

That is where your problem is caused.

I repeat again, for what it is worth, for WIC we have $250 million increase over last year to take care of an additional 300,000 participants per month. I agree with you the need is there, and I agree we are right in trying to hold the country together. We are going to have to look after our own country because all the rest depends on our country.

The other thing I want to say to you is that we live in a competitive world. We tried to sell apples in foreign countries, and they turned us down because they have artificial coloring on them. We tried to sell breed stock cattle to England, and they would not let us sell it because of the hoof and mouth disease; they had it, and we did not.

So I say tonight, it is time we look at our situation, see where the cause is, and correct it.

But I would like for you to understand these other facts—we have to regain our foreign markets, maintain our present domestic markets, and get away from being told what we can do by the Office of Management and Budget, and get away from the sequestration.

Mr. Speaker, I urge adoption of this conference report and reserve the balance of my time.

Mr. MURTHA. Mr. Speaker, chapter 1 of the bill deals with the matters affecting the Department of Defense:

Approved $4 billion in new authority to finance the costs of Operation Desert Shield/Desert Storm.

These appropriations were requested to replace material lost or consumed during combat and to provide for the rehabilitation and repair of equipment resulting from heavy use during Desert Shield/Desert Storm.

In addition, authority is provided to transfer $6.3 billion among accounts in fiscal year 1991 to adjust funding previously provided in the initial Desert Shield/Desert Storm supplemental enacted last April.

The most recent cost estimate of the conflict is $61.1 billion.

After factoring out: cash contributions from foreign countries; in-kind assistance from various countries; and the fact that various equipment which was destroyed will not be replaced, the actual cost of the conflict not covered by foreign contributions is estimated to be approximately $4.4 billion.

Basically, we have approved the budget request with several exceptions:

We provided $145,000,000 in additional funds to buy Patriot missiles.

We provided $25,000,000 in additional funds for advance procurement of engines and generators for the LSD–41 dock landing ship.

We provided $10,100,000 for the purchase of one MH–60E helicopter for the National Guard and Reserve.

We provided authority to allow the transfer of not to exceed $400,000,000 of defense funds to aid in the destruction of nuclear and other weapons in the Soviet republics and the Soviet Union.

We provided authority to allow the transfer of not to exceed $100,000,000 of defense funds to provide transportation of food, medical supplies, and other humanitarian assistance to the Soviet Union and the Soviet republics.

The SPEAKER pro tempore (Mr. BROWN). The gentleman from Pennsylvania [Mr. MCDADE] is recognized for 30 minutes.

Mr. MCDADE. Mr. Speaker, let me say to my colleagues that I have the long speech and the short speech, and you are going to get the short one at 20 minutes past 2 in the morning

I want to say this is the first time, my friends, in the 5 months this bill has been pending that I have risen in support of this bill. It is not only me, but I want you to know that every member of the conference committee on both sides of the aisle has signed the conference report.

The President, I am authorized to tell you, is waiting, should we decide to send the bill down, to sign it.

It has three principal components in it:

The first component is the funding for the Desert Storm operation, roughly $4 billion, all of which is funded by foreign contributions and is outside of the budget caps.

The second portion of it consists of emergency money for agricultural disasters in the country. That sum is $995 million, and covers crop year 1990 or 1991, at the farmer's choice. There is an additional $755 million that becomes available if the President requests it and designates it as an emergency.

The third major component in the bill is for disaster assistance under the Federal Emergency Management Administrations which is in the bill at $800 million, and covers the backlog of every single natural disaster which has occurred around the country and for which a lot of your communities are sitting and waiting. There is an additional $143 million that becomes available if the President requests it and designates it as an emergency.

That is the essence of the bill.

I urge your approval of the bill.

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

Mr. WHITTEN. Mr. Speaker, I yield 2 minutes to my colleague, the gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. Mr. Speaker, I commend the action of the conferees to correct the practice of the Defense Department of exporting American jobs to foreigners. Section 107 prevents the use of U.S. tax dollars to import 4-ton dolly jacks that are efficiently manufactured here at home. It is anti-American to export jobs to foreign countries when jobs are scarce in the United States. This practice must be stopped. I appreciate the committee for supporting my amendment. This section saves American jobs and keeps our people working so they can support their families.

Mr. Speaker, I would like to engage the chairman of the Subcommittee on Energy and Water, the gentleman from Alabama [Mr. BEVILL] in a short colloquy.

Mr. Speaker, when the Senate passed the fiscal year 1992 dire emergency supplemental appropriations bill, an amendment was adopted regarding an extension of certain FERC license deadlines for hydroelectric power projects which have or are soon to expire. That amendment, which was identical to S. 1283 as passed by the Senate, was dropped during conference consideration of the dire emergency supplemental appropriations measure.

I am aware that the House committee with jurisdiction over S. 1283, and a similar bill, H.R. 2677, which I introduced, plans to take action on these proposed extensions en bloc in the near future. I seek clarification from the chairman that the conferees's action to delete the amendment was in deference to the House authorization committee and in no way reflects on the merits of the proposed extensions.

Mr. Speaker, I ask the gentleman, is this correct?

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

Mr. ALEXANDER. I yield to the chairman, the gentleman from Alabama [Mr. BEVILL].

Mr. BEVILL. I thank the gentleman for yielding.

Mr. Speaker, the gentleman is correct.

Mr. MCDADE. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from New York [Mr. GREEN] a member of our subcommittee.

Mr. GREEN of New York. I thank the distinguished ranking minority member of the Committee on Appropriations for yielding the time to me.

I take this time because I think Members should understand that, in addition to appropriating funds to clean up the FEMA backlog, we have established important new grounds rules for FEMA of which everyone should be aware.

The appropriations for FEMA involve a total of $943 million, of which $800 million is agreed to between the Administration and the Congress as emergency funds for 1990 Budget Act purposes. The balance of $143 million may be spent by the administration only if the administration determines that the purpose for which it seeks the funds qualifies as an emergency under the 1990 Budget Act and will not trigger a sequester. That is what we did for the current fiscal year.

□ 0230

But in addition to that, as I mentioned, we established some new ground rules, because the administration has been complaining that the shortfall in funds which we were facing this calendar year was the result of congressional failure to provide as much money to the disaster relief account as history had suggested it needed and as the administration had requested, and frankly the administration had a good case in making that claim. As a result, this bill provides that there will be a baseline established of $320 million for a fiscal year, which is agreed to as the recent historical average of emergency needs for the FEMA program, or such lesser amount as the administration may request in its budget recommendations for any fiscal year. That amount will be a baseline which must be met before amounts above that level, which are agreed to by the Congress and the administration, may be deemed to be emergencies.

So, Mr. Speaker, I think that this agreement will deal with the concerns of the administration that by underfunding this account in past years we created an artificial emergency. we shall now have a baseline by which to judge that every year.

Since the report of the managers is a little obscure in its language, let me make it clear that shortfalls below the baseline do not carry over from year to year. So, for example, if the administration requests $320 million, and we appropriate only $250 million, and only $250 million is needed in that fiscal

year, then the $70 million shortfall does not carry over, and we start afresh in the next fiscal year. So there will be no carryover of gaps between the baseline and the amount appropriated if in fact the lower appropriation proves to be all that is needed in that fiscal year.

I apologize to my colleagues for discussing this at this hour of the night, but I think it is important to make clear in the RECORD and for my colleagues' understanding just what the ground rules are going to be as to when FEMA appropriations are going to be considered emergencies and when they are not.

Mr. WHITTEN. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. Fazio], a member of the committee.

Mr. FAZIO. Mr. speaker, I appreciate the gentleman from Mississippi [Mr. WHITTEN] yielding this time to me.

Mr. Speaker, I simply want to thank the chairman for help on three different disasters that have faced California in the last years. we are still finding $300 million in the Loma Prieta earthquake in this bill. There will be at least $300 million to deal with the freeze that beset the San Joaquin Valley and $100 million to take care of those people in the city of Oakland who suffered the loss of public facilities.

I know that the California delegation appreciates the committee's assistance in the context of this supplemental, and I am hopeful that a much larger percentage of them will support final passage than supported the rule.

Mr. Speaker, I rise in strong support of the conference report on the dire emergency appropriations bill for fiscal year 1992.

The measure is a good compromise. It will get some immediate relief to the victims of natural disasters throughout our country, affording them the same assistance that we have provided to the victims of natural disaster in other parts of the world.

Despite my strong support for the conference report, Mr. Speaker, I remain disappointed that the President would not agree to make the full $1.75 billion in crop loss disaster assistance and $943 million in FEMA aid, as proposed by the House, immediately available.

The House and Senate have both stated very emphatically the belief that there are emergency requirements outstanding that will reach at least the levels set in the original House and Senate bills. We know, for example, that eligible crop losses across the country may exceed $2 billion.

But the President was unwilling to make immediately available what we believe to be the required level of disaster assistance. Therefore, while under the measure we have made most of the funds immediately available, a portion of the moneys will be made available only if the President determines that an emergency exists and thereby releases the funds. No further action by Congress will be required, however.

Of the $1.75 billion in crop loss assistance, $995 million will be made available immediately and $755 million is provided, contingent upon a Presidential declaration that an emergency exists. Of the $943 million for FEMA, $800 million will be available immediately and $143 million could be made available by the President, if he exercises his emergency authority.

But the conference report appropriates what we believe will be required to meet our Federal disaster assistance obligations and gives the President the authority and flexibility to respond.

Mr. Speaker, for my own State of California this bill is particularly critical. My State has suffered from one major natural disaster after another. The bay area is still recovering from the Loma Prieta earthquake. The Oakland fire last month was among the worst natural disasters to hit our State. And, the farmers and farm communities throughout the State, particularly in the San Joaquin Valley, are still trying to recover from the devastating freeze which hit the State last December.

The measure will provide roughly $100 million to help rebuild fire damaged areas of Oakland, up to $425 million for farmers and farm communities hit by last December's freeze, and an estimated $300 million to clear up Federal obligations still outstanding from the 1989 Loma Prieta earthquake.

Mr. Speaker, all year long, the President has been handing out aid to the victims of disasters in foreign countries. And, while these are laudable causes, he has repeatedly turned his back on those in our own country who have suffered from similar emergencies. We have fought and fought for this aid, and, now, hopefully, the President will sign this bill and get the aid flowing to those in our own country who are entitled to this essential assistance.

I want to also explain another item which affects the legislative branch appropriation.

In section 209, we have provided authority to spend donated funds for construction drawings and specifications for the replacement of the Botanic Garden Conservatory.

All Members should realize that part of this historic building will be torn down within a few weeks. The middle portion—the Palm House—is in such a deteriorated and even dangerous condition that it must be razed.

The balance of the building—the Fern House, the Orangerie, the display halls—all require immediate structural and environmental repair.

The entire project will cost from $20 to $30 million. We did not even have the funds for the construction drawings.

So the good people who are raising donations for the National Garden—Lindy Boggs, the wives of Senator BENTSEN and Senator JOHNSON—came to us and said they would like to raise funds for the design. That will cost almost $2 million.

The Senate bill gave the Architect of the Capitol the authority to expend the $2 million—but subject to an authorization bill being passed.

We were informed that the authorizing committees—Senate Rules and House Administration—would probably not get to that matter this session.

So the conferees on the supplemental decided to insert the authorization also, so that this important design could go forward.

We had to make some adjustments in the authorization introduced by Senator PELL because of the scorekeeping rules. The OMB and CBO agreed those adjustments were necessary to prevent the bill from being scored and perhaps trigger a sequestration.

The conferees have provided authority to accept gifts or bequests of money in the amounts provided in appropriation acts in section 307E(b)(1). It is not the intent of the conferees that gifts or bequests of a nonmonetary nature be included in such limitations.

So all we are doing is trying to use other sources of funds—private donations—to keep our physical plant in repair. I think we owe that to the American people.

Mr. McDADE. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Missouri [Mr. COLEMAN], the ranking member of the Committee on Agriculture.

Mr. COLEMAN of Missouri. Mr. Speaker, I rise to express my support of language included in this conference report that will protect the pension benefits of thousands of TWA employees. The amendment ensures that up to $1 billion of unfunded pension liability will not, by means of a slick legal maneuver, be transferred to the Pension Benefit Guaranty Corporation.

The owner of TWA, Carl Icahn, is currently negotiating with creditors to develop a prepackaged bankruptcy agreement. Under current law, Mr. Icahn, as the holder of more than 80 percent of the airline's common stock, is deemed in control of TWA. Furthermore, the law holds the other businesses he controls in common with TWA liable for the pension obligations.

Mr. Icahn proposes, as part of the agreement, to decrease his ownership below 80 percent, but to retain control of the TWA board and management. If accepted, this proposal would insulate Mr. Icahn and his financial empire from the liability for the unfunded pension obligations. Those obligations have been estimated to be from $150 to $900 million.

Mr. Speaker, this amendment has been very narrowly drawn, and applies only to the particular situation involving TWA. Without it, the Pension Benefit Guaranty Corporation, already dealing with an accumulated deficit of $1.8 billion, will be forced to pickup some $440 million in guaranteed benefits for TWA employees. And without it, TWA employees will lose an estimated $400 million in promised, but not PBGC guaranteed, pension benefits.

I urge my colleagues to accept this language.

Mr. WHITTEN. Mr. Speaker, I yield 3 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, I thank the gentleman from Mississippi [Mr. WHITTEN] very much for yielding this time to me.

Mr. Speaker, I just wanted to say again that, as I read this bill, the congressional designations of emergency

points out that, while the President had only designated portions of the funds dealing with Desert Shield and Desert Storm, the Congress believed others should have a higher priority, and that is what I had hoped children would get.

I must say that, as I read this bill, and I have not had time to get through all of it, but I see in here a $½ million to the State of Maine for potato disease. There is something in here I do not understand where we are increasing $14 million to something called fishing vessel obligation guarantees. Then the Kurdish protection forces, and, as my colleagues know, I can keep reading this about the Kuwaitis and the Saudis not paying their parking tickets to the tune of a lot of money, and on, and on, and on.

Mr. Speaker, I just, as I say, am very sad to stand here and take on the Committee on Appropriations, but, when I look at all of this, I certainly think America's children were entitled to the same kind of coverage, and it saddens me. I have to keep reiterating this over and over again, but the more I read, the more I am horrified at those who got a higher priority than kids, and that makes me very sad.

Mr. McDADE. Mr. Speaker, I yield 1 minute to my colleague, the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, I thank the gentleman from Pennsylvania [Mr. McDADE] for yielding this time to me.

Mr. Speaker and Members of the House, in voting in favor of this resolution, I cast that vote to keep faith with the farmers who will benefit from the impact of this legislation, and with the FEMA personnel who also will benefit, and we who at large know what devastation the farms of our country have faced this past year during the drought.

Mr. WHITTEN. Mr. Speaker, I yield 1 minute to myself.

Mr. Speaker, I would like to point out, in view of statements that have been made earlier, the fiscal year 1992 appropriations bill, which was signed into law October 28, 1991, provides $2.6 billion for WIC—an increase of $250 million above the 1991 level. May I say that there were 4.9 million persons in fiscal year 1991 that were served, and, for the present year, 5.2 million persons—an increase of 300,000. Within the limits of the possible we have done the very best we could, and I think the RECORD should show it.

Mr McDADE. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman from Pennsylvania [Mr. McDADE] for yielding this time to me.

On page 158–200 of the report I come across an interesting item that sounds like a dire emergency to me.

Notwithstanding any other provision of law, funds available to the Animal and Plant Health Inspection Service of the Department of Agriculture for fiscal year 1992 shall be made available as a grant in the amount of $530,000 to the State of Maine Department of Agriculture, Food and Rural Resources for potato disease detection, control, prevention, eradication and related activities including the payment of compensation to persons for economic losses associated with such efforts conducted or to be conducted in the State of Maine and any unobligated balances of funds previously appropriated or earmarked for potato disease efforts by the Secretary of Agriculture shall remain available until expended by the Secretary.

Mr. Speaker, is this a dire emergency that was requested by the President?

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

May I say to my colleague that it was not in the budget submitted by the President, no.

Mr. WALKER. I thank the gentleman from Pennsylvania.

Mr. WHITTEN. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. CHAPMAN].

Mr. CHAPMAN. Mr. Speaker, I would like to take less than a minute to thank the gentleman from Mississippi [Mr. WHITTEN] for this legislation. I urge my colleagues to support it.

Contained in this bill, the disaster assistance is going to assist agriculture producers all across this country. A number of those are in my northeast Texas district where in May 1990 the Red River was 10 miles wide. Tens of thousands of acres of farmland were flooded. Those folks have had no funding for the authorized disaster programs that Congress has passed.

□ 0240

Tonight we will give them that needed funding, breathe life into those producers, and for that, Mr. Chairman, my constituents owe you a debt of gratitude, and so do I.

I urge my colleagues to support this legislation and help us rebuild the assets that have made this country great and give our agriculture producers around this country a chance to get back on their feet.

Mr. McDADE. Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. EWING].

Mr. EWING. Mr. Speaker, I rise in strong support of the dire emergency supplemental legislation, which includes much-needed relief for those affected by natural disasters throughout the country, including this summer's Midwest drought.

The country has seen an unusually high level of natural disasters, including drought, flooding, freezing, and fires. In Illinois, many farmers had no rain at all during the critical growing season. Many are facing significant looses, some are facing total losses. Without this legislation, many will go out of business and join the ranks of the unemployed.

While national production may be average, this drought has been spotty, and those who have been hit have been hit very hard. This legislation is critically necessary to thousands of agricultural producers.

This drought comes on the heels of devastating droughts in 1980, 1983, and 1988 and is particularly devastating to many farmers who are still trying to recover financially from this long string of droughts.

Drought relief has been languishing in Congress for over 4 months. The time has come for us to act. I want to thank the President and congressional leaders for reaching this agreement. If we act tonight, we can deliver this much-needed assistance before Christmas.

Mr. Speaker, drought relief is very important for our economy and for thousands of farmers and others throughout the country. I urge my colleagues to support this legislation.

Mr. WHITTEN. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois [Mr. HAYES].

Mr. HAYES of Illinois. Mr. Speaker, you are going to get some regular order. I was almost asleep until I saw this in here where they deleted certain provisions from this bill.

I want to ask if I can engage in a colloquy with the chairman of the committee.

What were the reasons for the deletion of the agreement not to include supplemental appropriations for $1.2 billion for Head Start; $100 million for women and children, the WIC Program; and the Nutrition Program; and $90 million for the Childhood Immunization Program?

I cannot go back to my poor kids in my community and not be able to explain why we do not have this kind of money.

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

Mr. HAYES of Illinois. I am happy to yield to the gentleman from Kentucky.

Mr. NATCHER. Mr. Speaker, I want to say to my friend from Chicago that I do not know of a single Member in this House who is against Head Start, against the WIC Program, or against the Childhood Immunization Program.

The amendment offered by the gentlewoman from Colorado, as the gentleman knows, added $1.2 billion to the Head Start Program. The regular bill, I say to my friend from Chicago, had $2,202,000,000 for Head Start for fiscal year 1992. This is an increase of $250 million. This follows a $400 million increase in Fiscal Year 1991. As far as the Childhood Immunization Program is concerned, in the regular bill we have $298 million, and this is an $80 million increase over 1991.

Not a single dollar of the money added by the gentlelady would have been dropped by the conferees if it had not been for the two letters that the conferees received from OMB. One of them was directed to the Chairman of

the Committee on Appropriations in the Senate, Mr. BYRD. The other was directed to my chairman, the gentleman from Mississippi [Mr. WHITTEN]. These letters informed the conferees that if these supplemental amounts remained in the bill, not qualifying under the emergency category, there would be a sequester. This sequester would be up to 2.7 percent across the entire domestic discretionary budget for fiscal year 1992. The gentleman from Illinois would not like it, and I would not like it. Think about it.

Let me say to the gentleman that this 2.7-percent reduction across the entire budget would cover all 10 domestic appropriation bills. Not $1 would have been removed if these amounts added by the gentlewoman from Colorado could have been classified under the emergency category. Every dollar would have remained in there. The gentleman and I are both for Head Start. We are both for the WIC Program. We are also for childhood immunization.

Mr. HAYES of Illinois. I am not sure OMB is, if I can reclaim my time.

Mr. NATCHER. No. I understand. But let me say this to the gentleman; I do not know of a Member in this House that is against any one of these three programs. They would have remained if there had not been the threat of this sequester.

Mr. HAYES of Illinois. I want it clearly understood that I am not blaming the gentleman, but I want it clearly understood, too, that our priorities are on the wrong end. We are not doing enough for poor kids who are tomorrow's leaders in this great Nation of ours. We tend to forget. We do not know where our priorities are. We look at some of the money we spent for bridges and other things within this bill, and when you really look at it, we are really behind the times of where we need to move.

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

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

The SPEAKER pro tempore (Mr. BROWN). Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DANNEMEYER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 303, noes 114, not voting 17, as follows:

[Roll No. 438]

AYES—303

Ackerman	Gibbons	Mineta
Alexander	Gilchrest	Mink
Allard	Gillmor	Moakley
Allen	Gingrich	Molinari
Anderson	Glickman	Mollohan
Andrews (ME)	Gonzalez	Montgomery
Andrews (TX)	Goodling	Moody
Annunzio	Gordon	Moran
Anthony	Gradison	Morella
Aspin	Grandy	Morrison
Bacchus	Green	Mrazek
Baker	Hall (OH)	Murphy
Barnard	Hall (TX)	Murtha
Barrett	Hamilton	Myers
Bateman	Hammerschmidt	Nagle
Beilenson	Harris	Natcher
Bennett	Hastert	Neal (MA)
Bentley	Hatcher	Neal (NC)
Bereuter	Hayes (LA)	Nichols
Berman	Hefner	Nowak
Bevill	Hoagland	Oberstar
Bilbray	Hobson	Obey
Boehlert	Hochbrueckner	Olin
Boehner	Holloway	Olver
Bonior	Hopkins	Owens (UT)
Borski	Horn	Oxley
Boucher	Horton	Panetta
Boxer	Houghton	Parker
Brewster	Hoyer	Patterson
Brooks	Hubbard	Paxon
Broomfield	Huckaby	Payne (NJ)
Browder	Hyde	Payne (VA)
Brown	Jefferson	Pelosi
Bruce	Jenkins	Perkins
Bryant	Johnson (CT)	Peterson (FL)
Bunning	Johnson (SD)	Peterson (MN)
Bustamante	Johnston	Poshard
Byron	Jones (GA)	Price
Camp	Jones (NC)	Quillen
Cardin	Jontz	Ravenel
Carr	Kanjorski	Reed
Chandler	Kaptur	Regula
Chapman	Kasich	Richardson
Clement	Kennelly	Ridge
Clinger	Kildee	Riggs
Coble	Kleczka	Roberts
Coleman (MO)	Klug	Roe
Coleman (TX)	Kolter	Rogers
Combest	Kopetski	Rohrabacher
Condit	Kostmayer	Rostenkowski
Cooper	Kyl	Roth
Costello	LaFalce	Roukema
Coughlin	Lagomarsino	Rowland
Cox (IL)	Lancaster	Roybal
Coyne	Lantos	Russo
Cramer	LaRocco	Sabo
Darden	Leach	Sanders
Davis	Lehman (CA)	Sangmeister
de la Garza	Lent	Sawyer
DeLauro	Levin (MI)	Scheuer
DeLay	Levine (CA)	Schiff
Dellums	Lewis (CA)	Schulze
Derrick	Lewis (GA)	Serrano
Dicks	Lightfoot	Sharp
Dingell	Lipinski	Sikorski
Dixon	Livingston	Sisisky
Donnelly	Long	Skaggs
Dooley	Lowery (CA)	Skeen
Dorgan (ND)	Lowey (NY)	Skelton
Downey	Machtley	Slaughter
Durbin	Manton	Smith (FL)
Dwyer	Markey	Smith (IA)
Eckart	Marlenee	Smith (NJ)
Edwards (OK)	Martin	Smith (OR)
Edwards (TX)	Martinez	Smith (TX)
Emerson	Matsui	Snowe
Engel	Mavroules	Solarz
English	Mazzoli	Spence
Espy	McCloskey	Spratt
Evans	McCrery	Staggers
Ewing	McCurdy	Stallings
Fascell	McDade	Stokes
Fazio	McDermott	Studds
Feighan	McGrath	Sundquist
Fish	McHugh	Swift
Ford (MI)	McMillan (NC)	Synar
Frank (MA)	McMillen (MD)	Tallon
Frost	McNulty	Tanner
Gallegly	Meyers	Tauzin
Gallo	Michel	Taylor (MS)
Gaydos	Miller (CA)	Taylor (NC)
Gekas	Miller (OH)	Thomas (GA)
Gephardt	Miller (WA)	Thornton
Torres	Vucanovich	Wise
Torricelli	Walsh	Wolf
Unsoeld	Waxman	Wolpe
Upton	Weber	Wyden
Vander Jagt	Wheat	Wylie
Vento	Whitten	Yatron
Visclosky	Williams	Young (AK)
Volkmer	Wilson	Young (FL)

NOES—114

Abercrombie	Goss	Petri
Andrews (NJ)	Guarini	Porter
Applegate	Gunderson	Pursell
Archer	Hancock	Rahall
Armey	Hansen	Ramstad
AuCoin	Hayes (IL)	Rangel
Barton	Hefley	Ray
Bilirakis	Henry	Rhodes
Blackwell	Herger	Rinaldo
Bliley	Hertel	Ritter
Burton	Hughes	Roemer
Callahan	Hunter	Ros-Lehtinen
Campbell (CA)	Hutto	Santorum
Campbell (CO)	Inhofe	Savage
Carper	Ireland	Schaefer
Clay	Jacobs	Schroeder
Collins (MI)	James	Schumer
Conyers	Johnson (TX)	Sensenbrenner
Cox (CA)	Kennedy	Shaw
Crane	Kolbe	Shays
Cunningham	Laughlin	Shuster
Dannemeyer	Lewis (FL)	Slattery
DeFazio	Lloyd	Solomon
Doolittle	Luken	Stark
Dornan (CA)	McCandless	Stearns
Dreier	McCollum	Stenholm
Duncan	McEwen	Stump
Early	Mfume	Swett
Edwards (CA)	Moorhead	Thomas (WY)
Erdreich	Nussle	Traficant
Fawell	Oakar	Valentine
Fields	Orton	Walker
Foglietta	Owens (NY)	Washington
Ford (TN)	Packard	Waters
Franks (CT)	Pallone	Weiss
Gejdenson	Pastor	Weldon
Geren	Pease	Zeliff
Gilman	Penny	Zimmer

NOT VOTING—17

Atkins	Lehman (FL)	Saxton
Ballenger	Ortiz	Thomas (CA)
Collins (IL)	Pickett	Towns
Dickinson	Pickle	Traxler
Dymally	Rose	Yates
Flake	Sarpalius	

□ 0305

Messrs. CAMPBELL of Colorado, MFUME, and GREEN of Texas changed their vote from "aye" to "no."

Mr. WILLIAMS changed his vote from "no" to "aye."

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.

PERMISSION FOR COMMITTEE ON GOVERNMENT OPERATIONS TO FILE SUNDRY REPORTS

Mr. CONYERS. Mr. Speaker, I ask unanimous consent that the Committee on Government Operations have until 6 p.m. on Friday, December 20, 1991, to file sundry reports.

The SPEAKER pro tempore (Mr. BROWN). Is there objection to the request of the gentleman from Michigan?

There was no objection.

TAX EXTENSION ACT OF 1991

The SPEAKER pro tempore. The unfinished business is the question of sus-

pending the rules and passing the bill, H.R. 3909, 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 Illinois [Mr. ROSTENKOWSKI] that the House suspend the rules and pass the bill, H.R. 3909, on which the yeas and nays are ordered.

The motion was taken by electronic device, and there were—yeas 420, nays 0, not voting 14, as follows:

[Roll No. 439]

YEAS—420

Abercrombie	Cunningham	Hatcher
Ackerman	Dannemeyer	Hayes (IL)
Alexander	Darden	Hayes (LA)
Allard	Davis	Hefley
Allen	de la Garza	Hefner
Anderson	DeFazio	Henry
Andrews (ME)	DeLauro	Herger
Andrews (NJ)	DeLay	Hertel
Andrews (TX)	Dellums	Hoagland
Annunzio	Derrick	Hobson
Anthony	Dicks	Hochbrueckner
Applegate	Dingell	Holloway
Archer	Dixon	Hopkins
Armey	Donnelly	Horn
Aspin	Dooley	Horton
AuCoin	Doolittle	Houghton
Bacchus	Dorgan (ND)	Hoyer
Baker	Dornan (CA)	Hubbard
Ballenger	Downey	Huckaby
Barnard	Dreier	Hughes
Barrett	Duncan	Hunter
Barton	Durbin	Hutto
Bateman	Dwyer	Hyde
Beilenson	Early	Inhofe
Bennett	Eckart	Ireland
Bentley	Edwards (CA)	Jacobs
Bereuter	Edwards (OK)	James
Berman	Edwards (TX)	Jefferson
Bevill	Emerson	Jenkins
Bilbray	Engel	Johnson (CT)
Bilirakis	English	Johnson (SD)
Blackwell	Erdreich	Johnson (TX)
Bliley	Espy	Johnston
Boehlert	Evans	Jones (GA)
Boehner	Ewing	Jones (NC)
Bonior	Fascell	Jontz
Borski	Fawell	Kanjorski
Boucher	Fazio	Kaptur
Boxer	Feighan	Kasich
Brewster	Fields	Kennedy
Brooks	Fish	Kennelly
Broomfield	Foglietta	Kildee
Browder	Ford (MI)	Kleczka
Brown	Ford (TN)	Klug
Bruce	Frank (MA)	Kolbe
Bryant	Franks (CT)	Kolter
Bunning	Frost	Kopetski
Burton	Gallegly	Kostmayer
Bustamante	Gallo	Kyl
Byron	Gaydos	LaFalce
Callahan	Gejdenson	Lagomarsino
Camp	Gekas	Lancaster
Campbell (CA)	Gephardt	Lantos
Campbell (CO)	Geren	LaRocco
Cardin	Gibbons	Laughlin
Carper	Gilchrest	Leach
Carr	Gillmor	Lehman (CA)
Chandler	Gilman	Lent
Chapman	Gingrich	Levin (MI)
Clay	Glickman	Levine (CA)
Clement	Gonzalez	Lewis (CA)
Clinger	Goodling	Lewis (FL)
Coble	Gordon	Lewis (GA)
Coleman (MO)	Goss	Lightfoot
Coleman (TX)	Gradison	Lipinski
Collins (MI)	Grandy	Livingston
Combest	Green	Lloyd
Condit	Guarini	Long
Conyers	Gunderson	Lowery (CA)
Cooper	Hall (OH)	Lowey (NY)
Costello	Hall (TX)	Luken
Coughlin	Hamilton	Machtley
Cox (CA)	Hammerschmidt	Manton
Cox (IL)	Hancock	Markey
Coyne	Hansen	Marlenee
Cramer	Harris	Martin
Crane	Hastert	Martinez
Matsui	Pelosi	Slaughter
Mavroules	Penny	Smith (FL)
Mazzoli	Perkins	Smith (IA)
McCandless	Peterson (FL)	Smith (NJ)
McCloskey	Peterson (MN)	Smith (OR)
McCollum	Petri	Smith (TX)
McCrery	Pickle	Snowe
McCurdy	Porter	Solarz
McDade	Poshard	Solomon
McDermott	Price	Spence
McEwen	Pursell	Spratt
McGrath	Quillen	Staggers
McHugh	Rahall	Stallings
McMillan (NC)	Ramstad	Stark
McMillen (MD)	Rangel	Stearns
McNulty	Ravenel	Stenholm
Meyers	Ray	Stokes
Mfume	Reed	Studds
Michel	Regula	Stump
Miller (CA)	Rhodes	Sundquist
Miller (OH)	Richardson	Swett
Miller (WA)	Ridge	Swift
Mineta	Riggs	Synar
Mink	Rinaldo	Tallon
Moakley	Ritter	Tanner
Molinari	Roberts	Tauzin
Mollohan	Roe	Taylor (MS)
Montgomery	Roemer	Taylor (NC)
Moody	Rogers	Thomas (GA)
Moorhead	Rohrabacher	Thomas (WY)
Moran	Ros-Lehtinen	Thornton
Morella	Rostenkowski	Torres
Morrison	Roth	Torricelli
Mrazek	Roukema	Traficant
Murphy	Rowland	Unsoeld
Murtha	Roybal	Upton
Myers	Russo	Valentine
Nagle	Sabo	Vento
Natcher	Sanders	Visclosky
Neal (MA)	Sangmeister	Volkmer
Neal (NC)	Santorum	Vucanovich
Nichols	Sarpalius	Walker
Nowak	Savage	Walsh
Nussle	Sawyer	Washington
Oakar	Saxton	Waters
Oberstar	Schaefer	Waxman
Obey	Scheuer	Weber
Olin	Schiff	Weiss
Olver	Schroeder	Weldon
Orton	Schulze	Wheat
Owens (NY)	Schumer	Whitten
Owens (UT)	Sensenbrenner	Williams
Oxley	Serrano	Wilson
Packard	Sharp	Wise
Pallone	Shaw	Wolf
Panetta	Shays	Wolpe
Parker	Shuster	Wyden
Pastor	Sikorski	Wylie
Patterson	Sisisky	Yatron
Paxon	Skaggs	Young (AK)
Payne (NJ)	Skeen	Young (FL)
Payne (VA)	Skelton	Zeliff
Pease	Slattery	Zimmer

NAYS—0

NOT VOTING—14

Atkins	Lehman (FL)	Towns
Collins (IL)	Ortiz	Traxler
Dickinson	Pickett	Vander Jagt
Dymally	Rose	Yates
Flake	Thomas (CA)	

□ 0326

Mr. HUTTO changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. WEISS. Mr. Speaker, I was unavoidably absent on certain rollcall votes on November 6 and 7. I wish to have the RECORD indicate that had I been present, I would have voted "aye" on rollcall votes 283, 376, 385, and 386.

I would have voted "no" on rollcall votes 321, 322, and 363.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 585, THE NATIONAL BIOLOGICAL DIVERSITY CONSERVATION AND ENVIRONMENTAL RESEARCH ACT

Mr. SCHEUER. Mr. Speaker, I ask unanimous consent that the name of Hon. JAMES OLIN be removed from the list of cosponsors to H.R. 585, the National Biological Diversity Conservation and Environmental Research Act. His name was placed on the list due to a clerical error.

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

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2824

Mr. LANCASTER. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 2824.

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

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE CONCURRENT RESOLUTION 210

Mr. SMITH of Florida. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of House Concurrent Resolution 210.

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

There was no objection.

KONIAG LANDS CONVEYANCE AMENDMENTS OF 1991

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 3638.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Yesterday the House vacated the ordering of the yeas and nays on Saturday, November 23, 1991, by unanimous consent.

The question is on the motion offered by the gentleman from North Carolina [Mr. JONES] that the House suspend the rules and pass the bill, H.R. 3638.

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

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR DISPOSITION OF SENATE AMENDMENTS TO H.R. 3807, CONVENTIONAL FORCES IN EUROPE TREATY IMPLEMENTATION ACT OF 1991

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102–401) on the resolution (H. Res. 316) providing for disposition of the Senate amendments to the bill (H.R. 3807) to amend the Arms Export Control Act to authorize the President to transfer battle tanks, artillery pieces, and armored combat vehicles to member countries of the North Atlantic Treaty organization in conjunction with implementation of the Treaty on Conventional Armed Forces in Europe, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING ALL POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2950, INTERMODAL SURFACE TRANSPORTATION INFRASTRUCTURE ACT OF 1991

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102–402) on the resolution (H. Res. 317) waiving all points of order against the conference report on the bill (H.R. 2950) to develop a national intermodal surface transportation system, to authorize funds for the construction of highways, for highway safety programs, and for mass transit programs, and for other purposes, and against consideration of such conference report, which was referred to the House Calendar and ordered to be printed.

□ 0330

WAIVING ALL POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2950, INTERMODAL SURFACE TRANSPORTATION INFRASTRUCTURE ACT OF 1991

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 317 and, pursuant to House Resolution 294, ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 317

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report on the bill (H.R. 2950) to develop a national intermodal surface transportation system, to authorize funds for the construction of highways, for highway safety programs, and for mass transit programs, and for other purposes. All points of order against the conference report and against its consideration are hereby waived. The conference report shall be considered as having been read when called up for consideration.

The SPEAKER pro tempore (Mr. HOYER). The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Ohio [Mr. MCEWEN] pending which I yield myself such time as I may consume.

Mr. MOAKLEY. Mr. Speaker, during debate on House Resolution 317, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 317, is the rule providing for the consideration of the conference report on H.R. 2950, the Intermodel Surface Transportation Infrastructure Act of 1991. The rule waives all points of order against the conference report and against its consideration. The rule also provides that the conference report will be considered as read.

Mr. Speaker, H.R. 2950 provides a total of $151 billion for surface transportation over the next 6 years. The conference report authorizes $119 billion for highway construction and $32 billion for mass transit construction and expansion.

In addition, Mr. Speaker, the conference report authorizes $38 billion for a 155,000-mile National Highway System, $16 billion for a bridge replacement and rehabilitation program, $24 billion for the flexible surface transportation program, and increases from 85 to 90 percent the guaranteed minimum allocation for each State relative to its share of highway trust fund contributions.

Mr. Speaker, Chairman ROE and the ranking Republican member, Mr. HAMMERSCHMIDT, deserve our praise for their relentless efforts in bringing this most important measure to this phase of the legislative process. The gentleman from California, Mr. MINETA and the gentleman from Pennsylvania, Mr. SHUSTER also deserve our gratitude for the many long hours they have spent on this bill.

Mr. Speaker, this conference agreement strikes a reasonable balance and represents a consensus on this important legislation. The effort all the conferees deserves the appreciation of all Members of the House and I urge Members to support the rule and the conference report.

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

Mr. Speaker, I join the distinguished chairman of the Committee on Rules, the gentleman from Massachusetts [Mr. MOAKLEY] in the explanation of the conference report, House Resolution 317, the Intermodal Surface Transportation and Infrastructure Act of 1991.

As was stated by the chairman, the rule does waive points of order and brings before us the major provisions of this important legislation.

I join the chairman in expressing my appreciation to the chairman of the committee, the gentleman from New Jersey [Mr. ROE] and the ranking member of the full committee, the gentleman from Arkansas [Mr. HAMMERSCHMIDT], the chairman of the Subcommittee on Surface Transportation, the gentleman from California [Mr. MINETA], and his ranking member, the gentleman from Pennsylvania [Mr. SHUSTER].

Mr. Speaker, only five provisions of the bill that were not mentioned by the chairman that I would make note of. Of the $119 billion for highway construction and repairs, $31.5 billion is for mass transit; a Federal-State match share of 80/20 for all programs except interstate highway projects, which will be 90/10; authorization of $7.2 billion for completion of the Interstate System as well as $16 billion for a rebuilding program for the Nation's bridges; a Corridor of National Significance Program; and a freeze to prevent expanded use of triple-trailer trucks.

Mr. Speaker, it is vitally important that this legislation, which is an authorization beginning October 1, recognizing this is the end of November, it is important for this legislation to be enacted.

Mr. Speaker, I urge the support of the House.

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

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. I thank the gentleman for yielding.

Mr. Speaker, the Republicans want a growth package, the Democrats want a growth package, the American people are looking for an economic growth package. This is probably the best economic growth package that the Congress will vote on. This will set in motion high-speed rail, it will complete the intermodal system and our highway system, and this bill will create potentially 2 million jobs, 2 million jobs. This may be the most important economic growth package we will vote on in the next 8 years.

I encourage everybody to vote for the rule.

I appreciate the work done by the committee under the first big time of our committee chairman, the gentleman from New Jersey [Mr. ROE], the gentleman from Arkansas [Mr. HAMMERSCHMIDT], the gentleman from Pennsylvania [Mr. SHUSTER], and the gentleman from California [Mr. MINETA].

This is a good bill.

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

Mr. MOAKLEY. Mr. Speaker, I have no further requests for 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.

APPOINTMENT OF CONFEREES ON H.R. 3595, MEDICAID MORATORIUM AMENDMENTS OF 1991

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3595) to delay until September 30, 1992, the issuance of any regulations by the Secretary of Health and Human Services changing the treatment of voluntary contributions and provider-specific taxes by States as a source of a State's expenditures for which Federal financial participation is available under the medicaid program and to maintain the treatment of intergovernmental transfers as such a source with a Senate amendment thereto, disagree to the Senate amendment, and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California? The Chair hears none and, without objection, appoints the following conferees: Messrs. DINGELL, WAXMAN, and LENT.

There was no objection.

JUDICIAL NATURALIZATION AMENDMENTS OF 1991

Mr. MAZZOLI. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3049) to amend the Immigration and Nationality Act to restore certain exclusive authority in courts to administer oaths of allegiance for naturalization, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments as follows:

Senate amendments:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Miscellaneous and Technical Immigration and Naturalization Amendments of 1991".

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

Sec. 1. Short title; table of contents.

TITLE I—JUDICIAL NATURALIZATION CEREMONIES AMENDMENTS

Sec. 101. Short title of title.
Sec. 102. Court authority to administer oaths of allegiance for naturalization.

TITLE II—O AND P NONIMMIGRANT AMENDMENTS

Sec. 201. Short title of title.
Sec. 202. Repeal of numerical limitations on P–1 and P–3 nonimmigrants; GAO report.
Sec. 203. Standards for classification of P–1 nonimmigrants.
Sec. 204. Consultation requirement.
Sec. 205. Amendments relating to O nonimmigrants.
Sec. 206. Amendments relating to P nonimmigrants.
Sec. 207. Other amendments.
Sec. 208. Effective date.

TITLE III—MISCELLANEOUS AND TECHNICAL CORRECTIONS

Sec. 301. Short title of title; reference to the Immigration and Nationality Act.
Sec. 302. Corrections relating to title I of the Immigration Act of 1990.
Sec. 303. Corrections relating to title II of the Immigration Act of 1990.
Sec. 304. Corrections relating to title III of the Immigration Act of 1990.
Sec. 305. Corrections relating to title IV of the Immigration Act of 1990.
Sec. 306. Corrections relating to title V of the Immigration Act of 1990.
Sec. 307. Corrections relating to title VI of the Immigration Act of 1990.
Sec. 308. Corrections relating to title VII of the Immigration Act of 1990.
Sec. 309. Additional miscellaneous corrections.
Sec. 310. Effective dates.

TITLE I—JUDICIAL NATURALIZATION CEREMONIES AMENDMENTS

SEC. 101. SHORT TITLE OF TITLE.

This title may be cited as the "Judicial Naturalization Ceremonies Amendments of 1991".

SEC. 102. COURT AUTHORITY TO ADMINISTER OATHS OF ALLEGIANCE FOR NATURALIZATION.

(a) IN GENERAL.—Subsection (b) of section 310 of the Immigration and Nationality Act (8 U.S.C. 1421), as amended by section 401(a) of the Immigration Act of 1990, is amended to read as follows:

"(b) COURT AUTHORITY TO ADMINISTER OATHS.—

"(1) JURISDICTION.—Subject to section 337(c)—

"(A) GENERAL JURISDICTION.—Except as provided in subparagraph (B), each applicant for naturalization may choose to have the oath of allegiance under section 337(a) administered by the Attorney General or by an eligible court described in paragraph (5). Each such eligible court shall have authority to administer such oath of allegiance to persons residing within the jurisdiction of the court.

"(B) EXCLUSIVE AUTHORITY.—An eligible court described in paragraph (5) that wishes to have exclusive authority to administer the oath of allegiance under section 337(a) to persons residing within the jurisdiction of the court during the period described in paragraph (3)(A)(i) shall notify the Attorney General of such wish and, subject to this subsection, shall have such exclusive authority with respect to such persons during such period.

"(2) INFORMATION.—

"(A) GENERAL INFORMATION.—In the case of a court exercising authority under paragraph (1), in accordance with procedures established by the Attorney General—

"(i) the applicant for naturalization shall notify the Attorney General of the intent to be naturalized before the court, and

"(ii) the Attorney General—

"(I) shall forward to the court (not later than 10 days after the date of approval of an application for naturalization in the case of a court which has provided notice under paragraph (1)(B)) such information as may be necessary to administer the oath of allegiance under section 337(a), and

"(II) shall promptly forward to the court a certificate of naturalization (prepared by the Attorney General).

"(B) ASSIGNMENT OF INDIVIDUALS IN THE CASE OF EXCLUSIVE AUTHORITY.—If an eligible court has provided notice under paragraph (1)(B), the Attorney General shall inform each person (residing within the jurisdiction of the court), at the time of the approval of the person's application for naturalization, of—

"(i) the court's exclusive authority to administer the oath of allegiance under section 337(a) to such a person during the period specified in paragraph (3)(A)(i), and

"(ii) the date or dates (if any) under paragraph (3)(B) on which the court has scheduled oath administration ceremonies.

If more than one eligible court in an area has provided notice under paragraph (1)(B), the Attorney General shall permit the person, at the time of the approval, to choose the court to which the information will be forwarded for administration of the oath of allegiance under this section.

"(3) SCOPE OF EXCLUSIVE AUTHORITY.—

"(A) LIMITED PERIOD AND ADVANCE NOTICE REQUIRED.—The exclusive authority of a court to administer the oath of allegiance under paragraph (1)(B) shall apply with respect to a person—

"(i) only during the 45-day period beginning on the date on which the Attorney General certifies to the court that an applicant is eligible for naturalization, and

"(ii) only if the court has notified the Attorney General, prior to the date of certification of eligibility, of the day or days (during such 45-day period) on which the court has scheduled oath administration ceremonies.

"(B) AUTHORITY OF ATTORNEY GENERAL.—Subject to subparagraph (C), the Attorney General shall not administer the oath of allegiance to a person under subsection (a) during the period in which exclusive authority to administer the oath of allegiance may be exercised by an eligible court under this subsection with respect to that person.

"(C) WAIVER OF EXCLUSIVE AUTHORITY.—Notwithstanding the previous provisions of this paragraph, a court may waive exclusive authority to administer the oath of allegiance under section 337(a) to a person under this subsection if the Attorney General has not provided the court with the certification described in subparagraph (A)(i) within a reasonable time before the date scheduled by the court for oath administration ceremonies. Upon notification of a court's waiver of jurisdiction, the Attorney General shall promptly notify the applicant.

"(4) ISSUANCE OF CERTIFICATES.—The Attorney General shall provide for the issuance of certificates of naturalization at the time of administration of the oath of allegiance.

"(5) ELIGIBLE COURTS.—For purposes of this section, the term 'eligible court' means—

"(A) a District Court of the United States in any State, or

"(B) any court of record in any State having a seal, a clerk, and jurisdiction in actions in law or equity, or law and equity, in which the amount in controversy is unlimited.".

(b) CONFORMING AMENDMENTS.—

(1) FUNCTIONS OF CLERKS.—Section 339(a) of such Act (8 U.S.C. 1450(a)) is amended —

(A) by striking paragraph (1) and inserting the following:

"(1) deliver to each person administered the oath of allegiance by the court pursuant to section 337(a) the certificate of naturalization prepared by the Attorney General pursuant to section 310(b)(2)(A)(ii),",

(B) in paragraph (2), by inserting "a list of applicants actually taking the oath at each scheduled ceremony and" after "Attorney General",

(C) by striking paragraph (3),

(D) in paragraph (4), by striking the period at the end and inserting ", and" and by redesignating such paragraph as paragraph (3),

(E) by inserting after paragraph (3), as so redesignated, the following new paragraph:

"(4) be responsible for all blank certificates of naturalization received by them from time to time from the Attorney General and shall account to the Attorney General for them whenever required to do so.", and

(F) by adding at the end the following:

"No certificate of naturalization received by any clerk of court which may be defaced or injured in such manner as to prevent its use as herein provided shall in any case be destroyed,

but such certificates shall be returned to the Attorney General.".

(2) EXPEDITED ADMINISTRATION OF OATH.—Subsection (c) of section 337 of such Act (8 U.S.C. 1448) is amended to read as follows:

"(c) Notwithstanding section 310(b), an individual may be granted an expedited judicial oath administration ceremony or administrative naturalization by the Attorney General upon demonstrating sufficient cause. In determining whether to grant an expedited judicial oath administration ceremony, a court shall consider special circumstances (such as serious illness of the applicant or a member of the applicant's immediate family, permanent disability sufficiently incapacitating as to prevent the applicant's personal appearance at the scheduled ceremony, developmental disability or advanced age, or exigent circumstances relating to travel or employment). If an expedited judicial oath administration ceremony is impracticable, the court shall refer such individual to the Attorney General who may provide for immediate administrative naturalization.".

(3) FEES.—Section 344 of such Act (8 U.S.C. 1455) is amended by adding at the end the following new subsection:

"(f)(1) The Attorney General shall pay over to courts administering oaths of allegiance to persons under this title a specified percentage of all fees described in subsection (a)(1) collected by the Attorney General with respect to persons administered the oath of allegiance by the respective courts. The Attorney General, annually and in consultation with the courts, shall determine the specified percentage based on the proportion, of the total costs incurred by the Service and courts for essential services directly related to the naturalization process, which are incurred by courts.

"(2) The Attorney General shall provide on an annual basis to the Committees on the Judiciary of the House of Representatives and of the Senate a detailed report on the use of the fees described in paragraph (1) and shall consult with such Committees before increasing such fees.".

(c) EFFECTIVE DATE.—The amendments made by this title shall take effect 30 days after the date of the enactment of this Act.

TITLE II—O AND P NONIMMIGRANT AMENDMENTS

SEC. 201. SHORT TITLE OF TITLE.

This title may be cited as the "O and P Nonimmigrant Amendments of 1991".

SEC. 202. REPEAL OF NUMERICAL LIMITATIONS ON P-1 AND P-3 NONIMMIGRANTS; GAO REPORT.

(a) IN GENERAL.—Section 214(g)(1) of the Immigration and Nationality Act (8 U.S.C. 1184(g)(1)), as added by section 205(a) of the Immigration Act of 1990, is amended—

(1) by adding "or" at the end of subparagraph (A),

(2) by striking ", or" at the end of subparagraph (B) and inserting a period, and

(3) by striking subparagraph (C).

(b) REPORT.—(1) By not later than October 1, 1994, the Comptroller General of the United States shall submit to the Committees on the Judiciary of the Senate and of the House of Representatives a report containing information relating to the admission of artists, entertainers, athletes, and related support personnel as nonimmigrants under subparagraphs (O) and (P) of section 101(a)(15) of the Immigration and Nationality Act, and information on the laws, regulations, and practices in effect in other countries that affect United States citizens and permanent resident aliens in the arts, entertainment, and athletics, in order to evaluate the impact of such admissions, laws, regulations, and practices on such citizens and aliens.

(2) Not later than 30 days after the date the Committee of the Judiciary on the Senate receives the report under paragraph (1), the Chairman of the Committee shall make the report available to interested parties and shall hold a hearing respecting the report. No later than 90 days after the date of receipt of the report, such Committee shall report to the Senate its findings and any legislation it deems appropriate.

SEC. 203. STANDARDS FOR CLASSIFICATION OF P-1 NONIMMIGRANTS.

(a) SUBSTITUTION OF NEW STANDARDS.—Clause (i) of section 101(a)(15)(P) of the Immigration and Nationality Act, as added by section 207(a)(3) of the Immigration Act of 1990, is amended to read as follows:

"(i)(a) is described in section 214(c)(4)(A) (relating to athletes), or (b) is described in section 214(c)(4)(B) (relating to entertainment groups);".

(b) NEW STANDARDS.—Section 214(c)(4) of such Act, as added by section 207(b)(2)(B) of the Immigration Act of 1990, is amended by redesignating subparagraphs (A) through (C) as subparagraphs (C) through (E) and by inserting before subparagraph (C), as so redesignated, the following new subparagraphs:

"(A) For purposes of section 101(a)(15)(P)(i)(a), an alien is described in this subparagraph if the alien—

"(i) performs as an athlete, individually or as part of a group or team, at an internationally recognized level of performance, and

"(ii) seeks to enter the United States temporarily and solely for the purpose of performing as such an athlete with respect to a specific athletic competition.

"(B)(i) For purposes of section 101(a)(15)(P)(i)(b), an alien is described in this subparagraph if the alien—

"(I) performs with or is an integral and essential part of the performance of an entertainment group that has (except as provided in clause (ii)) been recognized internationally as being outstanding in the discipline for a sustained and substantial period of time,

"(II) in the case of a performer or entertainer, except as provided in clause (iii), has had a sustained and substantial relationship with that group (ordinarily for at least one year) and provides functions integral to the performance of the group, and

"(III) seeks to enter the United States temporarily and solely for the purpose of performing as such a performer or entertainer or as an integral and essential part of a performance.

"(ii) In the case of an entertainment group that is recognized nationally as being outstanding in its discipline for a sustained and substantial period of time, the Attorney General may, in consideration of special circumstances, waive the international recognition requirement of clause (i)(I).

"(iii)(I) The one-year relationship requirement of clause (i)(II) shall not apply to 25 percent of the performers and entertainers in a group.

"(II) The Attorney General may waive such one-year relationship requirement for an alien who because of illness or unanticipated and exigent circumstances replaces an essential member of the group and for an alien who augments the group by performing a critical role.

"(iv) The requirements of subclauses (I) and (II) of clause (i) shall not apply to alien circus personnel who perform as part of a circus or circus group or who constitute an integral and essential part of the performance of such circus or circus group, but only if such personnel are entering the United States to join a circus that has been recognized nationally as outstanding for a sustained and substantial period of time or as part of such a circus.".

SEC. 204. CONSULTATION REQUIREMENT.

Section 214(c) of the Immigration and Nationality Act, as amended by section 207(b)(2) of the Immigration Act of 1990, is amended—

(1) in paragraph (3)(A), by striking "after consultation with peer groups in the area of the alien's ability" and inserting "after consultation in accordance with paragraph (6)",

(2) in paragraph (3)(B), by striking "after consultation with labor organizations with expertise in the skill area involved" and inserting "after consultation in accordance with paragraph (6) or, in the case of such an alien seeking entry for a motion picture or television production, after consultation with such a labor organization and a management organization in the area of the alien's ability",

(3) in paragraph (4)(C), as redesignated by section 203(b), by striking "clause (ii) of",

(4) in paragraph (4)(D), as redesignated by section 203(b), by striking "after consultation with labor organizations with expertise in the specific field of athletics or entertainment involved" and inserting "after consultation in accordance with paragraph (6)",

(5) by redesignating paragraph (6) as paragraph (7), and

(6) by inserting after paragraph (5) the following new paragraph:

"(6)(A)(i) To meet the consultation requirement of paragraph (3)(A) in the case of a petition for a nonimmigrant described in section 101(a)(15)(O)(i) (other than with respect to aliens seeking entry for a motion picture or television production), the petitioner shall submit with the petition an advisory opinion from a peer group (or other person or persons of its choosing, which may include a labor organization) with expertise in the specific field involved.

"(ii) To meet the consultation requirement of paragraph (3)(B) in the case of a petition for a nonimmigrant described in section 101(a)(15)(O)(ii) (other than with respect to aliens seeking entry for a motion picture or television production), the petitioner shall submit with the petition an advisory opinion from a labor organization with expertise in the skill area involved.

"(iii) To meet the consultation requirement of paragraph (4)(D) in the case of a petition for a nonimmigrant described in section 101(a)(15)(P)(i) or 101(a)(15)(P)(iii), the petitioner shall submit with the petition an advisory opinion from a labor organization with expertise in the specific field of athletics or entertainment involved.

"(B) To meet the consultation requirements of subparagraph (A), unless the petitioner submits with the petition an advisory opinion from an appropriate labor organization, the Attorney General shall forward a copy of the petition and all supporting documentation to the national office of an appropriate labor organization within 5 days of the date of receipt of the petition. If there is a collective bargaining representative of an employer's employees in the occupational classification for which the alien is being sought, that representative shall be the appropriate labor organization.

"(C) In those cases in which a petitioner described in subparagraph (A) establishes that an appropriate peer group (including a labor organization) does not exist, the Attorney General shall adjudicate the petition without requiring an advisory opinion.

"(D) Any person or organization receiving a copy of a petition described in subparagraph (A) and supporting documents shall have no more than 15 days following the date of receipt of such documents within which to submit a written advisory opinion or comment or to provide a letter of no objection. Once the 15-day period has expired and the petitioner has had an opportunity, where appropriate, to supply rebuttal evidence, the Attorney General shall adjudicate such petition in no more than 14 days. The Attorney General may shorten any specified time

period for emergency reasons if no unreasonable burden would be thus imposed on any participant in the process.

"(E)(i) The Attorney General shall establish by regulation expedited consultation procedures in the case of nonimmigrant artists or entertainers described in section 101(a)(15)(O) or 101(a)(15)(P) to accommodate the exigencies and scheduling of a given production or event.

"(ii) The Attorney General shall establish by regulation expedited consultation procedures in the case of nonimmigrant athletes described in section 101(a)(15)(O)(i) or 101(a)(15)(P)(i) in the case of emergency circumstances (including trades during a season).

"(F) No consultation required under this subsection by the Attorney General with a nongovernmental entity shall be construed as permitting the Attorney General to delegate any authority under this subsection to such an entity. The Attorney General shall give such weight to advisory opinions provided under this section as the Attorney General determines, in his sole discretion, to be appropriate.".

SEC. 205. AMENDMENTS RELATING TO O NONIMMIGRANTS.

(a) DEFINITION OF EXTRAORDINARY ABILITY IN THE ARTS FOR O NONIMMIGRANTS.—Section 101(a) of the Immigration and Nationality Act, as amended by sections 123 and 204(c) of the Immigration Act of 1990, is amended by adding at the end the following new paragraph:

"(46) The term 'extraordinary ability' means, for purposes of section 101(a)(15)(O)(i), in the case of the arts, distinction.".

(b) ELIMINATING ADDITIONAL PAPERWORK REQUIREMENT FOR O–1'S.—Section 101(a)(15)(O)(i) of the Immigration and Nationality Act, as amended by section 207(a)(3) of the Immigration Act of 1990, is amended by striking ", but only" and all that follows up to the semicolon at the end.

(c) CLARIFICATION OF SIGNIFICANT PHOTOGRAPHY FOR O–2S.—Section 101(a)(15)(O)(ii)(III)(b) of the Immigration and Nationality Act, as added by section 207(a)(3) of the Immigration Act of 1990, is amended by striking "significant principal photography" and inserting "significant production (including pre- and post-production work)".

(d) CLARIFICATION OF MULTIPLE EVENTS FOR VISAS FOR O NONIMMIGRANTS.—Section 214(a)(2)(A) of the Immigration and Nationality Act, as added by section 207(b)(1) of the Immigration Act of 1990, is amended by inserting "(or events)" after "event".

(e) CONSULTATION WITH RESPECT TO READMITTED O–1 NONIMMIGRANTS.—Section 214(c)(3) of the Immigration and Nationality Act, as added by section 207(b)(2)(B) of the Immigration Act of 1990, is amended by adding at the end the following: "The Attorney General shall provide by regulation for the waiver of the consultation requirement under subparagraph (A) in the case of aliens who have been admitted as nonimmigrants under section 101(a)(15)(O)(i) because of extraordinary ability in the arts and who seek readmission to perform similar services within 2 years after the date of a consultation under such subparagraph. Not later than 5 days after the date such a waiver is provided, the Attorney General shall forward a copy of the petition and all supporting documentation to the national office of an appropriate labor organization.".

SEC. 206. AMENDMENTS RELATING TO P NONIMMIGRANTS.

(a) ELIMINATING 3-MONTH OUT-OF-COUNTRY RULE FOR P–2 AND P–3 NONIMMIGRANTS.—Section 214(a)(2)(B) of the Immigration and Nationality Act, as added by section 207(b)(1) of the Immigration Act of 1990, is amended—

(1) by striking "(B)(i)" and inserting "(B)", and

(2) by striking clause (ii).

(b) TREATMENT OF FOREIGN ORGANIZATIONS FOR P–2 NONIMMIGRANTS.—Section 101(a)(15)(P)(ii)(II) of the Immigration and Nationality Act, as added by section 207(a)(3) of the Immigration Act of 1990, is amended by inserting "or organizations" after "and an organization".

(c) TREATMENT OF P–2 NONIMMIGRANTS.—(1) Section 101(a)(15)(P)(ii)(II) of the Immigration and Nationality Act, as added by section 207(a)(3) of the Immigration Act of 1990, is amended by striking ", between the United States and the foreign states involved".

(2) Section 214(c)(4)(E) of the Immigration and Nationality Act, as added by 207(b)(2)(B) of the Immigration Act of 1990 and as redesignated by section 203(b) of this title, is amended by striking ", in order to assure reciprocity in fact with foreign states".

(d) PERFORMANCE OF TEACHING AND COACHING FUNCTIONS BY P–3 NONIMMIGRANTS.—Section 101(a)(15)(P)(iii)(II) of the Immigration and Nationality Act, as added by section 207(a)(3) of the Immigration Act of 1990, is amended—

(1) by striking "for the purpose of performing" and inserting "to perform, teach, or coach", and

(2) by inserting "commercial or noncommercial" before "program".

SEC. 207. OTHER AMENDMENTS.

(a) RETURN TRANSPORTATION REQUIREMENT FOR O AND P NONIMMIGRANTS.—Section 214(c)(5) of the Immigration and Nationality Act, as added by section 207(b)(2) of the Immigration Act of 1990, is amended by inserting "(A)" after "(5)" and by adding at the end the following new subparagraph:

"(B) In the case of an alien who enters the United States in nonimmigrant status under section 101(a)(15)(O) or 101(a)(15)(P) and whose employment terminates for reasons other than voluntary resignation, the employer whose offer of employment formed the basis of such nonimmigrant status and the petitioner are jointly and severally liable for the reasonable cost of return transportation of the alien abroad. The petitioner shall provide assurance satisfactory to the Attorney General that the reasonable cost of that transportation will be provided.".

(b) ENTRY OF FASHION MODELS UNDER H–1B.—Section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act, as amended by section 205(c)(1) of the Immigration Act of 1990, is amended—

(1) by inserting "or as a fashion model" after "214(i)(1)", and

(2) by inserting "or, in the case of a fashion model, is of distinguished merit and ability" after "214(i)(2)".

(c) ANNUAL REPORT.—

(1) IN GENERAL.—Section 214(c) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(3)), as amended by section 207(b)(2) of the Immigration Act of 1990 and by section 204 of this title, is amended by adding at the end the following new paragraph:

"(8) The Attorney General shall submit annually to the Committees on the Judiciary of the House of Representatives and of the Senate a report describing, with respect to petitions under each subcategory of subparagraphs (H), (O), (P), and (Q) of section 101(a)(15) the following:

"(A) The number of such petitions which have been filed.

"(B) The number of such petitions which have been approved and the number of workers (by occupation) included in such approved petitions.

"(C) The number of such petitions which have been denied and the number of workers (by occupation) requested in such denied petitions.

"(D) The number of such petitions which have been withdrawn.

"(E) The number of such petitions which are awaiting final action.".

(2) DEADLINE FOR FIRST REPORT.—The first report under section 214(c)(8) of the Immigration and Nationality Act shall be provided not later than April 1, 1993.

SEC. 208. EFFECTIVE DATE.

The provisions of, and amendments made by, this title shall take effect on April 1, 1992.

TITLE III—MISCELLANEOUS AND TECHNICAL CORRECTIONS

SEC. 301. SHORT TITLE OF TITLE; REFERENCE TO THE IMMIGRATION AND NATIONALITY ACT.

(a) This title may be cited as the "Immigration Technical Corrections Act of 1991".

(b) In this title, the term "INA" means the Immigration and Nationality Act.

SEC. 302. CORRECTIONS RELATING TO TITLE I OF THE IMMIGRATION ACT OF 1990.

(a)(1) Section 201 of the INA, as amended by section 101(a) of the Immigration Act of 1990, is amended—

(A) in subsection (c)(3), by striking "(3) The number computed under this paragraph for a fiscal year" and inserting the following:

"(3)(A) The number computed under this paragraph for fiscal year 1992 is zero.

"(B) The number computed under this paragraph for fiscal year 1993 is the difference (if any) between the worldwide level established under paragraph (1) for the previous fiscal year and the number of visas issued under section 203(a) during that fiscal year.

"(C) The number computed under this paragraph for a subsequent fiscal year"; and

(B) in subsection (d)(2), by striking "(2) The number computed under this paragraph for a fiscal year" and inserting the following:

"(2)(A) The number computed under this paragraph for fiscal year 1992 is zero.

"(B) The number computed under this paragraph for fiscal year 1993 is the difference (if any) between the worldwide level established under paragraph (1) for the previous fiscal year and the number of visas issued under section 203(b) during that fiscal year.

"(C) The number computed under this paragraph for a subsequent fiscal year".

(2) Section 101 of the Immigration Act of 1990 is amended by adding at the end the following new subsection:

"(c) TRANSITION.—In applying the second sentence of section 201(b)(2)(A)(i) of the Immigration and Nationality Act (as amended by subsection (a)) in the case of a alien whose citizen spouse died before the date of the enactment of this Act, notwithstanding the deadline specified in such sentence the alien spouse may file the classification petition referred to in such sentence within 2 years after the date of the enactment of this Act.".

(3) Section 202(a)(4)(A) of the INA, as amended by section 102(1) of the Immigration Act of 1990, is amended by striking "MINIMUM".

(b)(1) Section 112 of the Immigration Act of 1990 is amended—

(A) in subsection (c), by striking "temporary or" before paragraph (1), and

(B) by adding at the end the following:

"(d) DEFINITIONS.—The definitions in the Immigration and Nationality Act shall apply in the administration of this section.".

(2) Section 203(b) of the INA, as inserted by section 121(a) of the Immigration Act of 1990, is amended—

(A) in paragraphs (1), (2), and (3), by striking "40,000" and inserting "28.6 percent of such worldwide level" each place it appears,

(B) in paragraph (1)(C), by striking "who seeks" and inserting "the alien seeks",

(C) in paragraphs (4) and (5), by striking "10,000" and inserting "7.1 percent of such worldwide level" each place it appears, and

(D) in paragraph (2)(B), by inserting "professions," after "arts,".

(3) Section 216A of the INA, as inserted by section 121(b)(1) of the Immigration Act of 1990, is amended—

(A) in subsection (c)(2)(A), by inserting "(and the alien's spouse and children if it was obtained on a conditional basis under this section or section 216)" after "status of the alien", and

(B) in subsections (c)(3)(B) and (d)(2)(A), by striking "obtaining the status of".

(4) Section 121(b)(2) of the Immigration Act of 1990 is amended by striking "exclusion" and inserting "deportation".

(5) Section 124(a) of the Immigration Act of 1990 is amended—

(A) in paragraph (1)—

(i) by inserting "(or paragraph (2) as the spouse or child of such an alien)" after "paragraph (3)", and

(ii) by adding at the end the following new sentence: "If the full number of such visas are not made available in fiscal year 1991 or 1992, the shortfall shall be added to the number of such visas to be made available under this section in the succeeding fiscal year."; and

(B) in paragraph (3)(A), by striking "(and has been so employed during the 12 previous, consecutive months)" and inserting "except for temporary absences at the request of the employer and has been employed in Hong Kong for at least 12 consecutive months".

(6) Section 132 of the Immigration Act of 1990 is amended—

(A) in subsection (a), by inserting "(or in subsection (d) as the spouse or child of such an alien)" after "subsection (b)";

(B) in subsection (a), by adding at the end the following new sentence: "If the full number of such visas are not made available in fiscal year 1992 or 1993, the shortfall shall be added to the number of such visas to be made available under this section in the succeeding fiscal year.";

(C) in subsection (b)(1), effective after fiscal year 1992, by striking "that is not contiguous to the United States and";

(D) in subsection (c)—

(i) effective beginning with fiscal year 1993, by striking "in the chronological order in which aliens apply for each fiscal year" and inserting "strictly in a random order among those who qualify during the application period for each fiscal year established by the Secretary of State",

(ii) by inserting before the period at the end the following: "and except that if more than one application is submitted for any fiscal year (beginning with fiscal year 1993) with respect to any alien all such applications submitted with respect to the alien and fiscal year shall be voided", and

(iii) by adding at the end the following: "If the minimum number of such visas are not made available in fiscal year 1992 or 1993 to such natives, the shortfall shall be added to the number of such visas to be made available under this section to such natives in the succeeding fiscal year. In applying this section, natives of Northern Ireland shall be deemed to be natives of Ireland."; and

(E) in subsection (e)—

(i) by striking "the grounds" and all that follows through "shall not apply, and",

(ii) by striking "of such section" and inserting "of section 212(a) of the Immigration and Nationality Act", and

(iii) by adding at the end the following: "In addition, the provisions of section 212(e) of such Act shall not apply so as to prevent an individual's application for a visa or admission under this section.".

(7) Section 134(a) of the Immigration Act of 1990 is amended by inserting "(or in subsection (d) as the spouse or child of such an alien)" after "subsection (b)".

(c)(1) Section 141 of the Immigration Act of 1990 is amended—

(A) in the heading, by striking "legal",

(B) in subsection (a), by striking "Legal",

(C) in subsection (a)(1)(B), by striking "of the Subcommittee" and all that follows through "International Law", and

(D) by adding at the end the following new subsection:

"(i) PRESIDENTIAL REPORT.—The President shall conduct a review and evaluation and provide for the transmittal of reports to the Congress in the same manner as the Commission is required to conduct a review and evaluation and to transmit reports under subsection (b).".

(2) The item in the table of contents of such Act relating to section 141 is amended to read as follows:

"Sec. 141. Commission on Immigration Reform.".

(d)(1) Section 152(b)(1)(A) of the Immigration Act of 1990 is amended by striking "who has performed faithful service" and inserting "and has performed faithful service as such an employee".

(2) Section 245 of the INA, as amended by section 2(c) of the Armed Forces Immigration Adjustment Act of 1991, is amended—

(A) in subsection (c)(2), by inserting "(J)," after "(I),", and

(B) by adding at the end the following new subsection:

"(h) In applying this section to a special immigrant described in section 101(a)(27)(J)—

"(1) such an immigrant shall be deemed, for purposes of subsection (a), to have been paroled into the United States; and

"(2) in determining the alien's admissibility as an immigrant—

"(A) paragraphs (4), (5)(A), and (7)(A) of section 212(a) shall not apply, and

"(B) the Attorney General may waive other paragraphs of section 212(a) (other than paragraphs (2)(A), (2)(B), (2)(C) (except for so much of such paragraph as related to a single offense of simple possession of 30 grams or less of marijuana), (3)(A), (3)(B), (3)(C), or (3)(E)) in the case of individual aliens for humanitarian purposes, family unity, or when it is otherwise in the public interest.

The relationship between an alien and the alien's natural parents or prior adoptive parents shall not be considered a factor in making a waiver under paragraph (2)(B). Nothing in this subsection or section 101(a)(27)(J) shall be construed as authorizing an alien to apply for admission or be admitted to the United States in order to obtain special immigrant status described in such section.".

(3) Section 241(h) of the INA, as amended by section 153(b) of the Immigration Act of 1990, is amended by striking the comma after "(3)(A)".

(4) Section 154 of the Immigration Act of 1990 is amended—

(A) in subsection (b)(1)(A), by inserting "or China" after "Hong Kong",

(B) in subsection (b)(1)(B)(i), by inserting "of" after "of section 203(a)", and

(C) by striking paragraph (3) of subsection (c).

(5) Section 155 of the Immigration Act of 1990 is amended—

(A) in subsection (a), by inserting "(or section 203(e), in the case of fiscal year 1992)" after "203(c)", and

(B) in subsection (b), by striking "or the child" and inserting "or who are the spouse or child".

(e)(1) Section 161(a) of the Immigration Act of 1990 is amended by striking "in this section," and inserting "in this title, this title and".

(2) Section 161(c)(1) of the Immigration Act of 1990 is amended—

(A) by inserting "or an application for labor certification before such date under section 212(a)(14)" after "before such date)",

(B) in subparagraph (A), by inserting "or application" after "such a petition",

(C) in subparagraph (A), by inserting ", or 60 days after the date of certification in the case of labor certifications filed in support of the petition under section 212(a)(14) of such Act before October 1, 1991, but not certified until after October 1, 1993" after "(by not later than October 1, 1993", and

(D) by adding at the end the following new sentence:

"In the case of a petition filed under section 204(a) of such Act before October 1, 1991, but which is not described in paragraph (4), and for which a filing fee was paid, any additional filing fee shall not exceed one-half of the fee for the filing of the new petition referred to in subparagraph (A).".

(3) Section 203(f) of the INA, as inserted by section 162(a) of the Immigration Act of 1990, is amended—

(A) by striking "PRESUMPTION.—" and all that follows through "so described." and inserting "AUTHORIZATION FOR ISSUANCE.—", and

(B) by striking "201(b)(1) or in subsection (a) or (b)" and inserting "201(b)(2) or in subsection (a), (b), or (c)".

(4) Section 204(a)(1) of the INA, as amended by section 162(b) of the Immigration Act of 1990, is amended—

(A) in subparagraph (A), by adding at the end the following: "An alien described in the second sentence of section 201(b)(2)(A)(i) also may file a petition with the Attorney General under this subparagraph for classification under such section.",

(B) in subparagraph (F), by striking "Secretary of State" and inserting "Attorney General", and

(C) in subparagraph (G)(iii), by striking "or registration".

(5) Section 204(e) of the INA, as amended by section 162(b)(3) of the Immigration Act of 1990, is amended by striking "a immigrant" and inserting "an immigrant".

(6) Paragraph (1) of section 162(e) of the Immigration Act of 1990 is repealed, and the provisions of law amended by such paragraph are restored as though such paragraph had not been enacted.

(7) Section 245(b) of the INA, as amended by section 162(e)(3) of the Immigration Act of 1990, is amended—

(A) by striking "201(a)" and inserting "202 and 203", and

(B) by striking "for the succeeding fiscal year" and inserting "for the fiscal year then current".

(8) Effective as if included in section 162(e) of the Immigration Act of 1990—

(A) clauses (ii)(II) and (iii)(II) of section 101(a)(27)(I) of the INA are amended by striking "applies for a visa or adjustment of status" and inserting "files a petition for status",

(B) section 216(g)(1) of the INA is amended by striking "203(a)(8)" and inserting "203(d)"; and

(C) section 221(a) of the INA is amended by striking "nonpreference,".

(9) Effective as if included in the Immigration Nursing Relief Act of 1989, section 212(m)(2)(A) of the INA is amended, by inserting after the first sentence following clause (vi) the following: "Notwithstanding the previous sentence, a facility that lays off a registered nurse other than a staff nurse still meets clause (i) if, in its attestation under this subparagraph, the facility has attested that it will not replace the nurse with a nonimmigrant described in section 101(a)(15)(H)(i)(a) (either through promotion or otherwise) for a period of 1 year after the date of the lay off.".

(10) Effective as if included in the Immigration Nursing Relief Act of 1989, as amended by section 162(f)(1)(B) of the Immigration Act of

1990, section 2(b) of the Immigration Nursing Relief Act of 1989 is amended by inserting after "registered nurse," the following: "who, as of September 1, 1989, is present in the United States and had been admitted to the United States in the status of nonimmigrant under section 101(a)(15)(H)(i) of such Act to perform services as a registered nurse but has failed to maintain that status due to the expiration of the time limitation with respect to such status,".

SEC. 303. CORRECTIONS RELATING TO TITLE II OF THE IMMIGRATION ACT OF 1990.

(a)(1) Section 217 of the INA, as amended by section 201(a) of the Immigration Act of 1990, is amended—

(A) in subsection (a)(4), by striking "BY SEA OR AIR" and inserting "INTO THE UNITED STATES", and

(B) in the heading of subsection (b), by striking "RIGHTS" and inserting "RIGHTS".

(2) Section 217(e)(1) of the INA, as redesignated by section 201(a)(7) of the Immigration Act of 1990, is amended by striking "(a)(4)(C)" and inserting "(a)(4)".

(3) The second sentence of section 251(d) of the INA, as inserted by section 203(b)(2) of the Immigration Act of 1990, is amended by striking "charterer" and inserting "consignee".

(4) Section 258(c)(2)(B) of the INA, as inserted by section 203(a)(1) of the Immigration Act of 1990, is amended by striking "each such list" and inserting "each list".

(5)(A) Section 101(a)(15)(H)(i)(b) of the INA, as amended by section 205(c)(1) of the Immigration Act of 1990, is amended by inserting "subject to section 212(j)(2)," after "(b)".

(B) Section 212(j) of the INA is amended by striking paragraph (2) and inserting the following:

"(2) An alien who is a graduate of a medical school and who is coming to the United States to perform services as a member of the medical profession may not be admitted as a nonimmigrant under section 101(a)(15)(H)(i)(b) unless—

"(A) the alien is coming pursuant to an invitation from a public or nonprofit private educational or research institution or agency in the United States to teach or conduct research, or both, at or for such institution or agency, or

"(B)(i) the alien has passed the Federation licensing examination (administered by the Federation of State Medical Boards of the United States) or an equivalent examination as determined by the Secretary of Health and Human Services, and

"(ii)(I) has competency in oral and written English or (II) is a graduate of a school of medicine which is accredited by a body or bodies approved for the purpose by the Secretary of Education (regardless of whether such school of medicine is in the United States).".

(6) Section 212(n)(1)(A)(ii) of the INA, as added by section 205(c)(3) of the Immigration Act of 1990, is amended by striking "for such aliens" and inserting "for such a nonimmigrant".

(7)(A) Section 101(a)(15)(H)(i) of the INA, as amended by section 205(c)(1) of the Immigration Act of 1990, is amended by striking ", and had approved by,".

(B) Section 212(n) of the INA, as added by section 205(c)(3) of the Immigration Act of 1990, is amended—

(i) in paragraph (1)(A)—

(I) by striking "and to other individuals employed in the occupational classification and in the area of employment" and inserting "admitted or provided status as a nonimmigrant described in section 101(a)(15)(H)(i)(b)",

(II) by amending subclause (I) to read as follows:

"(I) the actual wage level paid by the employer to all other individuals with similar experience and qualifications for the specific employment in question, or",

(III) after subclause (II), by striking "determined" and inserting "based on the best information available";

(ii) in paragraph (1)(D), by striking "(and accompanying documentation)" and inserting "(and such accompanying documents as are necessary)";

(iii) in paragraph (1), by moving the matter after the first sentence of subparagraph (D) flush with the left margin and by adding at the end the following:

"The Secretary of Labor shall review such an application only for completeness and obvious inaccuracies. Unless the Secretary finds that the application is incomplete or obviously inaccurate, the Secretary shall provide the certification described in section 101(a)(15)(H)(i)(b) within 7 days of the date of the filing of the application.";

(iv) in paragraph (2)(C), by striking "(or a substantial failure" and all that follows through "misrepresentation" and inserting "of paragraph (1)(B), a substantial failure to meet a condition of paragraphs (1)(C) or (1)(D), a willful failure to meet a condition of paragraph (1)(A), or a misrepresentation";

(v) in paragraph (2)(D), by striking "In addition to the sanctions provided under subparagraph (C), if" and inserting "If"; and

(vi) in paragraph (2)(D), by inserting before the period at the end the following: ", whether or not a penalty under subparagraph (C) has been imposed".

(8) The Secretary of Labor shall issue final or interim final regulations to implement the changes made by this section to section 101(a)(15)(H)(i)(b) and section 212(n) of the Immigration and Nationality Act no later than January 2, 1992.

(9) Section 206(a) of the Immigration Act of 1990 is amended by inserting "and section 124(a)(3)(A) of this Act" after "Immigration and Nationality Act".

(10) Section 214(c)(2) of the INA, as added by section 206(b)(2) of the Immigration Act of 1990, is amended—

(A) in subparagraph (A), by striking "individuals petitions" and inserting "individual petitions", and

(B) in subparagraph (D)(ii), by striking "involved" and inserting "involves".

(11) Section 214(a)(2)(A) of the INA, as added by section 207(b)(1) of the Immigration Act of 1990, is amended by striking "under section 101(a)(15)(O)" and inserting "described in section 101(a)(15)(O)".

(12) Section 214(c)(5) of the INA, as added by section 207(b)(2)(B) of the Immigration Act of 1990, is amended by striking "101(H)(ii)(b)" and inserting "101(a)(15)(H)(ii)(b)".

(13) Section 207(c) of the Immigration Act of 1990 is amended by inserting "of the Immigration and Nationality Act" after "101(a)(15)(H)(ii)(a)" each place it appears.

(14) Section 101(a)(15)(Q) of the INA, as added by section 208(3) of the Immigration Act of 1990, is amended by striking "designated" and inserting "approved".

(b)(1) Section 221(a) of the Immigration Act of 1990 is amended—

(A) in the matter before paragraph (1), by striking "in a position unrelated to the alien's field of study and", and

(B) in paragraph (1), by inserting "academic" before "year".

(2) Section 221(b) of the Immigration Act of 1990 is amended—

(A) by inserting "and the Secretary of Labor" after "the Commissioner of the Immigration and Naturalization", and

(B) by inserting "a report" after "to the Congress".

(3) Section 222(a) of the Immigration Act of 1990 is amended by striking "Subject to the succeeding provisions of this section" and inserting "Subject to subsection (b)".

(4) Section 223(a) of the Immigration Act of 1990 is amended—

(A) by striking the period at the end of paragraph (2) and inserting a comma, and

(B) by adding at the end the following:

"or who is the spouse or minor child of such an alien if accompanying or following to join the alien.".

SEC. 304. CORRECTIONS RELATING TO TITLE III OF THE IMMIGRATION ACT OF 1990.

(a) Section 302(c) of the Immigration Act of 1990 is amended by striking "AFFECT", "supercede", and "affect" and inserting "EFFECT", "supersede", and "effect", respectively.

(b) Section 244A of the INA, as inserted by section 302(a) of the Immigration Act of 1990, is amended—

(1) in subsection (a)(1), by inserting after "designated under subsection (b)" the following: "(or in the case of an alien having no nationality, is a person who last habitually resided in such designated state)",

(2) in paragraph (1)(B), by adding at the end the following: "In the case of aliens registered pursuant to a designation under this section made after July 17, 1991, the Attorney General may impose a separate, additional fee for providing an alien with documentation of work authorization. Notwithstanding section 3302 of title 31, United States Code, all fees collected under this subparagraph shall be credited to the appropriation to be used in carrying out this section.", and

(3) in subsection (c)(1)(A), by inserting after "designated under subsection (b)(1)" the following: "(or in the case of an alien having no nationality, is a person who last habitually resided in such designated state)".

(c)(1) In the case of an alien described in paragraph (2) whom the Attorney General authorizes to travel abroad temporarily and who returns to the United States in accordance with such authorization—

(A) the alien shall be inspected and admitted in the same immigration status the alien had at the time of departure if—

(i) in the case of an alien described in paragraph (2)(A), the alien is found not to be excludable on a ground of exclusion referred to in section 301(a)(1) of the Immigration Act of 1990, or

(ii) in the case of an alien described in paragraph (2)(B), the alien is found not to be excludable on a ground of exclusion referred to in section 244A(c)(2)(A)(iii) of the Immigration and Nationality Act; and

(B) the alien shall not be considered, by reason of such authorized departure, to have failed to maintain continuous physical presence in the United States for purposes of section 244(a) of the Immigration and Nationality Act if the absence meets the requirements of section 244(b)(2) of such Act.

(2) Aliens described in this paragraph are the following:

(A) Aliens provided benefits under section 301 of the Immigration Act of 1990 (relating to family unity).

(B) Aliens provided temporary protected status under section 244A of the Immigration and Nationality Act, including aliens provided such status under section 303 of the Immigration Act of 1990.

SEC. 305. CORRECTIONS RELATING TO TITLE IV OF THE IMMIGRATION ACT OF 1990.

(a) Section 310(b) of the INA, as amended by section 401(a) of the Immigration Act of 1990, is amended by striking "District Court" and inserting "district court".

(b) Section 407(c)(11) of the Immigration Act of 1990 is amended by striking ", other than subsection (d)".

(c) Section 407(d)(8) of the Immigration Act of 1990 is amended by striking "Section 328(c) (8 U.S.C. 1439(c)) is amended" and inserting "Subsections (b)(3) and (c) of section 328 (8 U.S.C. 1439) are amended".

(d) Subsection (g) of section 334 of the INA, as redesignated by section 407(d)(12)(E) of the Immigration Act of 1990, is redesignated as subsection (f).

(e) Section 407(d)(12)(B) of the Immigration Act of 1990 is amended by adding "and" at the end of clause (i).

(f) Section 335(b) of the INA, as amended by section 407(d)(13)(C)(iii) of the Immigration Act of 1990, is amended by striking "District Court" and inserting "district court".

(g) Section 407(d)(14)(D)(i) of the Immigration Act of 1990 is amended by striking "clerk of the court" and inserting "clerk of court".

(h) Section 407(d)(14)(E)(ii) of the Immigration Act of 1990 is amended by striking "persons" and inserting "person".

(i) Section 337(c) of the INA is amended by striking "before".

(j)(1) Section 407(d)(16)(C) of the Immigration Act of 1990 is amended by striking the comma after "venue".

(2) Section 338 of the INA, as amended by section 407(d)(16)(C) of the Immigration Act of 1990, is amended by striking "District" and inserting "district".

(k) Section 340 of the INA, as amended by section 407(d)(18) of the Immigration Act of 1990, is amended—

(1) in the first sentence of subsection (a), by striking "District Court" and inserting "district court", and

(2) in the second sentence of subsection (g), by striking "clerk of the court" and inserting "clerk of court".

(l) Section 407(d)(19)(A)(i) of the Immigration Act of 1990 is amended by striking "clerk of the court" and inserting "clerk of court".

(m) Effective as if included in section 407(d) of the Immigration Act of 1990:

(1) Paragraph (24) of section 101(a) of the INA is repealed.

(2) Section 312 of the INA is amended by striking "petition" and inserting "application" each place it appears.

(3) The heading of section 322 of the INA is amended by striking "PETITION" and inserting "APPLICATION".

(4) The item in the table of contents of the INA relating to section 322 is amended by striking "petition" and inserting "application".

(5) Section 330 of the INA is amended by striking "of this subsection" and inserting "of this section".

(6) Section 332(a) of the INA is amended by striking "petitioners" and inserting "applicants".

(7) Section 334(a) of the INA is amended by striking ", in duplicate,".

(8) Section 341(a) of the INA is amended by striking "a petitioner" and inserting "an applicant".

(n) Section 408(a)(2)(B) of the Immigration Act of 1990 is amended by striking "on the date of the enactment of this Act" and inserting "on January 1, 1992".

SEC. 306. CORRECTIONS RELATING TO TITLE V OF THE IMMIGRATION ACT OF 1990.

(a)(1) Section 101(a)(43) of the INA, as amended by section 501(a)(4) of the Immigration Act of 1990, is amended by striking ",." and inserting a period.

(2) Section 502(a) of the Immigration Act of 1990 is amended by striking "(8 U.S.C. 1152a(a)(1))" and inserting "(8 U.S.C. 1105a(a)(1))".

(3) Section 287(a)(4) of the INA, as amended by section 503(a)(2) of the Immigration Act of 1990, is amended by striking ", and" at the end and inserting "; and".

(4) Subparagraph (B) of section 242(a)(2) of the INA, as added by section 504(a)(5) of the Immigration Act of 1990, is amended to read as follows:

"(B) The Attorney General may not release from custody any lawfully admitted alien who has been convicted of an aggravated felony, either before or after a determination of deportability, unless the alien demonstrates to the satisfaction of the Attorney General that such alien is not a threat to the community and that the alien is likely to appear before any scheduled hearings.".

(5) Section 236(e)(1) of the INA, as amended by section 504(b) of the Immigration Act of 1990, is amended by striking "upon completion of the alien's sentence for such conviction" and inserting "upon release of the alien (regardless of whether or not such release is on parole, supervised release, or probation, and regardless of the possibility of rearrest or further confinement in respect of the same offense)".

(6) Section 503(a)(11) of the Omnibus Crime Control and Safe Streets Act of 1968, as added by section 507 of the Immigration Act of 1990, is amended—

(A) by striking "the certified records" and inserting "notice", and

(B) by inserting before the period at the end the following: "and under which the State will provide the Service with the certified record of such a conviction within 30 days of the date of a request by the Service for such record".

(7) Section 509(b) of the Immigration Act of 1990 is amended by inserting before the period at the end the following: ", except with respect to conviction for murder which shall be considered a bar to good moral character regardless of the date of the conviction".

(8) The last sentence of section 510(b) of the Immigration Act of 1990 is amended by striking "for".

(9) The last sentence of section 510(c) of the Immigration Act of 1990 is amended by striking "been been" and inserting "been".

(10) The last sentence of section 212(c) of the INA, as added by section 511(a) of the Immigration Act of 1990, is amended by striking "an aggravated felony and has served" and inserting "one or more aggravated felonies and has served for such felony or felonies".

(11) Section 513(b) of the Immigration Act of 1990 is amended—

(A) by striking "petitions to review" and inserting "petitions for review", and

(B) by inserting before the period at the end the following: "and shall apply to convictions entered before, on, or after such date".

(12) Section 514(a) of the Immigration Act of 1990 is amended by striking "10 years" and inserting "ten years".

(13) Paragraphs (1) and (2) of section 515(b) of the Immigration Act of 1990 are amended to read as follows:

"(1) The amendment made by subsection (a)(1) shall apply to convictions entered before, on, or after the date of the enactment of this Act and to applications for asylum made on or after such date.

"(2) The amendment made by subsection (a)(2) shall apply to convictions entered before, on, or after the date of the enactment of this Act and to applications for withholding of deportation made on or after such date.".

(b)(1) Section 274B(g)(2)(B)(iv)(II) of the INA, as amended by section 536(a) of the Immigration Act of 1990, is amended by striking "subclause (IV)" and inserting "subclauses (III) and (IV)".

(2) Section 274A(b)(3) of the INA, as amended by section 538(a) of the Immigration Act of 1990, is amended by striking the comma after "officers of the Service".

(3) Section 274B(g)(2)(B) of the INA, as amended by section 539(a) of the Immigration Act of 1990, is amended—

(A) in clause (iv)(IV), by striking the period at the end and inserting a semicolon,

(B) in clauses (v) and (vi), by striking the comma at the end and inserting a semicolon,

(C) in clause (vii), by striking ", and" and inserting "; and",

(D) in clause (vii), by striking "to order (in an appropriate case) the removal of" and inserting "to remove (in an appropriate case)", and

(E) in clause (viii), by striking "to order (in an appropriate case) the lifting of" and inserting "to lift (in an appropriate case)".

(c)(1) Section 274B(g)(2)(D) of the INA is amended by striking "physicially" and inserting "physically".

(2) Section 543(a)(3) of the Immigration Act of 1990 is amended by inserting "each place it appears" before "and inserting".

(3) Sections 252(c) and 275(a) of the INA, as amended by section 543(b) of the Immigration Act of 1990, are each amended by striking "fined not more than" and all that follows through "United States Code)" and inserting "fined under title 18, United States Code,".

(4)(A) The second sentence of section 231(d) of the INA is amended by striking "collector of customs" and inserting "Commissioner".

(B) The third sentence of section 237(b) of the INA is amended by striking "district director of customs" and inserting "Commissioner".

(C) The second sentence of section 254(a) of the INA is amended by striking "collector of customs" and inserting "Commissioner".

(D) The second sentence of section 273(b) of the INA is amended by striking "collector of customs" and inserting "Commissioner".

(5)(A) Section 274C(a) of the INA, as added by section 544(a) of the Immigration Act of 1990, is amended—

(i) in paragraph (2), by inserting "or to provide" after "or receive",

(ii) in paragraph (3), by inserting "or to provide or attempt to provide" after "attempt to use", and

(iii) in paragraph (4), by inserting "or to provide" after "receive".

(B) Section 544 of the Immigration Act of 1990 is amended by striking "(c) EFFECTIVE" and inserting "(d) EFFECTIVE".

(6) Section 242B of the INA, as inserted by section 545(a) of the Immigration Act of 1990, is amended—

(A) in subsection (a)(1)(E), by striking ", upon request,";

(B) in subsection (a)(2)(A)(ii), by inserting ", except under exceptional circumstances," after "failure";

(C) in subsection (a)(2), by adding at the end the following:

"In the case of an alien not in detention, a written notice shall not be required under this paragraph if the alien has failed to provide the address required under subsection (a)(1)(F).";

(D) in subsection (b)(1), by inserting before the period at the end the following: ", unless the alien requests in writing an earlier hearing date";

(E) in subsection (b)(2)—

(i) by inserting "pro bono" after "to represent", and

(ii) by adding at the end the following: "Such lists shall be provided under subsection (a)(1)(E) and otherwise made generally available.";

(F) in subsection (c)—

(i) in paragraph (1), by striking "except as provided in paragraph (2)," each place it appears,

(ii) in paragraph (1), by adding at the end the following: "The written notice by the Attorney General shall be considered sufficient for purposes of this paragraph if provided at the most recent address provided under subsection (a)(1)(F).", and

(iii) by striking the second sentence of paragraph (2);

(G) in subsection (c)(4), by inserting "(or 30 days in the case of an alien convicted of an aggravated felony)" after "60 days";

(H) in subsection (d), by striking "the Board" and inserting "the Attorney General";

(I) in subsection (e)(4)(B), by inserting "a" after "with respect to"; and

(J) in subsection (e)(5), by striking subparagraph (A) and redesignating subparagraphs (B) through (D) as subparagraphs (A) through (C), respectively.

(7) The 8th sentence of section 242(b) of the INA, as amended by section 545(e) of the Immigration Act of 1990, is amended to read as follows: "Such regulations shall include requirements that are consistent with section 242B and that provide that—

"(1) the alien shall be given notice, reasonable under all the circumstances, of the nature of the charges against him and of the time and place at which the proceedings will be held,

"(2) the alien shall have the privilege of being represented (at no expense to the Government) by such counsel, authorized to practice in such proceedings, as he shall choose,

"(3) the alien shall have a reasonable opportunity to examine the evidence against him, to present evidence on his own behalf, and to cross-examine witnesses presented by the Government, and

"(4) no decision of deportability shall be valid unless it is based upon reasonable, substantial, and probative evidence.".

SEC. 307. CORRECTIONS RELATING TO TITLE VI OF THE IMMIGRATION ACT OF 1990.

(a) Section 212(a) of the INA, as amended by section 601(a) of the Immigration Act of 1990, is amended—

(1) in paragraph (1)(A), by adding "or" at the end of clause (ii);

(2) in paragraph (3)(A)(i), by inserting "(I)" after "any activity" and by inserting "(II)" after "sabotage or";

(3) in paragraph (3)(B)(iii)(III), by striking "an act of terrorist activity" and inserting "a terrorist activity";

(4) in paragraph (3)(D)(iv), by striking "if the alien" and inserting "if the immigrant";

(5) in paragraph (3)(C)(iv), by striking "identities" and inserting "identity";

(6) in paragraph (5)(C), by striking "preference immigrants" and all that follows through the end and inserting the following: "immigrants seeking admission or adjustment of status under paragraph (2) or (3) of section 203(b).";

(7) in paragraph (6)(B)—

(A) by striking "who seeks" and inserting "(a) who seeks",

(B) by striking "(or" and inserting ", or (b) who seeks admission", and

(C) by striking "felony)" and inserting "felony,";

(8) in paragraph (6)(E)—

(A) by redesignating clause (ii) as clause (iii), and

(B) by inserting after clause (i) the following new clause:

"(ii) SPECIAL RULE IN THE CASE OF FAMILY REUNIFICATION.—Clause (i) shall not apply in the case of alien who is an eligible immigrant (as defined in section 301(b)(1) of the Immigration Act of 1990), was physically present in the United States on May 5, 1988, and is seeking admission as an immediate relative or under section 203(a)(2) (including under section 112 of the Immigration Act of 1990) or benefits under section 301(a) of the Immigration Act of 1990 if the alien, before May 5, 1988, has encouraged, induced, assisted, abetted, or aided only the alien's spouse, parent, son, or daughter (and no other individual) to enter the United States in violation of law.";

(9) in paragraph (8)(B), by striking "alien" the first place it appears and inserting "person"; and

(10) in paragraph (9)(C)—

(A) in clause (i), by striking everything that follows "entry of" and inserting "an order by a court in the United States granting custody to a person of a United States citizen child who detains or retains the child, or withholds custody of the child, outside the United States from the person granted custody by that order, is excludable until the child is surrendered to the person granted custody by that order.", and

(B) in clause (ii), by striking "to an alien who" and all that follows through "signatory" and inserting "so long as the child is located in a foreign state that is a party".

(b) Section 212(c) of the INA, as amended by section 601(d)(1) of the Immigration Act of 1990, is amended by striking "subparagraphs (A), (B), (C), or (E) of paragraph (3)" and inserting "paragraphs (3) and (9)(C)".

(c) Section 212(d)(3) of the INA, as amended by section 601(d)(2)(B)(i) of the Immigration Act of 1990, is amended—

(1) by striking "(3)(A)," and inserting "(3)(A)(i)(I), (3)(A)(ii), (3)(A)(iii)," each place it appears, and

(2) by striking "(3)(D)" and inserting "(3)(E)" each place it appears.

(d) Section 212(d)(11) of the INA, as added by section 601(d)(2)(F) of the Immigration Act of 1990, is amended by inserting "and in the case of an alien seeking admission or adjustment of status as an immediate relative or immigrant under section 203(a) (other than paragraph (4) thereof)" after "section 211(b)".

(e) Section 212(g)(1) of the INA, as amended by section 601(d)(3) of the Immigration Act of 1990, is amended by striking "section (a)(1)(A)(i)" and inserting "subsection (a)(1)(A)(i)".

(f) Section 212(h) of the INA, as amended by section 601(d)(4) of the Immigration Act of 1990, is amended—

(1) in the matter before paragraph (1), by striking "in the case of" and all that follows through "permanent residence"; and

(2) in paragraph (1)—

(A) in the matter before subparagraph (A), by inserting "(A) in the case of any immigrant" after "(1)",

(B) by striking "and" at the end of subparagraph (A),

(C) by striking "and" at the end of subparagraph (C) and inserting "or",

(D) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively, and

(E) by adding at the end the following:

"(B) in the case of an immigrant who is the spouse, parent, son, or daughter of a citizen of the United States or an alien lawfully admitted for permanent residence if it is established to the satisfaction of the Attorney General that the alien's exclusion would result in extreme hardship to the United States citizen or lawfully resident spouse, parent, son, or daughter of such alien; and".

(g) Section 212(i) of the INA, as amended by section 601(d)(5) of the Immigration Act of 1990, is amended by striking "alien" and "alien's" each place it appears and inserting "immigrant" and "immigrant's", respectively.

(h) Section 241(a) of the INA, as amended by section 602(a) of the Immigration Act of 1990, is amended—

(1) by striking "deportable as being", and by inserting "deportable" after "the following classes of";

(2) in paragraph (1)(D)(i), by inserting "respective" after "terminated under such";

(3) in paragraph (1)(E)(i), by inserting "any" before "entry" the second and third places it appears;

(4) in paragraph (1)(E), by redesignating clause (ii) as clause (iii) and by inserting after clause (i) the following new clause:

"(ii) SPECIAL RULE IN THE CASE OF FAMILY REUNIFICATION.—Clause (i) shall not apply in the case of alien who is an eligible immigrant (as defined in section 301(b)(1) of the Immigration Act of 1990), was physically present in the United States on May 5, 1988, and is seeking admission as an immediate relative or under section 203(a)(2) (including under section 112 of the Immigration Act of 1990) or benefits under section 301(a) of the Immigration Act of 1990 if the alien, before May 5, 1988, has encouraged, induced, assisted, abetted, or aided only the alien's spouse, parent, son, or daughter (and no other individual) to enter the United States in violation of law.";

(5) in paragraph (1)(G), by striking "212(a)(5)(C)(i)" and inserting "212(a)(6)(C)(i)";

(6) in paragraph (1)(H), by striking "paragraph (6) or (7)" and inserting "paragraph (4)(D)";

(7) in paragraph (2)(D), by inserting "or attempt" after "conspiracy";

(8) in paragraph (3), by adding at the end the following:

"(C) DOCUMENT FRAUD.—Any alien who is the subject of a final order for violation of section 274C is deportable.";

(9) in subparagraphs (A) and (B) of paragraph (4), by striking "after entry has engaged" and inserting "after entry engages"; and

(10) in paragraph (4)(C)(ii), by striking "excluability" and inserting "excludability".

(i) Section 102 of the INA, as amended by section 603(a)(2) of the Immigration Act of 1990, is amended by striking "paragraph (3) (other than subparagraph (E)) of section 212(a)" each place it appears and inserting "subparagraphs (A) through (C) of section 212(a)(3)".

(j) Effective as if included in section 603(a)(5) of the Immigration Act of 1990, section 210(b)(7)(B) of the INA is amended by striking "212(a)(19)" and inserting "212(a)(6)(C)(i)".

(k) Effective as if included in section 602(b) of the Immigration Act of 1990, section 241 of the INA is amended—

(1) by striking subsection (d), and

(2) in the subsection (h) (added by section 153(b) of the Immigration Act of 1990) by striking "exist" and inserting "existed" and by redesignating the subsection as subsection (c).

(l) Effective as if included in section 603(a) of the Immigration Act of 1990:

(1) Sections 207(c)(3) and 209(c) of the INA, as amended by section 603(a)(4)(B) of the Immigration Act of 1990, are each amended by striking "subparagraphs (A)" and inserting "subparagraph (A)".

(2) Section 210A(e)(2)(B) of the INA is amended by striking clauses (iii) and (iv) and inserting the following:

"(iii) Paragraph (3) (relating to security and related grounds).".

(3) Section 217(a) of the INA is amended by striking "(26)(B)" and inserting "(7)(B)(i)(II)".

(4) Section 218(g)(3) of the INA is amended by striking "212(a)(14)" and inserting "212(a)(5)(A)(i)".

(5) Section 244A(c) of the INA, as inserted by section 302(a) of the Immigration Act of 1990, is amended—

(A) in paragraph (2)(A)(iii)(I), by striking "paragraphs (9) and (10)" and inserting "paragraphs (2)(A) and (2)(B)"; and

(C) by amending subclause (III) of paragraph (2)(A)(iii) to read as follows:

"(III) paragraphs (3)(A), (3)(B), (3)(C), or (3)(E) of such section (relating to national security and participation in the Nazi persecutions or those who have engaged in genocide).".

(6) Section 245A(d)(2)(B)(ii) of the INA is amended—

(A) by striking subclause (IV),

(B) by redesignating subclause (II) as subclause (IV) and by transferring and inserting it after clause (III),

(C) by redesignating subclause (III) as subclause (II),

(D) by inserting after subclause (II) (as so redesignated) the following new subclause:

"(III) Paragraph (3) (relating to security and related grounds).", and

(E) by striking "Subclause (II)" and inserting "Subclause (IV)".

(7) Section 272(a) of the INA is amended by striking the comma before "shall pay".

(8) Section 584(a)(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, as amended by section 603(a)(20)(B) of the Immigration Act of 1990, is amended by striking "(D)" and inserting "(E)".

(9) Section 599E of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167) is amended by striking "(23)(B), (27), (29), or (33)" and inserting "(2)(C) and subparagraphs (A), (B), (C), or (E) of paragraph (3)".

(10) Section 2(a)(3) of the Immigration Nursing Relief Act of 1989 is amended by striking "212(a)(14)" and inserting "212(a)(5)(A)".

(m) Effective as if included in section 603(b) of the Immigration Act of 1990—

(1) paragraph (4)(B) of such section is amended by striking "in paragraph (2)", and

(2) section 242(e) of the INA is amended by striking "paragraphs (4), (5), (6), (7), (11), (12), (14), (15), (16), (17), (18), or (19)" and inserting "paragraph (2), (3), or (4)".

SEC. 308. CORRECTIONS RELATING TO TITLE VII OF THE IMMIGRATION ACT OF 1990.

(a) Effective October 1, 1991, section 245(e)(3) of the INA, as added by section 702(a)(2) of Immigration Act of 1990, is amended by striking "204(h)" and inserting "204(g)".

(b) Section 702(b) of the Immigration Act of 1990 is amended by striking "204(h) (8 U.S.C. 1154(h))" and inserting "204(g) (8 U.S.C. 1154(g)), as redesignated by section 162(b)(6) of this Act,".

(c) Section 304(f) of the Immigration Reform and Control Act of 1986, as amended by section 704(b) of the Immigration Act of 1990, is amended—

(1) by striking "appointment in the and" and inserting "appointment and", and

(2) by striking "civil" the first place it appears and inserting "competitive".

(d) Section 404(b)(2)(A) of the INA, as added by section 705(a)(5) of the Immigration Act of 1990, is amended by adding at the end the following new sentence:

"In applying clause (i), the providing of parole at a point of entry in a district shall be deemed to constitute an application for asylum in the district."

SEC. 309. ADDITIONAL MISCELLANEOUS CORRECTIONS.

(a)(1)(A) Section 209 of the Department of Justice Appropriations Act, 1989 (title II of Public Law 100–459, 102 Stat. 2203) is amended—

(i) in subsection (a)—

(I) by striking "Title 8, United States Code, section 1356 is amended by adding" and inserting "Section 286 of the Immigration and Nationality Act (8 U.S.C. 1356) is amended by adding at the end", and

(II) in the subsection (o) added by such subsection, by striking "will" and inserting "shall"; and

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

"(b) Section 344(g) of the Immigration and Nationality Act (8 U.S.C. 1455(g)) is amended by inserting after 'Treasury of the United States' the following: 'except that all such fees collected or paid over on or after October 1, 1988, shall be deposited in the Immigration Examinations Fee Account established under section 286(m)'.".

(B) The fourth proviso under Immigration and Naturalization Service in the Department of Justice Appropriations Act, 1990 (title II of Public Law 101–162, 103 Stat. 1000) is amended to read as follows: ": Provided further, That section 286(n) of the Immigration and Nationality Act (8 U.S.C. 1356(n)) is amended by striking 'in excess of $50,000,000' and by striking the second sentence".

(2)(A) Section 286 of the INA, as amended by section 210 of the Department of Justice Appropriations Act, 1991, is amended—

(i) in subsection (h)(1)(A), by inserting a period after "available until expended",

(ii) in subsection (m), by striking "additonal" and inserting "additional",

(iii) by moving the left margins of subsection (q)(2) and the matter in subsection (q)(3)(A) (before clause (i)) 2 ems to the left,

(iv) in subsection (q)(3)(A), by inserting "the" after "The Secretary of", and

(v) in subsection (q)(5)(B), by striking "subsection (q)(1)" and inserting "paragraph (1)".

(B) Section 210(a)(2) of the Department of Justice Appropriations Act, 1991, is amended by striking "in which fees" and inserting "in which the fees".

(3) The amendments made by paragraph (1) and (2) shall be effective as if they were included in the enactment of the Department of Justice Appropriations Act, 1989 and the Department of Justice Appropriations Act, 1990, respectively.

(b)(1) Section 101(a)(15)(D)(i) of the INA is amended by inserting a comma after "States)".

(2) The item in the table of contents of the INA relating to section 242A is amended by striking "Procedures" and inserting "procedures".

(3) The item in the table of contents of the INA relating to section 345 is repealed.

(4) Section 101(c)(1) of the INA is amended by striking "322, and 323" and inserting "and 322".

(5) Section 204(f)(4)(A)(ii)(II) of the INA, as redesignated by section 162(d)(6) of the Immigration Act of 1990, is amended by striking "section 652 of such Act" and inserting "the second and third sentences of such section".

(6) Paragraph (3) of section 210(d) of the INA is amended—

(A) by indenting the paragraph (and its subparagraphs) 2 ems to the right;

(B) by striking "the Immigration and Naturalization Service (INS) pursuant to section 210(d) of the Immigration and Nationality Act (INA)" and inserting "Service pursuant to this subsection";

(C) in the matter before subparagraph (A), by striking "INS" each place it appears and inserting "Service";

(D) in subparagraph (A), by striking "as defined in section 210(a)(1)(A) of the INA the INS" and inserting "described in subsection (a)(1)(A) the Service";

(E) in subparagraph (A), by striking "in the INA" and inserting "in this Act";

(F) in subparagraph (B), by striking "as defined in section 210(a)(1)(B)(1)(B) of the INA" and inserting "described in subsection (a)(1)(A)"; and

(G) in subparagraph (B), by striking "section 210(b)(1)(A)" and inserting "subsection (b)(1)(A)".

(7) Section 212(j) of the INA is amended by striking "International Communication Agency" in paragraphs (1)(D) and (3) and inserting "United States Information Agency".

(8) Section 218(i)(1) of the INA is amended by striking "274A(g)" and inserting "274A(h)(3)".

(9) Section 242(h) of the INA is amended by inserting a comma after "Parole".

(10) Section 242A(a) of the INA is amended by striking "101(a)(43)" and inserting "101(a)(43))".

(11) Section 274A(b)(1)(D)(ii) of the INA is amended by striking "clause (ii)" and inserting "clause (i)".

(12) Section 286(e)(1)(D) of the INA is amended by striking "of this title".

(13) Section 313(a)(2) of the INA is amended by inserting "and" before "(F)" and by striking "; (G)" and all that follows through "of 1950" the second place it appears.

(14) Section 344(c) of the INA, as redesignated by section 407(d)(19)(F) of the Immigration Act of 1990, is amended by striking "of this subchapter" and inserting "of this title".

(15) The amendments made by section 8 of the Immigration Technical Corrections Act of 1988 shall be effective as if included in the enactment of the Immigration and Nationality Act Amendments of 1986 (Public Law 99–653).

SEC. 310. EFFECTIVE DATES.

Except as otherwise specifically provided, the amendments made by (and provisions of)—

(1) sections 302 through 308 shall take effect as if included in the enactment of the Immigration Act of 1990,

(2) section 309(a) shall be effective with respect to allotments for fiscal years beginning with fiscal year 1989, and

(3) section 309(c) shall take effect on the date of the enactment of this Act.

Amend the title to read as follows: "An Act to amend the Immigration and Nationality Act to restore certain exclusive authority in courts to administer oaths of allegiance for naturalization, to revise provisions relating to O and P nonimmigrants, and to make certain technical corrections relating to the immigration laws.".

Mr. MAZZOLI (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

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

There was no objection.

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

Mr. FISH. Mr. Speaker, reserving the right to object, I do so solely for the purpose of asking the chairman of the subcommittee if he would explain the measure.

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

Mr. FISH. Mr. Speaker, I yield to the gentleman from Kentucky.

Mr. MAZZOLI. I thank the gentleman for yielding.

Mr. Speaker, the Senate amendment to H.R. 3049 is extremely meritorious and deserves the House's support.

The House passed H.R. 3049 by voice vote on November 12. The measure, as passed by the House, is quite simple: It restores to our Federal and State courts the authority to conduct naturalization ceremonies for new citizens.

The Senate amendment to H.R. 3049 incorporates the House-passed bill nearly verbatim. The Senate amendment differs only in that it tightens the language of the House bill to ensure that those courts that conduct naturalization ceremonies are fully reimbursed for their costs by the Immigration Service, but will not in fact make a profit. The Judicial Conference of the United States strongly supports this amendment.

The Senate amendment also includes a provision to ensure that if a court is

unable to conduct a naturalization ceremony it has scheduled, notification will be given promptly to those applicants who would be affected.

Beyond that, the Senate amendment includes, without change, the text of H.R. 3048, a measure that passed yesterday. That measure relaxes the entry requirements for certain types of foreign artists, athletes, and entertainers.

In addition, the Senate amendment includes, with minor changes, the text of H.R. 3670, which is also a measure the House passed yesterday. That bill makes a series of technical amendments to the Immigration and Naturalization Act.

Mr. FISH. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. It there objection to the initial request of the gentleman from Kentucky?

There was no objection.

A motion to reconsider was laid on the table.

AUTHORIZING THE PRESIDENT TO APPOINT MAJ. GEN. JERRY RALPH CURRY TO OFFICE OF ADMINISTRATOR OF THE FEDERAL AVIATION ADMINISTRATION

Mr. OBERSTAR. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2098) to authorize the President to appoint Maj. Gen. Jerry Ralph Curry to the Office of Administrator of the Federal Aviation Administration, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

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

Mr. CLINGER. Mr. Speaker, reserving the right to object, and I will not object, I do so for the purpose of inquiring of the chairman of the subcommittee the purpose of this legislation.

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

Mr. CLINGER. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. I thank the gentleman for yielding.

Mr. Speaker, the legislation now before us would allow Maj. Gen. Jerry Ralph Curry to serve as Administrator of the Federal Aviation Administration while remaining on the retired list of the U.S. Army.

The legislation is necessary because of a provision in the 1958 law establishing the Federal Aviation Administration which requires that the FAA Administrator be a civilian and not on the active or retired list of the armed services. This law is important in the interests of establishing civilian primacy over the regulations of the Nation's airspace.

While it is important to retain generally this provision regarding the Office of FAA Administrator, I believe the requirement should be waived in this instance so that General Curry can be appointed and not lose any of the military retirement benefits he has earned. Without this bill, he would have to resign his commission and be removed from the retirement list of the Army in order to be appointed Administrator which would harm his pension benefits.

The Aviation Subcommittee held hearings on this legislation yesterday and received testimony from General Curry. General Curry is very much aware of the need for civilian control of the airspace, and I do not expect undue military influence to creep into his management of the airspace just because he is a retired officer.

The Congress has passed similar legislation on a number of previous occasions. It is important that we do so again today in order that General Curry can be confirmed and appointed so that there is little loss in the continuity of leadership at this important agency. The current Administrator, James B. Busey, has also been nominated by the President to become Deputy Secretary of Transportation. So without this legislation passing today, the FAA would be without an Administrator for a period of weeks, possibly months.

Finally, I would note that the Senate bill we are taking up is identical to a bill, H.R. 3902, which I introduced on Saturday along with ROBERT A. ROE, Chairman of the Public Works and Transportation Committee, JOHN PAUL HAMMERSCHMIDT, our full committee ranking Republican member, BILL CLINGER, our subcommittee ranking Republican member, and NORMAN MINETA, an active member of our committee on aviation matters.

□ 0340

The current Administrator, James B. Busey, has also been nominated by the President to become Deputy Secretary of Transportation. Unless we pass this legislation today, the FAA could be without an Administrator for a period of weeks, and maybe even months.

Mr. CLINGER. Mr. Speaker, further reserving the right to object, I yield to the ranking member, the gentleman from Arkansas [Mr. HAMMERSCHMIDT].

Mr. HAMMERSCHMIDT. Mr. Speaker, I support the request of the distinguished subcommittee chairman.

Mr. Speaker, I support this bill. Current law requires that the Administrator of the FAA be a civilian. This means that he cannot be on either the active or retired list of any military service.

This bill will allow Jerry Curry to become FAA Administrator despite his retired military status. If we do not pass this bill, General Curry would have to resign his commission and lose his pension benefits prior to serving as Administrator.

There is no reason that Jerry Curry should be required to make this sacrifice in order to serve at the FAA. At least four times in the past, we have enacted legislation to allow a military man to assume the top post at the FAA.

General Curry is well qualified for this post. He has served his country well in several capacities, most recently as Administrator of the National Highway Traffic Safety Administration. I am confident that he will make a fine FAA Administrator.

We should move quickly here so that the FAA will not be without a chief for too long. The Senate will soon approve the Curry nomination and pass its bill. I urge quick approval of S. 2098 so that Jerry Curry can move into his new position right away.

Mr. CLINGER. Mr. Speaker, further reserving the right to object, I join with the chairman in support of the unanimous consent request. It is a necessary technicality, but it will ensure that we will have Mr. Curry in the position at FAA promptly and not jeopardize his pension rights.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. HOYER). Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2098

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding the provisions of section 106 of title 49, United States Code, or any other provision of law, the President, acting by and with the advice and consent of the Senate, is authorized to appoint Major General Jerry Ralph Curry to the Office of Administrator of the Federal Aviation Administration. Major General Curry's appointment to, acceptance of, and service in that Office shall in no way affect the status, rank, and grade which he shall hold as an officer on the retired list of the United States Army, or any emolument, perquisite, right, privilege, or benefit incident to or arising out of any such status, office, rank, or grade, except to the extent that subchapter IV of chapter 55 of title 5, United States Code, affects the amount of retired pay to which he is entitled by law during his service as Administrator. So long as he serves as Administrator, Major General Curry shall receive the compensation of that Office at the rate which would be applicable if he were not an officer on the retired list of the United States Army, shall retain the status, rank, and grade which he now holds as an officer on the retired list of the United States Army, shall retain all emoluments, perquisites, rights, privileges, and benefits incident to or arising out of such status, office, rank, or grade, and shall in addition continue to receive the retired pay to which he is entitled by law, subject to the provisions of subchapter IV of chapter 55 of title 5, United States Code.

SEC. 2. In the performance of his duties as Administrator of the Federal Aviation Administration, Major General Curry shall be subject to no supervision, control, restriction, or prohibition (military or otherwise) other than would be operative with respect to him if he were not an officer on the retired list of the United States Army.

SEC. 3. Nothing in this Act shall be construed as approval by the Congress of any fu-

ture appointments of military persons to the Office of Administrator of the Federal Aviation Administration.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. OBERSTAR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 2098, the Senate bill just passed.

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

There was no objection.

REQUEST TO START DEBATE ON CONFERENCE REPORT ON H.R. 2950, INTERMODAL SURFACE TRANSPORTATION INFRASTRUCTURE ACT OF 1991

Mr. ROE. Mr. Speaker, for the benefit of the Members of the House, the printed copy is on its way over here, but in order for us not to delay the start of this debate, I ask unanimous consent that we be able to start the discussion on this proposal pending its getting here, which should be in a few minutes.

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

Mr. DINGELL. Mr. Speaker, reserving the right to object, I would observe that the papers are not here yet.

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

Mr. DINGELL. I yield to the gentleman from New Jersey.

Mr. ROE. Mr. Speaker, they are on their way over here now.

Mr. DINGELL. Does that include the signatures of all the House conferees?

Mr. ROE. We do have the signatures, they tell me, for those who chose to sign the report.

Mr. DINGELL. Mr. Speaker, I would note there are portions of that in which the Committee on Energy and Commerce has equal conferees with regard to certain matters relative to rail transit. Are those papers in the hands of my friends?

Mr. ROE. Mr. Speaker, the signature sheets are coming over here with the rest of the papers.

Mr. Speaker, I withdraw my request. We will have to wait until the papers get here.

PROVIDING FOR DISPOSITION OF SENATE AMENDMENTS TO H.R. 3807, CONVENTIONAL FORCES IN EUROPE TREATY IMPLEMENTATION ACT OF 1991

Ms. SLAUGHTER of New York. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 316 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 316

Resolved, That upon adoption of this resolution it shall be in order to consider a nondivisible motion to take from the Speaker's table the bill (H.R. 3807) to amend the Arms Export Control Act to authorize the President to transfer battle tanks, artillery pieces, and armored combat vehicles to member countries of the North Atlantic Treaty Organization in conjunction with the Treaty of Conventional Armed Forces in Europe, with the Senate amendments thereto, and to concur in the Senate amendments with amendments printed in the report of the Committee on Rules accompanying this resolution. The motion and the Senate amendments shall be considered as having been read. Debate on said motion shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs. The previous question shall be considered as having been ordered on the motion to final adoption without intervening motion. All points of order against the motion are hereby waived.

The SPEAKER pro tempore. The question is, Will the House now consider House Resolution 316?

The question was taken; and (two-thirds having voted in favor thereof) the House agreed to consider House Resolution 316.

The SPEAKER pro tempore. The gentlewoman from New York [Ms. SLAUGHTER] is recognized for 1 hour.

□ 0350

Ms. SLAUGHTER of New York. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Ohio [Mr. MCEWEN] 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, this House resolution makes in order a nondivisible motion to take H.R. 3807 from the Speaker's table, and agree to the Senate amendments with three House amendments. The House amendments are printed in the report to accompany the rule, and all points of order are waived against the motion. Finally, the rule provides 1 hour of debate on the motion.

Mr. Speaker, H.R. 3807 authorizes the President to transfer tanks, artillery, and armored combat vehicles to member countries in NATO to implement the transfer program associated with the Conventional Forces in Europe Treaty negotiated last November in Paris. The program will allow the alliance to modernize forces and become more efficient as the burden of providing an adequate defense shifts among allied countries in Europe.

During its deliberations last night the Senate added three amendments relating to nuclear weapons destruction and emergency humanitarian assistance for the Soviet Union. Members of the Foreign Affairs and Armed Services Committees have met with their counterparts in the Senate and devised language which is mutually agreeable to all parties and—as I understand it—will be agreed to by the Senate once we have returned the legislation to that body.

The compromise agreement is included in the text of House amendments to the Senate amendments to H.R. 3807.

The House amendments authorize $400 million to facilitate the destruction of nuclear, chemical, and other weapons in the Soviet Union and put in place safeguards against the proliferation of such weapons. The amendments authorize $100 million for humanitarian aid, including food and medical supplies, to be supplied by commercial or military means to the Soviet Union, its Republics or successor entities. The amendments also provide that the President encourage the repayment of such assistance through the provision of natural resources.

Finally, the amendments authorize the Arms Control and Disarmament Agency for 2 years and further clarify the congressional oversight activities of the onsite inspection agency.

Mr. Speaker, this rule will facilitate final action on this important legislation without the necessity of convening a conference in the waning hours of the session. I urge my colleagues to adopt this resolution so that we may proceed to the consideration of these important arms control policy initiatives.

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

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

Mr. Speaker, the gentlewoman from New York has explained what this rule will provide; namely, a self-executing rule to adopt a number of Senate and House amendments, waive all points of order against the consideration of those amendments as a part of the Arms Control Export Act of 1991 as amended, and bring it quickly to the floor.

Because it is a self-executing rule, I cannot support it. Even at this late hour, we should not abandon proper procedures to enact amendments in one fell swoop, without the benefit of considering them here on the floor of the House. And there is much in this that many Members on this side of the aisle would wish to debate.

That wasn't true 1 week ago. This bill passed the House without controversy at that time, and was sent to the Senate. Now, this important bill comes back before the House after Senate amendments to the Conventional Forces in Europe Treaty implementation. Those amendments included funding for the destruction of nuclear weapons in the possession of the Soviet Union. Further, those amendments also provided for funding of humani-

tarian assistance to the Soviet Union or its Republics.

After passage of those amendments in the Senate last night, the leadership of the House Foreign Affairs Committee along with the leadership of the House Armed Services Committee have spent most of the day and night in consultation with their Senate counterparts trying to work out amendments to the Senate amendments that could be accepted by both Chambers. And the leadership of those committees deserve commendation for their hard work.

Mr. Speaker, this is an important task: First, authorizing some necessary transfers of arms to NATO members countries; second, dismantling some of the nearly 30,000 nuclear warheads in the Soviet arsenal and third, providing the humanitarian assistance mentioned earlier.

It is worth noting, Mr. Speaker, that while the Senate originally asked for $500 million for the Nuclear Weapon Destruction Program, this House-amended form lowers that level to $400 million. The Senate planned a $200 million authorization for transportation of aid to the Soviets, and that has been dropped to $100 million.

Mr. Speaker, I am a firm believer that all the money in all the wallets of all the taxpayers in America would never be enough to bail out a failed, centrally planned economy in the Soviet Union. Granted, this bill does not authorize direct aid—it only authorizes the President to exercise discretion in this area, up to a certain funding level. However, I would submit that most Americans will perceive this as aid to the Soviet Union at a time when many of them are looking for jobs here at home. We must not be perceived as simply giving handouts to the Soviet Union, or its republics. After all, this is a rich country: rich in gold reserves, rich in strategic metals, and incredibly rich in oil reserves.

So, I was pleased that the House included in its amendments to the Senate amendments the notion of compensation for this aid. The amendment will now read that the U.S. Government should be reimbursed by the recipient central or republic government to the extent that the President determines to be appropriate.

Mr. Speaker, I wish to express my appreciation to Representative BENNETT of Florida and make special mention for his insisting on this provision—a provision which I was proud to support.

However, we must accept the fact that we are playing at the margins. The massive, wrecked economy of the Soviet Union and its republics doesn't need aid half as much as they need free markets and investment incentives.

Much hard and important work has been done today on this bill, Mr. Speaker. However, we must ask why we have to rush this through now with a self-executing rule—when we have refused to rush through an economic aid package for America before going home. It doesn't make sense to me, and I think we should follow normal procedure in matters such as this.

For that reason, Mr. Speaker, I urge opposition to the rule even as I recognize the yeoman's duty performed by Mr. FASCELL of Florida and Mr. ASPIN of Wisconsin, the chairmen of the Foreign Affairs and Armed Services Committees, respectively.

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

Mr. WHEAT. Mr. Speaker, this is a fair rule on a good bill.

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.

MOTION OFFERED BY MR. FASCELL

Mr. FASCELL. Mr. Speaker, pursuant to House Resolution 316, I move to take from the Speaker's table the bill (H.R. 3807) to amend the Arms Export Control Act to authorize the President to transfer battle tanks, artillery pieces, and armored combat vehicles to member countries of the North Atlantic Treaty Organization in conjunction with implementation of the Treaty on Conventional Armed Forces in Europe, with Senate amendments thereto, and concur in the Senate amendments with amendments.

The SPEAKER pro tempore. The Clerk will designate the motion and the House amendments.

The text of the motion and the text of the House amendments are as follows:

Mr. FASCELL moves to take from the Speaker's table the bill (H.R. 3807) to amend the Arms Export Control Act to authorize the President to transfer battle tanks, artillery pieces, and armored combat vehicles to member countries of the North Atlantic Treaty Organization in conjunction with implementation of the Treaty on Conventional Armed Forces in Europe, with Senate amendments thereto, and concur in the Senate amendments with amendments, as follows:

Amendment to Senate amendment numbered 1:

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

TITLE II—SOVIET WEAPONS DESTRUCTION

PART A—SHORT TITLE

SEC. 201. SHORT TITLE.

This title may be cited as the "Soviet Nuclear Threat Reduction Act of 1991".

PART B—FINDINGS AND PROGRAM AUTHORITY

SEC. 211. NATIONAL DEFENSE AND SOVIET WEAPONS DESTRUCTION.

(a) FINDINGS.—The Congress finds—

(1) that Soviet President Gorbachev has requested Western help in dismantling nuclear weapons, and President Bush has proposed United States cooperation on the storage, transportation, dismantling, and destruction of Soviet nuclear weapons;

(2) that the profound changes underway in the Soviet Union pose three types of danger to nuclear safety and stability, as follows: (A) ultimate disposition of nuclear weapons among the Soviet Union, its republics, and any successor entities that is not conducive to weapons safety or to international stability; (B) seizure, theft, sale, or use of nuclear weapons or components; and (C) transfers of weapons, weapons components, or weapons know-how outside of the territory of the Soviet Union, its republics, and any successor entities, that contribute to worldwide proliferation; and

(3) that it is in the national security interests of the United States (A) to facilitate on a priority basis the transportation, storage, safeguarding, and destruction of nuclear and other weapons in the Soviet Union, its republics, and any successor entities, and (B) to assist in the prevention of weapons proliferation.

(b) EXCLUSIONS.—United States assistance in destroying nuclear and other weapons under this title may not be provided to the Soviet Union, any of its republics, or any successor entity unless the President certifies to the Congress that the proposed recipient is committed to—

(1) making a substantial investment of its resources for dismantling or destroying such weapons;

(2) forgoing any military modernization program that exceeds legitimate defense requirements and forgoing the replacement of destroyed weapons of mass destruction;

(3) forgoing any use of fissionable and other components of destroyed nuclear weapons in new nuclear weapons;

(4) facilitating United States verification of weapons destruction carried out under section 212;

(5) complying with all relevant arms control agreements; and

(6) observing internationally recognized human rights, including the protection of minorities.

SEC. 212. AUTHORITY FOR PROGRAM TO FACILITATE SOVIET WEAPONS DESTRUCTION.

(a) IN GENERAL.—Notwithstanding any other provision of law, the President, consistent with the findings states in section 211, may establish a program as authorized in subsection (b) to assist Soviet weapons destruction. Funds for carrying out this program shall be provided as specified in part C.

(b) TYPE OF PROGRAM.—The program under this section shall be limited to cooperation among the United States, the Soviet Union, its republics, and any successor entities to (1) destroy nuclear weapons, chemical weapons, and other weapons, (2) transport, store, disable, and safeguard weapons in connection with their destruction, and (3) establish verifiable safeguards against the proliferation of such weapons. Such cooperation may involve assistance in planning and in resolving technical problems associated with weapons destruction and proliferation. Such cooperation may also involve the funding of critical short-term requirements related to weapons destruction and should, to the extent feasible, draw upon United States technology and United States technicians.

PART C—ADMINISTRATIVE AND FUNDING AUTHORITIES

SEC. 221. ADMINISTRATION OF NUCLEAR THREAT REDUCTION PROGRAMS.

(a) FUNDING.—

(1) TRANSFER AUTHORITY.—The President may, to the extent provided in an appropria-

tions Act or joint resolution, transfer to the appropriate defense accounts from amounts appropriated to the Department of Defense for fiscal year 1992 for operation and maintenance or from balances in working capital accounts established under section 2208 of title 10, United States code, not to exceed $400,000,000 for use in reducing the Soviet military threat under part B.

(2) LIMITATION.—Amounts for transfer under paragraph (1) may not be derived from amounts appropriated for any activity of the Department of Defense that the Secretary of Defense determines essential for the readiness of the Armed forces, including amounts for—

(A) training activities; and

(B) depot maintenance activities.

(b) DEPARTMENT OF DEFENSE.—The Department of Defense shall serve as the executive agent for any program established under part B.

(c) REIMBURSEMENT OF OTHER AGENCIES.—The Secretary of Defense may reimburse other United States Government departments and agencies under this section for costs of participation, as directed by the President, only in a program established under part B.

(d) CHARGES AGAINST FUNDS.—The value of any material from existing stocks and inventories of the Department of Defense, or any other United States Government department or agency, that is used providing assistance under part B to reduce the Soviet military threat may not be charged against funds available pursuant to subsection (a) to the extent that the material contributed is directed by the President to be contributed without subsequent replacement.

(e) DETERMINATION BY DIRECTOR OF OMB.—No amount may be obligated for the program under part B unless expenditures for that program have been determined by the Director of the Office of Management and Budget to be counted against the defense category of the discretionary spending limits for fiscal year 1992 (as defined in section 601(a)(2) of the Congressional Budget Act of 1974) for purposes of part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 222. REPAYMENT ARRANGEMENTS.

(a) REIMBURSEMENT ARRANGEMENTS.—Assistance provided under part B to the Soviet Union, any of its republics, or any successor entity shall be conditioned, to the extent that the President determines to be appropriate after consultation with the recipient government, upon the agreement of the recipient government to reimburse the United States Government for the cost of such assistance from natural resources or other materials available to the recipient government.

(b) NATURAL RESOURCES, ETC.—The President shall encourage the satisfaction of such reimbursement arrangements through the provision of natural resources, such as oil and petroleum products and critical and strategic materials, and industrial goods. Materials received by the United States Government pursuant to this section that are suitable for inclusion in the Strategic Petroleum Reserve or the National Defense Stockpile may be deposited in the reserve or stockpile without reimbursement. Other material and services received may be sold or traded on the domestic or international market with the proceeds to be deposited in the General Fund of the Treasury.

SEC. 223. DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS.

It is the sense of the Senate that the committee of conference on House Joint Resolution 157 should consider providing the necessary authority in the conference agreement for the President to transfer funds pursuant to this title.

PART D—REPORTING REQUIREMENTS

SEC. 231. PRIOR NOTICE OF OBLIGATIONS TO CONGRESS.

Not less than 15 days before obligating any funds for a program under part B, the President shall transmit to the Congress a report on the proposed obligation. Each such report shall specify—

(1) the account, budget activity, and particular program or programs for which the funds proposed to be obligated are to be derived and the amount of the proposed obligation; and

(2) the activities and forms of assistance under part B for which the President plans to obligate such funds.

SEC. 232. QUARTERLY REPORTS ON PROGRAM.

Not later than 30 days after the end of each quarter of fiscal years 1992 and 1993, the President shall transmit to the Congress a report on the activities to reduce the Soviet military threat carried out under part B. Each such report shall set forth, for the preceding quarter and cumulatively, the following:

(1) Amounts spent for such activities and the purposes for which they were spent.

(2) The sources of the funds obligated for such activities, stated specifically by program.

(3) A description of the participation of the Department of Defense, and the participation of any other United States Government department or agency, in such activities.

(4) A description of the activities carried out under part B and the forms of assistance provided under part B.

(5) Such other information as the President considers appropriate to fully inform the Congress concerning the operation of the program under part B.

Amendment to Senate amendment numbered 2:

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

TITLE III—EMERGENCY AIRLIFT AND OTHER SUPPORT

SEC. 301. AUTHORITY TO TRANSFER CERTAIN FUNDS TO PROVIDE EMERGENCY AIRLIFT AND OTHER SUPPORT.

(a) FINDINGS.—The Congress finds—

(1) that political and economic conditions within the Soviet Union and its republics are unstable and are likely to remain so for the foreseeable future;

(2) that these conditions could lead to the return of antidemocratic forces in the Soviet Union;

(3) that one of the most effective means of preventing such a situation is likely to be the immediate provision of humanitarian assistance; and

(4) that should this need arise, the United States should have funds readily available to provide for the transport of such assistance to the Soviet Union, its republics, and any successor entities.

(b) AUTHORITY TO TRANSFER CERTAIN FUNDS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Defense, at the direction of the President, may during fiscal year 1992, to the extent provided in an appropriations Act or joint resolution, transfer to the appropriate defense accounts sufficient funds, not to exceed $100,000,000 from funds described in paragraph (3) in order to transport, by military or commercial means, food, medical supplies, and other types of humanitarian assistance to the Soviet Union, its republics, or any successor entities—with the consent of the relevant republic government or independent successor entity—in order to address emergency conditions which may arise in such republic or successor entity, as determined by the president. As used in this subsection, the term "humanitarian assistance" does not include construction equipment, including tractors, scrapers, loaders, graders, bulldozers, dumptrucks, generators, and compressors.

(2) REPORTS BY THE SECRETARY OF STATE.—The Secretary of State shall promptly report to the President regarding any emergency conditions which may require such humanitarian assistance. The Secretary's report shall include an estimate of the extent of need for such assistance, discuss whether the consent of the relevant republic government or independent successor entity has been given for the delivery of such assistance, describe steps other nations and organizations are prepared to take in response to an emergency, and discuss the foreign policy implications, if any, of providing such assistance.

(3) SOURCE OF FUNDS.—Any funds which are transferred pursuant to this subsection shall be drawn from amounts appropriated to the Department of Defense for fiscal year 1992 or from balances in working capital accounts established under section 2208 of title 10, United States Code.

(4) EMERGENCY REQUIREMENTS.—The Congress designates all funds transferred pursuant to this section as "emergency requirements" for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985. Notwithstanding any other provision of law, funds shall be available for transfer pursuant to this section only if, not later than the date of enactment of the appropriations Act or joint resolution that makes funds available for transfer pursuant to this section, the President, in a single designation, designates the entire amount of funds made available for such transfer by that appropriations Act or joint resolution to be "emergency requirements" for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

(c) REPAYMENT ARRANGEMENTS.—

(1) REIMBURSEMENT ARRANGEMENTS.—Assistance provided under subsection (b) to the Soviet Union, any of its republics, or any successor entity shall be conditioned, to the extent that the President determines to be appropriate after consultation with the recipient government, upon the agreement of the recipient government to reimburse the United States Government for the cost of such assistance from natural resources or other materials available to the recipient government.

(2) NATURAL RESOURCES, ETC.—The President shall encourage the satisfaction of such reimbursement arrangements through the provisions of natural resources, such as oil and petroleum products and critical and strategic materials, and industrial goods. Materials received by the United States Government pursuant to this subsection that are suitable for inclusion in the Strategic Petroleum Reserve or the National Defense Stockpile may be deposited in the reserve or stockpile without reimbursement. Other material and services received may be sold or traded on the domestic or international market with the proceeds to be deposited in the General Fund of the Treasury.

(d) DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS.—It is the sense of the Senate that

the committee of conference on House Joint Resolution 157 should consider providing the necessary authority in the conference agreement for the Secretary of Defense to transfer funds pursuant to this title.

SEC. 302. REPORTING REQUIREMENTS.

(a) PRIOR NOTICE.—Before any funds are transferred for the purposes authorized in section 301(b), the President shall notify the Committees on Armed Services and the Committees on Appropriations of the Senate and the House of Representatives of the account, budget activity, and particular program or programs from which the transfer is planned to be made and the amount of the transfer.

(b) REPORTS TO THE CONGRESS.—Within ten days after directing the Secretary of Defense to transfer funds pursuant to section 301(b), the President shall provide a report to the Committees on Armed Services of the Senate and House of Representatives, the Committees on Appropriations of the Senate and House of Representatives, and the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives. This report shall at a minimum, set forth—

(1) the amount of funds transferred under this title, including the source of such funds;

(2) the conditions which prompted the use of this authority;

(3) the form and number of lift assets planned to be used to deliver assistance pursuant to this title;

(4) the types and purpose of the cargo planned to be delivered pursuant to this title; and

(5) the locations, organizations, and political institutions to which assistance is planned to be delivered pursuant to this title.

Amendment to Senate amendment numbered 3:

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

TITLE IV—ARMS CONTROL AND DISARMAMENT ACT

SEC. 401. ARMS CONTROL AND DISARMAMENT AGENCY.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 49(a) of the Arms Control and Disarmament Act (22 U.S.C. 2589(a)) is amended—

(1) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively;

(2) in paragraph (1) as so redesignated, by striking out "$36,000,000 for the fiscal year 1990 and $37,316,000 for the fiscal year 1991" and inserting in lieu thereof "$44,527,000 for fiscal year 1992 and $45,862,810 for fiscal year 1993"; and

(3) in paragraph (2) as so redesignated, by striking out "fiscal years 1990 and 1991" and inserting in lieu thereof "each fiscal year for which an authorization of appropriations is provided in paragraph (1)".

(b) ADMINISTRATIVE AUTHORITIES REGARDING INVESTIGATIONS.—Section 41 of that Act (22 U.S.C. 2581) is amended—

(1) by redesignating paragraphs (h) and (i) as paragraphs (i) and (j), respectively; and

(2) by inserting after paragraph (g) the following new paragraph (h):

"(h) administer oaths and take sworn statements in the course of an investigation made pursuant to the Director's responsibilities under this Act;".

(c) ACDA REVITALIZATION.—Not later than December 15, 1992, the Inspector General of the Arms Control and Disarmament Agency (who serves also as the Inspector General of the Department of State) shall submit to the President, the Speaker of the House of Representatives, and the chairman of the Committee on Foreign Relations of the Senate a report with regard to the Agency's fulfillment of the primary functions described in section 2 of the Arms Control and Disarmament Act (22 U.S.C. 2551). Such report shall address the current ability and performance of the Agency in carrying out these functions and shall provide detailed recommendations for any changes in executive branch organization and direction needed to fulfill these primary functions. Within 60 days after submission of this report, the President shall submit the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate comments on any recommendations contained in the report dealing with executive branch organization and direction.

SEC. 402. ON-SITE INSPECTION AGENCY.

(A) RESPONSIBILITIES OF THE ON-SITE INSPECTION AGENCY.—

(1) ADDITIONAL RESPONSIBILITIES.—Section 61 of the Arms Control and Disarmament Act (22 U.S.C. 2595) is amended—

(A) by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively; and

(B) by inserting after paragraph (4) the following new paragraph:

"(5) the On-Site Inspection Agency has additional responsibilities to those specified in paragraph (4), including the monitoring of nuclear tests pursuant to the Threshold Test Ban Treaty and the Peaceful Nuclear Explosions Treaty and the monitoring of the inspection provisions of such additional arms control agreements as the President may direct;".

(2) CONFORMING AMENDMENTS TO DEFINITIONS.—Section 64 of that Act (22 U.S.C. 2595c) is amended—

(A) by striking out "and" at the end of paragraph (1);

(B) by striking out the period at the end of paragraph (2) and inserting in lieu thereof a semicolon; and

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

"(3) the term 'Peaceful Nuclear Explosions Treaty' means that Treaty Between the United States of America and the Union of Soviet Socialist Republic on Underground Nuclear Explosions for Peaceful Purposes (signed at Washington and Moscow, May 28, 1976); and

"(4) the term 'Threshold Test Ban Treaty' means the Treaty Between the United States of American and the Union of Soviet Socialist Republics on the Limitation of Underground Nuclear Weapons Tests (signed at Moscow, July 3, 1974).".

(b) IMPROVING CONGRESSIONAL OVERSIGHT OF ON-SITE INSPECTION ACTIVITIES.—Title V of that Act is amended—

(1) by redesignating section 64 as section 65; and

(2) by inserting after section 63 the following:

"SEC. 64. IMPROVING CONGRESSIONAL OVERSIGHT OF ON-SITE INSPECTION ACTIVITIES.

"(A) REPORT FROM THE PRESIDENT.—Concurrent with the submission to the Congress of the request for authorization of appropriations for OSIA for fiscal year 1993, the President shall submit a report on OSIA to the Committee on Foreign Affairs of the House of Representatives, the Committee on Foreign Relations of the Senate, and the Committee on Armed Services of the House of Representatives and Senate. The report shall include a review of—

"(1) the history of OSIA, including how, when, and under what auspices it was established, including the applicable texts of the relevant executive orders;

"(2) the missions and tasks assigned to OSIA to date;

"(3) any additional missions and tasks likely to be assigned to OSIA during fiscal year 1993;

"(4) the budgetary history of OSIA; and

"(5) the extent to which OSIA plays a role in arms control policy formulation and operational implementation.

"(b) REVIEW OF CERTAIN REPROGRAMMING NOTIFICATIONS.—Any notification submitted to the Congress with respect to a proposed transfer, reprogramming, or reallocation of funds from or within the budget of OSIA shall also be submitted to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate, and shall be subject to review by those committees.".

The SPEAKER pro tempore. The gentleman from Florida [Mr. FASCELL] will be recognized for 30 minutes, and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida [Mr. FASCELL].

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

Mr. Speaker, I rise in support of H.R. 3807, authorizing the President to transfer certain limited equipment pursuant to the CFE Treaty. In addition to provisions that implement the CFE Treaty, H.R. 3807 includes the authority for the United States to facilitate the dismantlement and destruction of Soviet nuclear, chemical, and other weapons of mass destruction.

H.R. 3807 also includes authority to transport by emergency airlift food, medical supplies, and other types of humanitarian assistance. This provision specifically prohibits the transfer to the Soviet Union, its republics or successor entities any construction-related equipment.

Finally, H.R. 3807 provides for the authorization of appropriations for the Arms Control and Disarmament Agency for fiscal years 1990 and 1991 and in that regard delineates the responsibility of the On-Site Inspection Agency.

One year ago, on November 19, 1990, 22 nations met at a summit of the Conference on Security and Cooperation in Europe in Paris and signed the Treaty on Conventional Armed Forces in Europe [CFE Treaty]. The CFE Treaty is an agreement that mandates reductions and limits on military equipment such as tanks, armored vehicles, artillery, combat aircraft, and helicopters in Europe from the Atlantic Ocean to the Ural Mountains. This treaty is another major arms control achievement of the post-cold-war era. It culminates a long, arduous process of negotiations between NATO and the Warsaw Pact on force reductions in Europe, which began in 1973 but didn't become a realistic opportunity until the Berlin Wall came down.

The CFE Treaty requires that each state which is a party to the treaty submit extensive data on its military forces, adhere to detailed provisions for

the destruction or conversion of excess equipment, and open military installations to intrusive inspection. The CFE Treaty was formally submitted to the Senate on July 1, 1991, and the Senate considered and ratified the treaty on November 25, 1991.

The legislation that we are considering today is a key component of the CFE Treaty and is considered to be part of the implementation of that treaty. Specifically, the transfer program authorized by this legislation would enable the United States, Germany, and other allies to adjust their reduction liabilities by transferring treaty-limited equipment to other allies, allowing the alliance to achieve an effective overall defense capability at lower force levels.

I would like to also point out that this is a NATO program and not solely a U.S. program, with the U.S. portion representing only 30 percent of the overall program. Therefore, 70 percent of the costs associated with the program will not be incurred by the United States, and 70 percent of the actual equipment transfers will come from other NATO member countries.

Briefly, title I of the legislation:

Clarifies that the transfers are consistent with the obligations incurred by the United States and other allies in connection with the CFE Treaty;

Limits the articles eligible for transfer only to battle tanks, armored combat vehicles, or artillery included within the CFE Treaty's definition of conventional armaments and equipment limited by the treaty;

Clarifies that the United States will not incur any additional costs for such transfers;

Includes language concerning the military balance in the eastern Mediterranean; and

Stipulates congressional reporting requirements prior to any transfer.

This legislation does not include authority requested by the executive branch concerning follow-on support for the initial transfers. This language was deleted to reflect concerns raised by some of our colleagues and with the concurrence of the executive branch.

I would like to commend my colleagues on both sides of the aisle of the Foregn Affairs Committee and also on the Armed Services Committee for working with us to fashion this legislation, which now enjoys broad bipartisan support. I would also note that this legislation in its current form is fully supported by the executive branch.

I believe this treaty enhances stability and security in Europe and that this implementing legislation further complements the treaty objectives, and I urge my colleagues to support this measure.

Other important components of this bill include two provisions dealing with Soviet weapons destruction and emergency humanitarian assistance to the Soviet Union, it's republics and successor entities. Both of these provisions have strong, bipartisan support in the other body. Funding for them is already contained in the Dire Emergency Supplemental Appropriations Act for 1992. Both provisions are narrowly defined and pertain strictly to the dismantling of Soviet nulcear weapons and the provision of emergency humanitarian assistance. No other assistance, technical or otherwise, is contained in this bill.

Soviet President Gorbachev has requested Western help in dismantling Soviet nuclear weapons, and President Bush has proposed that the United States provide such assistance directed at the storage, transportation, dismantling, and destruction of nuclear weapons. It is clearly in the security interests of the United States and its allies to help the Soviets dispose of their nuclear weapons to prevent their possible seizure, theft, or transfer, not to mention use in the looming atmosphere of instability and chaos in the Soviet Union.

Title II of this legislation provides that the President may transfer up to $400 million in fiscal year 1992 from Department of Defense accounts for these purposes. Prior to the expenditures of any of these funds, the President will first certify to the Congress that potential recipients in the Soviet Union, by the republics or what is left of the central authorities, are committed to a series of constructive actions. These include making a substantial investment of their own for the destruction of such weapons, forgoing military modernization, as well as the use of fissionable or other components of the destroyed nuclear weapons, complying with all relevant arms control agreements and facilitating U.S. verification of the weapons' destruction.

Such a program of nuclear weapons destruction will increase U.S. security by:

Avoiding spending billions of dollars on arms production that perpetuates arms race;

Enhancing our country's nonproliferation and antiterrorism efforts;

Enhancing the prospects for a peaceful transition from authortarian to democratic rule in the Soviet Union;

Creating more business opportunities for U.S. disarmament contractors; and making arms disarmament, not just arms control, a reality in the post-cold war environment.

It is important that this program has both a "matched" and a "multilateral" aspect.

Matched—because we expect the Soviets to not only pay their share but to also make the political decisions to get weapons destruction programs moving and funded.

Multilateral—because we expect European countries have a special stake in seeing Soviet weapons destroyed and, therefore, they should also contribute funds and expertise to this mutual security effort.

U.S. leadership is important on efforts such as this and we, in Congress, can be proud of our efforts to initiate the process. Our constituents can be assured that this is not a Soviet aid giveaway program but rather a United States security and arms control enhancement program. Furthermore, the fund will be used to fund U.S. experts, technicians, planners, and contractors to enable them to play a crucial role in initiating these weapons destruction programs.

In short, this program is in our own self-interest. It will enhance United States security by assuring the destruction of Soviet weaponry and by cutting off opportunities that might allow these weapons to proliferate into the wrong hands to be used directly or indirectly against the United States.

Economic chaos in the Soviet Union is mounting and threatens the peaceful transformation of that country. Emergency humanitarian assistance in the form of necessary food stuffs and medical supplies can be helpful in averting potential disaster. Title III provides for up to $100 million to be transferred, at the direction of the President, from Department of Defense funds for the transport, by either military or commercial means of food, medical supplies, and other types of emergency humanitarian assistance to the Soviet Union, it's republics or any successor entities.

The Secretary of State will report to the President in prompt fashion regarding any emergency conditions which may require such assistance. Notification of the Senate and House Committee on Armed Services, Appropriations, Foreign Policy, and Foreign Affairs is required within 10 days of the transfer of these emergency humanitarian funds.

Mr. Speaker, the Soviet Union is at a crossroads in its history, and it needs our help and that of the rest of the developed world. This is not a problem we can simply throw some money or ideas at and think we have done our duty. We must recognize the limits but also the opportunities involved in our efforts to help the Soviets. This legislation carefully targets two areas of immediate concern to the stability and well-being of the Soviet Union, Europe, the United States, and the world: The destruction of Soviet nuclear weapons and the provision of emergency humanitarian assistance. These are straightforward, necessary, and narrow defined steps, and I urge my colleagues to support them.

Title IV of H.R. 3807 also authorizes funding for the Arms Control and Disarmament Agency [ACDA] for fiscal years 1992 and 1993 and addresses the congressional oversight of the activities of the On-Site Inspection Agency [OSIA].

The post-cold-war, the post-Gulf-war, and the post-Soviet-coup setting poses many new challenges and opportunities for both of these agencies in the field of arms control and disarmament. The activities and importance of these agencies will increase significantly in the coming years as we actively complete and implement some half dozen bilateral and multilateral arms control and disarmament agreements.

The authorization level for ACDA is set at $44.527 million for fiscal year 1992. This modest level is easily explained by ACDA's increased responsibilities related to several arms control negotiations and implementation of three arms control agreements, the INF Treaty and the two nuclear testing treaties—PNET and TTBT. It is our intention that this funding level will enable ACDA to provide for additional external research in support of the Agency's activities.

The other item related to ACDA in this legislation is a provision calling for a report by the inspector general of ACDA to examine ACDA's fulfillment of its primary functions and to review what recommendations he might make regarding ACDA's needs during this period of increasing responsibilities and activities.

The Arms Control and Disarmament Agency is the U.S. Government agency with primary responsibility for the development and implementation of U.S. arms control policies. ACDA is implementing three arms control agreements—the INF Treaty and the two nuclear testing treaties—and is working on as many as nine other arms control accords—START I and II, CFE I and II, two chemical weapons agreements, short-range nuclear forces, biological weapons, and nuclear nonproliferation. That is a very full agenda and that is why the Committee on Foreign Affairs supported modest increases in personnel and research for ACDA.

The On-Site Inspection Agency [OSIA] was established in February 1988 to implement the INF Treaty. OSIA Manages, directs, and implements all the on-site inspections for that treaty, which now total approximately 600 inspections Even though all the INF missiles have now been destroyed, the monitoring, verification, and inspecting under the INF Treaty will continue for the next 10 years. Now, OSIA will also be implementing, monitoring, and overseeing the two nuclear testing agreements, and it will also have several more treaties, such as CW, CFE, and START to work on.

The On-Site Inspection Agency implements arms control and disarmament agreements and it carries out those activities on foreign territory. The Committee on Foreign Affairs has oversight and legislative responsibility for matters involving arms control and for U.S. activities taking place on foreign territory. Therefore, the Committee on Foreign Affairs needs to receive from the administration adequate information on all OSIA activities in order to exercise its proper oversight and legislative responsibilities.

The provision of the House amendment which amends title V of the Arms Control and Disarmament Act regarding congressional oversight of On-Site Inspection Agency activities contains the following:

A requirement for the President to submit a report to the appropriate committees of the Congress concurrent with an authorization request which includes:

A description of how and when OSIA was established, including the applicable texts of the relevant executive orders;

A summary of the mission and tasks assigned to OSIA to date;

Any additional missions and tasks projected with respect to fiscal year 1993;

The budgetary history of the Agency to date, including budget requests, actual authorization and appropriation levels enacted and reprogrammings submitted to Congress; and

A discussion of the extent to which OSIA plays a role in arms control policy formulation and operational implementation.

A requirement that any notification submitted to the Congress with respect to a proposed transfer, reprogramming, or reallocation of funds from or within the budget of OSIA shall be submitted to the Committee on Foreign Affairs of the House and the Committee on Foreign Relations of the Senate shall be subject to review by those committees.

The intent of the provision regarding the reprogramming notification requirement is that the Committee on Armed Services and the Committees on Foreign Affairs and Foreign Relations have equal rights and responsibilities with respect to approval of any request to reallocate funds from or within OSIA. The committee expects that these rights and responsibilities will be conducted consistent with the current Armed Services procedures applicable to reprogrammings.

OSIA is playing a central role in implementing the INF Treaty and two nuclear testing treaties (PNET, TTBT), and it may be implementing six to nine more treaties. OSIA is part of our overall Government arms control community, which must now respond positively to the arms control opportunities before us and assure that these opportunities are turned into agreements in which our Government and people can have confidence and trust that the other side is fulfilling their end of the bargain.

Therefore, OSIA has a rightful claim and, indeed, a clear responsibility to make its arms control policy input into the total Government process. OSIA is not just a nuts and bolts operation, it is a key agency in the total picture of our Government's arms control and disarmament policy.

OSIA's organizational structure currently reflects the importance of the agency's policy component. The Arms Control and Disarmament Agency and the Department of State provide assistant directors to OSIA. Again, it is the Committee on Foreign Affairs which authorizes funds for both the Department of State and ACDA and therefore must oversee the structure and functioning of OSIA's directorate and the overall agency.

President Bush's September 27, 1991, arms control initiative sets in motion unilateral U.S. arms control measures. Congress should not only look to OSIA for its policy evaluation of such unilateral moves but also to OSIA for ways in which it can play some role in assuring that such unilateral moves are reciprocated by the Soviets if that is the understanding. New developments in arms control, such as the President's September 27 initiative, illustrate even more poignantly how important it is to have proper and adequate communication between the Foreign Affairs Committee and the OSIA.

By reflecting for just a minute on the adverse impact to the arms control process that was caused by Soviet violation and compliance questions during the last decade, it is quite easy to realize what an important role OSIA must play in the United States arms control policy process.

The Committee on Foreign Affairs' jurisdiction over U.S. Government activities on foreign soil gives it a special, specific, and significant responsibility regarding the establishment of guidelines for monitoring training inspectors, escorting and collection activities, and the general management of arms control inspections on foreign territory.

The legislation before us is designed to improve the arms control work of both ACDA and OSIA at the same time that it also seeks to improve congressional oversight and legislative activities relating to arms control and disarmament policies.

This legislation establishes the necessary administrative tools and financial support for the effective operation of our major arms control agencies—ACDA and OSIA—in the post-cold-war era.

With this explanation, I am confident these arms control agencies will continue to receive broad bipartisan support.

Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin [Mr. ASPIN], the chairman of the Committee on Armed Services, to explain whatever he wants to explain, and I take this opportunity to thank him and his staff for his valuable cooperation in making it possible to move this bill.

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

Mr. Speaker, let me just say that I want to say how much we appreciate working with the gentleman from Florida and his staff, and we would like to commend them for their hard work in putting together this proposal and putting together this legislation.

I would like to also thank the gentleman from Florida [Mr. BENNETT], whose suggestion we incorporated in one of the amendments, and the gentleman from Ohio [Mr. MCEWEN], whose suggestion we also incorporated in one of the amendments.

I would like to thank the gentleman from Florida—the two gentlemen from Florida—and the gentleman from Ohio.

Mr. Speaker, we have today a historic opportunity to reduce the threat Americans face from the Soviet Union. In the span of less than 2 years, we have seen the fall of the Berlin Wall, the collapse of the Warsaw Pact, the utter failure of Soviet communism, and now the disintegration of the Soviet Union itself.

Unlike the earlier developments, the collapse of the union presents Americans with real and tangible dangers as well as challenges and opportunities for a more peaceful world. I wish to address myself to those dangers and opportunities because they are the reason for the legislation before this House today.

We face the disintegration of a nuclear superpower. The former Soviet Union holds within its borders nearly 30,000 nuclear weapons and the bomb-making expertise to spawn new nuclear arsenals around the world. These facts represent real dangers to the United States and its allies.

The legislation before you would take steps to reduce these new threats posed to Americans by events in the Soviet Union.

First, it would help the Soviets make a start on dismantling this enormous and unnecessary nuclear arsenal by authorizing $400 million for a cooperative effort with the United States. For decades we have aimed our defense budgets at buying forces that would scare the Soviets out of using these weapons. Here is a chance to take them off the table for good. We cannot pass up this opportunity to help them reduce this arsenal.

Second, there is the prospect of social chaos this winter in the former Soviet Union due to severe shortages of medicine and food in critical areas. This prospect of social chaos presents us with two dangers.

Danger one: the nuclear danger. There is the possibility that the fabric of Soviet society will become so unraveled that even military discipline fails and nuclear weapons fall into the wrong hands. The prospect of nuclear weapons or fissile materials passing into unfriendly, perhaps undeterrable hands is a danger indeed. And the danger is not limited to materials. At some point, the deterioration of Soviet society will prompt a migration of nuclear expertise, and some of it will surely go to those who do not wish their neighbors or us well.

Danger two: the political danger. If this first winter of freedom in the Soviet Union is a disaster, we have to fear another coup attempt. The hardliners haven't left. They are very likely waiting for another chance. If they get one, they may succeed in ousting the democratic reformers. If democratic reformers are replaced by dictators, our hopes for even further reductions in U.S. defense spending could be dashed.

Therefore, we must defend ourselves against these two new dangers. The legislation before you responds to this urgent need. It is defense by different means, but it is defense, nevertheless. It would allow for urgent and direct action to defend our interests by avoiding social chaos in the Soviet Union this winter. It would authorize $100 million to allow the Department of Defense to airlift food, medicine, and other materials to areas of critical need in the Soviet Union as determined by President Bush. This would bypass the corrupt and collapsing Soviet transport system where so much is now lost or stolen.

Only one institution in the world has this capability. That institution is the U.S. military. The Soviet military could not accomplish it. The centrally directed Soviet transportation system is the problem, so it surely cannot be the solution. The only instrument we have capable of helping to avert social chaos this winter is the U.S. military. That is why this legislation enables President Bush—entirely at his discretion—to use Pentagon assets to transport food and medicine.

Once again, this is defense by other means but clearly defense.

There is a final element to this legislation. It would require that the President—to the extent he deems appropriate—seek reimbursement for any assistance from the recipient Soviet or other government in the former Soviet Union. It is an entirely appropriate addition.

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

Mr. Speaker, I strongly support H.R. 3807 which authorized the President to transfer certain equipment to NATO allies pursuant to the implementation of the CFE Treaty.

The underlying bill was passed unanimously by the House last week. Yesterday the legislation was amended by the other body adding language regarding United States policy toward the Soviet Union. Today we consider specific amendments to that language.

It is important that the Congress complete consideration of this legislation. Delaying action until early next year will cost the U.S. taxpayer approximately $500,000 a month. In addition, any delay in sending this legislation to the President may prevent the U.S. from meeting its commitments required under the CFE Treaty.

There are additional reasons we should move this legislation forward. In my view, it is imperative that we seize the moment to take advantage of the opportunity to reduce the Soviet military threat at its source—within the Soviet Union itself.

I support the provisions in this bill regarding nuclear weapons destruction in the Soviet Union. The President should be provided with the authority to utilize, if he deems it necessary, appropriate funds to destroy and dismantle nuclear and chemical weapons in the Soviet Union.

I urge support for the bill.

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

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

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion.

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. FASCELL].

The motion was agreed to.

A motion to reconsider was laid on the table.

□ 0400

COMMENTS ON H.R. 3807, SOVIET NUCLEAR THREAT REDUCTION ACT OF 1991

(Mr. BENNETT asked and was given permission to address the House for 1 minute.)

Mr. BENNETT. Mr. Speaker, the bill we have just been considering was controversial when first suggested by the gentleman from Wisconsin [Mr. ASPIN]. A lot of people did not understand what he had in mind. As revised, with the amendments that worked out in the Committee on Armed Services and the Committee on Foreign Affairs, it provides that the countries that are going to be assisted, the Soviet empire, the independent countries, they are required to do some participation themselves in this. The President is authorized to do the best he can to work out arrangements with regard to things like oil, magnesium, and other assets that Russia has in large quantity. Russia and the Soviet empire are not poor in any respect. They have a lot of materials that we would like to buy. Along with the gentleman from Ohio [Mr. MCEWEN], myself and others, we worked out some amendments which make it possible for us to have barter and other ways to keep the taxpayers of the United States from having to carry all of this burden.

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

Mr. BENNETT. I yield to the gentleman from Ohio.

Mr. MCEWEN. Mr. Speaker, I thank the gentleman from Florida [Mr. BENNETT] for yielding and wish to commend him for his leadership.

What happens on occasions like this, it seems like the generosity of the American people is so overwhelming we sometimes get our heart in front of our head. The truth of the matter is that much has to be done to rescue the Soviet Union from 70 years of socialism.

Mr. Speaker, you will, however, observe that the Japanese do not feel so obligated, the Germans do not feel so obligated, and the British do not feel so obligated, even though all of them would benefit from the actions taking place.

What the gentleman from Florida [Mr. BENNETT] has said is that this is going to cost the taxpayers some money, and it is going to cost the taxpayers of America some money. In the course of doing it, in the benefit of the global welfare of our planet, we should be able to have access to the abundant reserves that are there in the Soviet Union.

Mr. Speaker, the gentleman from Florida [Mr. BENNETT] has mentioned that perhaps the second largest oil reserves in the world are in the Soviet Union. The largest strategic metal reserves are in the Soviet Union. So as they have these capacities, we should be able to establish long-term contracts whereby the expenditures of the taxpayers of the people of America can be rewarded.

Mr. Speaker, if the gentleman would continue to yield, let me just share with you two paragraphs from Jane's Weekly of November 16, 1991, this past week, in which a discussion with the head of the Soviet Air Force was held, where he was asked whether the next generation of combat aircraft programs had fallen upon a cash hurdle due to their dilemmas.

General Laptev said, "Naturally, there are financial constraints, but so far, no, none has been stopped.

"Some of these programs are so advanced that it would be most damaging to stop them now," he added.

"In September Laptev said work for the Soviet Air Force was underway on improvements to existing MiG–29 Fulcrums and Su–27 Flankers, as well as development of new fighters comparable to NATO's next generation aircraft."

The gentleman from Florida [Mr. BENNETT] mentioned the discussion so well that we had, that we cannot pick up for the Soviet Union this burden if they are going to continue their modernization. Sixteen hundred tanks in the last 12 months, 4400 armored personnel carriers in the last 12 months, 575 jet fighters in the last 12 months, as well as they floated 11 new submarines and 40 new strategic bombers.

So in these negotiations what we are saying is as we help clean up the mess, the President of the United States should protect the American taxpayer by making sure we get paid in some kind in return from their natural resources.

Mr. Speaker, I thank the gentleman from Florida [Mr. BENNETT] for his leadership. He has done not only freedom a service, but America a service by demanding that this logical, common sense consideration be included in this bill.

Mr. BENNETT. Mr. Speaker, reclaiming my time, I thank the gentleman from Ohio [Mr. MCEWEN] for his leadership. It is very outstanding.

FUNDING OF NATIONAL INTERMODAL SURFACE TRANSPORTATION SYSTEM

Mr. Speaker, we are in a tight position with regard to allowing time on the transportation bill, so I would like to make some remarks about this.

The transportation bill, the idea of interstate highways, was born in the mind of Eisenhower when he was President, with the assistance of a Florida man, who brought it to his attention about this being an important thing to occur. So really the Eisenhower administration is known today as the father of the interstate system.

When it was started, it did not seem to be a bad thing to have States that were better off make donations in large amounts of money to the trust fund to provide for interstate highways in States where they could not raise that money. So for decades that has been the system.

But the formula under which that money was distributed was an archaic formula. It was based on such things as rural mail carrier routes.

So a few months ago, perhaps more than that, I read in the editorials of Florida about how Florida was getting such a bad drubbing under the existing law with regard to highways. So I wrote to these people that made those comments and I said, "What is the problem?" They explained to me about this antique system to provide for who got how much money under the highway program.

So I asked the heads of transportation in all 50 States to give me suggestions. They worked out a suggestion of a modern formula, things based on six-lane and eight-lane highways, based upon diesel utilization, the length of the roads, and things that make sense and make an entirely different formula, a formula which gives the donor States like California, Texas, Florida, and other growing States, a better chance to be financed in this type of activity.

Mr. Speaker, I took that to the Committee on Public Works and Transportation. They looked at it and they did the best they could with it. As a matter of fact, they did a pretty good job with it. They passed in the House of Representatives a bill which greatly improved that distribution of funds. They greatly improved it.

But now what do we have tonight? I regret to say I myself am going to vote against this bill because of the fact it is so unfair. It is even more unfair than the bill that passed in the Senate. The bill that passed in the Senate, for instance, gave Florida 83 cents on the dollar. This bill gives Florida 82 cents on the dollar. It is not much of an improvement.

Theoretically, and you will be told this by the committee when it gets before you, "Oh, BENNETT is wrong. You get 90 percent. Everybody gets 90 percent."

But that overlooks the fact that the 90 percent does not apply to all the money, it only applies to a portion of the money.

When you get all those other portions worked out, you find out that Florida just give 82 percent on the dollar.

Now, some States get 500 percent of what they pay in. Many States get a much larger amount of money than they pay in.

So it is very unfair in 1991 to have a system of taking care of our interstate highways which is based upon an archaic formula. It is very sad in the closing days of this 102d Congress, this session, that we are having to have a bill like this.

Mr. Speaker, I do not blame the House committee. It worked real hard. The gentleman from New Jersey [Mr. ROE] worked very, very hard, and so did the gentleman from Arkansas [Mr. HAMMERSCHMIDT].

□ 0410

The gentleman from Arkansas [Mr. HAMMERSCHMIDT] if Congress has a gentleman, it is the gentleman from Arkansas, JOHN PAUL HAMMERSCHMIDT. And also the gentleman from Kentucky, BILL NATCHER, on our side. He is a gentleman. I admire them tremendously.

I would say the Members that worked on both sides of the aisle tried to get out a good bill. They did get out a good bill. The House passed a good bill, but it went to conference.

I want to say something that I have observed about government here much more clearly than I ever observed before and that is, our constitution gives a terrible blow on some types of legislation. Here we have a Member of the U.S. Senate, representing only a small fraction of the population that I represent in the House of Representatives; and others in the Senate who are representing very few people, and they are able to vote down the vast majority of American citizens. So it is almost not democracy.

The majority of Members of Congress are from areas that are contributing to this situation very unfairly. The majority of Members of Congress are. But that is not true in the Senate.

So the Senate stood there adamantly and was able to achieve something unfair which I regret was achieved.

One other point about this. The Speaker in the House and the Presiding Officer in the Senate can help a little bit in a case like this. The way in which they should help is they should have put Members on the conference, even though they were not on the committee, who had something to do with the idea that we should be fairer with regard to the formulas.

I had asked both sides whether they would lend me any time on this bill, and they are pretty cramped for the time. So I am using this opportunity, but I am not mad about anything. Because the House committee worked hard to bring out what it did, and they tried to be fair about it to the very best of their ability.

I am not in any way running them down. I am saying it is a sad thing in 1991 that we are now passing a 6-year highway bill which has a formula that is tied to such things as rural mail carriers instead of 8-lane highways and the modern problems that we have with regard to highways. The modern formula was worked out, and it did do a good, fair thing to this situation and it did pass the House. But regrettably it died in the conference as a lot of good things do.

NONTRADITIONAL EMPLOYMENT FOR WOMEN ACT

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 367) to amend the Job Training Partnership Act to encourage a broader range of training and job placement for women, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. HOYER). Is there objection to the request of the gentleman from California?

Mr. GOODLING. Mr. Speaker, reserving the right to object, although I shall not object, I yield to the gentleman from California [Mr. MILLER] for the purpose of explaining what it is we are doing.

Mr. MILLER of California. Mr. Speaker, as the sponsor of H.R. 907, the Nontraditional Employment of Women Act, I urge my colleagues to support this legislation. H.R. 907 is identical to the NEW provisions in the Job Training Partnership [JTPA] Amendments of 1989, which was passed overwhelmingly in the House last year, and to S. 367.

This legislation is supported by the administration, the National Governors Association, the AFL–CIO, the Homebuilders Institute, and a number of women's organizations, including Wider Opportunities for Women, the National Tradeswomen Network, and the National Displaced Homemakers Network.

I want to thank my colleague from Maryland, Mrs. CONNIE MORELLA, who was the major cosponsor of this legislation, and the other numerous cosponsors from both sides of the aisle who strongly supported NEW.

The purpose of NEW is to increase nontraditional training and employment opportunities for women served by JTPA. Nontraditional occupations are those jobs in which 25 percent or less of the work force is female. Examples of nontraditional jobs are trades workers, electronic technicians, mechanics, and maintenance engineers.

Women in nontraditional jobs earn higher wages which enable them to become economically self-sufficient and support their families. In no way will NEW discriminate against men. They will continue to be eligible for training programs in all occupational areas.

NEW is needed because despite current JTPA language encouraging the elimination of occupational stereotyping, occupational segregation still exists in JTPA programs, and the gap in wages between women and men continues.

A 1991 GAO investigation of the Job Training Partnership Act found that JTPA, the only major source of employment training for the economically disadvantaged, dislocated workers, and others who face significant employment barriers, discriminates against blacks and women in the services it provides.

The GAO found that in one-third of the service delivery areas [SDA's], white participants were more likely to receive occupational training than black recipients; and in two-thirds of the SDA's, men were more likely to receive on-the-job training while women were more likely to receive classroom training for mostly lower wage jobs.

The GAO also found that the Department of Labor [DOL] and State JTPA agencies do not conduct sufficient monitoring activities to identify and address disparities; and when they are able to identify disparities, they do not take corrective actions. These disparities were attributed to the systemic problems in the way projects operate at the local level.

According to a 1989 GAO study, women graduates of JTPA programs earned an average of $4.65 an hour, 51 cents less than male graduates. The GAO found that less than 9 percent of women in JTPA supported classroom training were being trained in nontraditional occupations. These occupations pay an average of 30 percent higher wages than occupations which are traditionally female. Sixty-nine percent of the women who were placed in jobs after participation in JTPA were clustered in the two lowest paying occupational areas—clerical and sales, 43 percent, and service, 26 percent, of JTPA's nine occupational areas.

NEW requires services delivery areas and States to include goals in their annual job training plans for training and placing women in nontraditional employment. It creates a time-limited program out of existing funds, at a cost of $1.5 million annually, to foster the development and institutionalization of programs to train women for nontraditional employment.

NEW complements the Department of Labor's skilled trade initiative to help women gain access to the skilled trades by providing an incentive for JTPA funded training to prepare women for apprenticeships.

Over the last 6 months, three private industry councils have participated in a demonstration to implement the kind of goal setting which the NEW Act would require. These projects are in Hartford, CT, Milwaukee, WI, and Missoula, MT.

In all three service delivery areas, wide community support has already been generated to achieve the goals. It has proven neither costly nor a major administrative burden in any of these three communities to put in place the systems to make nontraditional training accessible to women.

This demonstration effort had been funded by the Ford Foundation, the Rockefeller Family Fund, the Aetna Foundation, and the Women's Bureau of the Department of Labor. The lessons learned in this project will make it easier to implement the NEW Act when it becomes law.

While NEW alone will not solve the inequities in JTPA training programs, it is a vital and important step to help ensure that women are trained in all occupational areas. I urge you to support this legislation.

Mr. GOODLING. Mr. Speaker, continuing my reservation of objection, I yield to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Speaker, I thank the gentleman for yielding to me.

As the cosponsor of H.R. 907, the Nontraditional Employment for Women Act, I am pleased to join my colleague, Congressman GEORGE MILLER in urging passage of this critical bill.

I see this bill as an important elemental step toward achieving the kind of trained and prepared work force that will be needed over the next decades. It is a waste of our resources and human potential to continue the training of low income women in the narrow range of occupations that the Job Training Partnership Act programs have most frequently targeted for women. The concentration of women in training for clerical, sales, and low wage service jobs has had a negative effect on women's wages as well as a negative impact for employers making a good faith effort to find trained women for a broader spectrum of jobs. The NEW Act will address these issues in the Job Training Partnership Act.

The NEW Act is an appropriate strategy for this Congress to bring to the employment and training community at this time. We must be looking for strategies that will insure that economically disadvantaged women—especially those who are struggling to raise their children alone—are receiving services that promise a route out of

poverty. Training for nontraditional employment—with its assurance of wages that are at least 30 percent higher in most occupations—is one of the most successful strategies toward this goal. All too often, we have been investing JTPA training dollars in training for jobs that keep women and their children in poverty.

I am pleased to support a bill that has the chance to improve the JTPA and its services to women without substantial new resources being required or burdensome overregulation. The NEW Act requires goal-setting and the development of data systems to measure progress. This is, I think, a good business strategy consistent with the overall direction of the Job Training Partnership Act.

I urge this House to support NEW and to join in moving toward a better trained, more flexible, and diverse work force.

THE NONTRADITIONAL EMPLOYMENT FOR WOMEN ACT: H.R. 906, S. 367

Status: Introduced in both the House and Senate on February 6, 1991. The Senate Labor and Human Resources Committee passed the bill unanimously on February 20, with no amendments. No action has been taken yet by the House Education and Labor Committee.

Summary: The bill is an amendment to the Job Training Partnership Act to increase nontraditional training and employment for women served by the JTPA. The bill:

Requires States and service delivery areas to set goals for training and placing women in traditionally male fields and to report on their results in meeting these goals;

Authorizes the State Job Training Coordinating Council to review the plans and outcomes of the service delivery areas and the governor, to make recommendations for future activities related to improving nontraditional training, and to disseminate successful approaches developed in the States;

Directs the governor and SJTCC to coordinate efforts for training and placing women in nontraditional employment under the JTPA and vocational education system;

Establishes a four year demonstration grants program to be awarded by the Secretary of Labor to no more than six States per year to expand/extend nontraditional training and employment programs throughout the State, utilizing $1.5 million annually from USDOL's national JTPA program monies; and

Directs the Secretary of Labor to report to Congress on the efforts made at the local, State, and national levels to train, place, and retain women in nontraditional occupations and to generate recommendations for legislative and administrative changes necessary to increase nontraditional opportunities for women under JTPA.

Rationale: As of 1988, only 9% of women workers were employed in nontraditional occupations—those in which 25% or less of the work force is female. These occupations pay an average of 30% higher wages than occupations which are traditionally female. Since 1983, however, the number of women in nontraditional jobs has remained relatively unchanged at 4% of the total workforce. In the Job Training Partnership Act, while more than 50% of those served are female, a study of 1986 enrollments showed that less than 9% of women in JTPA-supported classroom training were being trained in nontraditional occupations. In contrast, female participants were most often trained in clerical and caretaking occupations in which placements occurred less often and at lower wages. Given the low income and welfare status of many female JTPA participants training in nontraditional and higher skill occupations should be a priority.

While program models for training women in a wide variety of nontraditional occupations have been successfully implemented since the mid-1960s, these models have not been institutionalized throughout the JTPA system. A few programs, like those listed below, have demonstrated that nontraditional training can be successfully implemented;

T.R.E.E. (Training, Recruiting, Educating and Employing, Inc.) is a JTPA-funded nontraditional training program for women in Middlesex County, New Jersey. TREE provides eight weeks of hands on, pre-apprenticeship training in one of four fields: electrical, plumbing, drywall taping/finishing, and painting. TREE also provides women with support services, linkage to vocational-technical schools for literacy and basic skill training, and job placement assistance upon completion of the program.

STEP-UP of Women is a comprehensive nontraditional skills training program for women located in Vermont and New Hampshire. STEP-UP provides 13 weeks of training to 75 women each year, primarily in construction trades, such as carpentry, plumbing and welding. 80% of women completing the program are placed in jobs which provide further training through on-the-job training or apprenticeships. The program is funded by JTPA and Vocational Education funds.

Women Accessing Technology is a program of the Waukesha County Technical College in Wisconsin. The program assists women and high school girls to enter and complete technical training in fields such as Electronics and Telecommunications. WAT provides hands-on experience, as well as role model and employer contacts, career exploration and job shadowing.

Other examples of nontraditional employment skills training programs for women include: Bergen County Technical schools in Hackensack, NJ; ANEW in Renton, Washington; Nontraditional Employment for Women in New York City; Midwest Women's Center and Chicago Women in the Trades in Chicago; MiCasa in Denver; Women's Technical Institute in Boston; Prep, Inc. in Ohio; Women in the Skilled Trades (WIST) in Oakland, CA; and Women in Apprenticeship/Prep Inc. in San Francisco.

Major Supporting Organizations: The National Governors' Association, Wider Opportunities for Women, The National Tradeswomen's Network, the AFL/CIO, the Homebuilders Institute, the National Displaced Homemakers Network, the National Women's Law Center, Women Construction Owners and Executives, and the New York and Ohio State Employment Bureaus.

Mr. GOODLING. Mr. Speaker, continuing my reservation of objection, I would merely say that the new act is the same as the old act, which the gentleman from California [Mr. MILLER] explained, that was passed in our committee last year and in the House. Unfortunately, it did not make it to the Senate.

I should point out that the Department of Labor does not oppose the act. They do have two concerns. One concern being that it is earmarking some more money, we have already earmarked $8 million of their $35 million, that we earmark another million and a half. And their second concern, of course, is one that we may hear about sometime. They do have some concern about the increased reporting requirements and the administrative costs for the State and local government.

So in case we get that message when we get back home after this kicks in, do not act as if we do not know anything about it. We will just have to come back and fix it.

Mr. MILLER of California. Mr. Speaker, if the gentleman will continue to yield, I would like to recognize the work of our colleague, the gentleman from Kentucky [Mr. PERKINS] for all of the work and effort that he put into bringing this legislation to this point.

Mr. GOODLING. Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

The Clerk read the Senate bill, as follows:

S. 367

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 "Nontraditional Employment for Women Act".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) over 7,000,000 families in the United States live in poverty, and over half of those families are single parent households headed by women;

(2) women stand to improve their economic security and independence through the training and other services offered under the Job Training Partnership Act;

(3) women participating under the Job Training Partnership Act tend to be enrolled in programs for traditionally female occupations;

(4) many of the Job Training Partnership Act programs that have low female enrollment levels are in fields of work that are nontraditional for women;

(5) employment in traditionally male occupations leads to higher wages, improved job security, and better long-range opportunities than employment in traditionally female-dominated fields;

(6) the long-term economic security of women is served by increasing nontraditional employment opportunities for women; and

(7) older women reentering the work force may have special needs in obtaining training and placement in occupations providing economic security.

(b) STATEMENT OF PURPOSE.—The purposes of this Act are—

(1) to encourage efforts by the Federal, State, and local levels of government aimed at providing a wider range of opportunities for women under the Job Training Partnership Act;

(2) to provide incentives to establish programs that will train, place, and retain women in nontraditional fields; and

(3) to facilitate coordination between the Job Training Partnership Act and the Carl

D. Perkins Vocational and Applied Technology Education Act to maximize the effectiveness of resources available for training and placing women in nontraditional employment.

SEC. 3. DEFINITION.

Section 4 of the Job Training Partnership Act (hereinafter referred to as the "Act") is amended by adding at the end thereof the following new paragraph:

"(30) The term 'nontraditional employment' as applied to women refers to occupations or fields of work where women comprise less than 25 percent of the individuals employed in such occupation or field of work.".

SEC. 4. SERVICE DELIVERY AREA JOB TRAINING PLAN.

Section 104(b) of the Act is amended—

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

(2) by inserting after paragraph (4) the following new paragraph:

"(5) goals for—

"(A) the training of women in nontraditional employment; and

"(B) the training-related placement of women in nontraditional employment and apprenticeships;

and a description of efforts to be undertaken to accomplish such goals, including efforts to increase awareness of such training and placement opportunities;"; and

(3) in paragraph (12), as redesignated in paragraph (1) above, by—

(A) striking "and" at the end of subparagraph (B);

(B) striking the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon; and

(C) adding after subparagraph (C) the following new subparagraphs:

"(D) the extent to which the service delivery area has met its goals for the training and training-related placement of women in nontraditional employment and apprenticeships; and

"(E) a statistical breakdown of women trained and placed in nontraditional occupations, including—

"(i) the type of training received, by occupation;

"(ii) whether the participant was placed in a job or apprenticeship, and, if so, the occupation and the wage at placement;

"(iii) the participant's age;

"(iv) the participant's race; and

"(v) information on retention of the participant in nontraditional employment.".

SEC. 5. GOVERNOR'S COORDINATION AND SPECIAL SERVICES PLAN.

(a) IN GENERAL.—Section 121(b) of the Act is amended by—

(1) redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), respectively; and

(2) by inserting after paragraph (2) the following new paragraph:

"(3) The plan shall include goals for—

"(A) the training of women in nontraditional employment through funds available under the Job Training Partnership Act, the Carl D. Perkins Vocational and Applied Technology Education Act, and other sources of Federal and State support;

"(B) the training-related placement of women in nontraditional employment and apprenticeships;

"(C) a description of efforts to be undertaken to accomplish such goals, including efforts to increase awareness of such training and placement opportunities; and

"(D) a description of efforts to coordinate activities provided pursuant to the Job Training Partnership Act and the Carl D. Perkins Vocational and Applied Technology Education Act to train and place women in nontraditional employment.".

(b) SPECIAL PROGRAMS.—Section 121(c) of the Act is amended by—

(1) redesignating paragraphs (9) and (10) as paragraphs (10) and (11), respectively; and

(2) inserting after paragraph (8) the following new paragraph:

"(9) providing programs and related services to encourage the recruitment of women for training, placement, and retention in nontraditional employment;".

SEC. 6. STATE JOB TRAINING COORDINATING COUNCIL.

Section 122(b) of the Act is amended by—

(1) redesignating paragraphs (5), (6), (7), and (8) as paragraphs (9), (10), (11), and (12), respectively; and

(2) inserting after paragraph (4) the following new paragraphs:

"(5) review the reports made pursuant to subparagraphs (D) and (E) of section 104(b)(12) and make recommendations for technical assistance and corrective action, based on the results of such reports;

"(6) prepare a summary of the reports made pursuant to subparagraphs (D) and (E) of section 104(b)(12) detailing promising service delivery approaches developed in each service delivery area for the training and placement of women in nontraditional occupations, and disseminate annually such summary to service delivery areas, service providers throughout the State, and the Secretary;

"(7) review the activities of the Governor to train, place, and retain women in nontraditional employment, including activities under section 123, prepare a summary of activities and an analysis of results, and disseminate annually such summary to service delivery areas, service providers throughout the State, and the Secretary;

"(8) consult with the sex equity coordinator established under section 111(b) of the Carl D. Perkins Vocational and Applied Technology Education Act, obtain from the sex equity coordinator a summary of activities and an analysis of results in training women in nontraditional employment under the Carl D. Perkins Vocational and Applied Technology Education Act, and disseminate annually such summary to service delivery areas, service providers throughout the State, and the Secretary;".

SEC. 7. STATE EDUCATION COORDINATION AND GRANTS.

(a) STATE EDUCATION COORDINATION AND GRANTS.—Section 123(a) of the Act is amended by—

(1) striking "and" at the end of paragraph (2);

(2) striking the period at the end of paragraph (3) and inserting in lieu thereof a semicolon and "and"; and

(3) inserting the following new paragraph at the end thereof:

"(4) to provide statewide coordinated approaches, including model programs, to train, place, and retain women in nontraditional employment.".

(b) USE OF FUNDS.—Section 123(c) is amended—

(1) in paragraph (2)(B) by striking "(1) and (3)" and inserting in lieu thereof "(1), (3), and (4)"; and

(2) in paragraph (3) by striking "(1) and (3)" and inserting in lieu thereof "(1), (3), and (4)".

SEC. 8. USE OF FUNDS.

Section 204 of the Act is amended by—

(1) redesignating paragraphs (27) and (28) as paragraphs (28) and (29), respectively; and

(2) inserting after paragraph (26) the following new paragraph:

"(27) outreach, to develop awareness of, and encourage participation in, education, training services, and work experience programs to assist women in obtaining nontraditional employment, and to facilitate the retention of women in nontraditional employment, including services at the site of training or employment,".

SEC. 9. DEMONSTRATION PROGRAMS.

Part D of title IV of the Act is amended by adding at the end thereof the following new section:

"DEMONSTRATION PROGRAMS

"Sec. 457. (a)(1) From funds available under this part for each of the fiscal years 1992, 1993, 1994, and 1995, the Secretary shall use $1,500,000 in each such fiscal year to make grants to States to develop demonstration and exemplary programs to train and place women in nontraditional employment.

"(2) The Secretary may award no more than 6 grants in each fiscal year.

"(b) In awarding grants pursuant to subsection (a), the Secretary shall consider—

"(1) the level of coordination between the Job Training Partnership Act and other resources available for training women in nontraditional employment;

"(2) the extent of private sector involvement in the development and implementation of training programs under the Job Training Partnership Act;

"(3) the extent to which the initiatives proposed by a State supplement or build upon existing efforts in a State to train and place women in nontraditional employment;

"(4) whether the proposed grant amount is sufficient to accomplish measurable goals;

"(5) the extent to which a State is prepared to disseminate information on its demonstration training programs; and

"(6) the extent to which a State is prepared to produce materials that allow for replication of such State's demonstration training programs.

"(c)(1) Each State receiving financial assistance pursuant to this section may use such funds to—

"(A) award grants to service providers in the State to train and otherwise prepare women for nontraditional employment;

"(B) award grants to service delivery areas that plan and demonstrate the ability to train, place, and retain women in nontraditional employment; and

"(C) award grants to service delivery areas on the basis of exceptional performance in training, placing, and retaining women in nontraditional employment.

"(2) Each State receiving financial assistance pursuant to subsection (c)(1)(A) may only award grants to—

"(A) community based organizations,

"(B) educational institutions, or

"(C) other service providers,

that have demonstrated success in occupational skills training.

"(3) Each State receiving financial assistance under this section shall ensure, to the extent possible, that grants are awarded for training, placing, and retaining women in growth occupations with increased wage potential.

"(4) Each State receiving financial assistance pursuant to subsection (c)(1)(B) or (c)(1)(C) may only award grants to service delivery areas that have demonstrated ability or exceptional performance in training, placing, and retaining women in nontraditional employment that is not attributable or related to the activities of any service provider awarded funds under subsection (c)(1)(A).

"(d) In any fiscal year in which a State receives a grant pursuant to this section such State may retain an amount not to exceed 10 percent of such grant to—

"(1) pay administrative costs,

"(2) facilitate the coordination of statewide approaches to training and placing women in nontraditional employment, or

"(3) provide technical assistance to service providers.

"(e) The Secretary shall provide for evaluation of the demonstration programs carried out pursuant to this section, including evaluation of the demonstration programs' effectiveness in—

"(1) preparing women for nontraditional employment, and

"(2) developing and replicating approaches to train and place women in nontraditional employment.".

SEC. 10. REPORT AND RECOMMENDATIONS.

(a) REPORT.—The Secretary of Labor shall report to the Congress within 5 years of the date of enactment of this Act on—

(1) the extent to which States and service delivery areas have succeeded in training, placing, and retaining women in nontraditional employment, together with a description of the efforts made and the results of such efforts; and

(2) the effectiveness of the demonstration programs established by section 457 of the Job Training Partnership Act in developing and replicating approaches to train and place women in nontraditional employment, including a summary of activities performed by grant recipients under the demonstration programs authorized by section 457 of the Job Training Partnership Act.

(b) RECOMMENDATIONS.—The report described in subsection (a) shall include recommendations on the need to continue, expand, or modify the demonstration programs established by section 457 of the Job Training Partnership Act, as well as recommendations for legislative and administrative changes necessary to increase nontraditional employment opportunities for women under the Job Training Partnership Act.

SEC. 11. DISCRIMINATION.

(a) For purposes of this legislation, nothing in this Act shall be construed to mean that Congress is taking a position on the issue of comparable worth.

(b) Nothing in this Act shall be construed to require, sanction or authorize discrimination in violation of title VII of the Civil Rights Act of 1964 or any other Federal law prohibiting discrimination on the basis of race, color, religion, sex, national origin, handicap, or age. No individual shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in any program under this Act because of race, color, religion, sex, national origin, age, handicap, political affiliation or belief. Failure to meet the goals in the Act shall not itself constitute a violation of title VII of the Civil Rights Act of 1964 or any other Federal law prohibiting discrimination on the basis of race, color, religion, sex, national origin, handicap, or age.

SEC. 12. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect upon the date of enactment of this Act, except that the requirements imposed by sections 4, 5, and 6 of this Act shall apply to the plan or report filed or reviewed for program years beginning on or after July 1, 1992.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed.

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

There was no objection.

□ 0420

ABANDONED INFANTS ASSISTANCE ACT AMENDMENTS OF 1991

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1532) to revise and extend the programs under the Abandoned Infants Assistance Act of 1988, and for other purposes, with a Senate amendment to the House amendments thereto, and agree to the Senate amendment to the House amendments.

The Clerk read the title of the Senate bill.

The Clerk read the Senate amendment to the House amendments, as follows:

On page 13, after line 14, of the House amendment to the text of the bill, insert:

SEC. (9) Amend Section 105 of the Older Workers Benefit Protection Act (PL 101-433) by striking the semicolon at the end of paragraph (b)(1) and inserting thereafter the following: "; or that is a result of pattern collective bargaining in an industry where the agreement setting the pattern was ratified after September 20, 1990, but prior to the date of enactment, and the final agreement in the industry adhering to the pattern was ratified after the date of enactment, but not later than November 20, 1990;' ".

Mr. MILLER of California (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment to the House amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. HOYER). Is there objection to the request of the gentleman from California?

There was no objection.

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

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 1532 the Senate bill just considered.

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

There was no objection.

CONFERENCE REPORT ON H.R. 2950, INTERMODAL SURFACE TRANSPORTATION INFRASTRUCTURE ACT OF 1991

Mr. ROE. Mr. Speaker, the final details are now being completed, and the conference report with proper signatures will be here momentarily. I ask unanimous consent that we proceed with the debate on the conference report on the bill (H.R. 2950) to develop a national intermodal surface transportation system, to authorize funds for construction of highways, for highway safety programs, and for mass transit programs, and for other purposes.

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

There was no objection.

The SPEAKER pro tempore. The gentleman from New Jersey [Mr. ROE] will be recognized for 30 minutes, and the gentleman from Arkansas [Mr. HAMMERSCHMIDT] will be recognized for 30 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. ROE].

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

Mr. Speaker, I want to thank my colleagues for their indulgence in allowing us to proceed because it will save time in the long run.

Mr. Speaker, I wish to thank all of the conferees who literally worked around the clock for weeks, especially my colleagues on the Public Works and Transportation Committee. I do want to pay the highest regard and special tribute to their leadership, particularly the gentleman from Arkansas, Mr. JOHN PAUL HAMMERSCHMIDT, our ranking member; the gentleman from California, Mr. NORM MINETA, the subcommittee chairman; the gentleman from Pennsylvania, Mr. BUD SHUSTER, the ranking member.

I also want to take this time publicly to thank Senator DANIEL PATRICK MOYNIHAN of New York and the other Senate conferees for their tremendous cooperation and support. If ever the Members of the House owed a great deal of praise and regard for a staff that has worked on this bill in the last 3 weeks, day and night, Saturdays and Sundays, 18 hours a day, I would like to highly compliment the staff of the Public Works Committees of both the House and the Senate who have made it possible for us to arrive at this point.

Mr. Speaker, I am proud to present to the House, on behalf of the Committee on Public Works and Transportation and on behalf of the 92 conferees, the Intermodal Surface Transportation Efficiency Act of 1991, a bipartisan bill that will stand as the centerpiece of our domestic and economic agenda for years and decades.

Tonight on this floor we are marking the start of a new transportation era for America. We are bringing to this

House a surface transportation policy bill, an economic agenda, an environmental program and an energy conservation measure, that will touch the life of every American. We are starting to rebuild America.

I wish to thank all of the conferees who have literally worked around the clock for weeks, especially my colleagues on the Public Works and Transportation Committee. I want to pay special tribute to the other members of the committee leadership with whom I have worked so closely during the last few months: JOHN PAUL HAMMERSCHMIDT of Arkansas, NORMAN MINETA of California and BUD SHUSTER of Pennsylvania.

I also want to thank Senator DANIEL PATRICK MOYNIHAN of New York and the other Senate conferees for their tremendous cooperation and support.

All of us in the House owe a tremendous thanks to the staff of the Public Works and Transportation Committee. They have worked on this bill in a totally bipartisan manner for more than 2 years and virtualy continuously for 7 months to get this job done. This has been a humongous job and the staff has risen to the occasion.

Working together, we have produced a bill that will meet the vast and varied surface transportation needs of the entire Nation.

First and foremost, every State will receive back 90 cents on the dollar from the highway trust fund. We labored for 3 weeks over this issue because it is one of simple fairness and equity to all the States. We have worked to balance the interests of all the States: The donor States, the rural States, the urban States, the growth States.

With this bill we are rebuilding America. We will have an increased investment of 46 percent in our Nation's highways and bridges, and a virtual doubling of the Nation's transit commitment.

Never before has there been the enormous investment that this bill authorizes, directs and promotes. It will have a huge impact on the economic dynamics of the entire Nation. Our people need transportation, they need jobs, they need clean air. This bill will bring about a better transportation system through intermodalism, it will result in better coordination with environmental needs and it will improve the quality of life.

The overriding question is what kind of America will we have? How do our people get to their jobs, to their schools, to commercial areas, to airports and to ports? How do we invest in our infrastructure to develop a national intermodal transportation system for the future as we enter the 21st century? We must build on the successful efforts of the past but we must also move in bold and audacious new directions in transportation policy.

This bill is more than a highway bill, it is more even than a surface transportation bill. There is nothing more important today than the economic condition of the Nation. We are bringing before the House an economic program that will create 2 million real jobs for Americans. These are real jobs that are creating the new wealth of the Nation for the 21st century through investment in the transportation infrastructure.

This bill is an investment in the economic and environmental future of America. Everyone here should be aware that there is no more important legislation in this Congress for the quality of life of all Americans than this transportation policy bill.

This legislation will have a dynamic economic effect on America. We will be creating jobs—real jobs. We will be investing in our Nation and we will be preparing for competition in the global economy.

It is time our Nation made this major and significant commitment to upgrading our transportation infrastructure. Our foreign rivals, Germany, France, and Italy have all been engaged in major infrastructure investment programs that have led to significant productivity growth. Japan has embarked on a 10-year, $3.2 trillion infrastructure investment campaign, Taiwan on a 6-year, $300 billion campaign.

We are using the optimum resources of the highway trust fund to put trust back in the trust fund by spending down the balance. Durings the 6 years of the bill, the balance in the highway account will be reduced from $11.4 to $2.3 billion. Most importantly, we are using the American taxpayers' transportation funds for transportation purposes and not for shielding the public deficit. We are rebuilding America.

This bill meets the transportation needs of every part of our Nation: Urban, suburban, and rural. We have worked throughout the year on a bipartisan basis to emphasize flexibility, equity and balance. We ask the support of the Members of this House for this new transportation policy for the Nation, a policy that will provide the direction to lead our Nation into the 21st century.

A list of conferees follows:

PUBLIC WORKS AND TRANSPORTATION COMMITTEE CONFEREES

Mr. Roe, Mr. Anderson, Mr. Mineta, Mr. Oberstar, Mr. Nowak, Mr. Rahall, Mr. Applegate, Mr. de Lugo, Mr. Savage, Mr. Borski, Mr. Kolter, Mr. Hammerschmidt, Mr. Shuster, Mr. Clinger, Mr. Petri, Mr. Packard, Mr. Boehlert, and Mrs. Bentley.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, I rise in strong support of the conference report to accompany H.R. 2950, the Intermodal Surface Transportation Efficiency Act of 1991.

I want to thank all of the 92 conferees from both bodies for their dedication, hard work, and determination to make certain that we reached agreement on a bill that would be acceptable to both Houses and could be sent to the President for his signature.

I especially want to commend my good friend, BOB ROE, chairman of the Public Works and Transportation Committee and chairman of the conference; Surface Transportation Subcommittee Chairman NORM MINETA; and the subcommittee's ranking member, BUD SHUSTER, for their tremendous leadership, perseverance, and cooperative effort in helping bring the conference to a highly successful conclusion. I also add my deepest appreciation to our very professional and dedicated staff.

Mr. Speaker, I am pleased that the conference agreement retains the strengths of the bill passed by the House on October 23. As we provided in the House bill, the conference agreement authorizes $151 billion over 6 years to move the Nation's vitally important Surface Transportation Program forward.

Mr. Speaker, in addition to that this is a jobs bill.

According to the Department of Transportation funding the program at these levels could create up to 4 million jobs. And it's going to happen at an opportune time in our Nation's economic slow down.

The conference agreement also provides for the creation of a 155,000-mile National Highway System, which will include the Interstate System and principal arterial routes, and it funds this new program at the more adequate levels proposed by the House.

This conference agreement also recognizes that many highway corridors were left off the interstate map when it was first drawn. Therefore, the National Highway System will include major transportation corridors that provide the highest level of service and carry the greatest amount of traffic.

As we invest in the Nation's surface transportation infrastructure through this agreement, we will also be spending down the balance in the highway trust fund to about $2.5 billion in fiscal year 1997.

The conference agreement goes to considerable lengths to provide greater equity in the apportionment of funds. It raises from 85 to 90 percent the return that States receive relative to what they contribute to the highway trust fund.

In addition, the agreement provides minimum allocation States with bonus minimum allocation funds, and it provides funds where necessary to ensure that such States receive at least a 90 percent return on their trust fund contributions. Hold harmless funds are also provided to assure that a State's fiscal year 1992 funding level does not fall below its fiscal year 1991 level.

Clearly, the conferees made every effort to provide equity in the distribu-

tion of trust fund dollars. And it is important that the Members of this body realize that while some States still may want more than they will be receiving under the agreement, the funding in the bill provides States with a 46-percent increase over the next 6 years relative to the funding they have received over the past 5 years.

This conference committee fully realized the pressing transportation infrastructure needs that exist all over the Nation. I believe that we have provided a strong response in H.R. 2950, and I urge my colleagues to support it.

Mr. Speaker, I would like to take this opportunity to clarify the provision in the bill authorizing high priority cooridors through several States. The table printed in the bill describing the corridor segments lists the States associated with the project. There has been some confusion as to whether this listing somehow prejudices the alignment of the corridor.

Let me give you an example. One of the corridors in the bill is the North-South corridor from Kansas City, MO, to Shreveport, LA. A segment of this corridor from Alma, AR, to the Louisiana border is designated for special funding. The chart lists Texas and Arkansas for this segment.

This does not mean, however, that the alignment must go through Texas to reach the Louisiana border. The corridor ultimately selected could be entirely in Arkansas. There is no requirement that the route go through Texas. The decision on the best alignment for the route is left to the States of Arkansas, Texas, and Louisiana, working cooperatively with the Department of Transportation.

A similar situation exists with respect to the avenue of the Saints. Even though the chart lists three States for this corridor project, this in no way precludes the selection of an alignment which traverses States not listed in the chart.

The listing of States in the charts accompanying the high priority corridors and other projects are not binding and do not prevent States from choosing the best alignments for the projects.

In any event, the corridor program is an important one. I am especially aware of what the upgrading of these corridors can mean to areas of the country undergoing tremendous growth and expansion.

Northwest Arkansas, for example, has experienced such rapid growth that the existing highway system is simply inadequate to meet the demand.

That is why the high priority corridor designation of the North-South Highway 71 corridor from Shreveport to Kansas City and the Highway 412 corridor from Tulsa to Nashville, through Arkansas, is so very important. As such, there 2 routes will be eligible for funding over and above Arkansas' normal apportionments and, thus, construction on them can be expedited.

The conference agreement also authorizes funding for other important Arkansas projects as well. These include a four-lane highway for Harrison to the Missouri line and the extension of Phoenix Avenue in Fort Smith.

An important study is authorized to examine alternate locations for traffic flow on and around Highway 71 in the Bella Vista area.

Funding is also provided for the Devalls Bluff Bridge replacement project over the White River and for the Mississippi Great River Bridge. Needed interchange work at Jonesboro will be able to go forward, as well as construction on the North Belt Freeway in Little Rock.

The conference agreement names the University of Arkansas at Fayetteville as the site of a new National Rural Transportation Study Center, where research and training will be conducted in the development and operation of rural intermodal transportation systems.

Funds will be made available to purchase a needed handicapped-accessible, electrically powered bus for the Eureka Springs Transit System.

The agreement also authorizes the Department of Transportation to test luminous all-weather safety markers, and it permits the State of Arkansas to train county, city and town traffic officials in the use of uniform traffic control devices.

Mr. Speaker, the conference report also includes provisions to modify certain stormwater permit application deadlines established pursuant to the Clean Water Act. This section focuses on municipally owned or operated stormwater discharges associated with industrial activity. It codifies various deadlines established by EPA in its most recent rulemaking for permit applications for industrial operations owned or operated by certain municipalities.

It also modifies certain regulatory requirements set out by EPA. For example, municipalities with populations of less than 100,000 would not be required to apply for permits for stormwater discharges associated with industrial activities except for power plants, uncontrolled sanitary landfills, and airports. The provision also establishes a new statutory deadline for part II group applications for stormwater discharges associated with industrial activities owned or operated by a municipality.

The conference report, however, does not address any permit requirements or deadlines for stormwater discharges associated with industrial activities not owned or operated by municipalities. In my view, this is unfortunate. At the very least, it requires some clarification.

First of all, our decision to focus on municipal discharges does not reflect a lack of concern about the regulatory impacts imposed upon privately owned industries. In fact, a large number of these non-municipal dischargers are small businesses that have limited resources and are relying heavily on group applications or general permits to achieve compliance. It is important that we not lose sight of the regulatory burdens industries will face under the stormwater permitting regime.

It is also important to note, Mr. Speaker, that nothing in the conference report affects most of the dates for submitting stormwater permit applications established in EPA's recent rulemaking published in the Federal Register on November 5, 1991. The rulemaking extended the application deadlines for industries owned or operated by municipalities and those privately owned industries discharging into municipal storm systems. The conference report, while silent on the deadlines for these privately owned industries, is not intended to override the dates established in EPA's rulemaking action.

Nor, Mr. Speaker, is anything in the legislation intended to prejudice or in any manner affect existing litigation, including *Natural Resources Defense Council* v. *U.S. EPA*, case No. 90-70671 and 91-70200 (9th Cir., 1990).

The conference report includes provisions from both the House- and Senate-passed bills relating to wetlands mitigation banks. The legislation authorizes the use of Federal transportation funds for wetlands conservation, restoration, and creation efforts—including the establishment and use of mitigation banks.

The legislation adds some important new authorities to strengthen wetlands protection efforts. For example, State and Federal transportation officials will now have greater opportunities to protect, conserve, and restore our Nation's existing wetlands base while meeting transportation needs.

The conference report will help to encourage further development and use of wetlands restoration and creation efforts. The science of wetlands creation is not without controversy. This legislation, however, will help to provide funds and authorities to explore more opportunities but without waiving any applicable Federal Laws or regulations.

The conference report does not include provisions from the Senate-passed bill relating to the protection of private property rights. From my perspective, this is regrettable; the provisions could have helped to ensure greater deference by Federal regulatory agencies to rights guaranteed by the fifth amendment—particularly in the arena of wetlands regulation under section 404 of the Clean Water Act.

It is important to note that many conferees agreed to delete the provisions primarily because of procedural obstacles or concerns in the final days of the first session. The conference on

H.R. 2950 simply was not the best forum to address, at least in a comprehensive manner, this emerging issue of critical importance.

Reauthorization of the Clean Water Act, which I would hope includes revisions to the section 404 wetlands regulatory program, may present a more appropriate context. I look forward to this opportunity next session, and I think a majority of Members in this body does as well.

I am also pleased to note that this conference report includes the Washington airports legislation in exactly the same form as it passed the House last week. This legislation revises the governing structure of the Metropolitan Washington airports authority to resolve constitutional concerns raised by the Supreme Court.

As revised, the airports board of review will become an advisory board that will monitor certain activity at the two airports and screen those actions that are worthy of further congressional consideration. Passage of this legislation now is important, since it will ensure that the capital improvement programs at National and Dulles Airports can move forward without interruption.

Mr. Speaker, this legislation, in its entirety, deserves the support of my colleagues, and I urge its approval.

□ 0430

Mr. ROE. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. MINETA], the Chairman of the Subcommittee on Surface Transportation of the Committee on Public Works and Transportation.

I might say to all our colleagues here, that he has done an extraordinarily good job on this bill over the last 2 years. I want to commend the gentleman for the great work he has done for our country.

Mr. MINETA. Mr. Speaker, as everyone well knows, the hour is early and we want to get on with the conference report.

I have got to say that there is nothing that I have been connected with than the Civil Liberties Act of 1988 that I can say I have had more pride in putting together and working with a very fine group, and that is the Intermodal Surface Transportation Infrastructure Act of 1991, working with the likes of the chairman, the gentleman from New Jersey [Mr. ROE], a dedicated, hard-driving person who looks into the details of the bill, with the very fine gentleman from Arkansas [Mr. HAMMERSCHMIDT], the ranking Republican on the full Committee on Public Works, and with the gentleman from Pennsylvania [Mr. SHUSTER], probably the most knowledgeable person in the House of Representatives when it comes to surface transportation law.

Two-and-one-half-years ago when the members of the Public Works and Transportation Committee elected me to chair the Subcommittee on Surface Transportation, I knew that we had two challenges. One was to arrest the decay of infrastructure in the United States, and the other was to get a bill together that would take us into the 21st century after the completion of the interstate era, so we have done that. For 2½ years we have held hearings across the country. We have listened to people about what they want in their transportation system and what they think they need in the transportation system.

Mr. Speaker, once again, I would like to commend you for your leadership on this issue.

Many of my committee colleagues have heard me say that the House and Senate surface transportation bills were, at one time, like two ships passing in the night.

They were indeed very different.

I do believe, however, that the House and Senate conferees have been able to construct a single 6-year vision for America that will in fact build an innovative and effective transportation network second to none in the world.

As chair of the Surface Transportation Subcommittee, I have spent much of the last 2½ years traveling throughout America, holding hearings, and listening to what the American people want and what their transportation needs are.

My conclusion:

The highways, bridges, and transit systems of the United States have fallen apart because the Federal Government has fallen down on the job and has tried to get States and localities to pick up the tab to fix the mess.

And the message to this Congress could not be more clear:

The cold war is over.

America and freedom won that war.

It is now time to build American roads and transit systems—not American bombers.

In the future, the security of this Nation will depend less on how fast an ICBM travels to the former Soviet Union and more on how fast commerce travels through our transportation network.

Our transportation network is an integral part of our economy and, therefore, our national security.

It is now absolutely essential that America do more than reverse the collapse of our annual transportation investment from 2.3 percent of our gross national product in the 1960's and 1970's to four-tenths of 1 percent from the 1980's to this very day.

That is why we must begin, today, here in this Congress, to build a new transportation age in America.

This conference report embodies a program to rebuild America not the way some faceless bureaucrats in Washington, DC, dictate it, but the way the American people are demanding that it be rebuilt—through us, the Congress.

That is the way it should be.

And that is the way it is in our 6-year, $151 billion plan for America.

This legislation is a genuine new transportation policy for America, and a tremendous investment in our future.

The flexibility designed into this law is unprecedented, and of particular importance to States like my home of California which will grow enormously in the balance of this century, and into the next.

Mr. Speaker, I am also pleased that we were able to include titles addressing our serious highway safety and motor carrier needs.

Studies call for transportation investments of up to $3 trillion during the next 20 years. We can differ about the final cost, but to me there are no more universal truths than these:

First, the transportation needs are there.

Second, how we spend the money we have is at least as important as how much money we spend.

Mr. Speaker, this conference report takes the best of the House and Senate bills and will get the job done.

The final legislation retains the integrity of the proposed National Highway System while enhancing the role of the local officials and metropolitian planning organizations.

Mr. Speaker, I must say at this point that I regret that the conference was unable to accept the state allocation formulas detailed in the House bill.

I believe that these formulas represented a fair return on the highway trust fund contributions of donor States.

However, the conference report does provide States with unprecedented funding levels and flexibility.

During the last 5 years, our Nation spent $86 billion on our National Highway Program.

During the next 6 years, our legislation provides more than $119 billion to make our roads and bridges ready for the 21st century.

As importantly, our legislation authorizes transit funding levels which doubles the wholly inadequate funding levels we have known in the past.

This is a tremendous victory in our efforts to meet the requirements of the Clean Air Act, relieve congestion, and encourage new energy alternatives.

And perhaps most important, Mr. Speaker, this legislation comes at a time when it is desperately needed—both in terms of our infrastructure, and for our Nation's economic health.

At a time when the White House continues to deny the effects of the economic recession, we have before us legislation that will create 2 million jobs over the next 6 years.

And while the people of 1600 Pennsylvania Avenue haven't seen or felt the effects of the recession, Mr. Speak-

er, you have only to ask the people of Bethlehem, PA, if there is a recession.

Or the people of Chicago.

Or the people of Lafayette, LA.

Or the people of San Jose, CA.

They will tell you that our economy is hurting.

They will tell you that America needs this legislation, and we need it now.

Mr. Speaker, this legislation will improve how Americans get from here to there, as well as the air we breathe, our quality of life, and the future of our economy.

Mr. Speaker, America deserves nothing less.

I urge my colleagues to support the conference report on H.R. 2950.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania [Mr. SHUSTER], the distinguished ranking member of the subcommittee.

Mr. SHUSTER. Mr. Speaker, just as the American people looked back to the creation of the Interstate System a half century ago and see it as the very foundation upon which our transportation system was built in this century, the American people in the 21st century will look back to what we do here today as the foundation upon which an integrated transportation system will be built for the next century.

In fact, today we here create a national highway system for America, building on the Interstate System, adding about 110,000 additional miles and integrating a transportation system not only with highways, but with transit as well.

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Here today we have the opportunity to make a major investment in the future of America and, yes, most of the money comes out of the highway trust fund, which means we are not adding to the deficit in the general fund.

One of the few programs here in Washington that we can say is financed on a pay-as-you-go basis.

Mr. Speaker, I certainly should emphasize that this has been a bipartisan effort from the very beginning. Chairman ROE, Chairman MINETA, Congressman HAMMERSCHMIDT, we have all worked together. We have been full partners on both sides of the aisle to craft this legislation.

Mr. Speaker, this afternoon it was announced that the President of the United States does support this bill and he will sign this bill.

Beyond the transportation implications for our country, it is of enormous importance to note that a minimum of 2 million jobs will be created directly by this legislation and perhaps another 2 million on top of that. But if you just take the 2 million jobs and look at a very small State, say a State that gets only 1 percent of the fund from this bill, 1 percent of 2 million jobs is 20,000 jobs, in a small State. Certainly, if there were ever any time when we need this kind of a jobs program that is going to rebuild America and help get this economy moving, now is that time.

Mr. Speaker, I can tell you that the conferees fought very hard to preserve the projects in this bill, and we succeeded in doing that. We preserved the projects which are so important to the Members across America. While those projects represent only 3.3 percent of the dollars in the bill, I know for our colleagues across America those projects are significant, and indeed it is right and proper that the elected Representatives of the people should be able to have some say in what gets built back in their congressional districts.

The faceless, nameless bureaucrats will be making most of the decisions, but it is right that Members be able to say what is most important in their district. Your conferees have preserved that right.

Mr. Speaker, I do not agree with everything in this bill. If I were writing it myself, I would have done some things differently.

It is said that one of the colleagues of John Adams criticized him because they said he fret the extremities without ever focusing on the heart of the matter. I am sure virtually every one of us can fret about some of the provisions in this bill, but more important than fretting about the extremities, I hope we focus on the heart of the legislation, which is: building a fundamental transportation system for America and creating jobs.

Mr. Speaker, I would be derelict if I did not emphasize to the House tonight that our staff on both sides of the aisle performed absolutely magnificently. Led by Jack Doyle and Jack Schenendorf the entire staff worked night and day and weekends.

While we like to think we as conferees work hard, I can tell you they worked much, much harder than we did. So we bring to you today legislation that, indeed, is historic in nature, and we urge you to vigorously support this historic bill.

Mr. ROE. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. ROYBAL].

Mr. ROYBAL. Mr. Speaker, I rise in support of the conference report.

Mr. Speaker, I rise in support of the conference agreement on the Surface Transportation Assistance Act. I would like to commend Chairman ROE, the ranking minority member, Congressman HAMMERSCHMIDT and all the conferees on their efforts in crafting an excellent final conference report. This report provides flexibility for State and local officials to transfer highway funds to mass transit in areas such as Los Angeles, where unfettered highway construction is clearly not the answer to congestion and gridlock.

I especially want to extend my support to the provisions which authorize the construction of the third segment of the Los Angeles Metro Rail Red Line project, and in particular, the east side extension. The eastern extension will bring metro rail into east Los Angeles for the first time and plan for improved rail transit services to the eastern communities of Los Angeles County as well. In addition, these provisions authorize extensions into the San Fernando Valley and provide for service into west Los Angeles without having to excavate through a methane gas risk zone. An overall amount of $1.2 billion will be divided among the three segments of the MOS–3 portion of the Los Angeles Metro Rail system. With an immediate amount of $695 million available and an additional $535 million in advance construction funds, this long-awaited project will bring metro rail to several communities by 2001.

This extension to east Los Angeles will truly provide a much-needed means of transportation to neighborhoods that have been vastly underserved in the past. With several studies already completed, the estimated ridership for the combined segments serving east and west Los Angeles is well over 360,000 passengers. In east Los Angeles, there is a dire need to upgrade transportation services. As part of a major travel corridor which crosses the city of Los Angeles and unincorporated portions of Los Angeles County, the "east side corridor" encompasses such important areas as the central business district on the west, I–10—the San Bernardino Freeway—on the north, Garfield Boulevard on the east and I–5—the Santa Ana Freeway—on the south. Since 1987, the population on the east side has increased by almost 9 percent, three times the regional growth rate. This creates an even higher demand for transit. At the present time, there are more than 56,000 daily east side bus trtansit boardings, far exceeding the Federal minimum of 15,000 riders required to demonstrate a need for rail transit. Individuals traveling to and from the east side must use heavily congested streets and freeways to reach their jobs and on their return home, further adding to the delay and gridlock of this massively overburdened transportation system. Additionally, the east side is already slated for improvements under the Southern California Association of Governments' Regional Mobility Plan.

Improved transit service will reduce travel times and thereby increase availability of regional connections and socio-economic opportunities for east Los Angeles residents. These benefits will include job, education, medical, shopping, and cultural opportunities. As a representative of a district that is very dependent on public mass transit systems, I feel that this legislation strongly addresses the specific transportation needs of all segments of the diverse communities that make up the Los Angeles area. In additon to the transportation benefits derived by our citizens, this legislation will play a vital role in relieving the problems of air quality and congestion that plague our area.

I am proud to have developed, along with my colleagues in surrounding districts, a unified effort to keep all portions of this interrelated project intact both in construction and

funding, thus ensuring that east Los Angeles and other communities will share in the advantages that this system will bring. The invaluable input, concern, and assistance from community organizations and from the Los Angeles County Transportation Commission has helped to develop an excellent foundation for continued neighborhood participation in this profound public endeavor. I wholeheartedly extend my support and will continue to work for completion of this transportation initiative that is of such critical importance to both my constituents and all the residents of Los Angeles. I would also urge my colleagues to vote in favor of this conference report.

Mr. ROE. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. BORSKI].

Mr. BORSKI. Mr. Speaker, I rise in strong support of the conference report.

Mr. Speaker, I want to join my fellow conferees in strong support of the conference report on H.R. 2950, the Intermodal Surface Transportation Efficiency Act of 1991.

I want to commend Chairman BOB ROE and NORM MINETA, and the ranking Republicans JOHN HAMMERSCHMIDT and BUD SHUSTER, for their strong leadership in crafting this visionary legislation which will guide America's transportation future into the 21st Century.

What makes this legislation revolutionary is its dramatic shift toward public transit. Never before has Congress made such a strong commitment to transit.

The legislation authorizes $31.5 billion over a 6-year period for public transit, virtually doubling current levels of transit funding and reversing what has been a 10-year decline in transit spending.

But the commitment to public transit extends beyond dollars and cents to a fundamental change in the way we view transit and its relationship to the entire transportation system.

Earlier this year, when Transportation Secretary Skinner testified before the Public Works and Transportation Committee, I asked him why the Urban Mass Transit Administration [UMTA] was not identified as a Federal agency of national scope, as is the case for the Federal Aviation Administration, the Federal Highway Administration, and other agencies which regulate modes of transportation.

My point was simple. Strong public transit is critically important to an integrated national transportation system. Transit is not simply an urban or city transportation system which receives Federal dollars but a system of travel warranting as much Federal attention as highways, aviation, rail, and water navigation.

H.R. 2950 recognizes that fact.

It renames UMTA the Federal Transit Administration.

H.R. 2950 also adopts a bold, new flexible funding program, enabling State and local officials to transfer almost two-thirds of Federal highway funds to transit to meet clean air requirements, reduce congestion, and to provide transportation services for working people and senior citizens.

This legislation places highways and transit on a level playing field by equalizing their Federal matching shares. This will remove incentives for States to build highways over transit, which has always received a smaller Federal match.

Finally, H.R. 2950 contains important provisions strengthening the role of Metropolitan Planning Organizations [MPO's] in project selection.

This will be of great benefit to public transit. MPO's understand the needs of our congested metropolitan areas and they will now have greater say in determining how best to use Federal transportation dollars in urbanized areas.

Clearly, H.R. 2950 represents a new commitment to public transit and one I am proud to support this legislation as a member of the Public Works and Transportation Committee.

No longer is public transit the big loser to highways in surface transportation funding. No longer is transit the ugly stepchild of Federal transportation policy. Instead, transit has finally become an equal member of the transportation family. That will benefit us all.

Mr. ROE. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia [Mr. PAYNE].

Mr. PAYNE of Virginia. Mr. Speaker, I too rise in strong support of the bill.

Mr. Speaker, I rise in support of the conference report and thank CHAIRMAN ROE, subcommittee chairman, NORM MINETA, and ranking minority members JOHN PAUL HAMMERSCHMIDT and BUD SHUSTER for their excellent work in this conference.

This legislation creates a comprehensive national transportation system that will move our Nation, our industries, and our people competitively into the 21st century.

It will help restore America's preeminence in the world economy.

In the long term, this important massive investment in our infrastructure will improve our productivity and make us tough competitors around the world in the next century.

In the short term, passage of this legislation will do more to stimulate the economy than any legislation we have considered in this session of Congress.

It will create nearly 2 million jobs—2 million badly needed jobs in today's tough economic times.

Mr. Speaker, this bill is a thoughtful and far-reaching blueprint for the Nation's transportation system.

And it is fair.

As a member of the committee from Virginia, a donor State, I can assure you that this bill will distribute funds more equitably than any previous transportation authorization.

My State, like other donor States, will receive a much greater portion of the money they have contributed to the highway trust fund.

The increased funding level and the fact that Virginia receives about 7 more cents back from each dollar it contributes to the trust fund means that Virginia, which has averaged $290 million per year, will receive about $425 million annually over the next 6 years.

This is good news for all Virginians and, indeed, for all Americans, since other States are being treated similarly.

This legislation will put Americans back to work immediately, and it will make America more competitive well into the future.

Mr. Speaker, this is a good bill for our State. It is a good bill for all Americans.

I urge my colleagues to support this important piece of legislation.

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

Mr. NOWAK. Mr. Speaker, I rise in strong support of the conference report on H.R. 2950, the Intermodal Surface Transportation Assistance Act of 1991.

This legislation provides a new, creative master plan that is balanced, to meet the transportation needs of the urban, suburban, and rural areas of our Nation.

This creative plan was the vision of the bipartisan leadership of our Committee on Public Works and Transportation—Chairman ROE, Subcommittee Chairman MINETA, the ranking minority members, Mr. HAMMERSCHMIDT and Mr. SHUSTER.

They are to be commended, not only for their dedication to this vision, but also for the limitless energy they displayed in forging this conference report during the last 15 days.

It was a herculean effort.

The result, however, is an epic piece of legislation that will enable our Nation to better meet its infrastructure needs.

This legislation certainly is a package aimed at better moving people and products across our Nation.

Certainly it is also a sorely needed job creating mechanism.

Most importantly, this legislation will enable our Nation to be more competitive in the new global marketplace.

This legislation will enable us to better meet the economic challenges that remain in this decade and that will confront us in the 21st century.

After long negotiations, the conferees achieved fairness for all States and flexibility for all States.

I urge my colleagues to support the conference report.

Mr. ROE. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, I rise in strong support of the conference report.

Mr. Speaker, I rise in support of this conference report and want to thank the distinguished chairman of the Subcommittee on Surface Transportation, Mr. MINETA, and the chairman of the Public Works and Transportation Committee, Mr. ROE, for supporting my efforts to secure several provisions affecting indians in this bill.

The legislation authorizes that over $1.1 billion be made available for the Indian Reservation Roads [IRR] Program during the next 6 years. This is a tremendous and long overdue increase in funding.

Indian tribes will be allowed direct access to moneys for bridge replacement and rehabilitation for the first time under this bill. Previously, tribes had to convince a State to designate a bridge on Indian land a priority over a State bridge in order to receive funding. This process resulted in a backlog of dangerous Indian bridges needing repair.

The bill mandates that States fully consult with appropriate tribal governments when developing State transportation plans, and allows

States to give Indian preference in hiring for construction of roads near reservations. Since it is not unlikely for a reservation to be suffering from 70, 80 percent, or even 90 percent unemployment, I hope several states will take advantage of this willing work force through this provision.

Up to 2 percent of the funds available under the IRR Program will be made available through contracts for tribes to develop and plan their road system. This provision along with one which includes tribes in training programs will give tribal governments the ability to become more involved and more educated in the process of choosing tribal priorities for future road construction.

This legislation will also allow the Bureau of Indian Affairs [BIA] to use up to 15 percent of IRR funds for the purposes of road sealing, a very important process which greatly extends the life of a road. I want to point out, however, that these funds are only made available to BIA provided that BIA continues to retain responsibility, including annual funding request for road maintenance programs on Indian Reservation Roads. The BIA knows better then most the horrendous condition of existing Indian roads and the enormous need for new road construction. Funds made available from the highway trust fund is for construction purposes and not to be used for maintaining existing roads nor should that money be used by the administration as an excuse not to fund road maintenance in future budget requests as has been rumored.

The Secretary of Transportation is directed to conduct a study on inequities which exist between Indian Reservation Roads and other highway systems and report to Congress on recommendations to address those inequities. As part of the Federal trust responsibility toward Indian tribes, the Department of Transportation is in a perfect position to address past mistakes in the Indian Roads Program and I look forward to the submission of this report.

Mr. Speaker, these are just some of the provisions in this legislation which will affect Indian tribes and their lands. I believe that enactment of this legislation will afford tribes new opportunities to work with States in partnership agreements to build a safe and adequate transportation system so that Indian children can ride on safe roads over safe bridges to school. I look forward to the day when horror stories about elderly Indians stranded and starving are fed by helicopter drops because of impassable roads and of Indian hospitals and schools built with no road access to them are a thing of the past. This legislation is a step in that direction and I am glad to have been allowed to be a part of it.

Mr. ROE. Mr. Speaker, I yield such time as he may consume to the gentleman from Oregon [Mr. AUCOIN].

Mr. AUCOIN. Mr. Speaker, I rise in strong support of the conference report on H.R. 2950, the surface transportation authorization bill.

I very much appreciate the hard work of Chairman BOB ROE of the Public Works Committee, Chairman NORM MINETA of the Surface Transportation Subcommittee, our colleagues on the conference committee, and the staff who have worked so hard on this historic measure.

I am very pleased that the conference agreement includes a provision of the House bill that authorizes $515 million in section 3 transit funds for Portland's Westside light rail project.

The highly successful MAX light rail system serves the eastern part of the Portland region.

It carries half a million riders per month; costs 30 percent less per passenger to operate than buses; and has influenced more than $1 billion in development along its route.

The Westside project will extend MAX from downtown into the western suburbs, providing similar benefits to Washington County, with the final terminus in Hillsboro.

Westside is Oregon's highest transportation priority because we want to solve the problems of congestion and air pollution in Portland.

We want to boost our economy by creating 17,000 job-years of employment. We want to protect the environment, save energy, and provide a sound basis for our future growth. MAX and other local success stories are the key to achieving national goals for a healthy economy, clean air, energy conservation, and an efficient transportation network.

I applaud the conference committee for its foresight in accepting the House bill's Westside language. While many other provisions of the conference agreement are worthy of mention, I would like to specifically thank the conferees for authorizing a National Scenic Byway Program. The Oregon State Department of Transportation has worked long and hard to develop this program.

We have an outstanding scenic byway candidate in the tristate Pacific Coast route, U.S. 101. It can be a model for the success of this program and a valuable support for our coastal areas. H.R. 2950 goes far toward meeting the challenges of the post-interstate era. With $151 billion in highway and transit funding, comprehensive planning requirements, and many innovative programs, this conference agreement provides the basis for an integrated transportation network that strengthens the economy, cleans up the air, saves energy, reduces gridlock, and provides mobility for all citizens.

Mr. ROE. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. POSHARD].

Mr. POSHARD. Mr. Speaker, I rise in strong support of the conference report.

Mr. Speaker, as a member of the Public Works and Transportation Committee, I rise in strong support of H.R. 2950 and encourage my colleagues to offer their support.

This is a highly valuable investment in the future of our Nation. Over the 6-year period covered by this bill, we will invest $151 billion in highways, bridges, and mass transit systems across this country.

In southern Illinois that means a study of the feasibility of a tollway linking my area and St. Louis. This project has tremendous local support and is a crucial element of continuing efforts to improve the economy of our area.

It means millions of dollars to improve Route 13, the primary East-West artery which connects communities in southern Illinois and holds tremendous commercial promise.

It means reconstruction of Feather Trail Road, something essential to the completion of the $800 million Olmsted Locks and Dam project.

It improves conditions on Route 1 in two rural counties in my district, provides funding for a bridge in the community of Du Quoin, and near the community of Sauget it connects a major highway with a developing business park and airport.

Mr. Speaker, just from a review of the economic implications for my district, one can easily determine this is a bill that is good for America. We are investing in the concrete and steel that allow the people of this country to work for a living. And at a time of economic hardship, this bill pumps money into the construction sector and creates millions of new jobs, while providing the economic base for sustained economic development in the future.

I thank all of the members of the Public Works and Transportation Committee who helped produce this final product, especially Chairman ROE and Chairman MINETA, with whom I have had the distinct pleasure of serving as a new member of the committee.

This is the kind of work people send us here to accomplish. This is certainly one of the high points of this or any other legislative session, and I look forward to the continued progress for America made possible by this excellent legislation.

Mr. ROE. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. GEREN].

Mr. GEREN of Texas. Mr. Speaker, I rise in strong support of the conference report.

Mr. ROE. Mr. Speaker, I yield such time as he may consume to the gentleman from the Virgin Islands [Mr. DE LUGO].

Mr. DE LUGO. Mr. Speaker, I rise in support of the conference report.

Mr. ROE. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. LIPINSKI].

Mr. LIPINSKI. Mr. Speaker, I rise in strong support of the bill.

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

Mr. FLAKE. Mr. Speaker, I rise in support of the conference report.

Mr. ROE. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, I rise in support of the conference report.

Mr. Speaker, we are here in the early morning hours working to complete the task of reauthorizing the Surface Transportation Act. I want to commend the dedication and effort shown by the members of the conference committee in bringing this legislation to the floor for a vote in a timely manner. I also want to commend Chairman ROE, Mr. MINETA, Mr.

HAMMERSCHMIDT, and Mr. SHUSTER for their leadership and commitment to taking the steps necessary to craft this vital piece of legislation.

Beyond sound transportation policy—and I believe this legislation gives us that—this bill is an essential part of our effort to pull our Nation out of recession and bring about a real economic recovery. It brings with it real hope for recovery because it brings with it the real jobs needed by so many of our citizens and businesses struggling to survive this recession.

Let me speak for a moment to what this bill could mean for the State of Connecticut—really to what it means for each State and for our country. These are perilous times for Connecticut and its citizens. In the last year alone, over 80,000 Connecticuters have lost their jobs. Five hundred and twenty-six Connecticut businesses have been forced into bankruptcy.

This bill—as it helps build a sound transportation system to carry us confidently into the new century—will infuse over $2.2 billion into the State of Connecticut. These badly needed transportation funds could bring as many as 100,000 new jobs to the State. Jobs that mean food on the table for families in need. Jobs that will give people the opportunity to work for a paycheck instead of having to wait in a line for an unemployment check or for no check at all.

Mr. Speaker, the Surface Transportation Reauthorization Act is a bill that the State of Connecticut needs, that New England needs, and that the Nation needs. The bill not only demonstrates this Congress' commitment to improving our Nation's transportation infrastructure, but also its commitment to taking the necessary steps to moving our Nation along the path to a real and lasting economic recovery.

Mr. Speaker, long regarded as the world's policeman, the United States has made the world safe for democracy, yet it has failed to makes it's streets safe for children and families.

Statistics, usually stale and lifeless, speak volumes about the indignities Americans suffer at the hands of criminals here every day. In 1990 alone nearly 35 million Americans—almost 14 percent of the total population—were the victims of crime in this country.

Today, however, we can take an important first step in reclaiming our streets and protecting our people. We have the opportunity to pass the Omnibus Control Act, one of the toughest anticrime measures in U.S. history.

This bill will send a powerful message to those who commit crimes, and an equally strong message to the people of America. Through 50 new crimes punishable by the death penalty, it lets criminals know that they will pay for their crimes.

By providing more cops on the beat and a waiting period on the purchase of handguns, it tells Americans and law enforcement officers that we will back them up, not just with angry rhetoric, but with real, powerful, anticrime measures.

Sadly, it does not ban assault weapons—something many of us fought hard for.

But today we can give people some hope. We can help them restore safety to their streets, security to their homes, and dignity to their lives.

Vote for the Omnibus Crime Control Act.

Mr. ROE. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. KOLTER].

Mr. KOLTER. Mr. Speaker, I rise in strong support of the bill and ask for its passage.

Mr. ROE. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Missouri [Ms. HORN].

Ms. HORN. Mr. Speaker, I rise in strong support of this conference report, the Intermodal Surface Transportation Infrastructure Act of 1991.

The United States invests a smaller percentage of its gross national product on highways and bridges than any other major industrial nation, and this neglect has severely hampered our competitiveness by impeding the movement of people and goods. The conference report addresses this neglect by radically redirecting transportation spending for the coming century.

The situation which our cities face today is extremely bleak. Gridlock is an everyday occurrence in most cities, contributing to decreased productivity and increased air pollution and commuter stress; those able to flee to the surburbs do so, weakening the urban tax base and further slowing infrastructure investments which would reduce gridlock and perhaps stem the urban flight. H.R. 2950 seeks to address this problem by allocating $32 billion for transit projects nationwide, and by allowing the transfer of up to 25 percent of a State's national highway system funds to urban areas. This flexibility, combined with the creation of the National Highway System, is a vital step on the long road toward rebuilding America's infrastructure.

H.R. 2950 will also strengthen the authority of local metropolitan planning organizations [MPO's], giving local planners greater say in how State transportation dollars are spent. Currently, MPO's exist largely in an advisory capacity, their views on mass transit and urban planning often carrying little weight. Last year's Clean air Act imposes stringent pollution-control measures upon our urban areas, but if we expect our cities to enact expensive antipollution measures, we must also give our urban regions the funds they need to effect programs which will accomplish the goals of the Clean Air Act. St. Louis County is a moderate nonattainment region, and any new road construction in the region must conform to the tenants of the Clean Air Act. Empowering the MPO's will allow funds to be spent where and how they are most urgently needed.

According to the House Committee on Public Works, every dollar spent on infrastructure results in a $10 return to the local community through increased jobs, productivity, and efficiency. This $151 billion bill is going to create over 2 million jobs during the 6 years of the program. H.R. 2950 is not an extravagant spending bill; it is an investment in America, in our future, in ourselves. Mr. Speaker, the bill before us today is vital to restoring our large urban areas, and subsequently the rest of the Nation, to health. I urge the most immediate passage of the conference report.

Mr. ROE. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. SAVAGE].

Mr. SAVAGE. Mr. Speaker, I rise in strong support of this bill and commend the House leaders and the members of the conference for doing a tremendous job for our Nation.

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

Mr. RAY. Mr. Speaker, I rise in opposition to the bill.

Mr. Speaker, I know that it is very late, and that my colleagues would like to pass a transportation bill before we recess, but in the name of fairness, I ask my colleagues to take a look at what this bill does to the donor States. Georgia gets back only 79 cents for every dollar. California gets back 81 cents, Florida, Michigan, Texas, all of the donor States lose millions and millions of dollars under this bill. Our National Highway System is complete, Mr. Speaker. Donor States have contributed more than their fair share to build a national highway system, instead of rewarding the donor States for their generosity by establishing equity in the funding formulas, this bill perpetuates the antiquated funding system of the past 40 years, and continues to rob the fast growing donor States.

The funding process of this bill can be likened to plugging the holes in a leaky dam. Whenever a State complains, the complaints are stopped with a few more dollars. But this is not a long-term solution. The donor States are still being taken for a ride, Mr. Speaker. This is not an equitable transportation bill. This is highway robbery. I urge my colleagues to send this bill back to conference, adopt the funding formulas the House overwhelmingly passed, and stop taking advantage of the donor States.

Mr. ROE. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. ANDERSON].

Mr. ANDERSON. Mr. Speaker, I rise in strong support of the conference report.

When crafting this conference report I assure my colleagues that the 92 conferees; representing 7 House committees and 5 Senate committees, kept all your interests firmly in mind. I did not check to see how many States these 92 conferees represented, but I would bet it was close to all 50.

As my colleagues before me have alluded, H.R. 2950 represents a turning point in American transportation history. Dwight D. Eisenhower's vision in 1954 of a national contiguous framework of roads has been recognized. Now, almost 40 years later, with the exception of a few remaining segments, not the least of which being portions of the Century Freeway in Los Angeles, the United States' Interstate System has been completed. H.R. 2950 builds upon President Eisenhower's vision and moves this country's transportation system forward to meet the needs of the 20th century.

Up to this point, the United States' Interstate System was billed as the largest public works project in U.S. history.

However, at $151 billion, you have before you the largest public works

project in U.S. history. What's more, you have before you a $151 billion Christmas present for millions of unemployed Americans. This bill represents a 46-percent increase in the total amount of highway and transit dollars, and creation of 2 million jobs. Let me repeat that to some of my friends from the donor States, California being the leading donor State. This bill represents a 46-percent increase over previous transportation funding levels, and creation of an estimated 2 million jobs.

If there is one donor State that would have a reason to gripe about not getting its fair share of highway dollars, it would be California. Since the inception of the Interstate Program California has donated 7 billion in highway dollars to other States. I say to my colleagues from Los Angeles, Mayor Tom Bradley strongly supports the bill. To my colleagues from California * * * when I spoke to Governor Wilson this afternoon not only did he tell me that he supported the bill, he had already placed calls to his former colleagues in the Senate asking them to support the bill.

And finally, to my friends from donor States, I tell you that the largest donor State in the Nation, California, supports this compromise.

One final point I wish to make. In 1986, when I was Chairman of the Surface Transportation Subcommittee, I wrote, H.R. 2, the last Highway bill, along with then-Public Works Committee Chairman James Howard. Many of you may recall that President Reagan vetoed that bill in March of 1987, however, it was subsequently overridden. Times are different now, and so is this bill. Earlier today, President Bush spoke in favor of this particular compromise we are debating tonight, and urged the Congress to do the same.

In closing, let me just say that those of you that choose not to support this legislation, that is your prerogative. However, I ask you to think of your constituents that make their living in the transportation industry. These people are bleeding and need a Band-Aid. This compromise is not only the Band-Aid, it is the bandage, and it is the cure. I urge you to support it.

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Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 4 minutes to the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Speaker, this is the single, most important legislation we will pass in this session of Congress.

And not just for the obvious reasons. Its magnitude and reach are impressive. A 6 year, $151 billion program charting the course of the Nation's transportation policy for the balance of this century. It's impressive also for what it promises in the short term—a needed shot in the arm to an unhealthy economy. Translate that to mean tens of thousands of jobs in the construction and manufacturing sectors. And jobs is my favorite four letter word.

While some of our colleagues are engaged in meaningful and necessary tax cut debates which might lead to a couple hundred dollars tax benefit in the Spring of 1993, or to a couple of dollars of Federal tax reductions per week sooner, we are gaining approval for a plan which will reap immediate and substantial dividends for our entire economy.

We are told that within a few weeks of enactment, hundreds of millions of dollars in new contract authority will be on the streets. In the transit section alone, and that is the smaller of the two major sections, more than a billion dollars in contract authority will be awarded within 120 days.

That's the kind of action a stagnant economy demands. We are providing it.

And we are doing it the right way. The broad program focuses on flexibility. No longer is the mindset one which maintains we must pave America from coast to coast.

Quality roads and safe bridges are a must, particularly in that wide expanse between our major urban areas. After all, the goods and services produced there have to get to the people.

More than 60 percent of our roads and 40 percent of our bridges are structurally deficient. We're going to fix them.

But a transportation policy is more than quality roads and safe bridges. Economical, efficient, public transit systems benefit the people, particularly the young, the elderly, and the low income among us. Such systems are better for the environment and make us less dependent on foreign oil, two big pluses. The Intermodal Surface Transportation Infrastructure Act of 1991 is so much more than the highway bills of yesteryear, it is indeed a multidimensional intermodal measure—$32 billion of this package is dedicated to transit, the highest level of funding for this purpose ever to emerge from our Committee in its history.

The importance of this legislation is difficult to overstate. Its passage will be good for America.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield to the gentleman from Pennsylvania [Mr. SHUSTER].

Mr. SHUSTER. Mr. Speaker, while the Senate language called for the establishment of a U.S. designed maglev technology, the conferees agreed on a national Maglev Design Program that recognizes that domestic companies may be able to develop a domestic maglev industry based on existing technology.

We recognize that there is a need to develop this technology expeditiously—hopefully before the expiration of this legislation. We further recognize that Federal involvement is necessary to encourage the development of this industry and have therefore committed significant Federal funding to maglev development.

The conferees agree in the statement of managers that no prototype should be developed if none of the phase II conceptual designs will yield a working prototype at a reasonable cost.

The conferees also agree that a minimum travel distance of 19 miles should be required and that no prototype should be developed that cannot operate safely and efficiently in all domestic climatic situations. The conferees also agree that maglev development should be intermodal in nature, connecting airports, ports, and other modes of transportation.

Mr. Speaker, our Nation will be well served by the development of a domestic maglev program.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin [Mr. PETRI].

Mr. PETRI. Mr. Speaker, I want to express my support for the conference report to accompany H.R. 2950. With the completion of the Interstate System now in sight, attention has focused on this reauthorization of our surface transportation program. In this legislation, we have attempted to grant more flexibility to the States through increased transferability among programs and to allow cities and States to address their clean air needs. A National Highway System is established which will consist of the Interstate and other major roads which bring together our Nation's commercial and population centers.

In addition, we will begin to spend-down the large balance currently sitting idle in the highway trust fund. These are gas tax dollars paid into the fund for the specific purpose of funding a national transportation network, and it is time that these funds were put to the intended use. As a representative of the donor State of Wisconsin, which has a historic return of 74 cents on the dollar, I would have preferred the more equitable formulas of the House bill. Nevertheless, my own State will see a substantial improvement to a 98 percent return over the next 6 years.

Funding is also provided for improvements to two highways in Wisconsin which have been identified as priorities by the Wisconsin Department of Transportation. Improvements will be made on segments of Highway 41, the road which connects Milwaukee and Green Bay. Congestion is growing rapidly in the Oshkosh area and these funds will provide needed relief and improvements on segments located from the Winnebago County line north to the Green Bay area. Funding is also provided to expand a segment of Highway 29 to a four-lane expressway. This is the most heavily traveled east-west route across central or northern Wisconsin.

H.R. 2950 also establishes a National Recreational Trails Trust Fund so that taxes from nonhighway recreational fuels taxes will be returned to States for the purposes of providing and maintaining recreational trails. Funding is assured for both motorized and nonmotorized trails and all who enjoy trails—whether on foot, bike, or horseback—will benefit from this program.

In conclusion, Mr. Speaker, let me commend the leadership of the Public Works Committee and our hardworking staff for the many hours they have put into this legislation over the course of the last several months.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. RITTER].

Mr. RITTER. Mr. Speaker, I rise in support of the conference report on this critically important transportation legislation.

I would like to thank the committee chairman, Mr. ROE, and the ranking member, Mr. HAMMERSCHMIDT. I also want to thank subcommittee chairman, Mr. MINETA, and ranking member, Mr. SCHUSTER. The gentleman from Pennsylvania [Mr. SHUSTER] has been extremely helpful to so many of us, as has been the chairman, Mr. MINETA.

There are three aspects of this monumental legislation that I would like to highlight.

The first deals with funding for two projects, Route 33 and 222, in my district.

The second boosts magnetic levitation and high-speed rail.

And the third accents an important study that may help stimulate the use of recycled materials in highway projects.

Mr. Speaker, let me say that I am extremely pleased that this year's highway bill includes $18.3 million in funding for the Lehigh Valley's Route 33 and 222 projects, the full amount proposed by the Public Works and Transportation Committee.

The funding for the two projects was approved as part of the 5-year Intermodal Surface Transportation Act. It provides $16.8 million for the extension of Route 33 from Route 22 in Bethlehem to Interstate 78. It also provides $1.5 million for the relocation of Route 222 from the area east of Route 309 to west of Route 100. The funds for Route 33 will be used for engineering work and land acquisition; the Route 222 funds will be used for engineering and environmental studies.

The Route 33 project consists of constructing a 3.5-mile extension that will connect Route 22 in Bethlehem to Interstate 78. This connection will complete the final leg of a four-lane limited access highway north to the Poconos and south to Philadelphia, linking interstates 78 and 80, two major east-west interstates in Pennsylvania.

Basically, this north/south interconnection makes the east-west Route 22, I–78 and I–80 far more valuable to all of eastern Pennsylvania.

The economic benefits will be significant and far reaching. An economic impact study funded by non-Federal sources has shown that this project could lead to more than 20,000 new jobs by the year 2010, based on projected increases in the demand for industrial land such as that located along the Route 33 corridor.

This area of Pennsylvania has a vibrant and growing economy, however, without improved infrastructure, it will not sustain the present rate of growth. By linking the growing corridors of Route 22 and Interstate 78, and Route 33 extension will prevent Lehigh and Northampton Counties from being strangled by their own growth. I might add that if the project is not built, the study estimates a loss of more than 20,000 jobs, and an economic loss of nearly $300 million per year, including more than $10 million in local tax revenues that would not be realized.

The Pennsylvania Department of Transportation [PennDOT] and the Federal Highway Administration consider the completion of Route 33 as priority. The project is in the first 4 years of PennDOT's 12-year plan and the FHWA has agreed to budget money for the completion of Route 33 in its interstate cost estimate.

This road also affects many New Jersey citizens who work in the Lehigh Valley, as well as my constitutents who work in New Jersey.

Another project in need of funding is Route 222, which follows the alignment of the Old Kings Highway—a road constructed in the 1750's and was designed for horse drawn vehicles. By 1880, most of the existing intersections along U.S. 222 had been established. Up until the 1950's, the area was predominantly rural, so the roadway was sufficient to carry the limited automobile traffic.

In the last 40 years, the population of the townships along Route 222 has more than quadrupled. The population of Lower Macungie has increased 184 percent in the last 20 years, while the population of Upper Macungie has doubled in this time.

In addition to the residential growth, Upper Macungie Township has evolved into a regional industrial center containing 5 of the 10 major industrial employers within Lehigh County.

Route 222 is choking from massive traffic congestion. This is a project that the Lehigh Valley desperately needs.

Looking across the U.S.A., congestion has become a way of life on the highways and at the airports.

We need to make intercity travel much more efficient and convenient for our citizens. We need to look boldly at new transportation modes that can help to relieve the burden on planes and automobiles. We need trains.

The magnetic-levitation and high-speed rail provisions in this bill could go a long way towards relieving intercity travel congestion, whether on the road or at the airport.

Regarding new modes of rail travel, this bill represents an important legislative achievement, made possible by the teamwork of the House committees (Public Works and Transportation; Science, Space, and Technology; and Energy and Commerce) and the Senate committees (Environment and Public Works; and Commerce).

I want to commend all of my fellow conferees for their constructive efforts to fashion a balanced legislative blueprint for the future of high-speed ground transportation. With respect to magnetic-levitation vehicles, or maglev, this bill sets an important precedent by making maglev research and prototype development eligible for direct assistance from the highway trust fund, amounting to about three-quarters of a billion dollars over 5 years.

This is a critical step toward design and actual operation of a U.S.-built maglev system. It is a field that is important to our industrial future, not only because efficient transportation helps make industry efficient, but also because maglev employs vast areas of technology and American industry including many critical areas of advanced technology. Superconductivity and advanced materials. Technologies with broad future applications well beyond transportation would be involved. After dropping the ball 15 years ago, when the United States terminated Federal support of U.S.-invented maglev technology, this bill will put us on track to regain technological leadership in this field.

While maglev is clearly the transportation wave of the future, many areas of the country could benefit from high-speed steel-wheel systems comparable to the French T.G.V., the German I.C.E., and the Japanese bullet train as a less costly near-term improvement in transportation infrastructure. The legislation addresses high-speed rail policy as well, primarily by including high-speed rail projects for the first time in the existing $1-billion loan guarantee program established under section 511 of the Railroad Revitalization and Regulatory Act—4–R Act—of 1976. This assures that as we develop a transportation system for the next century, neither maglev nor high-speed rail will be overlooked or neglected.

We know that highways are not the sole answer to our transportation needs. Construction of major interstate highways has virtually halted, and the Nation has not opened a new major airport since 1974. Congestion of both our roads and our airways is reaching record levels, and is exacting a huge toll in lost economic productivity.

Maglev and high-speed rail represent reliable, all-weather, environmentally benign alternatives to motor vehicle and air transportation. On the under-600-mile corridors where maglev and high-speed rail are most appropriate, huge amounts of existing airport capacity can be freed up by shifting short-haul traffic to mag-lev and rail corridors. A vivid example of this phenomenon is the recently reported shift in passenger traffic on the 290-mile Paris-to-Lyon rail route served by the T.G.V. high-speed train in France. In just 2 years of operation, the train captured 80 percent of the traffic in that corridor. Think what shifting even half of that amount of our short-haul air traffic could mean for airport capacity. It would be equivalent to receiving several new airports for free.

Finally, we cannot overlook the safety record of mag-lev and high-speed rail. In motor vehicles, the United States has already suffered more fatalities than in both World Wars, Korea, and Vietnam combined. But the Japanese bullet train, for example, has operated for 28 years without a single fatality. The French T.G.V. has a similarly impressive record. How can we not support a mode of transportation so vastly superior in safety for our citizens?

To physical safety, we also must add environmental safety. Maglev and high-speed rail are environmentally benign, in that they avoid the heavy emissions of internal-combustion engines, they use our own domestically fueled electrical generating capacity, and are vastly more energy-efficient than other modes of transportation.

We need a balanced national transportation strategy that recognizes legitimate roles for planes, trains, and automobiles. This legislaltion is a key step toward implementing such a strategy.

I wish to take a moment to focus on a small, but important provision on the utilization in highway projects of asphalt containing recycled rubber from scrap tires. Scrap tires are a major headache for cities and towns across the country. As ranking member of the Sub-

committee on Transportation and Hazardous Materials, the subcommittee charged with reauthorizing the Resource Conservation and Recovery Act, or RCRA, I am well aware of the environmental problems caused by the 242 million scrap tires that are generated in this country every year. The rubberized asphalt provisions of the legislation before us today are an important part of our strategy to make good use of scrap tires. Thus complementing our efforts in RCRA reauthorization.

One of our major tasks in RCRA reauthorization is to refocus RCRA on recovering and conserving resources, by reducing barriers to recycling and creating incentives to use more materials that would otherwise be discarded. Our interest goes well beyond the use of scrap tires and includes developing markets and environmentally sound techniques to recycle and reuse all types of waste materials.

This legislation contains an important study that may help to stimulate the use of recycled materials in highway projects. The Senate version of the rubberized asphalt provision directed the Secretary of Transportation, in cooperation with the Administrator of EPA, to conduct a program of research on asphalt rubber pavement, its health and environmental risks, its performance and its recyclability. The House version directed the Secretary alone to conduct a more general study on possible uses of recycled materials in highway projects, including the use of asphalt containing reclaimed whole tire rubber.

The conferees have combined these two initiatives into a single, two-part study to be conducted jointly by the Secretary and the Administrator. The first part focuses specifically on asphalt pavement containing recycled rubber, its potential threats to human health and the environment, its performance and its recyclability. The expertise of the two agencies should be put to its best use by having the Secretary conduct that portion of the study relating to the technical performance of the pavement and the Administrator conduct the portion of the study relating to the potential health and environmental threats.

In the conference, the second part of the study was of particular interest and importance to me, particularly in view of my role as ranking member of the subcommittee reauthorizing RCRA. This second part is a broader examination of the economic savings, performance, potential threats to human health and the environment and potential environmental benefits of various uses and techniques for utilizing recycled materials, other than asphalt pavement containing recycled rubber, in highway projects, highway devices and appurtenances.

Some possible uses and techniques are listed in the statute, but this list is in no way intended to be exclusive. In addition to adding rubber to asphalt, the study should look at other additives such as glass and plastic. It should look at techniques for recycling asphalt removed from existing highways when the road is resurfaced. It should look at the use of recycled steel, paper and plastic in highway signs and other devices. It should look at the recycling of materials derived from industrial wastes such as coal ash, incinerator ash, cement kiln dust, construction debris and steel slag in roadbeds. I has to call them wastes because some of these materials, although by-products and residues from one process, are uniquely suited for highway construction projects.

Recovering values from materials otherwise destined for disposal is only one way to use recycle materials. Another important technique of using recycled materials in highway projects is to recover energy values from materials that might otherwise be thrown away. For example, in addition to recovering rubber from tires to actually be placed in or under asphalt, tires may also be recycled by using them as an energy source in an asphalt or cement plant.

An October 1991 EPA report, entitled "Markets for Scrap Tires", identifies several materials for the utilization of waste tires as a fuel. It specifically mentions the suitability of using waste tires to supply heat in the production of cement. While the definition of recycling within the context of the RCRA regulatory scheme remains ambiguous and subject to continuing discussion and controversy, the term as used in the study should not be read narrowly. Rather, in keeping with the broad scope of the second part of the study, the term should be read broadly to include energy recovery without prejudging its meaning in other statues.

Another example is fuel substitutes derived from spent solvents and waste oils that may or may not be hazardous. The study should examine the technical performance of materials made using these various recycling techniques and look at potential environmental impacts such as determining whether cement made with hazardous waste-derived or tire-derived fuel substitutes poses any greater risk than cement made with coal or other traditional fuels. The potential is great, and it is only limited by our technical imagination, as long as we insure that the materials are handled in an environmentally acceptable manner.

In conclusion, the second part of the study should be a broad examination of known and potential techniques of utilizing recycled materials in all aspects of highway construction projects.

I strongly support the approval of the conference report.

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

Mr. GILMAN. Mr. Speaker, I, too, want to congratulate the conferees for doing an outstanding job and for providing a package that will help improve our Nation's economy.

Mr. Speaker, I rise today in support of the conference report on H.R. 2950 the Intermodal Transportation Infrastructure Act and I commend the distinguished chairman of the Public Works and Transportation Committee, the gentleman from New Jersey [Mr. ROE] and the ranking minority member, the gentleman from Arkansas [Mr. HAMMERSCHMIDT], and the gentleman from California [Mr. MINETA] and the gentleman from Pennsylvania [Mr. SHUSTER] for their tireless work on this measure.

Mr. Speaker, with our transportation system falling apart, this Congress is obligated to do something about it. Our cities are bursting and their infrastructure is not keeping apace of growing needs. Our suburbs are booming and mass transit system hasn't adjusted to reach far enough or carry enough passengers to accommodate our commuters.

Our country's Interstate Highway System is decaying at the same time that our industries are trucking greater loads. Our bridges are collapsing, literally collapsing around us.

In this era of budget deficits and pressing need for fiscal restraint, I believe this bill—with its demonstration projects—represents a practical, moderate plan to revamp our desperate intermodal system.

This transportation bill is a responsive answer to our growing population, energy, and environmental problems. H.R. 2950 would provide funding for many high occupancy vehicles—carpooling—and mass transit programs. These types of programs would not only cut volume on our crowded, gridlocked highways and streets, but they would also cut down on the pollutants emitted by cars and reduce our Nation's overall energy consumption.

Mr. Speaker, H.R. 2950 is a well-planned program to rehabilitate and expand our Nation's intermodal system. I cannot stress enough the inextricable link between a vibrant economy and efficient transportation infrastructure. This Nation simply cannot thrive economically with our existing system. In fact, transportation spending has been proven to be one of the most effective boosts to our domestic economy.

Therefore, this legislation is badly needed in these difficult times. We in the Congress would be abrogating our responsibilities if we did not pass this positive, pro-jobs measure.

Accordingly, I urge all my colleagues to support this conference report.

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

Mr. Speaker, in order to get this matter back in sync now that the paperwork is all properly filed, I send to the desk the conference report to accompany H.R. 2950, the Intermodal Surface Transportation Infrastructure Act of 1991.

The Clerk read the title of the bill.

CONFERENCE REPORT ON H.R. 2950, INTERMODAL SURFACE TRANSPORTATION INFRASTRUCTURE ACT OF 1991

Mr. ROE submitted the following conference report and statement on the bill (H.R. 2950) to develop a national intermodal surface transportation system, to authorize funds for construction of highways, for highway safety programs, and for mass transit programs, and for other purposes:

CONFERENCE REPORT (H. REPT. 102-404)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2950) to develop a national intermodal surface transportation system, to authorize funds for construction of highways, for highway safety programs, and for mass transit programs, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Intermodal Surface Transportation Efficiency Act of 1991".

SEC. 2. DECLARATION OF POLICY: INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT.

It is the policy of the United States to develop a National Intermodal Transportation System that is economically efficient and environmentally sound, provides the foundation for the Nation to compete in the global economy, and will move people and goods in an energy efficient manner.

The National Intermodal Transportation System shall consist of all forms of transportation in a unified, interconnected manner, including the transportation systems of the future, to reduce energy consumption and air pollution while promoting economic development and supporting the Nation's preeminent position in international commerce.

The National Intermodal Transportation System shall include a National Highway System which consists of the National System of Interstate and Defense Highways and those principal arterial roads which are essential for interstate and regional commerce and travel, national defense, intermodal transfer facilities, and international commerce and border crossings.

The National Intermodal Transportation System shall include significant improvements in public transportation necessary to achieve national goals for improved air quality, energy conservation, international competitiveness, and mobility for elderly persons, persons with disabilities, and economically disadvantaged persons in urban and rural areas of the country.

The National Intermodal Transportation System shall provide improved access to ports and airports, the Nation's link to world commerce.

The National Intermodal Transportation System shall give special emphasis to the contributions of the transportation sectors to increased productivity growth. Social benefits must be considered with particular attention to the external benefits of reduced air pollution, reduced traffic congestion and other aspects of the quality of life in the United States.

The National Intermodal Transportation System must be operated and maintained with insistent attention to the concepts of innovation, competition, energy efficiency, productivity, growth, and accountability. Practices that resulted in the lengthy and overly costly construction of the Interstate and Defense Highway System must be confronted and ceased.

The National Intermodal Transportation System shall be adapted to "intelligent vehicles", "magnetic levitation systems", and other new technologies wherever feasible and economical, with benefit cost estimates given special emphasis concerning safety considerations and techniques for cost allocation.

The National Intermodal Transportation System, where appropriate, will be financed, as regards Federal apportionments and reimbursements, by the Highway Trust Fund. Financial assistance will be provided to State and local governments and their instrumentalities to help implement national goals relating to mobility for elderly persons, persons with disabilities, and economically disadvantaged persons.

The National Intermodal Transportation System must be the centerpiece of a national investment commitment to create the new wealth of the Nation for the 21st century.

The Secretary shall distribute copies of this Declaration of Policy to each employee of the Department of Transportation and shall ensure that such Declaration of Policy is posted in all offices of the Department of Transportation.

SEC. 3. SECRETARY DEFINED.

As used in this Act, the term "Secretary" means the Secretary of Transportation.

TITLE I—SURFACE TRANSPORTATION

Part A—Title 23 Programs

SEC. 1001. COMPLETION OF INTERSTATE SYSTEM.

(a) DECLARATION.—Congress declares that the authorizations of appropriations and apportionments for construction of the Dwight D. Eisenhower National System of Interstate and Defense Highways made by this section (including the amendments made by this section) are the final authorizations of appropriations and apportionments for completion of construction of such System.

(b) APPROVAL OF INTERSTATE COST ESTIMATE FOR FISCAL YEAR 1993.—The Secretary shall apportion for all States (other than Massachusetts) for fiscal year 1993 the sums authorized to be appropriated for such year by section 108(b) of the Federal-Aid Highway Act of 1956 for expenditure on the Dwight D. Eisenhower National System of Interstate and Defense Highways, using the apportionment factors contained in revised table 5 of the Committee Print Numbered 102–24 of the Committee on Public Works and Transportation of the House of Representatives.

(c) EXTENSION OF APPORTIONMENT.—Section 104(b)(5)(A) of title 23, United States Code, is amended by striking "1960 through 1990" each place it appears and inserting "1960 through 1996".

(d) EXTENSION OF ADMINISTRATIVE ADJUSTMENT OF ICE.—Section 104(b)(5)(A) of such title is amended by striking the next to the last sentence and inserting the following new sentence: "As soon as practicable after the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991 for fiscal year 1992, and on October 1 of each of fiscal years 1993, 1994, and 1995, the Secretary shall make the apportionment required by this subparagraph for all States (other than Massachusetts) using the Federal share of the last estimate submitted to Congress, adjusted to reflect (i) all previous credits, apportionments of interstate construction funds, and lapses of previous apportionments of interstate construction funds, (ii) previous withdrawals of interstate segments, (iii) previous allocations of interstate discretionary funds, and (iv) transfers of interstate construction funds.".

(e) ALLOCATION OF FUNDS TO MASSACHUSETTS.—Section 104(b)(5)(A) of title 23, United States Code, is amended by inserting before the last sentence the following new sentence: "Notwithstanding any other provision of this subparagraph or any cost estimate approved or adjusted pursuant to this subparagraph, subject to the deductions under this section, the amounts to be apportioned to the State of Massachusetts pursuant to this subparagraph for fiscal years 1993, 1994, 1995, and 1996 shall be as follows: $450,000,000 for fiscal year 1993, $800,000,000 for fiscal year 1994, $800,000,000 for fiscal year 1995, and $500,000,000 for fiscal year 1996.".

(f) AUTHORIZATION OF APPROPRIATIONS.—The first sentence of subsection (b) of section 108 of the Federal-Aid Highway Act of 1956 is amended by striking "and the additional sum of $1,400,000,000 for the fiscal year ending September 30, 1993." and inserting the following: "the additional sum of $1,800,000,000 for the fiscal year ending September 30, 1993, the additional sum of $1,800,000,000 for the fiscal year ending September 30, 1994, the additional sum of $1,800,000,000 for the fiscal year ending September 30, 1995, and the additional sum of $1,800,000,000 for the fiscal year ending September 30, 1996.".

(g) DECLARATION OF POLICY.—The second paragraph of section 101(b) of such title is amended—

(1) by striking "thirty-seven years'" and inserting "forty years'"; and

(2) by striking "1993" and inserting "1996".

(h) TERMINATION OF MINIMUM APPORTIONMENT.—Section 102(c) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (23 U.S.C. 104 note) is amended by inserting after "1987," the following: "and ending before October 1, 1991,".

SEC. 1002. OBLIGATION CEILING.

(a) GENERAL LIMITATION.—Notwithstanding any other provision of law (other than subsection (f) of this section), the total of all obligations for Federal-aid highways and highway safety construction programs shall not exceed—

(1) $16,800,000,000 for fiscal year 1992;

(2) $18,303,000,000 for fiscal year 1993;

(3) $18,362,000,000 for fiscal year 1994;

(4) $18,332,000,000 for fiscal year 1995;

(5) $18,357,000,000 for fiscal year 1996; and

(6) $18,338,000,000 for fiscal year 1997.

(b) EXCEPTIONS.—The limitations under subsection (a) shall not apply to obligations—

(1) under section 125 of title 23, United States Code;

(2) under section 157 of such title;

(3) under section 147 of the Surface Transportation Assistance Act of 1978;

(4) under section 9 of the Federal-Aid Highway Act of 1981;

(5) under sections 131(b) and 131(j) of the Surface Transportation Assistance Act of 1982;

(6) under section 404 of the Surface Transportation Assistance Act of 1982; and

(7) under sections 1103 through 1108 of this Act.

Such limitations shall also not apply to obligations of funds made available by subsections (b) and (c) of section 149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987.

(c) DISTRIBUTION OF OBLIGATION AUTHORITY.—

(1) GENERAL RULE.—For each of fiscal years 1992, 1993, 1994, 1995, 1996, and 1997, the Secretary shall distribute the limitation imposed by subsection (a) by allocation in the ratio which sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to each State for such fiscal year bears to the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to all the States for such fiscal year.

(2) SPECIAL RULE FOR MASSACHUSETTS.—For purposes of this section, funds apportioned to the State of Massachusetts pursuant to the next to the last sentence of section 104(b)(5)(A) of title 23, United States Code, shall be treated as if such funds were allocated to such State under such title. If, before October 1 of each of fiscal years 1992, 1993, 1994, and 1995, the State of Massachusetts indicates it will not obligate a portion of the amount which would be distributed to such State under the preceding sentence, the Secretary shall distribute such portion to the other States under paragraph (1).

(d) LIMITATION ON OBLIGATION AUTHORITY.—During the period October 1 through December 31 of each of fiscal years 1992, 1993, 1994, 1995, 1996, and 1997, no State shall obligate more than 35 percent of the amount distributed to such State under subsection (c) for such fiscal year, and the total of all State obligations during such period shall not exceed 25 percent of the total amount distributed to all States under such subsection for such fiscal year.

(e) REDISTRIBUTION OF UNUSED OBLIGATION AUTHORITY.—Notwithstanding subsections (c) and (d), the Secretary shall—

(1) provide all States with authority sufficient to prevent lapses of sums authorized to be appropriated for Federal-aid highways and highway safety construction which have been apportioned or allocated to a State, except in those instances in which a State indicates its intention

to lapse sums apportioned under section 104(b)(5)(A) of title 23, United States Code;

(2) after August 1 of each of fiscal years 1992, 1993, 1994, 1995, 1996, and 1997, revise a distribution of the funds made available under subsection (c) for such fiscal year if a State will not obligate the amount distributed during such fiscal year and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during such fiscal year giving priority to those States having large unobligated balances of funds apportioned under sections 104 and 144 of title 23, United States Code; and

(3) not distribute amounts authorized for administrative expenses, Federal lands highways programs, and the national high speed ground transportation programs and amounts made available under section 149(d) of the Surface Transportation and Uniform Relocation Assistance Act of 1987.

(f) ADDITIONAL OBLIGATION AUTHORITY.—

(1) IN GENERAL.—Subject to paragraph (2), a State which after August 1 and on or before September 30 of fiscal year 1993, 1994, 1995, 1996, or 1997 obligates the amount distributed to such State in such fiscal year under subsections (c) and (e) may obligate for Federal-aid highways and highway safety construction on or before September 30 of such fiscal year an additional amount not to exceed 5 percent of the aggregate amount of funds apportioned or allocated to such State—

(A) under sections 104 and 144 of title 23, United States Code, and

(B) for highway assistance projects under section 103(e)(4) of such title,

which are not obligated on the date such State completes obligation of the amount so distributed.

(2) LIMITATION ON ADDITIONAL OBLIGATION AUTHORITY.—During the period August 2 through September 30 of each of fiscal years 1993, 1994, 1995, 1996, and 1997, the aggregate amount which may be obligated by all States pursuant to paragraph (1) shall not exceed 2.5 percent of the aggregate amount of funds apportioned or allocated to all States—

(A) under sections 104 and 144 of title 23, United States Code, and

(B) for highway assistance projects under section 103(e)(4) of such title,

which would not be obligated in such fiscal year if the total amount of obligational authority provided by subsection (a) for such fiscal year were utilized.

(3) LIMITATION ON APPLICABILITY.—Paragraph (1) shall not apply to any State which on or after August 1 of fiscal year 1993, 1994, 1995, 1996, or 1997, as the case may be, has the amount distributed to such State under subsection (c) for such fiscal year reduced under subsection (e)(2).

(g) OBLIGATION CEILING FOR HIGHWAY SAFETY PROGRAMS.—Notwithstanding any other provision of law, the total of all obligations for highway safety programs carried out by the Federal Highway Administration under section 402 of title 23, United States Code, shall not exceed $10,000,000 for fiscal year 1992 and $20,000,000 for each of fiscal years 1993, 1994, 1995, 1996, and 1997.

(h) CONFORMING AMENDMENT.—Section 157(b) of title 23, United States Code, is amended by striking the period at the end of the last sentence and inserting "and section 1002(c) of the Intermodal Surface Transportation Efficiency Act of 1991.".

SEC. 1003. AUTHORIZATION OF APPROPRIATIONS.

(a) FROM THE HIGHWAY TRUST FUND.—For the purpose of carrying out the provisions of title 23, United States Code, the following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

(1) INTERSTATE MAINTENANCE PROGRAM.—For the Interstate maintenance program $2,431,000,000 for fiscal year 1992, $2,913,000,000 for fiscal year 1993, $2,914,000,000 for fiscal year 1994, $2,914,000,000 for fiscal year 1995, $2,914,000,000 for fiscal year 1996, and $2,914,000,000 for fiscal year 1997.

(2) NATIONAL HIGHWAY SYSTEM.—For the National Highway System $3,003,000,000 for fiscal year 1992, $3,599,000,000 for fiscal year 1993, $3,599,000,000 for fiscal year 1994, $3,599,000,000 for fiscal year 1995, $3,600,000,000 for fiscal year 1996, and $3,600,000,000 for fiscal year 1997.

(3) SURFACE TRANSPORTATION PROGRAM.—For the surface transportation program $3,418,000,000 for fiscal year 1992, $4,096,000,000 for fiscal year 1993, $4,096,000,000 for fiscal year 1994, $4,096,000,000 for fiscal year 1995, $4,097,000,000 for fiscal year 1996, and $4,097,000,000 for fiscal year 1997.

(4) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—For the congestion mitigation and air quality improvement program $858,000,000 for fiscal year 1992, $1,028,000,000 for fiscal year 1993, $1,028,000,000 for fiscal year 1994, $1,028,000,000 for fiscal year 1995, $1,029,000,000 for fiscal year 1996, and $1,029,000,000 for fiscal year 1997.

(5) BRIDGE PROGRAM.—For the bridge program $2,288,000,000 for fiscal year 1992, $2,762,000,000 for fiscal year 1993, $2,762,000,000 for fiscal year 1994, $2,762,000,000 for fiscal year 1995, $2,763,000,000 for fiscal year 1996, and $2,763,000,000 for fiscal year 1997.

(6) FEDERAL LANDS HIGHWAY PROGRAM.—

(A) INDIAN RESERVATION ROADS.—For Indian reservation roads $159,000,000 for fiscal year 1992 and $191,000,000 for each of fiscal years 1993, 1994, 1995, 1996, and 1997.

(B) PUBLIC LANDS HIGHWAYS.—For public lands highways $143,000,000 for fiscal year 1992, $171,000,000 for each of fiscal years 1993, 1994, and 1995, and $172,000,000 for each of fiscal years 1996 and 1997.

(C) PARKWAYS AND PARK HIGHWAYS.—For parkways and park highways $69,000,000 for fiscal year 1992, $83,000,000 for each of fiscal years 1993, 1994, and 1995, and $84,000,000 for each of fiscal years 1996 and 1997.

(7) FHWA HIGHWAY SAFETY PROGRAMS.—For carrying out section 402 by the Federal Highway Administration $17,000,000 for fiscal year 1992 and $20,000,000 for each of fiscal years 1993, 1994, 1995, 1996, and 1997.

(8) FHWA HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.—For carrying out section 403 by the Federal Highway Administration $10,000,000 for each of fiscal years 1992, 1993, 1994, 1995, 1996, and 1997.

(b) DISADVANTAGED BUSINESS ENTERPRISES.—

(1) GENERAL RULE.—Except to the extent that the Secretary determines otherwise, not less than 10 percent of the amounts authorized to be appropriated under titles I (other than part B), III, V, and VI of this Act shall be expended with small business concerns owned and controlled by socially and economically disadvantaged individuals.

(2) DEFINITIONS.—For purposes of this subsection, the following definitions apply:

(A) SMALL BUSINESS CONCERN.—The term "small business concern" has the meaning such term has under section 3 of the Small Business Act (15 U.S.C. 632); except that such term shall not include any concern or group of concerns controlled by the same socially and economically disadvantaged individual or individuals which has average annual gross receipts over the preceding 3 fiscal years in excess of $15,370,000, as adjusted by the Secretary for inflation.

(B) SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.—The term "socially and economically disadvantaged individuals" has the meaning such term has under section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and relevant subcontracting regulations promulgated pursuant thereto; except that women shall be presumed to be socially and economically disadvantaged individuals for purposes of this subsection.

(3) ANNUAL LISTING OF DISADVANTAGED BUSINESS ENTERPRISES.—Each State shall annually survey and compile a list of the small business concerns referred to in paragraph (1) and the location of such concerns in the State and notify the Secretary, in writing, of the percentage of such concerns which are controlled by women, by socially and economically disadvantaged individuals (other than women), and by individuals who are women and are also otherwise socially and economically disadvantaged individuals.

(4) UNIFORM CERTIFICATION.—The Secretary shall establish minimum uniform criteria for State governments to use in certifying whether a concern qualifies for purposes of this subsection. Such minimum uniform criteria shall include but not be limited to on-site visits, personal interviews, licenses, analysis of stock ownership, listing of equipment, analysis of bonding capacity, listing of work completed, resume of principal owners, financial capacity, and type of work preferred.

(5) STUDY.—

(A) IN GENERAL.—The Comptroller General shall conduct a study of the disadvantaged business enterprise program of the Federal Highway Administration (hereinafter in this paragraph referred to as the "program").

(B) CONTENTS.—The study under this paragraph shall include the following:

(i) GRADUATION.—A determination of—

(I) the percentage of disadvantaged business enterprises which have enrolled in the program and graduated after a period of 3 years;

(II) the number of disadvantaged business enterprises which have enrolled in the program and not graduated after a period of 3 years;

(III) whether or not the graduation date of any of the disadvantaged business enterprises described in subclause (II) should have been accelerated;

(IV) since the program has no graduation time requirements, how many years would appear reasonable for disadvantaged business enterprises to participate in the program;

(V) the length of time the average small nondisadvantaged business enterprise takes to be successful in the highway construction field as compared to the average disadvantaged business enterprise; and

(VI) to what degree are disadvantaged business enterprises awarded contracts once they are no longer participating in the disadvantaged business program.

(ii) OUT-OF-STATE CONTRACTING.—A determination of which State transportation programs meet the requirement of the program for 10 percent participation by disadvantaged business enterprises by contracting with contractors located in another State and a determination to what degree prime contractors use out-of-State disadvantaged business enterprises even when disadvantaged business enterprises exist within the State to meet the 10 percent participation goal and reasons why this occurs.

(iii) PROGRAM ADJUSTMENTS.—A determination of whether or not adjustments in the program could be made with respect to Federal and State participation in training programs and with respect to meeting capital needs and bonding requirements.

(iv) SUCCESS RATE.—Recommendations concerning whether or not adjustments described in clause (iii) would continue to encourage minority participation in the program and improve the success rate of the disadvantaged business enterprises.

(v) PERFORMANCE AND FINANCIAL CAPABILITIES.—Recommendations for additions and revisions to criteria used to determine the performance and financial capabilities of disadvantaged business enterprises enrolled in the program.

(vi) ENFORCEMENT MECHANISMS.—A determination of whether the current enforcement mechanisms are sufficient to ensure compliance with the disadvantaged business enterprise participation requirements.

(vii) ADDITIONAL COSTS.—A determination of additional costs incurred by the Federal Highway Administration in meeting the requirement of the program for 10 percent participation by disadvantaged business enterprises as well as a determination of benefits of the program.

(viii) EFFECT ON INDUSTRY.—A determination of how the program is being implemented by the construction industry and the effects of the program on all segments of the industry.

(ix) CERTIFICATION.—An analysis of the certification process for Federal-aid highway and transit programs, including a determination as to whether the process should be uniform and permit State-to-State reciprocity and how certification criteria and procedures are being implemented by the States.

(x) GOALS.—A determination of how the Federal goal is being implemented by the States, including the waiver process, and the impact of the goal on those individuals presumed to be socially and economically disadvantaged.

(C) REPORT.—Not later than 12 months after the date of the enactment of this Act, the Comptroller General shall transmit to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives a report on the results of the study conducted under this paragraph.

(c) REDUCTION IN AUTHORIZATIONS FOR BUDGET COMPLIANCE.—If the total amount authorized by this Act out of the Highway Trust Fund (other than the Mass Transit Account) exceeds $17,042,000,000 for fiscal year 1992, or exceeds $98,642,000,000 for fiscal years 1992 through 1996, then each amount so authorized shall be reduced proportionately so that the total equals $17,042,000,000 for fiscal year 1992, or equals $98,642,000,000 for fiscal years 1992 through 1996, as the case may be.

SEC. 1004. BUDGET COMPLIANCE.

(a) IN GENERAL.—If obligations provided for programs pursuant to this Act for fiscal year 1992 will cause—

(1) the total outlays in any of the fiscal years 1992 through 1995 which result from this Act, to exceed

(2) the total outlays for such programs in any such fiscal year which result from appropriation Acts for fiscal year 1992 and are attributable to obligations for fiscal year 1992,

then the Secretary of Transportation shall reduce proportionately the obligations provided for each program pursuant to this Act for fiscal year 1992 to the extent required to avoid such excess outlays.

(b) COORDINATION WITH OTHER PROVISIONS.—The provisions of this section shall apply, notwithstanding any provision of this Act to the contrary.

SEC. 1005. DEFINITIONS.

(a) HIGHWAY SAFETY IMPROVEMENT PROJECT.—The undesignated paragraph of section 101(a) of title 23, United States Code, relating to highway safety improvement project is amended by inserting after "marking," the following: "installs priority control systems for emergency vehicles at signalized intersections,".

(b) URBANIZED AREA.—Such section is amended by striking the undesignated paragraph relating to urbanized area and inserting the following new undesignated paragraph:

"The term 'urbanized area' means an area with a population of 50,000 or more designated by the Bureau of the Census, within boundaries to be fixed by responsible State and local officials in cooperation with each other, subject to approval by the Secretary. Boundaries shall, at a minimum, encompass the entire urbanized area within a State as designated by the Bureau of the Census.".

(c) NATIONAL HIGHWAY SYSTEM.—Such section is further amended by striking the undesignated paragraph relating to the Federal-aid primary system and inserting the following new undesignated paragraph:

"The term 'National Highway System' means the Federal-aid highway system described in subsection (b) of section 103 of this title.".

(d) CONFORMING AMENDMENTS.—Such section is amended—

(1) by striking the undesignated paragraph relating to the Federal-aid secondary system;

(2) by striking the undesignated paragraph relating to the Federal-aid urban system;

(3) in the undesignated paragraph relating to Indian reservation roads by striking ", including roads on the Federal-aid systems,"; and

(4) in the undesignated paragraph relating to park road by inserting ", including a bridge built primarily for pedestrian use, but with capacity for use by emergency vehicles," before "that is located within".

(e) INTERSTATE SYSTEM.—The undesignated paragraph of such section relating to the Interstate System is amended by inserting "Dwight D. Eisenhower" before "National".

(f) OPERATIONAL IMPROVEMENT.—Such section is further amended by inserting after the undesignated paragraph relating to Interstate System the following new undesignated paragraph:

"The term 'operational improvement' means a capital improvement for installation of traffic surveillance and control equipment, computerized signal systems, motorist information systems, integrated traffic control systems, incident management programs, and transportation demand management facilities, strategies, and programs and such other capital improvements to public roads as the Secretary may designate, by regulation; except that such term does not include resurfacing, restoring, or rehabilitating improvements, construction of additional lanes, interchanges, and grade separations, and construction of a new facility on a new location.".

(g) STARTUP COSTS FOR TRAFFIC MANAGEMENT AND CONTROL; CARPOOL PROJECT; PUBLIC AUTHORITY; PUBLIC LANDS HIGHWAY; RECONSTRUCTION.—Such section is further amended by inserting after the undesignated paragraph relating to Interstate System the following new undesignated paragraphs:

"The term 'startup costs for traffic management and control' means initial costs (including labor costs, administration costs, cost of utilities, and rent) for integrated traffic control systems, incident management programs, and traffic control centers.

"The term 'carpool project' means any project to encourage the use of carpools and vanpools, including but not limited to provision of carpooling opportunities to the elderly and handicapped, systems for locating potential riders and informing them of carpool opportunities, acquiring vehicles for carpool use, designating existing highway lanes as preferential carpool highway lanes, providing related traffic control devices, and designating existing facilities for use for preferential parking for carpools.

"The term 'public authority' means a Federal, State, county, town, or township, Indian tribe, municipal or other local government or instrumentality with authority to finance, build, operate, or maintain toll or toll-free facilities.

"The term 'public lands highway' means a forest road under the jurisdiction of and maintained by a public authority and open to public travel or any highway through unappropriated or unreserved public lands, nontaxable Indian lands, or other Federal reservations under the jurisdiction of and maintained by a public authority and open to public travel.".

SEC. 1006. NATIONAL HIGHWAY SYSTEM.

(a) ESTABLISHMENT.—Section 103 of title 23, United States Code, is amended by striking subsections (a) and (b) and inserting the following new subsections:

"(a) IN GENERAL.—For purposes of this title, the Federal-aid systems are the Interstate System and the National Highway System.

"(b) NATIONAL HIGHWAY SYSTEM.—

"(1) PURPOSE.—The purpose of the National Highway System is to provide an interconnected system of principal arterial routes which will serve major population centers, international border crossings, ports, airports, public transportation facilities, and other intermodal transportation facilities and other major travel destinations; meet national defense requirements; and serve interstate and interregional travel.

"(2) COMPONENTS.—The National Highway System shall consist of the following:

"(A) Highways designated as part of the Interstate System under subsection (e) and section 139 of this title.

"(B) Other urban and rural principal arterials and highways (including toll facilities) which provide motor vehicle access between such an arterial and a major port, airport, public transportation facility, or other intermodal transportation facility. The States, in cooperation with local and regional officials, shall propose to the Secretary arterials and highways for designation to the National Highway System under this paragraph. In urbanized areas, the local officials shall act through the metropolitan planning organizations designated for such areas under section 134 of this title. The routes on the National Highway System, as shown on the map submitted by the Secretary to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate in 1991, illustrating the National Highway System, shall serve as the basis for the States in proposing arterials and highways for designation to such system. The Secretary may modify or revise such proposals and submit such modified or revised proposals to Congress for approval in accordance with paragraph (3).

"(C) A strategic highway network which is a network of highways which are important to the United States strategic defense policy and which provide defense access, continuity, and emergency capabilities for the movement of personnel, materiels, and equipment in both peace time and war time. Such highways may include highways on and off the Interstate System and shall be designated by the Secretary in consultation with appropriate Federal agencies and the States and be subject to approval by Congress in accordance with paragraph (3).

"(D) Major strategic highway network connectors which are highways that provide motor vehicle access between major military installations and highways which are part of the strategic highway network. Such highways shall be designated by the Secretary in consultation with appropriate Federal agencies and the States and subject to approval by Congress in accordance with paragraph (3).

"(3) APPROVAL OF DESIGNATIONS.—

"(A) PROPOSED DESIGNATIONS.—Not later than 2 years after the date of the enactment of this section, the Secretary shall submit for approval to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives a proposed National Highway System with a list and description of highways proposed to be designated to the National Highway System under this subsection and a map

showing such proposed designations. In preparing the proposed system, the Secretary shall consult appropriate local officials and shall use the functional reclassification of roads and streets carried out under subsection (c) of section 1006 of the Intermodal Surface Transportation Efficiency Act of 1991.

"(B) APPROVAL OF CONGRESS REQUIRED.—After September 30, 1995, no funds made available for carrying out this title may be apportioned for the National Highway System or the Interstate maintenance program under this title unless a law has been approved designating the National Highway System.

"(C) MAXIMUM MILEAGE.—For purposes of proposing highways for designation to the National Highway System, the mileage of highways on the National Highway System shall not exceed 155,000 miles; except that the Secretary may increase or decrease such maximum mileage by not to exceed 15 percent.

"(D) EQUITABLE ALLOCATIONS OF HIGHWAY MILEAGE.—In proposing highways for designation to the National Highway System, the Secretary shall provide for equitable allocation of highway mileage among the States.

"(4) INTERIM SYSTEM.—For fiscal years 1992, 1993, 1994, and 1995, highways classified as principal arterials by the States shall be treated as being on the National Highway System for purposes of this title.".

(b) CONFORMING AMENDMENTS TO SECTION 103.—

(1) REPEAL OF FEDERAL-AID SECONDARY AND URBAN SYSTEMS.—Subsections (c) and (d) of such section are repealed.

(2) APPROVAL.—Subsection (f) of such section is amended—

(A) by striking "the Federal-aid primary system, the Federal-aid secondary system, the Federal-aid urban system, and"; and

(B) by striking the last sentence.

(c) FUNCTIONAL RECLASSIFICATION OF HIGHWAYS.—

(1) STATE ACTION.—Each State shall functionally reclassify the roads and streets in such State in accordance with such guidelines and time schedule as the Secretary may establish in order to carry out the objectives of this section, including the amendments made by this section.

(2) APPROVAL AND SUBMISSION TO CONGRESS.—Not later than September 30, 1993, the Secretary shall approve the functional reclassification of roads and streets made by the States pursuant to this subsection and shall submit a report to Congress containing such reclassification.

(3) STATE DEFINED.—In this subsection, the term "State" has the meaning such term has under section 101 of title 23, United States Code, and shall include the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Marianas.

(d) PROJECT ELIGIBILITY.—Section 103 of title 23, United States Code, is amended by adding at the end the following new subsection:

"(i) ELIGIBLE PROJECTS FOR NHS.—Subject to project approval by the Secretary, funds apportioned to a State under section 104(b)(1) for the National Highway System may be obligated for any of the following:

"(1) Construction, reconstruction, resurfacing, restoration, and rehabilitation of segments of such system.

"(2) Operational improvements for segments of such system.

"(3) Construction of, and operational improvements for, a Federal-aid highway not on the National Highway System and construction of a transit project eligible for assistance under the Federal Transit Act—

"(A) if such highway or transit project is in the same corridor as, and in proximity to, a fully access controlled highway designated to the National Highway System;

"(B) if the construction or improvements will improve the level of service on the fully access controlled highway and improve regional travel; and

"(C) if the construction or improvements are more cost effective than an improvement to the fully access controlled highway that has benefits comparable to the benefits which will be achieved by the construction of, or improvements to, the highway not on the National Highway System.

"(4) Highway safety improvements for segments of the National Highway System.

"(5) Transportation planning in accordance with sections 134 and 135.

"(6) Highway research and planning in accordance with section 307.

"(7) Highway-related technology transfer activities.

"(8) Startup costs for traffic management and control if such costs are limited to the time period necessary to achieve operable status but not to exceed 2 years following the date of project approval, if such funds are not used to replace existing funds.

"(9) Fringe and corridor parking facilities.

"(10) Carpool and vanpool projects.

"(11) Bicycle transportation and pedestrian walkways in accordance with section 217.

"(12) Development and establishment of management systems under section 303.

"(13) In accordance with all applicable Federal law and regulations, participation in wetlands mitigation efforts related to projects funded under this title, which may include participation in wetlands mitigation banks; contributions to statewide and regional efforts to conserve, restore, enhance and create wetlands; and development of statewide and regional wetlands conservation and mitigation plans, including any such banks, efforts, and plans authorized pursuant to the Water Resources Development Act of 1990 (including crediting provisions). Contributions to such mitigation efforts may take place concurrent with or in advance of project construction. Contributions toward these efforts may occur in advance of project construction only if such efforts are consistent with all applicable requirements of Federal law and regulations and State transportation planning processes.".

(e) APPORTIONMENTS.—Section 104(b)(1) of such title is amended to read as follows:

"(1) NATIONAL HIGHWAY SYSTEM.—For the National Highway System 1 percent to the Virgin Islands, Guam, American Samoa, and the Commonwealth of Northern Mariana Islands and the remaining 99 percent apportioned in the same ratio as funds are apportioned under paragraph (3).".

(f) TRANSFERABILITY.—Section 104 of such title is amended by striking subsection (c) and inserting the following new subsection:

"(c) TRANSFERABILITY OF NHS APPORTIONMENTS.—A State may transfer not to exceed 50 percent of the State's apportionment under subsection (b)(1) to the apportionment of the State under subsection (b)(3). A State may transfer not to exceed 100 percent of the State's apportionment under subsection (b)(1) to the apportionment of the State under subsection (b)(3) if the State requests to make such transfer and the Secretary approves such transfer as being in the public interest after providing notice and sufficient opportunity for public comment. Section 133(d) shall not apply to funds transferred under this subsection.".

(g) CONFORMING AMENDMENTS TO OTHER SECTIONS.—

(1) DEFINITIONS.—Section 101(a) of title 23, United States Code, is amended by striking the paragraph relating to Federal-aid highways and inserting the following new paragraph:

"The term 'Federal-aid highways' means highways eligible for assistance under this chapter other than highways classified as local roads or rural minor collectors.".

(2) PREVAILING RATE OF WAGE.—Section 113(a) of such title is amended by striking "systems, the primary and secondary, as well as their extension in urban areas, and the Interstate System," and inserting "highways".

(h) NATIONAL DEFENSE HIGHWAYS LOCATED OUTSIDE THE UNITED STATES.—

(1) RECONSTRUCTION PROJECTS.—If the Secretary determines, after consultation with the Secretary of Defense, that a highway, or portion of a highway, located outside the United States is important to the national defense, the Secretary may carry out a project for the reconstruction of such highway or portion of highway.

(2) FUNDING.—The Secretary may make available, from funds appropriated to construct the National System of Interstate and Defense Highways, not to exceed $20,000,000 per fiscal year for each of fiscal years 1993, 1994, 1995, and 1996 to carry out this subsection. Such sums shall remain available until expended.

SEC. 1007. SURFACE TRANSPORTATION PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—

(1) IN GENERAL.—Chapter 1 of title 23, United States Code, is amended by inserting after section 132 the following new section:

"§133. Surface transportation program

"(a) ESTABLISHMENT.—The Secretary shall establish a surface transportation program in accordance with this section.

"(b) ELIGIBLE PROJECTS.—A State may obligate funds apportioned to it under section 104(b)(3) for the surface transportation program only for the following:

"(1) Construction, reconstruction, rehabilitation, resurfacing, restoration, and operational improvements for highways (including Interstate highways) and bridges (including bridges on public roads of all functional classifications), including any such construction or reconstruction necessary to accommodate other transportation modes, and including the seismic retrofit and painting of and application of calcium magnesium acetate on bridges and approaches thereto and other elevated structures, mitigation of damage to wildlife, habitat, and ecosystems caused by a transportation project funded under this title.

"(2) Capital costs for transit projects eligible for assistance under the Federal Transit Act and publicly owned intracity or intercity bus terminals and facilities.

"(3) Carpool projects, fringe and corridor parking facilities and programs, and bicycle transportation and pedestrian walkways in accordance with section 217.

"(4) Highway and transit safety improvements and programs, hazard eliminations, projects to mitigate hazards caused by wildlife, and railway-highway grade crossings.

"(5) Highway and transit research and development and technology transfer programs.

"(6) Capital and operating costs for traffic monitoring, management, and control facilities and programs.

"(7) Surface transportation planning programs.

"(8) Transportation enhancement activities.

"(9) Transportation control measures listed in section 108(f)(1)(A) (other than clauses (xii) and (xvi)) of the Clean Air Act.

"(10) Development and establishment of management systems under section 303.

"(11) In accordance with all applicable Federal law and regulations, participation in wetlands mitigation efforts related to projects funded under this title, which may include participation in wetlands mitigation banks; contributions to statewide and regional efforts to conserve, restore, enhance and create wetlands; and devel-

opment of statewide and regional wetlands conservation and mitigation plans, including any such banks, efforts, and plans authorized pursuant to the Water Resources Development Act of 1990 (including crediting provisions). Contributions to such mitigation efforts may take place concurrent with or in advance of project construction. Contributions toward these efforts may occur in advance of project construction only if such efforts are consistent with all applicable requirements of Federal law and regulations and State transportation planning processes.

"(c) LOCATION OF PROJECTS.—Except as provided in subsection (b)(1), surface transportation program projects (other than those described in subsections (b)(3) and (4)) may not be undertaken on roads functionally classified as local or rural minor collectors, unless such roads are on a Federal-aid highway system on January 1, 1991, and except as approved by the Secretary.

"(d) ALLOCATIONS OF APPORTIONED FUNDS.—

"(1) FOR SAFETY PROGRAMS.—10 percent of the funds apportioned to a State under section 104(b)(3) for the surface transportation program for a fiscal year shall only be available for carrying out sections 130 and 152 of this title. Of the funds set aside under the preceding sentence, the State shall reserve in such fiscal year an amount of such funds for carrying out each such section which is not less than the amount of funds apportioned to the State in fiscal year 1991 under such section.

"(2) FOR TRANSPORTATION ENHANCEMENT ACTIVITIES.—10 percent of the funds apportioned to a State under section 104(b)(3) for a fiscal year shall only be available for transportation enhancement activities.

"(3) DIVISION BETWEEN URBANIZED AREAS OF OVER 200,000 POPULATION AND OTHER AREAS.—

"(A) GENERAL RULE.—Except as provided in subparagraphs (C) and (D), 62.5 percent of the remaining 80 percent of the funds apportioned to a State under section 104(b)(3) for a fiscal year shall be obligated under this section—

"(i) in urbanized areas of the State with an urbanized area population of over 200,000, and

"(ii) in other areas of the State,

in proportion to their relative share of the State's population. The remaining 37.5 percent may be obligated in any area of the State. Funds attributed to an urbanized area under clause (i) may be obligated in the metropolitan area established under section 134 which encompasses the urbanized area.

"(B) SPECIAL RULE FOR AREAS OF LESS THAN 5,000 POPULATION.—Of the amounts required to be obligated under subparagraph (A)(ii), the State shall obligate in areas of the State (other than urban areas with a population greater than 5,000) an amount which is not less than 110 percent of the amount of funds apportioned to the State for the Federal-aid secondary system for fiscal year 1991.

"(C) SPECIAL RULE FOR CERTAIN STATES.—In the case of a State in which—

"(i) greater than 80 percent of the population of the State is located in 1 or more metropolitan statistical areas, and

"(ii) greater than 80 percent of the land area of such State is owned by the United States,

the 62.5 percentage specified in the first sentence of subparagraph (A) shall be 35 percent and the percentage specified in the second sentence of subparagraph (A) shall be 65 percent.

"(D) NONCONTIGUOUS STATES EXEMPTION.—Subparagraph (A) shall not apply to any State which is noncontiguous with the continental United States.

"(E) DISTRIBUTION BETWEEN URBANIZED AREAS OF OVER 200,000 POPULATION.—The amount of funds which a State is required to obligate under subparagraph (A)(i) shall be obligated in urbanized areas described in subparagraph (A)(i) based on the relative population of such areas; except that the State may obligate such funds based on other factors if the State and the relevant metropolitan planning organizations jointly apply to the Secretary for the permission to do so and the Secretary grants the request.

"(4) APPLICABILITY OF PLANNING REQUIREMENTS.—Programming and expenditure of funds for projects under this section shall be consistent with the requirements of sections 134 and 135 of this title.

"(e) ADMINISTRATION.—

"(1) NONCOMPLIANCE.—If the Secretary determines that a State or local government has failed to comply substantially with any provision of this section, the Secretary shall notify the State that, if the State fails to take corrective action within 60 days from the date of receipt of the notification, the Secretary will withhold future apportionments under section 104(b)(3) until the Secretary is satisfied that appropriate corrective action has been taken.

"(2) CERTIFICATION.—The Governor of each State shall certify before the beginning of each quarter of a fiscal year that the State will meet all the requirements of this section and shall notify the Secretary of the amount of obligations expected to be incurred for surface transportation program projects during such quarter. A State may request adjustment to the obligation amounts later in each of such quarters. Acceptance of the notification and certification shall be deemed a contractual obligation of the United States for the payment of the surface transportation program funds expected to be obligated by the State in such quarter for projects not subject to review by the Secretary under this chapter.

"(3) PAYMENTS.—The Secretary shall make payments to a State of costs incurred by the State for the surface transportation program in accordance with procedures to be established by the Secretary. Payments shall not exceed the Federal share of costs incurred as of the date the State requests payments.

"(4) POPULATION DETERMINATIONS.—The Secretary shall use estimates prepared by the Secretary of Commerce when determining population figures for purposes of this section.

"(f) ALLOCATION OF OBLIGATION AUTHORITY.—A State which is required to obligate in an urbanized area with an urbanized area population of over 200,000 under subsection (d) funds apportioned to it under section 104(b)(3) shall allocate during the 6-fiscal year period 1992 through 1997 an amount of obligation authority distributed to the State for Federal-aid highways and highway safety construction for use in such area determined by multiplying—

"(1) the aggregate amount of funds which the State is required to obligate in such area under subsection (d) during such period; by

"(2) the ratio of the aggregate amount of obligation authority distributed to the State for Federal-aid highways and highway safety construction during such period to the total sums apportioned to the State for Federal-aid highways and highway safety construction (excluding sums not subject to an obligation limitation) during such period.".

(2) CONFORMING AMENDMENT.—The analysis for chapter 1 of such title is amended by inserting after the item relating to section 132 the following:

"133. Surface transportation program.".

(b) APPORTIONMENT OF SURFACE TRANSPORTATION PROGRAM FUNDS.—

(1) IN GENERAL.—Section 104(b)(3) of title 23, United States Code, is amended to read as follows:

"(3) SURFACE TRANSPORTATION PROGRAM.—

"(A) GENERAL RULE.—For the surface transportation program in a manner so that a State's current percentage share of apportionments is equal to the State's 1987–1991 percentage share of apportionments. For purposes of this paragraph—

"(i) a State's current percentage share of apportionments is the State's percentage share of all funds apportioned for a fiscal year under paragraph (1) for the National Highway System, under section 144 for the bridge program, under paragraph (5)(B) for Interstate maintenance, and under this paragraph; and

"(ii) a State's 1987–1991 percentage share of apportionments is the State's percentage share of all apportionments and allocations under this title for fiscal years 1987, 1988, 1989, 1990, and 1991 (except apportionments and allocations for Interstate construction under sections 104(b)(5)(A) and 118, Interstate highway substitute under section 103(e)(4), Federal lands highways under section 202, and emergency relief under section 125, all allocations under section 149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987, and the portion of allocations under section 157 (relating to minimum allocation) that would be attributable to apportionments made under Interstate construction and Interstate highway substitute programs under sections 104(b)(5)(A) and 103(e)(4), respectively, for such fiscal years if the minimum allocation percentage for such fiscal years had been 90 percent instead of 85 percent).

"(B) CALCULATION RULES.—In calculating a State's percentage share under this paragraph for the purpose of making apportionments for fiscal years 1992, 1993, 1994, 1995, 1996, and 1997, each State shall be treated as having received ½ of 1 percent of all funds apportioned for the Interstate construction program under section 104(b)(5)(A) in fiscal years 1987, 1988, 1989, 1990, and 1991. Notwithstanding any other provision of this paragraph, in any fiscal year no State shall receive a percentage of total apportionments and allocations that is less than 70 percent of its percentage of total apportionments and allocations for fiscal years 1987, 1988, 1989, 1990, and 1991, except for those States that receive an apportionment for Interstate construction under paragraph (5)(A) of more than $50,000,000 for fiscal year 1992.".

(2) CONFORMING AMENDMENTS.—Section 104 of such title is further amended—

(A) in subsections (a) and (b) by striking "upon the Federal-aid systems" and inserting "on the surface transportation program, the congestion mitigation and air quality improvement program, the National Highway System, and the Interstate System";

(B) in subsection (b) by striking "paragraphs (4) and (5)" and inserting "paragraph (5)(A)"; and

(C) in subsection (b) by striking "and sections 118(c) and 307(d)" and inserting "and section 307".

(c) TRANSPORTATION ENHANCEMENT ACTIVITIES DEFINED.—Section 101(a) of title 23, United States Code, is amended by adding at the end the following new paragraph:

"The term 'transportation enhancement activities' means, with respect to any project or the area to be served by the project, provision of facilities for pedestrians and bicycles, acquisition of scenic easements and scenic or historic sites, scenic or historic highway programs, landscaping and other scenic beautification, historic preservation, rehabilitation and operation of historic transportation buildings, structures or facilities (including historic railroad facilities and canals), preservation of abandoned railway corridors (including the conversion and use thereof for pedestrian or bicycle trails), control and removal of outdoor advertising, archaeological planning and research, and mitigation of water pollution due to highway runoff.".

SEC. 1008. CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Section 149 of title 23, United States Code, is amended to read as follows:

"§149. Congestion mitigation and air quality improvement program

"(a) ESTABLISHMENT.—The Secretary shall establish a congestion mitigation and air quality improvement program in accordance with this section.

"(b) ELIGIBLE PROJECTS.—Except as provided in subsection (c), a State may obligate funds apportioned to it under section 104(b)(2) for the congestion mitigation and air quality improvement program only for a transportation project or program—

"(1)(A) if the Secretary, after consultation with the Administrator of the Environmental Protection Agency, determines, on the basis of information published by the Environmental Protection Agency pursuant to section 108(f)(1)(A) of the Clean Air Act (other than clauses (xii) and (xvi) of such section), that the project or program is likely to contribute to the attainment of a national ambient air quality standard; or

"(B) in any case in which such information is not available, if the Secretary, after such consultation, determines that the project or program is part of a program, method, or strategy described in such section;

"(2) if the project or program is included in a State implementation plan that has been approved pursuant to the Clean Air Act and the project will have air quality benefits; or

"(3) the Secretary, after consultation with the Administrator of the Environmental Protection Agency, determines that the project or program is likely to contribute to the attainment of a national ambient air quality standard, whether through reductions in vehicle miles traveled, fuel consumption, or through other factors.

No funds may be provided under this section for a project which will result in the construction of new capacity available to single occupant vehicles unless the project consists of a high occupancy vehicle facility available to single occupant vehicles only at other than peak travel times.

"(c) STATES WITHOUT A NONATTAINMENT AREA.—If a State does not have a nonattainment area for ozone or carbon monoxide under the Clean Air Act located within its borders, the State may use funds apportioned to it under section 104(b)(2) for any project eligible for assistance under the surface transportation program.

"(d) APPLICABILITY OF PLANNING REQUIREMENTS.—Programming and expenditure of funds for projects under this section shall be consistent with the requirements of sections 134 and 135 of this title.".

(b) APPORTIONMENT.—Section 104(b)(2) of such title is amended to read as follows:

"(2) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—For the congestion mitigation and air quality improvement program, in the ratio which the weighted nonattainment area population of each State bears to the total weighted nonattainment area population of all States. The weighted nonattainment area population shall be calculated by multiplying the population of each area within any State that is a nonattainment area (as defined in the Clean Air Act) for ozone by a factor of—

"(A) 1.0 if the area is classified as a marginal ozone nonattainment area under subpart 2 of part D of title I of the Clean Air Act;

"(B) 1.1 if the area is classified as a moderate ozone nonattainment area under such subpart;

"(C) 1.2 if the area is classified as a serious ozone nonattainment area under such subpart;

"(D) 1.3 if the area is classified as a severe ozone nonattainment area under such subpart; or

"(E) 1.4 if the area is classified as an extreme ozone nonattainment area under such subpart.

If the area is also classified under subpart 3 of part D of title I of such Act as a nonattainment area for carbon monoxide, for purposes of calculating the weighted nonattainment area population, the weighted nonattainment area population of the area, as determined under the preceding provisions of this paragraph, shall be further multiplied by a factor of 1.2. Notwithstanding any provision of this paragraph, in the case of States with a total 1990 census population of 15,000,000 or greater, the amount apportioned under this paragraph in a fiscal year to all of such States in the aggregate, shall be distributed among such States based on their relative populations; except that none of such States shall be distributed more than 42 percent of the aggregate amount so apportioned to all of such States. Notwithstanding any other provision of this paragraph, each State shall receive a minimum apportionment of ½ of 1 percent of the funds apportioned made under this paragraph. The Secretary shall use estimates prepared by the Secretary of Commerce when determining population figures.".

(c) CONFORMING AMENDMENT.—The analysis for chapter 1 of such title is amended by striking

"149. Truck lanes."

and inserting

"149. Congestion mitigation and air quality improvement program.".

SEC. 1009. INTERSTATE MAINTENANCE PROGRAM.

(a) LIMITATION ON NEW CAPACITY.—Section 119 of title 23, United States Code, is amended by adding at the end the following new subsection:

"(g) LIMITATION ON NEW CAPACITY.—Notwithstanding any other provision of this title, the portion of the cost of any project undertaken pursuant to this section that is attributable to the expansion of the capacity of any Interstate highway or bridge, where such new capacity consists of one or more new travel lanes that are not high-occupancy vehicle lanes or auxiliary lanes, shall not be eligible for funding under this section.".

(b) ADEQUATE MAINTENANCE OF THE INTERSTATE SYSTEM.—Section 119(f) of such title is amended by inserting after "Interstate System routes and" the following: "the State is adequately maintaining the Interstate System and".

(c) GUIDANCE TO THE STATES.—The Secretary shall develop and make available to the States criteria for determining—

(1) what share of any project funded under section 119 of title 23, United States Code, is attributable to the expansion of the capacity of an Interstate highway or bridge; and

(2) what constitutes adequate maintenance of the Interstate System for the purposes of section 119(f)(1) of title 23, United States Code.

(d) NONCHARGEABLE SEGMENTS.—Section 104(b)(5)(B) of title 23, United States Code, is amended by inserting "and routes on the Interstate System designated under section 139(a) of this title before March 9, 1984," after "under sections 103 and 139(c) of this title" each place it appears.

(e) CONFORMING AMENDMENTS.—

(1) NEW HEADING.—The heading for section 119 of such title is amended to read as follows:

"§119. Interstate maintenance program".

(2) ANALYSIS.—The analysis for chapter 1 of such title is amended by striking

"119. Interstate System resurfacing."

and inserting

"119. Interstate maintenance program.".

(3) ELIGIBLE ACTIVITIES.—Section 119(c) of such title is amended to read as follows:

"(c) ELIGIBLE ACTIVITIES.—Activities authorized in subsection (a) may include the reconstruction of bridges, interchanges, and over crossings along existing Interstate routes, including the acquisition of right-of-way where necessary, but shall not include the construction of new travel lanes other than high occupancy vehicle lanes or auxiliary lanes.".

(4) PREVENTIVE MAINTENANCE.—Section 119(e) of such title is amended to read as follows:

"(e) PREVENTIVE MAINTENANCE.—Preventive maintenance activities shall be eligible under this section when a State can demonstrate, through its pavement management system, that such activities are a cost-effective means of extending Interstate pavement life.".

(5) MISCELLANEOUS.—Section 119 of such title is amended—

(A) in subsection (a) by striking ", rehabilitating, and reconstructing" and inserting "and rehabilitating";

(B) in subsection (a) by striking the last sentence;

(C) in the heading for subsection (f) by striking "PRIMARY SYSTEM" and inserting "SURFACE TRANSPORTATION PROGRAM";

(D) in subsection (f)(1) by striking "rehabilitating, or reconstructing" and inserting "or rehabilitating"; and

(E) in subsection (f) by striking "section 104(b)(1)" each place it appears and inserting "sections 104(b)(1) and 104(b)(3)".

SEC. 1010. OPERATION LIFESAVER; HIGH SPEED RAIL CORRIDORS.

Section 104(d) of title 23, United States Code, is amended to read as follows:

"(d) OPERATION LIFESAVER AND HIGH SPEED RAIL CORRIDORS.—

"(1) OPERATION LIFESAVER.—The Secretary shall expend from administrative funds deducted under subsection (a) $300,000 for each fiscal year for carrying out a public information and education program to help prevent and reduce motor vehicle accidents, injuries, and fatalities and to improve driver performance at railway-highway crossings.

"(2) RAILWAY-HIGHWAY CROSSING HAZARD ELIMINATION IN HIGH SPEED RAIL CORRIDORS.—

"(A) Before making an apportionment of funds under subsection (b)(3) for a fiscal year, the Secretary shall set aside $5,000,000 of the funds authorized to be appropriated for the surface transportation program for such fiscal year for elimination of hazards of railway-highway crossings in not to exceed 5 railway corridors selected by the Secretary in accordance with the criteria set forth in this paragraph.

"(B) A corridor selected by the Secretary under subparagraph (A) must include rail lines where railroad speeds of 90 miles per hour are occurring or can reasonably be expected to occur in the future.

"(C) In making the determination required by subparagraph (A), the Secretary shall consider projected rail ridership volumes in such corridors, the percentage of the corridor over which a train will be capable of operating at its maximum cruise speed taking into account such factors as topography and other traffic on the line, projected benefits to nonriders such as congestion relief on other modes of transportation serving the corridors (including congestion in heavily traveled air passenger corridors), the amount of State and local financial support that can reasonably be anticipated for the improvement of the line and related facilities, and the cooperation of the owner of the right-of-way that can reasonably be expected in the operation of high speed rail passenger service in such corridors.".

SEC. 1011. SUBSTITUTE PROGRAM.

(a) HIGHWAY PROJECTS.—

(1) AUTHORIZATION OF APPROPRIATIONS.—Section 103(e)(4)(G) of title 23, United States Code, is amended—

(A) by striking "and" the next to the last place it appears;

(B) by inserting before the period at the end the following: ", $240,000,000 per fiscal year for each of fiscal years 1992, 1993, 1994, and 1995"; and

(C) by adding at the end the following: "Such sums may be obligated for transit substitute projects under this paragraph.".

(2) DISTRIBUTION.—Section 103(e)(4)(H) of such title is amended—

(A) by adding at the end of clause (i) the following new sentence: "For each of fiscal years 1992, 1993, 1994, and 1995, all funds made available by subparagraph (G) shall be apportioned in accordance with cost estimates adjusted by the Secretary.";

(B) in clause (iii), by striking "1988, 1989, 1990, AND 1991 APPORTIONMENTS" and inserting "1988–1995 APPORTIONMENTS"; and

(C) by striking "and 1991." and inserting "1991, 1992, 1993, 1994, and 1995.".

(b) TRANSIT PROJECTS.—Section 103(e)(4)(J) of such title is amended—

(1) in clause (i) by inserting after "1983," the following: "and ending before October 1, 1991";

(2) by adding at the end of clause (i) the following new sentence: "100 percent of funds appropriated for each of fiscal years 1992 and 1993 shall be apportioned in accordance with cost estimates adjusted by the Secretary.";

(3) in clause (iii) by striking "1988, 1989, 1990, AND 1991 APPORTIONMENTS" and inserting "1988–1993 APPORTIONMENTS"; and

(4) by striking "and 1991." and inserting "1991, 1992, and 1993.".

(c) PERIOD OF AVAILABILITY.—Section 103(e)(4)(E)(i) of such title is amended by adding at the end the following new sentence: "In the case of funds authorized to be appropriated for substitute transit projects under this paragraph for fiscal year 1993 and for substitute highway projects under this paragraph for fiscal year 1995, such funds shall remain available until expended.".

SEC. 1012. TOLL ROADS, BRIDGES, AND TUNNELS.

(a) NEW PROGRAM.—Section 129(a) of title 23, United States Code, is amended to read as follows:

"(a) BASIC PROGRAM.—

"(1) AUTHORIZATION FOR FEDERAL PARTICIPATION.—Notwithstanding section 301 of this title and subject to the provisions of this section, the Secretary shall permit Federal participation in—

"(A) initial construction of a toll highway, bridge, or tunnel (other than a highway, bridge, or tunnel on the Interstate System) or approach thereto;

"(B) reconstructing, resurfacing, restoring, and rehabilitating a toll highway, bridge, or tunnel (including a toll highway, bridge, or tunnel subject to an agreement entered into under this section or section 119(e) as in effect on the day before the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991) or approach thereto;

"(C) reconstruction or replacement of a toll-free bridge or tunnel and conversion of the bridge or tunnel to a toll facility;

"(D) reconstruction of a toll-free Federal-aid highway (other than a highway on the Interstate System) and conversion of the highway to a toll facility; and

"(E) preliminary studies to determine the feasibility of a toll facility for which Federal participation is authorized under subparagraph (A), (B), (C), or (D);

on the same basis and in the same manner as in the construction of free highways under this chapter.

"(2) OWNERSHIP.—Each highway, bridge, tunnel, or approach thereto constructed under this subsection must—

"(A) be publicly owned, or

"(B) be privately owned if the public authority having jurisdiction over the highway, bridge, tunnel, or approach has entered into a contract with a private person or persons to design, finance, construct, and operate the facility and the public authority will be responsible for complying with all applicable requirements of this title with respect to the facility.

"(3) LIMITATIONS ON USE OF REVENUES.—Before the Secretary may permit Federal participation under this subsection in construction of a highway, bridge, or tunnel located in a State, the public authority (including the State transportation department) having jurisdiction over the highway, bridge, or tunnel must enter into an agreement with the Secretary which provides that all toll revenues received from operation of the toll facility will be used first for debt service, for reasonable return on investment of any private person financing the project, and for the costs necessary for the proper operation and maintenance of the toll facility, including reconstruction, resurfacing, restoration, and rehabilitation. If the State certifies annually that the tolled facility is being adequately maintained, the State may use any toll revenues in excess of amounts required under the preceding sentence for any purpose for which Federal funds may be obligated by a State under this title.

"(4) SPECIAL RULE FOR FUNDING.—In the case of a toll highway, bridge, or tunnel under the jurisdiction of a public authority of a State (other than the State transportation department), upon request of the State transportation department and subject to such terms and conditions as such department and public authority may agree, the Secretary shall reimburse such public authority for the Federal share of the costs of construction of the project carried out on the toll facility under this subsection in the same manner and to the same extent as such department would be reimbursed if such project was being carried out by such department. The reimbursement of funds under this paragraph shall be from sums apportioned to the State under this chapter and available for obligations on projects on the Federal-aid system in such State on which the project is being carried out.

"(5) LIMITATION ON FEDERAL SHARE.—Except as otherwise provided in this paragraph, the Federal share payable for construction of a highway, bridge, tunnel, or approach thereto or conversion of a highway, bridge, or tunnel to a toll facility under this subsection shall be such percentage as the State determines but not to exceed 50 percent. The Federal share payable for construction of a new bridge, tunnel, or approach thereto or for reconstruction or replacement of a bridge, tunnel, or approach thereto shall be such percentage as the Secretary determines but not to exceed 80 percent. In the case of a toll facility subject to an agreement under section 119 or 129, the Federal share payable on any project for resurfacing, restoring, rehabilitating, or reconstructing such facility shall be 80 percent until the scheduled expiration of such agreement (as in effect on the day before the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991).

"(6) MODIFICATIONS.—If a public authority (including a State transportation department) having jurisdiction over a toll highway, bridge, or tunnel subject to an agreement under this section or section 119(e), as in effect on the day before the effective date of title I of the Intermodal Surface Transportation Efficiency Act of 1991, requests modification of such agreement, the Secretary shall modify such agreement to allow the continuation of tolls in accordance with paragraph (3) without repayment of Federal funds.

"(7) LOANS.—A State may loan all or part of the Federal share of a toll project under this section to a public or private agency constructing a toll facility. Such loan may be made only after all Federal environmental requirements have been complied with and permits obtained. The amount loaned shall be subordinated to other debt financing for the facility except for loans made by the State or any other public agency to the agency constructing the facility. Funds loaned pursuant to this section may be obligated for projects eligible under this section. The repayment of any such loan shall commence not more than 5 years after the facility has opened to traffic. Any such loan shall bear interest at the average rate the State's pooled investment fund earned in the 52 weeks preceding the start of repayment. The term of any such loan shall not exceed 30 years from the time the loan was obligated. Amounts repaid to a State from any loan made under this section may be obligated for any purpose for which the loaned funds were available. The Secretary shall establish procedures and guidelines for making such loans.

"(8) INITIAL CONSTRUCTION DEFINED.—For purposes of this subsection, the term 'initial construction' means the construction of a highway, bridge, or tunnel at any time before it is open to traffic and does not include any improvement to a highway, bridge, or tunnel after it is open to traffic.".

(b) CONGESTION PRICING PILOT PROGRAM.—(1) The Secretary shall solicit the participation of State and local governments and public authorities for one or more congestion pricing pilot projects. The Secretary may enter into cooperative agreements with as many as 5 such State or local governments or public authorities to establish, maintain, and monitor congestion pricing projects.

(2) Notwithstanding section 129 of title 23, United States Code, the Federal share payable for such programs shall be 80 percent. The Secretary shall fund all of the development and other start up costs of such projects, including salaries and expenses, for a period of at least 1 year, and thereafter until such time that sufficient revenues are being generated by the program to fund its operating costs without Federal participation, except that the Secretary may not fund any project for more than 3 years.

(3) Revenues generated by any pilot project under this subsection must be applied to projects eligible under such title.

(4) Notwithstanding sections 129 and 301 of title 23, United States Code, the Secretary shall allow the use of tolls on the Interstate System as part of a pilot program under this section, but not on more than 3 of such programs.

(5) The Secretary shall monitor the effect of such projects for a period of at least 10 years, and shall report to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives every 2 years on the effects such programs are having on driver behavior, traffic, volume, transit ridership, air quality, and availability of funds for transportation programs.

(6) Of the sums made available to the Secretary pursuant to section 104(a) of title 23, United States Code, not to exceed $25,000,000 shall be made available each fiscal year to carry out the requirements of this subsection. Not more than $15,000,000 of such amounts shall be made available to carry out each pilot project under this section.

(c) ELIMINATION OF PUBLIC OPERATION REQUIREMENT FOR TOLL FERRIES.—Section 129 of such title is amended—

(1) by striking subsections (b), (c), (d), (e), (h), (i), and (k);

(2) by redesignating subsections (f), (g), and (j) as subsections (b), (c), and (d), respectively;

(3) in subsection (c) as so redesignated by inserting "and ferry terminal facilities" after "boats";

(4) in subsection (c) as so redesignated by striking paragraph (3) and inserting the following:

"(3) Such ferry boat or ferry terminal facility shall be publicly owned."; and

(5) in subsection (c)(4) as so redesignated—

(A) by inserting "or other public entity" after "State"; and

(B) by inserting before the period at the end the following: ", debt service, negotiated management fees, and, in the case of a privately operated toll ferry, for a reasonable rate of return".

(d) CONTINUATION OF EXISTING AGREEMENTS.—Unless modified under section 129(a)(6) of such title, as amended by subsection (a) of this section, agreements entered into under section 119(e) or 129 of such title before the effective date of this title and in effect on the day before such effective date shall continue in effect on and after such effective date in accordance with the provisions of such agreement and such section 119(e) or 129.

(e) SPECIAL RULE FOR CERTAIN EXISTING TOLL FACILITY AGREEMENTS.—Notwithstanding sections 119 and 129 of title 23, United States Code, at the request of the non-Federal parties to a toll facility agreement reached before October 1, 1991, regarding the New York State Thruway or the Fort McHenry Tunnel under section 105 of the Federal-Aid Highway Act of 1978 or section 129 of title 23, United States Code (as in effect on the day before the date of the enactment of this Act), the Secretary shall allow for the continuance of tolls without repayment of Federal funds. Revenues collected from such tolls, after the date of such request, in excess of revenues needed for debt service and the actual costs of operation and maintenance shall be available for (1) any transportation project eligible for assistance under title 23, United States Code, or (2) costs associated with transportation facilities under the jurisdiction of such non-Federal party, including debt service and costs related to the construction, reconstruction, restoration, repair, operation and maintenance of such facilities.

(f) VOIDING OF CERTAIN AGREEMENTS FOR I–78 DELAWARE RIVER BRIDGE.—Upon the joint request of the State of Pennsylvania, the State of New Jersey, and the Delaware River Joint Toll Bridge Commission, and upon such parties entering into a new agreement with the Secretary regarding the bridge on Interstate Route 78 which crosses the Delaware River in the vicinity of Easton, Pennsylvania, and Phillipsburg, New Jersey, the Secretary shall void any agreement entered into with such parties with respect to the bridge before the effective date of this subsection under section 129(a), 129(d), or 129(e) of title 23, United States Code. The new agreement referred to in the preceding sentence shall permit the continuation of tolls without repayment of Federal funds and shall provide that all toll revenues received from operation of the bridge will be used—

(1) first for repayment of the non-Federal cost of construction of the bridge (including debt service);

(2) second for the costs necessary for the proper operation and maintenance of the bridge, including resurfacing, restoration, and rehabilitation; and

(3) to the extent that toll revenues exceed the amount necessary for paragraphs (1) and (2), such excess may be used with respect to any other bridge under the jurisdiction of the Delaware River Joint Toll Bridge Commission.

(g) BRIDGE CONNECTING PENNSYLVANIA TURNPIKE SYSTEM AND NEW JERSEY TURNPIKE.—Section 3 of the Act of October 26, 1951 (65 Stat. 653), is amended by striking ": Provided," and all that follows before the period.

SEC. 1013. MINIMUM ALLOCATION.

(a) GENERAL RULE.—Section 157(a) of title 23, United States Code, is amended—

(1) in paragraph (3) by striking "THEREAFTER" and inserting "FISCAL YEARS 1989–1991";

(2) in paragraph (3) by striking "and each fiscal year thereafter," and inserting ", 1990, and 1991"; and

(3) by adding at the end the following new paragraph:

"(4) THEREAFTER.—In fiscal year 1992 and each fiscal year thereafter on October 1, or as soon as possible thereafter, the Secretary shall allocate among the States amounts sufficient to ensure that a State's percentage of the total apportionments in each such fiscal year and allocations for the prior fiscal year for Interstate construction, Interstate maintenance, Interstate highway substitute, National Highway System, surface transportation program, bridge program, scenic byways, and grants for safety belts and motorcycle helmets shall not be less than 90 percent of the percentage of estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund, other than the Mass Transit Account, in the latest fiscal year for which data are available.".

(b) CONFORMING AMENDMENTS.—Section 157(b) of such title is amended—

(1) by striking "primary, secondary," and inserting "National Highway, surface transportation program,";

(2) by striking "urban," and inserting "congestion mitigation and air quality improvement program,";

(3) by striking "replacement and rehabilitation"; and

(4) by inserting after the first sentence the following: "½ of the amounts allocated pursuant to subsection (a) after September 30, 1991, shall be subject to section 133(d)(3) of this title.".

(c) DONOR STATE BONUS AMOUNTS.—

(1) FUNDING.—There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for the payment of donor State bonus amounts the following amounts for the following fiscal years:

(A) For fiscal year 1992 $429,000,000.

(B) For fiscal year 1993 $514,000,000.

(C) For fiscal year 1994 $514,000,000.

(D) For fiscal year 1995 $514,000,000.

(E) For fiscal year 1996 $514,000,000.

(F) For fiscal year 1997 $515,000,000.

(2) APPORTIONMENT.—

(A) FORMULA.—The bonus apportionments which are provided under this subsection for a fiscal year shall be apportioned in such a way as to bring each successive State, or States, with the lowest dollar return on dollar projected to be contributed into the Highway Trust Fund for such fiscal year, up to the highest common return on contributed dollar that can be funded with the annual authorizations provided under this subsection.

(B) APPLICABILITY OF CHAPTER 1 OF TITLE 23.—Funds apportioned under this subsection shall be available for obligation in the same manner and for the same purposes as if such funds were apportioned for the surface transportation program under chapter 1 of title 23, United States Code, except that such funds shall remain available until expended. 1/2 of the amounts apportioned under this subsection shall be subject to section 133(d)(3) of title 23, United States Code, as added by this Act.

SEC. 1014. REIMBURSEMENT FOR SEGMENTS OF THE INTERSTATE SYSTEM CONSTRUCTED WITHOUT FEDERAL ASSISTANCE.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code, is amended by adding at the end the following new section:

"§160. Reimbursement for segments of the Interstate System constructed without Federal assistance

"(a) GENERAL AUTHORITY.—The Secretary shall allocate to the States in each of fiscal years 1996 and 1997 amounts determined under subsection (b) for reimbursement of their original contributions to construction of segments of the Interstate System which were constructed without Federal financial assistance.

"(b) DETERMINATION OF REIMBURSEMENT AMOUNT.—The amount to be reimbursed to a State in each of fiscal years 1996 and 1997 under this section shall be determined by multiplying the amount made available for carrying out this section for such fiscal year by the reimbursement percentage set forth in the table contained in subsection (c).

"(c) REIMBURSEMENT TABLE.—For purposes of carrying out this section, the reimbursement percentage, the original cost for constructing the Interstate System, and the total reimbursable amount for each State is set forth in the following table:

States	Original cost in millions	Reimbursement percentage	Reimbursable amount in millions
Alabama	$9	0.50	$147
Alaska	.....	.50	147
Arizona	20	.50	147
Arkansas	6	.50	147
California	298	5.42	1,591
Colorado	23	.50	147
Connecticut	314	5.71	1,676
Delaware	39	0.71	209
Florida	31	.56	164
Georgia	46	.84	246
Hawaii	.....	.50	147
Idaho	5	.50	147
Illinois	475	8.62	2,533
Indiana	167	3.03	892
Iowa	5	.50	147
Kansas	101	1.84	540
Kentucky	32	.57	169
Louisiana	22	.50	147
Maine	38	.69	204
Maryland	154	2.79	820
Massachusetts	283	5.14	1,511
Michigan	228	4.14	1,218
Minnesota	16	.50	147
Mississippi	6	.50	147
Missouri	74	1.35	396
Montana	5	.50	147
Nebraska	1	.50	147
Nevada	2	.50	147
New Hampshire	8	.50	147
New Jersey	353	6.41	1,882
New Mexico	8	.50	147
New York	929	16.88	4,960
North Carolina	36	.65	191
North Dakota	3	.50	147
Ohio	257	4.68	1,374
Oklahoma	91	1.66	486
Oregon	78	1.42	417
Pennsylvania	354	6.43	1,888
Rhode Island	12	.50	147
South Carolina	4	.50	147
South Dakota	5	.50	147
Tennessee	7	.50	147
Texas	200	3.64	1,069
Utah	6	.50	147
Vermont	1	.50	147
Virginia	111	2.01	591
Washington	73	1.32	389
West Virginia	5	.50	147
Wisconsin	8	.50	147
Wyoming	9	.50	147
D.C.	9	.50	147
Totals	4,967	100.00	29,384

"(d) TRANSFER OF REIMBURSABLE AMOUNTS TO STP APPORTIONMENT.—Subject to subsection (e) of this section, the Secretary shall transfer amounts allocated to a State pursuant to this section to the apportionment of such State under section 104(b)(3) for the surface transportation program.

"(e) LIMITATION ON APPLICABILITY OF CERTAIN REQUIREMENTS OF STP PROGRAM.—The following provisions of section 133 of this title shall not apply to ½ of the amounts transferred under subsection (d) to the apportionment of the State for the surface transportation program:

"(1) Subsection (d)(1).
"(2) Subsection (d)(2).
"(3) Subsection (d)(3).

"(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated, out of the Highway Trust Fund (other than the Mass Transit Account), $2,000,000,000 per fiscal year for each of fiscal years 1996 and 1997 to carry out this section.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of such title is amended by adding at the end the following new item:

"160. Reimbursement for segments of the Interstate System constructed without Federal assistance."

(c) KANSAS PROJECTS.—

(1) UNITED STATES ROUTE 50.—The State of Kansas shall obligate in fiscal year 1996 $24,440,000 to construct the Hutchinson Bypass between United States Route 50 and Kansas Route 96 in the vicinity of Hutchinson, Kansas. Such funds shall be obligated from amounts allocated to the State of Kansas for fiscal year 1996 under section 160 of title 23, United States Code.

(2) UNITED STATES ROUTE 91.—The State of Kansas shall obligate in fiscal years 1996 and 1997 such sums as may be necessary to widen United States Route 91 from Belleville, Kansas, to the Nebraska border. Such funds shall be obligated from amounts allocated to the State of Kansas for fiscal years 1996 and 1997 under such section.

(3) NONAPPLICABILITY OF CERTAIN PROVISIONS.—Sections 160(d) and 133(d)(3) of title 23, United States Code, shall not apply to funds allocated to the State of Kansas for fiscal years 1996 and 1997.

SEC. 1015. APPORTIONMENT ADJUSTMENTS.

(a) HOLD HARMLESS.—

(1) GENERAL RULE.—The amount of funds which, but for this subsection, would be apportioned to a State for each of the fiscal years 1992 through 1997 under section 104(b)(3) of title 23, United States Code, for the surface transportation program shall be increased or decreased by an amount which, when added to or subtracted from the aggregate amount of funds apportioned to the State for such fiscal year and funds allocated to the State for the prior fiscal year under section 104(b) of such title, section 103(e)(4) for Interstate highway substitute, section 144 of such title, section 157 of such title, under section 202 of such title for the Federal lands highways program, section 160 of such title for the reimbursement program, and section 1013(c) of this Act for the donor State bonus program, will result in the percentage of amounts so apportioned and allocated to all States being equal to the percentage listed for such State in paragraph (2).

(2) STATE PERCENTAGES.—For purposes of paragraph (1) the percentage of amounts apportioned and allocated which are referred to in paragraph (1) for each State and the District of Columbia shall be determined in accordance with the following table:

States:	Adjustment Percentage
Alabama	1.74
Alaska	1.28
Arizona	1.49
Arkansas	1.20
California	9.45
Colorado	1.35
Connecticut	1.78
Delaware	0.41
District of Columbia	0.53
Florida	4.14
Georgia	2.97
Hawaii	0.57
Idaho	0.69
Illinois	3.72
Indiana	2.20
Iowa	1.25
Kansas	1.14
Kentucky	1.52
Louisiana	1.55
Maine	0.50
Maryland	1.69
Massachusetts	4.36
Michigan	2.81
Minnesota	1.58
Mississippi	1.15
Missouri	2.23
Montana	0.97
Nebraska	0.83
Nevada	0.64
New Hampshire	0.48
New Jersey	2.87
New Mexico	1.08
New York	5.37
North Carolina	2.65
North Dakota	0.62
Ohio	3.73
Oklahoma	1.42
Oregon	1.26
Pennsylvania	4.38
Rhode Island	0.54
South Carolina	1.41
South Dakota	0.71
Tennessee	2.08
Texas	6.36
Utah	0.77
Vermont	0.44
Virginia	2.27
Washington	2.06
West Virginia	0.94
Wisconsin	1.70
Wyoming	0.67

(b) 90 PERCENT OF PAYMENT ADJUSTMENTS.—

(1) GENERAL RULE.—For each of fiscal years 1992 through 1997, the Secretary shall allocate among the States amounts sufficient to ensure that a State's total apportionments for such fiscal year and allocations for the prior fiscal year under section 104(b) of such title, section 103(e)(4) for Interstate highway substitute, section 144 of such title, section 157 of such title, section 202 of such title for the Federal lands highways program, section 1013(c) of this Act for the donor State bonus program, section 160 of such title for the reimbursement program, and subsection (a) of this section for hold harmless is not less than 90 percent of the estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund (other than Mass Transit Account) in the latest fiscal year in which data is available.

(2) TRANSFER OF ALLOCATED AMOUNTS TO STP APPORTIONMENT.—Subject to subsection (d) of this section, the Secretary shall transfer amounts allocated to a State pursuant to paragraph (1) to the apportionment of such State under section 104(b)(3) for the surface transportation program.

(c) ADDITIONAL ALLOCATION.—Subject to subsection (d) of this section, the Secretary shall allocate to the State of Wisconsin $40,000,000 for fiscal year 1992 and $47,800,000 for each of fiscal years 1993 through 1997 and transfer such amounts to the apportionment of such State under section 104(b)(3) of title 23, United States Code, for the surface transportation program.

(d) LIMITATION ON APPLICABILITY OF CERTAIN REQUIREMENTS OF STP PROGRAM.—The following provisions of section 133 of title 23, United States Code, shall not apply to ½ of the amounts added under subsection (a) to the apportionment of the State for the surface transportation program and of amounts transferred under subsections (b) and (c) to such apportionment:

(1) Subsection (d)(1).
(2) Subsection (d)(2).
(3) Subsection (d)(3).

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, out of the Highway Trust Fund (other than the Mass Transit Account), to carry out this section such sums as may be necessary for each of fiscal years 1992 through 1997.

SEC. 1016. PROGRAM EFFICIENCIES.

(a) HOV PASSENGER REQUIREMENTS; ENGINEERING COST REIMBURSEMENT.—Section 102 of title 23, United States Code, is amended to read as follows:

"§102. Program efficiencies

"(a) HOV PASSENGER REQUIREMENTS.—A State highway department shall establish the occupancy requirements of vehicles operating in high occupancy vehicle lanes; except that no fewer than 2 occupants per vehicle may be required and, subject to section 163 of the Surface Transportation Assistance Act of 1982, motorcycles and bicycles shall not be considered single occupant vehicles.

"(b) ENGINEERING COST REIMBURSEMENT.—If on-site construction of, or acquisition of right-of-way for, a highway project is not commenced within 10 years after the date on which Federal funds are first made available, out of the Highway Trust Fund (other than Mass Transit Account), for preliminary engineering of such project, the State shall pay an amount equal to the amount of Federal funds made available for such engineering. The Secretary shall deposit in such Fund all amounts paid to the Secretary under this section.".

(b) PROJECT APPROVAL.—Section 106 of such title is amended—

(1) in subsection (a) by inserting "this section and" before "section 117"; and

(2) by striking subsection (b) and inserting the following new subsection:

"(b) SPECIAL RULES.—

"(1) 3R PROJECTS ON NHS.—Notwithstanding any other provision of this title, a State highway department may approve, on a project by project basis, plans, specifications, and estimates for projects to resurface, restore, and rehabilitate highways on the National Highway System if the State certifies that all work will meet or exceed the standards approved by the Secretary under section 109(c).

"(2) NON-NHS PROJECTS AND LOW-COST NHS PROJECTS.—Any State may request that the Secretary no longer review and approve plans, specifications, and estimates for any project (including any highway project on the National Highway System with an estimated construction cost of less than $1,000,000 but excluding any other highway project on the National Highway System). After receiving any such notification, the Secretary shall undertake project review only as requested by the State.

"(3) SAFETY CONSIDERATIONS.—Safety considerations for projects subject to this subsection may be met by phase construction consistent with an operative safety management system established in accordance with section 303.".

(c) STANDARDS.—Section 109(c) of such title is amended to read as follows:

"(c) DESIGN AND CONSTRUCTION STANDARDS FOR NHS.—Design and construction standards to be adopted for new construction on the National Highway System, for reconstruction on the National Highway System, and for resurfacing, restoring, and rehabilitating multilane limited access highways on the National Highway System shall be those approved by the Secretary in cooperation with the State highway departments. All eligible work for such projects shall meet or exceed such standards.".

(d) COMPLIANCE WITH STATE LAWS FOR NON-NHS PROJECTS.—Section 109 of such title is amended by adding at the end the following new subsection:

"(p) COMPLIANCE WITH STATE LAWS FOR NON-NHS PROJECTS.—Projects (other than highway projects on the National Highway System) shall be designed, constructed, operated, and main-

tained in accordance with State laws, regulations, directives, safety standards, design standards, and construction standards.".

(e) HISTORIC AND SCENIC VALUES.—Section 109 of such title is amended by adding at the end the following new subsection:

"(q) HISTORIC AND SCENIC VALUES.—If a proposed project under sections 103(e)(4), 133, or 144 involves a historic facility or is located in an area of historic or scenic value, the Secretary may approve such project notwithstanding the requirements of subsections (a) and (b) of this section and section 133(c) if such project is designed to standards that allow for the preservation of such historic or scenic value and such project is designed with mitigation measures to allow preservation of such value and ensure safe use of the facility.".

(f) CONFORMING AMENDMENTS.—

(1) STANDARDS.—Section 109 of such title is amended—

(A) in subsection (a) by striking "projects on any Federal-aid system" and inserting "highway projects under this chapter"; and

(B) in subsection (l)(1) by striking "Federal-aid system" and inserting "Federal-aid highway".

(2) CERTIFICATION ACCEPTANCE.—Section 117 of such title is amended—

(A) in subsection (a) by striking "on Federal-aid systems, except" and inserting "under this chapter, except projects on";

(B) in subsection (a) by inserting "or other transportation" before "construction,";

(C) by striking subsection (b) and inserting the following:

"(b) The Secretary may accept projects based on inspections of a type and frequency necessary to ensure the projects are completed in accordance with appropriate standards."; and

(D) in subsection (e) by inserting ", section 106(b), section 133, and section 149" after "in this section".

(3) CHAPTER ANALYSIS.—The analysis of chapter 1 of such title, is amended by striking

"102. Authorizations."

and inserting

"102. Program efficiencies.".

(g) LIMITATION ON CERTAIN EXPENDITURES.—No Federal funds may be expended for any highway project on any portion of the scenic highway known as "Ministerial Road" between route 138 and route 1 in the State of Rhode Island unless the Governor of such State and the town council of the town of South Kingstown, Rhode Island, first agree to the design.

SEC. 1017. ACQUISITION OF RIGHTS-OF-WAY.

(a) RIGHT-OF-WAY REVOLVING FUND.—Sections 108(a) and 108(c)(3) of title 23, United States Code, are each amended by striking "ten" and inserting "20".

(b) EARLY ACQUISITION OF RIGHTS-OF-WAY.—Section 108 of such title is further amended by adding at the end the following new subsection:

"(d) EARLY ACQUISITION OF RIGHTS-OF-WAY.—

"(1) GENERAL RULE.—Subject to paragraph (2), funds apportioned to a State under this title may be used to participate in the payment of—

"(A) costs incurred by the State for acquisition of rights-of-way, acquired in advance of any Federal approval or authorization, if the rights-of-way are subsequently incorporated into a project eligible for surface transportation program funds; and

"(B) costs incurred by the State for the acquisition of land necessary to preserve environmental and scenic values.

"(2) TERMS AND CONDITIONS.—The Federal share payable of the costs described in paragraph (1) shall be eligible for reimbursement out of funds apportioned to a State under this title when the rights-of-way acquired are incorporated into a project eligible for surface transportation program funds, if the State demonstrates to the Secretary and the Secretary finds that—

"(A) any land acquired, and relocation assistance provided, complied with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

"(B) the requirements of title VI of the Civil Rights Act of 1964 have been complied with;

"(C) the State has a mandatory comprehensive and coordinated land use, environment, and transportation planning process under State law and the acquisition is certified by the Governor as consistent with the State plans before the acquisition;

"(D) the acquisition is determined in advance by the Governor to be consistent with the State transportation planning process pursuant to section 135 of this title;

"(E) the alternative for which the right-of-way is acquired is selected by the State pursuant to regulations to be issued by the Secretary which provide for the consideration of the environmental impacts of various alternatives;

"(F) before the time that the cost incurred by a State is approved for Federal participation, environmental compliance pursuant to the National Environmental Policy Act has been completed for the project for which the right-of-way was acquired by the State, and the acquisition has been approved by the Secretary under this Act, and in compliance with section 4(f) of the Department of Transportation Act, section 7 of the Endangered Species Act, and all other applicable environmental laws shall be identified by the Secretary in regulations; and

"(G) before the time that the cost incurred by a State is approved for Federal participation, both the Secretary and the Administrator of the Environmental Protection Agency have concurred that the property acquired in advance of Federal approval or authorization did not influence the environmental assessment of the project, the decision relative to the need to construct the project, or the selection of the project design or location.".

(c) PRESERVATION OF TRANSPORTATION CORRIDORS REPORT.—The Secretary, in consultation with the States, shall report to Congress within 2 years after the date of the enactment of this Act, a national list of the rights-of-way identified by the metropolitan planning organizations and the States (under sections 134 and 135 of title 23, United States Code), including the total mileage involved, an estimate of the total costs, and a strategy for preventing further loss of rights-of-way including the desirability of creating a transportation right-of-way land bank to preserve vital corridors.

SEC. 1018. PRECONSTRUCTION ACTIVITIES.

(a) LIMITATION ON ESTIMATES FOR CONSTRUCTION ENGINEERING.—Section 106(c) of title 23, United States Code, is amended to read as follows:

"(c) LIMITATION ON ESTIMATES FOR CONSTRUCTION ENGINEERING.—Items included in all such estimates for construction engineering for a State for a fiscal year shall not exceed, in the aggregate, 15 percent of the total estimated costs of all projects financed within the boundaries of the State with Federal-aid highway funds in such fiscal year, after excluding from such total estimate costs, the estimated costs of rights-of-way, preliminary engineering, and construction engineering.".

(b) CONFORMING AMENDMENTS.—Section 121(d) of such title is amended—

(1) by striking "120" and inserting "106(c), 120,"; and

(2) by striking the last sentence.

SEC. 1019. CONVICT PRODUCED MATERIALS.

Section 114(b)(2) of title 23, United States Code, is amended by inserting "after July 1, 1991," after "Materials produced".

SEC. 1020. PERIOD OF AVAILABILITY.

(a) DATE AND PERIOD OF AVAILABILITY; DISCRETIONARY PROJECTS.—Section 118 of title 23, United States Code, is amended by striking subsections (a) and (b) and inserting the following new subsections:

"(a) DATE AVAILABLE FOR OBLIGATION.—Except as otherwise specifically provided, authorizations from the Highway Trust Fund (other than the Mass Transit Account) to carry out this title shall be available for obligation on the date of their apportionment or allocation or on October 1 of the fiscal year for which they are authorized, whichever occurs first.

"(b) PERIOD OF AVAILABILITY; DISCRETIONARY PROJECTS.—

"(1) INTERSTATE CONSTRUCTION FUNDS.—Funds apportioned or allocated for Interstate construction in a State shall remain available for obligation in that State until the last day of the fiscal year in which they are apportioned or allocated. Sums not obligated by the last day of the fiscal year in which they are apportioned or allocated shall be allocated to other States, except Massachusetts, at the discretion of the Secretary. All sums apportioned or allocated on or after October 1, 1994, shall remain available in the State until expended. All sums apportioned or allocated to Massachusetts on or before October 1, 1989, shall remain available until expended.

"(2) OTHER FUNDS.—Except as otherwise specifically provided, funds apportioned or allocated pursuant to this title (other than for Interstate construction) in a State shall remain available for obligation in that State for a period of 3 years after the last day of the fiscal year for which the funds are authorized. Any amounts so apportioned or allocated that remain unobligated at the end of that period shall lapse.".

(b) SET ASIDE FOR DISCRETIONARY PROJECTS.—Section 118(c) of such title is amended—

(1) by striking "1983" and inserting "1992";

(2) by striking "$300,000,000" and inserting "$100,000,000"; and

(3) by striking paragraph (2) and inserting the following new paragraph:

"(2) SET ASIDE FOR 4R PROJECTS.—

"(A) IN GENERAL.—Before any apportionment is made under section 104(b)(1) of this title, the Secretary shall set aside $54,000,000 for fiscal year 1992, $64,000,000 for each fiscal years 1993, 1994, 1995, and 1996, and $65,000,000 for fiscal year 1997 for obligation by the Secretary for projects for resurfacing, restoring, rehabilitating, and reconstructing any route or portion thereof on the Interstate System (other than any highway designated as a part of the Interstate System under section 139 and any toll road on the Interstate System not subject to an agreement under section 119(e) of this title, as in effect on the day before the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991). Of the amounts set aside under the preceding sentence, the Secretary shall obligate $16,000,000 for fiscal year 1992 and $17,000,000 for each of fiscal years 1993 and 1994 for improvements on the Kennedy Expressway in Chicago, Illinois. The remainder of such funds shall be made available by the Secretary to any State applying for such funds, if the Secretary determines that—

"(i) the State has obligated or demonstrates that it will obligate in the fiscal year all of its apportionments under section 104(b)(1) other than an amount which, by itself, is insufficient to pay the Federal share of the cost of a project for resurfacing, restoring, rehabilitating, and reconstructing the Interstate System which has been submitted by the State to the Secretary for approval; and

"(ii) the applicant is willing and able to (I) obligate the funds within 1 year of the date the

funds are made available, (II) apply them to a ready-to-commence project, and (III) in the case of construction work, begin work within 90 days of obligation.

"(B) PRIORITY CONSIDERATION FOR CERTAIN PROJECTS.—In selecting projects to fund under subparagraph (A), the Secretary shall give priority consideration to any project the cost of which exceeds $10,000,000 on any high volume route in an urban area or a high truck-volume route in a rural area.

"(C) PERIOD OF AVAILABILITY OF DISCRETIONARY FUNDS.—Sums made available pursuant to this paragraph shall remain available until expended.".

(c) CONFORMING AMENDMENT.—Section 118(d) of such title is amended by striking "(b)(2)" and inserting "(b)(1)".

(d) ALASKA AND PUERTO RICO.—Section 118(f) of such title is amended by striking "on a Federal-aid system".

SEC. 1021. FEDERAL SHARE.

(a) IN GENERAL.—Section 120 of title 23, United States Code, is amended by striking subsections (a), (b), (c), and (d) and inserting the following new subsections:

"(a) INTERSTATE SYSTEM PROJECTS.—Except as otherwise provided in this chapter, the Federal share payable on account of any project on the Interstate System (including a project to add high occupancy vehicle lanes and a project to add auxiliary lanes but excluding a project to add any other lanes) shall be 90 percent of the total cost thereof, plus a percentage of the remaining 10 percent of such cost in any State containing unappropriated and unreserved public lands and nontaxable Indian lands, individual and tribal, exceeding 5 percent of the total area of all lands therein, equal to the percentage that the area of such lands in such State is of its total area; except that such Federal share payable on any project in any State shall not exceed 95 percent of the total cost of such project.

"(b) OTHER PROJECTS.—Except as otherwise provided in this title, the Federal share payable on account of any project or activity carried out under this title (other than a project subject to subsection (a)) shall be—

"(1) 80 percent of the cost thereof, except that in the case of any State containing nontaxable Indian lands, individual and tribal, and public domain lands (both reserved and unreserved) exclusive of national forests and national parks and monuments, exceeding 5 percent of the total area of all lands therein, the Federal share, for purposes of this chapter, shall be increased by a percentage of the remaining cost equal to the percentage that the area of all such lands in such State, is of its total area; or

"(2) 80 percent of the cost thereof, except that in the case of any State containing nontaxable Indian lands, individual and tribal, public domain lands (both reserved and unreserved), national forests, and national parks and monuments, the Federal share, for purposes of this chapter, shall be increased by a percentage of the remaining cost equal to the percentage that the area of all such lands in such State is of its total area;

except that the Federal share payable on any project in a State shall not exceed 95 percent of the total cost of any such project. In any case where a State elects to have the Federal share provided in paragraph (2) of this subsection, the State must enter into an agreement with the Secretary covering a period of not less than 1 year, requiring such State to use solely for purposes eligible for assistance under this title (other than paying its share of projects approved under this title) during the period covered by such agreement the difference between the State's share as provided in paragraph (2) and what its share would be if it elected to pay the share provided in paragraph (1) for all projects subject to such agreement.

"(c) INCREASED FEDERAL SHARE FOR CERTAIN SAFETY PROJECTS.—The Federal share payable on account of any project for traffic control signalization, pavement marking, commuter carpooling and vanpooling, or installation of traffic signs, traffic lights, guardrails, impact attenuators, concrete barrier endtreatments, breakaway utility poles, or priority control systems for emergency vehicles at signalized intersections may amount to 100 percent of the cost of construction of such projects; except that not more than 10 percent of all sums apportioned for all the Federal-aid systems for any fiscal year in accordance with section 104 of this title shall be used under this subsection.".

(b) CONFORMING AMENDMENTS.—Section 120 of such title is further amended—

(1) by striking subsections (j), (k), (l), and (m),

(2) by redesignating subsections (e), (f), (g), (h), (i), and (n) as subsections (d), (e), (f), (g), (h), and (i) respectively, and

(3) in subsection (d) as so redesignated by striking "and (c)" and inserting "and (b)".

(c) LIMITATION ON STATUTORY CONSTRUCTION.—The amendments made by this section shall not be construed to affect (1) the Federal share established by the Supplemental Appropriations Act, 1983 (97 Stat. 329) for construction of any highway on the Interstate System, and (2) the Federal share established by section 120(k) of such title, as in effect on the day before the date of the enactment of this Act, with respect to United States Highway 71 in Arkansas from the I-40 intersection to the Missouri-Arkansas State line.

(d) HIGHER FEDERAL SHARE.—If any highway project authorized to be carried out under section 1103 through 1108 of this Act is a project which would be eligible for assistance under section 204 of title 23, United States Code, or is a project on a federally owned bridge, the Federal share payable on account of such project shall be 100 percent for purposes of this Act.

SEC. 1022. EMERGENCY RELIEF.

(a) EXTENSION OF TIME PERIOD.—Section 120(d) of title 23, United States Code, as redesignated by section 1021(b) of this Act, is amended by striking "90 days" and inserting "180 days".

(b) DOLLAR LIMITATION FOR TERRITORIES.—Section 125(b)(2) of such title is amended by striking "$5,000,000" and inserting "$20,000,000".

(c) APPLICABILITY.—The amendments made by subsections (a) and (b) shall only apply to natural disasters and catastrophic failures occurring after the date of the enactment of this Act.

SEC. 1023. GROSS VEHICLE WEIGHT RESTRICTION.

(a) CONFORMING AMENDMENTS.—Section 127(a) of title 23, United States Code, is amended—

(1) by striking "funds authorized to be appropriated for any fiscal year under provisions of the Federal-Aid Highway Act of 1956 shall be apportioned" and inserting "funds shall be apportioned in any fiscal year under section 104(b)(1) of this title"; and

(2) in the fourth sentence by inserting after "thereof" the following: ", other than vehicles or combinations subject to subsection (d) of this section,".

(b) OPERATION OF LONGER COMBINATION VEHICLES.—Section 127 of such title is amended by adding at the end the following new subsection:

"(d) LONGER COMBINATION VEHICLES.—

"(1) PROHIBITION.—

"(A) GENERAL CONTINUATION RULE.—A longer combination vehicle may continue to operate only if the longer combination vehicle configuration type was authorized by State officials pursuant to State statute or regulation conforming to this section and in actual lawful operation on a regular or periodic basis (including seasonal operations) on or before June 1, 1991, or pursuant to section 335 of the Department of Transportation and Related Agencies Appropriations Act, 1991 (104 Stat. 2186).

"(B) APPLICABILITY OF STATE LAWS AND REGULATIONS.—All such operations shall continue to be subject to, at the minimum, all State statutes, regulations, limitations and conditions, including, but not limited to, routing-specific and configuration-specific designations and all other restrictions, in force on June 1, 1991; except that subject to such regulations as may be issued by the Secretary pursuant to paragraph (5) of this subsection, the State may make minor adjustments of a temporary and emergency nature to route designations and vehicle operating restrictions in effect on June 1, 1991, for specific safety purposes and road construction.

"(C) WYOMING.—In addition to those vehicles allowed under subparagraph (A), the State of Wyoming may allow the operation of additional vehicle configurations not in actual operation on June 1, 1991, but authorized by State law not later than November 3, 1992, if such vehicle configurations comply with the single axle, tandem axle, and bridge formula limits set forth in subsection (a) and do not exceed 117,000 pounds gross vehicle weight.

"(D) OHIO.—In addition to vehicles which the State of Ohio may continue to allow to be operated under subparagraph (A), such State may allow longer combination vehicles with 3 cargo carrying units of 28½ feet each (not including the truck tractor) not in actual operation on June 1, 1991, to be operated within its boundaries on the 1-mile segment of Ohio State Route 7 which begins at and is south of exit 16 of the Ohio Turnpike.

"(E) ALASKA.—In addition to vehicles which the State of Alaska may continue to allow to be operated under subparagraph (A), such State may allow the operation of longer combination vehicles which were not in actual operation on June 1, 1991, but which were in actual operation prior to July 5, 1991.

"(2) ADDITIONAL STATE RESTRICTIONS.—

"(A) IN GENERAL.—Nothing in this subsection shall prevent any State from further restricting in any manner or prohibiting the operation of longer combination vehicles otherwise authorized under this subsection; except that such restrictions or prohibitions shall be consistent with the requirements of sections 411, 412, and 416 of the Surface Transportation Assistance Act of 1982 (49 U.S.C. App. 2311, 2312, and 2316).

"(B) MINOR ADJUSTMENTS.—Any State further restricting or prohibiting the operations of longer combination vehicles or making minor adjustments of a temporary and emergency nature as may be allowed pursuant to regulations issued by the Secretary pursuant to paragraph (5) of this subsection, shall, within 30 days, advise the Secretary of such action, and the Secretary shall publish a notice of such action in the Federal Register.

"(3) PUBLICATION OF LIST.—

"(A) SUBMISSION TO SECRETARY.—Within 60 days of the date of the enactment of this subsection, each State (i) shall submit to the Secretary for publication in the Federal Register a complete list of (I) all operations of longer combination vehicles being conducted as of June 1, 1991, pursuant to State statutes and regulations; (II) all limitations and conditions, including, but not limited to, routing-specific and configuration-specific designations and all other restrictions, governing the operation of longer combination vehicles otherwise prohibited under this subsection; and (III) such statutes, regulations, limitations, and conditions; and (ii) shall submit to the Secretary copies of such statutes, regulations, limitations, and conditions.

"(B) INTERIM LIST.—Not later than 90 days after the date of the enactment of this sub-

section, the Secretary shall publish an interim list in the Federal Register, consisting of all information submitted pursuant to subparagraph (A). The Secretary shall review for accuracy all information submitted by the States pursuant to subparagraph (A) and shall solicit and consider public comment on the accuracy of all such information.

"(C) LIMITATION.—No statute or regulation shall be included on the list submitted by a State or published by the Secretary merely on the grounds that it authorized, or could have authorized, by permit or otherwise, the operation of longer combination vehicles, not in actual operation on a regular or periodic basis on or before June 1, 1991.

"(D) FINAL LIST.—Except as modified pursuant to paragraph (1)(C) of this subsection, the list shall be published as final in the Federal Register not later than 180 days after the date of the enactment of this subsection. In publishing the final list, the Secretary shall make any revisions necessary to correct inaccuracies identified under subparagraph (B). After publication of the final list, longer combination vehicles may not operate on the Interstate System except as provided in the list.

"(E) REVIEW AND CORRECTION PROCEDURE.—The Secretary, on his or her own motion or upon a request by any person (including a State), shall review the list issued by the Secretary pursuant to subparagraph (D). If the Secretary determines there is cause to believe that a mistake was made in the accuracy of the final list, the Secretary shall commence a proceeding to determine whether the list published pursuant to subparagraph (D) should be corrected. If the Secretary determines that there is a mistake in the accuracy of the list the Secretary shall correct the publication under subparagraph (D) to reflect the determination of the Secretary.

"(4) LONGER COMBINATION VEHICLE DEFINED.—For purposes of this section, the term 'longer combination vehicle' means any combination of a truck tractor and 2 or more trailers or semitrailers which operates on the Interstate System at a gross vehicle weight greater than 80,000 pounds.

"(5) REGULATIONS REGARDING MINOR ADJUSTMENTS.—Not later than 180 days after the date of the enactment of this subsection, the Secretary shall issue regulations establishing criteria for the States to follow in making minor adjustments under paragraph (1)(B).".

(c) STATE CERTIFICATION.—Section 141(b) of such title is amended by adding at the end the following new sentence: "Each State shall also certify that it is enforcing and complying with the provisions of section 127(d) of this title and section 411(j) of the Surface Transportation Assistance Act of 1982 (49 U.S.C. App. 2311(j)).".

(d) INTERSTATE ROUTE 68.—Section 127 of such title is amended by adding at the end the following new subsection:

"(e) OPERATION OF CERTAIN SPECIALIZED HAULING VEHICLES ON INTERSTATE ROUTE 68.—The single axle, tandem axle, and bridge formula limits set forth in subsection (a) shall not apply to the operation on Interstate Route 68 in Garrett and Allegany Counties, Maryland, of any specialized vehicle equipped with a steering axle and a tridem axle and used for hauling coal, logs, and pulpwood if such vehicle is of a type of vehicle as was operating in such counties on United States Route 40 or 48 for such purpose on August 1, 1991.".

(e) FIREFIGHTING VEHICLES.—

(1) TEMPORARY EXEMPTION.—The second sentence of section 127 of title 23, United States Code, relating to axle weight limitations and the bridge formula for vehicles using the National System of Interstate and Defense Highways, shall not apply, in the 2-year period beginning on the date of the enactment of this Act, to any existing vehicle which is used for the purpose of protecting persons and property from fires and other disasters that threaten public safety and which is in actual operation before such date of enactment and to any new vehicle to be used for such purpose while such vehicle is being delivered to a firefighting agency. The Secretary may extend such 2-year period for an additional year.

(2) STUDY.—The Secretary shall conduct a study—

(A) of State laws regulating the use on the National System of Interstate and Defense Highways of vehicles which are used for the purpose of protecting persons and property from fires and other disasters that threaten public safety and which are being delivered to or operated by a firefighting agency; and

(B) of the issuance of permits by States which exempt such vehicles from the requirements of the second sentence of section 127 of title 23, United States Code.

(3) PURPOSES.—The purposes of the study under this subsection are to determine whether or not such State laws and such section 127 need to be modified with regard to such vehicles and whether or not a permanent exemption should be made for such vehicles from the requirements of such laws and section 127 or whether or not the bridge formula set forth in such section should be modified as it applies to such vehicles.

(4) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall submit to the Congress a report on the results of the study conducted under paragraph (2), together with recommendations.

(f) MONTANA-CANADA TRADE.—The Secretary shall not withhold funds from the State of Montana on the basis of actions taken by the State of Montana pursuant to a draft memorandum of understanding with the Province of Alberta, Canada, regarding truck transportation between Canada and Shelby, Montana; except that such actions do not include actions not permitted by the State of Montana on or before June 1, 1991.

(g) TRANSPORTERS OF WATER WELL DRILLING RIGS.—

(1) STUDY.—The Secretary shall conduct a study of State and Federal regulations pertaining to transporters of water well drilling rigs on public highways for the purpose of identifying requirements which place a burden on such transporters without enhancing safety or preservation of public highways.

(2) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under paragraph (1), together with any legislative and administrative recommendations of the Secretary.

SEC. 1024. METROPOLITAN PLANNING.

(a) IN GENERAL.—Section 134 of title 23, United States Code, is amended to read as follows:

"§134. Metropolitan planning

"(a) GENERAL REQUIREMENTS.—It is in the national interest to encourage and promote the development of transportation systems embracing various modes of transportation in a manner which will efficiently maximize mobility of people and goods within and through urbanized areas and minimize transportation-related fuel consumption and air pollution. To accomplish this objective, metropolitan planning organizations, in cooperation with the State, shall develop transportation plans and programs for urbanized areas of the State. Such plans and programs shall provide for the development of transportation facilities (including pedestrian walkways and bicycle transportation facilities) which will function as an intermodal transportation system for the State, the metropolitan areas, and the Nation. The process for developing such plans and programs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems.

"(b) DESIGNATION OF METROPOLITAN PLANNING ORGANIZATIONS.—

"(1) IN GENERAL.—To carry out the transportation planning process required by this section, a metropolitan planning organization shall be designated for each urbanized area of more than 50,000 population by agreement among the Governor and units of general purpose local government which together represent at least 75 percent of the affected population (including the central city or cities as defined by the Bureau of the Census) or in accordance with procedures established by applicable State or local law.

"(2) MEMBERSHIP OF CERTAIN MPO'S.—In a metropolitan area designated as a transportation management area, the metropolitan planning organization designated for such area shall include local elected officials, officials of agencies which administer or operate major modes of transportation in the metropolitan area (including all transportation agencies included in the metropolitan planning organization on June 1, 1991) and appropriate State officials. This paragraph shall only apply to a metropolitan planning organization which is redesignated after the date of the enactment of this section.

"(3) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to interfere with the authority, under any State law in effect on the date of the enactment of this section, of a public agency with multimodal transportation responsibilities to—

"(A) develop plans and programs for adoption by a metropolitan planning organization; and

"(B) develop long-range capital plans, coordinate transit services and projects, and carry out other activities pursuant to State law.

"(4) CONTINUING DESIGNATION.—Designations of metropolitan planning organizations, whether made under this section or other provisions of law, shall remain in effect until redesignated under paragraph (5) or revoked by agreement among the Governor and units of general purpose local government which together represent at least 75 percent of the affected population or as otherwise provided under State or local procedures.

"(5) REDESIGNATION.—

"(A) PROCEDURES.—A metropolitan planning organization may be redesignated by agreement among the Governor and units of general purpose local government which together represent at least 75 percent of the affected population (including the central city or cities as defined by the Bureau of the Census) as appropriate to carry out this section.

"(B) CERTAIN REQUESTS TO REDESIGNATE.—A metropolitan planning organization shall be redesignated upon request of a unit or units of general purpose local government representing at least 25 percent of the affected population (including the central city or cities as defined by the Bureau of the Census) in any urbanized area (i) whose population is more than 5,000,000 but less than 10,000,000, or (ii) which is an extreme nonattainment area for ozone or carbon monoxide as defined under the Clean Air Act. Such redesignation shall be accomplished using procedures established by subparagraph (A).

"(6) TREATMENT OF LARGE URBAN AREAS.—More than 1 metropolitan planning organization may be designated within an urbanized area as defined by the Bureau of the Census only if the Governor determines that the size and complexity of the urbanized area make designation of more than 1 metropolitan planning organization for such area appropriate.

"(c) METROPOLITAN AREA BOUNDARIES.—For the purposes of this section, the boundaries of a

metropolitan area shall be determined by agreement between the metropolitan planning organization and the Governor. Each metropolitan area shall cover at least the existing urbanized area and the contiguous area expected to become urbanized within the 20-year forecast period and may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Bureau of the Census. For areas designated as nonattainment areas for ozone or carbon monoxide under the Clean Air Act, the boundaries of the metropolitan area shall at least include the boundaries of the nonattainment area, except as otherwise provided by agreement between the metropolitan planning organization and the Governor.

"(d) COORDINATION IN MULTISTATE AREAS.—

"(1) IN GENERAL.—The Secretary shall establish such requirements as the Secretary considers appropriate to encourage Governors and metropolitan planning organizations with responsibility for a portion of a multi-State metropolitan area to provide coordinated transportation planning for the entire metropolitan area.

"(2) COMPACTS.—The consent of Congress is hereby given to any 2 or more States to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section as such activities pertain to interstate areas and localities within such States and to establish such agencies, joint or otherwise, as such States may deem desirable for making such agreements and compacts effective.

"(e) COORDINATION OF MPO'S.—If more than 1 metropolitan planning organization has authority within a metropolitan area or an area which is designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act, each metropolitan planning organization shall consult with the other metropolitan planning organizations designated for such area and the State in the coordination of plans and programs required by this section.

"(f) FACTORS TO BE CONSIDERED.—In developing transportation plans and programs pursuant to this section, each metropolitan planning organization shall, at a minimum, consider the following:

"(1) Preservation of existing transportation facilities and, where practical, ways to meet transportation needs by using existing transportation facilities more efficiently.

"(2) The consistency of transportation planning with applicable Federal, State, and local energy conservation programs, goals, and objectives.

"(3) The need to relieve congestion and prevent congestion from occurring where it does not yet occur.

"(4) The likely effect of transportation policy decisions on land use and development and the consistency of transportation plans and programs with the provisions of all applicable short- and long-term land use and development plans.

"(5) The programming of expenditure on transportation enhancement activities as required in section 133.

"(6) The effects of all transportation projects to be undertaken within the metropolitan area, without regard to whether such projects are publicly funded.

"(7) International border crossings and access to ports, airports, intermodal transportation facilities, major freight distribution routes, national parks, recreation areas, monuments and historic sites, and military installations.

"(8) The need for connectivity of roads within the metropolitan area with roads outside the metropolitan area.

"(9) The transportation needs identified through use of the management systems required by section 303 of this title.

"(10) Preservation of rights-of-way for construction of future transportation projects, including identification of unused rights-of-way which may be needed for future transportation corridors and identification of those corridors for which action is most needed to prevent destruction or loss.

"(11) Methods to enhance the efficient movement of freight.

"(12) The use of life-cycle costs in the design and engineering of bridges, tunnels, or pavement.

"(13) The overall social, economic, energy, and environmental effects of transportation decisions.

"(14) Methods to expand and enhance transit services and to increase the use of such services.

"(15) Capital investments that would result in increased security in transit systems.

"(g) DEVELOPMENT OF LONG RANGE PLAN.—

"(1) IN GENERAL.—Each metropolitan planning organization shall prepare, and update periodically, according to a schedule that the Secretary determines to be appropriate, a long range plan for its metropolitan area in accordance with the requirements of this subsection.

"(2) LONG RANGE PLAN.—A long range plan under this section shall be in a form that the Secretary determines to be appropriate and shall, at a minimum:

"(A) Identify transportation facilities (including but not necessarily limited to major roadways, transit, and multimodal and intermodal facilities) that should function as an integrated metropolitan transportation system, giving emphasis to those facilities that serve important national and regional transportation functions. In formulating the long range plan, the metropolitan planning organization shall consider factors described in subsection (f) as such factors relate to a 20-year forecast period.

"(B) Include a financial plan that demonstrates how the long-range plan can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan, and recommends any innovative financing techniques to finance needed projects and programs, including such techniques as value capture, tolls and congestion pricing.

"(C) Assess capital investment and other measures necessary to—

"(i) ensure the preservation of the existing metropolitan transportation system, including requirements for operational improvements, resurfacing, restoration, and rehabilitation of existing and future major roadways, as well as operations, maintenance, modernization, and rehabilitation of existing and future transit facilities; and

"(ii) make the most efficient use of existing transportation facilities to relieve vehicular congestion and maximize the mobility of people and goods.

"(D) Indicate as appropriate proposed transportation enhancement activities.

"(3) COORDINATION WITH CLEAN AIR ACT AGENCIES.—In metropolitan areas which are in nonattainment for ozone or carbon monoxide under the Clean Air Act, the metropolitan planning organization shall coordinate the development of a long range plan with the process for development of the transportation control measures of the State implementation plan required by the Clean Air Act.

"(4) PARTICIPATION BY INTERESTED PARTIES.—Before approving a long range plan, each metropolitan planning organization shall provide citizens, affected public agencies, representatives of transportation agency employees, private providers of transportation, and other interested parties with a reasonable opportunity to comment on the long range plan, in a manner that the Secretary deems appropriate.

"(5) PUBLICATION OF LONG RANGE PLAN.—Each long range plan prepared by a metropolitan planning organization shall be—

"(i) published or otherwise made readily available for public review; and

"(ii) submitted for information purposes to the Governor at such times and in such manner as the Secretary shall establish.

"(h) TRANSPORTATION IMPROVEMENT PROGRAM.—

"(1) DEVELOPMENT.—The metropolitan planning organization designated for a metropolitan area, in cooperation with the State and affected transit operators, shall develop a transportation improvement program for the area for which such organization is designated. In developing the program, the metropolitan planning organization shall provide citizens, affected public agencies, representatives of transportation agency employees, other affected employee representatives, private providers of transportation, and other interested parties with a reasonable opportunity to comment on the proposed program. The program shall be updated at least once every 2 years and shall be approved by the metropolitan planning organization and the Governor.

"(2) PRIORITY OF PROJECTS.—The transportation improvement program shall include the following:

"(A) A priority list of projects and project segments to be carried out within each 3-year period after the initial adoption of the transportation improvement program.

"(B) A financial plan that demonstrates how the transportation improvement program can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan, and recommends any innovative financing techniques to finance needed projects and programs, including value capture, tolls, and congestion pricing.

"(3) SELECTION OF PROJECTS.—Except as otherwise provided in subsection (i)(4), project selection in metropolitan areas for projects involving Federal participation shall be carried out by the State in cooperation with the metropolitan planning organization and shall be in conformance with the transportation improvement program for the area.

"(4) MAJOR CAPITAL INVESTMENTS.—Not later than 6 months after the date of the enactment of this section, the Secretary shall initiate a rulemaking proceeding to conform review requirements for transit projects under the National Environmental Policy Act of 1969 to comparable requirements under such Act applicable to highway projects. Nothing in this section shall be construed to affect the applicability of such Act to transit or highway projects.

"(5) INCLUDED PROJECTS.—A transportation improvement program for a metropolitan area developed under this subsection shall include projects within the area which are proposed for funding under this title and the Federal Transit Act which are consistent with the long range plan developed under subsection (g) for the area. The program shall include a project, or an identified phase of a project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

"(6) NOTICE AND COMMENT.—Before approving a transportation improvement program, a metropolitan planning organization shall provide citizens, affected public agencies, representatives of transportation agency employees, private providers of transportation, and other interested parties with reasonable notice of and an opportunity to comment on the proposed program.

"(i) TRANSPORTATION MANAGEMENT AREAS.—

"(1) DESIGNATION.—The Secretary shall designate as transportation management areas all

urbanized areas over 200,000 population. The Secretary shall designate any additional area as a transportation management area upon the request of the Governor and the metropolitan planning organization designated for such area or the affected local officials. Such additional areas shall include upon such a request the Lake Tahoe Basin as defined by Public Law 96-551.

"(2) TRANSPORTATION PLANS AND PROGRAMS.—Within a transportation management area, transportation plans and programs shall be based on a continuing and comprehensive transportation planning process carried out by the metropolitan planning organization in cooperation with the State and transit operators.

"(3) CONGESTION MANAGEMENT SYSTEM.—Within a transportation management area, the transportation planning process under this section shall include a congestion management system that provides for effective management of new and existing transportation facilities eligible for funding under this title and the Federal Transit Act through the use of travel demand reduction and operational management strategies. The Secretary shall establish an appropriate phase-in schedule for compliance with the requirements of this section.

"(4) SELECTION OF PROJECTS.—All projects carried out within the boundaries of a transportation management area with Federal participation pursuant to this title (excluding projects undertaken on the National Highway System and pursuant to the bridge and Interstate maintenance programs) or pursuant to the Federal Transit Act shall be selected by the metropolitan planning organization designated for such area in consultation with the State and in conformance with the transportation improvement program for such area and priorities established therein. Projects undertaken within the boundaries of a transportation management area on the National Highway System or pursuant to the Bridge and Interstate Maintenance programs shall be selected by the State in cooperation with the metropolitan planning organization designated for such area and shall be in conformance with the transportation improvement program for such area.

"(5) CERTIFICATION.—The Secretary shall assure that each metropolitan planning organization in each transportation management area is carrying out its responsibilities under applicable provisions of Federal law, and shall so certify at least once every 3 years. The Secretary may make such certification only if (1) a metropolitan planning organization is complying with the requirements of this section and other applicable requirements of Federal law, and (2) there is a transportation improvement program for the area that has been approved by the metropolitan planning organization and the Governor. If after September 30, 1993, a metropolitan planning organization is not certified by the Secretary, the Secretary may withhold, in whole or in part, the apportionment under section 104(b)(3) attributed to the relevant metropolitan area pursuant to section 133(d)(3) and capital funds apportioned under the formula program under section 9 of the Federal Transit Act. If a metropolitan planning organization remains uncertified for more than 2 consecutive years after September 30, 1994, 20 percent of the apportionment attributed to that metropolitan area under section 133(d)(3) and capital funds apportioned under the formula program under section 9 of the Federal Transit Act shall be withheld. The withheld apportionments shall be restored to the metropolitan area at such time as the metropolitan planning organization is certified by the Secretary. The Secretary shall not withhold certification under this section based upon the policies and criteria established by a metropolitan planning organization or transit grant recipient for determining the feasibility of private enterprise participation in accordance with section 8(o) of the Federal Transit Act.

"(j) ABBREVIATED PLANS AND PROGRAMS FOR CERTAIN AREAS.—For metropolitan areas not designated as transportation management areas under this section, the Secretary may provide for the development of abbreviated metropolitan transportation plans and programs that the Secretary determines to be appropriate to achieve the purposes of this section, taking into account the complexity of transportation problems, including transportation related air quality problems, in such areas. In no event shall the Secretary provide abbreviated plans or programs for metropolitan areas which are in nonattainment for ozone or carbon monoxide under the Clean Air Act.

"(k) TRANSFER OF FUNDS.—Funds made available for a highway project under the Federal Transit Act shall be transferred to and administered by the Secretary in accordance with the requirements of this title. Funds made available for a transit project under the Federal-Aid Highway Act of 1991 shall be transferred to and administered by the Secretary in accordance with the requirements of the Federal Transit Act.

"(l) ADDITIONAL REQUIREMENTS FOR CERTAIN NONATTAINMENT AREAS.—Notwithstanding any other provisions of this title or the Federal Transit Act, for transportation management areas classified as nonattainment for ozone or carbon monoxide pursuant to the Clean Air Act, Federal funds may not be programmed in such area for any highway project that will result in a significant increase in carrying capacity for single occupant vehicles unless the project is part of an approved congestion management system.

"(m) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to confer on a metropolitan planning organization the authority to impose legal requirements on any transportation facility, provider, or project not eligible under this title or the Federal Transit Act.

"(n) REPROGRAMMING OF SET ASIDE FUNDS.—Any funds set aside pursuant to section 104(f) of this title that are not used for the purpose of carrying out this section may be made available by the metropolitan planning organization to the State for the purpose of funding activities under section 135.".

(b) AMENDMENTS TO SECTION 104.—Section 104(f) of title 23, United States Code, is amended—

(1) in paragraph (1) by striking "one-half per centum" and inserting "1 percent";

(2) in paragraph (1) by striking "the Federal-aid systems" and inserting "programs authorized under this title";

(3) in paragraph (1) by striking "except that" and all that follows before the period and inserting "except that the amount from which such set aside is made shall not include funds authorized to be appropriated for the Interstate construction and Interstate substitute programs";

(4) in paragraph (3) by striking "section 120" and inserting "section 120(j)";

(5) in paragraph (4) by striking "and metropolitan area transportation needs" and inserting "attainment of air quality standards, metropolitan area transportation needs, and other factors necessary to provide for an appropriate distribution of funds to carry out the requirements of section 134 and other applicable requirements of Federal law"; and

(6) by adding at the end the following new paragraph:

"(5) DETERMINATION OF POPULATION FIGURES.—For the purposes of determining population figures under this subsection, the Secretary shall use the most recent estimate published by the Secretary of Commerce.".

(c) CONFORMING AMENDMENTS.—

(1) The analysis of chapter 1 of title 23, United States Code, is amended by striking

"Sec. 134. Transportation planning in certain urban areas."

and inserting

"Sec. 134. Metropolitan planning.".

(2) Section 104(f)(3) of title 23, United States Code, is amended by striking "designated by the State as being".

SEC. 1025. STATEWIDE PLANNING.

(a) IN GENERAL.—Section 135 of title 23, United States Code, is amended to read as follows:

"§135. Statewide planning

"(a) GENERAL REQUIREMENTS.—It is in the national interest to encourage and promote the development of transportation systems embracing various modes of transportation in a manner that will serve all areas of the State efficiently and effectively. Subject to section 134 of this title, the State shall develop transportation plans and programs for all areas of the State. Such plans and programs shall provide for development of transportation facilities (including pedestrian walkways and bicycle transportation facilities) which will function as an intermodal State transportation system. The process for developing such plans and programs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems.

"(b) COORDINATION WITH METROPOLITAN PLANNING; STATE IMPLEMENTATION PLAN.—In carrying out planning under this section, a State shall coordinate such planning with the transportation planning activities carried out under section 134 of this title for metropolitan areas of the State and shall carry out its responsibilities for the development of the transportation portion of the State implementation plan to the extent required by the Clean Air Act.

"(c) STATE PLANNING PROCESS.—Each State shall undertake a continuous transportation planning process which shall, at a minimum, consider the following:

"(1) The results of the management systems required pursuant to subsection (b).

"(2) Any Federal, State, or local energy use goals, objectives, programs, or requirements.

"(3) Strategies for incorporating bicycle transportation facilities and pedestrian walkways in projects where appropriate throughout the State.

"(4) International border crossings and access to ports, airports, intermodal transportation facilities, major freight distribution routes, national parks, recreation and scenic areas, monuments and historic sites, and military installations.

"(5) The transportation needs of nonmetropolitan areas through a process that includes consultation with local elected officials with jurisdiction over transportation.

"(6) Any metropolitan area plan developed pursuant to section 134.

"(7) Connectivity between metropolitan areas within the State and with metropolitan areas in other States.

"(8) Recreational travel and tourism.

"(9) Any State plan developed pursuant to the Federal Water Pollution Control Act.

"(10) Transportation system management and investment strategies designed to make the most efficient use of existing transportation facilities.

"(11) The overall social, economic, energy, and environmental effects of transportation decisions.

"(12) Methods to reduce traffic congestion and to prevent traffic congestion from developing in

areas where it does not yet occur, including methods which reduce motor vehicle travel, particularly single-occupant motor vehicle travel.

"(13) Methods to expand and enhance transit services and to increase the use of such services.

"(14) The effect of transportation decisions on land use and land development, including the need for consistency between transportation decisionmaking and the provisions of all applicable short-range and long-range land use and development plans.

"(15) The transportation needs identified through use of the management systems required by section 303 of this title.

"(16) Where appropriate, the use of innovative mechanisms for financing projects, including value capture pricing, tolls, and congestion pricing.

"(17) Preservation of rights-of-way for construction of future transportation projects, including identification of unused rights-of-way which may be needed for future transportation corridors, and identify those corridors for which action is most needed to prevent destruction or loss.

"(18) Long-range needs of the State transportation system.

"(19) Methods to enhance the efficient movement of commercial motor vehicles.

"(20) The use of life-cycle costs in the design and engineering of bridges, tunnels, or pavement.

"(d) ADDITIONAL REQUIREMENTS.—Each State in carrying out planning under this section shall, at a minimum, consider the following:

"(1) The coordination of transportation plans and programs developed for metropolitan areas of the State under section 134 with the State transportation plans and programs developed under this section and the reconciliation of such plans and programs as necessary to ensure connectivity within transportation systems.

"(2) Investment strategies to improve adjoining State and local roads that support rural economic growth and tourism development, Federal agency renewable resources management, and multipurpose land management practices, including recreation development.

"(3) The concerns of Indian tribal governments having jurisdiction over lands within the boundaries of the State.

"(e) LONG-RANGE PLAN.—The State shall develop a long-range transportation plan for all areas of the State. With respect to metropolitan areas of the State, the plan shall be developed in cooperation with metropolitan planning organizations designated for metropolitan areas in the State under section 134. With respect to areas of the State under the jurisdiction of an Indian tribal government, the plan shall be developed in cooperation with such government and the Secretary of the Interior. In developing the plan, the State shall provide citizens, affected public agencies, representatives of transportation agency employees, other affected employee representatives, private providers of transportation, and other interested parties with a reasonable opportunity to comment on the proposed plan. In addition, the State shall develop a long-range plan for bicycle transportation and pedestrian walkways for appropriate areas of the State which shall be incorporated into the long-range transportation plan.

"(f) TRANSPORTATION IMPROVEMENT PROGRAM.—

"(1) DEVELOPMENT.—The State shall develop a transportation improvement program for all areas of the State. With respect to metropolitan areas of the State, the program shall be developed in cooperation with metropolitan planning organizations designated for metropolitan areas in the State under section 134. In developing the program, the Governor shall provide citizens, affected public agencies, representatives of transportation agency employees, other affected employee representatives, private providers of transportation, and other interested parties with a reasonable opportunity to comment on the proposed program.

"(2) INCLUDED PROJECTS.—A transportation improvement program for a State developed under this subsection shall include projects within the boundaries of the State which are proposed for funding under this title and the Federal Transit Act, which are consistent with the long-range plan developed under this section for the State, which are consistent with the metropolitan transportation improvement program, and which in areas designated as nonattainment for ozone or carbon monoxide under the Clean Air Act conform with the applicable State implementation plan developed pursuant to the Clean Air Act. The program shall include a project, or an identified phase of a project, only if full funding can reasonably be anticipated to be available for such project within the time period contemplated for completion of the project. The program shall also reflect the priorities for programming and expenditures of funds, including transportation enhancements, required by this title.

"(3) PROJECT SELECTION FOR AREAS LESS THAN 50,000 POPULATION.—Projects undertaken in areas of less than 50,000 population (excluding projects undertaken on the National Highway System and pursuant to the bridge and Interstate maintenance programs) shall be selected by the State in cooperation with the affected local officials. Projects undertaken in such areas on the National Highway System or pursuant to the bridge and Interstate maintenance programs shall be selected by the State in consultation with the affected local officials.

"(4) BIENNIAL REVIEW AND APPROVAL.—A transportation improvement program developed under this subsection shall be reviewed and approved no less frequently than biennially by the Secretary.

"(g) FUNDING.—Funds set aside pursuant to section 307(c)(1) of title 23, United States Code, shall be available to carry out the requirements of this section.

"(h) TREATMENT OF CERTAIN STATE LAWS AS CONGESTION MANAGEMENT SYSTEMS.—For purposes of this section, section 134, and section 8 of the Federal Transit Act, State laws, rules or regulations pertaining to congestion management systems or programs may constitute the congestion management system under this Act if the Secretary finds that the State laws, rules or regulations are consistent with, and fulfill the intent of, the purposes of this section, section 134 or section 8 of such Act, as appropriate.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of such title is amended by striking the item relating to section 135 and inserting the following:

"135. Statewide planning.".

SEC. 1026. NONDISCRIMINATION.

(a) FUNDING OF HIGHWAY CONSTRUCTION TRAINING.—Subsection (b) of section 140 of title 23, United States Code, is amended by adding at the end the following new sentence: "Notwithstanding any other provision of law, not to exceed ¼ of 1 percent of funds apportioned to a State for the surface transportation program under section 104(b) and the bridge program under section 144 may be available to carry out this subsection upon request of the State highway department to the Secretary.".

(b) ELIGIBILITY FOR TRAINING PROGRAMS.—Subsections (b) and (c) of section 140 of such title are each amended by inserting "Indian tribal government," after "institution,".

(c) INDIAN EMPLOYMENT PREFERENCE.—Section 140(d) of such title is amended by inserting after the first sentence the following new sentence: "States may implement a preference for employment of Indians on projects carried out under this title near Indian reservations.".

SEC. 1027. PUBLIC TRANSPORTATION.

(a) IMPROVED ACCESS BETWEEN INTERCITY AND RURAL BUS SERVICE.—Section 142(a)(2) of title 23, United States Code, is amended—

(1) by striking ", beginning with the fiscal year ending June 30, 1975,";

(2) by striking "Federal-aid urban system," the first place it appears and inserting "the surface transportation program"; and

(3) by striking "104(b)(6)" the first place it appears and all that follows through the period at the end and inserting "104(b)(3) for carrying out any capital transit project eligible for assistance under the Federal Transit Act, capital improvement to provide access and coordination between intercity and rural bus service, and construction of facilities to provide connections between highway transportation and other modes of transportation.".

(b) ACCOMMODATION OF OTHER MODES.—Section 142(c) of such title is amended to read as follows:

"(c) ACCOMMODATION OF OTHER MODES OF TRANSPORTATION.—The Secretary may approve as a project on any Federal-aid system for payment from sums apportioned under section 104(b) (other than section 104(b)(5)(A)) modifications to existing highway facilities on such system necessary to accommodate other modes of transportation if such modifications will not adversely affect automotive safety.".

(c) METROPOLITAN PLANNING.—Section 142(d) of such title is amended to read as follows:

"(d) METROPOLITAN PLANNING.—Any project carried out under this section in an urbanized area shall be subject to the metropolitan planning requirements of section 134.".

(d) AVAILABILITY OF RIGHTS-OF-WAY.—Section 142(g) of such title is amended to read as follows:

"(g) AVAILABILITY OF RIGHTS-OF-WAY.—In any case where sufficient land or air space exits within the publicly acquired rights-of-way of any highway, constructed in whole or in part with Federal-aid highway funds, to accommodate needed passenger, commuter, or high speed rail, magnetic levitation systems, and highway and nonhighway public mass transit facilities, the Secretary shall authorize a State to make such lands, air space, and rights-of-way available with or without charge to a publicly or privately owned authority or company or any other person for such purposes if such accommodation will not adversely affect automotive safety.".

(e) CONFORMING AMENDMENTS TO SECTION 142.—Section 142 of such title is amended—

(1) in subsection (e)(2) by striking "Federal-aid urban system" and inserting "surface transportation program";

(2) by striking subsections (f) and (k);

(3) by redesignating subsections (g), (h), (i), and (j) as subsections (f), (g), (h), and (i), respectively;

(4) in subsection (g), as so redesignated, by striking "or subsection (c) of this section"; and

(5) in each of subsections (h) and (i), as so redesignated, by striking "and subsection (c)".

(f) CONFORMING AMENDMENT TO SECTION 156.—Section 156 of such title is amended by striking "States shall" and inserting "Subject to section 142(f), States shall".

SEC. 1028. BRIDGE PROGRAM.

(a) INVENTORY OF INDIAN RESERVATION AND PARK BRIDGES.—Section 144(c) of title 23, United States Code, is amended by adding at the end the following new paragraph:

"(3) INVENTORY OF INDIAN RESERVATION AND PARK BRIDGES.—As part of the activities carried out under paragraph (1), the Secretary, in consultation with the Secretary of the Interior, shall (A) inventory all those highway bridges on

Indian reservation roads and park roads which are bridges over waterways, other topographical barriers, other highways, and railroads, (B) classify them according to serviceability, safety, and essentiality for public use, (C) based on the classification, assign each a priority for replacement or rehabilitation, and (D) determine the cost of replacing each such bridge with a comparable facility or of rehabilitating such bridge.".

(b) BRIDGE STRUCTURE PAINTING AND ACETATE APPLICATION.—Section 144(d) of such title is amended—

(1) by inserting after the first sentence the following new sentence: "Whenever any State makes application to the Secretary for assistance in painting and seismic retrofit, or applying calcium magnesium acetate to, the structure of a highway bridge, the Secretary may approve Federal participation in the painting or seismic retrofit of, or application of such acetate to, such structure."; and

(2) by inserting after "projects" the first place it appears in the last sentence the following: "(other than projects for bridge structure painting or seismic retrofit or application of such acetate)".

(c) FEDERAL SHARE.—Section 144(f) of such title is amended by striking "highway bridge replaced or rehabilitated" and inserting "project".

(d) DISCRETIONARY BRIDGE PROGRAM.—Section 144(g)(1) of such title is amended to read as follows:

"(1) DISCRETIONARY BRIDGE PROGRAM.—Of the amounts authorized for each of fiscal years 1992, 1993, 1994, 1995, 1996, and 1997 by section 103 of the Intermodal Surface Transportation Efficiency Act of 1991, all but $57,000,000 in the case of fiscal year 1992, $68,000,000 in the case of fiscal years 1993 and 1994, and $69,000,000 in the case of fiscal years 1995, 1996, and 1997 shall be apportioned as provided in subsection (e) of this section. $49,000,000 in the case of fiscal year 1992, $59,500,000 in the case of fiscal years 1993 and 1994, and $60,500,000 in the case of fiscal years 1995, 1996, and 1997 of the amount authorized for each of such fiscal years shall be available for obligation on the date of each such apportionment in the same manner and to the same extent as the sums apportioned on such date, except that the obligation of $49,000,000 in the case of fiscal year 1992, $59,500,000 in the case of fiscal years 1993 and 1994, and $60,500,000 in the case of fiscal years 1995, 1996, and 1997 shall be at the discretion of the Secretary, and $8,500,000 per fiscal year ($8,000,000 in the case of fiscal year 1992) of the amount authorized for each of such fiscal years shall be available in accordance with section 1039 of the Intermodal Surface Transportation Efficiency Act of 1991, relating to highway timber bridges.".

(e) OFF-SYSTEM BRIDGES.—

(1) ALLOCATION OF FUNDS.—Section 144(g)(3) of such title is amended—

(A) by striking "and 1991" and inserting "1991, 1992, 1993, 1994, 1995, 1996, and 1997"; and

(B) by striking "or rehabilitate" and inserting ", rehabilitate, paint or seismic retrofit, or apply calcium magnesium acetate to".

(2) APPLICABILITY OF STATE STANDARDS FOR PROJECTS.—Section 144 of such title is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

"(p) APPLICABILITY OF STATE STANDARDS FOR PROJECTS.—A project on a Federal-aid highway not under this section shall be designed, constructed, operated, and maintained in accordance with State laws, regulations, directives, safety standards, design standards, and construction standards.".

(f) SET-ASIDE FOR INDIAN RESERVATION BRIDGES.—Section 144(g) of this title is amended by adding at the end the following new paragraph:

"(4) INDIAN RESERVATION BRIDGES.—Not less than 1 percent of the amount apportioned to each State which has an Indian reservation within its boundaries for each fiscal year shall be expended for projects to replace, rehabilitate, paint, or apply calcium magnesium acetate to highway bridges located on Indian reservation roads. Upon determining a State bridge apportionment and before transferring funds to the States, the Secretary shall transfer the Indian reservation bridge allocation under this paragraph to the Secretary of the Interior for expenditure pursuant to this paragraph. The Secretary, after consultation with State and Indian tribal government officials and with the concurrence of the Secretary of the Interior, may, with respect to such State, reduce the requirement for expenditure for bridges under this paragraph when the Secretary determines that there are inadequate needs to justify such expenditure. The non-Federal share payable on account of such a project may be provided from funds made available for Indian reservation roads under chapter 2 of this title.".

(g) TRANSFERABILITY OF BRIDGE APPORTIONMENTS.—Section 104(g) of such title is amended by inserting before the last sentence the following new sentence: "A State may transfer not to exceed 40 percent of the State's apportionment under section 144 in any fiscal year to the apportionment of such State under subsection (b)(1) or subsection (b)(3) of this section. Any transfer to subsection (b)(3) shall not be subject to section 133(d).".

SEC. 1029. NATIONAL MAXIMUM SPEED LIMIT COMPLIANCE PROGRAM.

(a) PERMANENT EXTENSION OF 65 MPH SPEED LIMIT DEMONSTRATION PROGRAM.—Section 154(a) of title 23, United States Code, is amended by striking "Clause (3)" and inserting "Clause (4)" and by striking "or (3)" and inserting the following: "(3) a maximum speed limit in excess of 65 miles per hour on any highway within its jurisdiction located outside an urbanized area of 50,000 population or more (A) which is constructed to interstate standards in accordance with section 109(b) of this title and connected to a highway on the Interstate System, (B) which is a divided 4-lane fully controlled access highway designed or constructed to connect to a highway on the Interstate System posted at 65 miles per hour and constructed to design and construction standards as determined by the Secretary which provide a facility adequate for a speed limit of 65 miles per hour, or (C) which is constructed to the geometric and construction standards adequate for current and probable future traffic demands and for the needs of the locality and is designated by the Secretary as part of the Interstate System in accordance with section 139(c) of this title, or (4)".

(b) COLLECTION OF DATA.—Section 154(e) of such title is amended—

(1) by striking "fifty-five miles per hour on public highways with speed limits posted at fifty-five miles per hour" and inserting "the speed limit on maximum speed limit highways"; and

(2) by adding at the end the following: "Such data shall include, but not be limited to, data on citations, travel speeds, and the posted speed limit and the design characteristics of roads from which such travel speed data are gathered. The Secretary shall issue regulations which ensure (1) that the monitoring programs conducted by the States to collect data for purposes of this subsection are uniform, (2) that devices and equipment under such programs are placed at locations on maximum speed limit highways on a scientifically random basis which takes into account the relative risk, as determined by the Secretary, of motor vehicle accidents occurring considering the classes of such highways and the speeds at which vehicles are traveling on such classes of highways, and (3) that the data submitted under this subsection will be in such form as the Secretary determines is necessary to carry out this section.".

(c) ENFORCEMENT.—

(1) PROPOSED RULE.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall publish in the Federal Register a proposed rule to establish speed limit enforcement requirements which, at a minimum, shall—

(A) provide for the transfer of apportionments under section 104(b) of title 23, United States Code (other than paragraph (5)), if a State fails to enforce speed limits in accordance with this section and such rule; and

(B) include a formula for determining compliance with the requirements of this section and such rule which—

(i) assigns a greater weight for violations of such speed limits in proportion to the amount by which the speed of the motor vehicle exceeds the speed limit; and

(ii) differentiates between the type of road on which the violations occur.

(2) FACTORS TO CONSIDER.—In developing the compliance formula in accordance with paragraph (1), the Secretary shall consider factors relating to the enforcement efforts made by the States and data concerning fatalities and serious injuries occurring on roads to which subsection (a) applies and any other factors relating to speed limit enforcement and speed-related highway safety trends which the Secretary determines appropriate.

(3) FINAL RULE.—Not later than 60 days after the date of publication of the proposed rule under paragraph (1), the Secretary shall publish in the Federal Register a final rule which meets the requirements of paragraph (1) and which shall take effect no later than 12 months after the date of its publication in the Federal Register.

(d) ADMINISTRATION.—The Secretary shall carry out sections 154 and 141(a) of title 23, United States Code, through the National Highway Traffic Safety Administration and the Federal Highway Administration.

(e) ANNUAL REPORT.—Section 154 of title 23, United States Code, is amended by adding at the end the following new subsection:

"(i) ANNUAL REPORT.—The Secretary shall transmit to Congress an annual report on travel speeds of motor vehicles on roads subject to subsection (a), State enforcement efforts with respect to speeding violations on such roads, and speed-related highway safety statistics.".

(f) ENFORCEMENT MORATORIUM.—No State shall be subject under section 141 or 154 of title 23, United States Code, to withholding of apportionments for failure to comply in fiscal years 1990 and 1991 with section 154 of such title, as in effect on the day before the date of the enactment of this Act, or section 141(a) of such title.

(g) REPEAL OF OBSOLETE ENFORCEMENT PROVISIONS.—On the 730th day following the date of the enactment of this Act, subsections (f), (g), and (h) of section 154 of title 23, United States Code, are repealed.

SEC. 1030. ROAD SEALING ON INDIAN RESERVATION ROADS.

Section 204(c) of title 23, United States Code, is amended by adding at the end the following new sentences: "Notwithstanding any other provision of this title, Indian reservation roads under the jurisdiction of the Bureau of Indian Affairs of the Department of the Interior shall be eligible to expend not more than 15 percent funds apportioned for Indian reservation roads from the Highway Trust Fund for the purpose of road sealing projects. The Bureau of Indian

Affairs shall continue to retain responsibility, including annual funding request responsibility, for road maintenance programs on Indian reservations.".

SEC. 1031. USE OF SAFETY BELTS AND MOTORCYCLE HELMETS.

(a) PROGRAM.—

(1) IN GENERAL.—Chapter 1 of title 23, United States Code, is amended by inserting after section 152 the following new section:

"§153. Use of safety belts and motorcycle helmets

"(a) AUTHORITY TO MAKE GRANTS.—The Secretary may make grants to a State in a fiscal year in accordance with this section if the State has in effect in such fiscal year—

"(1) a law which makes unlawful throughout the State the operation of a motorcycle if any individual on the motorcycle is not wearing a motorcycle helmet; and

"(2) a law which makes unlawful throughout the State the operation of a passenger vehicle whenever an individual in a front seat of the vehicle (other than a child who is secured in a child restraint system) does not have a safety belt properly fastened about the individual's body.

"(b) USE OF GRANTS.—A grant made to a State under this section shall be used to adopt and implement a traffic safety program to carry out the following purposes:

"(1) EDUCATION.—To educate the public about motorcycle and passenger vehicle safety and motorcycle helmet, safety belt, and child restraint system use and to involve public health education agencies and other related agencies in these efforts.

"(2) TRAINING.—To train law enforcement officers in the enforcement of State laws described in subsection (a).

"(3) MONITORING.—To monitor the rate of compliance with State laws described in subsection (a).

"(4) ENFORCEMENT.—To enforce State laws described in subsection (a).

"(c) MAINTENANCE OF EFFORT.—A grant may not be made to a State under this section in any fiscal year unless the State enters into such agreements with the Secretary as the Secretary may require to ensure that the State will maintain its aggregate expenditures from all other sources for any traffic safety program described in subsection (b) at or above the average level of such expenditures in the State's 2 fiscal years preceding the date of the enactment of this section.

"(d) FEDERAL SHARE.—A State may not receive a grant under this section in more than 3 fiscal years. The Federal share payable for a grant under this section shall not exceed—

"(1) in the first fiscal year the State receives a grant, 75 percent of the cost of implementing in such fiscal year a traffic safety program described in subsection (b);

"(2) in the second fiscal year the State receives a grant, 50 percent of the cost of implementing in such fiscal year such traffic safety program; and

"(3) in the third fiscal year the State receives a grant, 25 percent of the cost of implementing in such fiscal year such traffic safety program.

"(e) MAXIMUM AGGREGATE AMOUNT OF GRANTS.—The aggregate amount of grants made to a State under this section shall not exceed 90 percent of the amount apportioned to such State for fiscal year 1990 under section 402.

"(f) ELIGIBILITY FOR GRANTS.—

"(1) GENERAL RULE.—A State is eligible in a fiscal year for a grant under this section only if the State enters into such agreements with the Secretary as the Secretary may require to ensure that the State implements in such fiscal year a traffic safety program described in subsection (b).

"(2) SECOND-YEAR GRANTS.—A State is eligible for a grant under this section in a fiscal year succeeding the first fiscal year in which a State receives a grant under this section only if the State in the preceding fiscal year—

"(A) had in effect at all times a State law described in subsection (a)(1) and achieved a rate of compliance with such law of not less than 75 percent; and

"(B) had in effect at all times a State law described in subsection (a)(2) and achieved a rate of compliance with such law of not less than 50 percent.

"(3) THIRD-YEAR GRANTS.—A State is eligible for a grant under this section in a fiscal year succeeding the second fiscal year in which a State receives a grant under this section only if the State in the preceding fiscal year—

"(A) had in effect at all times a State law described in subsection (a)(1) and achieved a rate of compliance with such law of not less than 85 percent; and

"(B) had in effect at all times a State law described in subsection (a)(2) and achieved a rate of compliance with such law of not less than 70 percent.

"(g) MEASUREMENTS OF RATES OF COMPLIANCE.—For the purposes of subsections (f)(2) and (f)(3), a State shall measure compliance with State laws described in subsection (a) using methods which conform to guidelines issued by the Secretary ensuring that such measurements are accurate and representative.

"(h) PENALTY.—

"(1) FISCAL YEAR 1994.—If, at any time in fiscal year 1994, a State does not have in effect a law described in subsection (a)(1) and a law described in subsection (a)(2), the Secretary shall transfer 1½ percent of the funds apportioned to the State for fiscal year 1995 under each of subsections (b)(1), (b)(2), and (b)(3) of section 104 of this title to the apportionment of the State under section 402 of this title.

"(2) THEREAFTER.—If, at any time in a fiscal year beginning after September 30, 1994, a State does not have in effect a law described in subsection (a)(1) and a law described in subsection (a)(2), the Secretary shall transfer 3 percent of the funds apportioned to the State for the succeeding fiscal year under each of subsections (b)(1), (b)(2), and (b)(3) of section 104 of this title to the apportionment of the State under section 402 of this title.

"(3) FEDERAL SHARE.—The Federal share of the cost of any project carried out under section 402 with funds transferred to the apportionment of section 402 shall be 100 percent.

"(4) TRANSFER OF OBLIGATION AUTHORITY.—If the Secretary transfers under this subsection any funds to the apportionment of a State under section 402 for a fiscal year, the Secretary shall allocate an amount of obligation authority distributed for such fiscal year to the State for Federal-aid highways and highway safety construction programs for carrying out only projects under section 402 which is determined by multiplying—

"(A) the amount of funds transferred to the apportionment of section 402 of the State under section 402 for such fiscal year; by

"(B) the ratio of the amount of obligation authority distributed for such fiscal year to the State for Federal-aid highways and highway safety construction programs to the total of the sums apportioned to the State for Federal-aid highways and highway safety construction (excluding sums not subject to any obligation limitation) for such fiscal year.

"(5) LIMITATION ON APPLICABILITY OF HIGHWAY SAFETY OBLIGATIONS.—Notwithstanding any other provision of law, no limitation on the total of obligations for highway safety programs carried out by the Federal Highway Administration under section 402 shall apply to funds transferred under this subsection to the apportionment of section 402.

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

"(1) MOTORCYCLE.—The term 'motorcycle' means a motor vehicle which is designed to travel on not more than 3 wheels in contact with the surface.

"(2) MOTOR VEHICLE.—The term 'motor vehicle' has the meaning such term has under section 154 of this title.

"(3) PASSENGER VEHICLE.—The term 'passenger vehicle' means a motor vehicle which is designed for transporting 10 individuals or less, including the driver, except that such term does not include a vehicle which is constructed on a truck chassis, a motorcycle, a trailer, or any motor vehicle which is not required on the date of the enactment of this section under a Federal motor vehicle safety standard to be equipped with a belt system.

"(4) SAFETY BELT.—The term 'safety belt' means—

"(A) with respect to open-body passenger vehicles, including convertibles, an occupant restraint system consisting of a lap belt or a lap belt and a detachable shoulder belt; and

"(B) with respect to other passenger vehicles, an occupant restraint system consisting of integrated lap shoulder belts.

"(j) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $17,000,000 for fiscal year 1992. From sums made available to carry out section 402 of this title, the Secretary shall make available $17,000,000 for fiscal year 1992 and $24,000,000 for each of fiscal years 1993 and 1994 to carry out this section.

"(k) APPLICABILITY OF CHAPTER 1 PROVISIONS.—All provisions of this chapter that are applicable to National Highway System funds, other than provisions relating to the apportionment formula and provisions limiting the expenditures of such funds to Federal-aid systems, shall apply to funds authorized to be appropriated to carry out this section, except as determined by the Secretary to be inconsistent with this section and except that sums authorized by this section shall remain available until expended.".

(2) CONFORMING AMENDMENT.—The analysis for chapter 1 of such title is amended by inserting after the item relating to section 152 the following new item:

"153. Use of safety belts and motorcycle helmets.".

(b) STUDY.—

(1) IN GENERAL.—The Secretary shall conduct a study or studies to determine the benefits of safety belt use and motorcycle helmet use for individuals involved in motor vehicle crashes and motorcycle crashes, collecting and analyzing data from regional trauma systems regarding differences in the following: the severity of injuries; acute, rehabilitative and long-term medical costs, including the sources of reimbursement and the extent to which these sources cover actual costs; government, employer, and other costs; and mortality and morbidity outcomes. The study shall cover a representative period after January 1, 1990.

(2) REPORT.—The Secretary shall make public a proposed report on the results of the study or studies conducted under this subsection, provide a period of 90 days for public comment on such report, consider such comments, and transmit to Congress a report on the results of such study or studies, together with a summary of such comments, not later than 40 months after the funds for such study are made available by the Secretary.

(3) FUNDING.—Of the amounts authorized to be appropriated for fiscal year 1992 or 1993 (or both) to carry out section 153 of title 23, United States Code, the Secretary shall make available $5,000,000 in the aggregate in such fiscal years to carry out this subsection. Such funds shall remain available until expended.

SEC. 1032. FEDERAL LANDS HIGHWAYS PROGRAM.

(a) ALLOCATIONS.—Section 202 of title 23, United States Code, is amended—

(1) by striking subsection (a);

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (a), (b), (c), and (d), respectively;

(3) by inserting after "allocate" in subsection (b), as so redesignated, "34 percent of"; and

(4) by striking the period at the end of subsection (b), as so redesignated, and inserting the following: "which are proposed by a State which contains at least 3 percent of the total public lands in the Nation. The Secretary shall allocate 66 percent of the remainder of the authorization for public lands highways for each fiscal year as is provided in section 134 of the Federal-Aid Highway Act of 1987, and with respect to these allocations the Secretary shall give equal consideration to projects that provide access to and within the National Forest System, as identified by the Secretary of Agriculture through renewable resources and land use planning and the impact of such planning on existing transportation facilities.".

(b) PROJECTS.—Section 204 of such title is amended—

(1) in subsection (a) by striking "forest highways," and by adding at the end of such subsection the following new sentences: "The Secretary, in cooperation with the Secretary of Interior and the Secretary of Agriculture, shall develop appropriate transportation planning procedures and safety, bridge, and pavement management systems for roads funded under the Federal Lands Highway Program. Notwithstanding any other provision of this title, no public lands highway project may be undertaken in any State pursuant to this section unless the State concurs in the selection and planning of the project.";

(2) in subsection (b)—

(A) by striking "construction and improvements thereof" and inserting "planning, research, engineering and construction thereof";

(B) by striking "forest highways and"; and

(C) by adding at the end the following new sentence: "Funds available for each class of Federal lands highways shall be available for any kind of transportation project eligible for assistance under this title that is within or adjacent to or provides access to the areas served by the particular class of Federal lands highways.";

(3) in subsection (c) by striking "on a Federal aid system" and inserting "eligible for funds apportioned under section 104 or section 144 of this title"; and

(4) by striking subsection (h) and inserting the following new subsections:

"(h) ELIGIBLE PROJECTS.—Funds available for each class of Federal lands highways may be available for the following:

"(1) Transportation planning for tourism and recreational travel including the National Forest Scenic Byways Program, Bureau of Land Management Back Country Byways Program, National Trail System Program, and other similar Federal programs that benefit recreational development.

"(2) Adjacent vehicular parking areas.

"(3) Interpretive signage.

"(4) Acquisition of necessary scenic easements and scenic or historic sites.

"(5) Provision for pedestrians and bicycles.

"(6) Construction and reconstruction of roadside rest areas including sanitary and water facilities.

"(7) Other appropriate public road facilities such as visitor centers as determined by the Secretary.

"(i) TRANSFERS TO SECRETARY OF INTERIOR.—The Secretary shall transfer to the Secretary of Interior from the appropriation for public land highways amounts as may be needed to cover necessary administrative costs of the Bureau of Land Management in connection with public lands highways.

"(j) INDIAN RESERVATION ROADS PLANNING.—Up to 2 percent of funds made available for Indian reservation roads for each fiscal year shall be allocated to those Indian tribal governments applying for transportation planning pursuant to the provisions of the Indian Self-Determination and Education Assistance Act. The Indian tribal government, in cooperation with the Secretary of the Interior, and, as may be appropriate, with a State, local government, or metropolitan planning organization, shall develop a transportation improvement program, that includes all Indian reservation road projects proposed for funding. Projects shall be selected by the Indian tribal government from the transportation improvement program and shall be subject to the approval of the Secretary of the Interior and the Secretary.".

(c) FOREST DEVELOPMENT ROADS AND TRAILS.—Section 205(c) of such title is amended by striking "$15,000" each place it appears and inserting "$50,000".

(d) INDIAN RESERVATION ROADS.—Notwithstanding any other provision of law, funds allocated for Indian reservation roads may be used for the purpose of funding road projects on roads of tribally controlled postsecondary vocational institutions.

(e) REPORT.—The Secretary shall undertake a study to determine if the method for allocating funds authorized for Federal lands highways is adequate to meet the relative transportation needs of the Federal lands served. The report shall be submitted within 2 years of the date of the enactment of this Act.

(f) CONFORMING AMENDMENTS.—Section 203 of title 23, United States Code, is amended by striking "forest highways" each place it appears.

SEC. 1033. BICYCLE TRANSPORTATION AND PEDESTRIAN WALKWAYS.

Section 217 of title 23, United States Code, is amended to read as follows:

"§217. Bicycle transportation and pedestrian walkways

"(a) USE OF STP AND CONGESTION MITIGATION PROGRAM FUNDS.—Subject to project approval by the Secretary, a State may obligate funds apportioned to it under sections 104(b)(2) and 104(b)(3) of this title for construction of pedestrian walkways and bicycle transportation facilities and for carrying out nonconstruction projects related to safe bicycle use.

"(b) USE OF NATIONAL HIGHWAY SYSTEM FUNDS.—Subject to project approval by the Secretary, a State may obligate funds apportioned to it under section 104(b)(1) of this title for construction of bicycle transportation facilities on land adjacent to any highway on the National Highway System (other than the Interstate System).

"(c) USE OF FEDERAL LANDS HIGHWAY FUNDS.—Funds authorized for forest highways, forest development roads and trails, public lands development roads and trails, park roads, parkways, Indian reservation roads, and public lands highways shall be available, at the discretion of the department charged with the administration of such funds, for the construction of pedestrian walkways and bicycle transportation facilities in conjunction with such trails, roads, highways, and parkways.

"(d) STATE BICYCLE AND PEDESTRIAN COORDINATORS.—Each State receiving an apportionment under sections 104(b)(2) and 104(b)(3) of this title shall use such amount of the apportionment as may be necessary to fund in the State department of transportation a position of bicycle and pedestrian coordinator for promoting and facilitating the increased use of nonmotorized modes of transportation, including developing facilities for the use of pedestrians and bicyclists and public education, promotional, and safety programs for using such facilities.

"(e) BRIDGES.—In any case where a highway bridge deck being replaced or rehabilitated with Federal financial participation is located on a highway, other than a highway access to which is fully controlled, on which bicycles are permitted to operate at each end of such bridge, and the Secretary determines that the safe accommodation of bicycles can be provided at reasonable cost as part of such replacement or rehabilitation, then such bridge shall be so replaced or rehabilitated as to provide such safe accommodations.

"(f) FEDERAL SHARE.—For all purposes of this title, construction of a pedestrian walkway and a bicycle transportation facility shall be deemed to be a highway project and the Federal share payable on account of such construction shall be 80 percent.

"(g) PLANNING.—Pedestrian walkways and bicycle transportation facilities to be constructed under this section shall be located and designed pursuant to an overall plan to be developed by each metropolitan planning organization and State and incorporated into their comprehensive annual long-range plans in accordance with sections 134 and 135 of this title, respectively. Such plans shall provide due consideration for safety and contiguous routes.

"(h) USE OF MOTORIZED VEHICLES.—No motorized vehicles shall be permitted on trails and pedestrian walkways under this section, except for—

"(1) maintenance purposes;

"(2) when snow conditions and State or local regulations permit, snowmobiles;

"(3) when State and local regulations permit, motorized wheelchairs; and

"(4) such other circumstances as the Secretary deems appropriate.

"(i) TRANSPORTATION PURPOSE.—No bicycle project may be carried out under this section unless the Secretary has determined that such bicycle project will be principally for transportation, rather than recreation, purposes.

"(j) BICYCLE TRANSPORTATION FACILITY DEFINED.—For purposes of this section, a 'bicycle transportation facility' means new or improved lanes, paths, or shoulders for use by bicyclists, traffic control devices, shelters, and parking facilities for bicycles.".

SEC. 1034. MANAGEMENT SYSTEMS.

(a) IN GENERAL.—Chapter 3 of title 23, United States Code, is amended by inserting after section 302 the following new section:

"§303. Management systems

"(a) REGULATIONS.—Not later than 1 year after the date of the enactment of this section, the Secretary shall issue regulations for State development, establishment, and implementation of a system for managing each of the following:

"(1) Highway pavement of Federal-aid highways.

"(2) Bridges on and off Federal-aid highways.

"(3) Highway safety.

"(4) Traffic congestion.

"(5) Public transportation facilities and equipment.

"(6) Intermodal transportation facilities and systems.

In metropolitan areas, such systems shall be developed and implemented in cooperation with metropolitan planning organizations. Such regulations may include a compliance schedule for development, establishment, and implementation

of each such system and minimum standards for each such system.

"(b) TRAFFIC MONITORING.—Not later than 1 year after the date of the enactment of this section, the Secretary shall issue guidelines and requirements for the State development, establishment, and implementation of a traffic monitoring system for highways and public transportation facilities and equipment.

"(c) STATE REQUIREMENTS.—The Secretary may withhold up to 10 percent of the funds apportioned under this title and under the Federal Transit Act for any fiscal year beginning after September 30, 1995, to any State and any recipient of assistance under such Act in the State unless, in the preceding fiscal year, the State was implementing each of the management systems described in subsection (a) and, before January 1 of the preceding fiscal year, the State certified, in writing, to the Secretary, that the State was implementing each of such management systems in the preceding fiscal year.

"(d) PROCEDURAL REQUIREMENTS.—In developing and implementing a management system under this section, each State shall cooperate with metropolitan planning organizations for urbanized areas of the State and affected agencies receiving assistance under the Federal Transit Act and shall consider the results of the management systems in making project selection decisions under this title and under such Act.

"(e) INTERMODAL REQUIREMENTS.—The management system required under this section for intermodal transportation facilities and systems shall provide for improvement and integration of all of a State's transportation systems and shall include methods of achieving the optimum yield from such systems, methods for increasing productivity in the State, methods for increasing use of advanced technologies, and methods to encourage the use of innovative marketing techniques, such as just-in-time deliveries.

"(f) ANNUAL REPORT.—Not later than January 1 of each calendar year beginning after December 31, 1992, the Secretary shall transmit to Congress a report on the progress being made by the Secretary and the States in carrying out this section.

"(g) FUNDING.—Subject to project approval by the Secretary, a State may obligate funds apportioned after September 30, 1991, under subsections (b)(1), (b)(2), and (b)(3) of section 104 of this title for developing and establishing management systems required by this section and funds apportioned under section 144 of this title for developing and establishing the bridge management system required by this section.

"(h) REVIEW OF REGULATIONS.—Not later than 10 days after the date of issuance of any regulation under this section, the Secretary shall transmit a copy of such regulation to Congress for review.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of such title is amended by inserting after the item relating to section 302 the following new item:

"303. Management systems.".

SEC. 1035. LIMITATION ON DISCOVERY OF CERTAIN REPORTS AND SURVEYS.

(a) IN GENERAL.—Section 409 of title 23, United States Code, is amended—

(1) by striking the section heading and inserting the following:

"§409. Discovery and admission as evidence of certain reports and surveys"; and

(2) by striking "admitted into evidence in Federal or State court" and inserting "subject to discovery or admitted into evidence in a Federal or State court proceeding".

(b) CONFORMING AMENDMENT.—The analysis for chapter 4 of such title is amended by striking the item relating to section 409 and inserting the following:

"409. Discovery and admission as evidence of certain reports and surveys.".

SEC. 1036. NATIONAL HIGH-SPEED GROUND TRANSPORTATION PROGRAMS.

(a) DECLARATION OF POLICY.—Section 302 of title 49, United States Code, is amended by adding at the end the following new subsection:

"(d)(1) It is the policy of the United States to promote the construction and commercialization of high-speed ground transportation systems by—

"(A) conducting economic and technological research;

"(B) demonstrating advancements in high-speed ground transportation technologies;

"(C) establishing a comprehensive policy for the development of such systems and the effective integration of the various high-speed ground transportation technologies; and

"(D) minimizing the long-term risks of investors.

"(2) It is the policy of the United States to establish in the shortest time practicable a United States designed and constructed magnetic levitation transportation technology capable of operating along Federal-aid highway rights-of-way, as part of a national transportation system of the United States.".

(b) NATIONAL MAGNETIC LEVITATION PROTOTYPE DEVELOPMENT PROGRAM.—

(1) MANAGEMENT OF PROGRAM.—There is hereby established a national magnetic levitation prototype development program to be managed by a program director appointed jointly by the Secretary and the Assistant Secretary of the Army for Civil Works (hereinafter in this subsection referred to as the "Assistant Secretary"). To carry out such program, the Secretary and the Assistant Secretary shall establish a national maglev joint project office (hereinafter in this subsection referred to as the "Maglev Project Office"), which shall be headed by the program director, and shall enter into such arrangements as may be necessary for funding, staffing, office space, and other requirements that will allow the Maglev Project Office to carry out its functions. In carrying out such program, the program director shall consult with appropriate Federal officials, including the Secretary of Energy and the Administrator of the Environmental Protection Agency.

(2) PHASE ONE CONTRACTS.—

(A) REQUEST FOR PROPOSALS.—Not later than 12 months after the date of the enactment of this Act, the Maglev Project Office shall release a request for proposals for development of conceptual designs for a maglev system and for research to facilitate the development of such conceptual designs.

(B) AWARD OF CONTRACTS.—Not later than 15 months after the date of the enactment of this Act, the Secretary and the Assistant Secretary shall, based on the recommendations of the program director, award 1-year contracts for research and development to no fewer than 5 eligible applicants. If fewer than 5 complete applications have been received, contracts shall be awarded to as many eligible applicants as is practical.

(C) FACTORS AND CONDITIONS TO BE CONSIDERED.—The Secretary and the Assistant Secretary may approve contracts under subparagraph (B) only after consideration of factors relating to the construction and operation of a magnetic levitation system, including the cost-effectiveness, ease of maintenance, safety, limited environmental impact, ability to achieve sustained high speeds, ability to operate along the Interstate highway rights-of-way, the potential for the guideway design to be a national standard, the applicant's resources, capabilities, and history of successfully designing and developing systems of similar complexity, and the desirability of geographic diversity among contractors and only if the applicant agrees to submit a report to the Maglev Project Office detailing the results of the research and development and agrees to provide for matching of the phase one contract at a 90 percent Federal, 10 percent non-Federal, cost share.

(3) PHASE TWO CONTRACTS.—Within 3 months of receiving the final reports of contract activities under paragraph (2), and based only on such reports and the recommendations of the program director, the Secretary and the Assistant Secretary shall select not more than 3 eligible applicants from among the contract recipients submitting reports under paragraph (2) to receive 18-month contracts for research and development leading to a detailed design for a prototype maglev system. The Secretary and the Assistant Secretary may only award contracts under this paragraph if—

(A) they determine that the applicant has demonstrated technical merit for the conceptual design and the potential for further development of such design into an operational prototype as described in paragraph (4),

(B) the applicant agrees to submit the detailed design within such 18-month period to the Maglev Project Office and the selection committee described in paragraph (4), and

(C) the applicant agrees to provide for matching of the phase two contract at an 80 percent Federal, 20 percent non-Federal, cost share.

(4) PROTOTYPE.—

(A) SELECTION OF DESIGN.—Within 6 months of receiving the detailed designs developed under paragraph (3), the Secretary and the Assistant Secretary shall, based on the recommendations of the selection committee described in this subparagraph, select 1 design for development into a full-scale prototype, unless the Secretary and the Assistant Secretary determine jointly that no design shall be selected, based on an assessment of technical feasibility and projected cost of construction and operation of the prototype. A selection committee of 8 members, consisting of—

(i) 1 member to be appointed by the Secretary,

(ii) 1 member to be appointed by the Assistant Secretary,

(iii) 3 members to be appointed by the Senate majority and minority leaders, and

(iv) 3 members to be appointed by the Speaker of the House and the minority leader of the House,

shall be appointed not later than 1 year following the award of contracts under paragraph (3). The selection committee, within 3 months of receiving the detailed designs developed under paragraph (3), shall make a recommendation to the Secretary and the Assistant Secretary as to the best prototype design or the unsuitability of any design. The program director shall provide technical reviews of the phase two contract reports to the selection committee and otherwise provide any technical assistance that the committee requires to assist it in making a recommendation. In the event that the Secretary and the Assistant Secretary determine jointly not to select a design for development under this subsection, they shall report to Congress on the basis for such determination, together with recommendations for future action, including further research, development, or design, termination of the program, or such other action as may be appropriate.

(B) AWARD OF CONSTRUCTION GRANT OR CONTRACT.—Unless the Secretary and the Assistant Secretary determine not to proceed pursuant to subparagraph (A), they shall, not later than 3 months after selection of a design for development into a full-scale prototype, and based on the recommendations of the program director, award 1 construction grant or contract to the applicant whose detailed design was selected under subparagraph (A) for the purpose of con-

structing a prototype maglev system in accordance with the selected design. Not more than 75 percent of the cost of the project shall be borne by the United States.

(C) FACTORS TO BE CONSIDERED IN SELECTION.—Selection of the detailed design under this paragraph shall be based on consideration of the following factors, among others:

(i) The project shall be capable of utilizing Interstate highway rights-of-way along or above a significant portion of its route, and may also use railroad rights-of-way along or above any portion of the railroad route.

(ii) The total length of guideway shall be at least 19 miles and allow significant full-speed operations between stops.

(iii) The project shall be constructed and ready for operational testing within 3 years after the award of the contract or grant.

(iv) The project shall provide for the conversion of the prototype to commercial operation after testing and technical evaluation is completed.

(v) The project shall be located in an area that provides a potential ridership base for future commercial operation.

(vi) The project shall utilize a technology capable of being applied in commercial service in most parts of the contiguous United States.

(vii) The project shall have at least 1 switch.

(viii) The project shall be intermodal in nature connecting a major metropolitan area with an airport, port, passenger rail station, or other transportation mode.

(D) ADDITIONAL FACTORS FOR CONSIDERATION.—In awarding a grant or contract under this paragraph, the Secretary shall encourage the development of domestic manufacturing capabilities. In selecting among eligible applicants, the Secretary shall consider existing railroads and equipment manufacturers with excess production capacity, including railroads that have experience in advanced technologies (including self-propelled cars).

(5) LICENSING.—

(A) PROPRIETARY RIGHTS.—No trade secrets or commercial or financial information that is privileged or confidential, under the meaning of section 552(b)(4) of title 5, United States Code, which is obtained from a United States business, research, or education entity as a result of activities under this subsection shall be disclosed.

(B) COMMERCIAL INFORMATION.—The research, development, and use of any technology developed pursuant to an agreement reached pursuant to this subsection, including the terms under which any technology may be licensed and the resulting royalties may be distributed, shall be subject to the provisions of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701-3714). In addition, the Secretary and the Assistant Secretary may require any grant or contract recipient to assure that research and development be performed substantially in the United States and that the products embodying the inventions made under any agreement pursuant to this subsection or produced through the use of such inventions be manufactured substantially in the United States.

(6) REPORTS.—The Secretary and the Assistant Secretary shall provide periodic reports to Congress on progress made under this subsection.

(7) ELIGIBLE APPLICANT DEFINED.—For purposes of this subsection, the term "eligible applicant" means a United States private business, United States public or private education and research organization, Federal laboratory, or a consortium of such businesses, organizations, and laboratories.

(c) TECHNOLOGY DEMONSTRATION PROGRAM; RESEARCH AND DEVELOPMENT PROGRAM.—

(1) IN GENERAL.—Subchapter I of chapter 3 of title 49, United States Code, is amended by adding at the end the following new section:

"§309. High-speed ground transportation

"(a) The Secretary of Transportation, in consultation with the Secretaries of Commerce, Energy, and Defense, the Administrator of the Environmental Protection Agency, the Assistant Secretary of the Army for Public Works, and the heads of other interested agencies, shall lead and coordinate Federal efforts in the research and development of high-speed ground transportation technologies in order to foster the implementation of magnetic levitation and high-speed steel wheel on rail transportation systems as alternatives to existing transportation systems.

"(b)(1) The Secretary may award contracts and grants for demonstrations to determine the contributions that high-speed ground transportation could make to more efficient, safe, and economical intercity transportation systems. Such demonstrations shall be designed to measure and evaluate such factors as the public response to new equipment, higher speeds, variations in fares, improved comfort and convenience, and more frequent service. In connection with grants and contracts for demonstrations under this section, the Secretary shall provide for financial participation by private industry to the maximum extent practicable.

"(2)(A) In connection with the authority provided under paragraph (1), there is established a national high-speed ground transportation technology demonstration program, which shall be separate from the national magnetic levitation prototype development program established under section 1036(b) of the Intermodal Surface Transportation Efficiency Act of 1991 and shall be managed by the Secretary of Transportation.

"(B)(i) Any eligible applicant may submit to the Secretary a proposal for demonstration of any advancement in a high-speed ground transportation technology or technologies to be incorporated as a component, subsystem, or system in any revenue service high-speed ground transportation project or system under construction or in operation at the time the application is made.

"(ii) Grants or contracts shall be awarded only to eligible applicants showing demonstrable benefit to the research and development, design, construction, or ultimate operation of any maglev technology or high-speed steel wheel on rail technology. Criteria to be considered in evaluating the suitability of a proposal under this paragraph shall include—

"(I) feasibility of guideway or track design and construction;

"(II) safety and reliability;

"(III) impact on the environment in comparison to other high-speed ground transportation technologies;

"(IV) minimization of land use;

"(V) effect on human factors related to high-speed ground transportation;

"(VI) energy and power consumption and cost;

"(VII) integration of high-speed ground transportation systems with other modes of transportation;

"(VIII) actual and projected ridership; and

"(IX) design of signaling, communications, and control systems.

"(C) For the purposes of this paragraph, the term 'eligible applicant' means any United States private business, State government, local government, organization of State or local government, or any combination thereof. The term does not include any business owned in whole or in part by the Federal Government.

"(D) The amount and distribution of grants or contracts made under this paragraph shall be determined by the Secretary. No grant or contract may be awarded under this paragraph to demonstrate a technology to be incorporated into a project or system located in a State that prohibits under State law the expenditure of non-Federal public funds or revenues on the construction or operation of such project or system.

"(E) Recipients of grants or contracts made pursuant to this paragraph shall agree to submit a report to the Secretary detailing the results and benefits of the technology demonstration proposed, as required by the Secretary.

"(c)(1) In carrying out the responsibilities of the Secretary under this section, the Secretary is authorized to enter into 1 or more cooperative research and development agreements (as defined by section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a)), and 1 or more funding agreements (as defined by section 201(b) of title 35, United States Code), with United States companies for the purpose of—

"(A) conducting research to overcome technical and other barriers to the development and construction of practicable high-speed ground transportation systems and to help advance the basic generic technologies needed for these systems; and

"(B) transferring the research and basic generic technologies described in subparagraph (A) to industry in order to help create a viable commercial high-speed ground transportation industry within the United States.

"(2) In a cooperative agreement or funding agreement under paragraph (1), the Secretary may agree to provide not more than 80 percent of the cost of any project under the agreement. Not less than 5 percent of the non-Federal entity's share of the cost of any such project shall be paid in cash.

"(3) The research, development, or utilization of any technology pursuant to a cooperative agreement under paragraph (1), including the terms under which such technology may be licensed and the resulting royalties may be distributed, shall be subject to the provisions of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).

"(4) The research, development, or utilization of any technology pursuant to a funding agreement under paragraph (1), including the determination of all licensing and ownership rights, shall be subject to the provisions of chapter 18 of title 35, United States Code.

"(5) At the conclusion of fiscal year 1993 and again at the conclusion of fiscal year 1996, the Secretary shall submit reports to Congress regarding research and technology transfer activities conducted pursuant to the authorization contained in paragraph (1).

"(d)(1) Not later than June 1, 1995, the Secretary shall complete and submit to Congress a study of the commercial feasibility of constructing 1 or more high-speed ground transportation systems in the United States. Such study shall consist of—

"(A) an economic and financial analysis;

"(B) a technical assessment; and

"(C) recommendations for model legislation for State and local governments to facilitate construction of high-speed ground transportation systems.

"(2) The economic and financial analysis referred to in paragraph (1)(A) shall include—

"(A) an examination of the potential market for a nationwide high-speed ground transportation network, including a national magnetic levitation ground transportation system;

"(B) an examination of the potential markets for short-haul high-speed ground transportation systems and for intercity and long-haul high-speed ground transportation systems, including an assessment of—

"(i) the current transportation practices and trends in each market; and

"(ii) the extent to which high-speed ground transportation systems would relieve the current or anticipated congestion on other modes of transportation;

"(C) projections of the costs of designing, constructing, and operating high-speed ground transportation systems, the extent to which such systems can recover their costs (including capital costs), and the alternative methods available for private and public financing;

"(D) the availability of rights-of-way to serve each market, including the extent to which average and maximum speeds would be limited by the curvature of existing rights-of-way and the prospect of increasing speeds through the acquisition of additional rights-of-way without significant relocation of residential, commercial, or industrial facilities;

"(E) a comparison of the projected costs of the various competing high-speed ground transportation technologies;

"(F) recommendations for funding mechanisms, tax incentives, liability provisions, and changes in statutes and regulations necessary to facilitate the development of individual high-speed ground transportation systems and the completion of a nationwide high-speed ground transportation network;

"(G) an examination of the effect of the construction and operation of high-speed ground transportation systems on regional employment and economic growth;

"(H) recommendations for the roles appropriate for local, regional, and State governments to facilitate construction of high-speed ground transportation systems, including the roles of regional economic development authorities;

"(I) an assessment of the potential for a high-speed ground transportation technology export market;

"(J) recommendations regarding the coordination and centralization of Federal efforts relating to high-speed ground transportation;

"(K) an examination of the role of the National Railroad Passenger Corporation in the development and operation of high-speed ground transportation systems; and

"(L) any other economic or financial analyses the Secretary considers important for carrying out this section.

"(3) The technical assessment referred to in paragraph (1)(B) shall include—

"(A) an examination of the various technologies developed for use in the transportation of passengers by high-speed ground transportation, including a comparison of the safety (including dangers associated with grade crossings), energy efficiency, operational efficiencies, and environmental impacts of each system;

"(B) an examination of the potential role of a United States designed maglev system, developed as a prototype under section 1036(b) of the Intermodal Surface Transportation Efficiency Act of 1991, in relation to the implementation of other high-speed ground transportation technologies and the national transportation system;

"(C) an examination of the work being done to establish safety standards for high-speed ground transportation as a result of the enactment of section 7 of the Rail Safety Improvement Act of 1988;

"(D) an examination of the need to establish appropriate technological, quality, and environmental standards for high-speed ground transportation systems;

"(E) an examination of the significant unresolved technical issues surrounding the design, engineering, construction, and operation of high-speed ground transportation systems, including the potential for the use of existing rights-of-way;

"(F) an examination of the effects on air quality, energy consumption, noise, land use, health, and safety as a result of the decreases in traffic volume on other modes of transportation that are expected to result from the full-scale development of high-speed ground transportation systems; and

"(G) any other technical assessments the Secretary considers important for carrying out this section.

"(e)(1) Within 12 months after the submission of the study required by subsection (d), the Secretary shall establish the national high-speed ground transportation policy (hereinafter in this section referred to as the 'Policy').

"(2) The Policy shall include—

"(A) provisions to promote the design, construction, and operation of high-speed ground transportation systems in the United States;

"(B) a determination whether the various competing high-speed ground transportation technologies can be effectively integrated into a national network and, if not, whether 1 or more such technologies should receive preferential encouragement from the Federal Government to enable the development of such a national network;

"(C) a strategy for prioritizing the markets and corridors in which the construction of high-speed ground transportation systems should be encouraged; and

"(D) provisions designed to promote American competitiveness in the market for high-speed ground transportation technologies.

"(3) The Secretary shall solicit comments from the public in the development of the Policy and may consult with other Federal agencies as appropriate in drafting the Policy.".

(2) CONFORMING AMENDMENT.—The analysis for chapter 3 of such title is amended by inserting after the item relating to section 308 the following:

"309. High-speed ground transportation.".

(d) FUNDING.—

(1) OUT OF HIGHWAY TRUST FUND.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) the following sums:

(A) NATIONAL MAGNETIC LEVITATION PROTOTYPE DEVELOPMENT PROGRAM.—For the national magnetic levitation prototype development program under this section $5,000,000 for fiscal year 1992, $45,000,000 for fiscal year 1993, $100,000,000 for fiscal year 1994, $100,000,000 for fiscal year 1995, $125,000,000 for fiscal year 1996, and $125,000,000 for fiscal year 1997.

(B) NATIONAL HIGH-SPEED GROUND TRANSPORTATION TECHNOLOGY DEMONSTRATION PROGRAM.—For the national high-speed ground transportation technology demonstration program under section 309 of title 49, United States Code, $5,000,000 for each of fiscal years 1993, 1994, 1995, 1996, and 1997.

(2) OUT OF GENERAL FUND.—In addition to amounts made available by paragraph (1), there is authorized to be appropriated for fiscal years 1992, 1993, 1994, 1995, 1996, and 1997—

(A) $225,000,000 for the national magnetic levitation prototype development program under this section;

(B) $25,000,000 for the national high-speed ground transportation technology demonstration program under section 309 of title 49, United States Code; and

(C) $25,000,000 for national high-speed ground transportation research and development under section 309 of title 49, United States Code.

(3) PERIOD OF AVAILABILITY.—Funds made available by and under this section shall remain available until expended.

(4) CONTRACT AUTHORITY.—Notwithstanding any other provision of law, approval by the Secretary of a grant or contract with funds made available by paragraph (1) shall be deemed a contractual obligation of the United States for payment of the Federal share of the cost of the project.

(e) GUARANTEE OF OBLIGATIONS.—Section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831) is amended—

(1) in subsection (a)—

(A) by inserting "(1)" after "shall be or have been used";

(B) by striking "or" after "car management systems)," and inserting in lieu thereof "(2)"; and

(C) by inserting ", or (3) to acquire, rehabilitate, improve, develop, or establish high-speed rail facilities or equipment" after "new railroad facilities";

(2) in subsection (g)—

(A) by inserting "or high-speed rail services" after "rail services" both places it appears in paragraph (3);

(B) by inserting "or passengers" after "provide shippers" in paragraph (3);

(C) by striking "or improved" and inserting in lieu thereof "improved, developed, or established" in paragraph (4);

(D) by striking "improved, rehabilitated, or acquired" and inserting in lieu thereof "acquired, rehabilitated, improved, developed, or established" in paragraph (5);

(E) by striking "and" at the end of paragraph (5);

(F) by inserting "or high-speed rail carrier" after "affected railroad" in paragraph (6);

(G) by striking the period at the end of paragraph (6) and inserting in lieu thereof "; and"; and

(H) by adding at the end the following new paragraph:

"(7) in the case of high-speed rail facilities and equipment, at least 85 percent of such facilities and equipment are mined, produced, or manufactured in the United States, unless the Secretary finds in writing that—

"(A) such requirement would be inconsistent with the public interest;

"(B) such facilities and equipment could not be mined, produced, or manufactured in the United States in sufficient and reasonably available quantities of a satisfactory quality;

"(C) such a requirement would increase the cost of the facilities and equipment by more than 25 percent; or

"(D) such a requirement would result in a violation of obligations of the United States under international trade agreements.";

(3) in subsection (i)(1)—

(A) by amending subparagraph (B) to read as follows:

"(B)(i) will not use any funds or assets from railroad operations for nonrail purposes; and

"(ii) will not use any funds or assets from high-speed rail operations for purposes other than high-speed rail purposes,"; and

(B) by inserting "or high-speed rail services" after "provide rail services"; and

(4) by adding at the end the following new subsection:

"(n) DEFINITIONS.—As used in this section, the term 'high-speed rail' means all forms of nonhighway ground transportation that run on rails providing transportation service which is—

"(1) reasonably expected to reach sustained speeds of more than 125 miles per hour; and

"(2) made available to members of the general public as passengers.

Such term does not include rapid transit operations within an urban area that are not connected to the general rail system of transportation.".

(f) GENERAL ACCOUNTING OFFICE STUDY.—The Comptroller General, within 2 years after the date of the enactment of this Act, and annually thereafter, shall analyze the effectiveness of the application of section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 to high-speed rail facilities and equipment, and report the results of such analysis to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

SEC. 1037. RAILROAD RELOCATION DEMONSTRATION PROGRAM.

Section 163(p) of the Federal-Aid Highway Act of 1973 (23 U.S.C. 130 note) is amended by striking "and 1991," and inserting "1991, 1992, 1993, and 1994,".

SEC. 1038. USE OF RECYCLED PAVING MATERIAL.

(a) ASPHALT PAVEMENT CONTAINING RECYCLED RUBBER DEMONSTRATION PROGRAM.—Notwithstanding any other provision of title 23, United States Code, or regulation or policy of the Department of Transportation, the Secretary (or a State acting as the Department's agent) may not disapprove a highway project under chapter 1 of title 23, United States Code, on the ground that the project includes the use of asphalt pavement containing recycled rubber. Under this subsection, a patented application process for recycled rubber shall be eligible for approval under the same conditions that an unpatented process is eligible for approval.

(b) STUDIES.—

(1) IN GENERAL.—The Secretary and the Administrator of the Environmental Protection Agency shall coordinate and conduct, in cooperation with the States, a study to determine—

(A) the threat to human health and the environment associated with the production and use of asphalt pavement containing recycled rubber;

(B) the degree to which asphalt pavement containing recycled rubber can be recycled; and

(C) the performance of the asphalt pavement containing recycled rubber under various climate and use conditions.

(2) DIVISION OF RESPONSIBILITIES.—The Administrator shall conduct the part of the study relating to paragraph (1)(A) and the Secretary shall conduct the part of the study relating to paragraph (1)(C). The Administrator and the Secretary shall jointly conduct the study relating to paragraph (1)(B).

(3) ADDITIONAL STUDY.—The Secretary and the Administrator, in cooperation with the States, shall jointly conduct a study to determine the economic savings, technical performance qualities, threats to human health and the environment, and environmental benefits of using recycled materials in highway devices and appurtenances and highway projects, including asphalt containing over 80 percent reclaimed asphalt, asphalt containing recycled glass, and asphalt containing recycled plastic.

(4) ADDITIONAL ELEMENTS.—In conducting the study under paragraph (3), the Secretary and the Administrator shall examine utilization of various technologies by States and shall examine the current practices of all States relating to the reuse and disposal of materials used in federally assisted highway projects.

(5) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary and the Administrator shall transmit to Congress a report on the results of the studies conducted under this subsection, including a detailed analysis of the economic savings and technical performance qualities of using such recycled materials in federally assisted highway projects and the environmental benefits of using such recycled materials in such highway projects in terms of reducing air emissions, conserving natural resources, and reducing disposal of the materials in landfills.

(c) DOT GUIDANCE.—

(1) INFORMATION GATHERING AND DISTRIBUTION.—The Secretary shall gather information and recommendations concerning the use of asphalt containing recycled rubber in highway projects from those States that have extensively evaluated and experimented with the use of such asphalt and implemented such projects and shall make available such information and recommendations on the use of such asphalt to those States which indicate an interest in the use of such asphalt.

(2) ENCOURAGEMENT OF USE.—The Secretary should encourage the use of recycled materials determined to be appropriate by the studies pursuant to subsection (b) in federally assisted highway projects. Procuring agencies shall comply with all applicable guidelines or regulations issued by the Administrator of the Environmental Protection Agency.

(d) USE OF ASPHALT PAVEMENT CONTAINING RECYCLED RUBBER.—

(1) STATE CERTIFICATION.—Beginning on January 1, 1995, and annually thereafter, each State shall certify to the Secretary that such State has satisfied the minimum utilization requirement for asphalt pavement containing recycled rubber established by this section. The minimum utilization requirement for asphalt pavement containing recycled rubber as a percentage of the total tons of asphalt laid in such State and financed in whole or part by any assistance pursuant to title 23, United States Code, shall be—

(A) 5 percent for the year 1994;

(B) 10 percent for the year 1995;

(C) 15 percent for the year 1996; and

(D) 20 percent for the year 1997 and each year thereafter.

(2) OTHER MATERIALS.—Any recycled material or materials determined to be appropriate by the studies under subsection (b) may be substituted for recycled rubber under the minimum utilization requirement of paragraph (1) up to 5 percent.

(3) INCREASE.—The Secretary may increase the minimum utilization requirement of paragraph (1) for asphalt pavement containing recycled rubber to be used in federally assisted highway projects to the extent it is technologically and economically feasible to do so and if an increase is appropriate to assure markets for the reuse and recycling of scrap tires. The minimum utilization requirement for asphalt pavement containing recycled rubber may not be met by any use or technique found to be unsuitable for use in highway projects by the studies under subsection (b).

(4) PENALTY.—The Secretary shall withhold from any State that fails to make a certification under paragraph (1) for any fiscal year, a percentage of the apportionments under section 104 (other than subsection (b)(5)(A)) of title 23, United States Code, that would otherwise be apportioned to such State for such fiscal year under such section equal to the percentage utilization requirement established by paragraph (1) for such fiscal year.

(5) SECRETARIAL WAIVER.—The Secretary may set aside the provisions of this subsection for any 3-year period on a determination, made in concurrence with the Administrator of the Environmental Protection Agency with respect to subparagraphs (A) and (B) of this paragraph, that there is reliable evidence indicating—

(A) that manufacture, application, or use of asphalt pavement containing recycled rubber substantially increases the threat to human health or the environment as compared to the threats associated with conventional pavement;

(B) that asphalt pavement containing recycled rubber cannot be recycled to substantially the same degree as conventional pavement; or

(C) that asphalt pavement containing recycled rubber does not perform adequately as a material for the construction or surfacing of highways and roads.

The Secretary shall consider the results of the study under subsection (b)(1) in determining whether a 3-year set-aside is appropriate.

(6) RENEWAL OF WAIVER.—Any determination made to set aside the requirements of this section may be renewed for an additional 3-year period by the Secretary, with the concurrence of the Administrator with respect to the determinations made under paragraphs (5)(A) and (5)(B). Any determination made with respect to paragraph (5)(C) may be made for specific States or regions considering climate, geography, and other factors that may be unique to the State or region and that would prevent the adequate performance of asphalt pavement containing recycled rubber.

(7) INDIVIDUAL STATE REDUCTION.—The Secretary shall establish a minimum utilization requirement for asphalt pavement containing recycled rubber less than the minimum utilization requirement otherwise required by paragraph (1) in a particular State, upon the request of such State and if the Secretary, with the concurrence of the Administrator of the Environmental Protection Agency, determines that there is not a sufficient quantity of scrap tires available in the State prior to disposal to meet the minimum utilization requirement established under paragraph (1) as the result of recycling and processing uses (in that State or another State), including retreading or energy recovery.

(e) DEFINITIONS.—For purpose of this section—

(1) the term "asphalt pavement containing recycled rubber" means any hot mix or spray applied binder in asphalt paving mixture that contains rubber from whole scrap tires which is used for asphalt pavement base, surface course or interlayer, or other road and highway related uses and—

(A) is a mixture of not less than 20 pounds of recycled rubber per ton of hot mix or 300 pounds of recycled rubber per ton of spray applied binder; or

(B) is any mixture of asphalt pavement and recycled rubber that is certified by a State and is approved by the Secretary, provided that the total amount of recycled rubber from whole scrap tires utilized in any year in such State shall be not less than the amount that would be utilized if all asphalt pavement containing recycled rubber laid in such State met the specifications of subparagraph (A) and subsection (d)(1); and

(2) the term "recycled rubber" is any crumb rubber derived from processing whole scrap tires or shredded tire material taken from automobiles, trucks, or other equipment owned and operated in the United States.

SEC. 1039. HIGHWAY TIMBER BRIDGE RESEARCH AND DEMONSTRATION PROGRAM.

(a) RESEARCH GRANTS.—The Secretary may make grants to other Federal agencies, universities, private businesses, nonprofit organizations, and any research or engineering entity to carry out research on 1 or more of the following:

(1) Development of new, economical highway timber bridge systems.

(2) Development of engineering design criteria for structural wood products for use in highway bridges in order to improve methods for characterizing lumber design properties.

(3) Preservative systems for use in highway timber bridges which demonstrate new alternatives and current treatment processes and procedures and which are environmentally sound with respect to application, use, and disposal of treated wood.

(4) Alternative transportation system timber structures which demonstrate the development of applications for railing, sign, and lighting supports, sound barriers, culverts, and retaining walls in highway applications.

(5) Rehabilitation measures which demonstrate effective, safe, and reliable methods for rehabilitating existing highway timber structures.

(b) TECHNOLOGY AND INFORMATION TRANSFER.—The Secretary shall take such action as may be necessary to ensure that the information and technology resulting from research conducted under subsection (a) is made available to State and local transportation departments and other interested persons.

(c) CONSTRUCTION GRANTS.—

(1) AUTHORITY.—The Secretary shall make grants to States for construction of highway timber bridges on rural Federal-aid highway.

(2) APPLICATIONS.—A State interested in receiving a grant under this subsection must submit an application therefor to the Secretary. Such application shall be in such form and contain such information as the Secretary may require by regulation.

(3) APPROVAL CRITERIA.—The Secretary shall select and approve applications for grants under this subsection based on the following criteria:

(A) Bridge designs which have both initial and long-term structural and environmental integrity.

(B) Bridge designs which utilize timber species native to the State or region.

(C) Innovative bridge designs which have the possibility of increasing knowledge, cost effectiveness, and future use of such designs.

(D) Environmental practices for preservative treated timber, and construction techniques which comply with all environmental regulations, will be utilized.

(d) FEDERAL SHARE.—The Federal share of the costs of research and construction projects carried out under this section shall be 80 percent.

(e) FUNDING.—From the funds reserved from apportionment under section 144(g)(1) of title 23, United States Code, for each of fiscal years 1992, 1993, 1994, 1995, 1996, and 1997—

(1) $1,000,000 shall be available to the Secretary for carrying out subsections (a) and (b); and

(2) $7,500,000 ($7,000,000 in the case of fiscal year 1992) shall be available to the Secretary for carrying out subsection (c).

Such sums shall remain available until expended.

(f) STATE DEFINED.—For purposes of this section, the term "State" has the meaning such term has under section 101 of title 23, United States Code.

SEC. 1040. HIGHWAY USE TAX EVASION PROJECTS.

(a) IN GENERAL.—The Secretary shall use funds made available by subsection (e) to carry out highway use tax evasion projects in accordance with this section. Such funds may be allocated to the Internal Revenue Service and the States at the discretion of the Secretary. The Secretary shall not impose any condition on the use of funds allocated to the Internal Revenue Service under this section.

(b) LIMITATION ON USE OF FUNDS.—Funds made available to carry out this section shall be used only to expand efforts to enhance motor fuel tax enforcement, fund additional Internal Revenue Service staff but only to carry out functions described in this subsection, supplement motor fuel tax examinations and criminal investigations, develop automated data processing tools to monitor motor fuel production and sales, evaluate and implement registration and reporting requirements for motor fuel taxpayers, reimburse State expenses that supplement existing fuel tax compliance efforts, and analyze and implement programs to reduce tax evasion associated with other highway use taxes.

(c) MAINTENANCE OF EFFORT.—The Secretary may not make a grant to a State under this section in a fiscal year unless the State certifies that aggregate expenditure of funds of the State, exclusive of Federal funds, for motor fuel tax enforcement activities will be maintained at a level which does not fall below the average level of such expenditure for its last 2 fiscal years.

(d) REPORTS.—

(1) IN GENERAL.—On September 30 and March 31 of each year, the Secretary shall transmit to the Committee on Environment and Public Works and the Committee on Finance of the Senate and the Committee on Public Works and Transportation and the Committee on Ways and Means of the House of Representatives a report on motor fuel tax enforcement activities under this section and the expenditure of funds made available to carry out this section, including expenses for the hiring of additional staff by any Federal agency.

(2) USE OF REVENUES FOR ENFORCEMENT OF HIGHWAY TRUST FUND TAXES.—The Secretary of the Treasury shall, at least 60 days before the beginning of each fiscal year (after fiscal year 1992) for which funds are to be allocated to the Internal Revenue Service under this section, submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate detailing the increased enforcement activities to be financed with such funds with respect to taxes referred to in section 9503(b)(1) of the Internal Revenue Code of 1986.

(e) USE OF DYE AND MARKERS.—

(1) STUDY.—The Secretary, in consultation with the Internal Revenue Service, shall conduct a study to determine the feasibility and the desirability of using dye and markers to aid in motor fuel tax enforcement activities and other purposes.

(2) REPORT.—Not later than 1 year after the effective date of this section, the Secretary shall transmit to Congress a report on the results of the study conducted under this subsection.

(f) FUNDING.—

(1) HIGHWAY TRUST FUND.—There shall be available to the Secretary for carrying out this section, out of the Highway Trust Fund (other than the Mass Transit Account), $5,000,000 for each of fiscal years 1992, 1993, 1994, 1995, 1996, and 1997. Such sums shall be available for obligation in the same manner and to the same extent as if such sums were apportioned under chapter 1 of title 23, United States Code; except that the Federal share for projects carried out under this section shall be 100 percent and the sums shall remain available until expended.

(2) GENERAL FUND.—There are authorized to be appropriated to carry out this section $2,500,000 per fiscal year for each of fiscal years 1992 through 1997. Such sums shall remain available until expended.

(g) STATE DEFINED.—For purposes of this section, the term "State" means the 50 States and the District of Columbia.

SEC. 1041. REGULATORY INTERPRETATIONS.

(a) INCLUSION OF COATING OF STEEL IN BUY AMERICA PROGRAM.—Section 635.410 of title 23 of the Code of Federal Regulations and any similar regulation, ruling, or decision shall be applied as if to include coating.

(b) FUNDING OF FUSEES AND FLARES.—Section 393.95 of title 49 of the Code of Federal Regulations shall be applied so that fusees and flares are given equal priority with regard to use as reflecting signs.

SEC. 1042. INDIAN RERVATION ROADS STUDY.

(a) STUDY.—The Secretary shall conduct a study on the funding needs for Indian reservation roads taking into account funding and other quality inequities between Indian reservation roads and other highway systems.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the results of the study conducted under this section, together with any legislative and administrative recommendations of the Secretary for correcting inequities identified under such study.

SEC. 1043. REPORT TO CONGRESS ON QUALITY IMPROVEMENT.

(a) REPORT TO CONGRESS ON QUALITY IMPROVEMENT.—The Comptroller General shall submit within 24 months following the date of the enactment of this title a report to Congress addressing means for improving the quality of highways constructed with Federal assistance. This report shall address Federal design standards, engineering and design services, and construction of Federal-aid highway projects.

(b) SCOPE OF THE REPORT TO CONGRESS.—In preparing such report, the Comptroller shall address, at a minimum, the following:

(1) Alternative modifications to current Federal and State minimum design standards, including but not limited to, the anticipated impacts these alternatives would have on the serviceability, maintenance, expected life, and costs (including engineering and design, construction maintenance, operation and replacement costs).

(2) Inclusion of guarantee and warranty clauses in contracts with designers, contractors, and State highway departments to address, at a minimum, potential costs and benefits of such clauses; any liability or insurance constraints or concerns; implications for small, minority, or disadvantaged businesses; currently existing options for States to require these clauses or other means with similar effect without additional Federal legislation, and the effect these or similar clauses may have on the availability of insurance and bonds for design professionals and contractors and the implication to the public of any change in such availability.

(3) Means of enhancing the maintenance of the Federal-aid Highway System to ensure the public investment in such system is protected.

SEC. 1044. CREDIT FOR NON-FEDERAL SHARE.

(a) ELIGIBILITY.—A State may use as a credit toward the non-Federal matching share requirement for all programs under this Act and title 23, United States Code, toll revenues that are generated and used by public, quasi-public and private agencies to build, improve, or maintain highways, bridges, or tunnels that serve the public purpose of interstate commerce. Such public, quasi-public or private agencies shall have built, improved, or maintained such facilities without Federal funds.

(b) MAINTENANCE OF EFFORT.—The credit for any non-Federal share shall not reduce nor replace State monies required to match Federal funds for any program pursuant to this Act or title 23, United States Code. In receiving a credit for non-Federal capital expenditures under this section, a State shall enter into such agreements as the Secretary may require to ensure that such State will maintain its non-Federal transportation capital expenditures at or above the average level of such expenditures for the preceding three fiscal years.

(c) TREATMENT.—Use of such credit for a non-Federal share shall not expose such agencies from which the credit is received to additional liability, additional regulation or additional administrative oversight. When credit is applied from chartered multi-State agencies, such credit shall be applied equally to all charter States. The public, quasi-public, and private agencies from which the credit for which the non-Federal share is calculated shall not be subject to any additional Federal design standards, laws or regulations as a result of providing non-Federal match other than those to which such agency is already subject.

SEC. 1045. SUBSTITUTE PROJECT.

(a) APPROVAL OF PROJECT.—Notwithstanding any other provision of law, upon the request of the Governor of the State of Wisconsin, submitted after consultation with appropriate local government officials, the Secretary may approve substitute highway, bus transit, and light rail transit projects, in lieu of construction of the I-94 East-West Transitway project in Milwaukee and Waukesha Counties, as identified in the 1991 Interstate Cost Estimate.

(b) ELIGIBILITY FOR FEDERAL ASSISTANCE.—Upon approval of any substitute highway or transit project or projects under subsection (a),

the costs of construction of the eligible transitway project for which such project or projects are substituted shall not be eligible for funds authorized under section 108(b) of the Federal-Aid Highway Act of 1956 and a sum equal to the Federal share of such costs, as included in the latest interstate cost estimate submitted to Congress, shall be available to the Secretary to incur obligations under section 103(e)(4) of title 23, United States Code, for the Federal share of the costs of such substitute project or projects.

(c) LIMITATION ON ELIGIBILITY.—If, by October 1, 1993, or two years after the date of the enactment of this Act, whichever is later, the Governor of the State of Wisconsin has not submitted a request for a substitute project or projects in lieu of the I–94 East-West Transitway, the Secretary shall not approve such substitution. If, by October 1, 1995, or four years after the date of the enactment of this Act, whichever is later, such substitute project or projects are not under construction, or under contract for construction, no funds shall be appropriated under the authority of section 103(e)(4) of title 23, United States Code, for such project or projects. For the purposes of this subsection, the term "construction" has the same meaning as given to it in section 101, title 23, United States Code, and shall include activities such as preliminary engineering and right-of-way acquisition.

(d) ADMINISTRATIVE PROVISIONS.—

(1) STATUS OF SUBSTITUTE PROJECT OR PROJECTS.—Any substitute project approved under subsection (a) shall be deemed to be a substitute project for the purposes of section 103(e)(4) of title 23, United States Code (other than subparagraphs (C) and (O)).

(2) REDUCTION OF UNOBLIGATED INTERSTATE APPORTIONMENT.—Unobligated apportionments for the Interstate System in the State of Wisconsin shall, on the date of approval of any substitute project or projects under subsection (a), be applied toward the Federal share of the costs of such substitute project or projects.

(3) ADMINISTRATION THROUGH FHWA.—The Secretary shall administer this section through the Federal Highway Administration.

(4) FISCAL YEARS 1993 AND 1994 APPORTIONMENTS.—For the purpose of apportioning funds for fiscal years 1993 and 1994 under section 104(b)(5)(A), the Secretary shall consider Wisconsin as having no remaining eligible costs. For the purpose of apportioning funds under section 104(b)(5)(A) of title 23, United States Code, for fiscal year 1995 and subsequent fiscal years, Wisconsin's actual remaining eligible costs shall be used.

(e) TRANSFER OF APPORTIONMENTS.—Wisconsin may transfer Interstate construction apportionments to its National Highway System in amounts equal to or less than the costs for additional work on sections of the Interstate System that have been built with Interstate construction funds and that are open to traffic as shown in the 1991 Interstate Cost Estimate.

SEC. 1046. CONTROL OF OUTDOOR ADVERTISING.

(a) FUNDING.—Section 131(m) of title 23, United States Code, is amended by adding at the end the following new sentence: "Subject to approval by the Secretary in accordance with the program of projects approval process of section 105, a State may use any funds apportioned to it under section 104 of this title for removal of any sign, display, or device lawfully erected which does not conform to this section.".

(b) REMOVAL OF ILLEGAL SIGNS.—Section 131 of such title is amended by adding at the end the following new subsection:

"(r) REMOVAL OF ILLEGAL SIGNS.—

"(1) BY OWNERS.—Any sign, display, or device along the Interstate System or the Federal-aid primary system which was not lawfully erected, shall be removed by the owner of such sign, display, or device not later than the 90th day following the effective date of this subsection.

"(2) BY STATES.—If any owner does not remove a sign, display, or device in accordance with paragraph (1), the State within the borders of which the sign, display, or device is located shall remove the sign, display, or device. The owner of the removed sign, display, or device shall be liable to the State for the costs of such removal. Effective control under this section includes compliance with the first sentence of this paragraph.".

(c) SCENIC BYWAY PROHIBITION.—Such section is further amended by adding at the end the following new subsections:

"(s) SCENIC BYWAY PROHIBITION.—If a State has a scenic byway program, the State may not allow the erection along any highway on the Interstate System or Federal-aid primary system which before, on, or after the effective date of this subsection, is designated as a scenic byway under such program of any sign, display, or device which is not in conformance with subsection (c) of this section. Control of any sign, display, or device on such a highway shall be in accordance with this section.

"(t) PRIMARY SYSTEM DEFINED.—For purposes of this section, the terms 'primary system' and 'Federal-aid primary system' mean the Federal-aid primary system in existence on June 1, 1991, and any highway which is not on such system but which is on the National Highway System.".

(d) STATE COMPLIANCE LAWS.—The amendments made by this section shall not affect the status or validity of any existing compliance law or regulation adopted by a State pursuant to section 131 of title 23, United States Code.

SEC. 1047. SCENIC BYWAYS PROGRAM.

(a) SCENIC BYWAYS ADVISORY COMMITTEE.—

(1) ESTABLISHMENT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall establish in the Department of Transportation an advisory committee to assist the Secretary with respect to establishment of a national scenic byways program under title 23, United States Code.

(2) MEMBERSHIP.—The advisory committee established under this section shall be composed of 17 members as follows:

(A) The Administrator of the Federal Highway Administration or the designee of the Administrator who shall serve as chairman of the advisory committee.

(B) The Chief of the Forest Service of the Department of Agriculture or the designee of the Chief.

(C) The Director of the National Park Service of the Department of the Interior or the designee of the Director.

(D) The Director of the Bureau of Land Management of the Department of the Interior or the designee of the Director.

(E) The Under Secretary for Travel and Tourism of the Department of Commerce or the designee of the Under Secretary.

(F) The Assistant Secretary for Indian Affairs of the Department of the Interior or the designee of the Assistant Secretary.

(G) 1 individual appointed by the Secretary who is specially qualified to represent the interests of conservationists on the advisory committee.

(H) 1 individual appointed by the Secretary of Transportation who is specially qualified to represent the interests of recreational users of scenic byways on the advisory committee.

(I) 1 individual appointed by the Secretary who is specially qualified to represent the interests of the tourism industry on the advisory committee.

(J) 1 individual appointed by the Secretary who is specially qualified to represent the interests of historic preservationists on the advisory committee.

(K) 1 individual appointed by the Secretary who is specially qualified to represent the interests of highway users on the advisory committee.

(L) 1 individual appointed by the Secretary to represent State highway and transportation officials.

(M) 1 individual appointed by the Secretary to represent local highway and transportation officials.

(N) 1 individual appointed by the Secretary who is specially qualified to serve on the advisory committee as a planner.

(O) 1 individual appointed by the Secretary who is specially qualified to represent the motoring public.

(P) 1 individual appointed by the Secretary who is specially qualified to represent groups interested in scenic preservation.

(Q) 1 individual appointed by the Secretary who represents the outdoor advertising industry.

Individuals appointed as members of the advisory committee under subparagraphs (G) through (P) may be State and local government officials. Members shall serve without compensation other than for reasonable expenses incident to functions of the advisory committee.

(3) FUNCTIONS.—The advisory committee established under this subsection shall develop and make to the Secretary recommendations regarding minimum criteria for use by State and Federal agencies in designating highways as scenic byways and as all-American roads for purposes of a national scenic byways program to be established under title 23, United States Code. Such recommendations shall include recommendations on the following:

(A) Consideration of the scenic beauty and historic significance of highways proposed for designation as scenic byways and all-American roads and the areas surrounding such highways.

(B) Operation and management standards for highways designated as scenic byways and all-American roads, including strategies for maintaining or improving the qualities for which a highway is designated as a scenic byway or all-American road, for protecting and enhancing the landscape and view corridors surrounding such a highway, and for minimizing traffic congestion on such a highway.

(C)(i) Standards for scenic byway-related signs, including those which identify highways as scenic byways and all-American roads.

(ii) The advisability of uniform signs identifying highways as components of the scenic byway system.

(D) Standards for maintaining highway safety on the scenic byway system.

(E) Design review procedures for location of highway facilities, landscaping, and travelers' facilities on the scenic byway system.

(F) Procedures for reviewing and terminating the designation of a highway designated as a scenic byway.

(G) Such other matters as the advisory committee may deem appropriate.

(H) Such other matters for which the Secretary may request recommendations.

(4) REPORT.—Not later than 18 months after the date of the enactment of this Act, the advisory committee established under this section shall submit to the Secretary and Congress a report containing the recommendations described in paragraph (3).

(b) TECHNICAL AND FINANCIAL ASSISTANCE.—The Secretary shall provide technical assistance to the States (as such term is defined under section 101 of title 23, United States Code) and shall make grants to the States for the planning, design, and development of State scenic byway programs.

(c) FEDERAL SHARE.—The Federal share payable for the costs of planning, design, and devel-

opment of State scenic byway programs under this section shall be 80 percent.

(d) FUNDING.—There shall be available to the Secretary for carrying out this section (other than subsection (f)), out of the Highway Trust Fund (other than the Mass Transit Account), $1,000,000 for fiscal year 1992, $3,000,000 for fiscal year 1993, $4,000,000 for fiscal year 1994, and $14,000,000 for each of the fiscal years 1995, 1996, and 1997. Such sums shall remain available until expended.

(e) CONTRACT AUTHORITY.—Notwithstanding any other provision of law, approval by the Secretary of a grant under this section shall be deemed a contractual obligation of the United States for payment of the Federal share of the cost of activities for which the grant is being made.

(f) INTERIM SCENIC BYWAYS PROGRAM.—

(1) GRANT PROGRAM.—During fiscal years 1992, 1993, and 1994, the Secretary may make grants to any State which has a scenic highway program for carrying out eligible projects on highways which the State has designated as scenic byways.

(2) PRIORITY PROJECTS.—In making grants under paragraph (1), the Secretary shall give priority to—

(A) those eligible projects which are included in a corridor management plan for maintaining scenic, historic, recreational, cultural, and archeological characteristics of the corridor while providing for accommodation of increased tourism and development of related amenities;

(B) those eligible projects for which a strong local commitment is demonstrated for implementing the management plans and protecting the characteristics for which the highway is likely to be designated as a scenic byway;

(C) those eligible projects which are included in programs which can serve as models for other States to follow when establishing and designing scenic byways on an intrastate or interstate basis; and

(D) those eligible projects in multi-State corridors where the States submit joint applications.

(3) ELIGIBLE PROJECTS.—The following are projects which are eligible for Federal assistance under this subsection:

(A) Planning, design, and development of State scenic byway programs.

(B) Making safety improvements to a highway designated as a scenic byway under this subsection to the extent such improvements are necessary to accommodate increased traffic, and changes in the types of vehicles using the highway, due to such designation.

(C) Construction along the highway of facilities for the use of pedestrians and bicyclists, rest areas, turnouts, highway shoulder improvements, passing lanes, overlooks, and interpretive facilities.

(D) Improvements to the highway which will enhance access to an area for the purpose of recreation, including water-related recreation.

(E) Protecting historical and cultural resources in areas adjacent to the highway.

(F) Developing and providing tourist information to the public, including interpretive information about the scenic byway.

(4) FEDERAL SHARE.—The Federal share payable for the costs of carrying out projects and developing programs under this subsection with funds made available pursuant to this subsection shall be 80 percent.

(5) FUNDING.—There shall be available to the Secretary for carrying out this subsection, out of the Highway Trust Fund (other than the Mass Transit Account), $10,000,000 for fiscal year 1992, $10,000,000 for fiscal year 1993, and $10,000,000 for fiscal year 1994. Such sums shall remain available until expended.

(g) LIMITATION.—The Secretary shall not make a grant under this section for any project which would not protect the scenic, historic, recreational, cultural, natural, and archeological integrity of the highway and adjacent area. The Secretary may not use more than 10 percent of the funds authorized for each fiscal year under subsection (f)(5) for removal of any outdoor advertising sign, display, or device.

(h) TREATMENT OF SCENIC HIGHWAYS IN OREGON.—For purposes of this section, a highway designated as a scenic highway in the State of Oregon shall be treated as a scenic byway.

SEC. 1048. BUY AMERICA.

(a) INCLUSION OF IRON.—Section 165(a) of the Surface Transportation Assistance Act of 1982 (23 U.S.C. 101 note) is amended by inserting ", iron," after "steel".

(b) WAIVERS; INTENTIONAL VIOLATIONS.—Section 165 of such Act is amended by adding at the end the following new subsections:

"(e) REPORT ON WAIVERS.—By January 1, 1995, the Secretary shall submit to Congress a report on the purchases from foreign entities waived under subsection (b) in fiscal years 1992 and 1993, indicating the dollar value of items for which waivers were granted under subsection (b).

"(f) INTENTIONAL VIOLATIONS.—If it has been determined by a court or Federal agency that any person intentionally—

"(1) affixed a label bearing a 'Made in America' inscription, or any inscription with the same meaning, to any product used in projects to which this section applies, sold in or shipped to the United States that was not made in the United States; or

"(2) represented that any product used in projects to which this section applies, sold in or shipped to the United States that was not produced in the United States, was produced in the United States;

that person shall be ineligible to receive any contract or subcontract made with funds authorized under the Intermodal Surface Transportation Efficiency Act of 1991 pursuant to the debarment, suspension, and ineligibility procedures in subpart 9.4 of chapter 1 of title 48, Code of Federal Regulations.

"(g) LIMITATION ON APPLICABILITY OF WAIVERS TO PRODUCTS PRODUCED IN CERTAIN FOREIGN COUNTRIES.—If the Secretary, in consultation with the United States Trade Representative, determines that—

"(1) a foreign country is a party to an agreement with the United States and pursuant to that agreement the head of an agency of the United States has waived the requirements of this section, and

"(2) the foreign country has violated the terms of the agreement by discriminating against products covered by this section that are produced in the United States and are covered by the agreement,

the provisions of subsection (b) shall not apply to products produced in that foreign country.".

SEC. 1049. DESIGN STANDARDS.

(a) SURVEY.—The Secretary shall conduct a survey to identify current State standards relating to geometric design, traffic control devices, roadside safety, safety appurtenance design, uniform traffic control devices, and sign legibility and directional clarity for all Federal-aid highways. The purpose of the survey is to determine the necessity of upgrading such standards in order to enhance highway safety. In conducting the survey, the Secretary shall take into consideration posted speed limits as they relate to the design of the highway.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of the survey conducted under this section, and on the crashworthiness of traffic lights, traffic signs, guardrails, impact attenuators, concrete barrier treatments, and breakaway utility poles for bridges and roadways currently used by States, together with any recommendations of the Secretary relating to the purpose of the survey.

SEC. 1050. TRANSPORTATION IN PARKLANDS.

(a) IN GENERAL.—Not later than 12 months after the date of the enactment of this Act, the Secretary, in consultation with the Secretary of the Interior, shall conduct and transmit to Congress a study of alternative transportation modes for use in the National Park System. In conducting such study, the Secretary shall consider (1) the economic and technical feasibility, environmental effects, projected costs and benefits as compared to the costs and benefits of existing transportation systems, and general suitability of transportation modes that would provide efficient and environmentally sound ingress to and egress from National Park lands; and (2) methods to obtain private capital for the construction of such transportation modes and related infrastructure.

(b) FUNDING.—From sums authorized to be appropriated for park roads and parkways for fiscal year 1992, $300,000 shall be available to carry out this section.

SEC. 1051. WORK ZONE SAFETY.

The Secretary shall develop and implement a work zone safety program which will improve work zone safety at highway construction sites by enhancing the quality and effectiveness of traffic control devices, safety appurtenances, traffic control plans, and bidding practices for traffic control devices and services.

SEC. 1052. NEW HAMPSHIRE FEDERAL-AID PAYBACK.

(a) EFFECT OF REPAYMENT.—The amount of all Federal-aid highway funds paid on account of those completed sections of the Nashua-Hudson Circumferential in the State of New Hampshire referred to in subsection (c) of this section shall, prior to the collection of any tolls thereon, be repaid to the Treasurer of the United States before October 1, 1992. The amount so repaid shall be deposited to the credit of the appropriation for "Federal-Aid Highway (Trust Fund)". Such repayment shall be credited to the unprogrammed balance of funds apportioned to the State of New Hampshire in accordance with section 104(b)(1) of title 23, United States Code. The amount so credited shall be in addition to all other funds then apportioned to such State and shall remain available until expended.

(b) USE OF REPAID FUNDS.—Upon repayment of Federal-aid highway funds and the cancellation and withdrawal from the Federal-Aid highway program of the projects on the section in subsection (c) as provided in subsection (a) of this section, such section of this route shall become and be free of any and all restrictions contained in title 23, United States Code, as amended or supplemented, or in any regulation thereunder, with respect to the imposition and collection of tolls or other charges thereon or for the use thereof.

(c) PROJECT DESCRIPTION.—The provisions of this section shall apply to the section of the completed Nashua-Hudson Circumferential between the Daniel Webster Highway in the city of Nashua and New Hampshire Route 3A in the town of Hudson.

SEC. 1053. METRIC SYSTEM SIGNING.

Section 144 of the Federal-Aid Highway Act of 1978 (92 Stat. 2713; 23 U.S.C. 109 note) is repealed.

SEC. 1054. TEMPORARY MATCHING FUND WAIVER.

(a) WAIVER OF MATCHING SHARE.—Notwithstanding any other provision of law, the Federal share of any qualifying project approved by the Secretary under title 23, United States Code,

and of any qualifying project for which the United States becomes obligated to pay under title 23, United States Code, during the period beginning on October 1, 1991, and ending September 30, 1993, shall be the percentage of the construction cost as the State requests, up to and including 100 percent.

(b) REPAYMENT.—The total amount of increases in the Federal share made pursuant to subsection (a) for any State shall be repaid to the United States by the State on or before March 30, 1994. Payments shall be deposited in the Highway Trust Fund and repaid amounts shall be credited to the appropriate apportionment accounts of the State.

(c) DEDUCTION FROM APPORTIONMENTS.—If a State has not made the repayment as required by subsection (b), the Secretary shall deduct from funds apportioned to the State under title 23, United States Code, in each of the fiscal years 1995 and 1996, a pro rata share of each category of apportioned funds. The amount which shall be deducted in each fiscal year shall be equal to 50 percent of the amount needed for repayment. Any amount deducted under this subsection shall be reapportioned for fiscal years 1995 and 1996 in accordance with title 23, United States Code, to those States which have not received a higher Federal share under this section and to those States which have made the repayment required by subsection (b).

(d) QUALIFYING PROJECT DEFINED.—For purposes of this section, the term "qualifying project" means a project approved by the Secretary after the effective date of this title, or a project for which the United States becomes obligated to pay after such effective date, and for which the Governor of the State submitting the project has certified, in accordance with regulations established by the Secretary, that sufficient funds are not available to pay the cost of the non-Federal share of the project.

SEC. 1055. RELOCATION ASSISTANCE REGULATIONS RELATING TO THE RURAL ELECTRIFICATION ADMINISTRATION.

Section 213(c) of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4633(c)) is amended by inserting "and the Rural Electrification Administration" after "Tennessee Valley Authority".

SEC. 1056. USE OF HIGH OCCUPANCY VEHICLE LANES BY MOTORBIKES.

Section 163 of the Surface Transportation Assistance Act of 1982 (23 U.S.C. 146 note) is amended—

(1) by inserting before "and acceptance" the following: ", after notice in the Federal Register and an opportunity for public comment,"; and

(2) by adding at the end the following: "Any certification made before the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991 shall not be recognized by the Secretary until the Secretary publishes notice of such certification in the Federal Register and provides an opportunity for public comment on such certification.".

SEC. 1057. EROSION CONTROL GUIDELINES.

(a) DEVELOPMENT.—The Secretary shall develop erosion control guidelines for States to follow in carrying out construction projects funded in whole or in part under this title.

(b) MORE STRINGENT STATE REQUIREMENTS.—Guidelines developed under subsection (a) shall not preempt any requirement made by or under State law if such requirement is more stringent than the guidelines.

(c) CONSISTENCY WITH OTHER PROGRAMS.—Guidelines developed under subsection (a) shall be consistent with nonpoint source management programs under section 319 of the Federal Water Pollution Control Act and coastal nonpoint pollution control guidance under section 6217(g) of the Omnibus Budget Reconciliation Act of 1990.

SEC. 1058. ROADSIDE BARRIER TECHNOLOGY.

(a) REQUIREMENT FOR INNOVATIVE BARRIERS.—Not less than 2½ percent of the mileage of new or replacement permanent median barriers included in awarded contracts along Federal-aid highways within the boundaries of a State in each calendar year shall be innovative safety barriers.

(b) CERTIFICATION.—Each State shall annually certify to the Secretary its compliance with the requirements of this section.

(c) DEFINITION OF INNOVATIVE SAFETY BARRIER.—For purposes of this section, the term "innovative safety barrier" means a median barrier, other than a guardrail, classified by the Federal Highway Administration as "experimental" or that was classified as "operational" after January 1, 1985.

SEC. 1059. USE OF TOURIST ORIENTED DIRECTIONAL SIGNS.

(a) IN GENERAL.—The Secretary shall encourage the States to provide for equitable participation in the use of tourist oriented directional signs or "logo" signs along the Interstate System and the Federal-aid primary system (as defined under section 131(t) of title 23, United States Code).

(b) STUDY.—Not later than 1 year after the effective date of this title, the Secretary shall conduct a study and report to Congress on the participation in the use of signs referred to in subsection (a) and the practices of the States with respect to the use of such signs.

SEC. 1060. PRIVATE SECTOR INVOLVEMENT PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall establish a private sector involvement program to encourage States to contract with private firms for engineering and design services in carrying out Federal-aid highway projects when it would be cost effective.

(b) GRANTS TO STATES.—

(1) IN GENERAL.—In conducting the program under this section, the Secretary may make grants in each of fiscal years 1992, 1993, 1994, 1995, 1996, and 1997 to not less than 3 States which the Secretary determines have implemented in the fiscal year preceding the fiscal year of the grant the most effective programs for increasing the percentage of funds expended for contracting with private firms (including small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals) for engineering and design services in carrying out Federal-aid highway projects.

(2) USE OF GRANTS.—A grant received by a State under this subsection may be used by the State only for awarding contracts for engineering and design services to carry out projects and activities for which Federal funds may be obligated under title 23, United States Code.

(3) FUNDING.—There are authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 1992 through 1997. Such sums shall remain available until expended.

(c) REPORT BY FHWA.—Not later than 120 days after the date of the enactment of this Act, the Administrator of the Federal Highway Administration shall submit to the Secretary a report on the amount of funds expended by each State in fiscal years 1980 through 1990 on contracts with private sector engineering and design firms in carrying out Federal-aid highway projects. The Secretary shall use information in the report to evaluate State engineering and design programs for the purpose of awarding grants under subsection (b).

(d) REPORT TO CONGRESS.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on implementation of the program established under this section.

(e) ENGINEERING AND DESIGN SERVICES DEFINED.—The term "engineering and design services" means any category of service described in section 112(b) of title 23, United States Code.

(f) REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall issue regulations to carry out this section.

SEC. 1061. UNIFORM TRAFFIC CONTROL DEVICES.

(a) HIGHWAY PROJECT.—The Secretary shall carry out a highway project in the State of Arkansas to demonstrate the benefits of providing training to county and town traffic officials in the need for and application of uniform traffic control devices and to demonstrate the safety benefits of providing for adequate and safe warning and regulatory signs.

(b) AUTHORIZATION OF APPROPRIATIONS FROM HIGHWAY TRUST FUNDS.—There is authorized to be appropriated out of the Highway Trust Fund, other than the Mass Transit Account, for fiscal year 1992 to carry out this section—

(1) $200,000 for providing training; and

(2) $1,000,000 for providing warning and regulatory signs to counties, towns and cities.

Amounts provided under paragraph (2) shall be divided equally between counties with a total county population of 20,000 or less and counties with a total county population of more than 20,000. Such amounts shall be distributed fairly and equitably among counties, cities, and towns within those counties.

(c) APPLICABILITY OF TITLE 23.—Funds authorized by this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of the project under this section shall be 80 percent and such funds shall remain available until expended. Funds made available under this section shall not be subject to any obligation limitation.

(d) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall transmit a report to Congress on the effectiveness of the project carried out under this section.

SEC. 1062. MOLLY ANN'S BROOK, NEW JERSEY.

The Secretary shall carry out a project to make modifications to bridges necessary for the Secretary of the Army to carry out a project for flood control, Molly Ann's Brook, New Jersey, authorized by section 401 of the Water Resources Development Act of 1986 (100 Stat. 4119). Any Federal expenditures under this part for such project shall be treated as part of the non-Federal share of the cost of such flood control project.

SEC. 1063. PRESIDENTIAL HIGHWAY, FULTON COUNTY, GEORGIA.

(a) GENERAL RULE.—Notwithstanding any other provision of law, the Secretary shall approve the construction of the Department of Transportation project MEACU–9152(2) in Fulton County, Georgia, as described in the legal settlement agreed to for the project by the Georgia Department of Transportation, the city of Atlanta, and CAUTION, Inc. Execution of the settlement agreement by those parties and approval of the settlement agreement by the DeKalb County, Georgia Superior Court shall be deemed to constitute full compliance with all Federal laws applicable to carrying out the project.

(b) LIMITATIONS ON FEDERAL FUNDING.—With the exception of Federal funds expended for construction of the project described in subsection (a) and with the exception of Federal funds appropriated or authorized for the acquisition, creation, or development of parks or battlefield sites, no further Federal funds, including funds from the Highway Trust Fund and funds appropriated for the Federal-aid highway systems, shall be authorized, appropriated, or expended for expanding the capacity of the project described in subsection (a) or for new

construction of a Federal-aid highway in any portion of rights-of-way previously acquired for Department of Transportation project MEACU-9152(2) which is not used for construction of such project as described in subsection (a) and in any portion of the rights-of-way previously acquired for Georgia project I-485-1(46) in Fulton County, Georgia; Georgia project U-061-1(14) in Fulton and DeKalb Counties, Georgia; and Georgia project F-056-1(12) in Fulton County, Georgia.

(c) LIMITATION ON EFFECT.—In the event that the settlement agreement referred to in subsection (a) is not executed by the parties or approved by the DeKalb County, Georgia Superior Court in Case No. 88-6429-3, this section shall have no force or effect.

SEC. 1064. CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES.

(a) IN GENERAL.—The Secretary shall carry out a program for construction of ferry boats and ferry terminal facilities in accordance with section 129(c) of title 23, United States Code.

(b) FEDERAL SHARE.—The Federal share payable for construction of ferry boats and ferry terminal facilities under this section shall be 80 percent of the cost thereof.

(c) FUNDING.—There shall be available, out of the Highway Trust Fund (other than the Mass Transit Account), to the Secretary for obligation at the discretion of the Secretary $14,000,000 for fiscal year 1992, $17,000,000 per fiscal year for each of fiscal years 1993, 1994, 1995, and 1996, and $18,000,000 for fiscal year 1997 in carrying out this section. Such sums shall remain available until expended.

(d) APPLICABILITY OF TITLE 23.—All provisions of chapter 1 of title 23, United States Code, that are applicable to the National Highway System, other than provisions relating to apportionment formula and Federal share, shall apply to funds made available to carry out this section, except as determined by the Secretary to be inconsistent with this section.

(e) TREATMENT OF CERTAIN ROADS.—For purposes of this section, North Carolina State Routes 12, 45, 306, 615, and 168 and United States Route 421 in the State of North Carolina shall be treated as principal arterials.

SEC. 1065. ORANGE COUNTY TOLL PILOT PROJECTS.

(a) EXEMPTION OF CERTAIN LANDS.—For the purposes of any approval by the Secretary of proposed highway improvements authorized by section 129(d)(3) of title 23, United States Code, in Orange County, California, pursuant to section 303 of title 49, United States Code, and section 138 of title 23, United States Code, those sections (collectively known as "section 4(f)") shall not be applicable to public park, recreation area, wildlife and waterfowl refuge (collectively referred to hereinafter in this section as "parkland")—

(1) that are acquired by a public entity after a governmental agency's approval of a State or Federal environmental document established the location of a highway adjacent to the parklands; or

(2) where the planning or acquisition documents for the parklands specifically referred to or reserved the specific location of the highway.

(b) APPLICABILITY.—Without limiting its prospective application, this section shall apply to any approval of the proposed highway improvements by the Secretary prior to the effective date of this section only if—

(1) the approximately 360 acres comprising the proposed Upper Peters Canyon Regional Park in Orange County, California, is conveyed to a public agency for use as public park and recreation land or a wildlife or waterfowl refuge, or both, within 90 days of such effective date;

(2) the approximately 100 acres of lands described as the Dedication Area in that certain Option Agreement dated April 16, 1991, by and between the city of Laguna Beach and the owner thereof is conveyed to a public agency for use as public park and recreation land for a wildlife or waterfowl refuge, or both, within 90 days of such effective date.

(c) PURPOSE.—This section is adopted in recognition of unique circumstances in Orange County, California, including a comprehensive land use planning process; the joint planning of thousands of acres of parklands with the locations of the proposed highway improvement; the provision of rights-of-way for high occupancy vehicle lanes and fixed rail transit in the 3 transportation corridors; the use of toll financing, which will discourage excessive automobile travel; and the inclusion of a county-wide growth management element and substantial local transit funding commitment in the county's voter-approved supplemental sales tax for transportation.

(d) LIMITATIONS ON STATUTORY CONSTRUCTION.—In no event shall this section be construed to apply to any other highway projects other than the proposed San Joaquin Hills, Foothill, and Eastern Transportation Corridor highways in Orange County, California. Nothing in this section is intended to waive any provision of law (including the National Environmental Policy Act, the Endangered Species Act, and the National Historic Preservation Act) other than the specific exemptions to section 303 of title 49 and section 138 of title 23, United States Code. Nothing in this section shall be construed to give effect to or approve regulations issued pursuant to section 4(f) and published in the Federal Register on April 1, 1991 (56 Federal Register 62).

SEC. 1066. RECODIFICATION.

The Secretary shall, by October 1, 1993, prepare a proposed recodification of title 23, United States Code, and related laws and submit the proposed recodification to Congress for consideration.

SEC. 1067. PRIOR DEMONSTRATION PROJECTS.

(a) TAMPA, FLORIDA.—The unobligated balance of funds provided under section 149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 for carrying out subsection (a)(81) of such section shall be available to the Secretary for carrying out a highway project to widen, modernize, and make safety improvements to interstate route I-4 in Hillsborough County, Florida, from its intersection with I-275 in Tampa, Florida, to the Hillsborough-Polk County line.

(b) SANTA FE, NEW MEXICO.—The unobligated balance of funds provided under section 149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 for carrying out subsection (a)(107) of such section shall be available to the Secretary for carrying out a highway project to construct a bypass for Santa Fe, New Mexico.

(c) LARKSPUR TO KORBEL, CALIFORNIA.—The unobligated balance of funds provided under section 149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 for carrying out subsection (a)(41)(B) of such section shall be available to the Secretary for carrying out a highway project to construct a transportation corridor along a right-of-way which is parallel to Route 101 in California and connects Larkspur, California, and Korbel, California.

(d) PASSAIC AND BERGEN COUNTIES, NEW JERSEY.—The highway project authorized by section 149(a)(1) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (101 Stat. 181), shall include improvements to New Jersey State Route 21, the Crooks Avenue interchange between United States Route 46 and New Jersey State Route 20, and the United States Route 46 bridge over the Passaic River between Clifton and Elmwood Park, New Jersey. Notwithstanding any other provision of law, the Governor of the State of New Jersey shall carry out with respect to the construction of such highway project all of the responsibilities of the Secretary under title 23, United States Code, and all other provisions of law. To provide for expedited completion of the project, the Governor is authorized to waive any and all Federal requirements relating to the scheduling of activities associated with such highway project, including final design and right-of-way acquisition activities.

SEC. 1068. STORMWATER PERMIT REQUIREMENTS.

(a) GENERAL RULE.—Notwithstanding the requirements of sections 402(p)(2) (B), (C), and (D) of the Federal Water Pollution Control Act, permit application deadlines for stormwater discharges associated with industrial activities from facilities that are owned or operated by a municipality shall be established by the Administrator of the Environmental Protection Agency (hereinafter in this section referred to as the "Administrator") pursuant to the requirements of this section.

(b) PERMIT APPLICATIONS.—

(1) INDIVIDUAL APPLICATIONS.—The Administrator shall require individual permit applications for discharges described in subsection (a) on or before October 1, 1992; except that any municipality that has participated in a timely part I group application for an industrial activity discharging stormwater that is denied such participation in a group application or for which a group application is denied shall not be required to submit an individual application until the 180th day following the date on which the denial is made.

(2) GROUP APPLICATIONS.—With respect to group applications for permits for discharges described in subsection (a), the Administrator shall require—

(A) part I applications on or before September 30, 1991, except that any municipality with a population of less than 250,000 shall not be required to submit a part I application before May 18, 1992; and

(B) part II applications on or before October 1, 1992, except that any municipality with a population of less than 250,000 shall not be required to submit a part II application before May 17, 1993.

(c) MUNICIPALITIES WITH LESS THAN 100,000 POPULATION.—The Administrator shall not require any municipality with a population of less than 100,000 to apply for or obtain a permit for any stormwater discharge associated with an industrial activity other than an airport, powerplant, or uncontrolled sanitary landfill owned or operated by such municipality before October 1, 1992, unless such permit is required by section 402(p)(2) (A) or (E) of the Federal Water Pollution Control Act.

(d) UNCONTROLLED SANITARY LANDFILL DEFINED.—For the purposes of this section, the term "uncontrolled sanitary landfill" means a landfill or open dump, whether in operation or closed, that does not meet the requirements for run-on and run-off controls established pursuant to subtitle D of the Solid Waste Disposal Act.

(e) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to affect any application or permit requirement, including any deadline, to apply for or obtain a permit for stormwater discharges subject to section 402(p)(2)(A) or (E) of the Federal Water Pollution Control Act.

(f) REGULATIONS.—The Administrator shall issue final regulations with respect to general permits for stormwater discharges associated with industrial activity on or before February 1, 1992.

SEC. 1069. MISCELLANEOUS HIGHWAY PROJECT AUTHORIZATIONS.

(a) BALTIMORE-WASHINGTON PARKWAY.—There is authorized to be appropriated $74,000,000 for renovation and reconstruction of the Baltimore-Washington Parkway in Prince Georges County, Maryland. The Federal share of the cost of such project shall be 100 percent.

(b) EXIT 26 BRIDGE.—There is authorized to be appropriated $22,400,000 for construction of the Exit 26 Bridge in Schenectady County, New York. The Federal share of the cost of such project shall be 80 percent.

(c) CUMBERLAND GAP TUNNEL.—There are authorized to be appropriated such sums as may be necessary to complete construction of the Cumberland Gap Tunnel, Kentucky, including associated approaches and other necessary road work. The Federal share of the cost of such project shall be 100 percent.

(d) RIVERSIDE EXPRESSWAY.—There is authorized to be appropriated $53,400,000 for construction of the Riverside Expressway, including bridges crossing the Monongahela River and Buffalo Creek, in the vicinity of Fairmont, West Virginia. The Federal share of the cost of such project shall be 80 percent.

(e) BUSWAY.—There is authorized to be appropriated $39,500,000 for design and construction of an exclusive busway linking Pittsburgh and Pittsburgh Airport. The Federal share of such project shall be 80 percent.

(f) EXTON BYPASS.—There is authorized to be appropriated $11,004,000 for construction of the Exton Bypass, in Exton, Pennsylvania. The Federal share of such project shall be 80 percent.

(g) PENNSYLVANIA ROUTE 33 EXTENSION.—There is authorized to be appropriated $5,400,000 for extension of Route 33 in Northampton County, Pennsylvania. The Federal share of such project shall be 80 percent.

(h) U.S. ROUTE 202.—There is authorized to be appropriated $4,500,000 for construction of U.S. Route 202. The Federal share of such project shall be 80 percent.

(i) WOODROW WILSON BRIDGE.—There is authorized to be appropriated $15,000,000 for rehabilitation of the Woodrow Wilson Bridge. The Federal share of such project shall be 100 percent.

(j) WARREN OUTERBELT IMPROVEMENT, WARREN, OHIO.—There is authorized to be appropriated $1,000,000 for design and construction of Warren Outerbelt improvements, Warren, Ohio. The Federal share of such project shall be 80 percent.

(k) OHIO STATE ROUTE 46 IMPROVEMENTS.—There is authorized to be appropriated $2,000,000 for design and construction of Ohio State Route 46 improvements. The Federal share of such project shall be 80 percent.

(l) OHIO STATE ROUTE 5 IMPROVEMENTS.—There is authorized to be appropriated $1,000,000 for design and construction of Ohio State Route 5 improvements. The Federal share of such project shall be 80 percent.

(m) U.S. ROUTE 62 IMPROVEMENTS, OHIO.—There is authorized to be appropriated $1,000,000 for design and construction of U.S. Route 62 improvements, Ohio. The Federal share of such project shall be 80 percent.

(n) OHIO STATE ROUTE 534 IMPROVEMENTS.—There is authorized to be appropriated $1,000,000 for design and construction of Ohio State Route 534 improvements. The Federal share of such project shall be 80 percent.

(o) OHIO STATE ROUTE 45 IMPROVEMENTS.—There is authorized to be appropriated $1,000,000 for design and construction of Ohio State Route 45 improvements. The Federal share of such project shall be 80 percent.

(p) ROUTE 120, LOCK HAVEN, PENNSYLVANIA.—There is authorized to be appropriated $4,000,000 for the widening of Route 120 and the removal of unstable rockfill area, Lock Haven, Pennsylvania. The Federal share of such project shall be 80 percent.

(q) TRUSS BRIDGE, TIOGA RIVER, LAWRENCEVILLE, PENNSYLVANIA.—There is authorized to be appropriated $3,200,000 to replace the existing Truss Bridge across the Tioga River, in Lawrenceville, Pennsylvania. The Federal share of such project shall be 80 percent.

(r) U.S. ROUTE 6, BRADFORD COUNTY, PENNSYLVANIA.—There is authorized to be appropriated $3,000,000 for the widening of U.S. Route 6 (Wysox Narrows Road), in Bradford County, Pennsylvania. The Federal share of such project shall be 80 percent.

(s) SEBRING/MANSFIELD BYPASS, PENNSYLVANIA.—There is authorized to be appropriated $4,800,000 for design and construction of the Sebring/Mansfield Bypass on U.S. 15, Pennsylvania. The Federal share of such project shall be 80 percent.

(t) I–5 IMPROVEMENTS.—The States of Oregon and Washington should give priority consideration to improvements on the I–5 Corridor. The Secretary shall give priority consideration to funding I–5 improvements in Oregon and Washington from section 118(c)(2) of title 23, United States Code, as amended by this Act. The Secretary shall give the highest priority to those Oregon projects identified in the State's transportation improvement plan.

(u) ROUTE 219.—The Secretary shall designate Route 219 from the Maryland line to Buffalo, New York, as part of the National Highway System.

(v) COALFIELDS EXPRESSWAY.—There is authorized to be appropriated such sums as may be necessary for design and construction of the project known as "Coalfields Expressway" from Beckley, West Virginia, to the West Virginia-Virginia State line, generally following the corridor defined by, but not necessarily limited to, Routes 54, 97, 10, 16, and 93. The Federal share of such project shall be 80 percent.

(w) UNITED STATES ROUTE 119.—There is authorized to be appropriated $70,000,000 for upgrading United States Route 119 to 4 lanes beginning west of Huddy, Kentucky. The Federal share of such project shall be 80 percent.

(x) CHAMBERSBURG, PENNSYLVANIA.—Not later than 30 days after the date of the enactment of this Act, in Chambersburg, Pennsylvania, at both the intersection of Lincoln Way and Sixth Street and the intersection of Lincoln Way and Coldbrook Avenue, the Pennsylvania Department of Transportation shall include an exclusive pedestrian phase in the existing lighting sequence between the hours of 8:00 and 8:30 a.m. and between the hours of 2:45 and 3:45 p.m. on weekdays.

(y) CONSTRUCTION OF AND IMPROVEMENTS TO THE APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM.—There is authorized to be appropriated such sums as may be necessary for projects involving construction of, and improvements to, corridors of the Appalachian Development Highway System.

(z) UNITED STATES ROUTE 52 IN WEST VIRGINIA.—(1) There is authorized to be appropriated such sums as may be necessary for projects for the construction, renovation, and reconstruction of United States Route 52 in West Virginia.

(2) The Federal share payable on account of any such project shall be 80 percent of the cost thereof.

(aa) ROUTE 219, NEW YORK.—(1) For the purpose of projects to improve and upgrade Route 219 in New York, from Springeville to the Pennsylvania border Route 219 shall be considered as eligible for funding under the Appalachian Development Highway System.

(2) For purposes of paragraph (1) there is authorized to be appropriated such sums as may be necessary. The Federal share payable on account of such project shall be 80 percent of the cost thereof.

(bb) ROUTES 5 AND 92 CONGESTION MANAGEMENT PROJECT.—There is authorized to be appropriated $20,000,000 to carry out a project to relieve congestion in the vicinity of the intersection of routes 5 and 92 in the Towns of Manlius, New York, and Dewitt, New York.

(cc) ROCHESTER ADVANCED TRAFFIC MANAGEMENT SYSTEM.—There is authorized to be appropriated $15,000,000 to implement an integrated advanced traffic management/advanced driver information system in the city of Rochester, New York.

(dd) RENSSELAER ACCESS PROJECT.—There is authorized to be appropriated $35,000,000 to construct a new interchange (Exit 8) on Interstate Route 90, which includes an access-controlled roadway, in Rensselaer County, New York.

(ee) GOWANUS EXPRESSWAY CORRIDOR IMPROVEMENTS.—There is authorized to be appropriated $200,000,000 to carry out improvements to the Gowanus Expressway Corridor in Brooklyn, New York.

(ff) I–287 CROSS WESTCHESTER EXPRESSWAY HIGH OCCUPANCY VEHICLE LANE PROJECT.—There is authorized to be appropriated $200,000,000 to construct High Occupancy Vehicle Lanes on the Cross Westchester Expressway in Westchester County, New York.

(gg) OAK POINT LINK FREIGHT ACCESS PROJECT.—There is authorized to be appropriated $150,000,000 to complete the construction of the Oak Point Link in the Harlem River in New York City, New York.

(hh) OPERATIONAL IMPROVEMENTS, FRANKLIN DELANO ROOSEVELT DRIVE.—There is authorized to be appropriated $50,000,000 to carry out operational and safety improvements to the Franklin Delano Roosevelt Drive in New York City, New York.

SEC. 1070. MODIFICATIONS OF NIAGARA FALLS BRIDGE COMMISSION CHARTER.

(a) PAYMENT OF COSTS.—

(1) IN GENERAL.—Section 4 of the joint resolution entitled "Joint resolution creating the Niagara Falls Bridge Commission and authorizing said Commission and its successors to construct, maintain, and operate a bridge across the Niagara River at or near the city of Niagara Falls, New York", approved June 16, 1938, as amended (hereinafter in this section referred to as the "Joint Resolution"), is amended to read as follows:

"SEC. 4. The Commission is authorized to issue its obligations to provide funds for the acquisition or construction of bridges (provided the same is authorized by Act or Joint Resolution of Congress of the United States), and the repair, renovation and expansion of the same, working capital and other expenditures and deposits convenient to carrying out the Commission's purposes. The terms of the obligations shall be determined by resolution of the Commission (subject to such agreements with bondholders as may then exist), including provisions regarding rates of interest (either fixed or variable), contracts for credit support, risk management, liquidity or other financial arrangements, security or provision for payment of the obligations and such contracts (including the general obligation of the Commission and the pledge of all or any particular revenues or proceeds of obligations of the Commission). The obligations shall be sold at public or private sale at such prices above or below par as the Commission shall determine. As used herein 'bridges' includes approaches thereto, land, easements and functionally related appurtenances.".

(2) EXISTING CONTRACTUAL RIGHTS.—The amendments made by paragraph (1) shall be subject to the contractual rights of the holders of any of the bonds of the Niagara Falls Bridge

Commission which are outstanding as of the date of the enactment of this section.

(b) REPAYMENTS.—Section 5 of the Joint Resolution is amended—

(1) in the first sentence—

(A) by striking "a fund" and "a sinking fund" each place such terms appear and inserting "funds",

(B) by striking "herein provided" and inserting "provided by resolution",

(C) by striking "bonds" and inserting "obligations,", and

(D) by striking "bridge" and inserting "bridges" each place such term appears, and

(2) by striking the second and third sentences and inserting: "After payment or provision for payment of the foregoing uses, the remainder of the tolls shall be applied, as and when the Commission determines, for purposes convenient to the accomplishment of its purposes.".

(c) TREATMENT OF COMMISSION.—The last sentence of section 6 of the Joint Resolution is amended to read as follows: "The Commission shall be deemed for purposes of all Federal law to be a public agency or public authority of the State of New York, notwithstanding any other provision of law.".

(d) ADMINISTRATIVE PROVISIONS.—Section 8 of the Joint Resolution is amended in the second sentence thereof by striking out "shall not be entitled to any compensation for their services but" and inserting "shall be entitled to reimbursement for actual expenses incurred in the performance of official duties and to a per diem allowance per member of $150 when rendering services as such member (but not exceeding $10,000 for any member in any fiscal year).".

SEC. 1071. PEACE BRIDGE TRUCK INSPECTION FACILITIES.

Notwithstanding any other provision of law, the Administrator of General Services shall lease truck inspection facilities for the Peace Bridge. Such facilities must be immediately adjacent to the intersection of Porter Avenue and the New York State Thruway in Buffalo, New York. Before leasing such facilities, the Administrator must be assured that the facilities will be offered at a fair market price and that the facilities chosen will be connected to the bridge by a secure access road. Provided that these conditions are met, the Administrator shall enter into the lease on or before April 30, 1992.

SEC. 1072. VEHICLE PROXIMITY ALERT SYSTEM.

The Secretary shall coordinate the field testing of the vehicle proximity alert system and comparable systems to determine their feasibility for use by priority vehicles as an effective railroad-highway grade crossing safety device. In the event the vehicle proximity alert or a comparable system proves to be technologically and economically feasible, the Secretary shall develop and implement appropriate programs under section 130 of title 23, United States Code, to provide for installation of such devices where appropriate.

SEC. 1073. ROADSIDE BARRIERS AND SAFETY APPURTENANCES.

(a) INITIATION OF RULEMAKING PROCEEDING.—Not later than 30 days after the date of the enactment of this Act, the Secretary shall initiate a rulemaking proceeding to revise the guidelines and establish standards for installation of roadside barriers and other safety appurtenances, including longitudinal barriers, end terminals, and crash cushions. Such rulemaking shall reflect state-of-the-art designs, testing, and evaluation criteria contained in the National Cooperative Highway Research Program Report 230, relating to approval standards which provide an enhanced level of crashworthy performance to accommodate vans, mini-vans, pickup trucks, and 4-wheel drive vehicles.

(b) FINAL RULE.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall complete the rulemaking proceeding initiated under subsection (a), and issue a final rule regarding the implementation of revised guidelines and standards for acceptable roadside barriers and other safety appurtenances, including longitudinal barriers, end terminals, and crash cushions. Such revised guidelines and standards shall accommodate vans, mini-vans, pickup trucks, and 4-wheel drive vehicles and shall be applicable to the refurbishment and replacement of existing roadside barriers and safety appurtenances as well as to the installation of new roadside barriers and safety appurtenances.

SEC. 1074. DESIGNATION OF UNITED STATES ROUTE 69.

Notwithstanding any other provision of law, upon the request of the Oklahoma State highway agency, the Secretary shall designate the portion of United States Route 69 from the Oklahoma-Texas State line to Checotah in the State of Oklahoma as a part of the Interstate System pursuant to section 139 of title 23, United States Code.

SEC. 1075. SPECIAL PROVISIONS REGARDING CERTAIN HYDROELECTRIC PROJECTS.

(a) Brasfield Dam Project in Virginia.—(1) Notwithstanding section 13 of the Federal Power Act providing for the termination of a license issued by the Federal Energy Regulatory Commission (hereinafter in this subsection referred to as the "Commission") to the Appomattox River Water Authority (hereinafter in this subsection referred to as the "Authority") for the Brasfield Dam Hydroelectric Project (FERC Project No. 9840-001) on the Appomattox River in Chesterfield and Dinwiddie Counties, Virginia, and notwithstanding the prior surrender of such license by the Authority, the Commission shall reissue such license to the Authority, together with any amendments necessary and appropriate to carry out this subsection, and extend the period referred to in section 13 of that Act for a period ending 3 years after the enactment of this Act, subject to the requirements of this section and the provisions of Federal Power Act.

(2) During the 3-year period referred to in paragraph (1), the Commission shall issue an order, at the request of the Authority, permitting the Authority to transfer the license for such project to another person designated by the Authority for the purpose of protecting the Authority from challenge in connection with its agreement of trust with the Crestar Bank or under any provision of law of the State of Virginia. Any such transfer shall occur at a time specified in the order which shall not be after the expiration of the 3-year period referred to in paragraph (1).

(3) Any license transfer under this subsection shall require that the licensee shall be subject to, and comply with, the license and the provisions of the Federal Power Act, including the provisions of section 10 thereof (related to fish and wildlife) with respect to such project to the same extent and in the same manner as the Authority would be subject to such license and such Act in the absence of such transfer. Nothing in the transfer of such license shall affect the authority or power of the Commission under the license or under the Federal Power Act. Nothing in the Federal Power Act shall be construed as precluding a transfer of such license for the purposes specified in this section.

(4) Any license transfer under this subsection shall be subject to revocation, at the request of the Authority, to permit the Authority to surrender the license. No surrender of such license by the Authority (or by any other person) shall be effective until after—

(A) reasonable prior notice (as determined by the Commission),

(B) completion of project construction, including the installation of any facilities for the protection, mitigation, and enhancement of fish and wildlife required under the license (including facilities required by the State fish and wildlife agency); and

(C) delivery to the Commission of a statement certified by the Board of the Authority that the terms of any actual or proposed Commission order with respect to the Brasfield Dam Hydroelectric Project would cause the Authority to act in violation of its Charter or be inconsistent with its bond indentures.

The Commission shall accept the surrender of such license and establish conditions applicable to such license surrender which require the removal of hydroelectric power generation facilities, require that the licensee provide assurances satisfactory to the Commission that, following surrender of the license, the Brasfield Dam will be subject to State laws regarding fish and wildlife and dam safety and require that such surrender will not impose any duty, liability or obligation on the part of any department, agency, or instrumentality of the United States. Nothing in this section shall affect the application of the River and Harbor Act of 1894 (33 U.S.C. Sec. 1).

(b) Projects Nos. 3033, 3034, and 3246.—(1) Notwithstanding the time limitations of section 13 of the Federal Power Act (16 U.S.C. 806), the Federal Energy Regulatory Commission, upon the request of the licensees for Federal Energy Regulatory Commission Projects Nos. 3033, 3034, and 3246 (and after reasonable notice), is authorized, in accordance with the good faith, due diligence, and public interest requirements of such section and the Commission's procedures under such section, to extend—

(A) until August 10, 1994, the time required for the licensee to acquire the required real property and commence the construction of Project No. 3033, and until August 10, 1999, the time required for completion of construction of the project;

(B) until August 10, 1996, the time required for the licensee to acquire the required real property and commence the construction of Project No. 3034, and until August 10, 2001, the time required for completion of construction of the project; and

(C) until October 15, 1995, the time required for the licensee to acquire the required real property and commence the construction of Project No. 3246, and until October 15, 1999, the time required for completion of construction of the project.

(2) The authorization for issuing extensions under this subsection shall terminate 3 years after the date of enactment of this section.

(3) To facilitate requests under this subsection, the Commission may consolidate the requests.

(c) Union City, Michigan.—Notwithstanding section 23(b) or section 4(e) of the Federal Power Act, it shall not be unlawful for the municipality of Union City, Michigan, to operate, maintain, repair, reconstruct, replace, or modify—

(1) any dam which, as of the date of the enactment of this Act, is owned and operated by Union City, Michigan, and located across a segment of the St. Joseph River, in Branch County, Michigan, approximately 5 miles downstream from such municipality, or

(2) any water conduit, reservoir, power house, and other works incidental to such dam.

No license shall be required under part 1 of the Federal Power Act for the dam, water conduit, reservoir, power house, or other project works referred to in the preceding sentence and, subject to compliance with State laws, permission is hereby granted for such facilities to the same extent as in the case of facilities for which permission is granted under the last sentence of section 23(b) of that Act.

SEC. 1076. SHORELINE PROTECTION.

The project for shoreline protection, Atlantic Coast of New York City from Rockaway Inlet to

Norton Point, authorized by section 501(a) of the Water Resources Development Act of 1986 (Public Law 99-662; 100 Stat. 4135), is modified to authorize the Secretary to construct the project at a total first cost of $69,200,000, based on the New York District Engineer's draft General Design Memorandum dated April 1991, with an estimated first Federal cost of $39,800,000 and an estimated non-Federal cost of $29,400,000, and an average annual cost of $580,000 for periodic nourishment over the life of the project, with an estimated annual Federal cost of $377,000 and an estimated annual non-Federal cost of $203,000. The Secretary shall proceed with the storm damage reduction measures as the first construction feature. The project is further modified to authorize the Secretary to relocate existing comfort and lifeguard stations at full Federal expense, provided such relocations are desired by the non-Federal sponsor. Operation and maintenance of the facilities after relocation will be a non-Federal responsibility. The cost of these relocations shall not be treated as a project cost for purposes of either economic evaluation or project cost-sharing of the project.

SEC. 1077. REVISION OF MANUAL.

Not later than 90 days after the date of the enactment of this Act, the Secretary shall revise the Manual of Uniform Traffic Control Devices and such other regulations and agreements of the Federal Highway Administration as may be necessary to authorize States and local governments, at their discretion, to install stop or yield signs at any rail-highway grade crossing without automatic traffic control devices with 2 or more trains operating across the rail-highway grade crossing per day.

SEC. 1078. DECLARATION OF NONNAVIGABILITY OF PORTION OF HUDSON RIVER, NEW YORK.

(a) DECLARATION OF NONNAVIGABILITY.—Subject to subsections (c), (d), and (e), the area described in subsection (b) is declared to be nonnavigable waters of the United States.

(b) AREA SUBJECT TO DECLARATION.—The area described in this subsection is the portion of the Hudson River, New York, described as follows (according to coordinates and bearings in the system used on the Borough Survey, Borough President's Office, New York, New York):

Beginning at a point in the United States Bulkhead Line approved by the Secretary of War, July 31, 1941, having a coordinate of north 1918.003 west 9806.753.

Running thence easterly, on the arc of a circle curving to the left, whose radial line bears north 3°-44'-20" east, having a radius of 390.00 feet and a central angle of 22°-05'-50", 150.41 feet to a point of tangency.

Thence north 71°-38'-30" east, 42.70 feet.

Thence south 11°-05'-40" east, 33.46 feet.

Thence south 78°-54'-20" west, 0.50 feet.

Thence south 11°-05'-40" east, 2.50 feet.

Thence north 78°-54'-20" east, 0.50 feet.

Thence south 11°05'40" east, 42.40 feet to a point of curvature.

Thence southerly, on the arc of a circle curving to the right, having a radius of 220.00 feet and a central angle of 16°37'40", 63.85 feet to a point of compound curvature.

Thence still southerly, on the arc of a circle curving to the right, having a radius of 150.00 feet and a central angle of 38°39'00", 101.19 feet to another point of compound curvature.

Thence westerly, on the arc of a circle curving to the right, having a radius of 172.05 feet and a central angle of 32°32'03", 97.69 feet to a point of curve intersection.

Thence south 13°16'57" east, 50.86 feet to a point of curve intersection.

Thence westerly, on the arc of a circle curving to the left, whose radial bears north 13°16'57" west, having a radius of 6.00 feet and a central angle of 180°32'31", 18.91 feet to a point of curve intersection.

Thence southerly, on the arc of a circle curving to the left, whose radial line bears north 75°37'11" east, having a radius of 313.40 feet and a central angle of 4°55'26", 26.93 feet to a point of curve intersection.

Thence south 70°41'45" west, 36.60 feet.

Thence north 13°45'00" west, 42.87 feet.

Thence south 76°15'00" west, 15.00 feet.

Thence south 13°45'00" east, 44.33 feet.

Thence south 70°41'45" west, 128.09 feet to a point in the United States Pierhead Line approved by the Secretary of War, 1936.

Thence north 63°08'48" west, along the United States Pierhead Line approved by the Secretary of War, 1936, 114.45 feet to an angle point therein.

Thence north 61°08'00" west, still along the United States Pierhead Line approved by the Secretary of War, 1936, 202.53 feet.

The following three courses being along the lines of George Soilan Park as shown on map prepared by The City of New York, adopted by the Board of Estimate, November 13, 1981, Acc. N° 30071 and lines of property leased to Battery Park City Authority and B. P. C. Development Corp.

Thence north 77°35'20" east, 231.35 feet.

Thence north 12°24'40" west, 33.92 feet.

Thence north 54°49'00" east, 171.52 feet to a point in the United States Bulkhead Line approved by the Secretary of War, July 31, 1941.

Thence north 12°24'40" west, along the United States Bulkhead Line approved by the Secretary of War, July 31, 1941, 62.26 feet to the point or place of beginning.

(c) DETERMINATION OF PUBLIC INTEREST.—The declaration made in subsection (a) shall not take effect if the Secretary of the Army (acting through the Chief of Engineers), using reasonable discretion, finds that the proposed project is not in the public interest—

(1) before the date which is 120 days after the date of the submission to the Secretary of appropriate plans for the proposed project; and

(2) after consultation with local and regional public officials (including local and regional public planning organizations).

(d) LIMITATION ON APPLICABILITY OF DECLARATION.—

(1) AFFECTED AREA.—The declaration made in subsection (a) shall apply only to those portions of the area described in subsection (b) which are or will be occupied by permanent structures (including docking facilities) comprising the proposed project.

(2) APPLICATION OF OTHER LAWS.—Notwithstanding subsection (a), all activities conducted in the area described in subsection (b) are subject to all Federal laws which apply to such activities, including—

(A) sections 9 and 10 of the Act of March 3, 1899 (33 U.S.C. 401, 403), commonly known as the River and Harbors Appropriation Act of 1899;

(B) section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1254); and

(C) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(e) EXPIRATION DATE.—The declaration made in subsection (a) shall expire—

(1) on the date which is 6 years after the date of the enactment of this Act if work on the proposed project to be performed in the area described in subsection (b) is not commenced before such date; or

(2) on the date which is 20 years after the date of the enactment of this Act for any portion of the area described in subsection (b) which on such date is not bulkheaded, filled, or occupied by a permanent structure (including docking facilities).

(f) PROPOSED PROJECT DEFINED.—For the purposes of this section, the term "proposed project" means any project for the rehabilitation and development of—

(1) the structure located in the area described in subsection (b), commonly referred to as Pier A; and

(2) the area surrounding such structure.

SEC. 1079. CLEVELAND HARBOR, OHIO.

(a) DEAUTHORIZATION OF PORTION OF PROJECT FOR HARBOR MODIFICATION.—That portion described in subsection (b) of the project for harbor modification, Cleveland Harbor, Ohio, authorized by section 202(a) of the Water Resources Development Act of 1986 (100 Stat. 4095), is not authorized after the date of the enactment of this Act.

(b) AREA SUBJECT TO DEAUTHORIZATION.—The portion of the project for harbor modification, Cleveland Harbor, Ohio, described in this subsection is that portion situated in the City of Cleveland, Cuyahoga County, and State of Ohio, T7N, R13W and being more fully described as follows:

Beginning at an iron pin monument at the intersection of the centerline of East 9th Street (99 feet wide) with the centerline of relocated Erieside Avenue N.E. (70 ft. wide).

Thence South 50°06'52" West on the centerline of relocated Erieside Avenue N.E. a distance of 112.89 feet to a point.

Thence southwesterly continuing on the centerline of relocated Erieside Avenue N.E. along the arc of a curve to the left, with a radius of 300.00 feet and whose chord bears South 42°36'52" West 140.07 feet, an arc distance of 141.37 feet to a point.

Thence North 60°53'08" West a distance of 35.00 feet to a point on the northwesterly right-of-way line of relocated Erieside Avenue N.E.

Thence South 29°06'52" West on the northwesterly right-of-way line of relocated Erieside Avenue N.E. a distance of 44.36 feet to a point.

Thence North 33°53'08" West a distance of 158.35 feet to a point.

Thence South 56°06'52" West a distance of 76.00 feet to a point.

Thence North 78°53'08" West a distance of 18.39 feet to a point.

Thence North 33°53'08" West a distance of 33.50 feet to a point, said point being the true place of beginning of the parcel herein described.

Thence South 56°06'52" West a distance of 84.85 feet to a point.

Thence North 33°53'08" West a distance of 137.28 feet to a point.

Thence North 11°06'52" East a distance of 225.00 feet to a point.

Thence South 78°53'08" East a distance of 160.00 feet to a point.

Thence South 11°06'52" West a distance of 46.16 feet to a point.

Thence South 56°06'52" West a distance of 28.28 feet to a point.

Thence South 11°06'52" West a distance of 89.70 feet to a point.

Thence South 33°53'08" East a distance of 28.28 feet to a point.

Thence South 11°06'52" West a distance of 83.29 feet to a point.

Thence South 56°06'52" West a distance of 4.14 feet to a true place of beginning containing 42,646 square feet more or less.

(c) REIMBURSEMENT NOT REQUIRED.—The Ohio Department of Natural Resources shall not be required to reimburse the Federal Government any portion of the credit received by the non-Federal project sponsor as provided for in Public Law 100-202 (101 Stat. 1329-108).

(d) AREA TO BE DECLARED NONNAVIGABLE; PUBLIC INTEREST.—Unless the Secretary of the Army finds, after consultation with local and regional public officials (including local and regional public planning organizations), that the proposed projects to be undertaken within the boundaries in the portions of Cleveland Harbor, Ohio, described below, are not in the public in-

terest then, subject to subsections (e) and (f) of this section, those portions of such Harbor, bounded and described as follows, are declared to be nonnavigable waters of the United States:

Situated in the City of Cleveland, Cuyahoga County and State of Ohio, T7N, R13W and being more fully described as follows:

Beginning at an iron pin monument at the intersection of the centerline of East 9th Street (99 feet wide) with the centerline of relocated Erieside Avenue, N.E., (70 feet wide) at Cleveland Regional Geodetic Survey Grid System, (CRGS) coordinates N92,679.734, E86,085.955;

Thence South 56°06'52" West on the centerline of relocated Erieside Avenue, N.E., a distance of 89.50 feet to a drill hole set;

Thence North 33°53'08" West a distance of 35.00 feet to a drill hole set on the northwesterly right-of-way line of relocated Erieside Avenue, N.E., said point being the true place of beginning of the parcel herein described;

Thence South 56°06'52" West on the northwesterly right-of-way line of relocated Erieside Avenue, N.E., a distance of 23.39 feet to a ⅝ inch re-bar set;

Thence southwesterly on the northwesterly right-of-way line of relocated Erieside Avenue, N.E., along the arc of a curve to the left with a radius of 335.00 feet, and whose chord bears South 42°36'52" West 156.41 feet, an arc distance of 157.87 feet to a ⅝ inch re-bar set;

Thence South 29°06'52" West on the northwesterly right-of-way line of relocated Erieside Avenue, N.E., a distance of 119.39 feet to a ⅝ inch re-bar set;

Thence southwesterly on the northwesterly right-of-way of relocated Erieside Avenue, N.E., along the arc of a curve to the right with a radius of 665.00 feet, and whose chord bears South 32°22'08" West 75.50 feet, an arc distance of 75.54 feet to a ⅝ inch re-bar set;

Thence North 33°53'08" West a distance of 279.31 feet to a drill hole set;

Thence South 56°06'52" West a distance of 37.89 feet to a drill hole set;

Thence North 33°53'08" West a distance of 127.28 feet to a point;

Thence North 11°06'52" East a distance of 225.00 feet to a point;

Thence South 78°53'08" East a distance of 150.00 feet to a drill hole set;

Thence North 11°06'52" East a distance of 32.99 feet to a drill hole set;

Thence North 33°53'08" East a distance of 46.96 feet to a drill hole set;

Thence North 56°06'52" East a distance of 140.36 feet to a drill hole set on the southwesterly right-of-way line of East 9th Street;

Thence South 33°53'08" East on the southwesterly right-of-way line of East 9th Street a distance of 368.79 feet to a drill hole set;

Thence southwesterly along the arc of a curve to the right with a radius of 40.00 feet, and whose chord bears South 11°06'52" West 56.57 feet, an arc distance of 62.83 feet to the true place of beginning containing 174,764 square feet (4.012 acres) more or less.

(e) LIMITS ON APPLICABILITY; REGULATORY REQUIREMENTS.—The declaration under subsection (d) shall apply only to those parts of the areas described in subsection (d) which are or will be bulkheaded and filled or otherwise occupied by permanent structures, including marina facilities. All such work is subject to all applicable Federal statutes and regulations, including sections 9 and 10 of the Act of March 3, 1899 (30 Stat. 1151; 33 U.S.C. 401 and 403), commonly known as the River and Harbors Appropriation Act of 1899, section 404 of the Federal Water Pollution Control Act, and the National Environmental Policy Act of 1969.

(f) EXPIRATION DATE.—If, 20 years from the date of the enactment of this Act, any area or part thereof described in subsection (d) is not bulkheaded or filled or occupied by permanent structures, including marina facilities, in accordance with the requirements set out in subsection (e) of this section, or if work in connection with any activity permitted in subsection (e) is not commenced within 5 years after issuance of such permit, then the declaration of nonnavigability for such area or part thereof shall expire.

SEC. 1080. DEAUTHORIZATION OF A PORTION OF THE CANAVERAL HARBOR, FLORIDA, PROJECT.

The following portion of the project for navigation, Canaveral Harbor, Florida, authorized by the River and Harbor Act of 1945, as modified by the River and Harbor Act of 1962 (Pub. L. 87-874), shall not be authorized after the date of the enactment of this Act:

Begin at the northwesterly corner of the west turning basin, Federal navigation project, Canaveral Harbor, Brevard County, Florida, having a northing of 1,483,798.695 and an easting of 619,159.191 (Florida east zone, State plane transverse mercator standard conical projections) and being depicted on the Department of the Army, Jacksonville District, Corps of Engineers 'Construction Dredging 31 Foot Project', D.O. File No. 11-34, 465 sheet 35, dated October 1984; thence S. 0°18'51" E., along said westerly boundary, a distance of 1320.00 feet; thence N. 89°41'09" E., a distance of 1095.00 feet; thence N. 62°35'15" W., a distance of 551.30 feet; thence N. 56°56'18" E., a distance of 552.87 feet; thence S. 89°41'09" W., a distance of 1072.00 feet to the point of beginning (containing 21.43 acres, more or less).

SEC. 1081. INFRASTRUCTURE INVESTMENT COMMISSION.

(a) ESTABLISHMENT OF COMMISSION.—There is established a commission to be known as the "Commission to Promote Investment in America's Infrastructure" (hereinafter in this section referred to as the "Commission").

(b) FUNCTION OF COMMISSION.—It shall be the function of the Commission to conduct a study on the feasibility and desirability of creating a type of infrastructure security to permit the investment of pension funds in funds used to design, plan, and construct infrastructure facilities in the United States. Such study may also include an examination of other methods of encouraging public and private investment in infrastructure facilities.

(c) MEMBERSHIP.—

(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 7 members appointed as follows:

(A) 2 members appointed by the majority leader of the Senate.

(B) 2 members appointed by the Speaker of the House of Representatives.

(C) 1 member appointed by the President.

(D) 1 member appointed by the minority leader of the Senate.

(E) 1 member appointed by the minority leader of the House of Representatives.

(2) QUALIFICATIONS.—Members of the Commission shall have appropriate backgrounds in finance, construction lending, actuarial disciplines, pensions, and infrastructure policy disciplines.

(3) CHAIRPERSON.—The Chairperson of the Commission shall be elected by the members.

(d) PAY AND TRAVEL EXPENSES.—Members shall serve without pay but shall be allowed travel expenses, including per diem in lieu of subsistence, while away from their homes or regular places of business in the performance of services for the Commission in the same manner as persons employed intermittently in the Government service are allowed under section 5703 of title 5, United States Code.

(e) STAFF.—Subject to such rules as may be prescribed by the Commission, the Chairperson may—

(1) appoint and fix the pay of an executive director, a general counsel, and such additional staff as the Chairperson considers necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that the rate of pay for such staff members may not exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code; and

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(f) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Commission shall transmit to the President and Congress a report containing its findings and recommendations.

(g) TERMINATION.—The Commission shall terminate on the 180th day following the date of the submission of its report under subsection (f).

SEC. 1082. DEAUTHORIZATION OF ACADEMY CREEK FEATURE OF THE BRUNSWICK HARBOR, GEORGIA, PROJECT.

The Academy Creek feature of the Brunswick Harbor, Georgia, project, authorized for construction by the River and Harbor Act of 1907 in accordance with House Document 407, 59th Congress, shall not be authorized after the date of the enactment of this Act.

SEC. 1083. NAMINGS.

(a) WILLIAM H. HARSHA BRIDGE.—The United States Route 68 bridge across the Ohio River between Aberdeen, Ohio, and Maysville, Kentucky, shall be known and designated as the "William H. Harsha Bridge".

(b) J. CLIFFORD NAUGLE BYPASS.—The highway bypass being constructed around the Borough of Ligonier in Westmoreland County, Pennsylvania, shall be known and designated as the "J. Clifford Naugle Bypass".

(c) LINDY CLAIBORNE BOGGS LOCK AND DAM.—

(1) DESIGNATION.—The lock and dam numbered 1 on the Red River Waterway in Louisiana shall be known and designated as the "Lindy Claiborne Boggs Lock and Dam".

(2) REFERENCE.—Any reference in any law, regulation, document, record, map, or other paper of the United States to the lock and dam referred to in paragraph (1) shall be deemed to be a reference to the "Lindy Boggs Lock and Dam".

(d) JOSEPH RALPH SASSER BOAT RAMP.—

(1) DESIGNATION.—The boat ramp constructed on the left bank of the Mississippi River at River Mile 752.5 at Shelby Forest in Shelby County, Tennessee, shall be known and designated as the "Joseph Ralph Sasser Boat Ramp".

(2) LEGAL REFERENCE.—A reference to any law, map, regulation, document, record, or other paper of the United States to such boat ramp shall be deemed to be a reference to the "Joseph Ralph Sasser Boat Ramp".

SEC. 1084. SIGNING OF UNITED STATES HIGHWAY 71.

The Arkansas State Highway and Transportation Department shall erect the signs along United States Highway 71 from the I-40 intersection to the Missouri-Arkansas State line which are required to be erected by the Arkansas State law designated as Act 6 of 1989.

SEC. 1085. CONTINUATION OF AUTHORIZATION FOR RHODE ISLAND NAVIGATION PROJECT.

(a) CONTINUATION OF AUTHORIZATION.—Notwithstanding section 1001(a) of the Water Re-

sources Development Act of 1986, the project for navigation, Providence, Rhode Island, authorized by section 1166(c) of the Water Resources Development Act of 1986, shall remain authorized to be carried out by the Secretary.

(b) TERMINATION DATE.—The project described in subsection (a) shall not be authorized for construction after the last day of the 5-year period that begins on the date of the enactment of this Act unless, during this period, funds have been obligated for construction, including planning and design, of the project.

SEC. 1086. PENSACOLA, FLORIDA.

(a) STUDY.—The Secretary shall conduct a study of the feasibility of constructing, in accordance with standards applicable to Interstate System highways, a 4-lane highway connecting Interstate Route 65 and Interstate Route 10 in the vicinity of Pensacola, Florida.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under this section, together with recommendations for the location of a corridor in which to construct the highway described in subsection (a).

SEC. 1087. INCLUSION OF CALHOUN COUNTY, MISSISSIPPI, IN APPALACHIA.

Section 403 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 403) is amended in the fifth undesignated paragraph of such section by inserting "Calhoun," after "Benton,".

SEC. 1088. HANDICAPPED PARKING SYSTEM.

(a) STUDY.—The Secretary shall conduct a study of the progress being made by the States in adopting and implementing the uniform system for handicapped parking established in regulations issued by the Secretary pursuant to Public Law 100-641 (102 Stat. 3335).

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall transmit a report to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives on the results of the study conducted under this section.

SEC. 1089. FEASIBILITY OF INTERNATIONAL BORDER HIGHWAY INFRASTRUCTURE DISCRETIONARY PROGRAM.

(a) STUDY.—The Secretary shall conduct a study of the advisability and feasibility of establishing an international border highway infrastructure discretionary program. The purpose of such a program would be to enable States and Federal agencies to construct, replace, and rehabilitate highway infrastructure facilities at international borders when such States, agencies, and the Secretary find that an international bridge or a reasonable segment of a major highway providing access to such a bridge (1) is important; (2) is unsafe because of structural deficiencies, physical deterioration, or functional obsolescence; (3) poses a safety hazard to highway users; (4) by its construction, replacement, or rehabilitation, would minimize disruptions, delays, and costs to users; or (5) by its construction, replacement, or rehabilitation, would provide more efficient routes for international trade and commerce.

(b) REPORT.—Not later than September 30, 1993, the Secretary shall transmit to Congress a report on the results of the study conducted under this section, together with any recommendations to the Secretary.

SEC. 1090. METHODS TO REDUCE TRAFFIC CONGESTION DURING CONSTRUCTION.

(a) SENSE OF CONGRESS.—It is the sense of Congress that many highway projects are carried out in a way which unnecessarily disrupts traffic flow during construction and that methods need to be adopted to eliminate or reduce these disruptions.

(b) STUDY.—The Secretary shall conduct a study on methods of enhancing traffic flow and minimizing traffic congestion during construction of Federal-aid highway projects and on costs associated with implementing such methods.

(c) CONSIDERATIONS.—In conducting the study under this section, the Secretary shall consider—

(1) the feasibility of carrying out construction of Federal-aid highway projects during off-peak periods and limiting closure of highway lanes on Federal-aid highways to portions of highways for which actual construction is in progress and for which safety concerns require closure; and

(2) the need for establishment and operation by each State of a toll-free telephone number to receive complaints and provide information regarding the status of construction on Federal-aid highways in the State.

(d) REPORT.—Not later than September 30, 1992, the Secretary shall transmit to Congress a report on the results of the study conducted under this section, together with such recommendations as the Secretary considers appropriate.

SEC. 1091. STUDY OF VALUE ENGINEERING.

(a) STUDY.—The Secretary shall study the effectiveness and benefits of value engineering review programs applied to Federal-aid highway projects. Such study shall include an analysis of and the results of specialized techniques utilized in all facets of highway construction for the purpose of reduction of costs and improvement of the overall quality of Federal-aid highway projects.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall report to Congress on the results of the study under subsection (a), including recommendations on how value engineering could be utilized and improved in Federal-aid highway projects.

SEC. 1092. PILOT PROGRAM FOR UNIFORM AUDIT PROCEDURES.

(a) ESTABLISHMENT.—The Secretary shall establish a pilot program under which any contract or subcontract awarded in accordance with section 112(b)(2)(A) of title 23, United States Code, shall be performed and audited in compliance with cost principles contained in the Federal acquisition regulations of part 31 of title 48 of the Code of Federal regulations. The pilot program under this section shall include participation of not more than 10 States.

(b) INDIRECT COST RATES.—In lieu of performing their own audits, the States participating in the pilot program shall accept indirect cost rates established in accordance with the Federal acquisition regulations for 1-year applicable accounting periods by a cognizant government agency or audited by an independent certified public accountant, if such rates are not currently under dispute. Once a firm's indirect cost rates are accepted, all the recipients of such funds shall apply such rates for the purposes of contract estimation, negotiation, administration, reporting, and contract payment and shall not be limited by administrative or defacto ceilings in accordance with section 15.901(c) of such title 48. A recipient of such funds requesting or using the cost and rate data described in this subsection shall notify any affected firm before such request or use. Such data shall be confidential and shall not be accessible or provided, in whole or in part, to any other firm or to any government agency which is not part of the group of agencies sharing cost data under this subsection, except by written permission of the audited firm. If prohibited by law, such cost and rate data shall not be disclosed under any circumstances.

(c) REPORT.—Each State participating in the pilot program shall report to the Secretary not later than 3 years after the date of enactment of this Act on the results of the program.

SEC. 1093. RENTAL RATES.

Within 1 year after the date of the enactment of this Act, the Comptroller General shall complete a study on equipment rental rates for use in reimbursing contractors for extra work on Federal-aid projects. Such study shall include an analysis of the reasonableness of currently accepted equipment rental costs, adequacy of adjustments for regional or climactic differences, adequacy of consideration of mobilization costs, loss of time and productivity attendant to short-term usage of equipment, and approvals of rental rate costs by the Federal Highway Administration.

SEC. 1094. STUDY ON STATE COMPLIANCE WITH REQUIREMENTS FOR REVOCATION AND SUSPENSION OF DRIVERS' LICENSES.

(a) STUDY.—The Secretary shall conduct a study of State efforts to comply with the provisions of section 333 of the Department of Transportation and Related Agencies Appropriation Acts, 1991, 1992, relating to revocation and suspension of drivers' licenses.

(b) REPORT.—Not later than December 31, 1992, the Secretary shall transmit to Congress a report on the results of the study conducted under this section.

SEC. 1095. BROOKLYN COURTHOUSE.

The Administrator of the General Services Administration is authorized to enter into a lease with the United States Postal Service for space to house the Federal Courts and related Federal agencies in Brooklyn, New York. The Administrator is further authorized—

(1) to advance the amount provided in the fiscal year 1992 Treasury, Postal Service, and General Government Appropriation Act to the Postal Service to expedite the start of construction; and

(2) to transfer the present Emanuel Celler Federal Building and Courthouse in Brooklyn to the Postal Service.

SEC. 1096. BORDER STATION INTERNATIONAL FALLS, MINNESOTA.

The Administrator of the General Services Administration is authorized to provide for the construction of a 9,000 occupiable square foot border station at International Falls, Minnesota, at a total estimated cost of $2,480,000, in accordance with an amended prospectus submitted by the General Services Administration to the Senate Committee on Environment and Public Works on June 19, 1991.

SEC. 1097. MILLER HIGHWAY.

The Secretary shall deem the independent proposals to construct a new highway facility in the Route 9A corridor between the Battery and 59th Street, and to relocate the existing Miller Highway facility, between 59th Street and 72nd Street, on the west side of Manhattan, New York, New York, to be separate and distinct projects for the purposes of compliance with any applicable Federal laws.

SEC. 1098. ALLOCATION FORMULA STUDY.

(a) The General Accounting Office in conjunction with the Bureau of Transportation Statistics created pursuant to title VI of this Act, shall conduct a thorough study and recommend to the Congress within 2 years after the date of the enactment of this Act a fair and equitable apportionment formula for the allocation of Federal-aid highway funds that best directs highway funds to the places of greatest need for highway maintenance and enhancement based on the extent of these highway systems, their present use, and increases in their use.

(b) The results of this study shall be presented to the Senate Committee on Environment and Public Works and the House Committee on Public Works and Transportation on or before January 1, 1994, and shall be considered by these committees as they reauthorize the surface transportation program in 1996.

SEC. 1099. ESTABLISHMENT OF INTERSTATE STUDY COMMISSION.

For the National Capital Region, comprised of the Washington, D.C., Metropolitan Statistical Area, a commission is established to recommend new mechanisms, authority, and/or agreements to fund, develop, and manage the transportation system of the National Capital Region, and primarily focusing on interstate highway and bridge systems. The commission shall develop its recommendations consistent with the transportation planning requirements for metropolitan areas as contained elsewhere in this bill. The study commission shall report to the Congress, the Department of Transportation, the Governors of Maryland and Virginia, the Mayor of the District of Columbia, and the National Capital Region Transportation Planning Board, the designated Metropolitan Planning Organization (MPO) for the Washington metropolitan area, no later than 12 months from the date of passage of this legislation. Representatives on the commission shall include a Member of Congress from each of Maryland, Virginia, and the District of Columbia; the Governors of Maryland and Virginia and the Mayor of the District of Columbia; 1 local elected official from each State and the District of Columbia appointed by the National Capital Region Transportation Planning Board; 3 private sector representatives appointed by the Governors and the Mayor; and the commission chairman to be appointed by the Secretary of Transportation. There is authorized to be appropriated for the purposes of carrying out this section such sums as may be necessary for the commission to carry out its functions.

SEC. 1100. EFFECTIVE DATE; APPLICABILITY; CERTAIN UNOBLIGATED BALANCES.

(a) GENERAL RULE.—This title, including the amendments made by this title, shall take effect on the date of the enactment of this Act.

(b) APPLICABILITY.—The amendments made by this title shall apply to funds authorized to be appropriated or made available after September 30, 1991, and, except as otherwise provided in subsection (c), shall not apply to funds appropriated or made available on or before September 30, 1991.

(c) UNOBLIGATED BALANCES.—

(1) IN GENERAL.—Unobligated balances of funds apportioned to a State under sections 104(b)(1), 104(b)(2), 104(b)(5)(B), and 104(b)(6) of title 23, United States Code, before October 1, 1991, shall be available for obligation in that State under the law, regulations, policies and procedures relating to the obligation and expenditure of those funds in effect on September 30, 1991.

(2) TRANSFERABILITY.—

(A) PRIMARY SYSTEM.—A State may transfer unobligated balances of funds apportioned to the State for the Federal-aid primary system before October 1, 1991, to the apportionment to such State under section 104(b)(1) or 104(b)(3) of title 23, United States Code, or both.

(B) SECONDARY AND URBAN SYSTEM.—A State may transfer unobligated balances of funds apportioned to the State for the Federal-aid secondary system or the Federal-aid urban system before October 1, 1991, to the apportionment to such State under section 104(b)(3) of such title.

(C) APPLICABILITY OF CERTAIN LAWS, REGULATIONS, POLICIES, AND PROCEDURES.—Funds transferred under this paragraph shall be subject to the laws, regulations, policies, and procedures relating to the apportionment to which they are transferred.

SEC. 1101–1102. STUDY ON IMPACT OF CLIMATIC CONDITIONS.

(a) STUDY.—The Secretary shall conduct a study of the effects of climatic conditions on the costs of highway construction and maintenance. The study shall take into account such climatic conditions as freezing, thawing, and precipitation and the impact of climatic conditions on increased highway design costs and decreased highway service life in the various regions of the United States.

(b) REPORT.—Not later than September 30, 1993, the Secretary shall transmit to Congress a report on the results of the study conducted under this section, together with such recommendations as the Secretary considers appropriate. The report shall include a description of the implications of the differing costs on the allocation of highway funds to the States.

SEC. 1103. HIGH COST BRIDGE PROJECTS.

(a) PURPOSE.—The purpose of this section is to provide funds to accelerate construction of high cost bridge projects.

(b) AUTHORIZATION OF PROJECTS.—The Secretary is authorized to carry out the high cost of bridge projects described in this subsection. Subject to subsection (c), there is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for fiscal years 1992 through 1997 to carry out each such project the amount listed for each such project:

	City/State	High cost bridges	Amount in millions
1.	Delaware, Oklahoma	Construction of a replacement bridge on U.S. Rt. 59 over Grand Lake in Delaware, Oklahoma	9.7
2.	Eugene, Oregon	Construction of the Ferry Street Bridge	23.7
3.	Beaver County, Pennsylvania	Construction of Aliquippa Ambridge Bridge of Beaver County, Pennsylvania	25.0
4.	Arkansas	For an expanded study of environmental impact and geo technical information for Arkansas-Mississippi Great River Bridge	0.8
5.	Gloucester Point, Virginia	Provide for additional crossing capacity of the York River	11.8
6.	San Francisco, California	For preliminary work associated with the seismic upgrading of the Golden Gate Bridge in San Francisco, California	5.9
7.	Cape May & Atlantic Counties, New Jersey	Replace critically important bridge between Ocean City and Longport, New Jersey	18.4
8.	Ohio	Conduct environmental and feasibility studies for the construction of a bridge or tunnel across the Maumee River in the vicinity of an existing left span bridge	1.0
9.	Maine	Donald B. Carter Memorial Bridge	32.1
10.	Shakopee, Minnesota	Bloomington Ferry Bridge replacement, Shakopee, Minnesota	22.0
11.	Charleston, South Carolina	Highway 17 Bridge replacement projects: Cooper River, Charleston, South Carolina	14.2
12.	Ft. Lauderdale, Florida	17th Street Causeway Tunnel/Bridge replacement, Ft. Lauderdale, Florida	13.6
13.	Maryland	Woodrow Wilson Bridge rehabilitation	29.6
14.	New York	Macomb Dam Bridge, Manhattan Bridge Rehabilitation Project, Queensboro Bridge—Rehabilitation of Main Span, Williamsburg Bridge Rehabilitation Project, Brooklyn Bridge Rehabilitation	74.0
15.	Miami, Florida	Complete construction of Dodge Island Bridge	3.4

(c) ALLOCATION PERCENTAGES.—8 percent of the amount allocated by subsection (b) for each project authorized by subsection (b) shall be available for obligation in fiscal year 1992. 18.4 percent of such amount shall be available for obligation in each of fiscal years 1993, 1994, 1995, 1996, and 1997.

(d) FEDERAL SHARE.—The Federal share payable on account of any project under this section shall be 80 percent of the cost thereof.

(e) DELEGATION TO STATES.—Subject to the provisions of title 23, United States Code, the Secretary shall delegate responsibility for construction of a project or projects under this section to the State in which such project or projects are located upon request of such State.

(f) ADVANCE CONSTRUCTION.—When a State which has been delegated responsibility for construction of a project under this section—

(1) has obligated all funds allocated under this section for construction of such project; and

(2) proceeds to construct such project without the aid of Federal funds in accordance with all procedures and all requirements applicable to such project, except insofar as such procedures and requirements limit the State to the construction of projects with the aid of Federal funds previously allocated to it;

the Secretary, upon the approval of the application of a State, shall pay to the State the Federal share of the cost of construction of the project when additional funds are allocated for such project under this section.

(g) APPLICABILITY OF TITLE 23.—Funds authorized by this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under this section shall be determined in accordance with this section and such funds shall remain available until expended. Funds authorized by this section shall not be subject to any obligation limitation.

SEC. 1104. CONGESTION RELIEF PROJECTS.

(a) PURPOSE.—The purpose of this section is to improve methods of congestion relief.

(b) AUTHORIZATION OF PROJECTS.—The Secretary is authorized to carry out the congestion relief projects described in this subsection. Subject to subsection (c), there is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for fiscal

years 1992 through 1997 to carry out each such project the amount listed for each such project:

	City/State	Congestion relief	Amount in millions
1.	Long Beach, California	Construction of HOV Lanes on I–710	7.4
2.	Philadelphia, Pennsylvania	Project to Construct Bridge-Pratt Terminal as part of an I–95 reconstruction mitigation project	34.5
3.	Davidson-Williamson County, Tennessee	Study and construction of the Davidson-Williamson Bike Path	1.0
4.	East St. Louis, Illinois to St. Louis, Missouri	To conduct a study to determine the feasibility of a bridge between East St. Louis, Illinois and St. Louis, Missouri	1.4
5.	St. Louis, Missouri	Relocation of Lindbergh Boulevard and Interstate 70 at St. Louis Lambert Airport	14.8
6.	District of Columbia	Primary Intermodal System, Washington, D.C.	6.8
7.	Buffalo, New York	Construction of Peace Bridge truck inspection facility	19.5
8.	Nashua, New Hampshire	Nashua River Bridge, Nashua, New Hampshire—Construction of second bridge	1.2
9.	Las Vegas, Nevada	Reconstruct and upgrade I–15/U.S. 95 (Spaghetti Bowl)	45.0
10.	San Diego, California	Construct 1 block of Cut and Cover Tunnel on Rt. 15 in downtown San Diego, California	5.0
11.	Los Angeles, California	To extend I–110 North from its current terminus at I–10 into downtown Los Angeles via Central City West Area in Los Angeles, California	10.1
12.	North Dakota	Design and construct 7.5 mile bypass around Lincoln State Park	1.1
13.	Babylon, New York	Construct turning lanes, sign upgrades, traffic signal interconnections and road repair and resurfacing	2.1
14.	Dixon, California	To improve 3 grade crossings in Dixon, California	1.8
15.	Fairfield, California	To construct 2 park & ride facilities, an information center and transfer hub for I–80 express and local bus service	7.7
16.	St. Louis, Missouri	Feasibility study for interchange improvements for I–255 at Rt. 231, St. Louis, Missouri	0.1
17.	Murfreesbro, Tennessee	Conduct a feasibility study of constructing a bicycle system as an alternative form of commuter transportation, air pollution reduction, and enhance recreation	0.4
18.	Long Island, New York	To make improvements on the Van Wyck Expressway to improve traffic flow, Long Island, New York	3.6
19.	Fox River Valley, Illinois	Study, plan and construct up to 8 bridges across the Fox River	8.3
20.	Prince George's County, Maryland	To rehabilitate the Baltimore-Washington Parkway in Prince George's County, Maryland	16.3
21.	Toledo, Ohio	Conduct study of possible safety and traffic delay improvement benefits in 6 corridors	0.24
22.	Boston, Massachusetts	To plan and construct a bicycle and pedestrian path connecting Arlington, Cambridge and Boston, Massachusetts	1.2
23.	Tucson, Arizona	To make interchange improvements at Oracle and Orange Grove Roads in Tucson, Arizona	3.9
24.	Victorville, California	Construct interchange 1 mile north of Palmdale Road on I–15	2.7
25.	Palm Beach, Florida	Acquire right-of-way and construct and widen to 4 lanes 19 mile segment of U.S. 27	5.5
26.	Pennsylvania	Improve River Street, Towanda Borough and North Towanda Township to form highway bypass	8.8
27.	Maine	Topsham-Brunswick Bypass	10.5
28.	Rankin County, Mississippi	East-Metro Center Access Road	4.6
29.	Kansas	West Leavenworth Trafficway Project, Leavenworth, Kansas	8.6
30.	Broward County, Florida	Hallandale Bridge Project, Broward County, Florida	8.5
31.	Idaho	Any of the Federal-aid projects eligible for funding under title 23, United States Code, located in Bannock or Caribou County, shall be eligible for funding	10.1
32.	Michigan	I–75/M57 Interchange improvement in the vicinity of Vienna Township, Michigan	8.9
33.	Prince William County, Virginia	I–95 HOV lane extension	13.5
34.	St. Thomas, Virgin Islands	Construction of Raphune Hill Bypass, St. Thomas, Virgin Islands	18.4
35.	Merrillville, Indiana	Construction of four lane road and overpass	1.8
36.	Milwaukee and Waukesha Counties, Wisconsin	I–794 Bicycle Transportation Project in Milwaukee and Waukesha Counties, Wisconsin	1.5
37.	Richmond, California	I–80 Richmond Parkway Interchange	1.8
38.	New York, New York	Construction of Williamsburg to Holland Tunnel Bypass	3.6
39.	Louisville, Kentucky	Waterfront Development Roadway Improvements	4.7
40.	Sunnyvale, California	HOV lane improvements on Lawrence Expressway	10.1

	City/State	Congestion relief	Amount in millions
41.	Ohio	Construction of a bicycle/pedestrian facility from Greene County, Ohio, to Dayton, Ohio	3.0
42.	Jefferson County and Berkeley County, West Virginia	Improvements of State Highway 9 from Martinsburg, West Virginia to Virginia State line	110.0
43.	West Virginia	Construction of the Coal Fields Expressway from Beckley, West Virginia to Virginia State line	50.0
44.	Maine	Improvements to the Carlton Bridge in Bath-Woolwich	10.0

(c) ALLOCATION PERCENTAGES.—8 percent of the amount allocated by subsection (b) for each project authorized by subsection (b) shall be available for obligation in fiscal year 1992. 18.4 percent of such amount shall be available for obligation in each of fiscal years 1993, 1994, 1995, 1996, and 1997.

(d) FEDERAL SHARE.—The Federal share payable on account of any project under this section shall be 80 percent of the cost thereof.

(e) DELEGATION TO STATES.—Subject to the provisions of title 23, United States Code, the Secretary shall delegate responsibility for construction of a project or projects under this section to the State in which such project or projects are located upon request of such State.

(f) ADVANCE CONSTRUCTION.—When a State which has been delegated responsibility for construction of a project under this section—

(1) has obligated all funds allocated under this section for construction of such project; and

(2) proceeds to construct such project without the aid of Federal funds in accordance with all procedures and all requirements applicable to such project, except insofar as such procedures and requirements limit the State to the construction of projects with the aid of Federal funds previously allocated to it;

the Secretary, upon the approval of the application of a State, shall pay to the State the Federal share of the cost of construction of the project when additional funds are allocated for such project under this section.

(g) APPLICABILITY OF TITLE 23.—Funds authorized by this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under this section shall be determined in accordance with this subsection and such funds shall remain available until expended. Funds authorized by this section shall not be subject to any obligation limitation.

SEC. 1105. HIGH PRIORITY CORRIDORS ON NATIONAL HIGHWAY SYSTEM.

(a) FINDINGS.—The Congress finds that—

(1) the construction of the Interstate Highway System connected the major population centers of the Nation and greatly enhanced economic growth in the United States;

(2) many regions of the Nation are not now adequately served by the Interstate System or comparable highways and require further highway development in order to serve the travel and economic development needs of the region; and

(3) the development of transportation corridors is the most efficient and effective way of integrating regions and improving efficiency and safety of commerce and travel and further promoting economic development.

(b) PURPOSE.—It is the purpose of this section to identify highway corridors of national significance; to include those corridors on the National Highway System; to allow the Secretary, in cooperation with the States, to prepare long-range plans and feasibility studies for these corridors; to allow the States to give priority to funding the construction of these corridors; and to provide increased funding for segments of these corridors that have been identified for construction.

(c) IDENTIFICATION OF HIGH PRIORITY CORRIDORS ON NATIONAL HIGHWAY SYSTEM.—The following are high priority corridors on the National Highway System:

(1) North-South Corridor from Kansas City, Missouri, to Shreveport, Louisiana.

(2) Avenue of the Saints Corridor from St. Louis, Missouri, to St. Paul, Minnesota.

(3) East-West Transamerica Corridor.

(4) Hoosier Heartland Industrial Corridor from Lafayette, Indiana, to Toledo, Ohio.

(5) I-73/74 North-South Corridor from Charleston, South Carolina, through Winston-Salem, North Carolina, to Portsmouth, Ohio, to Cincinnati, Ohio, and Detroit, Michigan.

(6) United States Route 80 Corridor from Meridian, Mississippi, to Savannah, Georgia.

(7) East-West Corridor from Memphis, Tennessee, through Huntsville, Alabama, to Atlanta, Georgia, and Chattanooga, Tennessee.

(8) Highway 412 East-West Corridor from Tulsa, Oklahoma, through Arkansas along United States Route 62/63/65 to Nashville, Tennessee.

(9) United States Route 220 and the Appalachian Thruway Corridor from Business 220 in Bedford, Pennsylvania, to the vicinity of Corning, New York.

(10) Appalachian Regional Corridor X.

(11) Appalachian Regional Corridor V.

(12) United States Route 25E Corridor from Corbin, Kentucky, to Morristown, Tennessee, via Cumberland Gap, to include that portion of Route 58 in Virginia which lies within the Cumberland Gap Historical Park.

(13) Raleigh-Norfolk Corridor, Raleigh, North Carolina, to Norfolk, Virginia.

(14) Heartland Expressway from Denver, Colorado, through Scottsbluff, Nebraska, to Rapid City, South Dakota.

(15) Urban Highway Corridor along M-59 in Michigan.

(16) Economic Lifeline Corridor along I-15 and I-40 in California, Arizona, and Nevada.

(17) Route 29 Corridor from Greensboro, North Carolina, to the District of Columbia.

(18) Corridor from Indianapolis, Indiana, to Memphis, Tennessee, via Evansville, Indiana.

(19) United States Route 395 Corridor from the United States-Canadian border to Reno, Nevada.

(20) United States Route 59 Corridor from Laredo, Texas, through Houston, Texas, to the vicinity of Texarkana, Texas.

(21) United States Route 219 Corridor from Buffalo, New York, to the intersection of United States Route 17 in the vicinity of Salamanca, New York.

(d) INCLUSION ON NHS.—The Secretary shall include all corridors identified in subsection (c) on the proposed National Highway System submitted to Congress under section 103(b)(3) of title 23, United States Code.

(e) PROVISIONS APPLICABLE TO CORRIDORS.—

(1) LONG-RANGE PLAN.—The Secretary, in cooperation with the affected State or States, may prepare a long-range plan for the upgrading of each corridor to the appropriate standard for highways on the National Highway System. Each such plan may include a plan for developing the corridor and a plan for financing the development.

(2) FEASIBILITY STUDIES.—The Secretary, in cooperation with the affected State or States, may prepare feasibility and design studies, as necessary, for those corridors for which such studies have not been prepared. A feasibility study may be conducted under this subsection with respect to the corridor described in subsection (c)(2), relating to Avenue of the Saints, to determine the feasibility of an adjunct to the Avenue of the Saints serving the southern St. Louis metropolitan area and connecting with I-55 in the vicinity of Route A in Jefferson County, Missouri.

(3) CERTIFICATION ACCEPTANCE.—The Secretary may discharge any of his responsibilities under title 23, United States Code, relative to projects on a corridor identified under subsection (c), upon the request of a State, by accepting a certification by the State in accordance with section 117 of such title.

(4) ACCELERATION OF PROJECTS.—To the maximum extent feasible, the Secretary may use procedures for acceleration of projects in carrying out projects on corridors identified in subsection (c).

(f) HIGH PRIORITY SEGMENTS.—Highway segments of the corridors referred to in subsection (c) which are described in this subsection are high priority segments eligible for assistance under this section. Subject to subsection (g)(2), there is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for fiscal years 1992 through 1997 to carry out a project on each such segment the amount listed for each such segment:

	City/State	High priority corridors	Amount in millions
1.	Pennsylvania	For upgrading U.S. 220 High Priority and the Appalachian Thruway Corridor between State College and I-80	50.7
2.	Alabama, Georgia, Mississippi, Tennessee	Upgrading of the East-West Corridor along Rt. 72	25.4
3.	Missouri	Improvement of North-South Corridor along Highway 71, Southwestern, MO	3.6
4.	Arkansas	For construction of highway 412 from Siloam Springs to Springdale, Arkansas as part of Highway 412 East-West Corridor	34.0
5.	Arkansas	For construction of Highway 412 from Harrison to Springdale, Arkansas as part of the Highway 412 East-West Corridor	56.0
6.	Pennsylvania	To improve U.S. 220 to a 4-lane limited access highway from Bald Eagle northward to the intersection of U.S. 220 and U.S. 322	148.0

	City/State	High priority corridors	Amount in millions
7.	S. Dakota/Nebraska	Conduct a feasibility study of expressway from Rapid City, S. Dakota to Scotts Bluff, Nebraska	0.64
8.	Alabama	Construction of Appalachian Highway Corridor X from Corridor V near Fulton, Mississippi to U.S. 31 at Birmingham, Alabama as part of Appalachian Highway X Corridor Project	59.2
9.	Alabama	For construction of a portion of Appalachian Development Corridor V from Mississippi State Line near Red Bay, Alabama to the Tennessee State Line north of Bridgeport, Alabama	25.4
10.	West Virginia	Construction of Shawnee Project from 3-Corner Junction to I–77 as part of I–73/74 Corridor project	4.5
11.	West Virginia	Widening U.S. Rt. 52 from Huntington to Williamson, W. Virginia as part of the I–73/74 Corridor project	100.0
12.	West Virginia	Replacement of U.S. Rt. 52 from Williamson, W. Virginia to I–77 as part of the I–73/74 Corridor project	14.0
13.	North Carolina/Virginia	For Upgrading I–64 and Route 17 Virginia and constructing a new highway from Rocky Mount to Elizabeth City, North Carolina as part of the Raleigh-Norfolk High Priority Corridor Improvements	17.8
14.	Arkansas	Construction of Highway 71 between Fayetteville and Alma, Arkansas as part of the North-South High Priority Corridor	100.0
15.	Arkansas/Texas	For construction of Highway 71 from Alma, Arkansas to Louisiana border	70.0
16.	Michigan	To widen a 60 mile portion of highway M–59 from MacComb County to I–96 in Howell County, Michigan	29.6
17.	South Dakota, Colorado, Nebraska	To improve the Heartland Expressway from Rapid City, South Dakota to Scotts Bluff, Nebraska	29.6
18.	Indiana	To construct a 4-Lane highway from Lafayette to Ft. Wayne, Indiana, following existing Indiana 25 and U.S. 24	9.5
19.	Ohio/Indiana	Conduct feasibility and economic study to widen Rt. 24 from Ft. Wayne, Indiana to Toledo, Ohio as part of the Lafayette to Toledo Corridor	0.32
20.	California, Nevada, Arizona	For improvements on I–15 and I–40 in California, Nevada and Arizona ($10,500,000 of which shall be expended on the Nevada portion of the corridor, including the I–15/U.S. 95 interchange)	59.2
21.	Louisiana	To improve the North-South Corridor from Louisiana border to Shreveport, Louisiana	29.6
22.	Missouri, Iowa, Minnesota	For improvements for Avenue of the Saints from St. Paul, Minnesota to St. Louis, Missouri	118.0
24.	Various States	I–66 Transamerica Highway Feasibility study	1.0
25.	Kentucky, Tennessee, Virginia	To improve Cumberland Gap Tunnel and for various associated improvements as part of U.S. 25E Corridor, except that the allocation percentages under section 1105(g)(2) of this section shall not apply to this project after fiscal year 1992	72.4
26.	Indiana, Kentucky, Tennessee	To improve the Bloomington, Indiana, to Newberry, Indiana, segment of the Indianapolis, Indiana, to Memphis, Tennessee, high priority corridor	23.7
27.	Washington	For improvements on the Washington State portion of the U.S. 395 corridor from the U.S.-Canadian border to Reno, Nevada	54.5
28.	Virginia	Construction of a bypass of Danville, Virginia, on Route 29 Corridor	17.0
29.	Arkansas	Highway 412 from Harrison to Mt. Home	20.0
30.	New York	Improvements on Route 219 between Springville to Ellicottville in New York State	9.5

(g) PROVISIONS RELATING TO HIGH PRIORITY SEGMENTS.—

(1) DETAILED PLANS.—Each State in which a priority segment identified under subsection (f) is located may prepare a detailed plan for completion of construction of such segment and for financing such construction.

(2) ALLOCATION PERCENTAGES.—8 percent of the amount allocated by subsection (f) for each high priority segment authorized by subsection (f) shall be available for obligation in fiscal year 1992. 18.4 percent of such amount shall be available for obligation in each of fiscal years 1993, 1994, 1995, 1996, and 1997.

(3) FEDERAL SHARE.—The Federal share payable on account of any project under subsection (f) shall be 80 percent of the cost thereof.

(4) DELEGATION TO STATES.—Subject to the provisions of title 23, United States Code, the Secretary may delegate responsibility for construction of a project or projects under subsection (f) to the State in which such project or projects are located upon request of such State.

(5) ADVANCE CONSTRUCTION.—When a State which has been delegated responsibility for construction of a project under this subsection—

(A) has obligated all funds allocated under this subsection for construction of such project; and

(B) proceeds to construct such project without the aid of Federal funds in accordance with all procedures and all requirements applicable to such project, except insofar as such procedures and requirements limit the State to the construction of projects with the aid of Federal funds previously allocated to it;

the Secretary, upon the approval of the application of a State, shall pay to the State the Federal share of the cost of construction of the project when additional funds are allocated for such project under this subsection.

(6) APPLICABILITY OF TITLE 23.—Funds authorized by subsection (f) and subsection (h) shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under subsection (f) shall be determined in accordance with this subsection and such funds shall remain available until expended. Funds authorized by subsection (f) shall not be subject to any obligation limitation.

(7) STATE PRIORITY FOR HIGH PRIORITY SEGMENTS.—Section 105 of title 23, United States Code, as amended by this Act, is further amended by adding at the end the following new subsection:

"(k) PRIORITY FOR HIGH PRIORITY SEGMENTS OF CORRIDORS OF NATIONAL SIGNIFICANCE.—In selecting projects for inclusion in a program of

projects under this section, the State may give priority to high priority segments of corridors identified under section 1105(f) of the Intermodal Surface Transportation Efficiency Act of 1991. In approving programs of projects under this section, the Secretary may give priority of approval to, and expedite construction of, projects to complete construction of such segments.''.

(8) SPECIAL RULE.—Amounts allocated by subsection (f) to the State of California for improvements on I–15 and I–40 shall not be subject to any State or local law relating to apportionment of funds available for the construction or improvement of highways.

(h) AUTHORIZATION FOR FEASIBILITY STUDIES.—There is authorized to be appropriated to the Secretary out of the Highway Trust Fund (other than the Mass Transit Account) $8,000,000 per fiscal year for each of the fiscal years 1992 through 1997 to carry out feasibility and design studies under subsection (e)(2).

(i) REVOLVING LOAN FUND.—

(1) ESTABLISHMENT.—The Secretary may establish a Priority Corridor Revolving Loan Fund.

(2) ADVANCES.—The Secretary shall make available as repayable advances amounts from the Revolving Loan Fund to States for planning and construction of corridors listed in subsection (c). In making such amounts available, the Secretary shall give priority to segments identified in subsection (f).

(3) REPAYMENT OF ADVANCES.—The amount of an advance to a State in a fiscal year under paragraph (2) may not exceed the amount of a State's estimated apportionments for the National Highway System for the 2 succeeding fiscal years. Advances shall be repaid (A) by reducing the State's National Highway System apportionment in each of the succeeding 3 fiscal years by ⅓ of the amount of the advance, or (B) by direct repayment. Repayments shall be credited to the Priority Corridor Revolving Loan Fund.

(4) AUTHORIZATION.—There is authorized to be appropriated to the Secretary, out of the Highway Trust Fund (other than the Mass Transit Account), $40,000,000 per fiscal year for each of fiscal years 1993 through 1997 to carry out this subsection.

SEC. 1106. RURAL AND URBAN ACCESS PROJECTS.

(a) RURAL ACCESS PROJECTS.—

(1) PURPOSE.—The purpose of this subsection is to provide funds for projects that ensure better rural access and that promote economic development in rural areas.

(2) AUTHORIZATION OF PROJECTS.—The Secretary is authorized to carry out rural access projects described in this paragraph. Subject to paragraph (3), there is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for fiscal years 1992 through 1997 to carry out each such project the amount listed for each such project:

	City/State	Rural access	Amount in millions
1.	Cadiz, Ohio	Improvements of Short Creek Highway from Cadiz, Ohio to Rayland, Ohio	2.5
2.	Boger City, North Carolina	Construction of 4-lane divided highway along Highway 321 to Boger City, NC to NC 127 South	14.2
3.	Utica, New York	Improvement of the Utica North/South Arterial	9.9
4.	Oneida County, New York	Upgrade a highway to 4 lanes in Oneida County, New York	8.0
5.	Southern, Oklahoma	Widening of U.S. 70	0.24
6.	Southern, Oklahoma	Construction of a bridge and approaches at Pennington Creek, OK	1.0
7.	Johnsonburg, Pennsylvania	Relocation of a 2-lane highway from Center Street to PA Rt. 255 along U.S. 219, Johnsonburg Bypass	14.0
8.	Pennsylvania	Construction of truck driving lanes and safety improvements on U.S. 219 between I–80 and the NY State Line	26.0
9.	East St. Louis, Illinois	Feasibility study for 4-lane Access Road to Jefferson Memorial Park	0.24
10.	Illinois	To conduct an Environmental Impact Study & Design Study on a 58-mile stretch of U.S. 67 corridor from Alton, IL to Jacksonville, IL	2.5
11.	Venice, Illinois	For rehabilitation of McKinley Bridge near Venice, IL	5.9
12.	Decatur, Alabama	Project for replacement of Keller Memorial Bridge, Decatur, AL	12.7
13.	Lenoir City, Tennessee	Feasibility Study on Fort Loudon Dam Bridge on U.S. Highway 231 in Lenoir City, TN	0.5
14.	Blount City, Tennessee	Improvement of U.S. Highway #411 in Monroe and Blount Counties, TN	15.7
15.	Missouri	For improvements of Highway 60 in New Madrid, Stoddard, Carter and Butler Counties, MO	21.7
16.	Southern, Missouri	Improvement of Rt. 65 through Greene, Christian and Taney Counties, MO	14.1
17.	Lake Charles, Louisiana	Construction of roads and bridge to provide access to Rose Bluff Industrial Area, Lake Charles, LA	4.1
18.	Louisiana	For improvement and extension of Ambassador Caffery Parkway in Louisiana	14.9
19.	Ohio	Construction of U.S. Rt. 68 Bypass in Clark, Champaign and Logan Counties	15.8
20.	Aliquippa, Pennsylvania	For various 3-R Projects in Aliquippa, PA	12.8
21.	Riverton, Kansas	Construction of a new highway from Riverton, KS to Interstate 44 in Missouri	13.1
22.	North Minnesota	Construction and reconstruction of Forest Highway 11 connecting Aurora-Hoyt Lakes and Silver Bay, MN	9.5
23.	Richfield, Minnesota	77th Street Reconstruction Project, Richfield, MN	11.6
24.	Mississippi	Impovements on Highway 84 in Franklin and Lincoln Counties, MS	9.5
25.	Mississippi	Upgrading of U.S. Highway 98 from County line of Pike and Waltham Counties, MS to Lamar County, MS	0.4
26.	Mississippi	Upgrading Highway 61 from Natchez, MS to Louisiana State line	0.35
27.	Mississippi	Upgrading Highway 84 from Brookhaven, MS to U.S. 49 in Collins, MS	2.1
28.	Chattahouchee, Florida	Construction of Mosquito Creek Bridge	2.4
29.	Florida	To upgrade State Rt. 71 from State Rt. 10 to State Rt. 8	2.9
30.	Florida	To upgrade Florida State Rt. 267 from State Rt. 8 to State Rt. 10	4.7
31.	Illinois	Tollway feasibility study (East St. Louis to Carbondale, IL)	0.32
32.	Mt. Vernon, Illinois	Extension of 34th Street from IL Rt. 15 to County Road 10	0.96
33.	Illinois	Reconstruction of Feather Trail Road from Ullin Road Interchange to Rt. 37, Pulaski County, IL	1.1
34.	Illinois	Resurfacing IL Rt. 1 from Cave-In-Rock to north of Omaha	1.8
35.	Williamson County, Illinois	Upgrading IL Rt. 13 in Williamson County, IL	7.8

	City/State	Rural access	Amount in millions
36.	Saline County, Illinois	For improvements to Rt. 13 from Williamson-Saline County line to Harrisburg, IL	4.0
37.	Winchester, New Hampshire	Replacement of Winchester Bridge, Winchester, NH	0.8
38.	Hanover, New Hampshire	Ledyard Bridge reconstruction	7.8
39.	Asheville, North Carolina	U.S. 19–23 improvement project, Asheville, NC	11.1
40.	Niles, Ohio	Belmont Street Bridge replacement, Niles, OH	1.2
41.	Struthers, Ohio	Bridge Street Bridge replacement, Struthers, OH	1.2
42.	Niles, Ohio	South Main Street Bridge replacement, Niles, OH	2.5
43.	St. Joseph County, Michigan	U.S. 131, St. Joseph County	0.5
44.	Berrien County, Michigan	U.S. 31 relocation, Berrien County, MI	17.4
45.	Holland, Michigan	U.S. 31 upgrade, Holland, Ottawa County, MI	1.3
46.	North Carolina	I–85 Interchange improvement at State Route 1103 Granville County, NC	1.7
47.	Manchester, New Hampshire	Manchester Airport Road improvements	4.0
48.	New Hampshire	Wetlands mitigation package for New Hampshire Rt. 101/51	10.0
49.	Arkansas	To improve U.S. 65 from Harrison, Arkansas to Missouri Line	38.0
50.	Arkansas	To improve Phoeniz Avenue in the vicinity of the Ft. Smith Airport, Ft. Smith, Arkansas	7.9
51.	Arkansas	To study bypass alternatives for U.S. 71 in the vicinity of Bella Vista, Arkansas	3.0
52.	Bedford Springs, Pennsylvania	To construct an access road along Old U.S. 220 to the Springs Project and to construct other facilities to facilitate movement of traffic within the site and construction of a parking facility to be associated therewith	19.7
53.	DeValls Bluff, Arkansas	Construction of a replacement bridge across the White River	2.5
54.	Jonesboro, Arkansas	Complete construction of 3 interchanges on the Highway 63 Bypass at Jonesboro	5.7
55.	Brevard County, Florida	Design and engineer improvements for State Rd. 3 between State Rd. 520 and State Rd. 528	0.16
56.	Louisiana	For construction of a new road from an area in the vicinity of I–55 to Alexandria, Louisiana	1.7
57.	Beaumont, Texas	Widen Highway FM–364 from a 2-Lane to a 4-Lane road	10.4
58.	Farmington Hills, Michigan	To widen 12-mile road corridor in the vicinity of Farmington Hills, Michigan	2.5
59.	Laredo, Texas	Expand capacity of 2-lane highway, construct interchanges and connector highway	7.4
60.	Montewma, Colorado	Upgrade farm to market road serving Ute Indian Reservation	2.9
61.	Lubbock, Texas	Initiate feasibility and route studies and preliminary engineering and design for highway to connect Lubbock with Interstate 20	2.9
62.	Rosenberg, Texas	To purchase right-of-way for Highway 36 Bypass West of Rosenberg, Texas	0.9
63.	Angleton, Texas	For various activities associated with relocation of Highway 288 in vicinity of Angleton, Texas	0.9
64.	Mentor, Ohio	For construction of an interchange on State Rt. 615 at I–90 in Mentor, Ohio	4.7
65.	W. Central, Illinois	For widening of U.S. 34 between Burlington, Iowa and Monmouth, Illinois	1.9
66.	Illinois	To make improvements including construction of a bridge on U.S. 67 in NW Illinois	2.4
67.	Monongahela Valley, Pennsylvania	For construction of southernmost extension of the Monongahela Expressway	14.0
68.	Dauphin County, Pennsylvania	Design, acquire right-of-way and reconstruct 5.1 miles of 4-Lane divided highway from Dauphin Borough to Speeceville, Pennsylvania	12.0
69.	Rutherford County, Tennessee	Replace existing bridge over the west fork of the Stone's River including a 5 foot elevated walkway	0.8
70.	Wayne County, New York	To improve Rt. 104 from Furnace Road to Pound Road in the Wayne County Area of New York	6.4
71.	Chautauqua County, New York	Construct 2 additional expressway lanes from Chautauqua Lake Bridge to Pennsylvania Border	17.0
72.	North Carolina	To reimburse the State of North Carolina for construction and repair of the Bonner Bridge, North Carolina	3.0
73.	North Carolina	Construct interstate link between I–95 and I–40 in vicinity of Wilson and Goldsboro, North Carolina	8.9
74.	Bossier City, Louisiana	To study grade separations along 10 miles of KC Railroad along U.S. 71	0.16
75.	Pennsylvania	Widen 14 mile segment of U.S. 15 from 2 to 4 lanes	13.8
76.	Overland Park, Kansas	I–435 Interchange Project	4.1
77.	Fairmont, West Virginia	Riverside Expressway improvements	5.3
78.	Washington	State Rt. 14 Improvement Projects, Columbia River Gorge, Washington	8.6
79.	Pennsylvania	Pennsylvania Industrial Park access, Washington County, Pennsylvania	6.3
80.	Pennsylvania	Chadville Improvement Project, Southern Fayette County, Pennsylvania	2.4
81.	Pennsylvania	U.S. Rt. 219 Meyersdale Bypass	48.0
82.	Pennsylvania	U.S. Rt. 22 Improvements: Monroeville to Ebansburg	30.3
83.	Pennsylvania	Laurel Valley Expressway, Blairsville, Pennsylvania	5.0
84.	Brownsville, Texas	Brownsville Railroad Relocation Project	6.7
85.	South Carolina	Southern Connector Highway, Greenville County, South Carolina	3.6
86.	Ohio	Rt. 18 Bypass Study, Medina, Ohio	0.4
87.	Ohio	U.S. Rt. 250 Bypass Study, Norwalk, Ohio	0.4
88.	Mankato, Minnesota	Mankato South Rt. Improvements, Mankato, Minnesota	10.0

	City/State	Rural access	Amount in millions
89.	Kentucky	U.S. 119 Upgrading, Pike County, Kentucky	7.6
90.	Michigan	U.S. Rt. 127 Upgrading, Jackson County, Michigan	0.8
91.	Eden Prairie & Cologne, Minnesota	U.S. Trunk Highway 212 improvement project, Eden Prairie/Cologne, Minnesota	8.7
92.	Ohio	Rt. 30 extension: East Canton/Minerva, Ohio	5.3
93.	New Mexico	Raton-Clayton Rd., Clayton, New Mexico	9.3
94.	New Mexico	Jicarilla Apache State Road, New Mexico	1.5
95.	Arizona	Turquoise Trail Highway, Navajo County, Arizona	5.9
96.	Pennsylvania	U.S. Rt. 222 Relocation, Lehigh County, Pennsylvania	1.5
97.	Pennsylvania	Pennsylvania Rt. 33 Extension, Northhampton County, Pennsylvania	16.8
98.	Kentucky	Highway 92 Relocation Study, South Central Kentucky	0.1
99.	Kentucky	U.S. 27 Improvements, Jessamine County, Kentucky	9.2
100.	North Carolina	U–2519/X–2 Highways, Cumberland, North Carolina	15.9
101.	Missouri	Adams Dairy Parkway Project, Blue Springs, Missouri	1.5
102.	Lawrence, Kansas	Lawrence Circumferential Roadway, Douglas County, Kansas	3.3
103.	Kansas	Oakland Expressway, Eastern Shawnee, Kansas	5.9
104.	Missouri	Highway 63 improvements, Columbia, Missouri/Iowa border	5.9
105.	West Virginia	Highway Improvements: Mason County/Kanawha, West Virginia	19.5
106.	Pennsylvania	Warren Street Extension/U.S. 222 Reconstruction, Berks County, Pennsylvania	6.6
107.	Illinois	For construction of the Alton Bypass from the vicinity of Alton and Godfrey, Illinois	4.4
108.	Iowa	Construct Mason City Bypass, Gerro Gordo County, Iowa	14.8
109.	Prince Edward County, Virginia	A highway improvement project one mile south of Farmville in Prince Edward County, Virginia, to increase from two lanes to four lanes approximately two miles of Route 460. Such project shall connect the existing four lanes of Route 460 approaching the segment from the east and the west. The Secretary of the Army, acting through the Chief of Engineers, is directed, upon request of officials representing Prince Edward County, Virginia, to allow the immediate filling of the Sandy River Reservoir in accordance with the terms and conditions of the permit, without further amendment or modification in any respect, issued by the Department of the Army relating to the reservoir, except that no contingency in such permit pertaining to water demand or use shall become effective or shall be enforced prior to seven years from date of completion of such highway project	4.4
110.	Port Lavaca to Cuero, Texas	Construct upgraded, improved four-lane divided highway	43.9
111.	Parker County, Texas (SH199)	Upgrade existing highway to four-lane divided highway	33.5
112.	Howell County, Missouri	Improve Highway 63	3.6
113.	Louisa, Louisiana	Louisa Bridge replacement, Louisa, Louisiana	9.5
114.	Travis County, Texas	Highway 620 bridge improvement	11.4
115.	Latrobe, Pennsylvania	Ligonier Street Reconstruction	0.8
116.	Carroltown/DuBois, Pennsylvania	U.S. 219 Improvements	4.0
117.	Robinson Township, Pennsylvania	Design Work in Town Center	5.0
118.	West Virginia	Chelyan Bridge Replacement	8.5

(3) ALLOCATION PERCENTAGES.—8 percent of the amount allocated by paragraph (2) for each project authorized by paragraph (2) shall be available for obligation in fiscal year 1992. 18.4 percent of such amount shall be available for obligation in each of fiscal years 1993, 1994, 1995, 1996, and 1997.

(4) FEDERAL SHARE.—The Federal share payable on account of any project under this subsection shall be 80 percent of the cost thereof.

(5) DELEGATION TO STATES.—Subject to the provisions of title 23, United States Code, the Secretary shall delegate responsibility for construction of a project or projects under this subsection to the State in which such project or projects are located upon request of such State.

(6) ADVANCE CONSTRUCTION.—When a State which has been delegated responsibility for construction of a project under this subsection—

(A) has obligated all funds allocated under this subsection for construction of such project; and

(B) proceeds to construct such project without the aid of Federal funds in accordance with all procedures and all requirements applicable to such project, except insofar as such procedures and requirements limit the State to the construction of projects with the aid of Federal funds previously allocated to it;

the Secretary, upon the approval of the application of a State, shall pay to the State the Federal share of the cost of construction of the project when additional funds are allocated for such project under this subsection.

(7) APPLICABILITY OF TITLE 23.—Funds authorized by this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under this subsection shall be determined in accordance with this subsection and such funds shall remain available until expended. Funds authorized by this subsection shall not be subject to any obligation limitation.

(b) URBAN ACCESS AND URBAN MOBILITY PROJECTS.—

(1) PURPOSE.—The purpose of this subsection is to provide funds for projects that enhance urban access and urban mobility.

(2) AUTHORIZATION OF PROJECTS.—The Secretary is authorized to carry out urban access and urban mobility projects described in this paragraph. Subject to paragraph (3), there is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for fiscal years 1992 through 1997 to carry out each such project the amount listed for each such project:

	City/State	Urban access & mobility	Amount in millions
1.	Santa Ana, California	Bristol Street Project	4.1
2.	Illinois/Missouri	Metro East/St. Louis, Missouri Bridge Feasibility Study	1.0
3.	Beaver/Butler Counties, Pennsylvania	Construction of Crow's Run Expressway from I–79 to PA Rt. 60, Beaver/Butler Counties, PA	3.5
4.	Atlanta, Georgia	Improvement of Martin Luther King Drive	0.8
5.	Chicago, Illinois	Handicapped Accessibility Projects on various Chicago Streets	2.4

	City/State	Urban access & mobility	Amount in millions
6.	Chicago, Illinois	Feasibility study for a road between existing Lake Shore Drive and Indiana Road	0.16
7.	San Jose, California	Improvement of Interchange at Highway 85/ Highway 17	35.0
8.	Gilroy, California	For safety improvements on Highway 152 in vicinity of Gilroy, CA	5.9
9.	New York, New York	Improvements on Miller Highway in New York City, NY	15.6
10.	District of Columbia	Construction of missing segments of Eastern and Southern Avenues (Boundary Street Safety Initiative)	6.8
11.	Buffalo, New York	Scajaquada Expressway Classification study	0.24
12.	Buffalo, New York	NY State Thruway relocation study, Buffalo (Niagara), NY	0.24
13.	Joliet, Illinois	For rehabilitation of Houbolt Road from Jefferson Street to Joliet Jr. College and construction and interchange at Houbolt Road and I–80	1.0
14.	Chicago, Illinois	WPA street improvements bounded on the north by 103rd, the east by Stoney Island, the west by Ashland, and the south by the city limits	3.7
15.	Burnham, Illinois	To improve Dolton Avenue between Torrence Avenue and Indiana State Line, Burnham, IL	1.9
16.	Calumet Park, Illinois	Ashland Avenue Bridge replacement	2.1
17.	Harvey, Illinois	Illinois 1 Interchange improvement from U.S. 6 to I–80	2.5
18.	Markham, Illinois	Sibley Boulevard traffic flow improvement from Dixie Highway	3.5
19.	Chicago, Illinois	Illinois 1 intersection improvement, Harvey, IL (intersection at 155th Street)	1.4
20.	Youngstown, Ohio	Center Street Bridge replacement, Youngstown, OH, including Poland Avenue—Shirley Road connector and ramps at I–680	12.2
21.	Lake Porter and LaPort Counties, Indiana and Illinois	Study linkage roads to connect Lake Shore Drive and surrounding facilities	1.0
22.	Indiana	Acquisition of West Lake Corridor Right-of-Way between Munster, IN and Hammond , IN	1.0
23.	Portage, Indiana	Widen Willow Creek Road to 4 lanes	1.5
24.	Hobart, Lake Station and New Chicago, Indiana	Various improvements to Ridge Road to relieve congestion	4.3
25.	Passaic County, New Jersey	To complete construction of Rt. 21 in Passaic County, New Jersey	98.8
26.	Northeastern, New Jersey	To raise 14 bridges over Molly Ann's Brook Northeastern, New Jersey	9.5
27.	Chambersburg, Pennsylvania	To improve the Wayne Avenue—I–81 Interchange and to widen Wayne Avenue to 5 lanes from Kriner Road to Coldbrook Avenue in the vicinity of Chambersburg, Pennsylvania	1.84
28.	Newark, New Jersey	To construct ramps to provide access to I–78	7.2
29.	Newark, New Jersey	To construct a parking facility as part of a multi-modal transportation facility in the vicinity of United Hospitals Medical Center, Newark, New Jersey	4.9
30.	Lawrence, Massachusetts	Study, design, and construct new road service; road and ramps and widen I–495	4.7
31.	Baltimore, Maryland	To improve various roads as part of project "Project Vision" in Baltimore, Maryland	5.0
32.	Bellevue, Washington	Conduct Phase I design study for I–405 interchange at Northeast 8th Street	5.0
33.	Springfield, Illinois	To extend 11th Street from Stevenson Drive to Toronto Road in the vicinity of Springfield, Illinois	8.3
34.	Middlesex, New Jersey	Route 1 widening in Middlesex County, New Jersey from Raritan River to Rahway River	7.4
35.	Perth Amboy & Woodbridge Township, New Jersey	Study whether additional river crossings may be necessary based on condition of 3 existing crossings	2.5
36.	Compton, California	For a grade separation project at W. Alameda Street and the Mealy St. Corridor	6.6
37.	Parsippany, Troy Hills, New Jersey	Construct interchange and ramp improvements for east and west bound traffic on I–280	3.1
38.	Queens, New York	To rehabilitate 39th Street Bridge over rail tracks at the Sunnside Rail Yard in Queens, New York	10.4
39.	Omaha, Nebraska	For improvements to US Highway 6 (W. Dodge Road) from 86th Street to 118th including the intersection with I–680 in Omaha, Nebraska	5.2
40.	Suffolk County/ Long Island, New York	Construct various roadway improvements on 7.1 miles of New York Rt. 112, including, resurfacing, widening, adding turning and parking lanes and improving traffic signals	3.4
41.	San Diego, California	To conduct environmental study on feasibility of constructing 4-lane highway from State Rt. 805 to International border near Otay Mesa	1.0

	City/State	Urban access & mobility	Amount in millions
42.	Sarasota, Florida	To construct a bridge interchange at US 301 and University Parkway in the vicinity of Sarasota, Florida	2.4
43.	Hartford, Connecticut	To rehabilitate Connecticut Rt. 99 South of Hartford, Connecticut	5.0
44.	Hartford, Connecticut	For improved access to the Connecticut River as in I-91 Mitigation Project, Hartford, Connecticut	2.3
45.	Chattanooga, Tennessee	Construct an urban diamond interchange to improve capacity and a connector road	3.1
46.	Commerce, California	To relocate a portion of Atlantic Blvd. in the vicinity of Telegraph Rd. as part of a grade separation project	4.7
47.	Scranton, Pennsylvania	Realign 3,000 feet of N. Scranton Expressway to connect with Mulberry Street	7.2
48.	Long Island, New York	Southern State Parkway Improvement	4.6
49.	New York	Exit 26 Ridge Project Schenectady, New York	5.7
50.	Capital Beltway, Springfield, Virginia	Upgrade interchanges on I-495, including Virginia Mixing Bowl Improvements	7.5
51.	Utah	Expansion of State Rd. 5600 West	3.3
52.	Chicago, Illinois	Right-of-way preservation projects (Eisenhower & Stevenson Connector)	4.8
53.	Chicago, Illinois	Museum of Science & Industry: Various intermodal facilities, Chicago, Illinois	35.0
54.	Chicago, Illinois	Chicago Skyway Bridge, Chicago, Illinois	14.2
55.	Chicago, Illinois	Cermak Road Bridge reconstruction, Chicago, Illinois	9.2
56.	Chicago, Illinois	Roosevelt Rd. and Bridge Improvements, Chicago, Illinois	11.8
56A.	Chicago, Illinois	State Street Mall Improvements, Chicago, Illinois	14.2
57.	Chicago, Illinois	Cicero Avenue Improvements, vicinity of Chicago, Illinois	1.1
58.	Chicago, Illinois	183rd Street Reconstruction, Chicago, Illinois	1.5
59.	Chicago, Illinois	111th Street Reconstruction, Chicago, Illinois	2.5
60.	Chicago, Illinois	111th Street Upgrade: Cicero Avenue to Pulaski Road, Chicago, Illinois	2.5
61.	Chicago, Illinois	111th Street Widening; Central Avenue to Cicero Avenue, Chicago, Illinois	4.7
62.	Muncie, Indiana	State Rd. 67 Widening	10.0
63.	Columbus, Indiana	Columbus Entranceway project, Columbus, Indiana	3.3
64.	New Jersey	Rt. 17/4 Interchange Project, Paramus, New Jersey	5.7
65.	New Jersey	Hackensack Avenue/ Kinderkamack Road Bridges over Rt. 4, Hackensack, New Jersey	5.7
66.	Los Angeles	Grade separation projects (3), Los Angeles County, California	7.1
67.	New York	Preservation of Rail Corridor (North Shore Rail Line), Staten Island	10.7
68.	Maryland	Improvement of U.S. Route 1 in Baltimore County, Maryland	11.8
69.	Camden, New Jersey	Renovation of South Jersey Port Corporation's Beckett Street Terminal	8.3
70.	Washington, D.C.	Design and construction of noise barriers along Southeast/ Southwest Freeway and Anacostia Freeway in D.C.	4.7
71.	Anaheim, California	Construction of public HOV facilities to provide public access to I-5 in the vicinity of the Anaheim Regional Transportation Intermodal Complex	14.8
72.	Atlanta, Georgia	Construction of I-20 interchange at Lithonia Industrial Boulevard	11.2
73.	Buffalo, New York	The Southtowns Connector Buffalo, New York	8.5
74.	Tucson, Arizona	Veterans Memorial Interchange/ Palo Verde Overpass Bridge Replacement	2.4
75.	Providence, Rhode Island	Memorial Boulevard Pedestrian/ Traffic Improvements	5.0
76.	Renton, Washington	Houser Way Relocation Expansion	3.0

(3) ALLOCATION PERCENTAGES.—8 percent of the amount allocated by paragraph (2) for each project authorized by paragraph (2) shall be available for obligation in fiscal year 1992. 18.4 percent of such amount shall be available for obligation in each of fiscal years 1993, 1994, 1995, 1996, and 1997.

(4) FEDERAL SHARE.—The Federal share payable on account of any project under this subsection shall be 80 percent of the cost thereof.

(5) DELEGATION TO STATES.—Subject to the provisions of title 23, United States Code, the Secretary shall delegate responsibility for construction of a project or projects under this subsection to the State in which such project or projects are located upon request of such State.

(6) ADVANCE CONSTRUCTION.—When a State which has been delegated responsibility for construction of a project under this subsection—

(A) has obligated all funds allocated under this subsection for construction of such project; and

(B) proceeds to construct such project without the aid of Federal funds in accordance with all procedures and all requirements applicable to such project, except insofar as such procedures and requirements limit the State to the construction of projects with the aid of Federal funds previously allocated to it;

the Secretary, upon the approval of the application of a State, shall pay to the State the Federal share of the cost of construction of the project when additional funds are allocated for such project under this subsection.

(7) APPLICABILITY OF TITLE 23.—Funds authorized by this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under this subsection shall be determined in accordance with this subsection and such funds shall remain available until expended. Funds authorized by this subsection shall not be subject to any obligation limitation.

SEC. 1107. INNOVATIVE PROJECTS.

(a) IN GENERAL.—The purpose of this section is to provide assistance for highway projects demonstrating innovative techniques of highway construction and finance. Each State in which 1 of the projects authorized by subsection (b) is located shall select and use, in carrying out such project, innovative techniques in highway construction or finance. Such techniques may include state-of-the-art technology for pavement, safety, or other aspects of highway construction; innovative financing techniques; or accelerated procedures for construction.

(b) AUTHORIZATION OF PROJECTS.—The Secretary is authorized to carry out the innovative projects described in this subsection. Subject to subsection (c), there is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for fiscal years 1992 through 1997 to carry out each such project the amount listed for each such project:

	City/State	Innovative projects	Amount in millions
1.	Cadiz, Ohio	Construction of 4-lane Limited Access Highway from Cadiz, OH to Interstate 70 Interchange at St. Clairsville, OH along U.S. Rt. 250	20.0
2.	Maryland	Construction of Durham Road Bridge #75 in Harford County, MD	0.5
3.	Maryland	Construction of a replacement bridge at Furnace Road Bridge #74, Harford County, MD	0.6
4.	Maryland	Construction of a replacement bridge at South Hampton Road Bridge #47, Harford County, MD	1.0
5.	Maryland	Construction of a replacement bridge at Wheel Road Bridge #9, Harford County, MD	1.0
6.	Maryland	Construction of a replacement bridge at Watervale Bridge #63, Harford, MD	1.1
7.	Baltimore County, Maryland	Replacement of Papermill Road Bridge #123 in Cockeysville Area of Baltimore, MD	5.3
8.	Southern, Oklahoma	Testing of effectiveness of recyclable materials on a resurfacing project on U.S. 70 in Southern, OK	2.1
9.	Tulsa, Oklahoma	Upgrade U.S. 75 to Expressway standards, Tulsa, OK	14.0
10.	Atlanta, Georgia	For various transportation improvements in connection with the 1996 Olympics, including the city of Atlanta advanced traffic management system (IVHS)	58.1
11.	Chicago, Illinois	Computerized infrastructure management systems, Chicago, IL	4.3
12.	Oceanside, California	Construction of A, B, and C segments of State Route 76	14.4
13.	Carlsbad, California	Improvements to the interchange at Palomar Airport Road and Interstate 5	3.4
14.	Danville, Virginia	To replace bridges on Main and Worsham Streets in Danville, VA	10.0
15.	Mokena, Illinois	For construction of Wolf Road to an area between LaPort Road and U.S. Rt. 30 in Mokena, IL	1.4
16.	Frankfort, Illinois	Village of Frankfort Roadway improvement projects	1.3
17.	Plainfield, Illinois	Replacement of E J & E Viaduct over IL Rt. 59 and Dupage River Tributary	1.0
18.	Romeoville, Illinois	Replacement of 135th Street Bridge, Romeoville, IL	5.9
19.	Water Street, Pennsylvania	Construction of a 2 lane bypass around the Borough of Water Street on U.S. 22 of Pennsylvania	8.0
20.	Holidaysburg, Pennsylvania	To relocate U.S. 22 around the Borough of Holidaysburg, Pennsylvania	52.0
21.	Lewistown, Pennsylvania	For safety improvements on the Narrows to eliminate potential problems brought on by rock slides	1.6
22.	Pennsylvania	To relocate U.S. Rt. 22 North of Lewistown, Pennsylvania	58.3
23.	Reedsville, Pennsylvania	For construction of a 4 lane highway between Reedsville and Seven Mountains, Pennsylvania	35.1
24.	Pennsylvania	To relocate section of railroad tracks between Hagerstown, Maryland and Shippensburg, Pennsylvania to eliminate 23 at-grade crossings and to make connection to an existing railroad line	14.4
25.	Roaring Spring, Pennsylvania	To upgrade to 3 lanes by adding a center turning lane to a section of Pennsylvania 36 from New U.S. 220 to the intersection at Roaring Spring, Pennsylvania	8.8
26.	Altoona, Pennsylvania	To widen and extend Chestnut Avenue from Altoona to Juniata, Pennsylvania	7.12
27.	Bedford County, Pennsylvania	To widen Rt. 30 from the Narrows in Bedford to Mt. Dallas, Pennsylvania	48.0
28.	Brevard County, Florida	Design, acquire right-of-way and construct a widened bridge on State Road 3 over the Barge Canal	6.9
29.	Blacksburg, Montgomery County, Virginia	Construction of 6 mile 4 lane highway to demonstrate intelligent/vehicle highway systems	5.9
30.	Mobile, Alabama	For reconstruction of the West Tunnel Plaza Interchange on I–10 from Virginia Street to Mobile River Tunnel, Mobile, Alabama	15.0
31.	Pennsylvania	To widen U.S. Rt. 202 from King of Prussia to Montgomeryville, Pennsylvania	8.9
32.	Galina, Illinois	To conduct environmental, preliminary engineering and design studies to widen a 47 mile stretch of U.S. 20 to 4 lanes	2.0
33.	Areneck County, Michigan	To improve a 12-mile stretch of U.S. 23 between Rt. 13 and Rt. 65, Michigan	4.7
34.	Brooks, Jim Wells, and Live Oak Counties, Texas	To improve, upgrade and widen U.S. 281 to the Mexican Border	27.6
35.	Alabama	To construct a 4-lane access controlled highway to bypass Montgomery, Alabama and connect I–65 and I–85	11.8
36.	North Dakota	To design computerized system to inventory and manage off system bridge repairs or replacement statewide; begin repair activities	8.9
37.	Los Angeles, California	For preliminary work on a project to enhance the capacity of I–5 in Los Angeles and Orange County from the downtown area to the State Rt. 91 interchange in Buena Park	6.7
38.	Mendon, Illinois	To construct 14.8 miles of Highway 336 from Illinois Rt. 61 near Mendon, Illinois to West Point Road	5.0
39.	Bryden, Washington	Construct 3 miles of new and improved highways connecting Clarkston, Washington with Lewiston, Idaho	3.9
40.	Missouri	To widen I–55 between Rt. M and Rt. 67 in Jefferson County, Missouri	5.1
41.	Jefferson County, Missouri	To upgrade 7.9 miles of Missouri Highway 21 in Jefferson County, Missouri	5.1
42.	St. Louis, Missouri	To construct a 4-Lane outer beltway connecting I–55 and I–44 in St. Louis and Jefferson County, Missouri	7.6
43.	Hillsborough, Florida	Widen and enhance safety and drainage features of I–4 from Tampa to the Hillsborough County Line	24.5

	City/State	Innovative projects	Amount in millions
44.	Wichita, Kansas	To construct a 6 lane access controlled highway and interchange at Oliver Street	6.6
45.	Brigham City, Utah	To construct an interchange on I–15 at Forest St. in Brigham City, Utah	3.6
46.	Utah	For the upgrading of U.S. 89 in Davis and Weber Counties, Utah	3.0
47.	Grand Rapids, Michigan	For construction of a bypass around Grand Rapids, Michigan connecting I–96 and I–196	6.9
48.	Suffolk County/Long Island, New York	Avoid erecting costly areas through selective black topping through high noise road segments	2.0
49.	Suffolk County, New York	Evaluate suitability of composting and recycling for use on Federal-aid highway medians and perimeters	0.4
50.	Springfield, South Dakota	Plan, engineer and construct a bridge across the Missouri River to connect South Dakota Rt. 37 to Nebraska Highway 12	4.7
51.	Vermillion, South Dakota	Engineer and construct bridge across the Missouri River in the vicinity of Vermillion, South Dakota	3.6
52.	Pennsylvania	Design, engineer and construct 2 exits off Interstate 81 at Wilkes-Barre and Mountaintop, Pennsylvania	16.7
53.	Genesse, Michigan	Widen and improve pavement in Mundy Township, from Baldwin Rd. to Cook Rd.	0.16
54.	Flint, Michigan	Engineer, design and construct improved and widened 5-lane road	0.5
55.	Flint, Michigan	Engineer, design and construct 1.02 miles of 5-lane roadway	0.9
56.	Flint, Michigan	Right-of-way acquisition, relocation and construction of Bristol Road	3.1
57.	Salem, Oregon	To construct the Salem Bypass around Salem, Oregon	6.0
58.	Montgomeryville, Pennsylvania	To improve U.S. 202 from Montgomeryville to Doylestown, Pennsylvania	10.8
59.	Amherst/Erie County, New York	Widen 2 miles of Rt. 263 from 2 lanes to 4 lanes and rehabilitate a 4 mile stretch of Rt. 78	7.6
60.	Idaho	To improve the Bryden Canyon Rd. in Lewiston, Idaho	5.3
61.	Mojave, California	Widen and reconstruct bridge to CALTRANS height standards	1.8
62.	Freemont, Iowa	For construction of Iowa highway #2 from Sidney, Iowa to I–29 in Freemont County, Iowa	8.7
63.	Council Bluffs, Iowa	For a variety of improvements to the Valley View Corridor in Council Bluffs, Iowa	1.0
64.	Indiana	Construct extension of Interstate 69 to link Evansville and Indianapolis, Indiana	3.8
65.	Aberdeen, Ohio	U.S. 62 Ohio River Bridge	15.5
66.	Jacksonville, Illinois	U.S. 67 Jacksonville Bypass	15.8
67.	Snohomish, Washington	Snohomish County, Washington HOV Lanes	6.5
68.	Portland/S. Portland, Maine	Portland-S. Portland Bridge	134.5
69.	Iowa	Highway 63 Improvements, Waterloo to New Hampton, Iowa	15.1
70.	Brook Park, Ohio	Aerospace Technology Park Access Rd., Brook Park, Ohio	14.2
71.	California	Rt. 156 Hollister Bypass, San Benito, California	0.9
72.	Monterey, California	Rt. 101, Prunedale, California	4.2
73.	New Jersey	Rt. 21 Viaduct, Newark, New Jersey, City of Newark's Project	14.8
74.	New Jersey	Rt. 21 widening, Newark, New Jersey, City of Newark's Project	13.9
75.	North Carolina	U.S. 64 widening in Chatham and Wake Counties, North Carolina	5.3
76.	Tennessee	I–81/Industrial Park South Interchange, Sullivan County, Tennessee	5.8
77.	Tennessee	Foothills Parkway: Pittman Center to Cosby, Tennessee	11.2
78.	Ohio	Kelly Avenue extension, Akron, Ohio	9.5
79.	Exton, Pennsylvania	Exton Bypass, Exton, Pennsylvania	26.8
80.	Alabama	Black Warrier River Bridge, Tuscaloosa County, Alabama	6.4
81.	Brooklyn Park, Minnesota	Highway 610 crosstown project, Brooklyn Park, Minnesota	36.0
82.	California	I–880/Alvarado-Niles Road Interchange, Union City, California	9.5
83.	Merrysville, Washington	Interstate 5 Interchange improvement: 88th Street, Merrysville, Washington	1.9
84.	Myrtle Beach, South Carolina	Carolina Bays Parkway, Myrtle Beach, South Carolina	5.9
85.	Mississippi	U.S. 90 improvements including 6 lane bridge and approaches, Pascagoula, Mississippi	4.3
86.	Bakersfield, California	Rt. 58 Improvements, Bakersfield, California	4.7
87.	Santa Fe Springs, California	Norwalk Blvd. grade separation, Santa Fe Springs	4.7
88.	Hoquiam, Washington	Gray's Harbor Industrial Corridor Bridge, Hoquiam, Washington	4.7
89.	Traverse City, Michigan	Traverse City Bypass, Traverse City, Michigan	4.5
90.	Nevada	Lamoille Highway widening, Elko County, Nevada	2.4
91.	Reno, Nevada	U.S. 395 Extension, in vicinity of Reno, Nevada	14.8
92.	Carson City, Nevada	Carson City Bypass, Carson City, Nevada	7.6
93.	Columbus, Ohio	I–270 North outerbelt widening, Franklin County, Ohio	10.2
94.	St. Thomas, Virgin Islands	Feasibility study of constructing a second road to the west end of the island	1.7
95.	Illinois	DeQuoin Highway Bridge	2.6
96.	Illinois	Tamarack Street Extension	0.6
97.	Indiana	East Chicago Marina Access Road	8.5
98.	District of Columbia	Hybrid Fuel Cell	3.6
99.	Ohio	Rehabilitation of Bridge on U.S. 224 near State Route 616	1.0

	City/State	Innovative projects	Amount in millions
100.	Arkansas	North Belt Freeway Project, Thornton, Arkansas	8.9
101.	Ft. Worth, Texas	I–35 Basswood Interchange, Ft. Worth, Texas	17.8
102.	Illinois	Illinois 17 road replacement, .2 miles west of Splear Road to Illinois 1: 5.3 miles	1.8
103.	Leroy, Illinois	U.S. 150 road replacement, North of Hemlock Street to South of Gilmore Street in Leroy: 1.6 miles	1.0
104.	Ford County, Illinois	U.S. 24 replacement, 1.1 miles east of Forrest to Ford County Line: 8.0 miles	1.8
105.	Illinois	U.S. 24 road replacement: Crescent City to Illinois 1 in Watseka: 6.3 miles	2.5
106.	Emington, Illinois	Emington Spur road replacement Illinois 47 to Emington: 2.9 miles Emington, Illinois	0.65
107.	Illinois	New Lenox Road Improvement	2.5
108.	Illinois	Shorewood Roadway Improvements	1.3
109.	Illinois	Bridge painting of various moveable bridges to prevent rusting, Chicago, Illinois	2.8
110.	Huntington County, Pennsylvania	Jacobs Timber Bridge over Greater Trough Creek	0.35
111.	Chicago, Illinois	Landscaping, resurfacing, repair and replacement of curbs and gutters, bridge cleaning and repair of lights and redesigning and installation of new signs historic 28 mile Boulevard, Chicago, Illinois	5.4
112.	Cadillac, Michigan	Improvements to highway U.S. 131, north of Cadillac	4.2
113.	Durham County, North Carolina	Accelerated construction of a four-lane divided freeway on Route 147	38.3
114.	Corpus Christi to Angleton, Texas	Construct new multi-lane freeway	41.7
115.	Fort Worth, Texas	Construction of an overpass and frontage road at the Fort Worth Hillwood/I–35 interchange	12.7
116.	West Sacramento, California	Construction of Industrial Boulevard Bridge over Sacramento River Barge Canal in West Sacramento, California	8.3
117.	Baltimore County, Maryland	I–695 Improvements in Baltimore County, Maryland	23.9
118.	Hampton Roads, Virginia	I–64 Crossing of Hampton Roads	5.9
119.	Calumet City, Illinois	Reconstruction of 156th Street and 156th Place from Burkham Avenue to State line	1.3
120.	Frankfort Township, Illinois	Improvements of streets in Frankfort Township	1.0
121.	Matteson, Illinois	I–57 Bridge Improvements	3.6
122.	Illinois	Road Improvement, U.S. 150/Ill. 1 from Belguim to South of Westville	3.8
123.	Illinois	Road Improvement, U.S. 45 from Savoy to Tolono	5.6
124.	Alabama	Patton Island Bridge Project	4.7
125.	Borough of Paulsboro, New Jersey	Construction of a new bridge to improve safety	2.7
126.	Minnesota	Completion of Cross-Range Expressway (Trunk Highway 169)	13.0
127.	Hinckley, Minnesota	Safety and capacity improvements to Trunk Highway 48 and relocation of County Road 134	2.0
128.	Minnesota	Trunk Highway 53, Twig to Trunk Highway 37	9.5
129.	Minnesota	Trunk Highway 169, Grand Rapids to High City	9.0
130.	Minnesota	Trunk Highway 61, Schroeder to Grand Marais	18.0
131.	Wisconsin	Improvements to Highway 41, Oshkosh to Green Bay	41.7
132.	Wisconsin	Improvements to Highway 29, Chippewa Falls to State Trunk Hwy. 73	28.3
133.	Minnesota	Trunk Highway 37 and Hughes Rd	0.5
134.	Pennsylvania	Route 120 widening in vicinity of Lock Haven	4.0
135.	Pennsylvania	Replace U.S. 15 bridge across Tioga River	3.2
136.	Pennsylvania	Wysox Narrows Rd. (U.S. 6)	3.0
137.	Chicago, Illinois	Improvements on Kennedy Expressway, except that the allocation percentages under this section shall not apply to this project and, in lieu thereof, 1/3 of the funds for such projects shall be available for obligation in each of fiscal years 1992, 1993, and 1994	175.0
138.	South Carolina	Southern Connector Highway improvements in Greenville County; Highway 17 Bridge Replacement Projects over Cooper River, Charleston; Carolina Bays Parkway improvements, Myrtle Beach (funds to be equitably divided among these facilities)	11.0
139.	South Carolina	Rail Corridor Revitalization in Columbia, South Carolina	4.0
140.	Rhode Island	For design and construction of a stormdrain retrofit on I–95 and other highway runoff programs to protect Narragansett Bay	13.0
141.	South Kingstown, Rhode Island	For historic renovation and development of an intermodal center at the Kingston Railroad Station	2.0
142.	Lincoln and Cumberland, Rhode Island	For historic rehabilitation of the Albion Bridge and Albion Trench Bridge	2.0
143.	Newport, Rhode Island	To develop the marine mode of the intermodal Gateway Transportation Center	6.0
144.	Bristol, Rhode Island	For road improvements in Bristol, Rhode Island	2.0
145.	Pennsylvania	An applied technology demonstration in advanced technology demonstrations in advanced driver information systems, with a special emphasis on display instrumentation and information communications technology, to be carried out in cooperation with the Center for Advanced Design and Communication Arts Technology at the University of the Arts	2.0
146.	Vermont	Construction of a highway from U.S. 7, North of Bennington, Vermont southwest to NY 7 in Hoosick, NY	20.0
147.	Woonsocket, Rhode Island	For construction of Route 99 Extension	1.96
148.	Woonsocket, Rhode Island	For repaving streets in Woonsocket	1.40
149.	Woonsocket, Rhode Island	For improvements to 3 bridges crossing the Blackstone River	0.35

	City/State	Innovative projects	Amount in millions
150.	Cranston, Rhode Island	For reconstruction and repaving of Park Avenue, Sockanossett Crossroads, Olney Arnold Road, South Comstock Parkway, Wildflower Drive, Aqueduct Road and Mapleton Street	5.7
151.	Rhode Island	For operating expenses of the Rhode Island Public Transit Authority	18.0
152.	New Hampshire	To study corridor protection for New Hampshire Route 16	2.0
153.	North Conway, New Hampshire	To provide congestion relief on U.S. 302 and New Hampshire Route 16	6.3
154.	Kansas	To widen U.S. 81 7–15 miles Belleville to Concordia	7.0
155.	Kansas	To construct Hutchinson Bypass between U.S. 50 and K–96 Hutchinson, Kansas	24.4
156.	Wyoming	For reconstruction of county roads not on the State Highway System by the Wyoming State Department of Transportation	20.0
157.	Virginia	For the rehabilitation, renovation, reconstruction, resurfacing, safety improvements and modernization on the existing 1,069 mile Interstate system in Virginia to be distributed by the Commonwealth Transportation Board, to the maximum extent possible, on an equitable regional basis	63.5
158.	Minnesota	Hennepin County, Minnesota Bloomington Ferry Bridge/C.S.A.H. 18 Replacement Project Bloomington, MN	18.0
159.	Minnesota	Nicollet County, Minnesota C.S.A.H. 41 for roadway stabilization and rockfall control North Mankato, MN	3.0
160.	Minnesota	St. Cloud, Minnesota T.H. 15 bridge across Mississippi River and Interchange with T.H. 10	3.24
161.	Minnesota	Minnesota Safety Initiative Program ($2 million to demonstrate the safety benefits of retroreflective pavement markings and signs, especially for nighttime and older drivers; $1 million to demonstrate the safety and environmental benefits of elastomer modified asphalt in cold weather climates)	3.0
162.	New York, New York	Hell Gate Viaduct: upgrade, repair & paint	55.0
163.	New York, New York	Ferry Landing, Battery Park: Reconstruction of ferry landing within Battery Park	2.0
164.	New York, New York	Foley Square Plaza: Transportation improvements & construction activities for Foley Square Plaza development	5.25
165.	New York, NY	Franklin Delano Roosevelt Drive: To reconstruct & improve several sections of Franklin Delano Roosevelt Drive	10.0
166.	Corning, NY	Corning Bypass Improvements	11.0
167.	Nelson County, North Dakota	Grading & surfacing: from U.S. Highway 2 at Michigan southerly to ND Highway 15 at McVille; and of FAS 3220 from ND 1 to ND 32	8.5
168.	Stutsman County, North Dakota	Surfacing from I–94 north & east through Spiritwood, then north to ND Highway 9	4.0
169.	Steele/Griggs County, North Dakota	Grading & surfacing of FAS 4612 & FAS 2012 from ND 32 to ND 45	2.9
170.	Grand Forks County, North Dakota	Surfacing of FAS 1822 from FAS 1833 to I–29, & FAS 1812 from FAS 1833 to I–29, & FAS 1833 from FAS 1824 to ND 15	2.6
171.	Richland County, North Dakota	Grading & surfacing from Wahpeton to the Froedtert Malting Plant	0.6
172.	Ward/McHenry County, North Dakota	Grading & surfacing FAS 5158 & FAS 2546 from U.S. 83 to ND 41.	4.5
173.	Bottineau County, North Dakota	Grading & surfacing from Bottineau to ND Highway 43	2.4
174.	McKenzie County, North Dakota	Grading & surfacing of FAS 2750 from U.S. 85 west 12 miles	2.3
175.	Wells County, North Dakota	Grading & surfacing of FAS 5215 from FAS 5208 north to the county line, & from U.S. 52, one mile west of Manfred, north to FAS 5208	2.5
176.	Traill County, North Dakota	Grading & surfacing of FAS 4916 from ND 200 east to the Red River	2.8
177.	Eddy County, North Dakota	Grading & surfacing of: FAS 1404 from U.S. 281 east 10.5 miles & from ND 20 west 5.5 miles; & of FAS 1427 from ND 20 south about 8 miles	2.5
178.	Renville/Ward County, North Dakota	Grading & surfacing, starting at FAS 3809 on the Ward County line south 4 miles & then east 2 miles	0.9
179.	Morton County, North Dakota	Grading & surfacing of FAS 3020 from ND 49 southeasterly to FAS 3033	3.1
180.	Walsh County, North Dakota	Surfacing of FAS 5017 from Lankin south to the Nelson County line & FAS 5022 from Fordville east to ND 18	2.5
181.	Dickey County, North Dakota	Grading & surfacing of FAS 1112 from U.S. 281 east to FAS 1127, FAS 1111 from ND 11 south to FAS 1124, & FAS 1137 from ND 11 north to Guelph	4.0
182.	Burke County, North Dakota	Grading & surfacing of FAS 0717 from Lignite south to ND 50	4.4
183.	Morton County, North Dakota	For a bypass from ND 1806 around the westside of Fort Lincoln State Park	3.2
184.	Rolette County, North Dakota	Grading & surfacing from U.S. 281 around the access loop road in the Int'l. Peace Gardens	1.9
185.	Oliver County, North Dakota	Grading & surfacing of FAS 3331 from ND 200A at Hensler southerly to ND 25, & FAS 3304 from FAS 3331 east to FAS 3339	2.9
186.	Williams County, North Dakota	Grading & surfacing at County Rd. 5 from U.S. 2 southerly to ND 1804	2.5

	City/State	Innovative projects	Amount in millions
187.	Plummer, Idaho	Reconstruct a total of 2.9 miles of SH–5 (FAP–14) beginning at M.P. 0.5 in the City of Plummer in Benewah County to M.P. 1.1, and two additional segments located on Peedee Hill from approximately M.P. 3.6 to M.P. 4.9 and M.P. 5.7 to M.P. 6.7	3.6
188.	Lemhi County, Idaho	Reconstruct a 8.3 mile section of U.S. 93 (FAP–35) in Lemhi County at the Idaho/Montana border. 23 U.S.C. 120(a) shall be applicable to the Federal share payable of the cost of such project	25.6
189.	St. Maries, Idaho	Rehabilitate existing pavement structure for a total of 14.2 miles of Idaho Forest Highway 50, the St. Joe River Road between St. Maries and the Benewah/Shoshone County Line	3.4
190.	Lewiston, Idaho	Construct a new road for a total of 2.4 miles along FAU Route 7344, M.P. 0.0–2.4, in Bryden Canyon, Lewiston	3.9
191.	Bear Lake County, Idaho	Reconstruct a 13.0 mile segment of U.S.–89 (FAP–53) between the communities of Montpelier and Geneva	18.5
192.	Alabama	Improvements to Anniston Eastern Bypass, in the vicinity of U.S. 431 and Alabama State Hwy. 21 north of Anniston to the Golden Springs interchange on I–20	11.0
193.	Corning, New York	Additional funding for Corning Bypass (Route 1), except any excess funds from the $13.4 million in total funding for this project shall be available for construction of two additional expressway lanes from Chautauqua Lake Bridge to Pennsylvania border on Route 17	2.4
194.	Billings, Montana	Construction of the Shilo I–90 Interchange	11.0
195.	Missoula, Montana	Construction of the Missoula Airport I–90 Interchange	7.0
196.	Orlando, Florida	Land & right-of-way acquisition & guideway construction for magnetic levitation projection	97.5
197.	Toledo, Ohio	Design & initial construction of a new I–280 Maumee River crossing to replace the Craig Memorial Bridge	37.0
198.	New London-Groton/Bridgeport/New Haven, Connecticut	Rehabilitate or replace: The Gold Star Bridge over the Thames River I–95 between New London & Groton; the Bridge over the Yellow Mill Channel (Bridgeport); & the Tomlinson Bridge on Rte. 1 over the Quinnipiac River (New Haven)	62.0
199.	Raleigh/Rocky Mount/Elizabeth City, North Carolina	Design & Construction of interstate standard highway from Rocky Mount, NC to Elizabeth City, NC, & for the upgrading of I–64 from Raleigh, NC to Rocky Mount, NC, & Rte. 17 from Elizabeth City to Norfolk. A substantial portion of the funding should be used for magnetic levitation projection to Elizabeth segment	30.0
200.	Binghamton, New York	A study of the feasibility of rehabilitation of the South Washington Street Bridge in Binghamton, NY, to identify plans & specifications for repair if feasible.	0.5
201.	District of Columbia	Advanced composite bridge deck demonstration at Catholic University	0.2
202.	Georgia	For any highway improvement projects eligible for funding under title 23, United States Code	27.0
203.	Hawaii	For any highway improvement projects eligible for funding under title 23, United States Code	6.0
204.	Oklahoma	For any highway improvement projects eligible for funding under title 23, United States Code	59.0

(c) ALLOCATION PERCENTAGES.—8 percent of the amount allocated by subsection (b) for each project authorized by subsection (b) shall be available for obligation in fiscal year 1992. 18.4 percent of such amount shall be available for obligation in each of fiscal years 1993, 1994, 1995, 1996, and 1997.

(d) FEDERAL SHARE.—The Federal share payable on account of any project under this section shall be 80 percent of the cost thereof.

(e) DELEGATION TO STATES.—Subject to the provisions of title 23, United States Code, the Secretary shall delegate responsibility for construction of a project or projects under this section to the State in which such project or projects are located upon request of such State.

(f) ADVANCE CONSTRUCTION.—When a State which has been delegated responsibility for construction of a project under this section—

(1) has obligated all funds allocated under this section for construction of such project; and

(2) proceeds to construct such project without the aid of Federal funds in accordance with all procedures and all requirements applicable to such project, except insofar as such procedures and requirements limit the State to the construction of projects with the aid of Federal funds previously allocated to it;

the Secretary, upon the approval of the application of a State, shall pay to the State the Federal share of the cost of construction of the project when additional funds are allocated for such project under this section.

(g) REPORTS.—Not later than 1 year after completion of a project under this section, the State in which such project is located shall submit to the Secretary a report on the innovative techniques used in carrying out such project and on the results obtained through the use of such techniques.

(h) APPLICABILITY OF TITLE 23.—Funds authorized by this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under this section shall be determined in accordance with this section and such funds shall remain available until expended. Funds authorized by this section shall not be subject to any obligation limitation.

SEC. 1108. PRIORITY INTERMODAL PROJECTS.

(a) PURPOSE.—The purpose of this section is to provide for the construction of innovative intermodal transportation projects.

(b) AUTHORIZATION OF PRIORITY PROJECTS.—The Secretary is authorized to carry out the priority intermodal transportation projects described in this subsection. Subject to subsection (c), there is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for fiscal years 1992 through 1997 to carry out each such project the amount listed for each such project:

	City/State	Intermodal projects	Amount in millions
1.	Long Beach, California	Interchange at Terminal Island Freeway and Ocean Boulevard	11.8
2.	Wilmington/Los Angeles, California	Widening of Anaheim Street Viaduct	11.8
3.	Wilmington/Los Angeles, California	Grade Separation Project of Pacific Coast Highway near Alameda Suite	11.8

	City/State	Intermodal projects	Amount in millions
4.	Compton City/Los Angeles County, California ..	Widening of Alameda Street and grade separation between Rt. 91 and Del Amo Boulevard	11.8
5.	Pennsylvania	Upgrading U.S. Highway 30 from Ohio Border to Pittsburgh International Airport ..	3.2
6.	Philadelphia, Pennsylvania ..	Reconstruction of the Old Delaware Avenue Service Road	2.4
7.	Ardmore, Oklahoma	Study of upgraded State Route 53 off U.S. 35 leading to improved Ardmore Airport	2.5
8.	Detroit, Michigan	To relocate Van Dyke Street and construct a road depression under the runway at McNichols Road at the Detroit City Airport ($1,000,000 of the Federal funds shall be for the relocation of Van Dyke Street)	4.3
9.	E. Haven/Wallingford, Connecticut	Improvement of highway and transit projects in East Haven/Wallingford, Connecticut ($8.8 million for East Haven Route 80, $2.4 million for Wallingford I-91, and $0.7 million for Wallingford Oakdale)	10.1
10.	St. Louis, Missouri	Rehabilitation of Eads Bridge, St. Louis, Missouri ...	8.9
11.	Atlanta, Georgia	Study of 5-Points Intermodal Terminal-Atlanta, Georgia	2.4
12.	Buffalo, New York	Construction of Buffalo River/ Gateway Tunnel Project	20.2
13.	Northern California	Purchase right-of-way and develop a transportation corridor in existing rail right-of-way from Larkspur to Korbel, and Novato to Lombard	15.1
14.	Portland, Oregon	To widen 2.7 miles of U.S. 26 from the Zoo interchange to the Sylvan Interchange to accommodate highway lanes and light rail alignment	14.2
15.	Los Angeles, California	For construction of a multi-modal transit parkway that includes both highway and transit improvements on Santa Monica Blvd. from the San Diego Freeway to Hollywood Freeway, Los Angeles, California	8.9
16.	Jacksonville, Florida	Construct new I-295 Interchange and arterial access road to link Jacksonville's seaport, airport terminals and the interstate	7.1
17.	Las Vegas, Nevada	Conduct environmental studies and preliminary engineering for the western and northern portions of the project linking McCarran International Airport with I-15	3.8
18.	Ontario, California	To complete construction of access roads to Ontario International Airport, Ontario, California	4.7
19.	Allegheny County, Pennsylvania	For an expansion of the existing Martin Luther King, Jr. Busway in the vicinity of Allegheny County, Pennsylvania to serve the Greater Pittsburgh International Airport and adjoining communities	21.7
20.	Pierce County, Washington	Conduct feasibility study and analyze expanding Tacoma Narrows Bridge and other transportation alternatives between State Rd. 16 and I-5	0.7
21.	San Jose, California	Upgrade Rt. 87 from 4 to 6 lanes including 2 HOV Lanes, a new freeway interchange and local circulation system for San Jose International Airport ..	14.8
22.	American Samoa	Rehabilitate 8 miles of Tau Road from Falessao to Fatuita American Samoa	1.1
23.	Manu'a Island, American Samoa	Rehabilitate and otherwise improve 8 miles of roadway from Ofu to Olosfaga and Slie	1.2
24.	Spokane, Washington	Conduct feasibility study of future transportation needs of Southeastern Washington	0.8
25.	Detroit, Michigan	To provide for construction of an access road to Detroit Metropolitan Airport including access on the southern end of the airport in order to provide a link to I-275	33.8
26.	Pittsburgh, Pennsylvania	For design and construction of an exclusive busway linking Pittsburgh and the Pittsburgh Airport	9.8
27.	St. Louis, Missouri	To construct a multi-modal transportation facility in St. Louis, Missouri	5.9
28.	Orange & Rockland, New York	To construct park and ride facilities and establish innovative traffic management system measures to promote efficient transportation usage	4.7
29.	Philadelphia, Pennsylvania ..	To improve mobility for a variety of traffic flow projects in the vicinity of the Pennsylvania Convention Center, Philadelphia, Pennsylvania	9.5
30.	Oxnard, California	To extend Rice Rd., widen Hueneme Rd. and construct Rt. 1/Rice Rd. interchange in order to improve access to Port Hueneme, Oxnard, California	8.9
31.	Los Angeles, California	To improve ground access from Sepulveda Blvd. to Los Angeles, California	8.9
32.	Mt. Vernon, New York	To construct an intermodal facility at the Mt. Vernon Rail Station, Mt. Vernon, New York	7.1
33.	Orange County, New York	I-87/I-84 Stuart Airport Interchange Project	15.7
34.	Mississippi	I-20 Interchange at Pirate	3.4
35.	Jackson, Mississippi	Jackson Airport Connectors	3.1
36.	Palmdale, California	Avenue P8 Improvements	3.6
37.	Lafayette, Indiana	Lafayette Railroad Relocation Project	24.3
38.	Provo, Utah	South Access Rd. to Provo Municipal Airport	1.0

	City/State	Intermodal projects	Amount in millions
39.	Pennsylvania	Eastside Connector Project/Port of Erie Access, Erie County, Pennsylvania	7.5
40.	Minneapolis, Minnesota	Intermodal Urban connection project, Minneapolis, Minnesota	19.9
41.	Kansas City, Missouri	Bruce Watkins Roadway Improvements	1.4
42.	Missouri	Smith Riverfront Expressway, Jackson/Kansas City, Missouri	12.7
43.	Portland, Oregon	Columbia Slough Intermodal Expansion Bridge, Portland, Oregon	2.1
44.	Ft. Worth, Texas	Ft. Worth Intermodal Center	13.4
45.	Gary, Indiana	Extension of U.S. Highway 12/20 to Lake Michigan	2.2
46.	Carson/Los Angeles Counties, California	Grade Separation Project at Sepulveda Boulevard and Alameda Street	9.5
47.	Williamson, Travis, Caldwell, and Guadalupe, Texas	Feasibility studies (including the effect of closing Bergstrom AFB on traffic corridor), Route studies, preliminary engineering, and right-of-way acquisition for Alternate Route to relieve I–H35 traffic congestion	5.2
48.	Augusta, Georgia	Railroad relocation demonstration project, overpass at 15th Street and Greene Street	5.9
49.	Louisiana	Saint Bernard Intermodal Facility Engineering, Design, and Construction	10.2
50.	Illinois	Interstate 255 Interchange	3.4
51.	Long Beach, California	Long Beach Airport Access	8.5

(c) ALLOCATION PERCENTAGES.—8 percent of the amount allocated by subsection (b) for each project authorized by subsection (b) shall be available for obligation in fiscal year 1992. 18.4 percent of such amount shall be available for obligation in each of fiscal years 1993, 1994, 1995, 1996, and 1997.

(d) FEDERAL SHARE.—The Federal share payable on account of any project under this section shall be 80 percent of the cost thereof.

(e) DELEGATION TO STATES.—Subject to the provisions of title 23, United States Code, the Secretary shall delegate responsibility for construction of a project or projects under this section to the State in which such project or projects are located upon request of such State.

(f) ADVANCE CONSTRUCTION.—When a State which has been delegated responsibility for construction of a project under this section—

(1) has obligated all funds allocated under this section for construction of such project; and

(2) proceeds to construct such project without the aid of Federal funds in accordance with all procedures and all requirements applicable to such project, except insofar as such procedures and requirements limit the State to the construction of projects with the aid of Federal funds previously allocated to it;

the Secretary, upon the approval of the application of a State, shall pay to the State the Federal share of the cost of construction of the project when additional funds are allocated for such project under this section.

(g) APPLICABILITY OF TITLE 23.—Funds authorized by this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under this section shall be determined in accordance with this section and such funds shall remain available until expended. Funds authorized by this section shall not be subject to any obligation limitation.

(h) HIGHWAY AND MASS TRANSIT PROJECTS.—Each project authorized by this section or by any other section of this Act is a highway or an urban mass transportation project.

SEC. 1109. INFRASTRUCTURE AWARENESS PROGRAM.

(a) IN GENERAL.—For the purpose of creating an awareness by the public and State and local governments of the state of the Nation's infrastructure and to encourage and stimulate efforts by the public and such governments to undertake studies and projects to improve the infrastructure, the Secretary is authorized to fund the production of a documentary in cooperation with a not-for-profit national public television station.

(b) FUNDING.—There is authorized to be appropriated to the Secretary to carry out this section $2,000,000 for fiscal years beginning after September 30, 1991, out of the Highway Trust Fund (other than the Mass Transit Account), which shall remain available until expended. All of the provisions of chapter 1 of title 23, United States Code, shall apply to the funds provided under this section. This section shall not be subject to any obligation limitation.

PART B—NATIONAL RECREATIONAL TRAILS FUND ACT

SEC. 1301. SHORT TITLE.

This part may be cited as the "Symms National Recreational Trails Act of 1991".

SEC. 1302. NATIONAL RECREATIONAL TRAILS FUNDING PROGRAM.

(a) IN GENERAL.—The Secretary, in consultation with the Secretary of the Interior, using amounts available in the Fund, shall administer a program allocating moneys to the States for the purposes of providing and maintaining recreational trails.

(b) STATEMENT OF INTENT.—Moneys made available under this part are to be used on trails and trail-related projects which have been planned and developed under the otherwise existing laws, policies and administrative procedures within each State, and which are identified in, or which further a specific goal of, a trail plan included or referenced in a Statewide Comprehensive Outdoor Recreation Plan required by the Land and Water Conservation Fund Act.

(c) STATE ELIGIBILITY.—

(1) TRANSITIONAL PROVISION.—Until the date that is 3 years after the date of enactment of this Act, a State shall be eligible to receive moneys under this Act only if such State's application proposes to use the moneys as provided in subsection (e).

(2) PERMANENT PROVISION.—On and after the date that is three years after the date of the enactment of this Act, a State shall be eligible to receive moneys under this part only if—

(A) a recreational trail advisory board on which both motorized and nonmotorized recreational trail users are represented exists within the State;

(B) in the case of a State that imposes a tax on nonhighway recreational fuel, the State by law reserves a reasonable estimation of the revenues from that tax for use in providing and maintaining recreational trails;

(C) the Governor of the State has designated the State official or officials who will be responsible for administering moneys received under this Act; and

(D) the State's application proposes to use moneys received under this part as provided in subsection (e).

(d) ALLOCATION OF MONEYS IN THE FUND.—

(1) ADMINISTRATIVE COSTS.—No more than 3 percent of the expenditures made annually from the Fund may be used to pay the cost to the Secretary for—

(A) approving applications of States for moneys under this part;

(B) paying expenses of the National Recreational Trails Advisory Committee;

(C) conducting national surveys of nonhighway recreational fuel consumption by State, for use in making determinations and estimations pursuant to this part; and

(D) if any such funds remain unexpended, research on methods to accommodate multiple trail uses and increase the compatibility of those uses, information dissemination, technical assistance, and preparation of a national trail plan as required by the National Trails System Act (16 U.S.C. 1241 et al).

(2) ALLOCATION TO STATES.—

(A) AMOUNT.—Amounts in the Fund remaining after payment of the administrative costs described in paragraph (1), shall be allocated and paid to the States annually in the following proportions:

(i) EQUAL AMOUNTS.—50 percent of such amounts shall be allocated equally among eligible States.

(ii) AMOUNTS PROPORTIONATE TO NONHIGHWAY RECREATIONAL FUEL USE.—50 percent of such amounts shall be allocated among eligible States in proportion to the amount of nonhighway recreational fuel use during the preceding year in each such State, respectively.

(B) USE OF DATA.—In determining amounts of nonhighway recreational fuel use for the purpose of subparagraph (A)(ii), the Secretary may consider data on off-highway vehicle registrations in each State.

(3) LIMITATION ON OBLIGATIONS.—The provisions of paragraphs (1) and (2) notwithstanding, the total of all obligations for recreational trails under this section shall not exceed—

(A) $30,000,000 for fiscal year 1992;
(B) $30,000,000 for fiscal year 1993;
(C) $30,000,000 for fiscal year 1994;
(D) $30,000,000 for fiscal year 1995;
(E) $30,000,000 for fiscal year 1996; and
(F) $30,000,000 for fiscal year 1997.

(e) USE OF ALLOCATED MONEYS.—

(1) PERMISSIBLE USES.—A State may use moneys received under this part for—

(A) in an amount not exceeding 7 percent of the amount of moneys received by the State, administrative costs of the State;

(B) in an amount not exceeding 5 percent of the amount of moneys received by the State, operation of environmental protection and safety education programs relating to the use of recreational trails;

(C) development of urban trail linkages near homes and workplaces;

(D) maintenance of existing recreational trails, including the grooming and maintenance of trails across snow;

(E) restoration of areas damaged by usage of recreational trails and back country terrain;

(F) development of trail-side and trail-head facilities that meet goals identified by the National Recreational Trails Advisory Committee;

(G) provision of features which facilitate the access and use of trails by persons with disabilities;

(H) acquisition of easements for trails, or for trail corridors identified in a State trail plan;

(I) acquisition of fee simple title to property from a willing seller, when the objective of the acquisition cannot be accomplished by acquisition of an easement or by other means;

(J) construction of new trails on State, county, municipal, or private lands, where a recreational need for such construction is shown; and

(K) only as otherwise permissible, and where necessary and required by a State Comprehensive Outdoor Recreation plan, construction of new trails crossing Federal lands, where such construction is approved by the administering agency of the State, and the Federal agency or agencies charged with management of all impacted lands, such approval to be contingent upon compliance by the Federal agency with all applicable laws, including the National Environmental Policy Act (42 U.S.C. 4321 et seq.), the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended (16 U.S.C. 1600 et seq.), and the Federal Land Policy and Management Act (43 U.S.C. 1701 et seq.).

(2) USE NOT PERMITTED.—A State may not use moneys received under this part for—

(A) condemnation of any kind of interest in property;

(B)(i) construction of any recreational trail on National Forest System lands for motorized uses unless such lands:

(I) have been allocated for uses other than wilderness by an approved Forest land and resource management plan or have been released to uses other than wilderness by an Act of Congress, and

(II) such construction is otherwise consistent with the management direction in such approved land and resource management plan; or

(ii) construction of any recreational trail on Bureau of Land Management lands for motorized uses unless such lands:

(I) have been allocated for uses other than wilderness by an approved Bureau of Land Management resource management plan or have been released to uses other than wilderness by an Act of Congress, and

(II) such construction is otherwise consistent with the management direction in such approved management plans; or

(C) upgrading, expanding, or otherwise facilitating motorized use or access to trails predominantly used by non-motorized trail users and on which, as of May 1, 1991, motorized use is either prohibited or has not occurred.

(3) GRANTS.—

(A) IN GENERAL.—A State may provide moneys received under this part to make grants to private individuals, organizations, city and county governments, and other government entities as approved by the State after considering guidance from the recreational trail advisory board satisfying the requirements of subsection (c)(2)(A), for uses consistent with this section.

(B) COMPLIANCE.—A State that issues such grants under subparagraph (A) shall establish measures to verify that recipients comply with the specified conditions for the use of grant moneys.

(4) ASSURED ACCESS TO FUNDS.—Except as provided under paragraphs (6) and (8)(B), not less than 30 percent of the moneys received annually by a State under this part shall be reserved for uses relating to motorized recreation, and not less than 30 percent of those moneys shall be reserved for uses relating to non-motorized recreation.

(5) DIVERSIFIED TRAIL USE.—

(A) REQUIREMENT.—To the extent practicable and consistent with other requirements of this section, a State shall expend moneys received under this part in a manner that gives preference to project proposals which—

(i) provide for the greatest number of compatible recreational purposes including, but not limited to, those described under the definition of "recreational trail" in subsection (g)(5); or

(ii) provide for innovative recreational trail corridor sharing to accommodate motorized and non-motorized recreational trail use.

This paragraph shall remain effective until such time as a State has allocated not less than 40 percent of moneys received under this part in the aforementioned manner.

(B) COMPLIANCE.—The State shall receive guidance for determining compliance with subparagraph (A) from the recreational trail advisory board satisfying the requirements of subsection (c)(2)(A).

(6) SMALL STATE EXCLUSION.—Any State with a total land area of less than 3,500,000 acres, and in which nonhighway recreational fuel use accounts for less than 1 per centum of all such fuel use in the United States, shall be exempted from the requirements of paragraph (4) of this subsection upon application to the Secretary by the State demonstrating that it meets the conditions of this paragraph.

(7) CONTINUING RECREATIONAL USE.—At the option of each State, moneys made available pursuant to this part may be treated as Land and Water Conservation Fund moneys for the purposes of section 6(f)(3) of the Land and Water Conservation Fund Act.

(8) RETURN OF MONEYS NOT EXPENDED.—

(A) Except as provided in subparagraph (B), moneys paid to a State that are not expended or dedicated to a specific project within 4 years after receipt for the purposes stated in this subsection shall be returned to the Fund and shall thereafter be reallocated under the formula stated in subsection (d).

(B) If approved by the State recreational trail advisory board satisfying the requirements of subsection (c)(2)(A), may be exempted from the requirements of paragraph (4) and expended or committed to projects for purposes otherwise stated in this subsection for a period not to extend beyond 4 years after receipt, after which any remaining moneys not expended or dedicated shall be returned to the Fund and shall thereafter be reallocated under the formula stated in subsection (d).

(f) COORDINATION OF ACTIVITIES.—

(1) COOPERATION BY FEDERAL AGENCIES.—Each agency of the United States Government that manages land on which a State proposes to construct or maintain a recreation trail pursuant to this part is encouraged to cooperate with the State and the Secretary in planning and carrying out the activities described in subsection (e). Nothing in this part diminishes or in any way alters the land management responsibilities, plans and policies established by such agencies pursuant to other applicable laws.

(2) COOPERATION BY PRIVATE PERSONS.—

(A) WRITTEN ASSURANCES.—As a condition to making available moneys for work on recreational trails that would affect privately owned land, a State shall obtain written assurances that the owner of the property will cooperate with the State and participate as necessary in the activities to be conducted.

(B) PUBLIC ACCESS.—Any use of a State's allocated moneys on private lands must be accompanied by an easement or other legally binding agreement that ensures public access to the recreational trail improvements funded by those moneys.

(g) DEFINITIONS.—For the purposes of this section—

(1) ELIGIBLE STATE.—The term "eligible State" means a State that meets the requirements stated in subsection (c).

(2) FUND.—The term "Fund" means the National Recreational Trails Trust Fund established by section 9511 of the Internal Revenue Code of 1986.

(3) NONHIGHWAY RECREATIONAL FUEL.—The term "nonhighway recreational fuel" has the meaning stated in section 9503(c)(6) of the Internal Revenue Code of 1986.

(4) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

(5) RECREATIONAL TRAIL.—The term "recreational trail" means a thoroughfare or track across land or snow, used for recreational purposes such as bicycling, cross-country skiing, day hiking, equestrian activities, jogging or similar fitness activities, trail biking, overnight and long-distance backpacking, snowmobiling, aquatic or water activity and vehicular travel by motorcycle, four-wheel drive or all-terrain off-road vehicles, without regard to whether it is a "National Recreation Trail" designated under section 4 of the National Trails System Act (16 U.S.C. 1243).

(6) MOTORIZED RECREATION.—The term "motorized recreation" may not include motorized conveyances used by persons with disabilities, such as self-propelled wheelchairs, at the discretion of each State.

SEC. 1303. NATIONAL RECREATIONAL TRAILS ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—There is established the National Recreational Trails Advisory Committee.

(b) MEMBERS.—There shall be 11 members of the advisory committee, consisting of—

(1) 8 members appointed by the Secretary from nominations submitted by recreational trail user organizations, one each representing the following recreational trail uses:

(A) hiking,
(B) cross-country skiing,
(C) off-highway motorcycling,
(D) snowmobiling,
(E) horseback riding,
(F) all-terrain vehicle riding,
(G) bicycling, and
(H) four-wheel driving;

(2) an appropriate official of government with a background in science or natural resources management, including any official of State or local government, designated by the Secretary;

(3) 1 member appointed by the Secretary from nominations submitted by water trail user organizations; and

(4) 1 member appointed by the Secretary from nominations submitted by hunting and fishing enthusiast organizations.

(c) CHAIRMAN.—The Chair of the advisory committee shall be the government official referenced in subsection (b)(2), who shall serve as a non-voting member.

(d) SUPPORT FOR COMMITTEE ACTION.—Any action, recommendation, or policy of the advisory committee must be supported by at least five of the members appointed under subsection (b)(1).

(e) TERMS.—Members of the advisory committee appointed by the Secretary shall be appointed for terms of three years, except that the members filling five of the eleven positions shall be initially appointed for terms of two years, with subsequent appointments to those positions extending for terms of three years.

(f) DUTIES.—The advisory committee shall meet at least twice annually to—

(1) review utilization of allocated moneys by States;

(2) establish and review criteria for trail-side and trail-head facilities that qualify for funding under this part; and

(3) make recommendations to the Secretary for changes in Federal policy to advance the purposes of this part.

(g) ANNUAL REPORT.—The advisory committee shall present to the Secretary an annual report on its activities.

(h) REIMBURSEMENT FOR EXPENSES.—Non-governmental members of the advisory committee shall serve without pay, but, to the extent funds are available pursuant to section 1302(d)(1)(B), shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties.

(i) REPORT TO CONGRESS.—Not later than 4 years after the date of the enactment of this Act, the Secretary shall prepare and submit to the Committee on Environment and Public Works of the Senate, and the Committee on Public Works and Transportation of the House of Representatives, a study which summarizes the annual reports of the National Recreational Trails Advisory Committee, describes the allocation and utilization of moneys under this part, and contains recommendations for changes in Federal policy to advance the purposes of this part.

TITLE II—HIGHWAY SAFETY

PART A—HIGHWAY SAFETY GRANT PROGRAMS

SEC. 2001. SHORT TITLE.

This part may be cited as the "Highway Safety Act of 1991".

SEC. 2002. HIGHWAY SAFETY PROGRAMS.

(a) UNIFORM GUIDELINES.—Section 402(a) of title 23, United States Code, is amended by inserting after the third sentence the following: "In addition, such uniform guidelines shall include programs (1) to reduce injuries and deaths resulting from motor vehicles being driven in excess of posted speed limits, (2) to encourage the proper use of occupant protection devices (including the use of safety belts and child restraint systems) by occupants of motor vehicles and to increase public awareness of the benefit of motor vehicles equipped with airbags, (3) to reduce deaths and injuries resulting from persons driving motor vehicles while impaired by alcohol or a controlled substance, (4) to reduce deaths and injuries resulting from accidents involving motor vehicles and motorcycles, (5) to reduce injuries and deaths resulting from accidents involving school buses, and (6) to improve law enforcement services in motor vehicle accident prevention, traffic supervision, and post-accident procedures. If the Secretary does not designate as priority programs those programs described in the preceding sentence, the Secretary shall submit to Congress a report describing the reasons for not prioritizing such programs. The Secretary shall establish a highway safety program for the collection and reporting of data on traffic-related deaths and injuries by the States. Under such program, the States shall collect and report such data as the Secretary may require. The purposes of the program are to ensure national uniform data on such deaths and injuries and to allow the Secretary to make determinations for use in developing programs to reduce such deaths and injuries and making recommendations to Congress concerning legislation necessary to implement such programs. The program shall include information obtained by the Secretary under section 4007 of the Intermodal Surface Transportation Efficiency Act of 1991 and provide for annual reports to the Secretary on the efforts being made by the States in reducing deaths and injuries occurring at highway construction sites and the effectiveness and results of such efforts. The Secretary shall establish minimum reporting criteria for the program. Such criteria shall include, but not be limited to, criteria on deaths and injuries resulting from police pursuits, school bus accidents, and speeding, on traffic-related deaths and injuries at highway construction sites and on the configuration of commercial motor vehicles involved in motor vehicle accidents.".

(b) ADMINISTRATIVE REQUIREMENTS AND USE OF TECHNOLOGY FOR TRAFFIC ENFORCEMENT.—Section 402(b) of such title is amended by adding at the end the following new paragraphs:

"(3) ADMINISTRATIVE REQUIREMENTS.—The Secretary may not approve a State highway safety program under this section which does not—

"(A) provide that the Governor of the State shall be responsible for the administration of the program through a State highway safety agency which shall have adequate powers and be suitably equipped and organized to carry out, to the satisfaction of the Secretary, such program;

"(B) authorize political subdivisions of the State to carry out local highway safety programs within their jurisdictions as a part of the State highway safety program if such local highway safety programs are approved by the Governor and are in accordance with the minimum standards established by the Secretary under this section;

"(C) except as provided in paragraph (5), provide that at least 40 percent of all Federal funds apportioned under this section to the State for any fiscal year will be expended by the political subdivisions of the State, including Indian tribal governments, in carrying out local highway safety programs authorized in accordance with subparagraph (B); and

"(D) provide adequate and reasonable access for the safe and convenient movement of individuals with disabilities, including those in wheelchairs, across curbs constructed or replaced on or after July 1, 1976, at all pedestrian crosswalks throughout the State.

"(4) WAIVER.—The Secretary may waive the requirement of paragraph (3)(C), in whole or in part, for a fiscal year for any State whenever the Secretary determines that there is an insufficient number of local highway safety programs to justify the expenditure in the State of such percentage of Federal funds during the fiscal year.

"(5) USE OF TECHNOLOGY FOR TRAFFIC ENFORCEMENT.—The Secretary may encourage States to use technologically advanced traffic enforcement devices (including the use of automatic speed detection devices such as photoradar) by law enforcement officers.".

(c) CONFORMING AMENDMENT.—Section 402(d) of such title is amended by striking "Federal-aid primary" and inserting "National Highway System".

SEC. 2003. HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.

(a) GENERAL AUTHORITY; DRUGS, AND DRIVER BEHAVIOR.—Section 403 of title 23, United States Code, is amended by striking subsections (a) and (b) and inserting the following new subsections:

"(a) AUTHORITY OF THE SECRETARY.—

"(1) IN GENERAL.—The Secretary is authorized to use funds appropriated to carry out this section to engage in research on all phases of highway safety and traffic conditions.

"(2) ADDITIONAL AUTHORITY.—In addition, the Secretary may use the funds appropriated to carry out this section, either independently or in cooperation with other Federal departments or agencies, for—

"(A) training or education of highway safety personnel,

"(B) research fellowships in highway safety,

"(C) development of improved accident investigation procedures,

"(D) emergency service plans,

"(E) demonstration projects, and

"(F) related research and development activities which the Secretary deems will promote the purposes of this section.

"(3) SAFETY DEFINED.—As used in this section, the term 'safety' includes highway safety and highway safety-related research and development, including research and development relating to highway and driver characteristics, crash investigations, communications, emergency medical care, and transportation of the injured.

"(b) DRUGS AND DRIVER BEHAVIOR.—In addition to the research authorized by subsection (a), the Secretary, in consultation with other Government and private agencies as may be necessary, is authorized to carry out safety research on the following:

"(1) The relationship between the consumption and use of drugs and their effect upon highway safety and drivers of motor vehicles.

"(2) Driver behavior research, including the characteristics of driver performance, the relationships of mental and physical abilities or disabilities to the driving task, and the relationship of frequency of driver crash involvement to highway safety.".

(b) COLLABORATIVE RESEARCH AND DEVELOPMENT.—Section 403 of such title is amended by striking subsection (f) and inserting the following new subsection:

"(f) COLLABORATIVE RESEARCH AND DEVELOPMENT.—

"(1) IN GENERAL.—For the purpose of encouraging innovative solutions to highway safety problems, stimulating voluntary improvements in highway safety, and stimulating the marketing of new highway safety-related technology by private industry, the Secretary is authorized to undertake, on a cost-shared basis, collaborative research and development with non-Federal entities, including State and local governments, colleges, and universities and corporations, partnerships, sole proprietorships, and trade associations that are incorporated or established under the laws of any State or the United States. This collaborative research may include crash data collection and analysis; driver and pedestrian behavior; and demonstrations of technology.

"(2) COOPERATIVE AGREEMENTS.—In carrying out this subsection, the Secretary may enter into cooperative research and development agreements, as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a); except that in entering into such agreements, the Secretary may agree to provide not more than 50 percent of the cost of any research or development project selected by the Secretary under this subsection.

"(3) PROJECT SELECTION.—In selecting projects to be conducted under this subsection, the Secretary shall establish a procedure to consider the views of experts and the public concerning the project areas.

"(4) APPLICABILITY OF STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT.—The research, development, or utilization of any technology pursuant to an agreement under the provisions of this subsection, including the terms under which technology may be licensed and the resulting royalties may be distributed, shall be subject to the provisions of the Stevenson-Wydler Technology Innovation Act of 1980.".

(c) CONFORMING AMENDMENT.—Section 403(c) of such title is amended by striking "subsection (b)" and inserting "subsections (a) and (b)".

SEC. 2004. ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES.

(a) IN GENERAL.—Section 410 of title 23, United States Code, is amended to read as follows:

"§410. Alcohol-impaired driving countermeasures

"(a) GENERAL AUTHORITY.—Subject to the provisions of this section, the Secretary shall make grants to those States which adopt and implement effective programs to reduce traffic safety problems resulting from persons driving while under the influence of alcohol or a controlled substance. Such grants may only be used by recipient States to implement and enforce such programs.

"(b) MAINTENANCE OF EFFORT.—No grant may be made to a State under this section in any fis-

cal year unless such State enters into such agreements with the Secretary as the Secretary may require to ensure that such State will maintain its aggregate expenditures from all other sources for alcohol traffic safety programs at or above the average level of such expenditures in its 2 fiscal years preceding the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991.

"(c) BASIC GRANT ELIGIBILITY.—A State is eligible for a basic grant under this section in a fiscal year only if such State provides for 4 or more of the following:

"(1) Establishes an expedited driver's license suspension or revocation system for persons who operate motor vehicles while under the influence of alcohol which requires that—

"(A) when a law enforcement officer has probable cause under State law to believe a person has committed an alcohol-related traffic offense and such person is determined, on the basis of a chemical test, to have been under the influence of alcohol while operating the motor vehicle or refuses to submit to such a test as proposed by the officer, the officer shall serve such person with a written notice of suspension or revocation of the driver's license of such person and take possession of such driver's license;

"(B) the notice of suspension or revocation referred to in subparagraph (A) shall provide information on the administrative procedures under which the State may suspend or revoke in accordance with the objectives of this section a driver's license of a person for operating a motor vehicle while under the influence of alcohol and shall specify any rights of the operator under such procedures;

"(C) the State shall provide, in the administrative procedures referred to in subparagraph (B), for due process of law, including the right to an administrative review of a driver's license suspension or revocation within the time period specified in subparagraph (F);

"(D) after serving notice and taking possession of a driver's license in accordance with subparagraph (A), the law enforcement officer immediately shall report to the State entity responsible for administering drivers' licenses all information relevant to the action taken in accordance with this clause;

"(E) in the case of a person who, in any 5-year period beginning after the date of enactment of this section, is determined on the basis of a chemical test to have been operating a motor vehicle under the influence of alcohol or is determined to have refused to submit to such a test as proposed by the law enforcement officer, the State entity responsible for administering drivers' licenses, upon receipt of the report of the law enforcement officer—

"(i) shall suspend the driver's license of such person for a period of not less than 90 days if such person is a first offender in such 5-year period; and

"(ii) shall suspend the driver's license of such person for a period of not less than 1 year, or revoke such license, if such person is a repeat offender in such 5-year period; and

"(F) the suspension and revocation referred to under subparagraph (D) shall take effect not later than 30 days after the day on which the person first received notice of the suspension or revocation in accordance with subparagraph (B).

"(2)(A) For each of the first three fiscal years in which a grant is received, any person with a blood alcohol concentration of 0.10 percent or greater when driving a motor vehicle shall be deemed to be driving while intoxicated; and

"(B) for each of the last two fiscal years in which a grant is received any person with a blood alcohol concentration of 0.08 percent or greater when driving a motor vehicle shall be deemed to be driving while intoxicated.

"(3) A statewide program for stopping motor vehicles on a nondiscriminatory, lawful basis for the purpose of determining whether or not the operators of such motor vehicles are driving while under the influence of alcohol.

"(4) A self-sustaining drunk driving prevention program under which a significant portion of the fines or surcharges collected from individuals apprehended and fined for operating a motor vehicle while under the influence of alcohol are returned, or an equivalent amount of non-Federal funds are provided, to those communities which have comprehensive programs for the prevention of such operations of motor vehicles.

"(5) An effective system for preventing operators of motor vehicles under age 21 from obtaining alcoholic beverages. Such system may include the issuance of drivers' licenses to individuals under age 21 that are easily distinguishable in appearance from drivers' licenses issued to individuals age 21 years of age or older.

"(d) AMOUNT OF BASIC GRANTS.—The amount of a basic grant to be made in a fiscal year under this section to a State eligible to receive such grant shall be 65 percent of the amount of funds apportioned to such State in such fiscal year under this section.

"(e) SUPPLEMENTAL GRANTS.—

"(1) BLOOD ALCOHOL CONCENTRATION FOR PERSONS UNDER AGE 21.—A State shall be eligible to receive a supplemental grant in a fiscal year of 5 percent of the amount apportioned to the State in the fiscal year under this section if the State is eligible for a basic grant in the fiscal year and provides that any person under age 21 with a blood alcohol concentration of 0.02 percent or greater when driving a motor vehicle shall be deemed to be driving while intoxicated.

"(2) OPEN CONTAINER LAWS.—A State shall be eligible to receive a supplemental grant in a fiscal year of 5 percent of the amount apportioned to the State in the fiscal year under this section if the State is eligible for a basic grant in the fiscal year and makes unlawful the possession of any open alcoholic beverage container, or the consumption of any alcoholic beverage, in the passenger area of any motor vehicle located on a public highway or the right-of-way of a public highway, except—

"(A) as allowed in the passenger area, by persons (other than the driver), of any motor vehicle designed to transport more than 10 passengers (including the driver) while being used to provide charter transportation of passengers; or

"(B) as otherwise specifically allowed by such State, with the approval of the Secretary, but in no event may the driver of such motor vehicle be allowed to possess or consume an alcoholic beverage in the passenger area.

"(3) SUSPENSION OF REGISTRATION AND RETURN OF LICENSE PLATES.—A State shall be eligible to receive a supplemental grant in a fiscal year of 5 percent of the amount apportioned to the State in the fiscal year under this section if the State is eligible for a basic grant in the fiscal year and provides for the suspension of the registration of, and the return to such State of the license plates for an individual who—

"(A) has been convicted on more than 1 occasion of an alcohol-related traffic offense within any 5-year period beginning after the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991; or

"(B) has been convicted of driving while his or her driver's license is suspended or revoked by reason of a conviction for such an offense.

A State may provide limited exceptions to such suspension of registration or return of license plates on an individual basis to avoid undue hardship to any individual (including any family member of the convicted individual and any co-owner of the motor vehicle) who is completely dependent on the motor vehicle for the necessities of life. Such exceptions may not result in unrestricted reinstatement of the registration of the motor vehicle, unrestricted return of the license plates of the motor vehicle, or unrestricted return of the motor vehicle.

"(4) MANDATORY BLOOD ALCOHOL CONCENTRATION TESTING PROGRAMS.—A State shall be eligible to receive a supplemental grant in a fiscal year of 5 percent of the amount apportioned to the State in the fiscal year under this section if the State is eligible for a basic grant in the fiscal year and provides for mandatory blood alcohol concentration testing whenever a law enforcement officer has probable cause under State law to believe that a driver of a motor vehicle involved in an accident resulting in the loss of human life or, as determined by the Secretary, serious bodily injury, has committed an alcohol-related traffic offense.

"(5) DRUGGED DRIVING PREVENTION.—A State shall be eligible to receive a supplemental grant in a fiscal year of 5 percent of the amount apportioned to the State in the fiscal year under this section if the State is eligible for a basic grant in the fiscal year and—

"(A) provides for laws concerning drugged driving under which—

"(i) a person shall not drive or be in actual physical control of a motor vehicle while under the influence of alcohol, a controlled substance, a combination of controlled substances, or any combination of alcohol and controlled substances;

"(ii) any person who operates a motor vehicle upon the highways of the State shall be deemed to have given consent to a test or tests of his or her blood, breath, or urine for the purpose of determining the blood alcohol concentration or the presence of controlled substances in his or her body; and

"(iii) the driver's license of a person shall be suspended promptly, for a period of not less than 90 days in the case of a first offender and not less than 1 year in the case of any repeat offender, when a law enforcement officer has probable cause under State law to believe such person has committed a traffic offense relating to controlled substances use, and such person (I) is determined, on the basis of 1 or more chemical tests, to have been under the influence of controlled substances while operating a motor vehicle, or (II) refuses to submit to such a test as proposed by the officer;

"(B) has in effect a law which provides that—

"(i) any person convicted of a first violation of driving under the influence of controlled substances or alcohol, or both, shall receive—

"(I) a mandatory license suspension for a period of not less than 90 days; and

"(II) either an assignment of 100 hours of community service or a minimum sentence of imprisonment for 48 consecutive hours;

"(ii) any person convicted of a second violation of driving under the influence of controlled substances or alcohol, or both, within 5 years after a conviction for the same offense shall receive a mandatory minimum sentence of imprisonment for 10 days and license revocation for not less than 1 year;

"(iii) any person convicted of a third or subsequent violation of driving under the influence of controlled substances or alcohol, or both, within 5 years after a prior conviction for the same offense shall—

"(I) receive a mandatory minimum sentence of imprisonment for 120 days; and

"(II) have his or her license revoked for not less than 3 years; and

"(iv) any person convicted of driving with a suspended or revoked license or in violation of a restriction imposed as a result of a conviction for driving under the influence of controlled substances or alcohol, or both, shall receive a

mandatory sentence of imprisonment for at least 30 days, and shall upon release from imprisonment receive an additional period of license suspension or revocation of not less than the period of suspension or revocation remaining in effect at the time of commission of the offense of driving with a suspended or revoked license;

"(C) provides for an effective system, as determined by the Secretary, for—

"(i) the detection of driving under the influence of controlled substances;

"(ii) the administration of a chemical test or tests to any driver who a law enforcement officer has probable cause under State law to believe has committed a traffic offense relating to controlled substances use; and

"(iii) in instances where such probable cause exists, the prosecution of (I) those persons who are determined, on the basis of 1 or more chemical tests, to have been operating a motor vehicle while under the influence of controlled substances and (II) those persons who refuse to submit to such a test as proposed by a law enforcement officer; and

"(D) has in effect 2 of the following programs:

"(i) An effective educational program, as determined by the Secretary, for the prevention of driving under the influence of controlled substances.

"(ii) An effective program, as determined by the Secretary, for training law enforcement officers to detect driving under the influence of controlled substances.

"(iii) An effective program, as determined by the Secretary, for the rehabilitation and treatment of those convicted of driving under the influence of controlled substances.

"(6) BLOOD ALCOHOL CONCENTRATION LEVEL PERCENTAGE.—A State shall be eligible to receive a supplemental grant in a fiscal of 5 percent of the amount apportioned to the State in the fiscal year under this section if the State is eligible for a basic grant in the fiscal year and requires that any person with a blood alcohol concentration of .08 percent or greater when driving a motor vehicle shall be deemed to be driving while intoxicated in each of the first three fiscal years in which a basic grant is received.

"(7) VIDEO EQUIPMENT FOR DETECTION OF DRUNK AND DRUGGED DRIVERS.—A State shall be eligible to receive a supplemental grant in a fiscal year of 5 percent of the amount apportioned to the State in the fiscal year under this section if the State is eligible for a basic grant in the fiscal year and provides a program to acquire video equipment to be used in detecting persons who operate motor vehicles while under the influence of alcohol or a controlled substance and in effectively prosecuting those persons, and to train personnel in the use of that equipment.

"(f) ADMINISTRATIVE EXPENSES.—Funds authorized to be appropriated to carry out this section shall be subject to a deduction not to exceed 5 percent for the necessary costs of administering the provisions of this section, and the remainder shall be apportioned among the several States.

"(g) APPORTIONMENT OF FUNDS.—

"(1) FORMULA.—After the deduction under subsection (f), the remainder of the funds authorized to be appropriated to carry out this section shall be apportioned 75 percent in the ratio which the population of each State bears to the total population of all the States, as shown by the latest available Federal census, and 25 percent in the ratio which the public road mileage in each State bears to the total public road mileage in all States.

"(2) DETERMINATION OF PUBLIC ROAD MILEAGE.—For the purposes of this subsection, the term 'public road' means any road under the jurisdiction of and maintained by a public authority and open to public travel. Public road mileage as used in this subsection shall be determined as of the end of the calendar year preceding the year in which the funds are apportioned and shall be certified to by the Governor of the State and subject to approval by the Secretary.

"(3) MINIMUM PERCENTAGE.—The annual apportionment under this paragraph to each State shall not be less than ½ of 1 percent of the total apportionment; except that the apportionments to the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands shall not be less than one-quarter of 1 percent of the total apportionment.

"(4) REAPPORTIONMENT OF NONELIGIBLE STATE FUNDS.—If a State is not eligible for a basic grant or for a supplemental grant under this section in a fiscal year, the amount of funds apportioned to the State in the fiscal year to make such grant shall be reapportioned to the other States eligible to receive such a grant in the fiscal year in accordance with the formula specified in this subsection. The reapportionment shall be made on the first day of the succeeding fiscal year.

"(h) APPLICABILITY OF CHAPTER 1.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, all provisions of chapter 1 of this title that are applicable to National Highway System funds, other than provisions relating to the apportionment formula and provisions limiting the expenditure of such funds to the Federal-aid systems, shall apply to the funds authorized to be appropriated to carry out this section.

"(2) INCONSISTENT PROVISIONS.—If the Secretary determines that a provision of chapter 1 of this title is inconsistent with this section, such provision shall not apply to funds authorized to be appropriated to carry out this section.

"(3) CREDIT FOR STATE AND LOCAL EXPENDITURES.—The aggregate of all expenditures made during any fiscal year by a State and its political subdivisions (exclusive of Federal funds) for carrying out the State highway safety program (other than planning and administration) shall be available for the purpose of crediting such State during such fiscal year for the non-Federal share of the cost of any project under this section (other than one for planning or administration) without regard to whether such expenditures were actually made in connection with such project.

"(4) INCREASED FEDERAL SHARE FOR CERTAIN INDIAN TRIBE PROGRAMS.—In the case of a local highway safety program carried out by an Indian tribe, if the Secretary is satisfied that an Indian tribe does not have sufficient funds available to meet the non-Federal share of the cost of such program, the Secretary may increase the Federal share of the cost thereof payable under this title to the extent necessary.

"(5) TREATMENT OF TERM 'STATE HIGHWAY DEPARTMENT'.—In applying provisions of chapter 1 in carrying out this section, the term 'State highway department' as used in such provisions shall mean the Governor of a State and, in the case of an Indian tribe program, the Secretary of the Interior.

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

"(1) ALCOHOLIC BEVERAGE.—The term 'alcoholic beverage' has the meaning such term has under section 158(c) of this title.

"(2) CONTROLLED SUBSTANCES.—The term 'controlled substances' has the meaning such term has under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).

"(3) MOTOR VEHICLE.—The term 'motor vehicle' has the meaning such term has under section 154(b) of this title.

"(4) OPEN ALCOHOLIC BEVERAGE CONTAINER.—The term 'open alcoholic beverage container' means any bottle, can, or other receptacle—

"(A) which contains any amount of an alcoholic beverage; and

"(B)(i) which is open or has a broken seal, or

"(ii) the contents of which are partially removed.

"(j) FUNDING FOR FISCAL YEARS 1993–1997.—From sums made available to carry out section 402 of this title, the Secretary shall make available $25,000,000 for each of fiscal years 1993 through 1997 to carry out this section.".

(b) STATES ELIGIBLE FOR GRANTS UNDER SECTION 410 BEFORE DATE OF ENACTMENT.—A State which, before the date of the enactment of this Act, was eligible to receive a grant under section 410 of title 23, United States Code, as in effect on the day before such date of enactment, may elect to receive in a fiscal year grants under such section 410, as so in effect, in lieu of receiving in such fiscal year grants under such section 410, as amended by this Act.

(c) CONFORMING AMENDMENT.—The analysis for chapter 4 of such title is amended by striking the item relating to section 410 and inserting the following:

"410. Alcohol-impaired driving countermeasures.".

SEC. 2005. AUTHORIZATION OF APPROPRIATIONS.

For purposes of carrying out the provisions of title 23, United States Code, the following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

(1) NHTSA HIGHWAY SAFETY PROGRAMS.—For carrying out section 402 of title 23, United States Code, by the National Highway Traffic Safety Administration $126,000,000 for fiscal year 1992 and $171,000,000 for each of fiscal years 1993, 1994, 1995, 1996, and 1997.

(2) NHTSA HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.—For carrying out section 403 by the National Highway Traffic Safety Administration $44,000,000 for each of the fiscal years 1992 through 1997.

(3) ALCOHOL TRAFFIC SAFETY INCENTIVE GRANT PROGRAM.—For carrying out section 410 of such title $25,000,000 for fiscal year 1992.

SEC. 2006. DRUG RECOGNITION EXPERT TRAINING PROGRAM.

(a) ESTABLISHMENT.—The Secretary, acting through the National Highway Traffic Safety Administration, shall establish a regional program for implementation of drug recognition programs and for training law enforcement officers (including enforcement officials under the motor carrier safety assistance program) to recognize and identify individuals who are operating a motor vehicle while under the influence of alcohol or one or more controlled substances or other drugs.

(b) ADVISORY COMMITTEE.—The Secretary shall establish a citizens advisory committee that shall report to Congress annually on the progress of the implementation of subsection (a). Members of the committee shall include 1 member of each of the following: Mothers Against Drunk Driving; a narcotics control organization; American Medical Association; American Bar Association; and such other organizations as the Secretary deems appropriate. The committee shall be subject to the provisions of the Advisory Committee Act and shall terminate 2 years after the date of the enactment of this Act.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $4,000,000 for each of fiscal years 1992 through 1997.

(d) DEFINITION.—For purposes of this section, the term "controlled substance" means any controlled substance, as defined under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)), whose use the Secretary has determined poses a risk to transportation safety.

SEC. 2007. NATIONAL DRIVER REGISTER ACT AUTHORIZATIONS.

Section 211(b) of the National Driver Register Act of 1982 (23 U.S.C. 401 note) is amended—

(1) by striking "and" the second place it appears; and

(2) by inserting before the period at the end the following: ", and not to exceed $4,000,000 for fiscal year 1992. From sums made available to carry out section 402 of title 23, United States Code, the Secretary shall make available $4,000,000 for each of fiscal years 1993 and 1994 to carry out this section.".

SEC. 2008. EFFECTIVE DATE; APPLICABILITY.

Except as otherwise provided, this title, including the amendments made by this title, shall take effect on the date of the enactment of this Act, shall apply to funds authorized to be appropriated or made available after September 30, 1991, and shall not apply to funds appropriated or made available on or before such date of enactment.

SEC. 2009. OBLIGATION CEILINGS.

(a) IN GENERAL.—Sums authorized for fiscal year 1992 by sections 2005(1), 2005(3), and 2006(c) of this Act and section 211(b) of the National Driver Register Act of 1982 shall be subject to the obligation limitation established by section 102 of this Act for fiscal year 1992.

(b) OBLIGATION LIMITATION.—If an obligation limitation is placed on sums authorized to be appropriated to carry out section 402 of title 23, United States Code, for fiscal year 1993 or subsequent fiscal years, any amounts made available out of such funds to carry out sections 2004 and 2006 of this Act and section 211(b) of the National Driver Register Act of 1982 shall be reduced proportionally.

PART B—NHTSA AUTHORIZATIONS AND GENERAL PROVISIONS

SEC. 2500. SHORT TITLE.

This part may be cited as the "National Highway Traffic Safety Administration Authorization Act of 1991".

SEC. 2501. AUTHORIZATION OF APPROPRIATIONS.

(a) TRAFFIC AND MOTOR VEHICLE SAFETY PROGRAM.—For the National Highway Traffic Safety Administration to carry out the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), there are authorized to be appropriated $68,722,000 for fiscal year 1992, $71,333,436 for fiscal year 1993, $74,044,106 for fiscal year 1994, and $76,857,782 for fiscal year 1995.

(b) MOTOR VEHICLE INFORMATION AND COST SAVINGS PROGRAMS.—For the National Highway Traffic Safety Administration to carry out the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.), there are authorized to be appropriated $6,485,000 for fiscal year 1992, $6,731,430 for fiscal year 1993, $6,987,224 for fiscal year 1994, and $7,252,739 for fiscal year 1995.

SEC. 2502. GENERAL PROVISIONS.

(a) DEFINITIONS.—As used in this part—

(1) the term "bus" means a motor vehicle with motive power, except a trailer, designed for carrying more than 10 persons;

(2) the term "multipurpose passenger vehicle" means a motor vehicle with motive power (except a trailer), designed to carry 10 persons or fewer, which is constructed either on a truck chassis or with special features for occasional off-road operation;

(3) the term "passenger car" means a motor vehicle with motive power (except a multipurpose passenger vehicle, motorcycle, or trailer), designed for carrying 10 persons or fewer;

(4) the term "truck" means a motor vehicle with motive power, except a trailer, designed primarily for the transportation of property or special purpose equipment; and

(5) the term "Secretary" means the Secretary of Transportation.

(b) PROCEDURE.—

(1) IN GENERAL.—Except as provided in paragraph (2), any action taken under section 2503 shall be taken in accordance with the applicable provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.).

(2) SPECIFIC PROCEDURE.—

(A) INITIATION.—To initiate an action under section 2503, the Secretary shall, not later than May 31, 1992, publish in the Federal Register an advance notice of proposed rulemaking or a notice of proposed rulemaking, except that if the Secretary is unable to publish such a notice by such date, the Secretary shall by such date publish in the Federal Register a notice that the Secretary will begin such action by a certain date which may not be later than January 31, 1993 and include in such notice the reasons for the delay. A notice of delayed action shall not be considered agency action subject to judicial review. If the Secretary publishes an advance notice of proposed rulemaking, the Secretary is not required to follow such notice with a notice of proposed rulemaking if the Secretary determines on the basis of such advanced notice and the comments received thereon that the contemplated action should not be taken under the provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), including the provisions of section 103 of such Act (15 U.S.C. 1392), and if the Secretary publishes the reasons for such determination consistent with chapter 5 of title 5, United States Code.

(B) COMPLETION.—

(i) PERIOD.—Action under paragraphs (1) through (4) of section 2503 which was begun under subparagraph (A) shall be completed within 26 months of the date of publication of an advance notice of proposed rulemaking or 18 months of the date of publication of a notice of proposed rulemaking. The Secretary may extend for any reason the period for completion of a rulemaking initiated by the issuance of a notice of proposed rulemaking for not more than 6 months if the Secretary publishes the reasons for such extension. The extension of such period shall not be considered agency action subject to judicial review.

(ii) ACTION.—A rulemaking under paragraphs (1) through (4) of section 2503 shall be considered completed when the Secretary promulgates a final rule or when the Secretary decides not to promulgate a rule (which decision may include deferral of the action or reinitiation of the action). The Secretary may not decide against promulgation of a final rule because of lack of time to complete rulemaking. Any such rulemaking actions shall be published in the Federal Register, together with the reasons for such decisions, consistent with chapter 5 of title 5, United States Code, and the National Traffic and Motor Vehicle Safety Act of 1996.

(iii) SPECIAL RULE.—

(I) PERIOD.—Action under paragraph (5) of section 2503 which was begun under subparagraph (A) shall be completed within 24 months of the date of publication of an advance notice of proposed rulemaking or a notice of proposed rulemaking. If the Secretary determines that there is a need for delay and if the public comment period is closed, the Secretary may extend the date for completion for not more than 6 months and shall publish in the Federal Register a notice stating the reasons for the extension and setting a date certain for completion of the action. The extension of the completion date shall not be considered agency action subject to judicial review.

(II) ACTION.—A rulemaking under paragraph (5) of section 2503 shall be considered completed when the Secretary promulgates a final rule with standards on improved head injury protection.

(C) STANDARD.—The Secretary may, as part of any action taken under section 2503, amend any motor vehicle safety standard or establish a new standard under the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.).

SEC. 2503. MATTERS BEFORE THE SECRETARY.

The Secretary shall address the following matters in accordance with section 2502:

(1) Protection against unreasonable risk of rollovers of passenger cars, multipurpose passenger vehicles, and trucks with a gross vehicle weight rating of 8,500 pounds or less and an unloaded vehicle weight of 5,500 pounds or less.

(2) Extension of passenger car side impact protection to multipurpose passenger vehicles and trucks with a gross vehicle weight rating of 8,500 pounds or less and an unloaded vehicle weight of 5,500 pounds or less.

(3) Safety of child booster seats used in passenger cars and other appropriate motor vehicles.

(4) Improved design for safety belts.

(5) Improved head impact protection from interior components of passenger cars (i.e. roof rails, pillars, and front headers).

SEC. 2504. RECALL OF CERTAIN MOTOR VEHICLES.

(a) NOTIFICATION OF DEFECT OR FAILURE TO COMPLY.—Section 153 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1413) is amended by adding at the end the following new subsections:

"(d) If the Secretary determines that a notification sent by a manufacturer pursuant to subsection (c) of this section has not resulted in an adequate number of vehicles or items of equipment being returned for remedy, the Secretary may direct the manufacturer to send a second notification in such manner as the Secretary may by regulation prescribe.

"(e)(1) Any lessor who receives a notification required by section 151 or 152 pertaining to any leased motor vehicle shall send a copy of such notice to the lessee in such manner as the Secretary may by regulation prescribe.

"(2) For purposes of this subsection, the term 'leased motor vehicle' means any motor vehicle which is leased to a person for a term of at least four months by a lessor who has leased five or more vehicles in the twelve months preceding the date of the notification.".

(b) LIMITATION ON SALE OR LEASE OF CERTAIN VEHICLES.—Section 154 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1414) is amended by adding at the end the following:

"(d) If notification is required under section 151 or by an order under section 152(b) and has been furnished by the manufacturer to a dealer of motor vehicles with respect to any new motor vehicle or new item of replacement equipment in the dealer's possession at the time of notification which fails to comply with an applicable Federal motor vehicle safety standard or contains a defect which relates to motor vehicle safety, such dealer may sell or lease such motor vehicle or item of replacement equipment only if—

"(1) the defect or failure to comply has been remedied in accordance with this section before delivery under such sale or lease; or

"(2) in the case of notification required by an order under section 152(b), enforcement of the order has been restrained in an action to which section 155(a) applies or such order has been set aside in such an action.

Nothing in this subsection shall be construed to prohibit any dealer from offering for sale or lease such vehicle or item of equipment.".

SEC. 2505. STANDARDS OF COMPLIANCE TEST PROGRAM.

Section 103 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1392) is amended by adding at the end the following:

"(j) The Secretary shall establish and periodically review and update on a continuing basis a 5-year plan for testing Federal Motor Vehicle Safety Standards that are capable, in the Secretary's judgment, of being tested. In developing the plan and establishing testing priorities, the Secretary shall take into consideration such factors as the Secretary deems appropriate, consistent with the purposes of this Act and the Secretary's other responsibilities under this Act. The Secretary may at any time adjust such priorities to address matters the Secretary deems of greater priority. The initial plan may be the 5-year plan for compliance testing in effect on the date of enactment of this subsection.".

SEC. 2506. REAR SEATBELTS.

The Secretary shall expend such portion of the funds authorized to be appropriated under the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.), for fiscal year 1993, as the Secretary deems necessary for the purpose of disseminating information to consumers regarding the manner in which passenger cars may be retrofitted with lap and shoulder rear seatbelts.

SEC. 2507. BRAKE PERFORMANCE STANDARDS FOR PASSENGER CARS.

Not later than December 31, 1993, the Secretary, in accordance with the National Traffic and Motor Vehicle Safety Act of 1966, shall publish an advance notice of proposed rulemaking to consider the need for any additional brake performance standards for passenger cars, including antilock brake standards. The Secretary shall complete such rulemaking (in accordance with section 2502(b)(2)(B)(ii)) not later than 36 months from the date of initiation of such advance notice of proposed rulemaking. In order to facilitate and encourage innovation and early application of economical and effective antilock brake systems for all such vehicles, the Secretary shall, as part of the rulemaking, consider any such brake system adopted by a manufacturer.

SEC. 2508. AUTOMATIC CRASH PROTECTION AND SAFETY BELT USE.

(a) AMENDMENT OF STANDARD.—

(1) SPECIFICATIONS.—Notwithstanding any other provision of law or rule, the Secretary shall by September 1, 1993, promulgate, in accordance with the National Traffic and Motor Vehicle Safety Act of 1966 (to the extent such Act is not in conflict with the provisions of this section), an amendment to Federal Motor Vehicle Safety Standard 208 issued under such Act to provide that the automatic occupant crash protection system for the front outboard designated seating positions of each—

(A) new truck, bus, and multipurpose passenger vehicle (other than walk-in van-type trucks and vehicles designed to be exclusively sold to the United States Postal Service) with a gross vehicle weight rating of 8,500 pounds or less and an unloaded vehicle weight of 5,500 pounds or less, and

(B) new passenger car,

manufactured on or after the dates specified in the applicable schedule established by subsection (b), shall be an inflatable restraint complying with the occupant protection requirements under section 4.1.2.1 of such Standard. This section supplements and revises, but does not replace, Federal Motor Vehicle Safety Standard 208, including the amendment to such Standard 208 of March 26, 1991 (56 F.R. 12472), extending the requirements for automatic crash protection, together with incentives for more innovative automatic crash protection, to trucks, buses, and multipurpose passenger vehicles.

(2) REQUIREMENT.—The amendment to such Standard 208 shall also require, to be effective as soon as possible after the promulgation of such amendment, that the owner manuals for passenger cars and trucks, buses, and multipurpose passenger vehicles equipped with an inflatable restraint include a statement in an easily understandable format—

(A) that the vehicle is equipped with an inflatable restraint referred to as an "airbag" and a lap and shoulder belt in either or both the front outboard seating positions;

(B) that the airbag is a supplemental restraint;

(C) that it does not substitute for lap and shoulder belts which must also be correctly used by an occupant in such seating position to provide restraint or protection not only from frontal crashes but from other types of crashes or accidents; and

(D) that all occupants, including the driver, should always wear their lap and shoulder belts, where available, or other safety belts, whether or not there is an inflatable restraint.

(3) FINDING.—The Congress finds that it is in the public interest for all States to adopt and enforce mandatory seat belt use laws and for the Federal Government to adopt and enforce mandatory seat belt use rules.

(b) SCHEDULE.—The amendment promulgated under subsection (a) shall establish the following schedule:

(1) NEW PASSENGER CARS.—The amendment shall take effect for 95 percent of each manufacturer's annual production of passenger cars manufactured on and after September 1, 1996, and before September 1, 1997, and for 100 percent of each manufacturer's production of passenger cars manufactured on and after September 1, 1997. Subject to the provisions of subsection (c), the percentage prescribed for passenger cars manufactured on and after September 1, 1997, shall be met entirely by inflatable restraints (accompanied by lap and shoulder belts) for both front outboard seating positions.

(2) NEW TRUCKS, BUSES, AND MULTIPURPOSE PASSENGER VEHICLES.—The amendment shall take effect for 80 percent of each manufacturer's annual production of trucks, buses, and multipurpose passenger vehicles described in subsection (a)(1)(A) and manufactured on and after September 1, 1997, and before September 1, 1998, and for 100 percent of each manufacturer's production of such trucks, buses, and multipurpose passenger vehicles manufactured on and after September 1, 1998. Subject to the provisions of subsection (c), the percentage prescribed for such trucks, buses, and multipurpose passenger vehicles manufactured on and after September 1, 1998, shall be met entirely by inflatable restraints (accompanied by lap and shoulder belts) for both front outboard seating positions. The incentives or credits available under Standard 208 (as amended by this section) prior to September 1, 1998, shall not be available to the manufacturers to comply with the 100 percent requirement of this paragraph on and after such date.

(c) TEMPORARY EXEMPTION FROM REQUIREMENTS.—Upon application by a manufacturer, in such manner and containing such information as the Secretary shall prescribe in the amendment under this section to such Standard 208, the Secretary may at any time, under such terms and conditions and to such extent as the Secretary deems appropriate, temporarily exempt or renew the exemption of a motor vehicle from the requirements of subsection (a) or (b), or both, if the Secretary finds that there has been a disruption in the supply of any inflatable restraint component, or a disruption in the use and installation by the manufacturer of such component due to unavoidable events not under the control of the manufacturer, that will prevent a manufacturer from meeting its anticipated production volume of vehicles with such restraints. Each application for such exemption must be filed by the manufacturer affected, and must specify the models, lines, and types of vehicles actually affected, although the Secretary may consolidate applications of a similar nature of 1 or more manufacturers. Any exemption or renewal shall be conditioned upon the manufacturer's commitment to recall the exempted vehicles for installation of omitted inflatable restraints within a reasonable time proposed by the manufacturer and approved by the Secretary after such components become available in sufficient quantities to satisfy both anticipated production and recall volume requirements. Notice of each application shall be published in the Federal Register and notice of each decision to grant or deny a temporary exemption, and the reasons for granting or denying it, shall be published in the Federal Register. The Secretary shall require labeling for each exempted motor vehicle which can only be removed after recall and installation of the required inflatable restraint. If a vehicle is delivered without an inflatable restraint, the Secretary shall require that written notification of the exemption be delivered to the dealer and first purchasers for purposes other than resale of such exempted motor vehicle in such a manner, and containing such information, as the Secretary deems appropriate.

(d) CONSTRUCTION.—Nothing in this section shall be construed by the Secretary or any other person, including any court, as altering or affecting any other provision of law administered by the Secretary and applicable to such passenger cars or trucks, buses, or multipurpose passenger vehicles or as establishing any precedent regarding the development and promulgation of any Federal Motor Vehicle Safety Standard. Nothing in this section or in the amendments made under this section to Federal Motor Vehicle Safety Standard 208 shall be construed by any person or court as indicating an intention by Congress to affect, change, or modify in any way the liability, if any, of a motor vehicle manufacturer under applicable law relative to vehicles with or without inflatable restraints.

(e) REPORT.—The Secretary shall biannually report, beginning October 1, 1992 and continuing to October 1, 2000, on the actual effectiveness of an occupant restraint system defined as the percentage reduction in fatalities or injuries of restrained occupants as compared to unrestrained occupants for the combination of inflated restraints and lap and shoulder belts, for inflated restraints alone, and for lap and shoulder belts alone. The Secretary, in consultation with the Secretary of Labor and the Secretary of Defense, shall also provide data and analysis on lap and shoulder belt use, nationally and in each State, by Federal, State, and local law enforcement officers, by military personnel, by Federal and State employees other than law enforcement officers, and by the public.

(f) AIRBAGS FOR CARS ACQUIRED FOR FEDERAL USE.—The Secretary, in cooperation with the Administrator of General Services and the heads of other appropriate Federal agencies and consistent with applicable provisions of Federal procurement law and available appropriations, shall establish a program requiring that all passenger cars acquired after September 30, 1994, for use by the Federal Government be equipped, to the maximum extent practicable, with driver-side inflatable restraints and that all passenger cars acquired after September 30, 1996, for use by the Federal Government be equipped, to the maximum extent practicable, with inflatable restraints for both the driver and front seat outboard seating positions.

SEC. 2509. HEAD INJURY IMPACT STUDY.

The Secretary, in the case of any head injury protection matters not subject to section 2503(5) for which the Secretary is on the date of enactment of this Act examining the need for rulemaking and is conducting research, shall provide a report to Congress by the end of fiscal year 1993 identifying those matters and their

status. The report shall include a statement of any actions planned toward initiating such rulemaking no later than fiscal year 1994 or 1995 through use of either an advance notice of proposed rulemaking or a notice of proposed rulemaking and completing such rulemaking as soon as possible thereafter.

TITLE III—FEDERAL TRANSIT ACT AMENDMENTS OF 1991

SEC. 3001. SHORT TITLE.

This title may be cited as the "Federal Transit Act Amendments of 1991".

SEC. 3002. AMENDMENTS TO URBAN MASS TRANSPORTATION ACT OF 1964.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Urban Mass Transportation Act of 1964 (49 U.S.C. App. 1601–1621).

SEC. 3003. AMENDMENT TO SHORT TITLE OF URBAN MASS TRANSPORTATION ACT OF 1964.

(a) IN GENERAL.—The Act is amended by striking "That this Act may be cited as the 'Urban Mass Transportation Act of 1964'." and inserting the following:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Federal Transit Act'.".

(b) OTHER REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Urban Mass Transportation Act of 1964 shall be deemed to be a reference to the "Federal Transit Act".

SEC. 3004. FEDERAL TRANSIT ADMINISTRATION.

(a) REDESIGNATION OF UMTA.—The Urban Mass Transportation Administration of the Department of Transportation shall be known and designated as the "Federal Transit Administration".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Urban Mass Transportation Administration shall be deemed to be a reference to the "Federal Transit Administration".

(c) AMENDMENTS TO TITLE 49.—

(1) AMENDMENT TO TEXT.—Section 107(a) of title 49, United States Code, is amended by striking "Urban Mass Transportation Administration" and inserting "Federal Transit Administration".

(2) AMENDMENT TO SECTION HEADING.—The heading for section 107 of such title is amended to read as follows:

"§107. Federal Transit Administration".

(3) AMENDMENT TO CHAPTER ANALYSIS.—The analysis for chapter 1 of such title is amended by striking the item relating to section 107 and inserting the following:

"107. Federal Transit Administration.".

(d) AMENDMENTS TO TITLE 5.—Title 5, United States Code, is amended—

(1) in section 5314 by striking "Urban Mass Transportation Administrator" and inserting "Federal Transit Administrator"; and

(2) in section 5316 by striking "Deputy Administrator, Urban Mass Transportation Administration" and inserting "Deputy Administrator, Federal Transit Administration".

SEC. 3005. FINDINGS AND PURPOSES.

(a) FINDINGS.—Section 2(a) is amended—

(1) in paragraph (2) by striking "; and" and inserting a semicolon;

(2) in paragraph (3) by striking the period and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) that significant transit improvements are necessary to achieve national goals for improved air quality, energy conservation, international competitiveness, and mobility for elderly persons, persons with disabilities, and economically disadvantaged persons in urban and rural areas of the country.".

(b) PURPOSES.—Section 2(b) is amended—

(1) in paragraph (2) by striking "; and" and inserting a semicolon;

(2) in paragraph (3) by striking the period and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) to provide financial assistance to State and local governments and their instrumentalities to help implement national goals relating to mobility for elderly persons, persons with disabilities, and economically disadvantaged persons.".

SEC. 3006. MAJOR CAPITAL INVESTMENT PROGRAM.

(a) ELDERLY PERSONS AND PERSONS WITH DISABILITIES.—Section 3(a)(1) is amended by striking subparagraph (E) and inserting the following new subparagraph:

"(E) transit projects which are planned, designed, and carried out to meet the special needs of elderly persons and persons with disabilities; and".

(b) CORRIDOR DEVELOPMENT.—Section 3(a)(1) is further amended by adding at the end the following new subparagraph:

"(F) the development of corridors to support fixed guideway systems, including protection of rights-of-way through acquisition, construction of dedicated bus and high occupancy vehicle lanes, construction of park and ride lots, and any other nonvehicular capital improvements that the Secretary may determine would result in increased transit usage in the corridor.".

(c) GRANDFATHERED LETTERS OF INTENT.—This Act shall not be construed to affect the validity of any existing letter of intent, full funding grant agreement, or letter of commitment issued under section 3(a)(4) of the Federal Transit Act before the date of the enactment of the Federal Transit Act Amendments of 1991.

(d) ALLOCATIONS.—Section 3(k) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) IN GENERAL.—Subject to paragraph (3), of the amounts available for grants and loans under this section for fiscal years 1992, 1993, 1994, 1995, 1996, and 1997—

"(A) 40 percent shall be available for fixed guideway modernization;

"(B) 40 percent shall be available for construction of new fixed guideway systems and extensions to fixed guideway systems; and

"(C) 20 percent shall be available for the replacement, rehabilitation, and purchase of buses and related equipment and the construction of bus-related facilities."; and

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

"(3) AREAS OTHER THAN URBANIZED AREAS.—At least 5.5 percent of the amounts available for grants and loans under subsection (k)(1)(C) for fiscal years 1992, 1993, 1994, 1995, 1996, and 1997 shall be available for areas other than urbanized areas.".

(e) BOND INTEREST ON ADVANCE CONSTRUCTION.—Section 3(l)(2)(B) is amended by striking "the excess of—" and all that follows through the period and inserting "the most favorable interest terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a form satisfactory to the Secretary, that the applicant has shown due diligence in seeking the most favorable financial terms.".

(f) FEDERAL SHARE.—Section 4(a) is amended—

(1) by striking "75 per centum" and inserting "80 percent"; and

(2) by inserting before the period at the end of the second sentence the following: ", unless the recipient of the grant requests a lower Federal grant percentage".

(g) LOCAL SHARE FOR CERTAIN PLANNED EXTENSIONS OF FIXED GUIDEWAY SYSTEMS.—Section 4(a) is amended by adding at the end the following new sentence: "The remainder of the net project cost of a planned extension to a fixed guideway system may include the cost of rolling stock previously purchased if the applicant demonstrates to the satisfaction of the Secretary that—

"(1) such purchase was made solely with non-Federal funds; and

"(2) such purchase was made for use on the extension.".

(h) FISCAL CAPACITY CONSIDERATIONS.—Section 4 is amended—

(1) by striking subsections (b), (c), (d), (e), (f), and (g) and redesignating subsections (h) and (i) as subsections (b) and (c), respectively; and

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

"(d) FISCAL CAPACITY CONSIDERATIONS.—If the Secretary gives priority consideration to the funding of projects which include more than the non-Federal share required by subsection (a), the Secretary shall give equal consideration to differences in the fiscal capacity of State and local governments.".

SEC. 3007. CAPITAL GRANTS; TECHNICAL AMENDMENT TO PROVIDE FOR EARLY SYSTEMS WORK CONTRACTS AND FULL FUNDING GRANT AGREEMENTS.

Section 3(a)(4) is amended—

(1) by inserting "(A)" after "(4)";

(2) in the fifth sentence by inserting "not less than" after "complete";

(3) by adding after the sixth sentence the following:

"(B) The Secretary is authorized to enter into a full funding grant agreement with an applicant, which agreement shall—

"(i) establish the terms and conditions of Federal financial participation in a project under this section;

"(ii) establish the maximum amounts of Federal financial assistance for such project;

"(iii) cover the period of time to completion of the project, including any period that may extend beyond the period of any authorization; and

"(iv) facilitate timely and efficient management of such project in accordance with Federal law.

"(C) An agreement under subparagraph (B) shall obligate an amount of available budget authority specified in law and may include a commitment, contingent upon the future availability of budget authority, to obligate an additional amount or additional amounts from future available budget authority specified in law. The agreement shall specify that the contingent commitment does not constitute an obligation of the United States. The future availability of budget authority referred to in the first sentence of this subparagraph shall be amounts to be specified in law in advance for commitments entered into under subparagraph (B). Any interest and other financing costs of efficiently carrying out the project or a portion thereof within a reasonable period of time shall be considered as a cost of carrying out the project under a full funding grant agreement; except that eligible costs shall not be greater than the costs of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a form satisfactory to the Secretary, that the applicant has shown due diligence in seeking the most favorable financing terms. The total of amounts stipulated in a full funding grant agreement for a fixed guideway project shall be sufficient to complete not less than an operable segment.

"(D) The Secretary is authorized to enter into an early systems work agreement with an appli-

cant if a record of decision pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) has been issued on the project and the Secretary determines that there is reason to believe—

"(i) a full funding grant agreement will be entered into for the project; and

"(ii) the terms of the early systems work agreement will promote ultimate completion of the project more rapidly and at less cost.

The early systems work agreement shall obligate an amount of available budget authority specified in law and shall provide for reimbursement of preliminary costs of project implementation, including land acquisition, timely procurement of system elements for which specifications are determined, and other activities that the Secretary determines to be appropriate to facilitate efficient, long-term project management. An early systems work agreement shall cover such period of time as the Secretary deems appropriate, which period may extend beyond the period of current authorization. The interest and other financing costs of carrying out the early systems work agreement efficiently and within a reasonable period of time shall be considered as a cost of carrying out the agreement; except that eligible costs shall not be greater than the costs of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a form satisfactory to the Secretary, that the applicant has shown due diligence in seeking the most favorable financing terms. If an applicant fails to implement the project for reasons within the applicant's control, the applicant shall repay all Federal payments made under the early systems work agreement plus such reasonable interest and penalty charges as the Secretary may establish in the agreement.";

(4) by inserting "(E)" before "The total estimated" and aligning subparagraph (E) with subparagraph (D);

(5) in the sentence that begins "The total estimated"—

(A) by inserting ", and contingent commitments to incur obligations," after "Federal obligations";

(B) by inserting ", early systems work agreements, and full funding grant agreements," after "all outstanding letters of intent,"; and

(C) by inserting "or 50 percent of the uncommitted cash balance remaining in the Mass Transit Account of the Highway Trust Fund, including amounts received from taxes and interest earned in excess of amounts that have been previously obligated, whichever is greater" after "section 3 of this Act"; and

(6) in the sentence that begins "The total amount covered", by inserting "and contingent commitments included in early systems work agreements and full funding grant agreements" after "by new letters issued,".

SEC. 3008. FIXED GUIDEWAY MODERNIZATION.

Section 3 is amended by striking subsection (h) and inserting the following new subsection:

"(h) FIXED GUIDEWAY MODERNIZATION APPORTIONMENTS.—The Secretary shall apportion the sums made available for fixed guideway modernization under this section for each of fiscal years 1992, 1993, 1994, 1995, 1996, and 1997 as follows:

"(1) The first $455,000,000 made available shall be apportioned for expenditure in the following urbanized areas according to the following percentages:

"(A) Baltimore, 1.84 percent.

"(B) Boston, 8.56 percent.

"(C) Chicago/Northwestern Indiana, 17.18 percent.

"(D) Cleveland, 2.09 percent.

"(E) New York, 35.57 percent.

"(F) Northeastern New Jersey, 9.04 percent.

"(G) Philadelphia/Southern New Jersey, 12.41 percent.

"(H) San Francisco, 7.21 percent.

"(I) Southwestern Connecticut, 6.10 percent.

"(2) The next $42,700,000 made available shall be apportioned for expenditure in the following urbanized areas according to the following percentages:

"(A) New York, 33.2341 percent.

"(B) Northeastern New Jersey, 22.1842 percent.

"(C) Philadelphia and Southern New Jersey, 5.7594 percent.

"(D) San Francisco, 2.7730 percent.

"(E) Pittsburgh, 31.9964 percent.

"(F) New Orleans, 4.0529 percent.

"(3) The next $70,000,000 made available shall be apportioned for expenditure—

"(A) 50 percent in the urbanized areas listed in paragraphs (1) and (2) according to the apportionment formula contained in section 9(b)(2); and

"(B) 50 percent in other urbanized areas eligible for assistance under section 9(b)(2) of this Act which contain a fixed guideway system placed in revenue service not less than 7 years prior to the fiscal year in which funds are made available and in other urbanized areas which before the first day of the fiscal year demonstrate to the satisfaction of the Secretary that the urbanized area has modernization needs which cannot be adequately met with amounts received under section 9(b)(2) according to the apportionment formula contained in such section.

"(4) Any remaining amounts made available in a fiscal year shall be apportioned for expenditure in each urbanized area eligible for assistance under paragraphs (1), (2), and (3) in accordance with the apportionment formula contained in section 9(b)(2).

"(5) In any fiscal year in which the full amounts authorized under paragraphs (1) and (2) are not made available, the Secretary shall reduce on a pro rata basis the apportionments of all urbanized areas eligible under either paragraph to adjust for the shortfall.

"(6) Notwithstanding any other provision of law, rail modernization funds allocated to the New Jersey Transit Corporation under this paragraph may be spent in any urbanized area in which the New Jersey Transit Corporation operates rail service regardless of the urbanized area which generates the funding.".

SEC. 3009. BUS TESTING.

Section 3 is amended by adding at the end the following new subsection:

"(m) BUS TESTING.—Of the amounts made available for replacement, rehabilitation, and purchase of buses and related equipment and the construction of bus related facilities by subsection (k)(1)(C), the Secretary shall make available $1,500,000 in fiscal year 1992, $2,000,000 in fiscal year 1993, the lesser of $2,000,000 or an amount the Secretary determines to be necessary per fiscal year in each of fiscal years 1994, 1995, and 1996, and the lesser of $3,000,000 or an amount the Secretary determines to be necessary in fiscal year 1997. Such amounts shall be available to the Secretary to pay 80 percent of the cost of testing a vehicle at the facility established under section 317 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (49 U.S.C. App. 1608). The Secretary shall make such payments by contract with the operator of the facility. The remaining 20 percent of the cost of testing a vehicle shall be paid to the operator of the facility by the entity having the vehicle tested.".

SEC. 3010. CRITERIA FOR NEW STARTS.

Section 3(i) is amended to read as follows:

"(i) NEW START CRITERIA.—

"(1) DETERMINATIONS.—A grant or loan for construction of a new fixed guideway system or extension of any fixed guideway system may not be made under this section unless the Secretary determines that the proposed project—

"(A) is based on the results of an alternatives analysis and preliminary engineering;

"(B) is justified based on a comprehensive review of its mobility improvements, environmental benefits, cost effectiveness, and operating efficiencies; and

"(C) is supported by an acceptable degree of local financial commitment, including evidence of stable and dependable funding sources to construct, maintain, and operate the system or extension.

"(2) CONSIDERATIONS.—In making determinations under this subsection, the Secretary—

"(A) shall consider the direct and indirect costs of relevant alternatives;

"(B) shall account for costs related to such factors as congestion relief, improved mobility, air pollution, noise pollution, congestion, energy consumption, and all associated ancillary and mitigation costs necessary to implement each alternative analyzed; and

"(C) shall identify and consider transit supportive existing land use policies and future patterns, and consider other factors including the degree to which the project increases the mobility of the transit dependent population or promotes economic development, and other factors that the Secretary deems appropriate to carry out the purposes of this Act.

"(3) GUIDELINES.—

"(A) IN GENERAL.—The Secretary shall issue guidelines that set forth the means by which the Secretary shall evaluate results of alternatives analysis, project justification, and degree of local financial commitment for the purposes of paragraph (1).

"(B) PROJECT JUSTIFICATION.—Project justification criteria shall be adjusted to reflect differences in local land costs, construction costs, and operating costs.

"(C) FINANCIAL COMMITMENT.—The degree of local financial commitment shall be considered acceptable only if—

"(i) the proposed project plan provides for the availability of contingency funds that the Secretary determines to be reasonable to cover unanticipated cost overruns;

"(ii) each proposed local source of capital and operating funding is stable, reliable, and available within the proposed project timetable; and

"(iii) local resources are available to operate the overall proposed transit system (including essential feeder bus and other services necessary to achieve the projected ridership levels) without requiring a reduction in existing transit services in order to operate the proposed project.

"(D) STABILITY ASSESSMENT.—In assessing the stability, reliability, and availability of proposed sources of local funding, the Secretary shall consider—

"(i) existing grant commitments;

"(ii) the degree to which funding sources are dedicated to the purposes proposed; and

"(iii) any debt obligations which exist or are proposed by the recipient for the proposed project or other transit purposes.

"(4) PROJECT ADVANCEMENT.—No project shall be advanced from alternatives analysis to preliminary engineering unless the Secretary finds that the proposed project meets the requirements of this section and there is a reasonable chance that the project will continue to meet these requirements at the conclusion of preliminary engineering.

"(5) EXCEPTIONS.—

"(A) IN GENERAL.—A new fixed guideway system or extension shall not be subject to the requirements of this subsection and the simultaneous evaluation of such projects in more than one corridor in a metropolitan area shall not be limited if (i) the project is located within an extreme or severe nonattainment area and is a transportation control measure, as defined by the Clean Air Act, that is required to carry out

an approved State Implementation Plan, or (ii) assistance provided under this section accounts for less than $25,000,000 or less than ⅓ of the total cost of the project or an appropriate program of projects as determined by the Secretary.

"(B) EXPEDITED PROCEDURES.—In the case of a project that is (i) located within a nonattainment area that is not an extreme or severe nonattainment area, (ii) a transportation control measure, as defined in the Clean Air Act, and (iii) required to carry out an approved State Implementation Plan, the simultaneous evaluation of projects in more than one corridor in a metropolitan area shall not be limited and the Secretary shall make determinations under this subsection with expedited procedures that will promote timely implementation of the State Implementation Plan.

"(C) EXCLUSION FOR CERTAIN PROJECTS.—That portion of a project (including any commuter rail service project on an existing right-of-way) financed entirely with highway funds made available under the Federal-Aid Highway Act of 1991 shall not be subject to the requirements of this subsection.

"(6) PROJECT IMPLEMENTATION.—A project funded pursuant to this subsection shall be implemented by means of a full funding grant agreement.".

SEC. 3011. ASSURED TIMETABLE FOR PROJECT REVIEW.

(a) IN GENERAL.—Section 3(a) is amended by striking paragraph (6) and inserting the following new paragraphs:

"(6) ASSURED TIMETABLE FOR PROJECTS IN ALTERNATIVES ANALYSIS, PRELIMINARY ENGINEERING, OR FINAL DESIGN STAGES.—

"(A) ALTERNATIVES ANALYSIS STAGE.—For any new fixed guideway project that the Secretary permits to advance into the alternatives analysis stage of project review, the Secretary shall cooperate with the applicant in alternatives analysis and in preparation of a draft environmental impact statement, and shall approve the draft environmental impact statement for circulation not later than 45 days after the date on which such draft is submitted to the Secretary by the applicant.

"(B) PRELIMINARY ENGINEERING STAGE.—Following circulation of the draft environmental impact statement and not later than 30 days after selection by the applicant of a locally preferred alternative, the Secretary shall permit the project to advance to the preliminary engineering phase if the Secretary finds the project is consistent with the criteria set forth in subsection (i).

"(C) FINAL DESIGN STAGE.—The Secretary shall issue a record of decision and permit a project to advance to the final design stage of construction not later than 120 days after the date of completion of the final environmental impact statement for such project.

"(D) FULL FUNDING GRANT AGREEMENT.—The Secretary shall negotiate and enter into a full funding grant agreement for a project not later than 120 days after the date on which such project has entered the final design stage of construction. Such full funding grant agreement shall provide for a Federal share of the cost of construction that is not less than the Federal share estimated in the Secretary's most recent report required under section 3(j) or an update thereof unless otherwise requested by an applicant.

"(7) PERMITTED DELAYS IN PROJECT REVIEW.—

"(A) IN GENERAL.—Advancement of a project under the timetables specified under paragraph (6) shall be delayed only—

"(i) for such period of time as the applicant, solely at the applicant's discretion, may request; or

"(ii) during such period of time as the Secretary finds, after reasonable notice and opportunity for comment, that the applicant has failed, for reasons solely attributable to the applicant, to comply substantially with requirements of this Act with respect to the project.

"(B) EXPLANATION OF DELAY.—Not more than 10 days after imposing any delay under subparagraph (A)(ii), the Secretary shall provide the applicant with a written statement that (i) explains the reasons for such delay, and (ii) describes all steps which the applicant must take to end the period of delay.

"(C) REPORTS.—The Secretary shall report, not less frequently than once every 6 months, to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate in any case in which the Secretary—

"(i) fails to meet a deadline established by paragraph (6); or

"(ii) delays the application of a deadline under subparagraph (A)(ii).

Such report shall explain the reasons for the delay and include a plan for achieving timely completion of the Secretary's review of the project.

"(8) TREATMENT OF PROGRAMS OF INTERRELATED PROJECTS.—

"(A) FULL FUNDING GRANT AGREEMENT.—In accordance with the timetables established by paragraph (6) or as otherwise provided by law, the Secretary shall enter into 1 or more full funding grant agreements for each program of interrelated projects described in subparagraph (C). Such full funding grant agreements shall include commitments to advance each of the applicant's program elements (in the program of interrelated projects) through the appropriate stages of project review in accordance with the timetables established by paragraph (6) or as otherwise provided for a project by law, and to provide Federal funding for each such program element. Such full funding grant agreements may also be amended, if appropriate, to include design and construction of particular program elements. Inclusion of a nonfederally funded program element in a program of interrelated projects shall not be construed as imposing Federal requirements which would not otherwise apply to such program element.

"(B) CONSIDERATIONS.—When reviewing any project in a program of interrelated projects, the Secretary shall consider the local financial commitment, transportation effectiveness, and other assessment factors of all program elements to the extent that such consideration expedites project implementation.

"(C) PROGRAMS OF INTERRELATED PROJECTS.—For the purposes of this paragraph, programs of interrelated projects shall include the following:

"(i) The New Jersey Urban Core Project as defined by the Federal Transit Act Amendments of 1991.

"(ii) The San Francisco Bay Area Rail Extension Program, which consists of not less than the following elements: an extension of the San Francisco Bay Area Rapid Transit District to the San Francisco International Airport (Phase 1a to Colma and Phase 1b to San Francisco Airport), the Santa Clara County Transit District Tasman Corridor Project, and any other program element designated by any modification to Metropolitan Transportation Commission Resolution No. 1876, as well as program elements financed entirely with non-Federal funds, including the BART Warm Springs Extension, Dublin Extension, and West Pittsburg Extension.

"(iii) The Los Angeles Metro Rail Minimum Operable Segment-3 Program, which consists of 7 stations and approximately 11.6 miles of heavy rail subway on the following lines:

"(I) 1 line running west and northwest from the Hollywood/Vine station to the North Hollywood station, with 2 intermediate stations;

"(II) 1 line running west from the Wilshire/Western station to the Pico/San Vicente station, with 1 intermediate station; and

"(III) the East Side Extension, consisting of an initial line of approximately 3 miles in length, with at least 2 stations, beginning at Union Station and running generally east.

"(iv) The Baltimore-Washington Transportation Improvements Program, which consists of the following elements: 3 extensions of the Baltimore Light Rail to Hunt Valley, Penn Station and Baltimore-Washington Airport; MARC extensions to Frederick and Waldorf, Maryland; and an extension of the Washington Subway system to Largo, Maryland.

"(v) The Tri-County Metropolitan Transportation District of Oregon Westside Light Rail Program, which consists of the following elements: the locally preferred alternative for the Westside Light Rail Project, including system related costs, set forth in Public Law 101-516 and as defined in House Report 101-584; and the Hillsboro extension to the Westside Light Rail Project as set forth in Public Law 101-516.

"(vi) The Queens Local/Express Connector Program which consists of the following elements: the locally preferred alternative for the connection of the 63rd Street tunnel extension to the Queens Boulevard lines; the bell-mouth portion of the connector which would allow for future access by both commuter rail trains and other subway lines to the 63rd Street tunnel extension; planning elements for connecting both upper and lower level to commuter and subway lines in Long Island City; and planning elements for providing a connector for commuter rail service to the East side of Manhattan and subway lines to the proposed Second Avenue subway.

"(vii) The Dallas Area Rapid Transit Authority light rail elements of the New System Plan, which consists of the following elements: the locally preferred alternative for the South Oak Cliff corridor; the South Oak Cliff corridor extension-Camp Wisdom; the West Oak Cliff corridor-Westmoreland; the North Central corridor-Park Lane; the North Central corridor-Richardson, Plano and Garland extensions; the Pleasant Grove corridor-Buckner; and the Carrollton corridor-Farmers Branch and Las Colinas terminal.

"(viii) Such other programs as may be designated in law or by the Secretary.".

(b) TRANSITIONAL PROVISION.—In the case of a project (including programs of interrelated projects) that, as of the date of enactment of this Act, has reached a particular stage of project review under section 3(a)(6) of the Federal Transit Act, the timetables applicable to subsequent stages of project review contained in such section shall take effect on the date of enactment of this Act.

SEC. 3012. METROPOLITAN PLANNING.

The Act is amended by striking section 8 and inserting the following new section:

"SEC. 8. METROPOLITAN PLANNING.

"(a) GENERAL REQUIREMENTS.—It is in the national interest to encourage and promote the development of transportation systems embracing various modes of transportation in a manner which will efficiently maximize mobility of people and goods within and through urbanized areas and minimize transportation-related fuel consumption and air pollution. To accomplish this objective, metropolitan planning organizations, in cooperation with the State, shall develop transportation plans and programs for urbanized areas of the State. Such plans and programs shall provide for the development of transportation facilities (including pedestrian walkways and bicycle transportation facilities) which will function as an intermodal transportation system for the State, the metropolitan areas, and the Nation. The process for develop-

ing such plans and programs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems.

"(b) DESIGNATION OF METROPOLITAN PLANNING ORGANIZATIONS.—

"(1) IN GENERAL.—To carry out the transportation planning process required by this section, a metropolitan planning organization shall be designated for each urbanized area of more than 50,000 population by agreement among the Governor and units of general purpose local government which together represent at least 75 percent of the affected population (including the central city or cities as defined by the Bureau of the Census) or in accordance with procedures established by applicable State or local law.

"(2) MEMBERSHIP OF CERTAIN MPO'S.—In a metropolitan area designated as a transportation management area, the metropolitan planning organization designated for such area shall include local elected officials, officials of agencies which administer or operate major modes of transportation in the metropolitan area (including all transportation agencies included in the metropolitan planning organization on June 1, 1991) and appropriate State officials. This paragraph shall only apply to a metropolitan planning organization which is redesignated after the date of the enactment of this section.

"(3) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to interfere with the authority, under any State law in effect on the date of the enactment of this section, of a public agency with multimodal transportation responsibilities to—

"(A) develop plans and programs for adoption by a metropolitan planning organization; and

"(B) develop long-range capital plans, coordinate transit services and projects, and carry out other activities pursuant to State law.

"(4) CONTINUING DESIGNATION.—Designations of metropolitan planning organizations, whether made under this section or other provisions of law, shall remain in effect until redesignated under paragraph (5) or revoked by agreement among the Governor and units of general purpose local government which together represent at least 75 percent of the affected population or as otherwise provided under State or local procedures.

"(5) REDESIGNATION.—

"(A) PROCEDURES.—A metropolitan planning organization may be redesignated by agreement among the Governor and units of general purpose local government which together represent at least 75 percent of the affected population (including the central city or cities as defined by the Bureau of the Census) as appropriate to carry out this section.

"(B) CERTAIN REQUESTS TO REDESIGNATE.—A metropolitan planning organization shall be redesignated upon request of a unit or units of general purpose local government representing at least 25 percent of the affected population (including the central city or cities as defined by the Bureau of the Census) in any urbanized area (i) whose population is more than 5,000,000 but less than 10,000,000, or (ii) which is an extreme nonattainment area for ozone or carbon monoxide as defined under the Clean Air Act. Such redesignation shall be accomplished using procedures established by subparagraph (A).

"(6) TREATMENT OF LARGE URBAN AREAS.—More than 1 metropolitan planning organization may be designated within an urbanized area as defined by the Bureau of the Census only if the Governor determines that the size and complexity of the urbanized area make designation of more than 1 metropolitan planning organization for such area appropriate.

"(c) METROPOLITAN AREA BOUNDARIES.—For the purposes of this section, the boundaries of a metropolitan area shall be determined by agreement between the metropolitan planning organization and the Governor. Each metropolitan area shall cover at least the existing urbanized area and the contiguous area expected to become urbanized within the 20-year forecast period and may encompass the entire Metropolitan Statistical Area or Consolidated Metropolitan Statistical Area, as defined by the Bureau of the Census. For areas designated as nonattainment areas for ozone or carbon monoxide under the Clean Air Act, the boundaries of the metropolitan area shall at least include the boundaries of the nonattainment area, except as otherwise provided by agreement between the metropolitan planning organization and the Governor.

"(d) COORDINATION IN MULTI-STATE AREAS.—

"(1) IN GENERAL.—The Secretary shall establish such requirements as the Secretary considers appropriate to encourage Governors and metropolitan planning organizations with responsibility for a portion of a multi-State metropolitan area to provide coordinated transportation planning for the entire metropolitan area.

"(2) COMPACTS.—The consent of Congress is hereby given to any 2 or more States to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section as such activities pertain to interstate areas and localities within such States and to establish such agencies, joint or otherwise, as such States may deem desirable for making such agreements and compacts effective.

"(e) COORDINATION OF MPO'S.—If more than 1 metropolitan planning organization has authority within a metropolitan area or an area which is designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act, each metropolitan planning organization shall consult with the other metropolitan planning organizations designated for such area and the State in the coordination of plans and programs required by this section.

"(f) FACTORS TO BE CONSIDERED.—In developing transportation plans and programs pursuant to this section, each metropolitan planning organization shall, at a minimum, consider the following:

"(1) Preservation of existing transportation facilities and, where practical, ways to meet transportation needs by using existing transportation facilities more efficiently.

"(2) The consistency of transportation planning with applicable Federal, State, and local energy conservation programs, goals, and objectives.

"(3) The need to relieve congestion and prevent congestion from occurring where it does not yet occur.

"(4) The likely effect of transportation policy decisions on land use and development and the consistency of transportation plans and programs with the provisions of all applicable short- and long-term land use and development plans.

"(5) The programming of expenditure on transportation enhancement activities as required in section 133.

"(6) The effects of all transportation projects to be undertaken within the metropolitan area, without regard to whether such projects are publicly funded.

"(7) International border crossings and access to ports, airports, intermodal transportation facilities, major freight distribution routes, national parks, recreation areas, monuments and historic sites, and military installations.

"(8) The need for connectivity of roads within the metropolitan area with roads outside the metropolitan area.

"(9) The transportation needs identified through use of the management systems required by section 303 of this title.

"(10) Preservation of rights-of-way for construction of future transportation projects, including identification of unused rights-of-way which may be needed for future transportation corridors and identification of those corridors for which action is most needed to prevent destruction or loss.

"(11) Methods to enhance the efficient movement of freight.

"(12) The use of life-cycle costs in the design and engineering of bridges, tunnels, or pavement.

"(13) The overall social, economic, energy, and environmental effects of transportation decisions.

"(14) Methods to expand and enhance transit services and to increase the use of such services.

"(15) Capital investments that would result in increased security in transit systems.

"(g) DEVELOPMENT OF LONG RANGE PLAN.—

"(1) IN GENERAL.—Each metropolitan planning organization shall prepare, and update periodically, according to a schedule that the Secretary determines to be appropriate, a long range plan for its metropolitan area in accordance with the requirements of this subsection.

"(2) LONG RANGE PLAN.—A long range plan under this section shall be in a form that the Secretary determines to be appropriate and shall, at a minimum:

"(A) Identify transportation facilities (including but not necessarily limited to major roadways, transit, and multimodal and intermodal facilities) that should function as an integrated metropolitan transportation system, giving emphasis to those facilities that serve important national and regional transportation functions. In formulating the long range plan, the metropolitan planning organization shall consider factors described in subsection (f) as such factors relate to a 20-year forecast period.

"(B) Include a financial plan that demonstrates how the long-range plan can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan, and recommends any innovative financing techniques to finance needed projects and programs, including such techniques as value capture, tolls and congestion pricing.

"(C) Assess capital investment and other measures necessary to—

"(i) ensure the preservation of the existing metropolitan transportation system, including requirements for operational improvements, resurfacing, restoration, and rehabilitation of existing and future major roadways, as well as operations, maintenance, modernization, and rehabilitation of existing and future transit facilities; and

"(ii) make the most efficient use of existing transportation facilities to relieve vehicular congestion and maximize the mobility of people and goods.

"(D) Indicate as appropriate proposed transportation enhancement activities.

"(3) COORDINATION WITH CLEAN AIR ACT AGENCIES.—In metropolitan areas which are in nonattainment for ozone or carbon monoxide under the Clean Air Act, the metropolitan planning organization shall coordinate the development of a long range plan with the process for development of the transportation control measures of the State Implementation Plan required by the Clean Air Act.

"(4) PARTICIPATION BY INTERESTED PARTIES.—Before approving a long range plan, each metropolitan planning organization shall provide citizens, affected public agencies, representatives of transportation agency employees, private providers of transportation, and other interested parties with a reasonable opportunity to comment on the long range plan, in a manner that the Secretary deems appropriate.

"(5) PUBLICATION OF LONG RANGE PLAN.—Each long range plan prepared by a metropolitan planning organization shall be—

"(i) published or otherwise made readily available for public review; and

"(ii) submitted for information purposes to the Governor at such times and in such manner as the Secretary shall establish.

"(h) TRANSPORTATION IMPROVEMENT PROGRAM.—

"(1) DEVELOPMENT.—The metropolitan planning organization designated for a metropolitan area, in cooperation with the State and affected transit operators, shall develop a transportation improvement program for the area for which such organization is designated. In developing the program, the metropolitan planning organization shall provide citizens, affected public agencies, representatives of transportation agency employees, other affected employee representatives, private providers of transportation, and other interested parties with a reasonable opportunity to comment on the proposed program. The program shall be updated at least once every 2 years and shall be approved by the metropolitan planning organization and the Governor.

"(2) PRIORITY OF PROJECTS.—The transportation improvement program shall include the following:

"(A) A priority list of projects and project segments to be carried out within each 3-year period after the initial adoption of the transportation improvement program.

"(B) A financial plan that demonstrates how the transportation improvement program can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan, and recommends any innovative financing techniques to finance needed projects and programs, including value capture, tolls, and congestion pricing.

"(3) SELECTION OF PROJECTS.—Except as otherwise provided in subsection (i)(4), project selection in metropolitan areas for projects involving Federal participation shall be carried out by the State in cooperation with the metropolitan planning organization and shall be in conformance with the transportation improvement program for the area.

"(4) MAJOR CAPITAL INVESTMENTS.—Not later than 6 months after the date of enactment of this section, the Secretary shall initiate a rulemaking proceeding to conform review requirements for transit projects under the National Environmental Policy Act of 1969 to comparable requirements under such Act applicable to highway projects. Nothing in this section shall be construed to affect the applicability of such Act to transit or highway projects.

"(5) INCLUDED PROJECTS.—A transportation improvement program for a metropolitan area developed under this subsection shall include projects within the area which are proposed for funding under this title and the Federal Transit Act and which are consistent with the long range plan developed under subsection (g) for the area. The program shall include a project, or an identified phase of a project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

"(6) NOTICE AND COMMENT.—Before approving a transportation improvement program, a metropolitan planning organization shall provide citizens, affected public agencies, representatives of transportation agency employees, private providers of transportation, and other interested parties with reasonable notice of and an opportunity to comment on the proposed program.

"(i) TRANSPORTATION MANAGEMENT AREAS.—

"(1) DESIGNATION.—The Secretary shall designate as transportation management areas all urbanized areas over 200,000 population. The Secretary shall designate any additional area as a transportation management area upon the request of the Governor and the metropolitan planning organization designated for such area or the affected local officials. Such additional areas shall include upon such a request the Lake Tahoe Basin as defined by Public Law 96–551.

"(2) TRANSPORTATION PLANS AND PROGRAMS.—Within a transportation management area, transportation plans and programs shall be based on a continuing and comprehensive transportation planning process carried out by the metropolitan planning organization in cooperation with the State and transit operators.

"(3) CONGESTION MANAGEMENT SYSTEM.—Within a transportation management area, the transportation planning process under this section shall include a congestion management system that provides for effective management of new and existing transportation facilities eligible for funding under this title and the Federal Transit Act through the use of travel demand reduction and operational management strategies. The Secretary shall establish an appropriate phase-in schedule for compliance with the requirements of this section.

"(4) SELECTION OF PROJECTS.—All projects carried out within the boundaries of a transportation management area with Federal participation pursuant to this title (excluding projects undertaken on the National Highway System and pursuant to the Bridge and Interstate Maintenance programs) or pursuant to the Federal Transit Act shall be selected by the metropolitan planning organization designated for such area in consultation with the State and in conformance with the transportation improvement program for such area and priorities established therein. Projects undertaken within the boundaries of a transportation management area on the National Highway System or pursuant to the Bridge and Interstate Maintenance programs shall be selected by the State in cooperation with the metropolitan planning organization designated for such area and shall be in conformance with the transportation improvement program for such area.

"(5) CERTIFICATION.—The Secretary shall assure that each metropolitan planning organization in each transportation management area is carrying out its responsibilities under applicable provisions of Federal law, and shall so certify at least once every 3 years. The Secretary may make such certification only if (1) a metropolitan planning organization is complying with the requirements of section 134 and other applicable requirements of Federal law, and (2) there is a transportation improvement program for the area that has been approved by the metropolitan planning organization and the Governor. If after September 30, 1993, a metropolitan planning organization is not certified by the Secretary, the Secretary may withhold, in whole or in part, the apportionment under section 104(b)(3) attributed to the relevant metropolitan area pursuant to section 133(d)(3) and capital funds apportioned under the formula program under section 9 of the Federal Transit Act. If a metropolitan planning organization remains uncertified for more than 2 consecutive years after September 30, 1994, 20 percent of the apportionment attributed to that metropolitan area under section 133(d)(3) and capital funds apportioned under the formula program under section 9 of the Federal Transit Act shall be withheld. The withheld apportionments shall be restored to the metropolitan area at such time as the metropolitan planning organization is certified by the Secretary. The Secretary shall not withhold certification under this section based upon the policies and criteria established by a metropolitan planning organization or transit grant recipient for determining the feasibility of private enterprise participation in accordance with section 8(o) of the Federal Transit Act.

"(j) ABBREVIATED PLANS AND PROGRAMS FOR CERTAIN AREAS.—For metropolitan areas not designated as transportation management areas under this section, the Secretary may provide for the development of abbreviated metropolitan transportation plans and programs that the Secretary determines to be appropriate to achieve the purposes of this section, taking into account the complexity of transportation problems, including transportation related air quality problems, in such areas. In no event shall the Secretary provide abbreviated plans or programs for metropolitan areas which are in nonattainment for ozone or carbon monoxide under the Clean Air Act.

"(k) TRANSFER OF FUNDS.—Funds made available for a transit project under title 23, United States Code, shall be transferred to and administered by the Secretary in accordance with the requirements of this Act. Funds made available for a highway project under this Act shall be transferred to and administered by the Secretary in accordance with the requirements of title 23, United States Code.

"(l) ADDITIONAL REQUIREMENTS FOR CERTAIN NONATTAINMENT AREAS.—Notwithstanding any other provisions of this Act or title 23, United States Code, for transportation management areas classified as nonattainment for ozone or carbon monoxide pursuant to the Clean Air Act, Federal funds may not be programmed in such area for any transit project that will result in a significant increase in carrying capacity for single occupant vehicles unless the project is part of an approved congestion management system.

"(m) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed—

"(1) to confer on a metropolitan planning organization the authority to impose legal requirements on any transportation facility, provider, or project not eligible under this title or the Federal Transit Act; or

"(2) to intervene in the management of a transportation agency.

"(n) GRANTS.—

"(1) ELIGIBILITY.—The Secretary is authorized to contract for and make grants to States and local public bodies and agencies thereof, or enter into agreements with other Federal departments and agencies, for the planning, engineering, design, and evaluation of public transportation projects, and for other technical studies. Activities assisted under this section may include—

"(A) studies relating to management, operations, capital requirements, and economic feasibility;

"(B) evaluation of previously funded projects; and

"(C) other similar or related activities preliminary to and in preparation for the construction, acquisition, or improved operation of facilities and equipment.

"(2) CRITERIA.—A grant, contract, or working agreement under this section shall be made in accordance with criteria established by the Secretary.

"(o) PRIVATE ENTERPRISE.—The plans and programs required by this section shall encourage to the maximum extent feasible the participation of private enterprise. Where facilities and equipment are to be acquired which are already being used in service in the urban areas, the program must provide that they shall be so improved (through modernization, extension, addition, or otherwise) that they will better serve the transportation needs of the area.

"(p) USE FOR COMPREHENSIVE PLANNING.—

"(1) IN GENERAL.—The Secretary shall ensure, to the extent practicable, that amounts made

available under section 21(c)(1) for the purposes of this section are used to support balanced and comprehensive transportation planning that takes into account the relationships among land use and all transportation modes, without regard to the programmatic source of the planning funds.

"(2) FORMULA ALLOCATION TO ALL METROPOLITAN AREAS.—The Secretary shall apportion 80 percent of the amount made available under section 21(c)(1) to States in the ratio that the population in urbanized areas, in each State, bears to the total population in urbanized areas, in all the States as shown by the latest available decennial census, except that no State shall receive less than ½ of 1 percent of the amount apportioned under this paragraph. Such funds shall be allocated to metropolitan planning organizations designated under section 8 by a formula, developed by the State in cooperation with metropolitan planning organizations and approved by the Secretary, that considers population in urbanized areas and provides an appropriate distribution for urbanized areas to carry out the cooperative processes described in section 8 of this Act. The State shall make such funds available promptly to eligible metropolitan planning organizations according to procedures approved by the Secretary.

"(3) SUPPLEMENTAL ALLOCATION.—The Secretary shall apportion 20 percent of the amounts made available under section 21(c)(1) to States to supplement allocations under subparagraph (B) for metropolitan planning organizations. Such funds shall be allocated according to a formula that reflects the additional costs of carrying out planning, programming, and project selection responsibilities under this section in such areas.

"(4) HOLD HARMLESS.—The Secretary shall ensure, to the maximum extent practicable, that no metropolitan planning organization is allocated less than the amount it received by administrative formula under section 8 in fiscal year 1991. To comply with the previous sentence, the Secretary is authorized to make a pro rata reduction in other amounts made available to carry out section 21(c).

"(5) FEDERAL SHARE PAYABLE.—The Federal share payable for activities under this paragraph shall be 80 percent except where the Secretary determines that it is in the Federal interest not to require a State or local match.".

SEC. 3013. BLOCK GRANT PROGRAM.

(a) ALLOCATIONS.—Section 9(a) is amended—

(1) in paragraph (1), by striking "Of the amount" and all that follows through the period and inserting the following: "Of the amounts made available or appropriated under section 21(g), 9.32 percent shall be available for expenditure under this section in each fiscal year only in urbanized areas with a population of less than 200,000."; and

(2) in paragraph (2), by striking "Of the amount" and all that follows through the period and inserting the following: "Of the amounts made available or appropriated under section 21(g), 90.68 percent shall be available for expenditure under this section in each fiscal year only in urbanized areas with a population of 200,000 or more.".

(b) ENERGY AND OPERATING EFFICIENCIES.—Section 9(b) is amended by adding at the end the following new paragraph:

"(4) ENERGY AND OPERATING EFFICIENCIES.—If a recipient under this section demonstrates to the satisfaction of the Secretary that energy or operating efficiencies would be achieved by actions that reduce revenue vehicle miles but provide the same frequency of revenue service to the same number of riders, the recipient's apportionment under paragraph (2)(A) shall not be reduced as a result of such actions.".

(c) EXTENSION OF SAFETY AUTHORITY TO BLOCK GRANT PROGRAM.—Section 9(e)(1) is amended by striking "and 19" and inserting "19, and 22".

(d) ANNUAL SUBMISSIONS.—Section 9(e)(2) is amended by inserting after the first sentence the following new sentences: "Such certifications and any additional certifications required by law to be submitted to the Secretary may be consolidated into a single document to be submitted annually as part of the grant application under this section. The Secretary shall annually publish in conjunction with the publication required under subsection (q) a list of all certifications required under this Act.".

(e) STREAMLINED PROCEDURES.—Section 9(e) is amended by adding at the end the following new paragraph:

"(6) STREAMLINED ADMINISTRATIVE PROCEDURES.—The Secretary shall establish streamlined administrative procedures to govern compliance with the certification requirement under paragraph (3)(B) with respect to track and signal equipment used in ongoing operations.".

(f) TRANSIT SECURITY SYSTEMS.—Section 9(e)(3) is amended—

(1) in subparagraph (G) by striking "; and" and inserting a semicolon;

(2) in subparagraph (H) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(I)(i) will expend for each fiscal year not less than 1 percent of the funds received by the recipient for each fiscal year under this section for transit security projects; or

"(ii) that such expenditures for such security systems are not necessary.

For the purposes of subparagraph (I), transit security projects may include increasing lighting within or adjacent to transit systems, including bus stops, subway stations, parking lots, and garages; increasing camera surveillance of areas within and adjacent to such systems; providing emergency telephone lines to contact law enforcement or security personnel in areas within or adjacent to such systems; and any other project intended to increase the security and safety of existing or planned transit systems.".

(g) PROGRAM OF PROJECTS.—Section 9(f) is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting "; and"; and

(3) by inserting after paragraph (4) the following:

"(5) assure that the proposed program of projects provides for the coordination of transit services assisted under this section with transportation services assisted from other Federal sources.".

(h) DISCRETIONARY TRANSFER OF APPORTIONMENT.—Section 9 is amended—

(1) in subsection (j)(1), by inserting after the first sentence the following: "In a transportation management area designated pursuant to section 8, funds which cannot be used for payment of operating expenses under this section also shall be available for highway projects if—

"(A) such use is approved by the metropolitan planning organization in accordance with section 8 after appropriate notice and opportunity for comment and appeal is provided to affected transit providers; and

"(B) in the determination of the Secretary, such funds are not needed for investments required by the Americans with Disabilities Act of 1990."; and

(2) by adding at the end of subsection (j) the following new paragraph:

"(3) Funds under this section may be available for highway projects under title 23, United States Code, only if funds used for the State or local share of such highway projects are eligible to fund either highway or transit projects.".

(i) INFLATION ADJUSTMENT FOR OPERATING ASSISTANCE.—Section 9(k)(2)(B) is amended—

(1) by striking "1988," and inserting "1991,";

(2) by striking "of less than 200,000 population" the first place it appears; and

(3) by inserting after "calendar year" the following: "; except that such increase may not exceed the percentage increase of the funds made available under section 21(g) in the current fiscal year and the funds made available under section 21(g) in the previous fiscal year".

(j) FERRY ROUTES.—Section 9 is amended by adding at the end the following new subsections:

"(r) FERRY SERVICES.—A vessel used in ferryboat operations funded under this section that is part of a State-operated ferry system may occasionally be operated outside of the urbanized area in which service is provided to accommodate periodic maintenance if existing ferry service is not thereby significantly reduced.

"(s) GRANDFATHER OF CERTAIN URBANIZED AREAS.—Any area designated as an urbanized area under the 1980 census which is not so designated under the 1990 census—

"(1) for fiscal year 1992, shall be treated as an urbanized area for purposes of section 12(c)(11) of the Federal Transit Act; and

"(2) for fiscal year 1993, shall be eligible to receive 50 percent of the funds which the area would have received if the area were treated as an urbanized area for purposes of such section 12(c)(11) and an amount equal to 50 percent of the funds which the State in which the area is located would have received if the area were treated as an area other than an urbanized area.".

(k) ADJUSTMENTS OF APPORTIONMENTS.—Section 9 is amended by adding at the end the following new subsection:

"(t) ADJUSTMENTS OF APPORTIONMENTS.—Provided that sufficient funds are available, in each fiscal year beginning after September 30, 1991, the Secretary shall adjust apportionments under this section between the Mass Transit Account of the Highway Trust Fund and the general fund of the Treasury to assure that each recipient receives from the general fund of the Treasury not less than the amount of operating assistance made available each fiscal year under this section that such recipient is eligible to receive.".

SEC. 3014. CONTINUED ASSISTANCE FOR COMMUTER RAIL IN SOUTHERN FLORIDA UNDER SECTION 9 PROGRAM.

Section 329 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (49 U.S.C. 1607a) is amended—

(1) in the first sentence by striking "in which major onsite" and all that follows before the period; and

(2) in the second sentence by striking "provided as" and all that follows before the period.

SEC. 3015. REPEAL OF EXPIRED PROVISION.

Section 9A, relating to Mass Transit Account distribution for fiscal year 1983, is repealed.

SEC. 3016. TRANSIT DEFINITION.

Section 12(c)(7) is amended—

(1) by striking "term" and inserting "terms"; and

(2) by striking "means" and inserting "and 'transit' mean".

SEC. 3017. RULEMAKING.

Section 12(i) is amended by adding at the end the following:

"(3) LIMITATION.—The Secretary shall propose or implement rules governing activities under this Act only in accordance with this section except for routine matters and matters with no significant impact.".

SEC. 3018. TRANSFER OF FACILITIES AND EQUIPMENT.

Section 12 is amended by adding at the end the following new subsection:

"(k) TRANSFER OF CAPITAL ASSET.—

"(1) AUTHORIZATION.—If a recipient of assistance under this Act determines that facilities

and equipment and other assets (including land) acquired, in whole or part, with such assistance are no longer needed for the purposes for which they were acquired, the Secretary may authorize the transfer of such assets to any public body to be used for any public purpose with no further obligation to the Federal Government.

"(2) DETERMINATIONS.—The Secretary may authorize a transfer under paragraph (1) for any public purpose other than transit only if the Secretary first determines—

"(A) that the asset being transferred will remain in public use for not less than 5 years after the date of the transfer;

"(B) that there are no purposes eligible for assistance under this Act for which the asset should be used;

"(C) the overall benefit of allowing the transfer outweighs the Federal Government interest in liquidation and return of the Federal financial interest in the asset, after consideration of fair market value and other factors; and

"(D) that, in any case in which the asset is a facility or land, there is no interest in acquiring the asset for Federal use.

The determination under subparagraph (D) shall be made through an appropriate screening or survey process.

"(3) DOCUMENTATION.—Determinations required by paragraph (2) shall be made, in writing, and shall include the rationale for such determinations.

"(4) RELATION TO OTHER PROVISIONS.—The provisions of this section shall be in addition to and not in lieu of any other provision of law governing use and disposition of facilities and equipment under an assistance agreement.".

SEC. 3019. SPECIAL PROCUREMENT.

Section 12 is further amended by adding at the end the following:

"(l) SPECIAL PROCUREMENT INITIATIVES.—

"(1) TURNKEY SYSTEM PROCUREMENTS.—

"(A) IN GENERAL.—In order to advance new technologies and lower the cost of constructing new transit systems, the Secretary shall allow the solicitation for a turnkey system project to be funded under this Act to be conditionally awarded before Federal requirements have been met on the project so long as the award is made without prejudice to the implementation of those Federal requirements. Federal financial assistance under this Act may be made available for such a project when the recipient has complied with relevant Federal requirements.

"(B) INITIAL DEMONSTRATION PHASE.—In order to develop regulations applying generally to turnkey system projects, the Secretary is authorized to approve not less than 2 projects for an initial demonstration phase. The results of such demonstration projects (and any other projects currently using this procurement method) shall be taken into consideration in the development of the regulations implementing this subsection.

"(C) TURNKEY SYSTEM PROJECT DEFINED.—As used in this subsection, the term 'turnkey system project' means a project under which a recipient contracts with a consortium of firms, individual firms, or a vendor to build a transit system that meets specific performance criteria and which is operated by the vendor for a period of time.

"(2) MULTIYEAR ROLLING STOCK PROCUREMENTS.—

"(A) IN GENERAL.—A recipient procuring rolling stock with Federal financial assistance under this Act may enter into a multiyear agreement for the purchase of such rolling stock and replacement parts pursuant to which the recipient may exercise an option to purchase additional rolling stock or replacement parts for a period not to exceed 5 years from the date of the original contract.

"(B) CONSORTIA.—The Secretary shall permit 2 or more recipients to form a consortium (or otherwise act on a cooperative basis) for purposes of procuring rolling stock in accordance with this paragraph and other Federal procurement requirements.

"(3) EFFICIENT PROCUREMENT.—A recipient may award to other than the lowest bidder in connection with a procurement under this Act when such award furthers objectives which are consistent with purposes of this Act, such as improved long-term operating efficiency and lower long-term costs. Not later than 90 days after the date of the enactment of this Act, the Secretary shall (A) make such modifications to current procedures as are appropriate to make the policy set forth in this paragraph readily practicable for all transit agencies, including smaller and medium sized agencies, and (B) issue guidance clarifying and implementing such policy.".

SEC. 3020. FEDERAL SHARE FOR ADA AND CLEAN AIR ACT COMPLIANCE.

Section 12 is further amended by inserting at the end the following new subsection:

"(m) FEDERAL SHARE FOR CERTAIN PROJECTS.—A Federal grant for a project to be assisted under this Act that involves the acquisition of vehicle-related equipment required by the Clean Air Act or the Americans with Disabilities Act of 1990 shall be 90 percent of the net project cost of such equipment attributable to compliance with such Acts. The Secretary shall have discretion to determine, through practicable administrative procedures, the costs attributable to equipment specified in the preceding sentence.".

SEC. 3021. TRANSIT SERVICES FOR ELDERLY AND DISABLED INDIVIDUALS.

Section 16 is amended—

(1) by striking "elderly and handicapped persons" each place it appears and inserting "elderly persons and persons with disabilities";

(2) in subsection (b)(2) by inserting "to the Governor of each State for allocation" before "to private";

(3) in subsection (b)(2) by inserting "or to public bodies approved by the State to coordinate services for elderly persons and persons with disabilities or to public bodies which certify to the Governor that no nonprofit corporations or associations are readily available in an area to provide the service under this subsection" after "inappropriate";

(4) by striking "and" at the end of subsection (b)(1), by striking the period at the end of subsection (b)(2) and inserting "; and", and by inserting after subsection (b)(2) the following:

"(3) eligible capital expenses under this section may include, at the option of the recipient, the acquisition of transportation services under a contract, lease, or other arrangement.";

(5) by redesignating subsections (c) through (e) as subsections (d) through (f), respectively;

(6) by inserting after subsection (b) the following:

"(c) APPORTIONMENT AND USE OF FUNDS.—

"(1) STATE PROGRAM OF PROJECTS.—Funds made available for purposes of subsection (b) may be used for transportation projects to assist in the provision of transportation services for elderly persons and persons with disabilities which are included in a State program of projects. Such programs shall be submitted annually to the Secretary for approval and shall contain an assurance that the program provides for maximum feasible coordination of transportation services assisted under this section with transportation services assisted by other Federal sources.

"(2) APPORTIONMENT.—Sums made available for expenditure for purposes of subsection (b) shall be apportioned to the States on the basis of a formula administered by the Secretary which shall take into consideration the number of elderly persons and persons with disabilities in each State.

"(3) TRANSFER OF AMOUNTS.—Any amounts of a State's apportionment under this subsection that remain available for obligation at the beginning of the 90-day period before the expiration of the period of availability of such amounts shall be available to the Governor for transfer to supplement funds apportioned to the State under section 18(a) or section 9(d).

"(4) LEASING OF VEHICLES.—The Secretary shall, not later than 60 days following the enactment of the Federal Transit Act, issue regulations to allow vehicles purchased under this section to be leased to local public bodies and agencies for the purpose of improving transportation services designed to meet the special needs of elderly persons and persons with disabilities."; and

(7) by striking subsection (f), as redesignated by this section, and inserting the following:

"(f) MEAL DELIVERY SERVICE TO HOMEBOUND PERSONS.—Transit service providers receiving assistance under this section or section 18(a) may coordinate and assist in providing meal delivery service for homebound persons on a regular basis if the meal delivery services do not conflict with the provision of transit services or result in a reduction of service to transit passengers.".

SEC. 3022. TRANSFER OF FACILITIES AND EQUIPMENT.

Section 18 is amended by striking subsection (g) and inserting the following:

"(g) TRANSFER OF FACILITIES AND EQUIPMENT.—A State may transfer facilities and equipment acquired with assistance under this section or section 16(b) to any recipient eligible to receive assistance under this Act with the consent of the recipient currently in possession of such facilities or equipment, if the facility or equipment will continue to be used in accordance with the requirements of this section or section 16(b), as the case may be.".

SEC. 3023. INTERCITY BUS TRANSPORTATION.

Section 18 is further amended by adding at the end the following new subsection:

"(i) INTERCITY BUS TRANSPORTATION.—

"(1) FUNDING OF PROGRAM.—Subject to paragraph (2), a State shall expend not less than 5 percent of the amounts made available to such State under this section in fiscal year 1992, 10 percent of such amounts in fiscal year 1993, and 15 percent of such amounts in fiscal year 1994 and each fiscal year beginning thereafter to carry out a program for the development and support of intercity bus transportation. Eligible activities under such a program include planning and marketing for intercity bus transportation, capital grants for intercity bus shelters, joint-use stops and depots, operating grants through purchase-of-service agreements, user-side subsidies and demonstration projects, and coordination of rural connections between small transit operations and intercity bus carriers.

"(2) CERTIFICATION.—A State shall not be required to comply with paragraph (1) in any fiscal year in which the Governor certifies to the Secretary that the intercity bus service needs of the State are being adequately met.

"(3) SPECIAL RULE.—For fiscal year 1992, a State may meet the requirement of paragraph (1) by expending to carry out the program described in paragraph (1) at least 50 percent of the increase in the amount allocated to the State under this section between fiscal year 1991 and fiscal year 1992.".

SEC. 3024. USE OF POPULATION ESTIMATES.

Section 18(a) is amended in the second sentence by inserting after "the latest available Federal census" the following: ", the population estimate prepared by the Secretary of Commerce following the 4th year after the date of publication of such Federal census, or the population estimate prepared by the Secretary of Commerce following the 8th year after such date of publication, whichever is the most recent.".

SEC. 3025. AUTHORIZATIONS.

Section 21 is amended to read as follows:

"SEC. 21. AUTHORIZATIONS.

"(a) FORMULA GRANT PROGRAMS.—

"(1) FROM THE TRUST FUND.—There shall be available from the Mass Transit Account of the Highway Trust Fund only to carry out sections 9B, 11(b), 12(a), 16(b), 18, 23, and 26 of this Act, $1,150,000,000 for fiscal year 1993, $1,190,000,000 for fiscal year 1994, $1,150,000,000 for fiscal year 1995, $1,110,000,000 for fiscal year 1996, and $1,920,000,000 for fiscal year 1997, to remain available until expended.

"(2) FROM GENERAL FUNDS.—In addition to the amounts specified in paragraph (1), there are authorized to be appropriated to carry out sections 9, 11(b), 12(a), 16(b), 18, 23, and 26 of this Act, and substitute transit projects under section 103(e)(4) of title 23, United States Code, $2,055,000,000 for fiscal year 1993, $1,885,000,000 for fiscal year 1994, $1,925,000,000 for fiscal year 1995, $1,965,000,000 for fiscal year 1996, and $2,430,000,000 for fiscal year 1997, to remain available until expended.

"(3) FISCAL YEAR 1992.—There shall be available from the Mass Transit Account of the Highway Trust Fund for fiscal year 1992, $409,710,000 to carry out section 9B of this Act, to remain available until expended.

"(b) SECTION 3 DISCRETIONARY AND FORMULA GRANTS.—

"(1) FROM THE TRUST FUND.—There shall be available from the Mass Transit Account of the Highway Trust Fund only to carry out section 3 of this Act, $1,725,000,000 for fiscal year 1993, $1,785,000,000 for fiscal year 1994, $1,725,000,000 for fiscal year 1995, $1,665,000,000 for fiscal year 1996, and $2,880,000,000 for fiscal year 1997, to remain available until expended.

"(2) FROM GENERAL FUNDS.—In addition to the amounts specified in paragraph (1), there are authorized to be appropriated to carry out section 3 of this Act, $305,000,000 for fiscal year 1993, $265,000,000 for fiscal year 1994, $325,000,000 for fiscal year 1995, $385,000,000 for fiscal year 1996, and $20,000,000 for fiscal year 1997, to remain available until expended.

"(3) FISCAL YEAR 1992.—There shall be available from the Mass Transit Account of the Highway Trust Fund for fiscal year 1992—

"(A) $1,345,000,000 to carry out section 3 of this Act;

"(B) $43,780,000 to carry out section 8 of this Act;

"(C) $55,000,000 to carry out section 16 of this Act;

"(D) $19,460,000 to carry out section 26(a) of this Act;

"(E) $20,050,000 to carry out section 26(b) of this Act, of which $12,000,000 shall be available only for part C of title VI of the Intermodal Surface Transportation Efficiency Act of 1991; and

"(F) $7,000,000 to carry out section 11(b) of this Act.

Such sums shall remain available until expended.

"(4) CONTRACTUAL OBLIGATIONS.—Approval by the Secretary of a grant or contract with funds made available under subsection (a)(1), (a)(3), (b)(1), or (b)(3) shall be deemed a contractual obligation of the United States for payment of the Federal share of the cost of the project. Approval by the Secretary of a grant or contract with funds made available under subsection (a)(2) or (b)(2) shall be deemed a contractual obligation of the United States for payment of the Federal share of the cost of the project only to the extent that amounts are provided in advance in appropriations Acts.

"(c) SET-ASIDE FOR PLANNING, PROGRAMMING, AND RESEARCH.—Before apportionment in each fiscal year of the funds made available or appropriated under subsection 8(p), an amount equivalent to 3.0 percent of funds made available or appropriated under subsections (a) and (b) shall be made available until expended as follows:

"(1) 45 percent of such funds shall be made available for metropolitan planning activities under section 8(f);

"(2) 5 percent of such funds shall be made available to carry out section 18(h);

"(3) 20 percent of such funds shall be made available to carry out the State program under section 26(a); and

"(4) 30 percent of such funds shall be made available to carry out the national program under section 26(b).

"(d) OTHER SET-ASIDES.—Before apportionment in each fiscal year of the funds made available or appropriated under subsection (a), of the funds made available or appropriated under subsections (a) and (b)—

"(1) not to exceed an amount equivalent to .96 percent shall be available for administrative expenses to carry out section 12(a) of this Act and shall be available until expended;

"(2) not to exceed an amount equivalent to 1.34 percent shall be available for transportation services to elderly persons and persons with disabilities pursuant to the formula under section 16(b) of this Act and shall be available until expended; and

"(3) $7,000,000 shall be available for the purposes of section 11(b) relating to university transportation centers for each of fiscal years 1993 through 1996.

"(e) COMPLETION OF INTERSTATE TRANSFER TRANSIT PROJECTS.—Of the amounts remaining available each year under subsections (a) and (b), after allocation pursuant to subsections (c) and (d), for substitute transit projects under section 103(e)(4) of title 23, United States Code, there shall be available $160,000,000 for fiscal year 1992 and $164,843,000 for fiscal year 1993.

"(f) SET-ASIDE FOR RURAL TRANSPORTATION.—An amount equivalent to 5.5 percent of the amounts remaining available each year under subsection (a), after allocation pursuant to subsections (c), (d), and (e), shall be available pursuant to the formula under section 18. Such sums shall remain available until expended.

"(g) SECTION 9 FUNDING.—The funds remaining available each year under subsection (a), after allocation pursuant to subsections (c), (d), (e) and (f), shall be available under section 9.".

SEC. 3026. REPORT ON SAFETY CONDITIONS IN MASS TRANSIT.

Section 22 is amended—

(1) by inserting "(a) IN GENERAL.—" after "SEC. 22."; and

(2) by adding at the end a new subsection as follows:

"(b) REPORT.—Not later than 180 days after the date of the enactment of this subsection, the Secretary shall transmit to Congress a report containing—

"(1) actions taken to identify and investigate conditions in any facility, equipment, or manner of operation as part of the findings and determinations required of the Secretary in providing grants and loans under this Act;

"(2) actions taken by the Secretary to correct or eliminate any conditions found to create a serious hazard of death or injury as a condition for making funds available through grants and loans under this Act;

"(3) a summary of all passenger-related deaths and injuries resulting from unsafe conditions in any facility, equipment, or manner of operation of such facilities and equipment financed in whole or in part under this Act;

"(4) a summary of all employee-related deaths and injuries resulting from unsafe conditions in any facility, equipment, or manner of operation of such facilities and equipment financed in whole or in part under this Act;

"(5) a summary of all actions taken by the Secretary to correct or eliminate the unsafe conditions to which such deaths and injuries were attributed;

"(6) a summary of those actions taken by the Secretary to alert transit operators of the nature of the unsafe conditions which were found to create a serious hazard of death or injury; and

"(7) recommendations to the Congress by the Secretary of any legislative or administrative actions necessary to ensure that all recipients of funds under this Act will institute the best means available to correct or eliminate hazards of death or injury, including—

"(A) a timetable for instituting actions,

"(B) an estimate of the capital and operating cost to take such actions, and

"(C) minimum standards for establishing and implementing safety plans by recipients of funds under this Act.".

SEC. 3027. PROJECT MANAGEMENT OVERSIGHT.

Section 23(a) is amended—

(1) by striking paragraphs (1) through (5);

(2) by striking "½ of 1 percent of—" and inserting the following:

"½ of 1 percent of the funds made available for any fiscal year to carry out sections 3, 9, or 18 of this Act, or interstate transfer transit projects under section 103(e)(4) of title 23, United States Code, as in effect on September 30, 1991, or a project under the National Capital Transportation Act of 1969 to contract with any person to oversee the construction of any major project under any such section. In addition to such amounts, the Secretary may as necessary use not more than ¼ of 1 percent of the funds made available in any fiscal year to carry out a major project under section 3 to contract with any person to oversee the construction of such major project.".

SEC. 3028. NEEDS SURVEY.

The Act is amended by inserting after section 26 the following new section:

"SEC. 27. NEEDS SURVEY AND TRANSFERABILITY STUDY.

"(a) NEEDS SURVEY.—In January 1993 and in January of every second year thereafter, the Comptroller General shall transmit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Public Works and Transportation of the House of Representatives a report containing an evaluation of the extent to which current transit needs are adequately addressed and an estimate of the future transit needs of the Nation, including transit needs in rural areas (particularly access to health care facilities). Such report shall include the following:

"(1) An assessment of needs related to rail modernization, guideway modernization, replacement, rehabilitation, and purchase of buses and related equipment, construction of bus related facilities, and construction of new fixed guideway systems and extensions to fixed guideway systems.

"(2) A 5-year projection of the maintenance and modernization needs that will result from aging of existing equipment and facilities, including the need to overhaul or replace existing bus fleets and rolling stock used on fixed guideway systems.

"(3) A 5-year projection of the need to invest in the expansion of existing transit systems to meet changing economic, commuter, and residential patterns.

"(4) An estimate of the level of expenditure needed to satisfy the needs identified above.

"(5) An examination of existing Federal, State, and local resources as well as private resources that are or can reasonably be expected to be made available to support public transit.

"(6) The gap between the level of expenditure estimated under paragraph (4) and the level of resources available to meet such needs identified under paragraph (5).

"(b) TRANSFERABILITY STUDY.—

"(1) IN GENERAL.—In January 1993 and in January of every second year thereafter, the Comptroller General shall transmit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Public Works and Transportation of the House of Representatives a report on implementation of the transferability provisions of section 9(j)(3) of this Act.

"(2) CONTENTS.—The report shall identify, by State, the amount of transit funds transferred for nontransit purposes under such sections during the previous fiscal year and shall include an assessment of the impact of such transfers on the transit needs of individuals and communities within the State. Specifically, the report shall assess the impact of such transfers (A) on the State's ability to meet the transit needs of elderly individuals and individuals with disabilities, (B) on efforts to meet the objectives of the Americans With Disabilities Act of 1990 and the Clean Air Act, and (C) on the State's efforts to extend public transit services to unserved rural areas. The report shall also include an examination of the relative levels of Federal transit assistance and services in urban and rural areas in fiscal year 1991 and the extent to which such assistance and service has increased or decreased in subsequent fiscal years as a result of transit resources made available under this Act and the Intermodal Surface Transportation Efficiency Act of 1991.".

SEC. 3029. STATE RESPONSIBILITY FOR FIXED GUIDEWAY SYSTEM SAFETY.

The Act is amended by inserting after section 27 the following new section:

"SEC. 28. STATE RESPONSIBILITY FOR FIXED GUIDEWAY SYSTEM SAFETY.

"(a) WITHHOLDING OF FUNDS FOR NONCOMPLIANCE.—The Secretary may withhold up to 5 percent of the amount required to be apportioned for use in any State or urbanized area in such State under section 9 for any fiscal year beginning after September 30, 1994, if the State in the previous fiscal year has not met the requirements of subsection (b) and the Secretary determines that the State is not making adequate efforts to comply with such subsection.

"(b) STATE REQUIREMENTS.—A State meets the requirements of this section if—

"(1) the State establishes and is implementing a safety program plan for each fixed guideway transit system in the State which establishes, at a minimum, safety requirements, lines of authority, levels of responsibility and accountability, and methods of documentation for such system;

"(2) the State designates an agency of the State with responsibility to—

"(A) require, review and approve, and monitor implementation of such plans; and

"(B) investigate hazardous conditions and accidents on such systems and require corrective actions to correct or eliminate such conditions; and

"(3) in any case in which more than 1 State would be subject to this section in connection with a single transit agency, the affected States may designate an entity other than the transit agency to ensure uniform safety standards and enforcement and to meet the requirements of this subsection.

"(c) PERIOD OF AVAILABILITY; EFFECT OF COMPLIANCE AND NONCOMPLIANCE.—

"(1) PERIOD OF AVAILABILITY OF WITHHELD FUNDS.—Any funds withheld under subsection (a) from apportionment for use in any State in a fiscal year, shall remain available for apportionment for use in such State until the end of the second fiscal year following the fiscal year for which such funds are authorized to be appropriated.

"(2) APPORTIONMENT OF WITHHELD FUNDS AFTER COMPLIANCE.—If, before the last day of the period for which funds withheld under subsection (a) from apportionment are to remain available for apportionment for use in a State under paragraph (1), the State meets the requirements of subsection (b), the Secretary shall, on the first day on which the State meets the requirements of subsection (b), apportion to the State the funds withheld under subsection (a) that remain available for apportionment for use in the State.

"(3) PERIOD OF AVAILABILITY OF SUBSEQUENTLY APPORTIONED FUNDS.—Any funds apportioned pursuant to paragraph (2) shall remain available for expenditure until the end of the third fiscal year succeeding the fiscal year in which such funds are apportioned pursuant to paragraph (2). Sums not obligated at the end of such period shall be apportioned for use in other States under section 9 of this Act.

"(4) EFFECT OF NONCOMPLIANCE.—If, at the end of the period for which funds withheld under subsection (a) from apportionment are available for apportionment for use in a State under paragraph (1), the State does not meet the requirements of subsection (b), such funds shall be apportioned for use in other States under section 9 of this Act.

"(d) LIMITATION ON APPLICABILITY.—This section only applies to States that have rail fixed guideway mass transportation systems which are not subject to regulation by the Federal Railroad Administration.

"(e) REGULATIONS.—Not later than 1 year after the date of the enactment of this section, the Secretary shall issue regulations which set forth the requirements for complying with subsection (b).".

SEC. 3030. PLANNING AND RESEARCH.

The Act is amended by inserting after section 25 the following:

"SEC. 26. PLANNING AND RESEARCH PROGRAM.

"(a) STATE PROGRAM.—The funds made available under section 21(c)(3) shall be available for State programs as follows:

"(1) TRANSIT COOPERATIVE RESEARCH PROGRAM.—50 percent of that amount shall be available for the transit cooperative research program to be administered as follows:

"(A) INDEPENDENT GOVERNING BOARD.—The Secretary shall establish an independent governing board for such program to recommend mass transportation research, development, and technology transfer activities as the Secretary deems appropriate.

"(B) NATIONAL ACADEMY OF SCIENCES.—The Secretary may make grants to, and enter into cooperative agreements with, the National Academy of Sciences to carry out such activities as the Secretary determines are appropriate.

"(2) STATE PLANNING AND RESEARCH.—The remaining 50 percent of that amount shall be apportioned to the States for grants and contracts consistent with the purposes of sections 6, 8, 10, 11, and 20 of this Act.

"(A) APPORTIONMENT FORMULA.—Amounts shall be apportioned to the States in the ratio which the population in urbanized areas in each State bears to the total population in urbanized areas, in all the States as shown by the latest available decennial census, except that no State shall receive less than ½ of 1 percent of the amount apportioned under this section.

"(B) ALLOCATION WITHIN A STATE.—A State may authorize a portion of its funds made available under this subsection to be used to supplement funds available under subsection (a)(1), as the State deems appropriate.

"(b) NATIONAL PROGRAM.—

"(1) IN GENERAL.—The funds made available under section 21(c)(4), shall be available to the Secretary for grants or contracts for the purposes of section 6, 8, 10, 11, or 20 of this Act, as the Secretary deems appropriate.

"(2) COMPLIANCE WITH ADA.—Of the amounts available under paragraph (1), the Secretary shall make available not less than $2,000,000 to provide transit-related technical assistance, demonstration programs, research, public education, and other activities that the Secretary deems appropriate to help transit providers achieve compliance with the Americans with Disabilities Act of 1990. To the extent practicable, the Secretary shall carry out this subsection through contract with a national nonprofit organization serving persons with disabilities with demonstrated capacity to carry out these activities.

"(3) SPECIAL INITIATIVES.—Of the amounts available under paragraph (1), an amount not to exceed 25 percent shall be available to the Secretary for special demonstration initiatives subject to such terms, conditions, requirements, and provisions as the Secretary deems consistent with the requirements of this Act, except that the provisions of section 3(e)(4) shall apply to operational grants funded for purposes of section 6. For nonrenewable grants that do not exceed $100,000, the Secretary shall provide expedited procedures governing compliance with requirements of this Act.

"(4) TECHNOLOGY DEVELOPMENT.—

"(A) PROGRAM.—The Secretary is authorized to undertake a program of transit technology development in coordination with affected entities.

"(B) INDUSTRY TECHNICAL PANEL.—The Secretary shall establish an Industry Technical Panel consisting of representatives of transportation suppliers and operators and others involved in technology development. A majority of the Panel members shall represent the supply industry. The Panel shall assist the Secretary in the identification of priority technology development areas and in establishing guidelines for project development, project cost sharing, and project execution.

"(C) GUIDELINES.—The Secretary shall develop guidelines for cost sharing in technology development projects funded under this section. Such guidelines shall be flexible in nature and reflect the extent of technical risk, market risk, and anticipated supplier benefits and pay back periods.

"(5) ADVANCED FARE COLLECTION TECHNOLOGY PILOT PROJECT.—From amounts authorized under section 21(c)(4), the Secretary shall make available $1,000,000 in fiscal year 1992 for the purpose of conducting a pilot project to evaluate, develop, and test advanced fare technology systems. Such project shall be carried out by the Washington Metropolitan Transit Authority.

"(6) INERTIAL NAVIGATION TECHNOLOGY TRANSFER.—

"(A) PROJECT.—There is authorized to be appropriated from amounts made available under section 21(c), $1,000,000 for fiscal year 1992 to support an inertial navigation system demonstration project for the purpose of determining the safety, economic, and environmental benefits of deploying inertial navigation tracking and control systems in urban and rural environments.

"(B) PUBLIC-PRIVATE SECTOR PARTICIPANTS.—The project described in subparagraph (A) shall be conducted by the Transit Safety Research Alliance, a nonprofit public-private sector consortium based in Pittsburgh, Pennsylvania.

"(7) SUPPLEMENTARY FUNDS.—The Secretary may use funds appropriated under this subsection to supplement funds available under subsection (a)(1), as the Secretary deems appropriate.

"(8) FEDERAL SHARE.—Where there would be a clear and direct financial benefit to an entity under a grant or contract funded under this subsection or subsection (a)(1), the Secretary shall establish a Federal share consistent with that benefit.

"(c) SUSPENDED LIGHT RAIL SYSTEM TECHNOLOGY PILOT PROJECT.—

"(1) FULL FUNDING GRANT AGREEMENT.—Not later than 60 days after the fulfillment of the requirements under paragraph (5), the Secretary shall negotiate and enter into a full funding grant agreement under section 3 with a public entity selected under paragraph (4) for construction of a suspended light rail system technology pilot project.

"(2) PROJECT PURPOSE.—The purpose of the project under this subsection shall be to assess the state of new technology for a suspended light rail system and to determine the feasibility and costs and benefits of using such a system for transporting passengers.

"(3) PROJECT DESCRIPTION.—The project under this subsection shall—

"(A) utilize new rail technology with individual vehicles on a prefabricated, elevated steel guideway;

"(B) be stability seeking with a center of gravity for the detachable passenger vehicles located below the point of wheel-rail contact; and

"(C) utilize vehicles which are driven by overhead bogies with high efficiency, low maintenance electric motors for each wheel, operating in a slightly sloped plane from vertical for both the wheels and the running rails, to further increase stability, acceleration, and braking performance.

"(4) COMPETITION.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall conduct a national competition to select a public entity with which to enter into a full funding grant agreement under paragraph (1) for construction of the project under this subsection.

"(B) PUBLICATION OF NOTICE.—Not later than 30 days after the date of the enactment of this Act, the Secretary shall publish in the Federal Register notice of the competition to be conducted under this paragraph, together with procedures for public entities to participate in the competition.

"(C) SELECTION OF FINALISTS.—Not later than 120 days after the date of the enactment of this Act, the Secretary shall select 3 public entities to be finalists in the competition under this paragraph.

"(D) AWARD OF GRANTS.—The Secretary shall award grants to each of the finalists selected under subparagraph (C). Such grants shall be used by the finalists to participate in the final phase of the competition under this paragraph in accordance with procedures to be established by the Secretary. The amount of such grants shall not exceed 80 percent of the costs of such participation. No finalists may receive more than ⅓ of the amount made available under paragraph (9)(C).

"(E) SELECTION OF WINNER.—Not later than 210 days after the date of the enactment of this Act, the Secretary shall select from among the finalists selected under subparagraph (C) the public entity with which to enter into a full funding grant agreement under paragraph (1).

"(F) CONSIDERATIONS.—In conducting the competition and selecting public entities under this paragraph, the Secretary shall consider the following:

"(i) The public entity's demonstrated understanding and knowledge of the project under this section.

"(ii) The public entity's technical, managerial, and financial capacity to undertake construction, management, and operation of the project.

"(iii) Maximization of potential contributions to the cost of the project by State, local, and private sector entities, including the donation of in-kind services and materials.

"(5) EXPEDITED PROCEDURES.—Not later than 270 days after the date of selection of a public entity under paragraph (4), the Secretary shall approve and publish in the Federal Register a notice announcing either (A) a finding of no significant impact, or (B) a draft environmental impact statement for the project under this subsection. The alternative analysis for the project shall include a determination as to whether or not to actually construct such project. If a draft environmental impact statement is published, the Secretary shall, not later than 180 days after the date of such publication, approve and publish in the Federal Register a notice of completion of a final environmental impact statement. The project shall not be subject to the major capital investment policy of the Federal Transit Administration.

"(6) NOTICE TO PROCEED WITH CONSTRUCTION.—Not later than 30 days following the execution of the full funding grant agreement under paragraph (1), the Secretary shall issue a notice to proceed with construction.

"(7) OPTION NOT TO CONSTRUCT.—Not later than the 30th day following the completion of preliminary engineering and design for the project, the public entity selected under paragraph (1) will make a determination on whether or not to proceed to actual construction of the project. If such public entity makes a determination not to proceed to such actual construction—

"(A) the Secretary shall not enter into the grant agreement under paragraph (1);

"(B) any remaining sums received shall be returned to the Secretary and credited to the Mass Transit Account of the Highway Trust Fund; and

"(C) the Secretary shall use the amount so credited and all other amounts to be provided under this section to award to entities selected under paragraph (4)(E) grants under section 3 for construction of the project described in paragraph (1).

Any grants under subparagraph (C) shall be awarded after completion of a competitive process for selection of a grant recipient. Such process shall be completed not later than the 60th day following the date of the determination under this subsection.

"(8) OPERATING COST DEFICITS.—The full funding grant agreement under paragraph (1) shall provide that—

"(A) the system vendor for the project under this section shall fund 100 percent of any deficit incurred in operating the project in the first two years of revenue operations of the project; and

"(B) the system vendor for the project under this section shall fund 50 percent of any deficit incurred in operating the project in the third year of revenue operations of the project.

"(9) FUNDING.—

"(A) PRECONSTRUCTION.—If the systems planning, alternatives analysis, preliminary engineering, and design and environmental impact statement are required by law for the project under this subsection, the Secretary shall pay by grant the Federal share of such costs (as determined under section 3) from amounts provided under such section as follows: not less than $4,000,000 for fiscal year 1993. Such funds shall remain available until expended.

"(B) CONSTRUCTION.—The grant agreement under paragraph (1) shall provide that the Federal share of the construction costs of the project under this section shall be paid by the Secretary from amounts provided under section 3 as follows: not less than $30,000,000 for fiscal year 1994. Such funds shall remain available until expended.

"(C) GRANTS.—Grants under paragraph (4) shall be paid by the Secretary from amounts provided under section 3 as follows: not less than $1,000,000 for fiscal year 1992. Any amounts not expended for such grants shall be available for the Federal share of costs described in subparagraphs (A) and (B).

"(D) OPERATION.—Notwithstanding any other provision of law, the grant agreement under paragraph (1) shall provide with respect to the third year of revenue operations of the project under this subsection that the Federal share of operating costs of the project shall be paid by the Secretary from amounts provided under this section in a sum equal to 50 percent of any deficit incurred in operating the project in such year of revenue operations or $300,000, whichever is less.

"(10) FEDERAL SHARE.—The Federal share of the cost of construction of the project under this subsection shall be 80 percent of the net cost of the project.

"(11) REPORT.—Not later than January 30, 1993, and annually thereafter, the Secretary shall transmit to Congress a report on the progress and results of the project under this subsection.".

SEC. 3031. NEW JERSEY URBAN CORE PROJECT.

(a) CONTRACTUAL COMMITMENTS.—

(1) FULL FUNDING GRANT AGREEMENT.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall negotiate and enter into a full funding grant agreement under section 3 of the Federal Transit Act for those elements of the New Jersey Urban Core Project which can be fully funded in fiscal years 1992 through 1997. Such grant agreement shall not preclude the allocation of Federal funds for those elements of the project not covered under such grant agreement.

(2) PAYMENT.—The grant agreement under paragraph (1) shall provide that the Federal share of the cost of the New Jersey Urban Core Project shall be paid by the Secretary from amounts provided under section 3 of the Federal Transit Act as follows:

(A) Not less than $95,900,000 for fiscal year 1992.

(B) Not less than $71,700,000 for fiscal year 1993.

(C) Not less than $64,800,000 for fiscal year 1994.

(D) Not less than $146,000,000 for fiscal year 1995.

(E) Not less than a total of $256,000,000 for fiscal years 1996 and 1997.

Nothing in this section shall be construed as precluding other Federal funds from being committed to the project.

(b) NON-FEDERAL SHARE.—Notwithstanding any other provision of law, for the purpose of calculating non-Federal contributions to the net cost of the New Jersey Urban Core Project, the Secretary shall include all non-Federal contributions made on or after January 1, 1987, for construction of any element of the project. Non-Federal funds committed to one element of the project may be used to meet the non-Federal share requirement for any other element of the project.

(c) EXEMPTION FROM CERTAIN REQUIREMENTS.—The requirements contained in section 3(i) of the Federal Transit Act (relating to criteria for new starts) shall not apply with respect to the New Jersey Urban Core Project; except that an alternative analysis and draft environmental impact statement shall be completed with respect to the Hudson River Waterfront element of the project and the Secretary shall approve the recommended locally preferred alternative for such element. No element of the project shall be subject to the major capital investment policy of the Federal Transit Administration.

(d) ELEMENTS OF URBAN CORE PROJECT.—For the purposes of this section, the New Jersey Urban Core Project consists of the following elements: Secaucus Transfer, Kearny Connection, Waterfront Connection, Northeast Corridor Signal System, Hudson River Waterfront Transportation System, Newark-Newark International Airport-Elizabeth Transit Link, a rail connection between Penn Station Newark and Broad Street Station, Newark, New York Penn Station

Concourse, and the equipment needed to operate revenue service associated with improvements made by the project. The project includes elements advanced with 100 percent non-Federal funds.

SEC. 3032. MULTIYEAR FUNDING FOR SAN FRANCISCO BAY AREA RAIL EXTENSION PROGRAM.

(a) DRAFT ENVIRONMENTAL IMPACT STATEMENT.—

(1) COMPLETION DEADLINE.—Not later than 60 days after the date of the enactment of this Act and in accordance with the National Environmental Policy Act of 1969, the Secretary shall complete a draft environmental impact statement for an extension of the San Francisco Bay Area Rapid Transit District (hereinafter in this section referred to as "BART") to the San Francisco International Airport.

(2) NOTICE OF AVAILABILITY AND REPORTING.—The Secretary shall publish a notice of availability of the draft environmental impact statement for public review. If the Secretary has not published such notice on or before the 60th day following the date of the enactment of this Act, the Secretary shall report to Congress on the status of the completion of such draft environmental impact statement. The Secretary shall continue to report to such committees every 30 days on the status of the completion of the draft environmental impact statement, including any proposed revisions to the statement or to the work plan, until a notice of availability of such document is published in the Federal Register.

(b) PRELIMINARY ENGINEERING GRANT.—

(1) TO BART.—Not later than 30 days after the date of submittal of a locally preferred alternatives report and notwithstanding any other provision of law, the Secretary shall make a grant to BART to conduct preliminary engineering and to complete an environmental impact statement on the locally preferred alternative for the extension of BART to the San Francisco International Airport. The amount of such grant shall be 75 percent of preliminary engineering costs, unless the matching percentage is increased by a modification to Metropolitan Transportation Commission Resolution No. 1876 in a manner that would allow such Federal share to be increased to 80 percent.

(2) TO SANTA CLARA COUNTY.—Not later than 30 days after the date of the enactment of this Act and notwithstanding any other provision of the law, the Secretary shall make a grant to the Santa Clara County Transit District (hereinafter in this section referred to as "SCCTD") to conduct preliminary engineering and to complete an environmental impact statement in accordance with the National Environmental Policy Act of 1969 on the locally preferred alternative for the Tasman Corridor Project. The amount of such grant shall be $12,750,000; except that the Federal share for all project costs may not exceed 50 percent, unless the matching percentage is increased by a modification to Metropolitan Transportation Commission Resolution No. 1876 in a manner that would allow such Federal share to be increased to 80 percent. Local funds expended on the Tasman Corridor Project after the locally preferred alternative was approved by the Metropolitan Transportation Commission on July 31, 1991, shall be considered eligible project costs under the Federal Transit Act.

(c) CONTRACTUAL COMMITMENTS.—

(1) APPROVAL OF CONSTRUCTION.—Notwithstanding any other provision of law, the Secretary shall approve the construction of the locally preferred alternative for the BART San Francisco International Airport Extension (Phase 1a to Colma and Phase 1b to San Francisco Airport) and the Tasman Corridor Project according to the following schedule; provided that the Secretary does not grant approval under subparagraphs (A), (B), and (C) before the 30th day after completion of the environmental impact statement:

(A) Not later than 90 days after the date of the enactment of this Act, the Secretary shall approve such construction for BART Phase 1a to Colma.

(B) Not later than 90 days after the date of the completion of preliminary engineering, the Secretary shall approve such construction for BART Phase 1b to San Francisco International Airport.

(C) Not later than 90 days after the date of the completion by SCCTD of preliminary engineering, the Secretary shall approve such construction for the Tasman Corridor Project.

(2) EXECUTION OF CONTRACT.—Upon approving construction under paragraph (1), the Secretary shall execute a multiyear grant agreement with BART to permit the expenditure of funds for the construction of the BART San Francisco International Airport Extension (Phase 1a and Phase 1b) and with SCCTD for the construction of the Tasman Corridor Project.

(d) FEDERAL SHARE.—

(1) BART EXTENSION.—The grant agreement under subsection (c)(2) shall provide that the Federal share of the project cost for the locally preferred alternative for the BART San Francisco International Airport Extension (Phase 1a and Phase 1b) shall be 75 percent, unless the matching percentage is increased by a modification to Metropolitan Transportation Commission Resolution No. 1876 in a manner that would allow such Federal share to be increased to 80 percent.

(2) TASMAN CORRIDOR PROJECT.—The grant agreement under subsection (c)(2) shall provide that the Federal share of the project cost for the locally preferred alternative for the Tasman Corridor Project, including costs for preliminary engineering, shall be 50 percent, unless that matching percentage is increased by a modification to Metropolitan Transportation Commission Resolution No. 1876 in a manner that would allow such Federal share to be increased to 80 percent.

(e) PAYMENT.—The grant agreement under subsection (c)(2) shall provide that the Federal share of the cost of the projects shall be paid by the Secretary from amounts provided under section 3 of the Federal Transit Act for construction of new fixed guideway systems and extensions to fixed guideway systems, as follows:

(1) Not less than $28,500,000 for fiscal year 1990.

(2) Not less than $40,000,000 for fiscal year 1991.

(3) Not less than $100,000,000 for each of fiscal years 1992 through 1995.

(4) Not less than $100,000,000 for fiscal years 1996 and 1997.

Apportionment of payments between BART and SCCTD shall be consistent with the Metropolitan Transportation Commission Resolution No. 1876.

(f) ADVANCE CONSTRUCTION.—The grant agreements under subsection (c)(2) shall provide that the Secretary shall reimburse BART and SCCTD from any amounts provided under section 3 of the Federal Transit Act for fiscal years 1992 through 1997 for the Federal share of the net project costs incurred by BART and SCCTD under subsections (c)(1) and (c)(2), including the amount of any interest earned and payable on bonds as provided in section 3(l)(2) of the Federal Transit Act, as follows:

(1) Not later than September 30, 1994, the Secretary shall reimburse BART and SCCTD a total of $368,500,000 (plus such interest), less amounts provided under subsection (e) for fiscal years 1992 through 1994.

(2) Not later than September 30, 1997, the Secretary shall reimburse BART and SCCTD a total of $568,500,000 (plus such interest), less amounts provided under subsection (e) for fiscal years 1992 through 1997.

(g) FULL FUNDING GRANT AGREEMENTS.—

(1) SCHEDULE.—Notwithstanding any other provision of law, the Secretary shall negotiate and execute full funding grant agreements that are consistent with Metropolitan Transportation Commission Resolution No. 1876 with BART for Phase 1a to Colma and Phase 1b to the San Francisco International Airport, and with SCCTD for the Tasman Corridor Project according to the following schedule:

(A) Not later than 90 days after the date of completion by SCCTD of preliminary engineering, the Secretary shall execute such agreement for the Tasman Corridor Project.

(B) Upon completion by BART of 85 percent of final design, the Secretary shall execute such agreement for Phase 1a to Colma.

(C) Upon completion by BART of 85 percent of final design, the Secretary shall execute such agreement for Phase 1b to the San Francisco International Airport.

(2) ADDITIONAL AMOUNTS.—In addition to the $568,500,000 provided under this section, the Secretary shall, subject to annual appropriations, issue full funding grant agreements to complete the projects utilizing the full amount of the unobligated balance in the Mass Transit Account of the Highway Trust Fund.

(h) ALTERNATIVES ANALYSIS.—The Secretary shall permit the Santa Clara County Transit District, in cooperation with the Metropolitan Transportation Commission, to conduct an Alternatives Analysis to examine transit alternatives including a possible BART extension from southern Alameda County through downtown San Jose to Santa Clara, California.

SEC. 3033. QUEENS LOCAL/EXPRESS CONNECTION.

(a) FULL FUNDING GRANT AGREEMENT.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall negotiate and enter into a full funding grant agreement under section 3 of the Federal Transit Act for those elements of the Queens Local/Express Connection which can be fully funded in fiscal years 1992 through 1997. Such grant agreement shall not preclude the allocation of Federal funds for those elements of the project not covered under such grant agreement.

(b) PAYMENT.—The grant agreement under subsection (a) shall provide that the Federal share of the cost of the Queens Local/Express Connection shall be paid by the Secretary from amounts provided under section 3(k)(1)(B) of the Federal Transit Act as follows:

(1) Not less than $11,000,000 for fiscal year 1992.

(2) Not less than $18,700,000 for fiscal year 1993.

(3) Not less than $77,800,000 for fiscal year 1994.

(4) Not less than $76,800,000 for fiscal year 1995.

(5) Not less than $121,800,000 for fiscal year 1996.

Nothing in this section shall be construed as precluding other Federal funds from being committed to the project.

SEC. 3034. MULTIYEAR CONTRACT FOR METRO RAIL PROJECT.

(a) SUPPLEMENTAL EIS.—Not later than April 1, 1992, and in accordance with the National Environmental Policy Act of 1969, the Secretary shall complete preparation of a final supplemental environmental impact statement for Minimum Operable Segment-3 (other than the East Side Extension) and publish a notice of the completion of such statement in the Federal Register. Such statement shall reflect any alignment changes in the Los Angeles Metro Rail Project and any determination of an amended locally

preferred alternative for the project. In preparing such statement, the Secretary shall rely, to the maximum extent feasible, upon existing environmental studies and analyses conducted with respect to the project, including the Draft Supplemental Environmental Impact Statement (dated November 1987) and the Final Supplemental Environmental Impact Statement (dated July 1989).

(b) AMENDMENT TO CONTRACT TO INCLUDE CONSTRUCTION OF MOS-3.—

(1) NEGOTIATION.—Not later than April 1, 1992, the Secretary shall begin negotiations with the Commission on an amendment to the full funding contract under section 3 of the Federal Transit Act (dated April 1990) for construction of Minimum Operable Segment-2 of the Los Angeles Metro Rail Project in order to include construction of Minimum Operable Segment-3 (including the commitment described in paragraph (4) to provide Federal funding for the East Side Extension) in such contract.

(2) EXECUTION.—Not later than October 15, 1992, the Secretary shall—

(A) complete negotiations and execute the amended contract under paragraph (1); and

(B) issue a record of decision approving the construction of Minimum Operable Segment-3 (other than the East Side Extension).

(3) PAYMENT OF FEDERAL SHARE.—

(A) FEDERAL SHARE.—The amended contract under paragraph (1) shall provide that the Federal share of the cost of construction of Minimum Operable Segment-3 for fiscal years 1993 through 1997 shall be $695,000,000.

(B) PAYMENT.—The amended contract under paragraph (1) shall provide that the Federal share of the cost of construction of Minimum Operable Segment-3 shall be paid by the Secretary from amounts available under section 3 of the Federal Transit Act in accordance with a schedule for annual payments set forth in such contract.

(4) EAST SIDE EXTENSION.—The amended contract under paragraph (1) shall include a commitment to provide Federal funding for the East Side Extension, subject to completion of alternatives analysis and satisfaction of Federal environmental requirements.

(5) ADVANCE CONSTRUCTION.—

(A) IN GENERAL.—The amended contract under paragraph (1) shall provide that the Commission may construct any portion of Minimum Operable Segment-3 in accordance with section 3(l) of the Federal Transit Act.

(B) AMOUNT.—The Commission may use advance construction authority in an amount not to exceed the sum of $535,000,000 plus the difference (if any) between the Federal share specified in paragraph (3) for fiscal years 1993 through 1997 and the amount of Federal funds actually provided in those fiscal years.

(C) CONVERSION TO GRANTS.—In the event the Commission uses advance construction authority under this paragraph, the Secretary shall convert that authority into a grant and shall reimburse the Commission, from funds available under section 3 of the Federal Transit Act, for the Federal share of the amounts expended. Such conversion and reimbursement shall be made by the Secretary in fiscal years 1998, 1999, and 2000 and shall be equal to the Federal share of the amounts expended by the Commission pursuant to this paragraph (plus any eligible bond interest under section 3(l)(2) of the Federal Transit Act).

(c) FURTHER AMENDMENT TO CONTRACT.—Not later than October 15, 1996, the Secretary shall negotiate and enter into a further amendment to the contract described in subsection (b)(1) in order to provide Federal funding for Minimum Operable Segment-3 for fiscal years 1998 through 2000. The amended contract shall include provisions for the use and reimbursement of advance construction in the manner set forth in subsection (b)(5).

(d) CONTINUING PRELIMINARY ENGINEERING.—Before the date on which an amended contract is executed under subsection (b), the Secretary shall, upon receipt of an application from the Commission, make a grant to the Commission from amounts available under section 3 of the Federal Transit Act for continuing preliminary engineering and environmental analysis work for Minimum Operable Segment-3.

(e) ADDITION OF EAST SIDE EXTENSION.—

(1) ALTERNATIVES ANALYSIS AND ENVIRONMENTAL REVIEW.—The Secretary shall cooperate with the Commission in alternatives analysis and environmental review, including preparation of a draft environmental impact statement, for the East Side Extension. Upon receipt of an application from the Commission, the Secretary shall make a grant to the Commission, from amounts available under section 3 of the Federal Transit Act, for preliminary engineering, design, and related expenses for the East Side Extension, in an amount equal to 50 percent of the cost of such activities. Such funds shall be provided from the amounts made available by the Secretary under subsection (b)(3).

(2) SUPPLEMENTAL EIS.—Not later than December 1, 1993, and in accordance with the National Environmental Policy Act of 1969, the Secretary shall complete preparation of a final supplemental environmental impact statement for the East Side Extension and shall publish a notice of completion of such statement in the Federal Register.

(3) AMENDMENT TO CONTRACT TO INCLUDE EAST SIDE EXTENSION.—

(A) NEGOTIATION.—Immediately upon the completion of alternatives analysis and preliminary engineering for the East Side Extension, the Secretary shall begin negotiations with the Commission on a further amendment to the contract referred to in subsection (b)(1) in order to include construction of the East Side Extension.

(B) EXECUTION.—Not later than June 1, 1994, the Secretary shall—

(i) complete negotiations and execute the amended contract under subparagraph (A); and

(ii) issue a record of decision approving the construction of the East Side Extension.

(C) CONTENTS.—The amended contract under subparagraph (A) shall be consistent with the commitment made under subsection (b)(4) and shall include appropriate changes to the existing scope of work to include the East Side.

(f) APPLICABILITY OF FEDERAL REQUIREMENTS.—The amended contracts under this section shall provide that any activity under Minimum Operable Segment-3 that is financed entirely with non-Federal funds shall not be subject to any Federal statute, regulation, or program guidance, unless the Federal statute or regulation in question, by its terms, otherwise applies to and covers such activity.

(g) CRITERIA FOR NEW STARTS.—Minimum Operable Segment-3 shall be deemed to be a project described in and covered by section 303(b) of the Surface Transportation and Uniform Relocation Assistance Act of 1987.

(h) NOTIFICATION OF NONCOMPLIANCE.—If the Secretary is unable to comply with a deadline established by this section, the Secretary shall report to Congress on the reasons for the noncompliance and shall provide such Committees a firm schedule for taking the action required.

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

(1) COMMISSION.—The term "Commission" means the Los Angeles County Transportation Commission (or any successor thereto).

(2) EAST SIDE EXTENSION.—The term "East Side Extension" means that portion of Minimum Operable Segment-3 described in paragraph (3)(C).

(3) MINIMUM OPERABLE SEGMENT-3.—The term "Minimum Operable Segment-3" means that portion of the Los Angeles Metro Rail Project which consists of 7 stations and approximately 11.6 miles of heavy rail subway on the following lines:

(A) One line running west and northwest from the Hollywood/Vine station to the North Hollywood station, with 2 intermediate stations.

(B) One line running west from the Wilshire/Western station to the Pico/San Vicente station, with one intermediate station.

(C) One line consisting of an initial line of approximately 3 miles in length, with at least 2 stations, beginning at Union Station and running generally east.

SEC. 3035. MISCELLANEOUS MULTIYEAR CONTRACTS.

(a) HAWTHORNE, NEW JERSEY-WARWICK, NEW YORK, SERVICE.—No later than 120 days after the date of the enactment of this Act, the Secretary shall negotiate and sign a multiyear grant agreement with the New Jersey Transit Corporation which includes not less than $35,710,000 in fiscal year 1992 and not less than $11,156,000 in fiscal year 1993 from funds made available under section 3(k)(1)(B) of the Federal Transit Act to carry out the construction of a project to provide commuter rail service from Hawthorne, New Jersey, to Warwick, New York (including a connection with the New Jersey Transit Main Line in Hawthorne, New Jersey, and improvements to the New Jersey Transit Main Line station in Paterson, New Jersey). Such agreement shall provide that amounts provided under the agreement may be used for purchasing equipment and for rehabilitating and constructing stations, parking facilities, and other facilities necessary for the restoration of such commuter rail service.

(b) WESTSIDE LIGHT RAIL PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Tri-County Metropolitan Transportation District of Oregon which includes $515,000,000 from funds made available under section 3(k)(1)(B) of the Federal Transit Act at the Federal share contained in House Report 101-584 to carry out the construction of the locally preferred alternative for the Westside Light Rail Project, including system related costs, set forth in Public Law 101-516 and as defined in House Report 101-584. Such agreement shall also provide for the completion of alternatives analysis, the final Environmental Impact Analysis, and preliminary engineering for the Hillsboro extension to the Westside Project as set forth in Public Law 101-516.

(c) NORTH BAY FERRY SERVICE.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the City of Vallejo, California, which includes $8,000,000 in fiscal year 1992 and $9,000,000 in fiscal year 1993 from funds made available under section 3(k)(1)(B) of the Federal Transit Act to carry out capital improvements under the North Bay Ferry Service Demonstration Program.

(d) STATEN ISLAND-MIDTOWN MANHATTAN FERRY SERVICE.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the New York City Department of Transportation in New York, New York, which includes $1,000,000 in fiscal year 1992 and $11,000,000 in fiscal year 1993 from funds made available under section 3(k)(1)(B) of the Federal Transit Act to carry out capital improvements under the Staten Island-Midtown Ferry Service Demonstration Program.

(e) CENTRAL AREA CIRCULATOR PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the City of Chicago, Illinois, which in-

cludes $260,000,000 from funds made available under section 3(k)(1)(B) of the Federal Transit Act to carry out the construction of the locally preferred alternative for the Central Area Circulator Project. Such grant agreement shall provide that the Federal share of the cost of such project shall be paid by the Secretary from amounts provided under such section 3(k)(1)(B) as follows:

(1) Not less than $21,000,000 for fiscal year 1992.

(2) Not less than $55,000,000 for fiscal year 1993.

(3) Not less than $70,000,000 for fiscal year 1994.

(4) Not less than $62,000,000 for fiscal year 1995.

(5) Not less than a total of $52,000,000 for fiscal years 1996 and 1997.

(f) SALT LAKE CITY LIGHT RAIL PROJECT.—No later than August 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Utah Transit Authority, which includes $131,000,000 from funds made available under section 3(k)(1)(B) of the Federal Transit Act to carry out the construction of the initial segment of the locally preferred alternative for the Salt Lake City Light Rail Project, including feeder bus and other system related costs.

(g) LOS ANGELES-SAN DIEGO (LOSSAN) RAIL CORRIDOR IMPROVEMENT PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Los Angeles-San Diego Rail Corridor Agency which includes not less than $10,000,000 for fiscal year 1992 and not less than $5,000,000 in each of fiscal years 1993 and 1994 from funds made available under section 3(k)(1)(B) of the Federal Transit Act to provide for capital improvements to the rail corridor between Los Angeles and San Diego, California.

(h) SAN JOSE-GILROY-HOLLISTER COMMUTER RAIL PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the responsible operating entity for the San Francisco Peninsula Commute Service which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $13,000,000 for capital improvements and trackage rights related to the extension of commuter rail service from San Jose, through Gilroy, to Hollister, California. The Secretary shall allocate to the Santa Clara County Transit District in fiscal year 1992, from funds made available under such section 3(k)(1)(B), $8,000,000 for the purpose of a one-time purchase of perpetual trackage rights between the existing terminus in San Jose and Gilroy, California, to run passenger rail service.

(i) DALLAS LIGHT RAIL PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with Dallas Area Rapid Transit which includes $160,000,000 from funds made available under section 3(k)(1)(B) of the Federal Transit Act to carry out the construction of the locally preferred alternative for the initial 6.4 miles and 10 stations of the South Oak Cliff light rail line. Non-Federal funds used to acquire rights-of-way and to plan, design, and construct any of the elements of such light rail line on or after August 13, 1983, may be used to meet the non-Federal share funding requirement for financing construction of any of such elements.

(j) SOUTH BOSTON PIERS TRANSITWAY/LIGHT RAIL PROJECT.—No later than June 1, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Massachusetts Bay Transportation Authority which includes $278,000,000 from funds made available under section 3(k)(1)(B) of the Federal Transit Act to carry out the construction of the South Station to World Trade Center segment of the locally preferred alternative for the South Boston Piers Transitway/Light Rail Project. Not later than February 28, 1992, the Secretary shall allocate from such $278,000,000 such sums as may be necessary to carry out preliminary engineering and design for the entirety of such preferred alternative. Section 330 of the Department of Transportation and Related Agencies Appropriations Act, 1992, is amended by striking "—", by striking "(a)", by striking "; and" at the end of paragraph (a) and all that follows through the period at the end of such section and inserting a period, and by running in the remaining matter of paragraph (a) following "Administration".

(k) KANSAS CITY LIGHT RAIL PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Kansas City Area Transportation Authority which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $1,500,000 in fiscal year 1992, and $4,400,000 in fiscal year 1993 to provide for the completion of alternatives analysis and preliminary engineering for the Kansas City Light Rail Project.

(l) ORLANDO STREETCAR (OSCAR) DOWNTOWN TROLLEY PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the City of Orlando, Florida, which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $5,000,000 to provide for the completion of alternatives analysis and preliminary engineering for the Orlando Streetcar (OSCAR) Downtown Trolley Project.

(m) DETROIT LIGHT RAIL PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and enter into a multiyear grant agreement with the city of Detroit, Michigan, which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, not less than $10,000,000 for fiscal year 1992, and not less than $10,000,000 for fiscal year 1993, to provide for the completion of alternatives analysis and preliminary engineering for the Detroit Light Rail Project.

(n) BUS AND BUS RELATED EQUIPMENT PURCHASES IN ALTOONA, PENNSYLVANIA.—No later than April 30, 1992, the Secretary shall enter into a grant agreement with Altoona Metro Transit for $2,000,000 for fiscal year 1992 from funds made available under section 3(k)(1)(C) of the Federal Transit Act to provide for the purchase of 10 buses, a fuel storage tank, a bus washer and 2 service vehicles.

(o) LONG BEACH METRO LINK FIXED RAIL PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Los Angeles County Transportation Commission which includes $4,000,000 from funds made available under section 3(k)(1)(B) of the Federal Transit Act, to provide for the completion of alternatives analysis and preliminary engineering for the Metro Link Project in Long Beach, California.

(p) LAKEWOOD-FREEHOLD-MATAWAN OR JAMESBURG RAIL PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the New Jersey Transit Corporation, which includes, from funds made available to the Northeastern New Jersey urbanized area under section 3(k)(1)(B) of the Federal Transit Act, $1,800,000 in fiscal year 1992 and $3,000,000 in each of fiscal years 1993 and 1994 to provide for the completion of alternatives analysis, preliminary engineering, and environmental impact statement for the Lakewood-Freehold-Matawan or Jamesburg Rail Project.

(q) SAN FRANCISCO, CALIFORNIA.—No later than April 30, 1992, the Secretary shall enter into a grant agreement for $2,500,000 from funds made available under section 3(k)(1)(C) for fiscal year 1992 to construct a parking facility as part of a multimodal transportation facility in the vicinity of California Pacific Medical Center, San Francisco, California.

(r) CHARLOTTE LIGHT RAIL STUDY.—No later than April 30, 1992, the Secretary shall negotiate and sign a multi-year grant agreement with the City of Charlotte, North Carolina which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $125,000 in fiscal year 1992 and $375,000 in fiscal year 1993 to provide for the completion of systems planning and alternatives analysis for a priority light rail corridor in the Charlotte metropolitan area.

(s) BUCKHEAD PEOPLE MOVER CONCEPTUAL ENGINEERING STUDY.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Atlanta Regional Commission which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $200,000 in fiscal year 1992, to provide for the completion of a conceptual engineering study for a people mover system in Atlanta, Georgia.

(t) CLEVELAND DUAL HUB RAIL PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Greater Cleveland Regional Transit Authority which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $2,000,000 in fiscal year 1992, $2,000,000 in fiscal year 1993, and $1,000,000 in fiscal year 1994, to provide for the completion of alternatives analysis on the Cleveland Dual Hub Rail Project.

(u) SAN DIEGO MID COAST LIGHT RAIL PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the San Diego Metropolitan Transit Development Board which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $2,000,000 in fiscal year 1992, $5,000,000 in fiscal year 1993, and $20,000,000 in fiscal year 1994, to provide for the completion of alternatives analysis and the final environmental impact statement, and to purchase right-of-way, for the San Diego Mid Coast Light Rail Project.

(v) CHATTANOOGA DOWNTOWN TROLLEY PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Chattanooga Area Regional Transportation Authority which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $1,000,000 in fiscal year 1992 and $1,000,000 in fiscal year 1993 to provide for the completion of alternatives analysis on a proposed trolley circulator in downtown Chattanooga, Tennessee.

(w) NORTHEAST OHIO COMMUTER RAIL FEASIBILITY STUDY.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Northeast Ohio Areawide Coordinating Agency which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $800,000 in fiscal year 1992 and $800,000 in fiscal year 1993 to study the feasibility of providing commuter rail service connecting urban and suburban areas in northeast Ohio.

(x) RAILTRAN COMMUTER RAIL PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Cities of Dallas and Fort Worth, Texas, which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $2,480,000, in fiscal year 1992, and $3,200,000 in fiscal year 1993 to provide for preliminary engineering and construction of improvements to the Dallas/Fort Worth RAILTRAN System.

(y) BUS AND BUS RELATED EQUIPMENT PURCHASES IN JOHNSTOWN, PENNSYLVANIA.—No later than April 30, 1992, the Secretary shall enter into a grant agreement with the Cambria Coun-

ty Transit Authority for $1,600,000 for fiscal year 1992 from funds made available under section 3(k)(1)(C) of the Federal Transit Act to provide for the purchase of 6 midsize buses; spare engines, transmissions, wheels, tires; wheelchair lifts for urban buses; 20 2-way radios; 29 electronic fareboxes and related equipment; computer hardware and software; and shop tools, equipment and parts for the Cambria County Transit System; and a new 400 HP electric motor and related components; cable replacement; hillside erosion control; park-and-ride facilities; and a handicapped pedestrian crosswalk for the Johnstown Inclined Plane.

(z) BUS PURCHASE FOR EUREKA SPRINGS, ARKANSAS.—No later than April 30, 1992, the Secretary shall enter into a grant agreement with Eureka Springs Transit for $63,600 for fiscal year 1992 from funds made available under section 3(k)(1)(C) of the Federal Transit Act to provide for the purchase of an electrically powered bus which is accessible to and usable by individuals with disabilities.

(aa) TUCSON DIAL-A-RIDE PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and sign a grant agreement with the City of Tucson, Arizona which includes, from funds made available under section 3(k)(1)(C) of the Federal Transit Act, $8,000,000 in fiscal year 1992 to make capital improvements related to the Tucson dial-a-ride project.

(bb) LONG BEACH BUS FACILITY PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and sign a grant agreement with the Long Beach Transportation Company to include, from funds made available under section 3(k)(1)(C) of the Federal Transit Act, $13,875,000 in fiscal year 1992, to provide for the construction of a bus maintenance facility in the service area of such company.

(cc) PARK-AND-RIDE LOT.—No later than April 30, 1992, the Secretary shall negotiate and sign a grant agreement with the Southeastern Pennsylvania Transportation Authority which includes, from funds made available under section 3(k)(1)(C) of the Federal Transit Act, $4,000,000 in fiscal year 1992 to construct a park-and-ride lot in suburban Philadelphia, Pennsylvania.

(dd) NASHVILLE INTERMODAL TERMINAL.—No later than April 30, 1992, the Secretary shall negotiate and sign a grant agreement with the City of Nashville, Tennessee, which includes, from funds made available under section 3(k)(1)(C) of the Federal Transit Act, $3,700,000 in fiscal year 1992 to provide for the construction of an intermodal passenger terminal in Nashville, Tennessee.

(ee) MAIN STREET TRANSIT MALL.—No later than April 30, 1992, the Secretary shall negotiate and sign a grant agreement with the City of Akron, Ohio, which includes, from funds made available to that State under section 3(k)(1)(C) of the Federal Transit Act, $1,450,000 in fiscal year 1992 to provide for preliminary engineering and construction of an extension to the Main Street Transit Mall.

(ff) PEOPLE MOBILIZER.—No later than April 30, 1992, the Secretary shall negotiate and sign a grant agreement with PACE which includes, from funds made available to the suburban Chicago urbanized area under section 3(k)(1)(C), $2,300,000 in fiscal year 1992 to make capital purchases necessary for implementing the people mobilizer project in such area. The limitation on operating assistance which but for this section would apply to the people mobilizer project for fiscal year 1992 under section 9(k)(2)(A) of the Federal Transit Act shall be increased by $700,000.

(gg) CENTRE AREA TRANSPORTATION AUTHORITY REIMBURSEMENT.—Notwithstanding any other provision of law, the Secretary shall reimburse the Centre Area Transportation Authority in State College, Pennsylvania, from funds made available under section 3(k)(1)(C) of the Federal Transit Act, $1,000,000 in fiscal year 1992 for costs incurred by the Centre Area Transportation Authority between August 1989 and October 1991 in connection with the construction of an administrative maintenance and bus storage facility.

(hh) KEY WEST, FLORIDA.—Not later than April 30, 1992, the Secretary shall negotiate and enter into a grant agreement with the city of Key West, Florida, which includes, from funds made available under section 3(k)(1)(C) of the Federal Transit Act, $239,666 in fiscal year 1992 for the cost of purchasing 3 buses.

(ii) BOSTON, MASSACHUSETTS.—The Secretary shall conduct at a cost of $250,000 in fiscal year 1992 from funds made available under section 3(k)(1)(B) of the Federal Transit Act a feasibility study of a proposed rail link between North Station and South Station in Boston, Massachusetts.

(jj) BUFFALO, NEW YORK.—No later than April 30, 1992, the Secretary shall enter into a grant agreement with the Niagara Frontier Transportation Authority for $2,000,000 for fiscal year 1992 from funds made available under section 3(k)(1)(C) of the Federal Transit Act to provide for the construction of metro bus transit centers in the service area of such transportation authority.

(kk) STATE OF MICHIGAN.—No later than June 30, 1992, the Secretary shall enter into a multiyear grant agreement with the State of Michigan for $10,500,000 for fiscal year 1992, and not less than $10,000,000 for each of fiscal years 1993 through 1997 from funds made available under section 3(k)(1)(C) of the Federal Transit Act for the purchase of buses and bus-related equipment to be distributed among local transit operators. Of the grant amount for fiscal year 1992, $500,000 shall be made available for a study of the feasibility of consolidation of transit services.

(ll) ANN ARBOR, MICHIGAN.—No later than April 30, 1992, the Secretary shall enter into a grant agreement with the Ann Arbor Transportation Authority for $1,500,000 for fiscal year 1992 from funds made available under section 3(k)(1)(C) of the Federal Transit Act for the purchase of equipment and software for advanced fare collection technology.

(mm) BAY AREA RAPID TRANSIT DISTRICT PARKING.—Not later than April 30, 1992, the Secretary shall negotiate and enter into a multiyear grant agreement with the San Francisco Bay Area Rapid Transit District which includes, from funds made available under section 3(k)(1)(C) of the Federal Transit Act, $12,600,000 for construction of a parking area for the planned East Dublin/Pleasanton BART station.

(nn) BALTIMORE-WASHINGTON TRANSPORTATION IMPROVEMENTS PROGRAM.—The Secretary shall carry out the Baltimore-Washington Transportation Improvements Program as follows:

(1) BALTIMORE-CENTRAL LIGHT RAIL EXTENSION.—By entering into a full funding grant agreement with the Mass Transit Administration of the Maryland Department of Transportation to carry out construction of locally preferred alternatives for the Hunt Valley, Baltimore-Washington International Airport and Penn Station extensions to the light rail line in Baltimore, Maryland. The grant agreement under this paragraph shall provide that the Federal share shall be paid from amounts provided under section 3(k)(1)(B) of the Federal Transit Act as follows:

(A) Not less than $30,000,000 for fiscal year 1993.

(B) Not less than $30,000,000 for fiscal year 1994.

(2) MARC EXTENSIONS.—By entering into a full funding grant agreement with the Mass Transit Administration of the Maryland Department of Transportation for service extensions and other improvements, including extensions of the MARC commuter rail system to Frederick and Waldorf, planning and engineering, purchase of rolling stock and station improvements and expansions. The grant agreement under this paragraph shall be paid from amounts provided under section 3(k)(1)(B) of the Federal Transit Act as follows:

(A) Not less than $60,000,000 for fiscal year 1993.

(B) Not less than $50,000,000 for fiscal year 1994.

(C) Not less than $50,000,000 for fiscal year 1995.

(3) LARGO EXTENSION.—By entering into a full funding grant agreement with the State of Maryland or its designee to provide alternative analysis, the preparation of an environmental impact statement and preliminary engineering for a proposed rail transit project to be located in the corridor between the Washington Metropolitan Area Transit Authority Addison Road rail station and Largo, Maryland. The grant agreement under this paragraph shall provide that the Federal share shall be paid from amounts provided under section 3(k)(1)(B) of the Federal Transit Act in an amount not less than $5,000,000 for fiscal year 1993.

(oo) MILWAUKEE EAST-WEST CORRIDOR PROJECT.—The Secretary shall negotiate and sign a multiyear grant agreement with the State of Wisconsin which includes $200,000,000 from funds made available under section 3(k)(1)(B) of the Federal Transit Act to carry out the construction of the initial segment of the locally preferred alternative as identified in the alternatives analysis of the Milwaukee East-West Corridor Project.

(pp) BOSTON TO PORTLAND TRANSPORTATION CORRIDOR.—If the State of Maine or an agency thereof decides to initiate commuter rail service in the Boston to Portland transportation corridor, $30,000,000 under section 3(k)(1)(B) is authorized to be appropriated for capital improvements to allow such service.

(qq) NORTHEAST PHILADELPHIA COMMUTER RAIL STUDY.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Southeastern Pennsylvania Transportation Authority, which includes $400,000 from funds made available to the Philadelphia urbanized area under section 3(k)(1)(B) of the Federal Transit Act to provide for a study of the feasibility of instituting commuter rail service as an alternative to automobile travel to Center City Philadelphia on I-95.

(rr) ATLANTA COMMUTER RAIL STUDY.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Atlanta Regional Commission which includes, from funds made available to the Atlanta urbanized area under section 3(k)(1)(B) of the Federal Transit Act, $100,000 to study the feasibility of instituting commuter rail service in the Greensboro corridor.

(ss) PITTSBURGH LIGHT RAIL REHABILITATION PROJECT.—No later than 90 days after the date of the enactment of this Act, the Secretary shall negotiate and sign a multiyear grant agreement with the Port Authority of Allegheny County which includes $5,000,000 from funds made available to the Pittsburgh urbanized area under section 3(k)(1)(B) of the Federal Transit Act, to complete preliminary engineering for Stage II LRT rehabilitation in Allegheny County, Pennsylvania.

(tt) ATLANTA NORTH LINE EXTENSION.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Metropolitan Atlanta Rapid Transit Authority which includes $329,000,000 from

funds made available under section 3(k)(1)(B) of the Federal Transit Act to carry out the construction of the locally preferred alternative for a 3.1 mile extension of the North Line of the heavy rail rapid transit system in Atlanta, Georgia.

(uu) HOUSTON PRIORITY CORRIDOR FIXED GUIDEWAY PROJECT.—Provided that a locally preferred alternative for the Priority Corridor fixed guideway project has been selected by March 1, 1992, no later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Metropolitan Transit Authority of Harris County which includes $500,000,000 from funds made available under section 3(k)(1)(B) of the Federal Transit Act to carry out the construction of such locally preferred alternative.

(vv) JACKSONVILLE AUTOMATED SKYWAY EXPRESS EXTENSION.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Jacksonville Transportation Authority which includes $71.2 million from funds made available under section 3(k)(1)(B) of the Federal Transit Act to carry out the construction of the locally preferred alternative for a 1.8 mile extension to the Automated Skyway Express starter line.

(ww) HONOLULU RAPID TRANSIT PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the City and County of Honolulu which includes $618,000,000 from funds made available under section 3(k)(1)(B) of the Federal Transit Act to carry out the construction of the locally preferred alternative of a 17.3 mile fixed guideway system.

(xx) SACRAMENTO LIGHT RAIL PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Sacramento Regional Transit District which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $26,000,000 to provide for the completion of alternatives analysis, preliminary engineering, and final design on proposed extensions to the light rail system in Sacramento, California.

(yy) PHILADELPHIA CROSS-COUNTY METRO RAIL PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Southeastern Pennsylvania Transportation Authority which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $2,400,000 to provide for the completion of alternatives analysis and preliminary engineering for the Philadelphia Cross-County Metro Rail Project.

(zz) CLEVELAND BLUE LINE LIGHT RAIL EXTENSION.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Greater Cleveland Regional Transit Authority which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $1,200,000 to provide for the completion of alternatives analysis and preliminary engineering for an extension of the Blue Line to Highland Hills, Ohio.

(aaa) DULLES CORRIDOR RAIL PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the State of Virginia, or its assignee, which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $6,000,000 to provide for the completion of alternatives analysis and preliminary engineering for a rail corridor from the West Falls Church Washington Metropolitan Area Transit Authority rail station to Dulles International Airport.

(bbb) PUGET SOUND CORE RAPID TRANSIT PROJECT.—Not later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the municipality of metropolitan Seattle, Washington, which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $300,000,000 for the Puget Sound Core Rapid Transit Project.

(ccc) SEATTLE-TACOMA COMMUTER RAIL.—Not later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the municipality of metropolitan Seattle, Washington, which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $25,000,000 for the Seattle-Tacoma Commuter Rail Project.

(ddd) ALTOONA PEDESTRIAN CROSSOVER.—Not later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the city of Altoona, Pennsylvania, which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $3,200,000 for construction of the 14th Street Pedestrian Crossover in Altoona, Pennsylvania.

(eee) MULTI-MODAL TRANSIT PARKWAY.—Not later than April 30, 1992, the Secretary shall negotiate and enter into a multiyear grant agreement with the State of California which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $15,000,000 for construction of a multi-modal transit parkway in western Los Angeles, California.

(fff) CANAL STREET CORRIDOR LIGHT RAIL, NEW ORLEANS, LOUISIANA.—No later than April 30, 1992, the Secretary shall negotiate and sign a grant agreement with the city of New Orleans, Louisiana, which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $4,800,000 to provide for the completion of alternatives analysis, preliminary engineering, and an environmental impact statement for the Canal Street Corridor Light Rail System in New Orleans, Louisiana.

SEC. 3036. UNOBLIGATED M ACCOUNT BALANCES.

Notwithstanding any other provision of law, any obligated M account balances remaining available for expenditure as of August 1, 1991, under "Urban Discretionary Grants" and "Interstate Transfer Grants-Transit" of the Federal Transit Administration program shall be exempt from the application of the provisions of section 1405(b)(4) and (b)(6) of Public Law 101–510 and section 1552 of title 31, United States Code, and shall be available until expended.

SEC. 3037. TECHNICAL ACCOUNTING PROVISIONS.

Notwithstanding any other provision of law, any funds appropriated before October 1, 1983, under section 6, 10, 11, or 18 of the Act, or section 103(e)(4) of title 23, United States Code, in effect on September 30, 1991, that remain available for expenditure after October 1, 1991, may be transferred to and administered under the most recent appropriation heading for any such section.

SEC. 3038. REDUCTION IN AUTHORIZATIONS FOR BUDGET COMPLIANCE.

If the total amount authorized by this Act (including amendments made by this Act) out of the Mass Transit Account of the Highway Trust Fund exceeds $1,900,000,000 for fiscal year 1992, or exceeds $13,800,000,000 for fiscal years 1992 through 1996, then each amount so authorized shall be reduced proportionately so that the total equals $1,900,000,000 for fiscal year 1992, or equals $13,800,000,000 for fiscal years 1992 through 1996, as the case may be.

SEC. 3039. PETROLEUM VIOLATION ESCROW ACCOUNT FUNDS.

Notwithstanding any other provision of law, the Federal Transit Administration shall allow petroleum violation escrow account funds spent by the New Jersey Transit Corporation on transit improvements to be applied as credit towards the non-Federal match for any transit project funded under the Federal Transit Act. The New Jersey Transit Corporation shall demonstrate that the use of such a credit does not result in the reduction in non-Federal funding for transit projects within the fiscal year in which the credit is applied.

SEC. 3040. CHARTER SERVICES DEMONSTRATION PROGRAM.

(a) ESTABLISHMENT.—Notwithstanding any provision of law, the Secretary shall implement regulations, not later than 9 months after the date of the enactment of this Act, in not more than 4 States to permit transit operators to provide charter services for the purposes of meeting the transit needs of government, civic, charitable, and other community activities which otherwise would not be served in a cost effective and efficient manner.

(b) CONSULTATION.—In developing such regulations, the Secretary shall consult with a board that is equally represented by public transit operators and privately owned charter services.

(c) REPORT.—Not later than 3 years after the date of the enactment of this Act, the Secretary shall transmit to Congress a report containing an evaluation of the effectiveness of the demonstration program regulations established under this section and make recommendations to improve current charter service regulations.

SEC. 3041. GAO REPORT ON CHARTER SERVICE REGULATIONS.

The Comptroller General shall submit to the Congress, not later than 12 months after the date of the enactment of this Act, a report evaluating the impact of existing charter service regulations. The report shall—

(1) assess the extent to which the regulations promote or impede the ability of communities to meet the transportation needs of government, civic, and charitable organizations in a cost-effective and efficient manner;

(2) assess the extent to which the regulations promote or impede the ability of communities to carry out economic development activities in a cost-effective and efficient manner;

(3) analyze the extent to which public transit operators and private charter carriers have entered into charter service agreements pursuant to the regulations; and

(4) analyze the extent to which such agreements enable private carriers to profit from the provision of charter service by public transit operators using federally subsidized vehicles.

The report shall also include an assessment of the factors specified in the preceding sentence within the context of not less than 3 communities selected by the Comptroller General.

SEC. 3042. 1993 WORLD UNIVERSITY GAMES.

Notwithstanding any other provision of law, before apportionment under section 9 of the Federal Transit Act of funds provided under section 21(a)(1) of such Act for fiscal year 1993, $4,000,000 of such funds shall be made available to the State of New York or to any public body to which the State further delegates authority, as the designated recipient for the purposes of this section, to carry out projects by contracts with private or public service providers to meet the transportation needs associated with the staging of the 1993 World University Games in the State of New York. Such funds shall be available for any purpose eligible under section 9 of such Act without limitation. The matching requirement for operating assistance under section 9(k)(1) of such Act shall not apply to funds made available under this section.

SEC. 3043. OPERATING ASSISTANCE LIMITATION FOR STATEN ISLAND FERRY.

The limitation of operating assistance which, but for this section, would apply to the Staten Island Ferry for fiscal year 1993 under section 9(k)(2)(A) of the Federal Transit Act shall be increased by $2,700,000.

SEC. 3044. FORGIVENESS OF CERTAIN OUTSTANDING OBLIGATIONS.

Notwithstanding the fifth sentence of section 4(a) of the Federal Transit Act, the outstanding balance on grant agreement number NC–05–0021 made to the Fayetteville Transit Authority, North Carolina, is forgiven.

SEC. 3045. FORGIVENESS OF LOAN REPAYMENT.

Notwithstanding any other provision of law (including any regulation), the outstanding balances on the following loan agreements do not have to be repaid:

(1) Loan agreement number PA–03–9002 made to the Southeastern Pennsylvania Transit Authority.

(2) Loan agreement number PA–03–9003 made to the Southeastern Pennsylvania Transit Authority.

SEC. 3046. MODIFIED BUS SERVICE TO ACCOMMODATE THE NEEDS OF STUDENTS.

Nothing in the Federal Transit Act, including the regulations issued to carry out such Act, shall be construed to prohibit the use of buses acquired or operated with Federal assistance under such Act to provide tripper bus service in New York City, New York, to accommodate the needs of students, if such buses carry normal designations and clear markings that such buses are open to the general public. For the purposes of this section, the term "tripper bus service" shall have the meaning such term has on the date of the enactment of this Act in regulations issued pursuant to the Federal Transit Act and shall include the service provided by express buses operating along regular routes and as indicated in published route schedules.

SEC. 3047. ELIGIBILITY DETERMINATIONS FOR DISABILITY.

(a) STUDY.—The Secretary shall conduct a study of procedures for determining disability for the purpose of obtaining off peak reduced fares under section 5(m) of the Federal Transit Act. The study should review different requirements, degree of uniformity, and degree of reciprocity between transit systems.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall report to Congress on the results of the study conducted under this section.

SEC. 3048. MILWAUKEE ALTERNATIVES ANALYSIS APPROVAL.

No later than January 15, 1992, the Secretary shall enter into an agreement with the Wisconsin Department of Transportation giving approval to undertake an alternatives analysis for the East-West Central Milwaukee Corridor. The alternatives analysis shall be funded entirely from non-Federal sources.

TITLE IV—MOTOR CARRIER ACT OF 1991

SEC. 4001. SHORT TITLE.

This title may be cited as the "Motor Carrier Act of 1991".

SEC. 4002. MOTOR CARRIER SAFETY GRANT PROGRAM AMENDMENTS.

(a) CONTENTS OF STATE PLANS.—Section 402(b)(1) of the Surface Transportation Assistance Act of 1982 (49 U.S.C. App. 2302(b)(1)) is amended—

(1) by striking subparagraph (D) and inserting the following new subparagraph:

"(D) provides a right of entry and inspection to carry out the plan and provides that the State will grant maximum reciprocity for inspections conducted pursuant to the North American Inspection Standard, through the use of a nationally accepted system allowing ready identification of previously inspected commercial motor vehicles;";

(2) by striking "and" at the end of subparagraph (F);

(3) by striking the period of subparagraph (G) and inserting a semicolon; and

(4) by adding at the end the following new subparagraphs:

"(H) ensures that activities described in paragraphs (1), (2), and (3) of subsection (e) if funded with grants under this section will not diminish the effectiveness of development and implementation of commercial motor vehicle safety programs described in subsection (a);

"(I) ensures that fines imposed and collected by the State for violations of commercial motor vehicle safety regulations will be reasonable and appropriate and provides that, to the maximum extent practicable, the State will seek to implement into law and practice the recommended fine schedule published by the Commercial Vehicle Safety Alliance;

"(J) ensures that such State agency will coordinate the plan prepared under this section with the State highway safety plan under section 402 of title 23, United States Code;

"(K) ensures participation by the 48 contiguous States in SAFETYNET by January 1, 1994;

"(L) gives satisfactory assurances that the State will undertake efforts that will emphasize and improve enforcement of State and local traffic safety laws and regulations pertaining to commercial motor vehicle safety;

"(M) gives satisfactory assurances that the State will promote activities—

"(i) to remove impaired commercial motor vehicle drivers from our Nation's highways through adequate enforcement of regulations on the use of alcohol and controlled substances and by ensuring ready roadside access to alcohol detection and measuring equipment;

"(ii) to provide an appropriate level of training to its motor carrier safety assistance program officers and employees on the recognition of drivers impaired by alcohol or controlled substances;

"(iii) to promote enforcement of the requirements relating to the licensing of commercial motor vehicle drivers, especially including the checking of the status of commercial drivers' licenses; and

"(iv) to improve enforcement of hazardous materials transportation regulations by encouraging more inspections of shipper facilities affecting highway transportation and more comprehensive inspections of the loads of commercial motor vehicles transporting hazardous materials; and

"(N) give satisfactory assurance that the State will promote—

"(i) effective interdiction activities affecting the transportation of controlled substances by commercial motor vehicle drivers and training on appropriate strategies for carrying out such interdiction activities; and

"(ii) effective use of trained and qualified officers and employees of political subdivisions and local governments, under the supervision and direction of the State motor vehicle safety agency, in the enforcement of regulations affecting commercial motor vehicle safety and hazardous materials transportation safety.".

(b) MAINTENANCE OF EFFORT.—Section 402(d) of such Act is amended—

(1) by inserting "and for enforcement of commercial motor vehicle size and weight limitations, for drug interdiction, and for enforcement of State traffic safety laws and regulations described in subsection (e)" after "programs";

(2) by striking "two" and inserting "3";

(3) by striking "this section" the second place it appears and inserting "the Intermodal Surface Transportation Efficiency Act of 1991"; and

(4) by adding at the end the following new sentence: "In estimating such average level, the Secretary may allow the State to exclude State expenditures for federally sponsored demonstration or pilot programs and shall require the State to exclude Federal funds and State matching funds used to receive Federal funding under this section.".

(c) USE OF GRANT FUNDS FOR ENFORCEMENT OF CERTAIN OTHER LAWS.—Section 402 of such Act is amended by adding at the end the following new subsection:

"(e) USE OF GRANT FUNDS FOR ENFORCEMENT OF CERTAIN OTHER LAWS.—A State may use funds received under a grant under this section—

"(1) for enforcement of commercial motor vehicle size and weight limitations at locations other than fixed weight facilities, at specific geographical locations (such as steep grades or mountainous terrains) where the weight of a commercial motor vehicle can significantly affect the safe operation of such vehicle, or at seaports where intermodal shipping containers enter and exit the United States;

"(2) for detecting the unlawful presence of a controlled substance (as defined under section 102 of the Controlled Substances Act (21 U.S.C. 802)) in a commercial motor vehicle or on the person of any occupant (including the operator) of such a vehicle; and

"(3) for enforcement of State traffic laws and regulations designed to promote safe operation of commercial motor vehicles;

if such activities are carried out in conjunction with an appropriate type of inspection of the commercial motor vehicle for enforcement of Federal or State commercial motor vehicle safety regulations.".

(d) FEDERAL SHARE.—Section 403 of such Act (49 U.S.C. App. 2303) is amended by inserting after the first sentence the following new sentence: "In determining such costs incurred by the State, the Secretary shall include in-kind contributions by the State.".

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 404 of such Act (49 U.S.C. App. 2304) is amended—

(1) in subsection (a)(2) by striking "and" before "$60,000,000" and inserting a comma; and

(2) by striking the period at the end of subsection (a)(2) and inserting ", $65,000,000 for fiscal year 1992, $76,000,000 for fiscal year 1993, $80,000,000 for fiscal year 1994, $83,000,000 for fiscal year 1995, $85,000,000 for fiscal year 1996, and $90,000,000 for fiscal year 1997.".

(f) AVAILABILITY, RELEASE, AND REALLOCATION OF FUNDS.—Section 404(c) of such Act is amended to read as follows:

"(c) AVAILABILITY, RELEASE, AND REALLOCATION OF FUNDS.—Funds made available by this section shall remain available for obligation by the Secretary until expended. Allocations to a State shall remain available for expenditure in that State for the fiscal year in which they are allocated and 1 succeeding fiscal year. Funds not expended by a State during those 2 fiscal years shall be released to the Secretary for reallocation. Funds made available under this part which, as of October 1, 1992, were not obligated shall be available for reallocation and obligation under this subsection.".

(g) ALLOCATIONS.—Section 404(f) of such Act is amended to read as follows:

"(f) ADMINISTRATIVE EXPENSES; ALLOCATION CRITERIA.—

"(1) DEDUCTION FOR ADMINISTRATIVE EXPENSES.—On October 1 of each fiscal year, or as soon thereafter as is practicable, the Secretary may deduct, for administration of this section for that fiscal year, not to exceed 1.25 percent of the funds made available for that fiscal year by subsection (a)(2). At least 75 percent of the funds so deducted for administration shall be used for the training of non-Federal employees, and the development of related training materials, to carry out the purposes of section 402.

"(2) ALLOCATION CRITERIA.—On October 1 of each fiscal year, or as soon thereafter as is practicable, the Secretary, after making the deduction authorized by paragraph (1), shall allocate, among the States with plans approved under section 402, the available funds for that fiscal year, pursuant to criteria established by the Secretary; except that the Secretary, in allocating funds available for research, development, and demonstration under subsection (g)(5) and for public education under subsection (g)(6), may designate specific eligible States among which to allocate such funds.".

(h) FUNDING FOR SPECIFIED PROGRAMS.—Section 404 of such Act is further amended by adding at the end of such section the following new subsection:

"(g) FUNDING FOR SPECIFIED PROGRAMS.—

"(1) TRAINING OF HAZMAT INSPECTORS.—The Secretary shall obligate from funds made available by subsection (a)(2) for each fiscal year beginning after September 30, 1992, not less than $1,500,000 to make grants to States for training inspectors for enforcement of regulations which are issued by the Secretary and pertain to transportation by commercial motor vehicle of hazardous materials.

"(2) COMMERCIAL MOTOR VEHICLE INFORMATION SYSTEM REVIEW.—The Secretary may obligate from funds made available by subsection (a)(2) for each of fiscal years 1992, 1993, 1994, 1995, 1996, and 1997 not to exceed $2,000,000 to carry out section 407 of this title, relating to the commercial motor vehicle information system.

"(3) TRUCK AND BUS ACCIDENT DATA GRANT PROGRAM.—The Secretary may obligate from funds made available by subsection (a)(2) for each of fiscal years 1993, 1994, 1995, 1996, and 1997 not to exceed $2,000,000 to carry out section 408 of this title, relating to the truck and bus accident data grant program.

"(4) ENFORCEMENT.—

"(A) TRAFFIC ENFORCEMENT ACTIVITIES.—The Secretary shall obligate from funds made available by subsection (a)(2) for each of fiscal years 1993, 1994, and 1995 not less than $4,250,000 and for each of fiscal years 1996 and 1997 not less than $5,000,000 for traffic enforcement activities with respect to commercial motor vehicle drivers which are carried out in conjunction with an appropriate inspection of a commercial motor vehicle for compliance with Federal or State commercial motor vehicle safety regulations.

"(B) LICENSING REQUIREMENTS.—The Secretary shall obligate from the funds made available by subsection (a)(2) not less than $1,000,000 for each of fiscal years 1993, 1994, and 1995 to increase enforcement of the licensing requirements of the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. 2701 App. et seq.) by motor carrier safety assistance program officers and employees, including the cost of purchasing equipment for and conducting inspections to check the current status of licenses issued pursuant to such Act.

"(5) RESEARCH AND DEVELOPMENT.—The Secretary shall obligate from funds made available by subsection (a)(2) not less than $500,000 for any fiscal year for research, development, and demonstration of technologies, methodologies, analyses, or information systems designed to promote the purposes of section 402 and which are beneficial to all jurisdictions. Such funds shall be announced publicly and awarded competitively, whenever practicable, to any of the eligible States for up to 100 percent of the State costs, or to other persons as determined by the Secretary.

"(6) PUBLIC EDUCATION.—The Secretary shall obligate from funds made available by subsection (a)(2) for any fiscal year not less than $350,000 to educate the motoring public on how to share the road safely with commercial motor vehicles. In carrying out such education activities, the States shall consult with appropriate industry representatives.".

(i) PAYMENTS TO STATES.—Section 404 of such Act is further amended by adding at the end the following new subsection:

"(h) PAYMENTS TO STATES.—The Secretary shall make payments to a State of costs incurred by it under this section and section 402, as reflected by vouchers submitted by the State. Payments shall not exceed the Federal share of costs incurred as of the date of the vouchers.".

(j) MOTOR CARRIER SAFETY FUNCTIONS.—There is authorized to be appropriated for the motor carrier safety functions of the Federal Highway Administration $49,317,000 for fiscal year 1992.

(k) NEW FORMULA FOR ALLOCATION OF FUNDS.—Not later than 6 months after the date of the enactment of this Act, the Secretary, by regulation, shall develop an improved formula and processes for the allocation among eligible States of the funds made available under the motor carrier safety assistance program. In conducting such a revision, the Secretary shall take into account ways to provide incentives to States that demonstrate innovative, successful, cost-efficient, or cost-effective programs to promote commercial motor vehicle safety and hazardous materials transportation safety. In particular, the Secretary shall place special emphasis on incentives to States that conduct traffic safety enforcement activities that are coupled with motor carrier safety inspections. In improving the formula, the Secretary shall also take into account ways to provide incentives to States that increase compatibility of State commercial motor vehicle safety and hazardous materials transportation regulations with the Federal safety regulations and promote other factors intended to promote effectiveness and efficiency that the Secretary determines appropriate.

(l) INTRASTATE COMPATIBILITY.—Not later than 9 months after the date of the enactment of this Act, the Secretary shall issue final regulations specifying tolerance guidelines and standards for ensuring compatibility of intrastate commercial motor vehicle safety law and regulations with the Federal motor carrier safety regulations under the motor carrier safety assistance program. Such guidelines and standards shall, to the extent practicable, allow for maximum flexibility while ensuring the degree of uniformity that will not diminish transportation safety. In the review of State plans and the allocation or granting of funds under section 153 of title 23, United States Code, as added by this Act, the Secretary shall ensure that such guidelines and standards are applied uniformly.

SEC. 4003. COMMERCIAL MOTOR VEHICLE INFORMATION SYSTEM.

Part A of title IV of the Surface Transportation Assistance Act of 1982 (49 U.S.C. App. 2301–2305) is amended by adding at the end the following new section:

"SEC. 407. COMMERCIAL VEHICLE INFORMATION SYSTEM PROGRAM.

"(a) INFORMATION SYSTEM.—

"(1) REGISTRATION SYSTEMS REVIEW.—Not later than 1 year after the effective date of this section, the Secretary, in cooperation with the States, shall conduct a review of State motor vehicle registration systems pertaining to license tags for commercial motor vehicles in order to determine whether or not such systems could be utilized in carrying out this section.

"(2) ESTABLISHMENT.—The Secretary, in cooperation with the States, may establish, as part of the motor carrier safety information network system of the Department of Transportation and similar State systems, an information system which will serve as a clearinghouse and depository of information pertaining to State registration and licensing of commercial motor vehicles and the safety fitness of the registrants of such vehicles.

"(3) OPERATION.—Operation of the information system established under paragraph (2) shall be paid for by a system of user fees. The Secretary may authorize the operation of the information system by contract, through an agreement with a State or States, or by designating, after consultation with the States, a third party which represents the interests of the States.

"(4) DATA COLLECTION AND REPORTING STANDARDS.—The Secretary shall establish standards to ensure uniform data collection and reporting by all States necessary to carry out this section and to ensure the availability and reliability of the information to the States and the Secretary from the information system established under paragraph (2).

"(5) TYPE OF INFORMATION.—As part of the information system established under paragraph (2), the Secretary shall include information on the safety fitness of the registrant of the commercial motor vehicle and such other information as the Secretary considers appropriate, including data on vehicle inspections and out-of-service orders.

"(b) DEMONSTRATION PROJECT.—The Secretary shall make grants to States to carry out a project to demonstrate methods of establishing an information system which will link the motor carrier safety information network system of the Department of Transportation and similar State systems with the motor vehicle registration and licensing systems of the States. The purposes of the project shall be—

"(1) to allow a State when issuing license plates for a commercial motor vehicle to determine through use of the information system the safety fitness of the person seeking to register the vehicle; and

"(2) to determine the types of sanctions which may be imposed on the registrant, or the types of conditions or limitations which may be imposed on the operations of the registrant, to ensure the safety fitness of the registrant.

"(c) REGULATIONS.—The Secretary shall issue such regulations as may be necessary to carry out this section.

"(d) REPORT.—Not later than January 1, 1995, the Secretary shall prepare and submit to Congress a report assessing the cost and benefits and feasibility of the information system established under this section and, if the Secretary determines that such system would be beneficial on a nationwide basis, including recommendations on legislation for the nationwide implementation of such system.

"(e) FUNDING.—Funds necessary to carry out this section may be made available by the Secretary as provided in section 404(g)(2) of this title.

"(f) COMMERCIAL MOTOR VEHICLE DEFINED.—For purposes of this section, the term 'commercial motor vehicle' means any self-propelled or towed vehicle used on highways in intrastate or interstate commerce to transport passengers or property—

"(1) if such vehicle has a gross vehicle weight rating of 10,001 or more pounds;

"(2) if such vehicle is designed to transport more than 15 passengers, including the driver; or

"(3) if such vehicle is used in the transportation of materials found by the Secretary to be hazardous for the purposes of the Hazardous Materials Transportation Act (49 U.S.C. App. 1801 et seq.) and are transported in a quantity requiring placarding under regulations issued by the Secretary under such Act.".

SEC. 4004. TRUCK AND BUS ACCIDENT DATA GRANT PROGRAM.

Part A of title IV of the Surface Transportation Assistance Act of 1982 (49 U.S.C. App. 2301–2305) is further amended by adding at the end the following new section:

"SEC. 408. TRUCK AND BUS ACCIDENT DATA GRANT PROGRAM.

"(a) GENERAL AUTHORITY.—The Secretary shall make grants to States which agree to adopt or have adopted the recommendations of the National Governors' Association with respect to police accident reports for truck and bus accidents.

"(b) GRANT PURPOSES.—Grants may only be made under this section for assisting States in the implementation of the recommendations referred to in subsection (a), including—

"(1) assisting States in designing appropriate forms;

"(2) drafting instruction manuals;

"(3) training appropriate State and local officers, including training on accident investigation techniques to determine the probable cause of accidents;

"(4) analyzing and evaluating safety data so as to develop, if necessary, recommended changes to existing safety programs that more effectively would address the causes of truck and bus accidents; and

"(5) such other activities as the Secretary determines are appropriate to carry out the objectives of this section.

"(c) COORDINATION.—The Secretary shall coordinate grants made under this section with the highway safety programs being carried out under section 402 of title 23, United States Code, and may require that the data from the reports described in subsection (a) be included in the reports made to the Secretary under the uniform data collection and reporting program carried out under such section.

"(d) FUNDING.—Funds necessary to carry out this section may be made available by the Secretary as provided in section 404(g)(3) of this title.".

SEC. 4005. SINGLE STATE REGISTRATION SYSTEM.

Section 11506 of title 49, United States Code, is amended to read as follows:

"§11506. Registration of motor carriers by a State

"(a) DEFINITIONS.—In this section, the terms 'standards' and 'amendments to standards' mean the specification of forms and procedures required by regulations of the Interstate Commerce Commission to prove the lawfulness of transportation by motor carrier referred to in section 10521(a) (1) and (2) of this title.

"(b) GENERAL RULE.—The requirement of a State that a motor carrier, providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title and providing transportation in that State, register the certificate or permit issued to the carrier under section 10922 or 10923 of this title is not an unreasonable burden on transportation referred to in section 10521(a) (1) and (2) of this title when the registration is completed under standards of the Commission under subsection (c) of this section. When a State registration requirement imposes obligations in excess of the standards, the part in excess is an unreasonable burden.

"(c) SINGLE STATE REGISTRATION SYSTEM.—

"(1) IN GENERAL.—Not later than 18 months after the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991, the Commission shall prescribe amendments to the standards existing as of such date of enactment. Such amendments shall implement a system under which—

"(A) a motor carrier is required to register annually with only one State;

"(B) the State of registration shall fully comply with standards prescribed under this section; and

"(C) such single State registration shall be deemed to satisfy the registration requirements of all other States.

"(2) SPECIFIC REQUIREMENTS.—

"(A) EVIDENCE OF CERTIFICATE; PROOF OF INSURANCE; PAYMENT OF FEES.—Under the amended standards implementing the single State registration system described in paragraph (1) of this subsection, only a State acting in its capacity as registration State under such single State system may require a motor carrier holding a certificate or permit issued under this subtitle—

"(i) to file and maintain evidence of such certificate or permit;

"(ii) to file satisfactory proof of required insurance or qualification as a self-insurer;

"(iii) to pay directly to such State fee amounts in accordance with the fee system established under subparagraph (B)(iv) of this paragraph, subject to allocation of fee revenues among all States in which the carrier operates and which participate in the single State registration system; and

"(iv) to file the name of a local agent for service of process.

"(B) RECEIPTS; FEE SYSTEM.—Such amended standards—

"(i) shall require that the registration State issue a receipt, in a form prescribed under the amended standards, reflecting that the carrier has filed proof of insurance as provided under subparagraph (A)(ii) of this paragraph and has paid fee amounts in accordance with the fee system established under clause (iv) of this subparagraph;

"(ii) shall require that copies of the receipt issued under clause (i) of this subparagraph be kept in each of the carrier's commercial motor vehicles;

"(iii) shall not require decals, stamps, cab cards, or any other means of registering or identifying specific vehicles operated by the carrier;

"(iv) shall establish a fee system for the filing of proof of insurance as provided under subparagraph (A)(ii) of this paragraph that (I) will be based on the number of commercial motor vehicles the carrier operates in a State and on the number of States in which the carrier operates, (II) will minimize the costs of complying with the registration system, and (III) will result in a fee for each participating State that is equal to the fee, not to exceed $10 per vehicle, that such State collected or charged as of November 15, 1991; and

"(v) shall not authorize the charging or collection of any fee for filing and maintaining a certificate or permit under subparagraph (A)(i) of this paragraph.

"(C) PROHIBITED FEES.—The charging or collection of any fee under this section that is not in accordance with the fee system established under subparagraph (B)(iv) of this paragraph shall be deemed to be a burden on interstate commerce.

"(D) LIMITATION ON PARTICIPATION BY STATES.—Only a State which, as of January 1, 1991, charged or collected a fee for a vehicle identification stamp or number under part 1023 of title 49, Code of Federal Regulations, shall be eligible to participate as a registration State under this subsection or to receive any fee revenue under this subsection.

"(3) EFFECTIVE DATE OF AMENDMENTS.—Amendments prescribed under this subsection shall take effect by January 1, 1994.

"(d) INTERPRETATION AUTHORITY OF COMMISSION.—This section does not affect the authority of the Commission to interpret its regulations and certificates and permits issued under section 10922 or 10923 of this title.".

SEC. 4006. VEHICLE LENGTH RESTRICTION.

(a) CARGO CARRYING UNIT LIMITATION.—Section 411 of the Surface Transportation Assistance Act of 1982 (49 U.S.C. App. 2311) is amended by adding at the end the following new subsection:

"(j) CARGO CARRYING UNIT LIMITATION.—

"(1) IN GENERAL.—No State shall allow by statute, regulation, permit, or any other means the operation on any segment of the National System of Interstate and Defense Highways and those classes of qualifying Federal-aid primary system highways as designated by the Secretary pursuant to subsection (e) of this section, of any commercial motor vehicle combination (except for those vehicles and loads which cannot be easily dismantled or divided and which have been issued special permits in accordance with applicable State laws) with 2 or more cargo carrying units (not including the truck tractor) whose cargo carrying units exceed—

"(A) the maximum combination trailer, semitrailer, or other type of length limitation authorized by statute or regulation of that State on or before June 1, 1991; or

"(B) the length of the cargo carrying units of those commercial motor vehicle combinations, by specific configuration, in actual, lawful operation on a regular or periodic basis (including continuing seasonal operation) in that State on or before June 1, 1991.

"(2) WYOMING, OHIO, AND ALASKA.—

"(A) WYOMING.—In addition to those vehicles allowed under paragraphs (1)(A) and (1)(B), the State of Wyoming may allow the operation of additional vehicle configurations not in actual operation on June 1, 1991, but authorized by State law not later than November 3, 1992, if such vehicle configurations comply with the single axle, tandem axle, and bridge formula limits set forth in section 127(a) of title 23, United States Code, and do not exceed 117,000 pounds gross vehicle weight.

"(B) OHIO.—In addition to vehicles which the State of Ohio may continue to allow to be operated under paragraphs (1)(A) and (1)(B), such State may allow commercial motor vehicle combinations with 3 cargo carrying units of 28 1/2 feet each (not including the truck tractor) not in actual operation on June 1, 1991, to be operated within its boundaries on the 1-mile segment of Ohio State Route 7 which begins at and is south of exit 16 of the Ohio Turnpike.

"(C) ALASKA.—In addition to vehicles which the State of Alaska may continue to allow to be operated under paragraphs (1)(A) and (1)(B), such State may allow operation of commercial motor vehicle combinations which were not in actual operation on June 1, 1991, but which were in actual operation prior to July 6, 1991.

"(3) MEASUREMENT OF LENGTH.—For purposes of this subsection, the length of the cargo carrying units of a commercial motor vehicle combination is the length measured from the front of the first cargo carrying unit to the rear of the last cargo carrying unit.

"(4) LIMITATIONS.—Commercial motor vehicle combinations whose operations in a State are not prohibited under paragraphs (1) and (2) of this subsection may continue to operate in such State on the highways described in paragraph (1) only if in compliance with, at the minimum, all State statutes, regulations, limitations, and conditions, including but not limited to routing-specific and configuration-specific designations and all other restrictions in force in such State on June 1, 1991; except that subject to such regulations as may be issued by the Secretary, pursuant to paragraph (8) of this subsection, the State may make minor adjustments of a temporary and emergency nature to route designations and vehicle operating restrictions in effect on June 1, 1991, for specific safety purposes and road construction. Nothing in this subsection shall prevent any State from further restricting in any manner or prohibiting the operation of any commercial motor vehicle combination subject to this subsection, except that such restrictions or prohibitions shall be consistent with the requirements of this section and of section 412 and section 416 (a) and (b) of this Act. Any State further restricting or prohibiting the operations of commercial motor vehicle combinations or making such minor adjustments of a temporary and emergency nature as may be allowed pursuant to regulations issued by the Secretary pursuant to paragraph (8) of this subsection shall advise the Secretary within 30 days after such action and the Secretary shall publish a notice of such action in the Federal Register.

"(5) LIST OF STATE LENGTH LIMITATIONS.—

"(A) SUBMISSION TO SECRETARY.—Within 60 days after the date of the enactment of this subsection, each State shall submit to the Secretary for publication a complete list of State length

limitations applicable to commercial motor vehicle combinations operating in each State on the highways described in paragraph (1). The list shall indicate the applicable State statutes and regulations associated with such length limitations. If a State does not submit information as required, the Secretary shall complete and file such information for such State.

"(B) INTERIM LIST.—Not later than 90 days after the date of the enactment of this subsection, the Secretary shall publish an interim list in the Federal Register, consisting of all information submitted pursuant to subparagraph (A). The Secretary shall review for accuracy all information submitted by the States pursuant to subparagraph (A) and shall solicit and consider public comment on the accuracy of all such information.

"(C) LIMITATION.—No statute or regulation shall be included on the list submitted by a State or published by the Secretary merely on the grounds that it authorized, or could have authorized, by permit or otherwise, the operation of commercial motor vehicle combinations not in actual operation on a regular or periodic basis on or before June 1, 1991.

"(D) FINAL LIST.—Except as modified pursuant to subparagraph (B) or (E) of this subsection, the list shall be published as final in the Federal Register not later than 180 days after the date of the enactment of this subsection. In publishing the final list, the Secretary shall make any revisions necessary to correct inaccuracies identified under subparagraph (B). After publication of the final list, commercial motor vehicle combinations prohibited under paragraph (1) may not operate on the National System of Interstate and Defense Highways and other Federal-aid primary system highways as designated by the Secretary except as published on the list. The list may be combined by the Secretary with the list required under section 127(d) of title 23, United States Code.

"(E) REVIEW AND CORRECTION PROCEDURE.—The Secretary, on his or her own motion or upon a request by any person (including a State), shall review the list issued by the Secretary pursuant to subparagraph (D). If the Secretary determines there is cause to believe that a mistake was made in the accuracy of the final list, the Secretary shall commence a proceeding to determine whether the list published pursuant to subparagraph (D) should be corrected. If the Secretary determines that there is a mistake in the accuracy of the list, the Secretary shall correct the publication under subparagraph (D) to reflect the determination of the Secretary.

"(6) LIMITATIONS ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to—

"(A) allow the operation on any segment of the National System of Interstate and Defense Highways of any longer combination vehicle prohibited under section 127(d) of title 23, United States Code;

"(B) affect in any way the operation of commercial motor vehicles having only 1 cargo carrying unit; or

"(C) affect in any way the operation in a State of commercial motor vehicles with 2 or more cargo carrying units if such vehicles were in actual operation on a regular or periodic basis (including seasonal operation) in that State on or before June 1, 1991, authorized under State statute, regulation, or lawful State permit.

"(7) CARGO CARRYING UNIT DEFINED.—As used in this subsection, 'cargo carrying unit' means any portion of a commercial motor vehicle combination (other than the truck tractor) used for the carrying of cargo, including a trailer, semitrailer, or the cargo carrying section of a single unit truck.

"(8) REGULATIONS REGARDING MINOR ADJUSTMENTS.—Not later than 180 days after the date of the enactment of this subsection, the Secretary shall issue regulations establishing criteria for the States to follow in making minor adjustments under paragraph (4).

"(9) REGULATIONS FOR DEFINING NONEASILY DISMANTLED OR DIVIDED LOADS.—For the purposes of this subsection only, the Secretary shall define by regulation loads which cannot be easily dismantled or divided.".

(b) APPLICABILITY TO BUSES.—

(1) GENERAL RULE.—Section 411(a) of such Act is amended by inserting "of less than 45 feet on the length of any bus," after "vehicle length limitation".

(2) ACCESS TO POINTS OF LOADING AND UNLOADING.—Section 412(a)(2) of such Act is amended by inserting ", motor carrier of passengers," after "household goods carriers".

(c) CONFORMING AMENDMENT.—Section 411(e)(1) of such Act is amended by striking "those Primary System highways" and inserting "those highways of the Federal-aid primary system in existence on June 1, 1991,".

SEC. 4007. TRAINING OF DRIVERS; LONGER COMBINATION VEHICLE REGULATIONS, STUDIES, AND TESTING.

(a) ENTRY LEVEL.—

(1) STUDY OF PRIVATE SECTOR.—Not later than 12 months after the date of the enactment of this Act, the Secretary shall report to Congress on the effectiveness of the efforts of the private sector to ensure adequate training of entry level drivers of commercial motor vehicles. In preparing the report, the Secretary shall solicit the views of interested persons.

(2) RULEMAKING PROCEEDING.—Not later than 12 months after the date of the enactment of this Act, the Secretary shall commence a rulemaking proceeding on the need to require training of all entry level drivers of commercial motor vehicles. Such rulemaking proceeding shall be completed not later than 24 months after the date of such enactment.

(3) FOLLOWUP STUDY.—If the Secretary determines under the proceeding conducted under paragraph (2) that it is not in the public interest to issue a rule that requires training for all entry level drivers, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives not later than 25 months after the date of the enactment of this Act a report on the reasons for such decision, together with the results of a cost benefit analysis which the Secretary shall conduct with respect to such proceeding.

(b) LCVs TRAINING REQUIREMENTS.—

(1) INITIATION OF RULEMAKING PROCEEDING.—Not later than 60 days after the date of the enactment of this Act, the Secretary shall initiate a rulemaking proceeding to establish minimum training requirements for operators of longer combination vehicles. This training shall include certification of an operator's proficiency by an instructor who has met the requirements established by the Secretary.

(2) FINAL RULE.—Not later than 24 months after the date of the enactment of this Act, the Secretary shall issue a final regulation establishing minimum training requirements for operators of longer combination vehicles.

(c) SAFETY CHARACTERISTICS.—

(1) STUDY.—The Comptroller General shall conduct a study of the safety of longer combination vehicles for the purpose of comparing the safety characteristics and performance, including engineering and design safety characteristics, of such vehicles to other truck-trailer combination vehicles and for the purpose of reviewing the history and effectiveness of State safety enforcement pertaining to such vehicles for those States in which such vehicles are permitted to operate. Such study shall include an assessment of each of the following:

(A) The adequacy of currently available data bases for the purpose of determining the safety of longer combination vehicles and recommending safety improvements.

(B) Whether or not such States are actively monitoring the safety of such operations.

(C) The best available information on the safety of such operations.

(D) Enforcement actions which have been taken in such States to ensure the safety of such operations.

(E) Current procedures and controls used by such States to ensure the safety of operation of such vehicles.

(F) Whether or not any special inspections of equipment maintenance is required to improve the safety of such operations.

(G) The economic and safety impact of longer combination vehicles on shared highways.

(2) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General shall transmit a report on the results of the study conducted under paragraph (1) to the Committee on Environment and Public Works and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives.

(d) OPERATIONS OF LONGER COMBINATION VEHICLES.—

(1) TESTS.—The Secretary shall conduct on the road tests with respect to the driver and vehicle characteristics of operations of longer combination vehicles for the purpose of determining whether or not any modifications are necessary to the Federal commercial motor vehicle safety standards of the Department of Transportation as they apply to longer combination vehicles. At a minimum, such tests shall examine driver fatigue and stress and time of operation characteristics. Such tests also shall examine the characteristics of longer combination vehicles, including an assessment of on-board computers, anti-lock brakes, and anti-trailer under ride systems to determine the potential safety effectiveness of those technologies as applied to such vehicles.

(2) REPORT.—Not later than 3 years after the date of the enactment of this Act, the Secretary shall transmit a report on the results of the tests conducted under paragraph (1) to the Committee on Environment and Public Works and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives.

(e) FUNDING.—There shall be available to the Secretary for carrying out this section, out of the Highway Trust Fund (other than the Mass Transit Account), $1,000,000 per fiscal year for each of fiscal years 1992, 1993, and 1994. Such sums shall remain available until expended.

(f) LONGER COMBINATION VEHICLE DEFINED.—For the purposes of this section, the term "longer combination vehicle" means any combination of a truck tractor and 2 or more trailers or semitrailers which operate on the National System of Interstate and Defense Highways with a gross vehicle weight greater than 80,000 pounds.

SEC. 4008. PARTICIPATION IN INTERNATIONAL REGISTRATION PLAN AND INTERNATIONAL FUEL TAX AGREEMENT.

(a) WORKING GROUP.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall establish a working group comprised of State and local government officials, including representatives of the National Governors' Association, the American Association of Motor Vehicle Administrators, the National Conference of State Legislatures, the Federation

of Tax Administrators, the Board of Directors for the International Fuel Tax Agreement, and a representative of the Regional Fuel Tax Agreement, for the purpose of—

(1) proposing procedures for resolving disputes among States participating in the International Registration Plan and among States participating in the International Fuel Tax Agreement including designation of the Department of Transportation or any other person for resolving such disputes; and

(2) providing technical assistance to States participating or seeking to participate in the Plan or in the Agreement.

(b) CONSULTATION REQUIREMENT.—The working group established under this section shall consult with members of the motor carrier industry in carrying out subsection (a).

(c) REPORTS.—Not later than 24 months after the date of the enactment of this Act, the working group established under this section shall transmit a report to the Secretary, to the Committee on Commerce, Science, and Transportation of the Senate, to the Committee on Public Works and Transportation and the Committee on the Judiciary of the House of Representatives, to those States participating in the International Registration Plan, and to those States participating in the International Fuel Tax Agreement. The report shall contain a detailed statement of the findings and conclusions of the working group, together with its joint recommendations concerning the matters referred to in subsection (a). After transmission of such report, the working group may periodically review and modify the findings and conclusions and the joint recommendations as appropriate and transmit a report containing such modifications to the Secretary and such committees.

(d) APPLICABILITY OF ADVISORY COMMITTEE ACT.—The working group established under this section shall not be subject to the Federal Advisory Committee Act.

(e) GRANTS.—

(1) IN GENERAL.—The Secretary may make grants to States and appropriate persons for the purpose of facilitating participation in the International Registration Plan and participation in the International Fuel Tax Agreement and for the purpose of administrative improvements in any other base State fuel use tax agreement in existence as of January 1, 1991, including such purposes as providing technical assistance, personnel training, travel costs, and technology and equipment associated with such participation.

(2) CONTRACT AUTHORITY.—Notwithstanding any other provision of law, approval by the Secretary of a grant with funds made available under this section shall be deemed a contractual obligation of the United States for payment of the Federal share of the grant.

(f) VEHICLE REGISTRATION.—After September 30, 1996, no State (other than a State which is participating in the International Registration Plan) shall establish, maintain, or enforce any commercial motor vehicle registration law, regulation, or agreement which limits the operation of any commercial motor vehicle within its borders which is not registered under the laws of the State if the vehicle is registered under the laws of any other State participating in the International Registration Plan.

(g) FUEL USE TAX.—

(1) REPORTING REQUIREMENTS.—After September 30, 1996, no State shall establish, maintain, or enforce any law or regulation which has fuel use tax reporting requirements (including tax reporting forms) which are not in conformity with the International Fuel Tax Agreement.

(2) PAYMENT.—After September 30, 1996, no State shall establish, maintain, or enforce any law or regulation which provides for the payment of a fuel use tax unless such law or regulation is in conformity with the International Fuel Tax Agreement with respect to collection of such a tax by a single base State and proportional sharing of such taxes charged among the States where a commercial motor vehicle is operated.

(3) LIMITATION.—For purposes of paragraphs (1) and (2), in the event of an amendment to the International Fuel Tax Agreement, conformity by a State that is not participating in such Agreement when such amendment is made may not be required with respect to such amendment until a reasonable time period for such conformity has elapsed, but in no case earlier than—

(A) the expiration of the 365-day period beginning on the first day that the corresponding compliance with such amendment is required of States that are participating in such Agreement; or

(B) the expiration of the 365-day period beginning on the day the relevant office of the State receives written notice of such amendment from the Secretary.

(4) EXCEPTION.—Paragraphs (1), (2), and (3) shall not apply with respect to a State that participates on January 1, 1991, in the Regional Fuel Tax Agreement and that continues to participate after such date in such Agreement.

(h) ENFORCEMENT.—

(1) ACTION.—On the request of the Secretary, the Attorney General may commence, in a court of competent jurisdiction, a civil action for such injunctive relief as may be appropriate to ensure compliance with subsections (f) and (g).

(2) VENUE.—Such action may be commenced only in the State in which relief is required to ensure such compliance.

(3) RELIEF.—Subject to section 1341 of title 28, United States Code, such court, upon a proper showing—

(A) shall issue a temporary restraining order or a preliminary or permanent injunction; and

(B) may require in such injunction that the State or any person comply with such subsections.

(i) LIMITATIONS ON STATUTORY CONSTRUCTION.—Nothing in subsections (f) and (g) shall be construed as limiting the amount of money a State may charge for registration of a commercial motor vehicle or the amount of any fuel use tax a State may impose.

(j) FUNDING.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for fiscal year 1992 $1,000,000 for funding the activities of the working group under this section and $5,000,000 for making grants under subsection (e). Amounts authorized by the preceding sentence shall be subject to the obligation limitation established by section 102 of this Act for fiscal year 1992. From sums made available under section 404 of the Surface Transportation Assistance Act of 1982, the Secretary shall provide for each of fiscal years 1993 through 1997 $1,000,000 for funding the activities of the working group under this section and $5,000,000 for making grants under subsection (e). Such sums shall remain available until expended.

(k) DEFINITIONS.—In this section, the following definitions apply:

(1) COMMERCIAL MOTOR VEHICLE.—The term "commercial motor vehicle"—

(A) as used with respect to the International Registration Plan, has the meaning the term "apportionable vehicle" has under such plan; and

(B) as used with respect to the International Fuel Tax Agreement, has the meaning the term "qualified motor vehicle" has under such agreement.

(2) FUEL USE TAX.—The term "fuel use tax" means a tax imposed on or measured by the consumption of fuel in a motor vehicle.

(3) INTERNATIONAL FUEL TAX AGREEMENT.—The term "International Fuel Tax Agreement" means the interstate agreement for the collection and distribution of fuel use taxes paid by motor carriers, developed under the auspices of the National Governors' Association.

(4) INTERNATIONAL REGISTRATION PLAN.—The term "International Registration Plan" means the interstate agreement for the apportionment of vehicle registration fees paid by motor carriers, developed by the American Association of Motor Vehicle Administrators.

(5) REGIONAL FUEL TAX AGREEMENT.—The term "Regional Fuel Tax Agreement" means the interstate agreement for the collection and distribution of fuel use taxes paid by motor carriers in the States of Maine, Vermont, and New Hampshire.

(6) STATE.—The term "State" means the 48 contiguous States and the District of Columbia.

SEC. 4009. VIOLATIONS OF OUT-OF-SERVICE ORDERS.

(a) FEDERAL REGULATIONS.—The Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. App. 2701–2716) is amended by adding at the end the following new section:

"SEC. 12020. VIOLATION OF OUT-OF-SERVICE ORDERS.

"(a) REGULATIONS.—The Secretary shall issue regulations establishing sanctions and penalties relating to violations of out-of-service orders by persons operating commercial motor vehicles.

"(b) MINIMUM REQUIREMENTS.—Regulations issued under subsection (a) shall, at a minimum, require that—

"(1) any operator of a commercial motor vehicle who is found to have committed a first violation of an out-of-service order shall be disqualified from operating such a vehicle for a period of not less than 90 days and shall be subject to a civil penalty of not less than $1,000;

"(2) any operator of a commercial motor vehicle who is found to have committed a second violation of an out-of-service order shall be disqualified from operating such a vehicle for a period of not less than 1 year and not more than 5 years and shall be subject to a civil penalty of not less than $1,000; and

"(3) any employer that knowingly allows, permits, authorizes, or requires an employee to operate a commercial motor vehicle in violation of an out-of-service order shall be subject to a civil penalty of not more than $10,000.

"(c) DEADLINES.—The regulations required under subsection (a) shall be developed pursuant to a rulemaking proceeding initiated within 60 days after the date of the enactment of this section and shall be issued not later than 12 months after such date of enactment.".

(b) STATE REGULATIONS.—Section 12009(a)(21) of the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. App. 2708(a)(21)) is amended by inserting "and section 12020(a)" before the period at the end.

SEC. 4010. EXEMPTION OF CUSTOM HARVESTING FARM MACHINERY.

Section 12019(5) of the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. App. 2716(5)), relating to the definition of motor vehicle, is amended by inserting "or custom harvesting farm machinery" before the period at the end.

SEC. 4011. COMMON CARRIERS PROVIDING TRANSPORTATION FOR CHARITABLE PURPOSES.

Section 10723(b) of title 49, United States Code, is amended—

(1) in paragraph (2) by inserting "(other than a motor carrier of passengers)" after "carrier"; and

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

"(3) In the case of a motor carrier of passengers, that carrier may also establish a rate and related rule equal to the rate charged for the transportation of 1 individual when that rate is for the transportation of—

"(A) a totally blind individual and an accompanying guide or a dog trained to guide the individual;

"(B) a disabled individual and accompanying attendant, or animal trained to assist the individual, or both, when required because of disability; or

"(C) a hearing-impaired individual and a dog trained to assist the individual.".

SEC. 4012. BRAKE PERFORMANCE STANDARDS.

(a) INITIATION OF RULEMAKING.—Not later than May 31, 1992, the Secretary shall initiate rulemaking concerning methods for improving braking performance of new commercial motor vehicles, including truck tractors, trailers, and their dollies. Such rulemaking shall include an examination of antilock systems, means of improving brake compatibility, and methods of ensuring effectiveness of brake timing.

(b) LIMITATION WITH RESPECT TO RULES.—Any rule which the Secretary determines to issue regarding improved braking performance pursuant to the rulemaking initiated under this section shall take into account the need for the rule and, in the case of trailers, shall include articulated vehicles and their manufacturers.

(c) RULEMAKING PROCEDURE.—Any rulemaking under this section shall, consistent with section 229 of the Motor Carrier Safety Act of 1984 (49 U.S.C. App. 2519(b)), be carried out pursuant to, and in accordance with, the National Traffic and Motor Vehicle Safety Act of 1966.

(d) COMPLETION OF RULEMAKING.—The Secretary shall complete the rulemaking within 18 months after its initiation; except that the Secretary may extend that period for an additional 6 months after giving notice in the Federal Register of the need for such an extension. Such extension shall not be reviewable.

(e) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as affecting the authority of the Secretary under this Act (or preventing the Secretary) from simultaneously initiating a rulemaking concerning methods for improving brake performance in the case of vehicles, other than new manufactured commercial motor vehicles, and for considering the necessity for effective enforcement of any rule relating to improving such performance as part of the rulemaking proceeding and for considering the reliability, maintainability, and durability of any brake equipment.

(f) COMMERCIAL MOTOR VEHICLE DEFINED.—For purposes of this section only, the term "commercial motor vehicle" means any self-propelled or towed vehicle used on highways to transport passengers or property if such vehicle has a gross vehicle weight rating of 26,001 or more pounds.

SEC. 4013. FHWA POSITIONS.

To help implement the purposes of this title, the Secretary in fiscal year 1992 shall employ and maintain thereafter 2 additional employees in positions at the headquarters of the Federal Highway Administration in excess of the number of employees authorized for fiscal year 1991 for the Federal Highway Administration.

SEC. 4014. COMPLIANCE REVIEW PRIORITY.

If the Secretary identifies a pattern of violations of State or local traffic safety laws or regulations, or commercial motor vehicle safety rules, regulations, standards, or orders, among the drivers of commercial motor vehicles employed by a particular motor carrier, the Secretary or a State representative shall ensure that such motor carrier receives a high priority for review of such carrier's compliance with applicable Federal and State commercial motor vehicle safety regulations.

TITLE V—INTERMODAL TRANSPORTATION

SEC. 5001. NATIONAL GOAL TO PROMOTE INTERMODAL TRANSPORTATION.

Section 302 of title 49, United States Code (relating to policy standards for transportation), is further amended by adding at the end the following new subsection:

"(e) INTERMODAL TRANSPORTATION.—It is the policy of the United States Government to encourage and promote development of a national intermodal transportation system in the United States to move people and goods in an energy-efficient manner, provide the foundation for improved productivity growth, strengthen the Nation's ability to compete in the global economy, and obtain the optimum yield from the Nation's transportation resources.".

SEC. 5002. DUTIES OF SECRETARY; OFFICE OF INTERMODALISM.

(a) DUTIES OF SECRETARY.—Section 301 of title 49, United States Code (relating to leadership, consultation and cooperation), is amended by redesignating paragraphs (3) through (7) as paragraphs (4) through (8), respectively, and by inserting after paragraph (2) the following new paragraph:

"(3) coordinate Federal policy on intermodal transportation and initiate policies to promote efficient intermodal transportation in the United States;".

(b) INTERMODAL TRANSPORTATION ADVISORY BOARD.—

(1) ESTABLISHMENT.—There shall be established within the Office of the Secretary an Intermodal Transportation Advisory Board.

(2) MEMBERSHIP.—The Intermodal Transportation Advisory Board shall consist of the Secretary, who shall serve as Chairman, and the Administrator, or his or her designee, of—

(A) the Federal Highway Administration;

(B) the Federal Aviation Administration;

(C) the Maritime Administration;

(D) the Federal Railroad Administration; and

(E) the Federal Transit Administration.

(3) FUNCTIONS.—The Intermodal Transportation Advisory Board shall provide recommendations for carrying out the responsibilities of the Secretary described in section 301(3) of title 49, United States Code.

(c) OFFICE OF INTERMODALISM.—

(1) ESTABLISHMENT.—The Secretary shall establish within the Office of the Secretary an Office of Intermodalism.

(2) DIRECTOR.—The Office shall be headed by a Director who shall be appointed by the Secretary not later than 6 months after the date of the enactment of this Act.

(3) FUNCTION.—The Director shall be responsible for carrying out the responsibilities of the Secretary described in section 301(3) of title 49, United States Code.

(4) INTERMODAL TRANSPORTATION DATA BASE.—The Director shall develop, maintain, and disseminate intermodal transportation data through the Bureau of Transportation Statistics. The Director shall coordinate the collection of data for the data base with the States and metropolitan planning organizations. The data base shall include—

(A) information on the volume of goods and number of people carried in intermodal transportation by relevant classification;

(B) information on patterns of movement of goods and people carried in intermodal transportation by relevant classification in terms of origin and destination; and

(C) information on public and private investment in intermodal transportation facilities and services.

The Director shall make information from the data base available to the public.

(5) RESEARCH.—The Director shall be responsible for coordinating Federal research on intermodal transportation in accordance with the plan developed pursuant to section 6009(b) of this Act and for carrying out additional research needs identified by the Director.

(6) TECHNICAL ASSISTANCE.—The Director shall provide technical assistance to States and to metropolitan planning organizations for urban areas having a population of 1,000,000 or more in collecting data relating to intermodal transportation in order to facilitate the collection of such data by such States and metropolitan planning organizations.

(7) ADMINISTRATIVE AND CLERICAL SUPPORT.—The Director shall provide administrative and clerical support to the Intermodal Transportation Advisory Board.

SEC. 5003. MODEL INTERMODAL TRANSPORTATION PLANS.

(a) GRANTS.—The Secretary shall make grants to States for the purpose of developing model State intermodal transportation plans which are consistent with the policy set forth in section 302(e) of title 49, United States Code. Such model plans shall include systems for collecting data relating to intermodal transportation.

(b) DISTRIBUTION.—The Secretary shall award grants to States under this section which represent a variety of geographic regions and transportation needs, patterns, and modes.

(c) TRANSMITTAL OF PLANS.—As a condition to receiving a grant under this section, the Secretary shall require that a State provide assurances that the State will transmit to the Secretary a State intermodal transportation plan not later than 18 months after the date of receipt of such grant.

(d) AGGREGATE AMOUNT.—The Secretary shall reserve, from amounts deducted under section 104(a) of title 23, United States Code, $3,000,000 for the purpose of making grants under this section. The aggregate amount which a State may receive in grants under this section shall not exceed $500,000.

SEC. 5004. SURFACE TRANSPORTATION ADMINISTRATION.

(a) STUDY.—Not later than 60 days after the date of the enactment of this Act, the Secretary shall enter into an agreement with the National Academy of Public Administration to continue a study of options for organizing the Department of Transportation to increase the effectiveness of program delivery, reduce costs, and improve intermodal coordination among surface transportation-related agencies.

(b) REPORT.—The Secretary shall report to Congress on the findings of the study continued under subsection (a) and recommend appropriate organizational changes no later than January 1, 1993. No organizational changes shall be implemented until such changes are approved by law.

SEC. 5005. NATIONAL COMMISSION ON INTERMODAL TRANSPORTATION.

(a) ESTABLISHMENT.—There is established a National Commission on Intermodal Transportation.

(b) FUNCTION.—The Commission shall make a complete investigation and study of intermodal transportation in the United States and internationally. The Commission shall determine the status of intermodal transportation, the problems that exist with respect to intermodal transportation, and the resources needed to enhance intermodal transportation. Based on such investigation and study, the Commission shall recommend those policies which need to be adopted to achieve the national goal of an efficient intermodal transportation system.

(c) SPECIFIC MATTERS TO BE ADDRESSED.—The Commission shall specifically investigate and study the following:

(1) INTERMODAL STANDARDIZATION.—The Commission, in coordination with the National Academy of Sciences, shall examine current and potential impediments to international standardization in specific elements of intermodal transportation. The Commission shall evaluate the potential benefits and relative priority of standardization in each such element and the time period and investment necessary to adopt such standards.

(2) INTERMODAL IMPACTS ON PUBLIC WORKS INFRASTRUCTURE.—The Commission shall examine current and projected intermodal traffic flows, including the current and projected market for intermodal transportation, and how such traffic flows affect infrastructure needs. The Commission shall make recommendations as to capital needs for infrastructure development that will be required to accommodate intermodal transportation, particularly with respect to surface transportation access to airports and ports.

(3) LEGAL IMPEDIMENTS TO EFFICIENT INTERMODAL TRANSPORTATION.—The Commission shall identify legal impediments to efficient intermodal transportation. Specifically, the Commission shall study the relationship between current regulatory schemes for individual modes of transportation and intermodal transportation efficiency.

(4) FINANCIAL ISSUES.—The Commission shall examine existing impediments to the efficient financing of intermodal transportation improvements. In carrying out such examination, the Commission shall examine (A) the most efficient use of existing sources of funds for connecting individual modes of transportation and for accommodating transfers between such modes, and (B) the use of innovative methods of financing for making such improvements. The Commission shall examine current methods of public funding, the desirability of increased flexibility in the use of amounts in Federal transportation trust funds, and increased use of private sources of funding.

(5) NEW TECHNOLOGIES.—The Commission shall study new technologies for improving intermodal transportation and problems associated with incorporating these new technologies in intermodal transportation.

(6) DOCUMENTATION.—The Commission shall study problems in documentation resulting from intermodal transfers of freight and make recommendations for achieving uniform, efficient, and simplified documentation.

(7) RESEARCH AND DEVELOPMENT.—The Commission shall identify the areas relating to intermodal transportation for which continued research and development is needed after the report required by this section is completed, and propose an agenda for carrying out such research and development.

(8) PRODUCTIVITY.—The Commission shall examine the relationship of intermodal transportation to transportation rates, transportation costs, and economic productivity.

(d) MEMBERSHIP.—

(1) APPOINTMENT.—The Commission shall be composed of 11 members as follows:

(A) 3 members appointed by the President.

(B) 2 members appointed by the Speaker of the House of Representatives.

(C) 2 members appointed by the minority leader of the House of Representatives.

(D) 2 members appointed by the majority leader of the Senate.

(E) 2 members appointed by the minority leader of the Senate.

(2) QUALIFICATIONS.—Members appointed pursuant to paragraph (1) shall be appointed from among individuals interested in intermodal transportation policy, including representatives of Federal, State, and local governments, other public transportation authorities or agencies, and organizations representing transportation providers, shippers, labor, the financial community, and consumers.

(3) TERMS.—Members shall be appointed for the life of the Commission.

(4) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(5) TRAVEL EXPENSES.—Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(6) CHAIRMAN.—The Chairman of the Commission shall be elected by the members.

(e) STAFF.—The Commission may appoint and fix the pay of such personnel as it considers appropriate.

(f) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any department or agency of the United States may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this section.

(g) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this section.

(h) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information (other than information required by any statute of the United States to be kept confidential by such department or agency) necessary for the Commission to carry out its duties under this section. Upon request of the Commission, the head of that department or agency shall furnish such nonconfidential information to the Commission.

(i) REPORT AND PROPOSED NATIONAL INTERMODAL TRANSPORTATION PLAN.—Not later than September 30, 1993, the Commission shall transmit to Congress a final report on the results of the investigation and study conducted under this section. The report shall include recommendations of the Commission for implementing the policy set forth in section 302(e) of title 49, United States Code, including a proposed national intermodal transportation plan and a proposed agenda for implementing the plan.

(j) TERMINATION.—The Commission shall terminate on the 180th day following the date of transmittal of the report under subsection (i). All records and papers of the Commission shall thereupon be delivered to the Administrator of General Services for deposit in the National Archives.

TITLE VI—RESEARCH

PART A—PROGRAMS, STUDIES, AND ACTIVITIES

SEC. 6001. RESEARCH AND TECHNOLOGY PROGRAM.

Subsections (a), (b), and (c) of section 307 of title 23, United States Code, are amended to read as follows:

"(a) RESEARCH AND TECHNOLOGY PROGRAM.—

"(1) AUTHORITY OF THE SECRETARY.—

"(A) IN GENERAL.—The Secretary may engage in research, development, and technology transfer activities with respect to motor carrier transportation and all phases of highway planning and development (including construction, operation, modernization, development, design, maintenance, safety, financing, and traffic conditions) and the effect thereon of State laws and may test, develop, or assist in testing and developing any material, invention, patented article, or process.

"(B) COOPERATION, GRANTS, AND CONTRACTS.—The Secretary may carry out this section either independently or in cooperation with other Federal departments, agencies, and instrumentalities or by making grants to, and entering into contracts and cooperative agreements with, the National Academy of Sciences, the American Association of State Highway and Transportation Officials, or any State agency, authority, association, institution, corporation (profit or nonprofit), organization, or person.

"(C) RESEARCH FELLOWSHIPS.—

"(i) GENERAL AUTHORITY.—The Secretary may, acting either independently or in cooperation with other Federal departments, agencies, and instrumentalities, make grants for research fellowships for any purpose for which research is authorized by this section.

"(ii) DWIGHT DAVID EISENHOWER TRANSPORTATION FELLOWSHIP PROGRAM.—The Secretary shall establish and implement a transportation research fellowship program for the purpose of attracting qualified students to the field of transportation engineering and research. Such program shall be known as the "Dwight David Eisenhower Transportation Fellowship Program". Of the funds made available pursuant to paragraph (3) for each fiscal year beginning after September 30, 1991, the Secretary shall expend not less than $2,000,000 per fiscal year to carry out such program.

"(2) COLLABORATIVE RESEARCH AND DEVELOPMENT.—

"(A) IN GENERAL.—For the purposes of encouraging innovative solutions to highway problems and stimulating the marketing of new technology by private industry, the Secretary is authorized to undertake, on a cost-shared basis, collaborative research and development with non-Federal entities, including State and local governments, foreign governments, colleges and universities, corporations, institutions, partnerships, sole proprietorships, and trade associations which are incorporated or established under the laws of any State.

"(B) AGREEMENTS.—In carrying out this paragraph, the Secretary may enter into cooperative research and development agreements, as such term is defined under section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a).

"(C) FEDERAL SHARE.—The Federal share payable on account of activities carried out under a cooperative research and development agreement entered into under this paragraph shall not exceed 50 percent of the total cost of such activities; except that, if there is substantial public interest or benefit, the Secretary may approve a higher Federal share. All costs directly incurred by the non-Federal partners, including personnel, travel, and hardware development costs, shall be treated as part of the non-Federal share of the cost of such activities for purposes of the preceding sentence.

"(D) UTILIZATION OF TECHNOLOGY.—The research, development, or utilization of any technology pursuant to a cooperative research and development agreement entered into under this paragraph, including the terms under which the technology may be licensed and the resulting royalties may be distributed, shall be subject to the Stevenson-Wydler Technology Innovation Act of 1980.

"(3) FUNDS.—

"(A) IN GENERAL.—The funds necessary to carry out this subsection and subsections (b), (d), and (e) shall be taken by the Secretary out of administrative funds deducted pursuant to section 104(a) of this title and such funds as may be deposited by any cooperating organization or person in a special account of the Treasury of the United States established for such purposes.

"(B) MINIMUM EXPENDITURES ON LONG-TERM RESEARCH PROJECTS.—Not less than 15 percent of the funds made available under this paragraph shall be expended on long-term research projects which are unlikely to be completed within 10 years.

"(4) WAIVER OF ADVERTISING REQUIREMENTS.—The provisions of section 3709 of the Revised Statutes (41 U.S.C. 5) shall not be applicable to contracts or agreements entered into under this section.

"(b) MANDATORY CONTENTS OF RESEARCH PROGRAM.—

"(1) INCLUSION OF CERTAIN STUDIES.—The Secretary shall include in the highway research

program under subsection (a) studies of economic highway geometrics, structures, and desirable weight and size standards for vehicles using the public highways and of the feasibility of uniformity in State regulations with respect to such standards. The highway research program shall also include studies to identify and measure, quantitatively and qualitatively, those factors which relate to economic, social, environmental, and other impacts of highway projects.

"(2) SHRP RESULTS.—

"(A) IMPLEMENTATION.—The highway research program under subsection (a) shall include a program to implement results of the strategic highway research program carried out under subsection (d) (including results relating to automatic intrusion alarms for street and highway construction work zones) and to continue the long-term pavement performance tests being carried out under such program.

"(B) MINIMUM FUNDING.—Of amounts deducted under section 104(a) of this title, the Secretary shall expend not less than $12,000,000 in fiscal year 1992, $16,000,000 in fiscal year 1993, and $20,000,000 per fiscal year for each of fiscal years 1994, 1995, 1996, and 1997 to carry out this paragraph.

"(3) SURFACE TRANSPORTATION SYSTEM PERFORMANCE INDICATORS.—The highway research program under subsection (a) shall include a coordinated long-term program of research for the development, use, and dissemination of performance indicators to measure the performance of the surface transportation system of the United States, including indicators for productivity, efficiency, energy use, air quality, congestion, safety, maintenance, and other factors which reflect the overall performance of such system.

"(4) SHORT HAUL PASSENGER TRANSPORTATION SYSTEMS.—The Secretary shall conduct necessary systems research in order to develop a concept for a lightweight, pneumatic tire multiple-unit, battery-powered system, in conjunction with recharging stations at strategic locations. The Secretary shall create a potential systems concept and, as part of the surface transportation research and development plan under subsection (b), make recommendations to Congress by January 15, 1993.

"(5) SUPPORTING INFRASTRUCTURE.—The Secretary shall establish a program to strengthen and expand surface transportation infrastructure research and development. The program shall include the following elements:

"(A) Methods and materials for improving the durability of surface transportation infrastructure facilities and extending the life of bridge structures, including new and innovative technologies to reduce corrosion.

"(B) Expansion of the Department of Transportation's inspection and mobile nondestructive examination capabilities, including consideration of the use of high energy field radiography for more thorough and more frequent inspections of bridge structures as well as added support to State highway departments.

"(C) The Secretary shall determine whether or not to initiate a construction equipment research and development program directed toward the reduction of costs associated with the construction of highways and mass transit systems. The Secretary shall transmit to Congress a report containing such determination on or before July 1, 1992.

"(D) The Secretary shall undertake or supervise surface transportation infrastructure research to develop—

"(i) nondestructive evaluation equipment for use with existing infrastructure facilities and for next generation infrastructure facilities that utilize advanced materials;

"(ii) information technologies, including—

"(I) appropriate computer programs to collect and analyze data on the status of the existing infrastructure facilities for enhancing management, growth, and capacity; and

"(II) dynamic simulation models of surface transportation systems for predicting capacity, safety, and infrastructure durability problems, for evaluating planned research projects, and for testing the strengths and weaknesses of proposed revisions in surface transportation operations programs; and

"(iii) new and innovative technologies to enhance and facilitate field construction and rehabilitation techniques for minimizing disruption during repair and maintenance of existing structures.

"(c) STATE PLANNING AND RESEARCH.—

"(1) GENERAL RULE.—2 percent of the sums apportioned for each fiscal year beginning after September 30, 1991, to any State under sections 104 and 144 of this title and for highway projects under section 103(e)(4) of this title shall be available for expenditure by the State highway department, in consultation with the Secretary, only for the following purposes:

"(A) Engineering and economic surveys and investigations.

"(B) The planning of future highway programs and local public transportation systems and for planning for the financing thereof, including statewide planning under section 135 of this title.

"(C) Development and implementation of management systems under section 303 of this title.

"(D) Studies of the economy, safety, and convenience of highway usage and the desirable regulation and equitable taxation thereof.

"(E) Research, development, and technology transfer activities necessary in connection with the planning, design, construction, and maintenance of highway, public transportation, and intermodal transportation systems and study, research, and training on engineering standards and construction materials for such systems, including evaluation and accreditation of inspection and testing and the regulation and taxation of their use.

"(2) MINIMUM EXPENDITURES ON RESEARCH, DEVELOPMENT, AND TECHNOLOGY TRANSFER ACTIVITIES.—Not less than 25 percent of the funds which are apportioned to a State for a fiscal year and are subject to paragraph (1) shall be expended by the State for research, development, and technology transfer activities described in paragraph (1) relating to highway, public transportation, and intermodal transportation systems unless the State certifies to the Secretary for such fiscal year that total expenditures by the State for transportation planning under sections 134 and 135 will exceed 75 percent of the amount of such funds and the Secretary accepts such certification.

"(3) FEDERAL SHARE.—The Federal share payable on account of any project financed with funds which are subject to paragraph (1) shall be 80 percent unless the Secretary determines that the interests of the Federal-aid highway program would be best served by decreasing or eliminating the non-Federal share.

"(4) ADMINISTRATION OF SUMS.—Funds which are subject to paragraph (1) shall be combined and administered by the Secretary as a single fund which shall be available for obligation for the same period as funds apportioned under section 104(b)(1) of this title.

SEC. 6002. NATIONAL HIGHWAY INSTITUTE.

Section 321 of title 23, United States Code, is amended to read as follows:

"§321. National Highway Institute

"(a) ESTABLISHMENT; DUTIES; PROGRAMS.—

"(1) ESTABLISHMENT.—The Secretary shall establish and operate in the Federal Highway Administration a National Highway Institute (hereinafter in this section referred to as the 'Institute').

"(2) DUTIES.—The Institute shall develop and administer, in cooperation with the State transportation or highway departments, and any national or international entity, training programs of instruction for Federal Highway Administration, State and local transportation and highway department employees, State and local police, public safety and motor vehicle employees, and United States citizens and foreign nationals engaged or to be engaged in highway work of interest to the United States. The Secretary shall administer, through the Institute, the authority vested in the Secretary by this title or by any other provision of law for the development and conduct of education and training programs relating to highways.

"(3) TYPES OF PROGRAMS.—Programs which the Institute may develop and administer may include courses in modern developments, techniques, management, and procedures relating to highway planning, environmental factors, acquisition of rights-of-way, relocation assistance, engineering, safety, construction, maintenance, contract administration, motor carrier activities, and inspection.

"(b) SET-ASIDE; FEDERAL SHARE.—Not to exceed 1/16 of 1 percent of all funds apportioned to a State under section 104(b)(3) for the surface transportation program shall be available for expenditure by the State highway department for payment of not to exceed 80 percent of the cost of tuition and direct educational expenses (but not travel, subsistence, or salaries) in connection with the education and training of State and local highway department employees as provided in this section.

"(c) FEDERAL RESPONSIBILITY.—Education and training of Federal, State, and local highway employees authorized by this section shall be provided—

"(1) by the Secretary at no cost to the States and local governments for those subject areas which are a Federal program responsibility; or

"(2) in any case in which education and training are to be paid for under subsection (b), by the State (subject to the approval of the Secretary) through grants and contracts with public and private agencies, institutions, individuals, and the Institute; except that private agencies and individuals shall pay the full cost of any education and training received by them.

"(d) TRAINING FELLOWSHIPS; COOPERATION.—The Institute is authorized, subject to approval of the Secretary, to engage in all phases of contract authority for training purposes authorized by this section, including the granting of training fellowships. The Institute is also authorized to carry out its authority independently or in cooperation with any other branch of the Government, State agency, authority, association, institution, corporation (profit or nonprofit), any other national or international entity, or any other person.

"(e) COLLECTION OF FEES.—

"(1) GENERAL RULE.—The Institute may, in accordance with this subsection, assess and collect fees solely to defray the costs of the Institute in developing and administering education and training programs under this section.

"(2) LIMITATION.—Fees may be assessed and collected under this subsection only in a manner which may reasonably be expected to result in the collection of fees during any fiscal year in an aggregate amount which does not exceed the aggregate amount of the costs referred to in paragraph (1) for the fiscal year.

"(3) PERSONS SUBJECT TO FEES.—Fees may be assessed and collected under this subsection only with respect to—

"(A) persons and entities for whom education or training programs are developed or administered under this section; and

"(B) persons and entities to whom education or training is provided under this section.

"(4) AMOUNT OF FEES.—The fees assessed and collected under this subsection shall be established in a manner which ensures that the liability of any person or entity for a fee is reasonably based on the proportion of the costs referred to in paragraph (1) which relate to such person or entity.

"(f) FUNDS.—The funds required to carry out this section may be from the sums deducted for administration purposes under section 104(a). The sums provided pursuant to this subsection may be combined or held separate from the fees or memberships collected under subsection (e) and may be administered by the Secretary as a fund which shall be available until expended.

"(g) CONTRACTS.—The provisions of section 3709 of the Revised Statutes (41 U.S.C. 5) shall not be applicable to contracts or agreements made under the authority of this section.".

SEC. 6003. INTERNATIONAL HIGHWAY TRANSPORTATION OUTREACH PROGRAM.

Chapter 3 of title 23, United States Code, is amended by adding at the end the following new section:

"§325. International highway transportation outreach program

"(a) ACTIVITIES.—The Secretary is authorized to engage in activities to inform the domestic highway community of technological innovations abroad that could significantly improve highway transportation in the United States, to promote United States highway transportation expertise internationally, and to increase transfers of United States highway transportation technology to foreign countries. Such activities may include—

"(1) development, monitoring, assessment, and dissemination domestically of information about foreign highway transportation innovations that could significantly improve highway transportation in the United States;

"(2) research, development, demonstration, training, and other forms of technology transfer and exchange;

"(3) informing other countries about the technical quality of American highway transportation goods and services through participation in trade shows, seminars, expositions, and other such activities;

"(4) offering those Federal Highway Administration technical services which cannot be readily obtained from the United States private sector to be incorporated into the proposals of United States firms undertaking foreign highway transportation projects if the costs for assistance will be recovered under the terms of each project; and

"(5) conducting studies to assess the need for or feasibility of highway transportation improvements in countries that are not members of the Organization for Economic Cooperation and Development as of the date of the enactment of this section, and in Greece and Turkey.

"(b) COOPERATION.—The Secretary may carry out the authority granted by this section, in cooperation with appropriate United States Government agencies and any State or local agency, authority, association, institution, corporation (profit or nonprofit), foreign government, multinational institution, or any other organization or person.

"(c) FUNDS.—The funds available to carry out the provisions of this section shall include funds deposited in a special account with the Secretary of the Treasury for such purposes by any cooperating organization or person. The funds shall be available for promotional materials, travel, reception and representation expenses necessary to carry out the activities authorized by this section. Reimbursements for services provided under this section shall be credited to the appropriation concerned.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of such title is amended by adding at the end the following new item:

"325. International highway transportation outreach program.".

SEC. 6004. EDUCATION AND TRAINING PROGRAM.

(a) IN GENERAL.—Chapter 3 of title 23, United States Code, is amended by adding at the end the following new section:

"§326. Education and training program

"(a) AUTHORITY.—The Secretary is authorized to carry out a transportation assistance program that will provide highway and transportation agencies in (1) urbanized areas of 50,000 to 1,000,000 population, and (2) rural areas, access to modern highway technology.

"(b) GRANTS AND CONTRACTS.—The Secretary may make grants and enter into contracts for education and training, technical assistance, and related support service that will—

"(1) assist rural local transportation agencies to develop and expand their expertise in road and transportation areas (including pavement, bridge and safety management systems), to improve roads and bridges, to enhance programs for the movement of passengers and freight, to deal effectively with special road related problems by preparing and providing training packages, manuals, guidelines, and technical resource materials, and developing a tourism and recreational travel technical assistance program;

"(2) identify, package, and deliver usable highway technology to local jurisdictions to assist urban transportation agencies in developing and expanding their ability to deal effectively with road related problems; and

"(3) establish, in cooperation with State transportation or highway departments and universities (A) urban technical assistance program centers in States with 2 or more urbanized areas of 50,000 to 1,000,000 population, and (B) rural technical assistance program centers.

Not less than 2 centers under paragraph (3) shall be designated to provide transportation assistance that may include, but is not necessarily limited to, a 'circuit-rider' program, providing training on intergovernmental transportation planning and project selection, and tourism recreational travel to American Indian tribal governments.

"(c) FUNDS.—The funds required to carry out the provisions of this section shall be taken out of administrative funds deducted under section 104(a). The sum of $6,000,000 per fiscal year for each of the fiscal years 1992, 1993, 1994, 1995, 1996, and 1997 shall be set aside from such administrative funds for the purpose of providing technical and financial support for these centers, including up to 100 percent for services provided to American Indian tribal governments.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of such title is amended by adding at the end the following new item:

"326. Education and training program.".

(c) USE OF BUREAU OF INDIAN AFFAIRS' ADMINISTRATIVE FUNDS.—Section 204(b) of such title is amended by adding at the end the following new sentence: "The Secretary of Interior may reserve funds from the Bureau of Indian Affairs' administrative funds associated with the Indian reservation roads program to finance the Indian technical centers authorized under section 326.".

SEC. 6005. APPLIED RESEARCH AND TECHNOLOGY PROGRAM; SEISMIC RESEARCH PROGRAM.

(a) IN GENERAL.—Section 307 of title 23, United States Code, is amended by redesignating subsections (e) and (f) as subsections (g) and (h), respectively, and by inserting after subsection (d) the following new subsections:

"(e) APPLIED RESEARCH AND TECHNOLOGY PROGRAM.—

"(1) ESTABLISHMENT.—The Secretary shall establish and implement in accordance with this subsection an applied research and technology program for the purpose of accelerating testing, evaluation, and implementation of technologies which are designed to improve the durability, efficiency, environmental impact, productivity, and safety of highway, transit, and intermodal transportation systems.

"(2) GUIDELINES.—Not later than 18 months after the date of the enactment of this subsection, the Secretary shall issue guidelines to carry out this subsection. Such guidelines shall include:

"(A) TECHNOLOGIES.—Guidelines on the selection of both foreign and domestic technologies to be tested.

"(B) TEST LOCATIONS.—Guidelines on the selection of locations at which tests will be conducted. Such guidelines shall ensure that testing is conducted in a range of climatic, traffic, geographic, and environmental conditions, as appropriate for the technology being tested.

"(C) DATA.—Guidelines for the scientific collection, evaluation, and dissemination of appropriate test data.

"(3) TECHNOLOGIES.—Technologies which may be tested under this subsection include, but are not limited to—

"(A) accelerated construction materials and procedures;

"(B) environmentally beneficial materials and procedures;

"(C) materials and techniques which provide enhanced serviceability and longevity under adverse climatic, environmental, and load effects;

"(D) technologies which increase the efficiency and productivity of vehicular travel; and

"(E) technologies and techniques which enhance the safety and accessibility of vehicular transportation systems.

"(4) HEATED BRIDGE TECHNOLOGIES.—

"(A) PROJECTS.—As part of the program under this subsection, the Secretary shall carry out projects to assess the state of technology with respect to heating the decks of bridges and the feasibility of, and costs and benefits associated with, heating the decks of bridges. Such projects shall be carried out by installing heating equipment on the decks of bridges which are being replaced or rehabilitated under section 144 of this title.

"(B) MINIMUM NUMBER OF BRIDGES.—The number of bridges for which heating equipment is installed under this subsection in a fiscal year shall not be less than 10 bridges.

"(5) ELASTOMER MODIFIED ASPHALT.—As part of the program under this subsection, the Secretary shall carry out a project in the State of New Jersey to demonstrate the environmental and safety benefits of elastomer modified asphalt.

"(6) HIGH PERFORMANCE BLENDED HYDRAULIC CEMENT.—As part of the program under this subsection, the Secretary shall carry out a project in the State of Missouri to demonstrate the durability and construction efficiency of high performance blended hydraulic cement.

"(7) THIN BONDED OVERLAY AND SURFACE LAMINATION OF PAVEMENT.—As part of the program under this subsection, the Secretary shall carry out projects to assess the state of technology with respect to thin bonded overlay (including inorganic bonding systems) and surface lamination of pavement, and to assess the feasibility of, and costs and benefits associated with, the repair, rehabilitation, and upgrading of highways and bridges with overlay. Such projects shall be carried out so as to minimize overlay thickness, minimize initial laydown costs, minimize time out of service, and maximize lifecycle durability.

"(8) ALL WEATHER PAVEMENT MARKINGS.—As part of the program under this subsection, the Secretary shall carry out a program to demonstrate the safety and durability of all weather pavement markings.

"(9) TESTING OF HIGHWAY TECHNOLOGIES.—Projects carried out under this subsection to test technologies related to highways shall be carried out on highways on the Federal-aid system.

"(10) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to States and localities in carrying out projects under this subsection.

"(11) ANNUAL REPORT.—Not later than 1 year after the date of the enactment of this subsection, and annually thereafter, the Secretary shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the progress and research findings of the program carried out under this subsection.

"(12) FEDERAL SHARE.—The Federal share of the cost of a project carried out under this subsection shall not exceed 80 percent.

"(13) FUNDING.—The Secretary shall expend from administrative and research funds deducted under section 104(a) of this title and funds made available under section 26(a)(1) of the Federal Transit Act "$35,000,000 for fiscal year 1992 and $41,000,000 per fiscal year for each of fiscal years 1993, 1994, 1995, 1996, and 1997 to carry out this subsection. Of such amounts, in each of fiscal years 1992, 1993, 1994, 1995, 1996, and 1997, the Secretary shall expend not less than $4,000,000 per fiscal year to carry out projects related to heated bridge technologies under paragraph (4), not less than $2,500,000 per fiscal year to carry out projects related to thin bonded overlay and surface lamination of pavements under paragraph (7), and not less than $2,000,000 per fiscal year to carry out projects related to all weather pavement markings under paragraph (8). Amounts made available under this subsection shall remain available until expended and shall not be subject to any obligation limitation.

"(f) SEISMIC RESEARCH PROGRAM.—

"(1) ESTABLISHMENT.—The Secretary shall establish a program to study the vulnerability of highways, tunnels, and bridges on the Federal-aid system to earthquakes and develop and implement cost-effective methods of retrofitting such highways, tunnels, and bridges to reduce such vulnerability.

"(2) COOPERATION WITH NATIONAL CENTER FOR EARTHQUAKE ENGINEERING RESEARCH.—The Secretary shall conduct the program under this section in cooperation with the National Center for Earthquake Engineering Research at the University of Buffalo.

"(3) COOPERATION WITH AGENCIES PARTICIPATING IN NATIONAL HAZARDS REDUCTION PROGRAM.—The Secretary shall further conduct the program under this section in consultation and cooperation with Federal departments and agencies participating in the National Hazards Reduction Program established by section 5 of the Earthquake Hazards Reduction Act of 1977 and shall take such actions as may be necessary to ensure that the program under this subsection is consistent with—

"(A) planning and coordination activities of the Federal Emergency Management Agency under section 5(b)(1) of such Act; and

"(B) the plan developed by the Director of the Federal Emergency Management Agency under section 8(b) of such Act.

"(4) FUNDING.—Of amounts deducted under section 104(a) of this title, the Secretary shall expend not more than $2,000,000 per fiscal year in each of fiscal years 1992, 1993, 1994, 1995, 1996, and 1997 to carry out this subsection.

"(5) REPORT.—Not later than 2 years after the date of the enactment of this section, the Secretary shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the progress and research findings of the program carried out under this section.".

(b) HIGHWAY AND BRIDGE CONDITIONS AND PERFORMANCE REPORT.—Section 307(h) of title 23, United States Code, as redesignated by subsection (a), is amended by adding at the end the following new sentence: "The biennial reports required under this subsection shall provide the means, including all necessary information, to relate and compare the conditions and service measures used in different years when such measures are changed.".

SEC. 6006. BUREAU OF TRANSPORTATION STATISTICS.

Chapter 1 of title 49, United States Code, is amended by adding at the end the following new section:

"§111. Bureau of Transportation Statistics

"(a) ESTABLISHMENT.—There is established in the Department of Transportation a Bureau of Transportation Statistics.

"(b) DIRECTOR.—

"(1) APPOINTMENT.—The Bureau shall be headed by a Director who shall be appointed by the President, by and with the advice and consent of the Senate.

"(2) QUALIFICATIONS.—The Director shall be appointed from among individuals who are qualified to serve as the Director by virtue of their training and experience in the compilation and analysis of transportation statistics.

"(3) REPORTING.—The Director shall report directly to the Secretary.

"(4) TERM.—The term of the Director shall be 4 years. The term of the first Director to be appointed shall begin on the 180th day after the date of the enactment of this section.

"(c) RESPONSIBILITIES.—The Director of the Bureau shall be responsible for carrying out the following duties:

"(1) COMPILING TRANSPORTATION STATISTICS.—Compiling, analyzing, and publishing a comprehensive set of transportation statistics to provide timely summaries and totals (including industrywide aggregates and multiyear averages) of transportation-related information. Such statistics shall be suitable for conducting cost-benefit studies (including comparisons among individual transportation modes and intermodal transport systems) and shall include information on—

"(A) productivity in various parts of the transportation sector;

"(B) traffic flows;

"(C) travel times;

"(D) vehicle weights;

"(E) variables influencing traveling behavior, including choice of transportation mode;

"(F) travel costs of intracity commuting and intercity trips;

"(G) availability of mass transit and the number of passengers served by each mass transit authority;

"(H) frequency of vehicle and transportation facility repairs and other interruptions of transportation service;

"(I) accidents;

"(J) collateral damage to the human and natural environment; and

"(K) the condition of the transportation system.

"(2) IMPLEMENTING LONG-TERM DATA COLLECTION PROGRAM.—Establishing and implementing, in cooperation with the modal administrators, the States, and other Federal officials a comprehensive, long-term program for the collection and analysis of data relating to the performance of the national transportation system. Such program shall—

"(A) be coordinated with efforts to develop performance indicators for the national transportation system undertaken pursuant to section 307(b)(3) of title 23, United States Code;

"(B) ensure that data is collected under this subsection in a manner which will maximize the ability to compare data from different regions and for different time periods; and

"(C) ensure that data collected under this subsection is controlled for accuracy and disseminated to the States and other interested parties.

"(3) ISSUING GUIDELINES.—Issuing guidelines for the collection of information by the Department of Transportation required for statistics to be compiled under paragraph (1) in order to ensure that such information is accurate, reliable, relevant, and in a form that permits systematic analysis.

"(4) COORDINATING COLLECTION OF INFORMATION.—Coordinating the collection of information by the Department of Transportation required for statistics to be compiled under paragraph (1) with related information-gathering activities conducted by other Federal departments and agencies and collecting appropriate data not elsewhere gathered.

"(5) MAKING STATISTICS ACCESSIBLE.—Making the statistics published under this subsection readily accessible.

"(6) IDENTIFYING INFORMATION NEEDS.—Identifying information that is needed under paragraph (1) but which is not being collected, reviewing such needs at least annually with the Advisory Council on Transportation Statistics, and making recommendations to appropriate Department of Transportation research officials concerning extramural and intramural research programs to provide such information.

"(d) LIMITATIONS ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed—

"(1) to authorize the Bureau to require any other department or agency to collect data; or

"(2) to reduce the authority of any other officer of the Department of Transportation to collect and disseminate data independently.

"(e) PROHIBITION ON CERTAIN DISCLOSURES.—Information compiled by the Bureau shall not be disclosed publicly in a manner that would reveal the personal identity of any individual, consistent with the Privacy Act of 1974 (5 U.S.C. 552a), or to reveal trade secrets or allow commercial or financial information provided by any person to be identified with such person.

"(f) TRANSPORTATION STATISTICS ANNUAL REPORT.—On or before January 1, 1994, and annually thereafter, the Director shall transmit to the President and Congress a Transportation Statistics Annual Report which shall include information on items referred to in subsection (c)(1), documentation of methods used to obtain and ensure the quality of the statistics presented in the report, and recommendations for improving transportation statistical information.

"(g) PERFORMANCE OF FUNCTIONS OF DIRECTOR PENDING CONFIRMATION.—An individual who, on the date of the enactment of this section, is performing any function required by this section to be performed by the Director may continue to perform such function until such function is undertaken by the Director.".

(b) FUNDING.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) only for carrying out the amendment made by subsection (a) $5,000,000 for fiscal year 1992, $10,000,000 for fiscal year 1993, $15,000,000 per fiscal year for each of fiscal years 1994 and 1995, $20,000,000 for fiscal year 1996, and $25,000,000 for fiscal year 1997. Funds authorized by this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code.

(c) CONFORMING AMENDMENT.—The analysis for chapter 1 of such title is amended by adding at the end the following new items:

"Sec. 110. Saint Lawrence Seaway Development Corporation.

"Sec. 111. Bureau of Transportation Statistics.".

(d) AMENDMENT TO TITLE 5, U.S.C.—Section 5316 of title 5, United States Code, is amended by adding at the end the following:

"Director, Bureau of Transportation Statistics.".

SEC. 6007. ADVISORY COUNCIL ON TRANSPORTATION STATISTICS.

(a) ESTABLISHMENT.—The Director of the Bureau of Transportation Statistics shall establish an Advisory Council on Transportation Statistics.

(b) FUNCTION.—It shall be the function of the advisory council established under this section to advise the Director of the Bureau of Transportation Statistics on transportation statistics and analyses, including whether or not the statistics and analysis disseminated by the Bureau of Transportation Statistics are of high quality and are based upon the best available objective information.

(c) MEMBERSHIP.—The advisory council established under this section shall be composed of not more than 6 members appointed by the Director who are not officers or employees of the United States and who (except for 1 member who shall have expertise in economics and 1 member who shall have expertise in statistics) have expertise in transportation statistics and analysis.

(d) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act shall apply to the advisory council established under this section, except that section 14 of the Federal Advisory Committee Act shall not apply to the Advisory Committee established under this section.

SEC. 6008. DOT DATA NEEDS.

(a) STUDY.—Not later than 1 year after the date of the establishment of the Bureau of Transportation Statistics, the Secretary shall enter into an agreement with the National Academy of Sciences to conduct a study on the adequacy of data collection procedures and capabilities of the Department of Transportation.

(b) CONSULTATION.—The Secretary shall enter into the agreement under subsection (a) in consultation with the Director of the Bureau of Transportation Statistics.

(c) CONTENTS.—The study under subsection (a) shall include an evaluation of the Department of Transportation's data collection resources, needs, and requirements and an assessment and evaluation of the systems, capabilities, and procedures established by the Department to meet such needs and requirements, including the following:

(1) Data collection procedures and capabilities.

(2) Data analysis procedures and capabilities.

(3) Ability of data bases to integrate with one another.

(4) Computer hardware and software capabilities.

(5) Information management systems, including the ability of information management systems to integrate with one another.

(6) Availability and training of the personnel of the Department.

(7) Budgetary needs and resources of the Department for data collection.

(d) REPORT.—Not later than 18 months after the date of the agreement under subsection (a), the National Academy of Sciences shall transmit to Congress a report on the results of the study under this section, including recommendations for improving the Department of Transportation's data collection systems, capabilities, procedures, and analytical hardware and software and recommendations for improving the Department's management information systems.

SEC. 6009. SURFACE TRANSPORTATION RESEARCH AND DEVELOPMENT PLANNING.

(a) FINDINGS.—Congress finds that—

(1) despite an annual expenditure in excess of $10,000,000,000 on surface transportation and its infrastructure, the Federal Government has not developed a clear vision of—

(A) how the surface transportation systems of the 21st century will differ from the present;

(B) how they will interface with each other and with other forms of transportation;

(C) how such systems will adjust to changing American population patterns and lifestyles; and

(D) the role of federally funded research and development in ensuring that appropriate transportation systems are developed and implemented;

(2) the population of the United States is projected to increase by over 30,000,000 people within the next 20 years, mostly in existing major metropolitan areas, which will result in increased traffic congestion within and between urban areas, more accidents, loss of productive time, and increased cost of transportation unless new technologies are developed to improve public transportation within cities and to move people and goods between cities;

(3) 18,000,000 crashes, 4,000,000 injuries, and 45,000 fatalities each year on the Nation's highways are intolerable and substantial research is required in order to develop safer technologies in their most useful and economic forms;

(4) current research and development funding for surface transportation is insufficient to provide the United States with the technologies essential to providing its own advanced transportation systems in the future and, as a result, the United States is becoming increasingly dependent on foreign surface transportation technologies and equipment to meet its expanding surface transportation needs;

(5) a more active, focused surface transportation research and development program involving cooperation among the Federal Government, United States based industry, and United States universities should be organized on a priority basis;

(6) intelligent vehicle highway systems represent the best near-term technology for improving surface transportation for public benefit by providing equipment which can improve traffic flow and provide for enhanced safety;

(7) research and development programs related to surface transportation are fragmented and dispersed throughout government and need to be strengthened and incorporated in an integrated framework within which a consensus on the goals of a national surface transportation research and development program must be developed;

(8) the inability of government agencies to cooperate effectively, the difficulty of obtaining public support for new systems and rights-of-way, and the high cost of capital financing discourage private firms from investing in the development of new transportation equipment and systems; therefore, the Federal Government should sponsor and coordinate research and development of new technologies to provide safer, more convenient, and affordable transportation systems for use in the future; and

(9) an effective high technology applied research and development program should be implemented quickly by strengthening the Department of Transportation research and development staff and by contracting with private industry for specific development projects.

(b) SURFACE TRANSPORTATION RESEARCH AND DEVELOPMENT PLAN.—

(1) DEVELOPMENT.—The Secretary shall develop an integrated national surface transportation research and development plan (hereinafter in this subsection referred to as the "plan").

(2) FOCUS.—The plan shall focus on surface transportation systems needed for urban, suburban, and rural areas in the next decade.

(3) CONTENTS.—The plan shall include the following:

(A) Details of the Department's surface transportation research and development programs, including appropriate funding levels and a schedule with milestones, preliminary cost estimates, appropriate work scopes, personnel requirements, and estimated costs and goals for the next 3 years for each area of research and development.

(B) A 10-year projection of long-term programs in surface transportation research and development and recommendations for the appropriate source or mechanism for surface transportation research and development funding, taking into account recommendations of the Research and Development Coordinating Council of the Department of Transportation and the plan of the National Council on Surface Transportation Research.

(C) Recommendations on changes needed to assure that Federal, State, and local contracting procedures encourage the adoption of advanced technologies developed as a consequence of the research programs in this Act.

(4) OBJECTIVES.—The plan shall provide for the following:

(A) The development, within the shortest period of time possible, of a range of technologies needed to produce convenient, safe, and affordable modes of surface transportation to be available for public use beginning in the mid-1990's.

(B) Maintenance of a long-term advanced research and development program to provide for next generation surface transportation systems.

(5) COOPERATION WITH INDUSTRY.—A primary component of the plan shall be cooperation with industry in carrying out this part and strengthening the manufacturing capabilities of United States firms in order to produce products for surface transportation systems.

(6) CONFORMANCE WITH PLAN.—All surface transportation research and development within the Department of Transportation shall be included in the plan and shall be evaluated in accordance with the plan.

(7) COORDINATION.—In developing the plan and carrying out this part, the Secretary shall consult with and, where appropriate, use the expertise of other Federal agencies and their laboratories.

(8) TRANSMITTAL.—On or before January 15, 1993, and annually thereafter, the Secretary shall transmit the plan to Congress, together with the Secretary's comments and recommendations. The Secretary shall review and update the plan before each transmittal under this paragraph.

(9) RECOMMENDATIONS FOR ALTERNATIVES.—In the event a different technology or alternative program can be identified that would accomplish the same or better results than those described in this part, the Secretary may make recommendations for an alternative, and shall promptly report such alternative recommendations to Congress.

SEC. 6010. NATIONAL COUNCIL ON SURFACE TRANSPORTATION RESEARCH.

(a) ESTABLISHMENT.—There is established a National Council on Surface Transportation Research (hereinafter in this section referred to as the "Council").

(b) FUNCTION.—The Council shall make a complete investigation and study of current surface transportation research and technology developments in the United States and internationally. The Council shall identify gaps and duplication in current surface transportation research efforts, determine research and development areas which may increase efficiency, productivity, safety, and durability in the Nation's surface transportation systems, and propose a national surface transportation research and development plan for immediate implementation.

(c) SPECIFIC MATTERS TO BE ADDRESSED.—The Council shall—

(1) survey current surface transportation public and private research efforts in the United States and internationally;

(2) examine factors which lead to fragmentation of surface transportation research efforts and determine how increased coordination in such efforts may be achieved;

(3) compare the role of the Federal Government with the role of foreign governments in promoting transportation research and evaluate the appropriateness of United States policy on government-sponsored surface transportation research;

(4) identify barriers to innovation in surface transportation systems;

(5) examine the range of funding arrangements available for surface transportation research and development and the level of resources currently available for such purposes; and

(6) identify surface transportation research areas and opportunities, including opportunities for international cooperation offering potential benefit to the Nation's surface transportation system, assess the relative priority of such research areas and plans, and develop a plan for national surface transportation research and development which includes short-range and long-range objectives.

(d) MEMBERSHIP.—

(1) APPOINTMENT.—The Council shall be composed of 7 members as follows:

(A) Three members appointed by the President.

(B) One member appointed by the Speaker of the House of Representatives.

(C) One member appointed by the minority leader of the House of Representatives.

(D) One member appointed by the majority leader of the Senate.

(E) One member appointed by the minority leader of the Senate.

(2) QUALIFICATIONS.—

(A) IN GENERAL.—Members appointed pursuant to paragraph (1) shall be appointed from among individuals involved in surface transportation research, including representatives of Federal, State, and local governments, other public agencies, colleges and universities, public, private, and nonprofit research organizations, and organizations representing transportation providers, shippers, labor, and the financial community.

(B) INTERNATIONAL ADVISOR.—One of the members appointed by the President pursuant to paragraph (1)(A) shall serve as an international research advisor for the Council.

(3) TERMS.—Members shall be appointed for the life of the Council.

(4) VACANCIES.—A vacancy in the Council shall be filled in the manner in which the original appointment was made.

(5) TRAVEL EXPENSES.—Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(6) CHAIRMAN.—The Chairman of the Council shall be elected by the members.

(e) STAFF.—The Council may appoint and fix the pay of such personnel as it considers appropriate.

(f) STAFF OF FEDERAL AGENCIES.—Upon request of the Council, the head of any department or agency of the United States may detail, on a reimbursable basis, any of the personnel of that department or agency to the Council to assist it in carrying out its duties under this section.

(g) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Council, the Administrator of General Services shall provide to the Council, on a reimbursable basis, the administrative support services necessary for the Council to carry out its responsibilities under this section.

(h) OBTAINING OFFICIAL DATA.—The Council may secure directly from any department or agency of the United States information necessary for it to carry out its duties under this section. Upon request of the Council, the head of that department or agency shall furnish that information to the Council.

(i) REPORT.—Not later than September 30, 1993, the Council shall transmit to Congress a final report on the results of the investigation and study conducted under this section. The report shall include recommendations of the Council, including a proposed national surface transportation research plan for immediate implementation.

(j) TERMINATION.—The Council shall terminate on the 180th day following the date of transmittal of the report under subsection (i). All records and papers of the Council shall thereupon be delivered to the Administrator of General Services for deposit in the National Archives.

SEC. 6011. RESEARCH ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—Not later than 180 days after the date of transmittal of the report to Congress under section 6010, the Secretary shall establish an independent surface transportation research advisory committee (hereinafter in this section referred to as the "advisory committee").

(b) PURPOSES.—The advisory committee shall provide ongoing advice and recommendations to the Secretary regarding needs, objectives, plans, approaches, content, and accomplishments with respect to short-term and long-term surface transportation research and development. The advisory committee shall also assist in ensuring that such research and development is coordinated with similar research and development being conducted outside of the Department of Transportation.

(c) MEMBERSHIP.—The advisory committee shall be composed of not less than 20 and not more than 30 members appointed by the Secretary from among individuals who are not employees of the Department of Transportation and who are specially qualified to serve on the advisory committee by virtue of their education, training, or experience. A majority of the members of the advisory committee shall be individuals with experience in conducting surface transportation research and development. The Secretary in appointing the members of the advisory committee shall ensure that representatives of Federal, State, and local governments, other public agencies, colleges and universities, public, private, and nonprofit research organizations, and organizations representing transportation providers, shippers, labor, and the financial community are represented on an equitable basis.

(d) CHAIRMAN.—The chairman of the advisory committee shall be designated by the Secretary.

(e) PAY AND EXPENSES.—Members of the advisory committee shall serve without pay, except that the Secretary may allow any member, while engaged in the business of the advisory committee or a subordinate committee, travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(f) SUBORDINATE COMMITTEES.—The Secretary shall establish a subordinate committee to the advisory committee to provide advice on advanced highway vehicle technology research and development, and may establish other subordinate committees to provide advice on specific areas of surface transportation research and development. Such subordinate committees shall be subject to subsections (e), (g), and (i) of this section.

(g) ASSISTANCE OF SECRETARY.—Upon request of the advisory committee, the Secretary shall provide such information, administrative services, support staff, and supplies as the Secretary determines to be necessary for the advisory committee to carry out its functions.

(h) REPORTS.—The advisory committee shall, within 1 year after the date of establishment of the advisory committee, and annually thereafter, submit to the Congress a report summarizing its activities under this section.

(i) TERMINATION.—Section 14 of the Federal Advisory Committee Act shall not apply to the advisory committee established under this section.

SEC. 6012. COMMEMORATION OF DWIGHT D. EISENHOWER NATIONAL SYSTEM OF INTERSTATE AND DEFENSE HIGHWAYS.

(a) STUDY.—The Secretary shall conduct a study to determine an appropriate symbol or emblem to be placed on highway signs referring to the Interstate System to commemorate the vision of President Dwight D. Eisenhower in creating the Dwight D. Eisenhower National System of Interstate and Defense Highways.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study under this section.

SEC. 6013. STATE LEVEL OF EFFORT.

(a) STUDY.—Not later than 3 months after the date of the enactment of this Act, the Secretary and the Director of the Bureau of Transportation Statistics shall begin a comprehensive study of the most appropriate and accurate methods of calculating State level of effort in funding surface transportation programs.

(b) CONTENTS.—The study under subsection (a) shall include collection of data relating to State and local revenues collected and spent on surface transportation programs. Such revenues include income from fuel taxes, toll revenues (including bridge, tunnel, and ferry tolls), sales taxes, general fund appropriations, property taxes, bonds, administrative fees, taxes on commercial vehicles, and such other State and local revenue sources as the Director of the Bureau considers appropriate.

(c) REPORT.—Not later than 9 months after the date of the enactment of this Act, the Secretary and the Director of the Bureau shall transmit to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives a report on the results of the study under this section, including recommendations on the most appropriate measure of State level of effort in funding surface transportation programs and comprehensive data, by State, on revenue sources and amounts collected by States and local governments and devoted to surface transportation programs.

SEC. 6014. EVALUATION OF STATE PROCUREMENT PRACTICES.

(a) STUDY.—The Secretary shall conduct a study to evaluate whether or not current procurement practices of State departments and agencies, including statistical acceptance procedures, are adequate to ensure that highway and transit systems are designed, constructed, and maintained so as to achieve a high quality for such systems at the lowest overall cost.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of the study conducted under this section, together with an assessment of the need for establishing a national policy on transportation quality assurance and recommendations for appropriate legislative and administrative actions.

SEC. 6015. BORDER CROSSINGS.

(a) IDENTIFICATION.—The Secretary, in cooperation with other appropriate Federal agencies, shall identify existing and emerging trade corridors and transportation subsystems that facilitate trade between the United States, Canada, and Mexico.

(b) PRIORITIES AND RECOMMENDATIONS.—The Secretary shall investigate and develop priorities and recommendations for rail, highway, water, and air freight centers and all highway border crossings for States adjoining Canada and Mexico, including the Gulf of Mexico States and other States whose transportation subsystems affect the trade corridors. The recommendations shall provide for improvement and integration of transportation corridor subsystems, methods for achieving the optimum yield from such subsystems, methods for increasing productivity, methods for increasing the use of advanced technologies, and methods to encourage the use of innovative marketing techniques, such as just-in-time deliveries.

(c) MINIMUM ELEMENTS.—The highway border crossing assessment under this section shall at a minimum—

(1) determine whether or not the border crossings are in compliance with current Federal highway regulations and adequately designed for future growth and expansion;

(2) assess their ability to accommodate increased commerce due to the United States-Canada Free Trade Agreement and increased trade between the United States and Mexico; and

(3) assess their ability to accommodate increasing tourism-related traffic between the United States, Canada, and Mexico.

The review shall specifically address issues related to the alignment of United States and adjoining Canadian and Mexican highways at the border crossings, the development of bicycle paths and pedestrian walkways, and potential energy savings to be realized by decreasing truck delays at the border crossings and related parking improvements.

(d) CONSULTATION.—In carrying out this section, the Secretary shall consult with appropriate Governors and representatives of the Republic of Mexico and Canada.

(e) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall report to Congress and border State Governors on transportation infrastructure needs, associated costs, and economic impacts identified and propose an agenda to develop systemwide integration of services for national benefits.

SEC. 6016. FUNDAMENTAL PROPERTIES OF ASPHALTS AND MODIFIED ASPHALTS.

(a) STUDIES.—The Administrator of the Federal Highway Administration (hereinafter in this section referred to as the "Administrator") shall conduct studies of the fundamental chemical property and physical property of petroleum asphalts and modified asphalts used in highway construction in the United States. Such studies shall emphasize predicting pavement performance from the fundamental and rapidly measurable properties of asphalts and modified asphalts.

(b) CONTRACTS.—To carry out the studies under subsection (a), the Administrator shall enter into contracts with the Western Research Institute of the University of Wyoming in order to conduct the necessary technical and analytical research in coordination with existing programs which evaluate actual performance of asphalts and modified asphalts in roadways, including the Strategic Highway Research Program.

(c) ACTIVITIES OF STUDIES.—The studies under subsection (a) shall include the following activities:

(1) Fundamental composition studies.

(2) Fundamental physical and rheological property studies.

(3) Asphalt-aggregate interaction studies.

(4) Coordination of composition studies, physical and rheological property studies, and asphalt-aggregate interaction studies for the purposes of predicting pavement performance, including refinements of Strategic Highway Research Program specifications.

(d) TEST STRIP.—

(1) IMPLEMENTATION.—The Administrator, in coordination with the Western Research Institute of the University of Wyoming, shall implement a test strip for the purpose of demonstrating and evaluating the unique energy and environmental advantages of using shale oil modified asphalts under extreme climatic conditions.

(2) FUNDING.—For the purposes of construction activities related to this test strip, the Secretary and the Director of the National Park Service shall make up to $1,000,000 available from amounts made available from the authorization for parkroads and parkways.

(3) REPORT TO CONGRESS.—Not later than November 30, 1995, the Administrator shall transmit to Congress as part of a report under subsection (e) the Administrator's findings on activities conducted under this subsection, including an evaluation of the test strip implemented under this subsection and recommendations for legislation to establish a national program to support United States transportation and energy security requirements.

(e) ANNUAL REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, and on or before November 30th of each year beginning thereafter, the Administrator shall transmit to Congress a report of the progress made in implementing this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—The Secretary shall expend from administrative and research funds deducted under section 104(a) of this title at least $3,000,000 for each of fiscal years 1992, 1993, 1994, 1995, and 1996 to carry out subsection (b).

SEC. 6017. RESEARCH AND DEVELOPMENT AUTHORITY OF SECRETARY OF TRANSPORTATION.

Section 301(6) of title 49, United States Code, as redesignated by section 502(a) of this Act, is amended by inserting ", and including basic highway vehicle science" after "to aircraft noise".

SEC. 6018. PURPOSES OF DEPARTMENT OF TRANSPORTATION.

Section 101(b)(4) of title 49, United States Code, is amended by inserting ", through research and development or otherwise" after "advances in transportation".

SEC. 6019. ADVANCED AUTOMOTIVE CONFERENCE AND AWARD.

The Stevenson-Wydler Technology Innovation Act of 1980 is amended by inserting after section 17 the following new sections, and by redesignating subsequent sections and all references thereto accordingly:

"SEC. 18. CONFERENCE ON ADVANCED AUTOMOTIVE TECHNOLOGIES.

"Not later than 180 days after the date of the enactment of this section, the Secretary of Commerce, through the Under Secretary of Commerce for Technology, in consultation with other appropriate officials, shall convene a conference of domestic motor vehicle manufacturers, parts suppliers, Federal laboratories, and motor vehicle users to explore ways in which cooperatively they can improve the competitiveness of the United States motor vehicle industry by developing new technologies which will enhance the safety and energy savings, and lessen the environmental impact of domestic motor vehicles, and the results of such conference shall be published and then submitted to the President and to the Committees on Science, Space, and Technology and Public Works and Transportation of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

"SEC. 19. ADVANCED MOTOR VEHICLE RESEARCH AWARD.

"(a) ESTABLISHMENT.—There is established a National Award for the Advancement of Motor Vehicle Research and Development. The award shall consist of a medal, and a cash prize if funding is available for the prize under subsection (c). The medal shall be of such design and materials and bear inscriptions as is determined by the Secretary of Transportation.

"(b) MAKING AND PRESENTING AWARD.—The Secretary of Transportation shall periodically make and present the award to domestic motor vehicle manufacturers, suppliers, or Federal laboratory personnel who, in the opinion of the Secretary of Transportation, have substantially improved domestic motor vehicle research and development in safety, energy savings, or environmental impact. No person may receive the award more than once every 5 years.

"(c) FUNDING FOR AWARD.—The Secretary of Transportation may seek and accept gifts of money from private sources for the purpose of making cash prize awards under this section. Such money may be used only for that purpose, and only such money may be used for that purpose.".

SEC. 6020. UNDERGROUND PIPELINES.

(a) STUDY.—The Secretary shall conduct a study to evaluate the feasibility, costs, and benefits of constructing and operating pneumatic capsule pipelines for underground movement of commodities other than hazardous liquids and gas.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study conducted under this section.

SEC. 6021. BUS TESTING.

(a) DEFINITION OF NEW BUS MODEL.—Section 12(h) of the Federal Transit Act (49 U.S.C. 1608(h)) is amended by inserting "(including any model using alternative fuels)" after "means a bus model".

(b) DUTIES OF BUS TESTING FACILITY.—Section 317(b)(1) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (49 U.S.C. App. 1608 note) is amended—

(1) by inserting "(including braking performance)" after "performance"; and

(2) by inserting "emissions," after "fuel economy,".

(c) FUNDING.—The first sentence of section 317(b)(5) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 is amended by inserting before the period at the end the following: ", for expansion of such facility $1,500,000 for fiscal year 1992, and for establishment of a revolving fund under paragraph (6) $2,500,000 for fiscal year 1992".

(d) REVOLVING LOAN FUND.—Section 317(b) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 is amended by adding at the end the following new paragraph:

"(6) REVOLVING LOAN FUND.—The Secretary shall establish a bus testing revolving loan fund with amounts authorized for such purpose under paragraph (5). The Secretary shall make available as repayable advances amounts from the fund to the person described in paragraph (3) for operating and maintaining the facility.".

SEC. 6022. NATIONAL TRANSIT INSTITUTE.

The Federal Transit Act (49 U.S.C. App. 1601–1621) is amended by adding after section 28 the following new section:

"SEC. 29. NATIONAL TRANSIT INSTITUTE.

"(a) ESTABLISHMENT.—The Secretary shall make grants to Rutgers University to establish a national transit institute. The institute shall develop and administer, in cooperation with the Federal Transit Administration, State transportation departments, public transit agencies, and national and international entities, training programs of instruction for Federal, State, and local transportation employees, United States citizens, and foreign nationals engaged or to be engaged in Federal-aid transit work. Such programs may include courses in recent developments, techniques, and procedures relating to transit planning, management, environmental factors, acquisition and joint use of rights-of-way, engineering, procurement strategies for transit systems, turn-key approaches to implementing transit systems, new technologies, emission reduction technologies, means of making transit accessible to individuals with disabilities, construction, maintenance, contract administration, and inspection. The Secretary shall delegate to the institute the authority vested in the Secretary for the development and conduct of educational and training programs relating to transit.

"(b) FUNDING.—Not to exceed one-half of 1 percent of all funds made available for a fiscal year beginning after September 30, 1991, to a State or public transit agency in the State for carrying out sections 3 and 9 of the Federal Transit Act shall be available for expenditure by the State and public transit agencies in the State, subject to approval by the Secretary, for payment of not to exceed 80 percent of the cost of tuition and direct educational expenses in connection with the education and training of State and local transportation department employees as provided in this section.

"(c) PROVISION OF TRAINING.—Education and training of Federal, State, and local transportation employees authorized by this section shall be provided—

"(1) by the Secretary at no cost to the States and local governments for those subject areas which are a Federal program responsibility; or

"(2) in any case where such education and training are to be paid for under subsection (b) of this section, by the State, subject to the approval of the Secretary, through grants and contracts with public and private agencies, other institutions, individuals, and the institute.

"(d) FUNDING.—The Secretary shall make available in equal amounts from funds provided under section 21(c)(3) and 21(c)(4) $3,000,000 per fiscal year for each of fiscal years 1992, 1993, 1994, 1995, 1996, and 1997 for carrying out this section. Notwithstanding any other provision of law, approval by the Secretary of a grant with funds made available under this subsection shall be deemed a contractual obligation of the United States for payment of the Federal share of the cost of the project.".

SEC. 6023. UNIVERSITY TRANSPORTATION CENTERS.

(a) ADDITIONAL RESPONSIBILITY.—Section 11(b)(2) of the Federal Transit Act (49 U.S.C. App. 1607c(b)(2)) is amended by inserting "transportation safety and" after "training concerning".

(b) ESTABLISHMENT OF NEW CENTERS; PROGRAM COORDINATION.—Section 11(b) of such Act (49 U.S.C. App. 1607c(b)) is amended by striking paragraphs (7) and (8), by redesignating paragraphs (9) and (10) as paragraphs (14) and (15), respectively, and by inserting after paragraph (6) the following new paragraphs:

"(7) NATIONAL CENTER.—To accelerate the involvement and participation of minority individuals and women in transportation-related professions, particularly in the science, technology, and engineering disciplines, the Secretary shall make grants under this section to Morgan State University to establish a national center for transportation management, research, and development. Such center shall give special attention to the design, development, and implementation of research, training, and technology transfer activities to increase the number of highly skilled minority individuals and women entering the transportation workforce.

"(8) CENTER FOR TRANSPORTATION AND INDUSTRIAL PRODUCTIVITY.—

"(A) IN GENERAL.—The Secretary shall make grants under this section to the New Jersey Institute of Technology to establish and operate a center for transportation and industrial productivity. Such center shall conduct research and development activities which focus on methods to increase surface transportation capacity, reduce congestion, and reduce costs for transportation system users and providers through the use of transportation management systems.

"(B) JAMES AND MARLENE HOWARD TRANSPORTATION INFORMATION CENTER.—

"(i) GRANT.—The Secretary shall make a grant to Monmouth College, West Long Branch, New Jersey, for modification and reconstruction of Building Number 500 at Monmouth College.

"(ii) ASSURANCES.—Before making a grant under clause (i), the Secretary shall receive assurances from Monmouth College that—

"(I) the building referred to in clause (i) will be known and designated as the 'James and Marlene Howard Transportation Information Center'; and

"(II) transportation-related instruction and research in the fields of computer science, electronic engineering, mathematics, and software engineering conducted at the building referred to in clause (i) will be coordinated with the Center for Transportation and Industrial Productivity at the New Jersey Institute of Technology.

"(iii) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) $2,242,000 in fiscal year 1992 for making the grant under clause (i).

"(iv) APPLICABILITY OF TITLE 23.—Funds authorized by clause (iii) shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of activities conducted with the grant under clause (i) shall be 80 percent and such funds shall remain available until expended. Funds authorized by clause (iii) shall not be subject to any obligation limitation.

"(9) NATIONAL RURAL TRANSPORTATION STUDY CENTER.—The Secretary shall make grants under this section to the University of Arkansas to establish a national rural transportation center. Such center shall conduct research, training, and technology transfer activities in the development, management, and operation of intermodal transportation systems in rural areas.

"(10) NATIONAL CENTER FOR ADVANCED TRANSPORTATION TECHNOLOGY.—

"(A) IN GENERAL.—The Secretary shall make grants under paragraph (10) to the University of Idaho to establish a National Center for Advanced Transportation Technology. Such center shall be established and operated in partnership with private industry and shall conduct industry driven research and development activities which focus on transportation-related manufacturing and engineering processes, materials, and equipment.

"(B) GRANTS.—The Secretary shall make grants to the University of Idaho, Moscow, Idaho, for planning, design, and construction of a building in which the research and development activities of the National Center for Advanced Transportation Technology may be conducted.

"(C) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) $2,500,000 for fiscal year 1992, $3,000,000 for fiscal year 1993, and $2,500,000 for fiscal year 1994 for making the grants under subparagraph (B).

"(D) APPLICABILITY OF TITLE 23.—Funds authorized by subparagraph (C) shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of activities conducted with the grant under subparagraph (B) shall be 80 percent and such funds shall remain available until expended. Funds authorized by subparagraph (B) shall not be subject to any obligation limitation.

"(E) APPLICABILITY OF GRANT REQUIREMENTS.—Any grant entered into under this paragraph shall not be subject to the requirements of subsection (b) of this section.

"(11) PROGRAM COORDINATION.—

"(A) IN GENERAL.—The Secretary shall provide for the coordination of research, education, training, and technology transfer activities carried out by grant recipients under this subsection, the dissemination of the results of such research, and the establishment and operation of a clearinghouse between such centers and the transportation industry. The Secretary shall review and evaluate programs carried out by such grant recipients at least annually.

"(B) FUNDING.—Not to exceed 1 percent of the funds made available from Federal sources to carry out this subsection may be used by the Secretary to carry out this paragraph.

"(12) OBLIGATION CEILING.—Amounts authorized out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection shall be subject to obligation limitations established by section 102 of the Intermodal Surface Transportation Efficiency Act of 1991.

"(13) AUTHORIZATIONS.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $5,000,000 for fiscal year 1992 and $6,000,000 for each of the fiscal years 1993 through 1997. Notwithstanding any other provision of law, approval by the Secretary of a grant under this section shall be deemed a contractual obligation of the United States for payment of the Federal share of the cost of the project."

SEC. 6024. UNIVERSITY RESEARCH INSTITUTES.

Section 11 of the Federal Transit Act (49 U.S.C. App. 1607c) is amended by adding at the end the following new subsection:

"(c) UNIVERSITY RESEARCH INSTITUTES.—

"(1) INSTITUTE FOR NATIONAL SURFACE TRANSPORTATION POLICY STUDIES.—The Secretary shall make grants under this section to San Jose State University to establish and operate an institute for national surface transportation policy studies. Such institute shall—

"(A) include both male and female students of diverse socioeconomic and ethnic backgrounds who are seeking careers in the development and operations of surface transportation programs; and

"(B) conduct research and development activities to analyze ways of improving aspects of the development and operation of the Nation's surface transportation programs.

"(2) INFRASTRUCTURE TECHNOLOGY INSTITUTE.—The Secretary shall make grants under this section to Northwestern University to establish and operate an institute for the study of techniques to evaluate and monitor infrastructure conditions, improve information systems for infrastructure construction and management, and study advanced materials and automated processes for construction and rehabilitation of public works facilities.

"(3) URBAN TRANSIT INSTITUTE.—The Secretary shall make grants under this section to North Carolina A. and T. State University

through the Institute for Transportation Research and Education and the University of South Florida and a consortium of Florida A and M, Florida State University, and Florida International University to establish and operate an interdisciplinary institute for the study and dissemination of techniques to address the diverse transportation problems of urban areas experiencing significant and rapid growth.

"(4) INSTITUTE FOR INTELLIGENT VEHICLE-HIGHWAY CONCEPTS.—The Secretary shall make grants under this section to the University of Minnesota, Center for Transportation Studies, to establish and operate a national institute for intelligent vehicle-highway concepts. Such institute shall conduct research and recommend development activities which focus on methods to increase roadway capacity, enhance safety, and reduce negative environmental effects of transportation facilities through the use of intelligent vehicle-highway systems technologies.

"(5) INSTITUTE FOR TRANSPORTATION RESEARCH AND EDUCATION.—The Secretary shall make grants under this section to the University of North Carolina to conduct research and development and to direct technology transfer and training for State and local transportation agencies to improve the overall surface transportation infrastructure.

"(6) FUNDING.—There is authorized to be appropriated out of the Highway Trust Fund, other than the Mass Transit Account, for each of fiscal years 1992, 1993, 1994, 1995, 1996, and 1997 $250,000 per fiscal year to carry out paragraph (1), $3,000,000 per fiscal year to carry out paragraph (2), $1,000,000 per fiscal year to carry out paragraph (3), $1,000,000 per fiscal year to carry out paragraph (4), and $1,000,000 per fiscal year to carry out paragraph (5).

"(7) APPLICABILITY OF TITLE 23.—Funds authorized by this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code.".

PART B—INTELLIGENT VEHICLE-HIGHWAY SYSTEMS ACT

SEC. 6051. SHORT TITLE.

This part may be cited as the "Intelligent Vehicle-Highway Systems Act of 1991".

SEC. 6052. ESTABLISHMENT AND SCOPE OF PROGRAM.

(a) ESTABLISHMENT.—Subject to the provisions of this part, the Secretary shall conduct a program to research, develop, and operationally test intelligent vehicle-highway systems and promote implementation of such systems as a component of the Nation's surface transportation systems.

(b) GOALS.—The goals of the program to be carried out under this part shall include, but not be limited to—

(1) the widespread implementation of intelligent vehicle-highway systems to enhance the capacity, efficiency, and safety of the Federal-aid highway system and to serve as an alternative to additional physical capacity of the Federal-aid highway system;

(2) the enhancement, through more efficient use of the Federal-aid highway system, of the efforts of the several States to attain air quality goals established pursuant to the Clean Air Act;

(3) the enhancement of safe and efficient operation of the Nation's highway systems with a particular emphasis on aspects of systems that will increase safety and identification of aspects of the system that may degrade safety;

(4) the development and promotion of intelligent vehicle-highway systems and an intelligent vehicle-highway systems industry in the United States, using authority provided under section 307 of title 23, United States Code;

(5) the reduction of societal, economic, and environmental costs associated with traffic congestion;

(6) the enhancement of United States industrial and economic competitiveness and productivity by improving the free flow of people and commerce and by establishing a significant United States presence in an emerging field of technology;

(7) the development of a technology base for intelligent vehicle-highway systems and the establishment of the capability to perform demonstration experiments, using existing national laboratory capabilities where appropriate; and

(8) the facilitation of the transfer of transportation technology from national laboratories to the private sector.

SEC. 6053. GENERAL AUTHORITIES AND REQUIREMENTS.

(a) COOPERATION.—In carrying out the program under this part, the Secretary shall foster use of the program as a key component of the Nation's surface transportation systems and strive to transfer federally owned or patented technology to State and local governments and the United States private sector. As appropriate, in carrying out the program under this part, the Secretary shall consult with the Secretary of Commerce, the Administrator of the Environmental Protection Agency, the Director of the National Science Foundation, and the heads of other interested Federal departments and agencies and shall maximize the involvement of the United States private sector, colleges and universities, and State and local governments in all aspects of the program, including design, conduct (including operations and maintenance), evaluation, and financial or in-kind participation.

(b) STANDARDS.—The Secretary shall develop and implement standards and protocols to promote the widespread use and evaluation of intelligent vehicle-highway systems technology as a component of the Nation's surface transportation systems. To the extent practicable, such standards and protocols shall promote compatibility among intelligent vehicle-highway systems technologies implemented throughout the States. In carrying out this subsection, the Secretary may use the services of such existing standards-setting organizations as the Secretary determines appropriate.

(c) EVALUATION GUIDELINES.—The Secretary shall establish guidelines and requirements for the evaluation of field and related operational tests carried out pursuant to section 6055. Any survey, questionnaire, or interview which the Secretary considers necessary to carry out the evaluation of such tests shall not be subject to the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

(d) INFORMATION CLEARINGHOUSE.—

(1) ESTABLISHMENT.—The Secretary shall establish and maintain a repository for technical and safety data collected as a result of federally sponsored projects carried out pursuant to this part and shall make, upon request, such information (except for proprietary information and data) readily available to all users of the repository at an appropriate cost.

(2) DELEGATION OF AUTHORITY.—The Secretary may delegate the responsibility of the Secretary under this subsection, with continuing oversight by the Secretary, to an appropriate entity not within the Department of Transportation. If the Secretary delegates such responsibility, the entity to which such responsibility is delegated shall be eligible for Federal assistance under this part.

(e) ADVISORY COMMITTEES.—The Secretary may utilize one or more advisory committees in carrying out this part. Any advisory committee so utilized shall be subject to the Federal Advisory Committee Act. Funding provided for any such committee shall be available from moneys appropriated for advisory committees as specified in relevant appropriations Acts and from funds allocated for research, development, and implementation activities in connection with the intelligent vehicle-highway systems program under this part.

SEC. 6054. STRATEGIC PLAN, IMPLEMENTATION, AND REPORT TO CONGRESS.

(a) STRATEGIC PLAN.—

(1) DEVELOPMENT AND IMPLEMENTATION.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall develop, submit to Congress, and commence implementation of a plan for the intelligent vehicle-highway systems program.

(2) SCOPE.—The plan shall—

(A) specify the goals, objectives, and milestones of the intelligent vehicle-highway program and how specific projects relate to the goals, objectives, and milestones, including consideration of the 5-, 10-, and 20-year timeframes for the goals and objectives;

(B) detail the status of and challenges and nontechnical constraints facing the program;

(C) establish a course of action necessary to achieve the program's goals and objectives;

(D) provide for the development of standards and protocols to promote and ensure compatibility in the implementation of intelligent vehicle-highway systems technologies; and

(E) provide for the accelerated use of advanced technology to reduce traffic congestion along heavily populated and traveled corridors.

(b) INTELLIGENT VEHICLE HIGHWAY SYSTEMS.—The Secretary shall develop an automated highway and vehicle prototype from which future fully automated intelligent vehicle-highway systems can be developed. Such development shall include research in human factors to ensure the success of the man-machine relationship. The goal of this program is to have the first fully automated roadway or an automated test track in operation by 1997. This system shall accommodate installation of equipment in new and existing motor vehicles.

(c) IMPLEMENTATION REPORTS.—

(1) IN GENERAL.—Not later than 2 years after the date of the enactment of this Act, and annually thereafter, the Secretary shall submit to Congress a report on implementation of the plan developed under subsection (a).

(2) SCOPE OF IMPLEMENTATION REPORTS.—In preparing reports under this subsection, the Secretary shall—

(A) analyze the possible and actual accomplishments of intelligent vehicle-highway systems projects in achieving congestion, safety, environmental, and energy conservation goals and objectives of the program;

(B) specify cost-sharing arrangements made, including the scope and nature of Federal investment, in any research, development, or implementation project under the program;

(C) assess nontechnical problems and constraints identified as a result of each such implementation project; and

(D) include, if appropriate, any recommendations of the Secretary for legislation or modification to the plan developed under subsection (a).

(d) NONTECHNICAL CONSTRAINTS.—

(1) REPORT TO CONGRESS.—In cooperation with the Attorney General and the Secretary of Commerce, the Secretary shall prepare and submit, not later than 2 years after the date of the enactment of this Act, a report to Congress addressing the nontechnical constraints and barriers to implementation of the intelligent vehicle-highway systems program.

(2) SCOPE OF REPORT.—The report shall—

(A) address antitrust, privacy, educational and staffing needs, patent, liability, standards, and other constraints, barriers, or concerns relating to the intelligent vehicle-highway systems program;

(B) recommend legislative and administrative actions necessary to further the program; and

(C) address ways to further promote industry and State and local government involvement in the program.

(3) UPDATE OF REPORT.—Not later than 5 years after the date of the enactment of this Act, the Secretary shall prepare and submit to Congress an update of the report under this subsection.

SEC. 6055. TECHNICAL, PLANNING, AND OPERATIONAL TESTING PROJECT ASSISTANCE.

(a) TECHNICAL ASSISTANCE AND INFORMATION.—The Secretary may provide planning and technical assistance and information to State and local governments seeking to use and evaluate intelligent vehicle-highway systems technologies. In doing so, the Secretary shall assist State and local officials in developing plans for areawide traffic management control centers, necessary laws pertaining to establishment and implementation of such systems, and plans for infrastructure for such systems and in conducting other activities necessary for the intelligent vehicle-highway systems program.

(b) PLANNING GRANTS.—The Secretary may make grants to State and local governments for feasibility and planning studies for development and implementation of intelligent vehicle-highway systems. Such grants shall be made at such time, in such amounts, and subject to such conditions as the Secretary may determine.

(c) ELIGIBILITY OF CERTAIN TRAFFIC MANAGEMENT ENTITIES.—Any interagency traffic and incident management entity, including independent public authorities or agencies, contracted by a State department of transportation for implementation of a traffic management system for a designated corridor is eligible to receive Federal assistance under this part through the State department of transportation.

(d) OPERATIONAL TESTING PROJECTS.—The Secretary may make grants to non-Federal entities, including State and local governments, universities, and other persons, for operational tests relating to intelligent vehicle-highway systems. In deciding which projects to fund under this subsection, the Secretary shall—

(1) give the highest priority to those projects that—

(A) will contribute to the goals and objectives specified in plan developed under section 6054; and

(B) will minimize the relative percentage of Federal contributions (excluding funds apportioned under section 104 of title 23, United States Code) to total project costs;

(2) seek to fund operational tests that advance the current state of knowledge and, where appropriate, build on successes achieved in previously funded work involving such systems; and

(3) require that operational tests utilizing Federal funds under this part have a written evaluation of the intelligent vehicle-highway systems technologies investigated and of the results of the investigation which is consistent with the guidelines developed pursuant to section 6053(c).

(e) AUTHORITY TO USE FUNDS.—Each State and eligible local entity is authorized to use funds provided under this part for implementation purposes in connection with the intelligent vehicle-highway systems program.

SEC. 6056. APPLICATIONS OF TECHNOLOGY.

(a) IVHS CORRIDORS PROGRAM.—The Secretary shall designate transportation corridors in which application of intelligent vehicle-highway systems will have particular benefit and, through financial and technical assistance under this part, shall assist in the development and implementation of such systems.

(b) PRIORITIES.—In providing funding for corridors under this section, the Secretary shall allocate not less than 50 percent of the funds made available to carry out this section to eligible State or local entities for application of intelligent vehicle-highway systems in not less than 3 but not more than 10 corridors with the following characteristics:

(1) Traffic density (as a measurement of vehicle miles traveled per highway mile) at least 1.5 times the national average for such class of highway.

(2) Severe or extreme nonattainment for ozone under the Clean Air Act, as determined by the Administrator of the Environmental Protection Agency.

(3) A variety of types of transportation facilities, such as highways, bridges, tunnels, and toll and nontoll facilities.

(4) Inability to significantly expand capacity of existing surface transportation facilities.

(5) A significant mix of passenger, transit, and commercial motor carrier traffic.

(6) Complexity of traffic patterns.

(7) Potential contribution to the implementation of the Secretary's plan developed under section 6054.

(c) OTHER CORRIDORS AND AREAS.—After the allocation pursuant to subsection (b), the balance of funds made available to carry out this section shall be allocated to eligible State and local entities for application of intelligent vehicle-highway systems in corridors and areas where the application of such systems and associated technologies will make a potential contribution to the implementation of the Secretary's plan for the intelligent vehicle-highway systems program under section 6054 and demonstrate benefits related to any of the following:

(1) Improved operational efficiency.

(2) Reduced regulatory burden.

(3) Improved commercial productivity.

(4) Improved safety.

(5) Enhanced motorist and traveler performance.

Such corridors and areas may be in both urban and rural areas and may be interstate and intercity corridors. Urban corridors shall have a significant number of the characteristics set forth in subsection (b).

SEC. 6057. COMMERCIAL MOTOR VEHICLE SAFETY TECHNOLOGY.

(a) STUDY.—The Secretary shall conduct a study to evaluate technology which is designed for installation on a commercial motor vehicle to provide the individual operating the vehicle with a warning if a turn, lane change, or other intended movement of the vehicle by the operator will place the vehicle in the path of an adjacent object or vehicle.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report containing findings and recommendations concerning the study conducted under this section.

SEC. 6058. FUNDING.

(a) IVHS CORRIDORS PROGRAM.—There is authorized to be appropriated to the Secretary for carrying out section 6056, out of the Highway Trust Fund (other than the Mass Transit Account), $71,000,000 for fiscal year 1992 and $86,000,000 per fiscal year for each of fiscal years 1993 through 1997. In addition to amounts made available by subsection (b), any amounts authorized by this subsection and not allocated by the Secretary for carrying out section 6056 for fiscal years 1992 and 1993 may be used by the Secretary for carrying out other activities authorized under this part.

(b) OTHER IVHS ACTIVITIES.—There is authorized to be appropriated to the Secretary for carrying out this part (other than section 6056), out of the Highway Trust Fund (other than the Mass Transit Account), $23,000,000 for fiscal year 1992 and $27,000,000 per fiscal year for each of fiscal years 1993 through 1997.

(c) RESERVATION OF FUNDS.—Of the funds made available pursuant to subsection (a), not less than 5 percent shall only be available for innovative, high-risk operational or analytical tests that do not attract substantial non-Federal commitments but are determined by the Secretary as having significant potential to help accomplish long-term goals established by the plan developed pursuant to section 6054.

(d) FEDERAL SHARE PAYABLE.—The Federal share payable on account of activities carried out under this part shall not exceed 80 percent of the cost of such activities. The Secretary may waive application of the preceding sentence for projects undertaken pursuant to subsection (c) of this section. The Secretary shall seek maximum private participation in the funding of such activities.

(e) APPLICABILITY OF TITLE 23.—Funds authorized by this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of any activity under this section shall be determined in accordance with this section and such funds shall remain available until expended. Such funds shall be subject to the obligation limitation imposed by section 102 of this Act.

SEC. 6059. DEFINITIONS.

For the purposes of this part, the following definitions apply:

(1) IVHS.—The term "intelligent vehicle-highway systems" means the development or application of electronics, communications, or information processing (including advanced traffic management systems, commercial vehicle operations, advanced traveler information systems, commercial and advanced vehicle control systems, advanced public transportation systems, satellite vehicle tracking systems, and advanced vehicle communications systems) used singly or in combination to improve the efficiency and safety of surface transportation systems.

(2) CORRIDOR.—The term "corridor" means any major transportation route which includes parallel limited access highways, major arterials, or transit lines; and, with regard to traffic incident management, such term may include more distant transportation routes that can serve as viable options to each other in the event of traffic incidents.

(3) STATE.—The term "State" has the meaning such term has under section 101 of title 23, United States Code.

PART C—ADVANCED TRANSPORTATION SYSTEMS AND ELECTRIC VEHICLES

SEC. 6071. ADVANCED TRANSPORTATION SYSTEM AND ELECTRIC VEHICLE RESEARCH AND DEVELOPMENT CONSORTIA.

(a) GENERAL AUTHORITY.—

(1) PROPOSAL.—Not later than 3 months after the date of the enactment of this Act, an eligible consortium may submit to the Secretary a proposal for receiving grants made available under this section for electric vehicle and advanced transportation research and development.

(2) CONTENTS OF PROPOSAL.—A proposal submitted under paragraph (1) shall include—

(A) a description of the eligible consortium making the proposal;

(B) a description of the type of additional members targeted for inclusion in the consortium;

(C) a description of the eligible consortium's ability to contribute significantly to the development of vehicles, transportation systems, or related subsystems and equipment, that are competitive in the commercial market and its ability to enable serial production processes;

(D) a description of the eligible consortium's financing scheme and business plan, including any projected contributions of State and local governments and other parties;

(E) assurances, by letter of credit or other acceptable means, that the eligible consortium is able to meet the requirement contained in subsection (b)(6); and

(F) any other information the Secretary requires in order to make selections under this section.

(3) GRANT AUTHORITY.—Except as provided in paragraph (4), not later than 6 months after the date of the enactment of this Act, the Secretary shall award grants to not less than 3 eligible consortia. No one eligible consortium may receive more than one-third of the funds made available for grants under this section.

(4) EXTENSION.—If fewer than 3 complete applications from eligible consortia have been received in time to permit the awarding of grants under paragraph (3), the Secretary may extend the deadlines for the submission of applications and the awarding of grants.

(b) ELIGIBILITY CRITERIA.—To be qualified to receive assistance under this section, an eligible consortium shall—

(1) be organized for the purpose of designing and developing electric vehicles and advanced transportation systems, or related systems or equipment, or for the purpose of enabling serial production processes;

(2) facilitate the participation in the consortium of small- and medium-sized businesses in conjunction with large established manufacturers, as appropriate;

(3) to the extent practicable, include participation in the consortium of defense and aerospace suppliers and manufacturers;

(4) to the extent practicable, include participation in the consortium of entities located in areas designated as nonattainment areas under the Clean Air Act;

(5) be designed to use State and Federal funding to attract private capital in the form of grants or investments to further the purposes stated in paragraph (1); and

(6) ensure that at least 50 percent of the costs of the consortium, subject to the requirements of subsection (a)(3), be provided by non-Federal sources.

(c) SERVICES.—Services to be performed by an eligible consortium using amounts from grants made available under this part shall include—

(1) obtaining funding for the acquisition of plant sites, conversion of plant facilities, and acquisition of equipment for the development or manufacture of advanced transportation systems or electric vehicles, or other related systems or equipment, especially for environmentally benign and cost-effective manufacturing processes;

(2) obtaining low-cost, long-term loans or investments for the purposes described in paragraph (1);

(3) recruiting and training individuals for electric vehicle- and transit-related technical design, manufacture, conversion, and maintenance;

(4) conducting marketing surveys for services provided by the consortium;

(5) creating electronic access to an inventory of industry suppliers and serving as a clearinghouse for such information;

(6) consulting with respect to applicable or proposed Federal motor vehicle safety standards;

(7) creating access to computer architecture needed to simulate crash testing and to design internal subsystems and related infrastructure for electric vehicles and advanced transportation systems to meet applicable standards; and

(8) creating access to computer protocols that are compatible with larger manufacturers' systems to enable small- and medium-sized suppliers to compete for contracts for advanced transportation systems and electric vehicles and other related systems and equipment.

SEC. 6072. DEFINITIONS.

For purposes of this part, the following definitions apply:

(1) ADVANCED TRANSPORTATION SYSTEM.—The term "advanced transportation system" means a system of mass transportation, such as an electric trolley bus or alternative fuels bus, which employs advanced technology in order to function cleanly and efficiently;

(2) ELECTRIC VEHICLE.—The term "electric vehicle" means a passenger vehicle, such as a van, primarily powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other sources of electrical current, and that may include a nonelectrical source of supplemental power; and

(3) ELIGIBLE CONSORTIUM.—The term "eligible consortium" means a consortium of—

(A) businesses incorporated in the United States;

(B) public or private educational or research organizations located in the United States;

(C) entities of State or local governments in the United States; or

(D) Federal laboratories.

SEC. 6073. FUNDING.

Funds shall be made available to carry out this part as provided in section 21(b)(3)(E) of the Federal Transit Act.

TITLE VII—AIR TRANSPORTATION

SEC. 7001. SHORT TITLE.

This title may be cited as the "Metropolitan Washington Airports Act Amendments of 1991".

SEC. 7002. BOARD OF REVIEW.

(a) COMPOSITION.—Section 6007(f)(1) of the Metropolitan Washington Airports Act of 1986 (49 U.S.C. App. 2456(f)(1)) is amended to read as follows:

"(1) COMPOSITION.—The board of directors shall be subject to review of its actions and to requests, in accordance with this subsection, by a Board of Review of the Airports Authority. The Board of Review shall be established by the board of directors to represent the interests of users of the Metropolitan Washington Airports and shall be composed of 9 members appointed by the board of directors as follows:

"(A) 4 individuals from a list provided by the Speaker of the House of Representatives.

"(B) 4 individuals from a list provided by the President pro tempore of the Senate.

"(C) 1 individual chosen alternately from a list provided by the Speaker of the House of Representatives and from a list provided by the President pro tempore of the Senate.

In addition to the recommendations on a list provided under this paragraph, the board of directors may request additional recommendations.".

(b) TERMS AND QUALIFICATIONS.—Section 6007(f)(2) of such Act is amended to read as follows:

"(2) TERMS, VACANCIES, AND QUALIFICATIONS.—

"(A) TERMS.—Members of the Board of Review appointed under paragraphs (1)(A) and (1)(B) shall be appointed for terms of 6 years. Members of the Board of Review appointed under paragraph (1)(C) shall be appointed for terms of 2 years. A member may serve after the expiration of that member's term until a successor has taken office.

"(B) VACANCIES.—A vacancy in the Board of Review shall be filled in the manner in which the original appointment was made. Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of such term.

"(C) QUALIFICATIONS.—Members of the Board of Review shall be individuals who have experience in aviation matters and in addressing the needs of airport users and who themselves are frequent users of the Metropolitan Washington Airports. A member of the Board of Review shall be a registered voter of a State other than Maryland, Virginia, or the District of Columbia.

"(D) EFFECT OF MORE THAN 4 VACANCIES.—At any time that the Board of Review established under this subsection has more than 4 vacancies and lists have been provided for appointments to fill such vacancies, the Airports Authority shall have no authority to perform any of the actions that are required by paragraph (4) to be submitted to the Board of Review.".

(c) PROCEDURES.—Section 6007(f)(3) of such Act is amended by inserting "and for the selection of a Chairman" after "proxy voting".

(d) REVIEW PROCEDURE.—

(1) ACTIONS SUBJECT TO REVIEW.—Section 6007(f)(4)(B) of such Act is amended—

(A) by inserting "and any amendments thereto" before the semicolon at the end of clause (i);

(B) by inserting "and an annual plan for issuance of bonds and any amendments to such plan" before the semicolon at the end of clause (ii);

(C) in clause (iv) by striking ", including any proposal for land acquisition; and" and inserting a semicolon;

(D) by striking the period at the end of clause (v) and inserting a semicolon; and

(E) by adding at the end the following new clauses:

"(vi) the award of a contract (other than a contract in connection with the issuance or sale of bonds which is executed within 30 days of the date of issuance of the bonds) which has been approved by the board of directors of the Airports Authority;

"(vii) any action of the board of directors approving a terminal design or airport layout or modification of such design or layout; and

"(viii) the authorization for the acquisition or disposal of land and the grant of a long-term easement.".

(2) RECOMMENDATIONS.—Section 6007(f)(4) of such Act is amended by striking subparagraphs (C) and (D) and inserting the following new subparagraphs:

"(C) RECOMMENDATIONS.—The Board of Review may make to the board of directors recommendations regarding an action within either (i) 30 calendar days of its submission under this paragraph; or (ii) 10 calendar days (excluding Saturdays, Sundays, and holidays, and any day on which neither House of Congress is in session because of an adjournment sine die, a recess of more than 3 days, or an adjournment of more than 3 days) of its submission under this paragraph; whichever period is longer. Such recommendations may include a recommendation that the action not take effect. If the Board of Review does not make a recommendation in the applicable review period under this subparagraph or if at any time in such review period the Board of Review decides that it will not make a recommendation on an action, the action may take effect.

"(D) EFFECT OF RECOMMENDATION.—

"(i) RESPONSE.—An action with respect to which the Board of Review has made a recommendation in accordance with subparagraph (C) may only take effect if the board of directors adopts such recommendation or if the board of directors has evaluated and responded, in writing, to the Board of Review with respect to such recommendation and transmits such action, evaluation, and response to Congress in accordance with clause (ii) and the 60-calendar day period described in clause (ii) expires.

"(ii) NONADOPTION OF RECOMMENDATION.—If the board of directors does not adopt a recommendation of the Board of Review regarding an action, the board of directors shall transmit to the Speaker of the House of Representatives and the President of the Senate a detailed description of the action, the recommendation of the Board of Review regarding the action, and the evaluation and response of the board of directors to such recommendation, and the action

may not take effect until the expiration of 60 calendar days (excluding Saturdays, Sundays, and holidays, and any day on which neither House of Congress is in session because of an adjournment sine die, a recess of more than 3 days, or an adjournment of more than 3 days) beginning on the day on which the board of directors makes such transmission to the Speaker of the House of Representatives and the President of the Senate.

"(E) LIMITATION ON EXPENDITURES.—Unless an annual budget for a fiscal year has taken effect in accordance with this paragraph, the Airports Authority may not obligate or expend any money in such fiscal year, except for (i) debt service on previously authorized obligations, and (ii) obligations and expenditures for previously authorized capital expenditures and routine operating expenses.".

(3) CONFORMING AMENDMENT.—Section 6007(f)(4) of such Act is further amended by striking "DISAPPROVAL PROCEDURE.—" and inserting "REVIEW PROCEDURE.—".

(e) CONGRESSIONAL DISAPPROVAL PROCEDURE.—Section 6007(f) of such Act is amended by redesignating paragraphs (5), (6), (7), and (8) as paragraphs (6), (7), (8), and (9), respectively, and by inserting after paragraph (4) the following new paragraph:

"(5) CONGRESSIONAL DISAPPROVAL PROCEDURE.—

"(A) IN GENERAL.—This paragraph is enacted by Congress—

"(i) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such these provisions are deemed a part of the rule of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by this paragraph; and they supersede other rules only to the extent that they are inconsistent therewith; and

"(ii) with full recognition of the constitutional right of either House to change the rule (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

"(B) RESOLUTION DEFINED.—For the purpose of this paragraph, the term 'resolution' means only a joint resolution, relating to an action of the board of directors transmitted to Congress in accordance with paragraph (4)(D)(ii), the matter after the resolving clause of which is as follows: 'That the Congress disapproves of the action of the board of directors of the Metropolitan Washington Airports Authority described as follows: .', the blank space therein being appropriately filled. Such term does not include a resolution which specifies more than one action.

"(C) REFERRAL.—A resolution with respect to a board of director's action shall be referred to the Committee on Public Works and Transportation of the House of Representatives, or the Committee on Commerce, Science and Technology of the Senate, by the Speaker of the House of Representatives or the President of the Senate, as the case may be.

"(D) MOTION TO DISCHARGE.—If the committee to which a resolution has been referred has not reported it at the end of 20 calendar days after its introduction, it is in order to move to discharge the committee from further consideration of that joint resolution or any other resolution with respect to the board of directors action which has been referred to the committee.

"(E) RULES WITH RESPECT TO MOTION.—A motion to discharge may be made only by an individual favoring the resolution, is highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same action), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to. Motions to postpone shall be decided without debate.

"(F) EFFECT OF MOTION.—If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same action.

"(G) SENATE PROCEDURE.—

"(i) MOTION TO PROCEED.—When the committee of the Senate has reported, or has been discharged from further consideration of, a resolution, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(ii) LIMITATION ON DEBATE.—Debate in the Senate on the resolution shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

"(iii) NO DEBATE ON CERTAIN MOTIONS.—In the Senate, motions to postpone made with respect to the consideration of a resolution and motions to proceed to the consideration of other business shall be decided without debate.

"(iv) APPEALS.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to a resolution shall be decided without debate.

"(H) EFFECT OF ADOPTION OF RESOLUTION BY OTHER HOUSE.—If, before the passage by 1 House of a joint resolution of that House, that House receives from the other House a joint resolution, then the following procedures shall apply:

"(i) The joint resolution of the other House shall not be referred to a committee and may not be considered in the House receiving it, except in the case of final passage as provided in clause (ii)(I).

"(ii) With respect to a joint resolution described in clause (i) of the House receiving the joint resolution—

"(I) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

"(II) the vote on final passage shall be on the joint resolution of the other House.

Upon disposition of the joint resolution received from the other House, it shall no longer be in order to consider the joint resolution that originated in the receiving House.".

(f) CONFLICTS OF INTEREST; REMOVAL FOR CAUSE.—Section 6007(f) of such Act is further amended by adding at the end the following new paragraphs:

"(10) CONFLICTS OF INTEREST.—In every contract or agreement to be made or entered into, or accepted by or on behalf of the Airports Authority, there shall be inserted an express condition that no member of a Board of Review shall be admitted to any share or part of such contract or agreement, or to any benefit to arise thereupon.

"(11) REMOVAL.—A member of the Board of Review shall be subject to removal only for cause by a two-thirds vote of the board of directors.".

(g) LIMITATION ON AUTHORITY.—Section 6007(h) of such Act is amended by inserting "thereafter" before "shall have no".

(h) REVIEW OF CONTRACTS.—Section 6007 of such Act is further amended by adding at the end the following new subsection:

"(i) REVIEW OF CONTRACTING PROCEDURES.—The Comptroller General shall review contracts of the Airports Authority to determine whether such contracts were awarded by procedures which follow sound Government contracting principles and are in compliance with section 6005(c)(4) of this title. The Comptroller General shall submit periodic reports of the conclusions reached as a result of such review to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.".

SEC. 7003. AMENDMENT OF LEASE.

The Secretary of Transportation may amend the lease entered into with the Metropolitan Washington Airports Authority under section 6005(a) of the Metropolitan Washington Airports Authority Act of 1986 to secure the Airports Authority's consent to the conditions relating to the new Board of Review to be established pursuant to the amendments made by this Act.

SEC. 7004. TERMINATION OF EXISTING BOARD OF REVIEW AND ESTABLISHMENT OF NEW BOARD OF REVIEW.

(a) TERMINATION OF EXISTING BOARD AND ESTABLISHMENT OF NEW BOARD.—Except as provided in subsection (b), the Board of Review of the Metropolitan Washington Airports Authority in existence on the day before the date of the enactment of this Act shall terminate on such date of enactment and the board of directors of such Airports Authority shall establish a new Board of Review in accordance with the Metropolitan Washington Airports Act of 1986, as amended by this Act.

(b) PROTECTION OF CERTAIN ACTIONS.—The provisions of section 6007(h) of the Metropolitan Washington Airports Act (49 U.S.C. App. 2456(h)) in effect on the day before the date of the enactment of this Act shall apply only to those actions specified in section 6007(f)(4)(B) of such Act that would have been submitted to the Board of Review of the Metropolitan Washington Airports Authority on or after June 17, 1991, the date on which the Board of Review of the Airports Authority was declared unable to carry out certain of its functions pursuant to judicial order. Actions taken by the Airports Authority and submitted to the Board of Review pursuant to section 6007(f)(4) of such Act prior to June 17, 1991, and not disapproved, shall remain in effect and shall not be set aside solely by reason of a judicial order invalidating certain functions of the Board of Review.

(c) LIMITATION ON AUTHORITY OF AIRPORTS AUTHORITY.—The Metropolitan Washington Airports Authority shall have no authority to perform any of the actions that are required by section 6007(f)(4) of the Metropolitan Washington Airports Act, as amended by this Act, to be submitted to the Board of Review after the date of the enactment of this Act until the board of directors of the Airports Authority establishes a new Board of Review in accordance with such Act and appoints the 9 members of the Board of Review.

TITLE VIII—EXTENSION OF HIGHWAY-RELATED TAXES AND TRUST FUND

SEC. 8001. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This title may be cited as the "Surface Transportation Revenue Act of 1991".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 8002. EXTENSION OF HIGHWAY-RELATED TAXES AND TRUST FUND.

(a) EXTENSION OF TAXES.—The following provisions are each amended by striking "1995" each place it appears and inserting "1999":

(1) Section 4051(c) (relating to tax on heavy trucks and trailers sold at retail).

(2) Section 4071(d) (relating to tax on tires and tread rubber).

(3) Section 4081(d)(1) (relating to Highway Trust Fund financing rate on gasoline).

(4) Section 4091(b)(6)(A) (relating to Highway Trust Fund financing rate on diesel fuel).

(5) Sections 4481(c), 4482(c)(4), and 4482(d) (relating to highway use tax).

(b) EXTENSION OF EXEMPTIONS.—The following provisions are each amended by striking "1995" each place it appears and inserting "1999":

(1) Section 4041(f)(3) (relating to exemptions for farm use).

(2) Section 4041(g) (relating to other exemptions).

(3) Section 4221(a) (relating to certain tax-free sales).

(4) Section 4483(g) (relating to termination of exemptions for highway use tax).

(5) Section 6420(h) (relating to gasoline used on farms).

(6) Section 6421(i) (relating to gasoline used for certain nonhighway purposes, etc.).

(7) Section 6427(g)(5) (relating to advance repayment of increased diesel fuel tax).

(8) Section 6427(o) (relating to fuels not used for taxable purposes).

(c) OTHER PROVISIONS.—

(1) FLOOR STOCKS REFUNDS.—Section 6412(a)(1) (relating to floor stocks refunds) is amended—

(A) by striking "1995" each place it appears and inserting "1999", and

(B) by striking "1996" each place it appears and inserting "2000".

(2) INSTALLMENT PAYMENTS OF HIGHWAY USE TAX.—Section 6156(e)(2) (relating to installment payments of highway use tax on use of highway motor vehicles) is amended by striking "1995" and inserting "1999".

(d) EXTENSION OF DEPOSITS INTO, AND CERTAIN TRANSFERS FROM, TRUST FUND.—

(1) IN GENERAL.—Subsection (b), and paragraphs (2) and (3) of subsection (c), of section 9503 (relating to the Highway Trust Fund) are each amended—

(A) by striking "1995" each place it appears and inserting "1999", and

(B) by striking "1996" each place it appears and inserting "2000".

(2) MOTORBOAT AND SMALL-ENGINE FUEL TAX TRANSFERS.—

(A) IN GENERAL.—Paragraphs (4)(A)(i) and (5)(A) of section 9503(c) are each amended by striking "1995" and inserting "1997".

(B) CONFORMING AMENDMENTS TO LAND AND WATER CONSERVATION FUND.—Section 201(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–11) is amended—

(i) by striking "1995" and inserting "1997", and

(ii) by striking "1996" each place it appears and inserting "1998".

(C) EXTENSION OF EXPENDITURES FROM BOAT SAFETY ACCOUNT.—Subsection (c) of section 9504 is amended by striking "1994" and inserting "1998".

(e) EXTENSION AND EXPANSION OF EXPENDITURES FROM TRUST FUND.—

(1) EXPENDITURES.—Subsections (c)(1) and (e)(3) of section 9503 are each amended by striking "1993" and inserting "1997".

(2) PURPOSES.—Paragraph (1) of section 9503(c) is amended by striking subparagraph (D) and inserting the following:

"(D) authorized to be paid out of the Highway Trust Fund under the Intermodal Surface Transportation Efficiency Act of 1991.

In determining the authorizations under the Acts referred to in the preceding subparagraphs, such Acts shall be applied as in effect on the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991.".

(f) EXPANSION OF MASS TRANSIT ACCOUNT EXPENDITURE PURPOSES.—Paragraph (3) of section 9503(e) is amended—

(1) by inserting "or capital-related" after "capital" the first place it appears, and

(2) by striking "in accordance with section 21(a)(2) of the Urban Mass Transportation Act of 1964." and inserting "in accordance with—

"(A) paragraph (1) or (3) of subsection (a), or paragraph (1) or (3) of subsection (b), of section 21 of the Federal Transit Act, or

"(B) the Intermodal Surface Transportation Efficiency Act of 1991,

as such Acts are in effect on the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991.".

(g) USE OF REVENUES FOR ENFORCEMENT OF HIGHWAY TRUST FUND TAXES.—The Secretary of Transportation shall not impose any condition on the use of funds transferred under section 1040 of this Act to the Internal Revenue Service. The Secretary of the Treasury shall, at least 60 days before the beginning of each fiscal year (after fiscal year 1992) for which such funds are to be transferred, submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate detailing the increased enforcement activities to be financed with such funds with respect to taxes referred to in section 9503(b)(1) of the Internal Revenue Code of 1986.

(h) TAX EVASION REPORT.—The Secretary of Transportation shall also submit each report prepared pursuant to section 1040(d) of this Act to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate not later than the applicable date specified therein.

(i) EXPENDITURES FROM SPORT FISH RESTORATION ACCOUNT.—Subparagraph (B) of section 9504(b)(2) is amended to read as follows:

"(B) to carry out the purposes of the Coastal Wetlands Planning, Protection and Restoration Act (as in effect on November 29, 1990).".

SEC. 8003. NATIONAL RECREATIONAL TRAILS TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 98 (relating to trust fund code) is amended by adding at the end thereof the following new section:

"SEC. 9511. NATIONAL RECREATIONAL TRAILS TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the "National Recreational Trails Trust Fund", consisting of such amounts as may be credited or paid to such Trust Fund as provided in this section, section 9503(c)(6), or section 9602(b).

"(b) CREDITING OF CERTAIN UNEXPENDED FUNDS.—There shall be credited to the National Recreational Trails Trust Fund amounts returned to such Trust Fund under section 1302(e)(8) of the Intermodal Surface Transportation Efficiency Act of 1991.

"(c) EXPENDITURES FROM TRUST FUND.—Amounts in the National Recreational Trails Trust Fund shall be available, as provided in appropriation Acts, for making expenditures before October 1, 1997, to carry out the purposes of sections 1302 and 1303 of the Intermodal Surface Transportation Efficiency Act of 1991, as in effect on the date of the enactment of such Act.".

(b) CERTAIN HIGHWAY TRUST FUND RECEIPTS PAID INTO NATIONAL RECREATIONAL TRAILS TRUST FUND.—Subsection (c) of section 9503 is amended by adding at the end thereof the following new paragraph:

"(6) TRANSFERS FROM TRUST FUND OF CERTAIN RECREATIONAL FUEL TAXES, ETC.—

"(A) IN GENERAL.—The Secretary shall pay from time to time from the Highway Trust Fund into the National Recreational Trails Trust Fund amounts (as determined by him) equivalent to 0.3 percent (as adjusted under subparagraph (C)) of the total Highway Trust Fund receipts for the period for which the payment is made.

"(B) LIMITATION.—The amount paid into the National Recreational Trails Trust Fund under this paragraph during any fiscal year shall not exceed the amount obligated under section 1302 of the Intermodal Surface Transportation Efficiency Act of 1991 (as in effect on the date of the enactment of this paragraph) for such fiscal year to be expended from such Trust Fund.

"(C) ADJUSTMENT OF PERCENTAGE.—

"(i) FIRST YEAR.—Within 1 year after the date of the enactment of this paragraph, the Secretary shall adjust the percentage contained in subparagraph (A) so that it corresponds to the revenues received by the Highway Trust Fund from nonhighway recreational fuel taxes.

"(ii) SUBSEQUENT YEARS.—Not more frequently than once every 3 years, the Secretary may increase or decrease the percentage established under clause (i) to reflect, in the Secretary's estimation, changes in the amount of revenues received in the Highway Trust Fund from nonhighway recreational fuel taxes.

"(iii) AMOUNT OF ADJUSTMENT.—Any adjustment under clause (ii) shall be not more than 10 percent of the percentage in effect at the time the adjustment is made.

"(iv) USE OF DATA.—In making the adjustments under clauses (i) and (ii), the Secretary shall take into account data on off-highway recreational vehicle registrations and use.

"(D) NONHIGHWAY RECREATIONAL FUEL TAXES.—For purposes of this paragraph, the term 'nonhighway recreational fuel taxes' means taxes under section 4041, 4081, and 4091 (to the extent attributable to the Highway Trust Fund financing rate) with respect to—

"(i) fuel used in vehicles on recreational trails or back country terrain (including vehicles registered for highway use when used on recreational trails, trail access roads not eligible for funding under title 23, United States Code, or back country terrain), and

"(ii) fuel used in campstoves and other nonengine uses in outdoor recreational equipment.

Such term shall not include small-engine fuel taxes (as defined by paragraph (5)) and taxes which are credited or refunded.

"(E) TERMINATION.—No amount shall be paid under this paragraph after September 30, 1997.".

(c) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 98 is amended by adding at the end thereof the following new item:

"Sec. 9511. National Recreational Trails Trust Fund."

(d) REPORT ON NONHIGHWAY RECREATIONAL FUEL TAXES.—The Secretary of the Treasury shall, within a reasonable period after the close of each of fiscal years 1992 through 1996, submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate specifying his estimate of the amount of nonhighway recreational fuel taxes (as defined in section 9503(c)(6) of the Internal Revenue Code of 1986, as added by this Act) received in the Treasury during such fiscal year.

SEC. 8004. COMMUTE-TO-WORK BENEFITS.

(a) FINDINGS.—The Congress finds that—

(1) current Federal policy places commuter transit benefits at a disadvantage compared to drive-to-work benefits;

(2) this Federal policy is inconsistent with important national policy objectives, including the need to conserve energy, reduce reliance on energy imports, lessen congestion, and clean our Nation's air;

(3) commuter transit benefits should be part of a comprehensive solution to national transportation and air pollution problems;

(4) current Federal law allows employers to provide only up to $21 per month in employee benefits for transit or van pools;

(5) the current "cliff provision", which treats an entire commuter transit benefit as taxable income if it exceeds $21 per month, unduly penalizes the most effective employer efforts to change commuter behavior;

(6) employer-provided commuter transit incentives offer many public benefits, including increased access of low-income persons to good jobs, inexpensive reduction of roadway and parking congestion, and cost-effective incentives for timely arrival at work; and

(7) legislation to provide equitable treatment of employer-provided commuter transit benefits has been introduced with bipartisan support in both the Senate and House of Representatives.

(b) POLICY.—The Congress strongly supports Federal policy that promotes increased use of employer-provided commuter transit benefits. Such a policy "levels the playing field" between transportation modes and is consistent with important national objectives of energy conservation, reduced reliance on energy imports, lessened congestion, and clean air.

SEC. 8005. BUDGET COMPLIANCE.

(a) IN GENERAL.—If obligations provided for programs pursuant to this Act for fiscal year 1992 will cause—

(1) the total outlays in any of the fiscal years 1992 through 1995 which result from this Act, to exceed

(2) the total outlays for such programs in any such fiscal year which result from appropriation Acts for fiscal year 1992 and are attributable to obligations for fiscal year 1992,

then the Secretary of Transportation shall reduce proportionately the obligations provided for each program pursuant to this Act for fiscal year 1992 to the extent required to avoid such excess outlays.

(b) COORDINATION WITH OTHER PROVISIONS.—The provisions of this section shall apply, notwithstanding any provision of this Act to the contrary.

And the Senate agree to the same.

From the Committee on Public Works and Transportation for consideration of the entire House bill (except title VII), the entire Senate amendment, and modifications committed to conference:

ROBERT A. ROE,
GLENN M. ANDERSON,
NORMAN Y. MINETA,
JAMES L. OBERSTAR,
HENRY J. NOWAK,
NICK RAHALL,
DOUGLAS APPLEGATE,
RON DE LUGO,
GUS SAVAGE,
ROBERT A. BORSKI,
JOE KOLTER,
JOHN PAUL HAMMERSCHMIDT,
BUD SHUSTER,
WILLIAM F. CLINGER,
THOMAS E. PETRI,
RON PACKARD,
SHERWOOD BOEHLERT,
HELEN DELICH BENTLEY,

From the Committee on Ways and Means, for consideration of title VII of the House bill, and secs. 140E, 141 through 144, 271(b)(12), and 305 of the Senate amendment, and modifications committed to conference:

DAN ROSTENKOWSKI,
SAM GIBBONS,
J.J. PICKLE,
CHARLES B. RANGEL,
PETE STARK,
GUY VANDER JAGT,

As additional conferees from the Committee on Energy and Commerce, for consideration of secs. 5, 121(a), 123, 124, 134 (a) and (b), 143, 184, 209, 322(m), 335, title V (insofar as it addresses railroads), secs. 601(b), 608 through 610, 617, and 620 of the House bill, and secs. 103 (b) (1), (2), and (9), 106(a), 107, 113, 114, 115 (a)(2) and (d), 116, 117, 122(b), 127, 128, 131, 140G, 140T, 140U, 239, 261, 262, 319, and 336 of the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
AL SWIFT,
GERRY SIKORSKI,
NORMAN F. LENT,
DON RITTER,

Provided that Mr. Dannemeyer is appointed in place of Mr. Ritter for consideration of secs. 123 and 124 of the House bill, and secs. 103(b)(2), 106(a) (insofar as it addresses 23 U.S.C. 133(a)(10)), 107, 113, 114, and 319 of the Senate amendment:

As additional conferees from the Committee on Energy and Commerce, for consideration of secs. 140I, 140N, part A of title II (except secs. 204, 218, and 226), 264, and 271 of the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
AL SWIFT,
DENNIS E. ECKART,
W.J. (BILLY) TAUZIN,
JIM SLATTERY,
RICK BOUCHER,
THOMAS J. MANTON,
TERRY L. BRUCE,
CLAUDE HARRIS,
MIKE SYNAR,
NORMAN F. LENT,
CARLOS J. MOORHEAD,
MATTHEW J. RINALDO,
DON RITTER,
JACK FIELDS,
MICHAEL G. OXLEY,

As additional conferees from the Committee on the Judiciary, for consideration of sec. 409 of the House bill, and sec. 238 and title IV of the Senate amendment, and modifications committed to conference:

JACK BROOKS,
DON EDWARDS,
BARNEY FRANK,
HAMILTON FISH, Jr.,
CARLOS J. MOORHEAD,

As additional conferees from the Committee on Science, Space, and Technology, for consideration of secs. 141 (a) and (e), 202, 317, 405, 502, 601, 604 through 609, 616 through 618, 651 through 659, and 671 through 673 of the House bill, and secs. 103(b) (9) and (10), 106(a), 107, 115, 116, 127(g), 136(b), 203(e), 204, 232(a), 329, and 341 of the Senate amendment, and modifications committed to conference:

GEORGE E. BROWN, Jr.,
TIM VALENTINE,
DAN GLICKMAN,
TOM LEWIS
(Except Sections 103(b)(9) and 116),

As additional conferees from the Committee on Government Operations, for consideration of title IV of the Senate amendment and modifications committed to conference:

JOHN CONYERS, Jr.,
FRANK HORTON,

Managers on the Part of the House.

From the Committee on Environment and Public Works:

DANIEL PATRICK MOYNIHAN,
QUENTIN BURDICK,
GEORGE MITCHELL,
FRANK R. LAUTENBERG,
HARRY REID,
JOHN H. CHAFEE,
STEVE SYMMS,
JOHN WARNER,
DAVE DURENBERGER,

From the Committee on Commerce, Science, and Transportation:

J. JAMES EXON,
RICHARD H. BRYAN,
JOHN DANFORTH,
SLADE GORTON,

From the Committee on Banking, Housing, and Urban Affairs:

DON RIEGLE,
ALAN CRANSTON,
PAUL SARBANES,
CHRISTOPHER S. BOND,
ALFONSE D'AMATO,

From the Committee on Finance:

LLOYD BENTSEN,
DANIEL PATRICK MOYNIHAN,
MAX BAUCUS,
BOB PACKWOOD,
BOB DOLE,

From the Committee on Governmental Affairs, only for the consideration of the Uniform Relocation Act Amendment:

JOHN GLENN,
CARL LEVIN,
BILL ROTH,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

PROGRAM STRUCTURE

House bill

The House bill restructures the four major Federal-aid highway systems plus the two safety construction programs (hazard elimination and railroad highway crossings) into five new programs: the National Highway Program, Urban Mobility Program, Rural Mobility Program, Combined Safety Improvement Program, and State Flexible Program.

The State Flexible Program is available to the state for any highway or transit capital projects in urban or rural areas. The urban and rural mobility programs are available for highway and transit capital projects. A state is able to transfer up to 25 percent of its National Highway Program apportionment to its Urban or Rural Mobility Program without conditions, and up to an additional 10 percent with the Secretary's approval if the state can demonstrate that its Interstate System is being maintained. A state may transfer 100 percent of the funds apportioned under the National Highway Program if over 90 percent of the land area of the state is within nonattainment areas.

The National Highway System consists of the Interstate System, the Strategic Highway Network, and principal arterial routes from the primary system. The Secretary through coordination with state and local governments will propose a National Highway System of 155,000 miles that could be adjusted by 15 percent. The National Highway System designation requires approval by Congress.

The Urban Mobility Program consists of the existing Federal-aid urban system and principal arterial routes in urban areas that are not a part of the National Highway System. Funds made available under the urban mobility program may be used for the construction of highway projects and transit capital projects. The Metropolitan Planning Organization (MPO) in the urban area has the authority, along with the state, to determine its transportation priorities.

The Rural Mobility Program consists of the existing Federal-aid secondary system

and the arterials not on the National Highway System. Eligibility is provided for transit capital projects. The Federal-aid primary system rural mileage that does not meet the National Highway System criteria is eligible for inclusion in the Rural System. About 125,000–150,000 miles is expected to be added to the existing secondary system to constitute a 525,000–550,000 mile rural Federal-aid system. Roads functionally classified as rural minor collector or rural local are not eligible for inclusion in this rural Federal-aid system; however, funding for off system safety and bridge improvements are eligible under other programs.

The State Flexible Program is an innovative program that for the first time provides each state with funds that can be used for any highway or transit capital purpose eligible under Federal law. The state can use these funds for any purpose that is eligible under the National Highway Program, the Urban Mobility Program, the Rural Mobility Program, or the Combined Safety Improvement Program.

Each state is required to spend a percentage of these funds in clean air nonattainment areas equal to the percentage of its population living in nonattainment areas, up to 50 percent. Thus, if 30 percent of a state's population lives in nonattainment areas, the state would be required to spend at least 30 percent in nonattainment areas. If 70 percent of a state's population lives in nonattainment areas, at least 50 percent is required to be spent in nonattainment areas. These are minimum percentages; each state could choose to spend additional portions of its State Flexibility funds in these areas.

The Hazard Elimination and Rail-Highway Grade Crossings programs are combined into one flexible safety program, at an authorization level which represents 4% of the total funds authorized for the five new programs under the restructured highway program.

Within the combined program, the current funding levels of $160 million for Rail-Highway Crossings and $170 million for Hazard Elimination remain fixed, and any additional amount is available for funding eligible projects under either the Hazard Elimination or the Rail-Crossing programs, at the discretion of the state.

The restructured Federal-aid highway program funds the programs as follows: 49% to the National Highway System, 17% to Urban Mobility, 13% to Rural Mobility, 17% to State Flexible and 4% to the Combined Safety Improvement Program.

Senate amendment

This section establishes a new program that gives the States and local governments greater flexibility in using Federal funds to meet their transportation needs. Funds for the new program may be used for eligible projects on any public roads, except roads functionally, classified as local or rural minor collector, except as approved by the Secretary.

Eligible activities include construction, reconstruction, rehabilitation, resurfacing, restoration and operational improvements of highways including work necessary to accommodate other modes, painting and seismic retrofit of bridges, capital costs for mass transit (including improvements to bus shelters), passenger rail (including high speed rail) and magnetic levitation systems, carpool and vanpool projects, fringe and corridor parking facilities and programs, and bicycle facilities and programs; surface transportation safety improvements; surface transportation research and development programs; transportation enhancement activities as defined in 23 U.S.C. 101; and other activities. This section also authorizes the use of Surface Transportation Program funds to mitigate wetland loss related to past or future highway construction.

This section designates two types of regions in each state for the purpose of dividing Federal funds. The first type of region consists of areas with a Metropolitan Statistical Area population 250,000 or greater and areas with an urbanized area population of 50,000 or greater that are in nonattainment for ozone or carbon monoxide. The second type of region consists of all other areas. Seventy-five (75) percent of funds apportioned to a State under the Surface Transportation Program must be divided between these two types of areas based on their relative share of the State's total population. The remaining 25 percent may be distributed to any area of the State. At least 8 percent of the funds apportioned to a State must be programmed for transportation enhancement activities. Projects must be consistent with requirements for metropolitan planning in 23 U.S.C. 134 and statewide planning in 23 U.S.C. 135.

The basic federal share for projects under the Surface Transportation Program is 80 percent. If funds apportioned under this program are used to construct new facilities or expand existing facilities to be available primarily to single-occupant vehicles, the Federal share is 75 percent. If the State constructs a facility not available to single occupant vehicles and subsequently makes the facility available to single occupant vehicles, the State must repay with interest the increase in the Federal share of the project the State received by constructing a facility not available to single occupant vehicles.

The State must submit an annual certification that it will meet all requirements of this section. The State must also notify the Secretary of the amount of obligations it plans to incur for Surface Transportation Program projects during the fiscal year. Acceptance of the certification and notice of obligation constitutes a contractual obligation of the Federal Government for this estimated amount of obligations for projects not subject to review by the Secretary. The State may adjust the estimated obligation at a later date if it wants to obligate more or less funds. Payments will be made to the State for the Federal share of costs incurred on the subject.

Projects must be designed, constructed, operated and maintained in accordance with State laws, regulations, directives, safety standards, design standards and construction standards.

A State may inform the Secretary that it does not wish review and approval of design and construction standards for projects except for projects on the Interstate System and other multi-lane limited access control highways.

If the Secretary determines that a State or local government has not complied with a requirement of this section, the State will be notified and have 60 days to take corrective action. If corrective action is not taken within 60 days, future payments will be held until adequate corrective action is taken.

In a departure from the current system whereby funds are apportioned by category according to specific formula factors, funds for the Surface Transportation Program shall be apportioned such that they result in each State receiving a percent share of combined Bridge Program, Interstate Maintenance Program, and Surface Transportation Program funds equal to its percent share of total apportionments and allocations made pursuant to Title 23 U.S.C. for fiscal years 1987, 1988, 1989, 1990 and 1991, subject to certain exclusions and adjustments specified in the bill. The Bridge Program and Interstate Maintenance apportionment formulas thus serve principally to determine the amount of funds a State must devote to each program; the apportionment of Surface Transportation Program funds serves to make each State's percentage of Federal aid equal to its percentage under the five years of the 1987 Act.

Paragraph 133(b)(1)(A), which provides for an energy conservation congestion, mitigation and clean air bonus program, is to provide an incentive for States and metropolitan areas to use the enhanced flexibility in the Surface Transportation Program to reduce traffic congestion, improve air quality and lower fuel consumption. The paragraph alters the apportionment of funds under the Surface Transportation Program by rewarding affected States that control growth in vehicle miles of travel per capita and penalizing affected States that do not.

The provision affects only States with metropolitan areas of 250,000 or more and affects only the Surface Transportation Program funds allocated to metropolitan areas pursuant to section 106(b). Because only large urban areas can make significant cuts in growth of vehicle miles traveled, the provision only affects States with such communities.

By using vehicle miles of travel per capita, rather than absolute growth in VMT, the paragraph does not penalize States facing rapid population growth. Instead, it rewards those States which do a better job of managing growth. Thus, some States with the largest absolute growth in VMT (such as Nevada and Florida), have had slow growth in VMT per capita. The Secretary shall apply the most accurate and timely data available in measuring changes in VMT per capita under this paragraph.

This paragraph affects only the apportionment of Surface Transportation Program funds attributed to metropolitan areas pursuant to section 133(b)(1) of Title 23 U.S.C. The provision does not affect the State's 25 percent share of Surface Transportation Program funds or the funds suballocated to nonmetropolitan areas under section 133(b)(1) of title 23 U.S.C. The paragraph provides that bonuses and funds redistributed from the Bonus Fund shall only be used in metropolitan areas and that they be obligated for projects in metropolitan areas within a State in accordance with section 133 of title 23 U.S.C.

The reallocation of funds provided for in the provision will only come into operation after it is determined that one or more of the States subject to this paragraph has VMT per capita in excess of 110 percent of such State's VMT in 1990 (or 110 percent of 1995 levels commencing in fiscal year 1996). If every State maintains its current VMT per capita, the provision will not affect the apportionments.

However, if one or more States subject to this paragraph has VMT per capita in excess of 110 percent of their 1990 levels (or 1995 levels commencing in 1996), the Secretary is required to reduce the metropolitan area funds which would have been allocated to those States by 10 percent. The reduction funds are then placed into a Surface Transportation Bonus Fund which used to reward States that reduce their VMT per capita to less than 90 percent of 1990 levels in the same year. For example, if a State reduced its

VMT per capita to 85 percent of its 1990 level, and several other States allowed increases in VMT per capita in excess of 110 percent of 1990 levels, the State with the reduction would be entitled to receive a bonus of up to 10 percent of its base metropolitan area apportionment, to the extent such funds are available.

If funds remain available in the Bonus Fund after bonuses have been awarded, the remaining funds are redistributed to the metropolitan areas of all States subject to the provision, whether they received a bonus, a reduction, or were unaffected by the provision. The amount each State receives is determined by each State's relative share of all metropolitan area funds allocated.

The provision applies beginning in fiscal year 1993 because of the ongoing development of methodologies to improve the measurement of VMT on road systems within a State. Such methodologies are expected to be available by 1993.

Beginning in fiscal year 1996, the paragraph provides for using 1995 as the base year to measure percentage changes in VMT per capita. This provision is intended to provide a continuing incentive for States which receive bonuses to do a better job over time.

Section 106(c) provides that the Federal share of capital projects that add capacity available to single occupant vehicles is 75 percent. The Federal share for all other projects including projects for high occupancy vehicles that permit single occupant vehicle use during the off-peak periods is 80 percent of the cost of construction. The Secretary will issue guidance on how to determine what portion of a project qualifies for an 80 percent Federal share.

23 U.S.C. 133(b)(2) requires the Secretary to find that the programming and expenditure of funds under section 106 of this bill is consistent with the requirements of section 134. Subsection 133(b)(3) requires that the Secretary also to find that the programming and expenditure of funds for projects in nonmetropolitan areas is consistent with the statewide planning requirements of section 135 of this title.

23 U.S.C. 133(c) states the procedures the Secretary must follow in the event the Secretary determines through the certification review process that a State or local government does not comply with any provision of section 106 of this bill, including the requirement to program and expend funds in a manner consistent with the long range plan and the TIP required by section 134, and the planning requirements of section 135. These procedures require the Secretary to give notice to the State or local government of its failure to comply, and to give the State or local government 60 days to take corrective action. If corrective measures are not taken after the 60-day period has elapsed, the Secretary will not be able to certify that the provisions of section 133 have been complied with, and would have to take actions pursuant to section 134(e)(3).

23 U.S.C. 133(b)(6) requires that States assure equitable distribution of urban Surface Transportation Program funds among metropolitan and nonattainment areas based on relative population. The subsection, however, creates an exception to this general rule where a State and the relevant metropolitan planning organizations "jointly apply to the Secretary for permission to do so and the Secretary grants the request."

Conference substitute

Adopts the Senate provision with modifications.

PROJECT ELIGIBILITY

House bill

The House bill, for the National Highway System, makes eligible for funding: those activities allowed under current law, including construction, reconstruction, resurfacing, restoration, and rehabilitation; operational improvements; startup costs for traffic management and control; and participation in wetland mitigation banks.

For the Federal-aid mobility systems, the House bill makes eligible for funding: those activities allowed under current law, including construction, reconstruction, resurfacing, restoration, and rehabilitation; highway safety projects; operational improvements; startup costs for traffic management and control; and participation in wetland mitigation banks; and transit.

Senate bill

The Senate bill, for the Surface Transportation Program, makes eligible for funding: those activities allowed under current law, including construction, reconstruction, resurfacing, restoration, and rehabilitation; highway safety projects; off-system bridges; capital costs for mass transit and passenger rail; certain operating costs for Amtrak; bus terminals; magnetic levitation systems; contracted passenger rail costs; transportation enhancement activities; transportation control measures listed in the Clean Air Act; incremental costs of alternative fuels school buses; wetlands mitigation; and any other purpose approved by the Secretary.

Conference substitute

The conference substitute makes eligible for funding: those activities allowed under current law, including construction, reconstruction, resurfacing, restoration, and rehabilitation; highway safety projects; off-system bridges; capital costs for mass transit; bus terminals; certain transportation control measures listed in the Clean Air Act; and wetlands mitigation activities. In certain instances, passenger rail operations provide significant mass transit services. The conferees do not intend to preclude consideration of passenger rail capital costs where those operations provide significant commuter service on a regular basis.

WETLANDS MITIGATION

House bill

Section 108(a) of the House bill amends 23 U.S.C. 103(i) and adds a new subsection (j) to include authority to use highway trust fund money for participation in wetlands mitigation banks and statewide programs to create, conserve, or enhance wetland habitat, including development of statewide mitigation plans and State or regional wetlands conservation and enhancement banks. Contributions may occur in advance of specific project activity to build up credit for future projects which may impact wetlands. Participation in this program does not exempt any highway project from any requirements of Federal law.

Senate amendment

Section 106 of the Senate amendment adds a new section 133 to Title 23 of the U.S. Code, including the authority to use Surface Transportation Program Funds as part of a highway construction project, or as a separate effort, to mitigate wetland loss related to highway construction or to contribute to statewide efforts to conserve and restore wetlands adversely affected by highway construction. Efforts must comply with applicable requirements of and regulations under Federal law. Efforts may include development of statewide wetland conservation plans and other state or regional efforts to conserve and restore wetlands. Contributions may occur in advance of specific highway construction activity only if the state has a planning process which precludes the use of such efforts to influence the environmental assessment of the highway project, decisions related to the need for the project, or the selection of the project design or location.

Conference substitute

The Conference Substitute authorizes the use of Federal transportation funds for wetlands mitigation efforts, including participation in wetlands mitigation banks, consistent with all applicable Federal law and regulations. Mitigation efforts should be undertaken through the application of guidelines promulgated pursuant to Section 404(b)(1) of the Federal Water Pollution Control Act and relevant interagency Memoranda of Agreement. The Managers note that the Section 404(b)(1) guidelines prohibit discharges into aquatic ecosystems, including wetlands, if there is a practicable alternative to the discharge. The guidelines also require appropriate and practicable steps be taken to minimize potential adverse impact upon the aquatic ecosystem. The current Memorandum of Agreement between the Corps of Engineers and the Environmental Protection Agency states that mitigation banking may be an acceptable form of compensatory mitigation depending on the specific circumstances.

The reference to "Federal law and regulations" in this paragraph includes, but is not limited to, the Endangered Species Act, the National Environmental Policy Act, the Federal Water Pollution Control Act, and any applicable regulation promulgated under such Acts.

It is the intent of the Managers that the mitigation efforts if consistent with all requirements of Federal law as described above, may include mitigation outside the acquired right of way and that funding may be made available under this section to carry out mitigation measures, prior to initiation of project construction.

It is the intent of the Managers that, to the extent practicable, mitigation of wetlands losses be undertaken through protection, restoration or creation of similar types of wetlands. For example, if a salt marsh is lost or degraded pursuant to a highway project, it is the intent of the Managers that preference would be given to the restoration of a salt marsh, rather than a fresh-water wetland.

DISADVANTAGED BUSINESS PROGRAM

House bill

Subsection (b) of Section 103 provides for the continuation of the Disadvantaged Business Enterprise program with an adjustment of the 3-year annual average gross receipts limit of $15.37 billion.

Subsection (c) authorizes the Office of the Comptroller General of the Federal Highway Administration to study the disadvantaged business program (DBE) graduation rate; the participation level of disadvantaged business enterprises with out-of-state contracts; training programs, the success rate; and performance and financial capabilities of DBE's. The Comptroller General shall transmit the report to Congress within 12 months after the date of enactment.

The Committee understands that there is no formal "graduation" from the federal highway Disadvantaged Business Enterprise (DBE) Program. In fact, the only way that a DBE is no longer eligible for the DBE program is if it exceeds the size standards, i.e.

average gross revenues over three (3) years exceed $14 million. Thus, in using the term "graduation", the Committee is referring to those DBE firms who have essentially "grown out" of and are no longer eligible for the DBE program.

Since "growing out" of the DBE Program may be highly unlikely after just three (3) years, the Committee in B(i)(IV) directs the "Study" to determine just how many years is reasonable for a DBE to either "grow out" of the Program or no longer need it. Such determination should be made in light of an investigation of barriers DBEs presently face in successfully developing within the highway construction industry.

In addition, a determination of how long it takes a non-DBE to successfully compete in the highway construction field should be determined in order to further justify a definition of what is reasonable. The Study should take into account where the non-DBE gains access to bonding, capital, technical/management expertise, skilled labor and subcontracts and whether such contractor enjoys certain advantages in such areas over the average DBE.

B(i)(VI) directs the GAO to determine to what extent prime contractors continue to use DBEs once they have "graduated" from the program. This clause is to address the possibility that prime contractors do not utilize DBE firms unless there is a legislative requirement to do so.

B(i)(VII) seeks to direct the GAO to determine not only the additional costs incurred by the Federal Highway Administration in meeting the requirement of the DBE program but also whether such costs are offset by benefits of the program. Such benefits might include: additional tax revenues paid to the state by DBE firms; unemployment tax reduction; racial and gender diversity in the highway construction field; economic developing in disadvantaged communities as a result of increased capital to DBEs; and an increase in the number of skilled subcontractors in the highway construction field, thus providing for greater competition among such contractors in the future.

To enhance the evaluation of the disadvantaged business program, the Secretary shall include in the annual reports submitted to Congress, data on the level of participation of disadvantaged business enterprises to reflect the number and dollar awards to ethnic DBE's eligible under this program and the number and dollar awards to women DBE's.

Section 119. Disadvantaged Business Enterprises

This section provides for an ongoing Disadvantaged Business Enterprise (DBE) program. The section is a continuation of section 106(c) of the Surface Transportation and Uniform Relocation Assistance Act of 1987, which maintained the statutory authority originated in section 105(f) of the Surface Transportation Assistance Act of 1982.

The definition of a "Small Business Concern" has been modified to include an adjustment for inflation.

Senate amendment

Similar to House.

Conference substitute

Adopts the House provision.

SUBSTITUTE PROGRAM

House bill

The bill authorizes $240 million per fiscal year for each of the fiscal years 1992 through 1995 to complete the remaining Interstate substitute highway projects. This Interstate substitute highway funds are apportioned in accordance with cost estimates adjusted by the Secretary.

Funds are made available for the apportionment of Interstate substitute transit funds for fiscal years 1992 and 1993 in accordance with cost estimates adjusted by the Secretary.

Substitute funds are made available until expended.

Senate amendment

This section authorizes $240 million for each of fiscal years 1992 through 1995 for highway or transit assistance projects for the Interstate Substitution Program.

Conference substitute

Adopts the House provision.

APPORTIONMENTS

House bill

The House bill establishes new formulas to be applied to new federal-aid highway programs.

Senate amendment

The Senate amendment provides that each state will receive a percent of funds based on the percent received over the proceeding five year average.

Conference substitute

The Conference substitute includes a modification that provides each state with an amount of funding over six years that is consistent with their historical funding experience.

PROGRAM AND PROJECT APPROVAL

House bill

The House provision directs the States to submit a program of proposed projects for the Secretary of Transportation's approval.

Senate amendment

The Senate amendment repeals section 105 of title 23, United States Code relating to programs.

Conference substitute

The House recedes to the Senate amendment.

PRECONSTRUCTION ACTIVITIES

House bill

Section 106(c) of title 23, U.S.C. is amended to provide for items included in estimates for construction engineering for a state for a fiscal year may not exceed 15 percent of the total estimated costs of Federal-aid projects.

The Secretary is required to consult with the states and report to Congress within two years a national list of rights-of-way that may be included in a Transportation Right-of-Way Land Bank in order to preserve vital transportation corridors. The states are permitted to use funds apportioned for the National Highway System, the urban mobility, and rural mobility systems to purchase right-of-way to preserve transportation corridors. Any right-of-way acquired under the provisions of this subsection may not be converted for non-transportation purposes.

Sentate amendment

The Senate amendment amends 23 U.S.C. 108 to make three changes to current law. First, the period within which construction must be commenced on a right-of-way funded from the right-of-way revolving fund is increased from 10 years to 20 years.

Second, costs incurred by a State to acquire rights-of-ways in advance of Federal approval of authorization and costs incurred to acquire land necessary to preserve environmental and scenic values may be reimbursed with Federal funds if certain conditions are satisfied.

Third, to conform section 108 of title 23 with the other title 23 changes being made by this legislation, this section eliminates the requirement that right-of-way revolving fund advances be for projects "on the Federal-aid system" and authorizes the use of the fund for projects such as passenger rail facilities, magnetic levitation systems, transportation corridor preservation, and long-term transportation planning.

Conference substitute

Adopts House provision.

LETTING OF CONTRACTS

House bill

This section amends section 112(b)(2) of title 23, U.S.C. to require that any audit of a contract or subcontract awarded as a part of a Federal-aid highway project shall be performed and audited in compliance with the cost principles contained in the Federal acquisition regulations of part 31 of title 48 C.F.R. The indirect cost rates established in accordance with Federal acquisition regulations shall apply for the purposes of contract estimation, negotiation, administration, report, and contract payment and shall not be limited by administrative or de facto ceilings.

The intent of these provisions is to establish a single and uniform audit procedure for qualifications based engineering and design services.

Senate amendment

No comparable provision.

Conference substitute

The conference substitute establishes a pilot program for the implementation of single and uniform audit procedures for qualification based engineering and design services. The Secretary of Transportation may permit up to ten states to participate in the pilot program and report to Congress any recommendations for establishing a single and uniform audit procedure for qualifications based engineering and design services within two years.

CONVICT PRODUCED MATERIALS

House bill

The bill clarifies the intent of Congress that materials produced by convict labor after July 1, 1991, may not be used for Federal-aid highway construction projects unless produced at a prison facility producing convict made materials for Federal-aid construction projects prior to July 1, 1987.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House provision.

PERIOD OF AVAILABILITY

House bill

The House amendment provides one-year availability of Interstate Construction funds. After October 1, 1994, these funds would be available until expended. In general, non-Interstate funds will continue to be available for four years.

Senate amendment

The Senate amendment provides one-year availability of Interstate Construction funds. After October 1, 1994, these funds would be available until expended. Interstate Construction funds apportioned or allocated to Massachusetts on or before October 1, 1989, shall remain available until expended. Existing provisions relating to Alaska and Puerto Rico are continued.

Conference substitute

House recedes to the Senate.

FEDERAL SHARE

House bill

The House bill provides for a Federal share of 80 percent on non-Interstate Federal aid

highway projects, and up to 100% for certain safety projects.

A Federal share of 90 percent is provided for Interstate construction and maintenance projects.

Senate bill

The Senate bill provides for a Federal share of up to 80 percent for all projects, with the exception of construction of new highway capacity not designed for high-occupancy vehicle use, in which case the Federal share would be up to 75 percent.

A Federal share of 90 percent is provided for Interstate construction.

Conference substitute

The conference substitute provides for a Federal share of up to 80 percent for all projects. A Federal share of 90 percent is provided for Interstate construction.

EMERGENCY RELIEF

House bill

The House extends from 90 days to 180 days the period to receive 100 percent funding for emergency repair work. The annual limitation imposed on the territories for receipt of emergency relief funds is increased from $5 million to $20 million. The Secretary is authorized to advance emergency relief funds to the State of Washington to repair a bridge damaged in November, 1990. Repayment is required if it is determined that the cause of the damage to the bridge was the result of human error. All provisions in this section will apply only to natural disaster and catastrophic failures occurring after enactment of this legislation.

Senate amendment

The Senate amendment contains no comparable provisions, with the exception of the aspect relating to the advance to the State of Washington which is substantially the same as the House bill.

Conference substitute

The conference substitute is the same as the House bill, with the exception that the provision concerning the State of Washington was not adopted. The repayment provision for Washington was resolved in the 1992 Appropriations bill.

GROSS VEHICLE WEIGHT RESTRICTION

House bill

Subsection (a), Continuation of Certain Longer Combination Vehicles, amends title 23 U.S.C. by adding a new substitution (d).

New subsection (d)(1) provides that except as provided in this subsection, no state may allow a longer combination vehicle to be operated on the Interstate System within its boundaries, without having its apportionment withheld under subsection (a).

New subsection (d)(2) permits a state to continue to allow to be operated on the Interstate System within its boundaries longer combination vehicles with configuration and weight if (a) the state determined on or before June 1, 1991 that such longer combination vehicles with such configuration and weight could lawfully operate on such system pursuant to a state statute or regulation in effect on June 1, 1991; and if the longer combination vehicles with such configuration and weight were in lawful operation on a regular or periodic basis (including seasonal operation or operation pursuant to a permit issued by the state; or if longer combination vehicles with such configuration and weight were in lawful operation on a regular or periodic basis on such System on or before June 1, 1991 pursuant to section 335 of the Department of Transportation and Related Agencies Appropriations Act, 1991 (104 Stat. 2186); and (B) if all operations of longer combination vehicles with such configuration and weight on the Interstate System continue to be subject to, at a minimum, all state statutes, regulations, limitations, and conditions (including routing-specific and configuration specific designations and all other restrictions) in effect on June 1, 1991; except that subject to guidelines established by the Secretary, the state may make minor adjustments to routing-specific designations for safety purposes and for road construction purposes.

New subsection (d)(3) provides that in addition to the vehicles which may continue to operate in the State of Wyoming under (d)(2), such state may allow commercial motor vehicle combinations not in actual use on June 1, 1991 on the relevant system and highways by enactment of a state law on or before November 3, 1992. The state must notify the Secretary of enactment of such state law within 30 days and the Secretary must publish notice of the enactment of such law in the Federal Register.

New subsection (d)(4) provides that states may further restrict or prohibit vehicles covered by this provision, however, any such restriction or prohibition must be consistent with sections 411, 412, and 416 of the Surface Transportation Assistance Act of 1982 (40 U.S.C. App. 2311, 2312, and 2316). Any such changes must be submitted to the Secretary. Such change must be published in the Federal Register by the Secretary.

New subsection (d)(5) requires that within 90 days after the effective date of this subsection (October 1, 1991) states must complete and file in writing with the Secretary a complete list of all state statutes, regulations, limitations and conditions governing the operation of these types of vehicles.

If the state fails to file within the specified time, the Secretary is given the authority to complete and file the list for the state.

The state is further required to certify in writing that the state had determined pursuant to a state statute on regulation in effect on June 1, 1991 that such longer combination vehicles could lawfully be operated on such relevant system and highways, and such combinations were in operation on a regular or periodic basis on such system and highways on or before June 1, 1991.

The Secretary is required to publish the list in the Federal Register. After publication the Secretary is required to review the certifications and may commence a proceeding, on the Secretary's own initiative or pursuant to a challenge by any person, to determine whether or not the state's certification is inaccurate. The state has the burden of proof.

If the Secretary determines the certification is inaccurate, the Secretary is required to amend the list published in the Federal Register.

This subsection also provides that no state statute or regulation shall be included on the list published by the Secretary merely on the grounds that it authorized, or could have authorized, by permit or otherwise, the operation of longer combination vehicles not in actual operation on a regular or periodic basis on or before June 1, 1991.

This subsection further provides the lists published in the Federal Register shall become final on the 30th day after publication, with the exception of adjustments made pursuant to paragraphs 2(B) 3 and 4 and subparagraph (D) of paragraph 5.

New subsection (d)(6) requires the Secretary to issue regulations establishing guidelines for states to follow in making minor adjustments for safety or road construction purposes.

New subsection (d)(7) provides that nothing in this subsection should be construed to allow operation on the relevant system or highways of any Commercial Motor Vehicle prohibited under section 411(j) of the Surface Transportation Assistance Act of 1992 (49 U.S.C. App. 2311(j)).

New subsection (d)(8) provides that if a state allows a longer combination vehicle to be operated on the Interstate System within its boundaries in violation of this subsection, the state shall have its apportionment of funds withheld under subsection (a).

New subsection (d)(9) defines longer combination vehicle; it further requires that each state certify that it is complying with the provisions of section 127(d) of this title and section 411(j) of the Surface Transportation Assistance Act of 1982 (49 U.S.C. 2311(j); and makes a conforming amendment.

Subsection (b) Interstate Route 68—amends section 127, title 23 by adding at the end the following new subsection (e).

New subsection (e) provides that the single axle, tandem axle, and bridge formula limits set forth in subsection (a) shall not apply to the operation on Interstate 68 in Garrett and Allegany Counties, Maryland, of any specialized vehicle equipped with a steering axle and a tridem axle and used for hauling coal and logs if such vehicle is of a type of vehicle as was operating in such counties on U.S. 40 or 48 for such purposes in calendar year 1991.

Subsection (c) makes a conforming amendment.

Subsection (d) requires the Secretary to conduct a study pertaining to transporters of water well drilling rigs on public highways to determine if state and federal requirements place a burden on them. The report is due 2 years after date of enactment.

Subsection (e)(1) provides for a waiver from the axle weight requirements and bridge formula for firefighting equipment. The waiver is for two years, but it may be extended for one additional year. The waiver applies to the Federal requirement.

Subsection (e)(2) provides that during the period in which the waiver is in effect, the Secretary is to conduct a study on this type of equipment and its regulations by the various states, including the issuance of permits by states. The purpose is to determine whether there is a need for a change in Federal and state laws with respect to such vehicles.

Subsection (e)(3) provides that a report on the study, together with the recommendations of the Secretary, shall be submitted to Congress within 18 months of the date of enactment.

Senate amendment

Section 138. Gross vehicle weight restrictions

Summary

This section adds a new subsection (d) to section 127 of title 23, U.S.C., to limit the use of Longer Combination Vehicles (LCV's) on the Interstate System to those places, and under the conditions now imposed, where they are allowed on or before June 1, 1991.

The responsibility for enforcing compliance with the new LCV limitation lies with the Secretary of Transportation, under section 141 of title 23.

The section defines an LCV as a truck tractor with two or more trailers or semi-trailers, with a gross vehicle weight of more than 80,000 pounds.

The provision will prevent any further expansion of the use of LCV's. The operation of LCV's on the Interstate System would be illegal unless: (a) they operate under 80,000

pounds gross vehicle weight; or (b) are found by the Secretary to be in "actual, continuing lawful operation" on or before June 1, 1991.

Included in the freeze on LCV operations are those now occurring in Wyoming, pursuant to a specific authorization in the fiscal year 1991 Department of Transportation and Related Agencies Appropriations Act. This section makes the Wyoming provisions in the Act permanent, subject to existing operating restrictions adopted by the State of Wyoming, and consistent with axle and bridge formula specifications in section 127 of title 23, United States Code.

Conference substitute

This section amends section 127 of title 23 by adding new subsections, (d) and (e), to prohibit the expansion of the use of longer combination vehicles on the Interstate System.

New subsection (d)(1) allows only those LCV configurations that were authorized by State statute or regulation and in lawful "regular or periodic" use on or before June 1, 1991. To be considered "regular or periodic" use, operations must have occurred at recurring intervals over a period of time. Moreover, periodic operations must have occurred on an intermittent but consistent basis. Use of an LCV on only one or two occasions pursuant to a special permit would not provide a basis for satisfactorily certifying grandfather rights or operations under this subsection. Seasonal LCV operations, if occurring on a recurring basis, would be allowed to continue. As specified in both the Senate and House provisions, certain LCV operations in the State of Wyoming, other than those that were in regular, periodic operation on or before June 1, 1991, would be allowed, if so directed by the State's voters not later than November 3, 1992. Additionally, limited exceptions to the restrictions of this subsection are provided for certain operations in the States of Ohio and Alaska. Other than those specifically referenced, no additional LCV operations that would otherwise be prohibited under this subsection may be allowed.

New subsection (d)(2) clarifies that States retain the ability to further restrict the use of LCV's, above and beyond the limitations imposed by this subsection. Any such restrictions must be consistent with applicable provisions of title 49. Under the terms of regulations to be promulgated by the Secretary, States are given the ability to make minor adjustments to LCV use of a temporary and emergency nature. The scope of such adjustments is intended to be temporary and very limited; for example, in the case of a bridge failure that would require the re-routing of traffic, including LCV's, to highways on which LCV operations would otherwise be prohibited.

New subsection (d)(3) establishes procedures for determining what specific operations are to be allowed. States are required to submit to the Secretary a list of all information pertaining to LCV use and limitations, including routing-specific and configuration-specific designations and all other restrictions, not later than 60 days after enactment. That information is to be published by the Secretary, and reviewed by the Secretary for accuracy. This review is not intended to provide for a rollback of lawful operations; it is intended to confirm that operations listed by the States were, on or before June 1, 1991, authorized by State statute or regulation, and that they were in regular or periodic operation on or before June 1, 1991. The list of this information, with necessary revisions, is to be published as final not later than 180 days after the date of enactment. Requirements are also established for review and correction of the final list. The provision makes it clear that, in order to be allowed to continue, LCV operations not only must have been authorized by State statute or regulation, but also in lawful regular or periodic operation on or before June 1, 1991.

New subsection (d)(4) defines longer combination vehicles.

New subsection 127(e) allows for the continued operation of certain vehicles in Garrett and Allegany Counties, Maryland.

Subsection (e) provides for a two-year exemption from axle weight limitations and the bridge formula for fire-fighting vehicles. The Secretary is directed to conduct a study to address, long-term, issues involving such vehicles.

Subsection (f) retains identical provisions from the House and Senate bills pertaining to Montana-Canada trade.

Subsection (g) retains the House provisions requiring a study of water well drilling rigs.

CONTROL OF OUTDOOR ADVERTISING

House bill

Subsection (a) authorizes a state to use any Federal-aid highway funds apportioned to the state for the removal of nonconforming signs and the payment of just compensation in accordance with title 23, section 131.

Subsection (b) requires the owner of an illegal sign to remove it within 90 days from enactment of this Act. If the owner of an illegal sign does not remove it within the 90 day period, the state shall remove the illegal sign and assess the costs for removal to the owner of the illegal sign.

Subsection (c) prohibits the erection of any new sign along any highway on the Interstate and Primary system (as in existence on June 1, 1991) that is designated as a scenic byway under a state scenic byway program. This subsection makes it clear that control of outdoor advertising on scenic byways along the Interstate, Primary System and the National Highway System shall be in accordance with title 23, Section 131. This subsection also redefines the Primary System for purposes of application of the Highway Beautification Act as the Primary System in existence on June 1, 1991.

Subsection (d) is intended to avoid confusion among the States in the implementation of these amendments to the Highway Beautification Act. This section makes it clear that the States, in implementing these new provisions, should ensure that signs displays and devices that have received state certification under the existing structure of federal-state agreements and state laws implementing section 131 of title 23 United States Code are not affected in any manner.

Senate amendment

The Senate Amendment has no comparable provision. But the Senate does make funding under the newly defined "Transportation Enhancement Activities" eligible for the removal of outdoor advertising.

Conference substitute

Subsection (a) authorizes a state to use any Federal-aid highway funds apportioned to the state for the removal of nonconforming signs and the payment of just compensation in conformance with title 23, section 131. This provision also applies to signs located along Interstate and Primary system roads designated as Scenic Byways by the states.

Subsection (b) requires the owner of an illegal sign to remove it within 90 days from enactment of this act. If the owner of an illegal sign does not remove it within the 90 day period, the state shall remove the illegal sign and assess the costs for removal to the owner of the illegal sign.

Subsection (c) intends that under the Conference agreement, no signs shall be erected on scenic byways on the Interstate or primary system as those systems are in effect on the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1991.

Subsection (d) is intended to avoid confusion among the States in the implementation of these amendments to the Highway Beautification Act. This section makes it clear that the States, in implementing these new provisions, should ensure that signs displays and devices that have received state certification under the existing structure of federal-state agreements and state laws implementing section 131 of title 23 United States Code are not affected in any manner.

METROPOLITAN PLANNING

House bill

The House Bill revises and strengthens the metropolitan planning process. The general objective of the planning process is to develop transportation facilities that will function as an intermodal transportation system giving emphasis to those facilities which serve important national and regional transportation functions such as moving goods within urbanized areas and to distant markets, enhancing productivity and economic competitiveness, enabling persons to move quickly to and from their homes, jobs, and other destinations, providing access to international border crossings, and connecting roadways within the area with roadways outside the area.

Each urbanized area over 50,000 population is required to designate a metropolitan planning organization to carry out the required planning process. Existing MPOs are treated as continuing and are not required to be redesignated.

The planning process for an area is required to cover the existing urbanized area plus the area expected to be urbanized within the planning forecast period. In addition, the covered area may include the entire metropolitan statistical area or consolidated metropolitan statistical area on an area designated as nonattainment for transportation-related pollutants.

The planning process will include both a long-range plan and a transportation improvement program (TIP). In developing the long range plan and the transportation improvement program, the MPO shall provide affected parties a reasonable opportunity to comment on the proposed plan. The TIP is prepared cooperatively with the state and includes projects proposed for funding under Title 23 and the Urban Mass Transportation Act of 1964 that are consistent with the long-range plan and conform to the applicable clean air state implementation plan in nonattainment areas for transportation related pollutants. A project can only be included in a TIP if it can reasonably be expected to be funded within the time period contemplated for completion of the project. The TIP must be revised at least every two years.

Nothing added by this section of the House bill or the section on statewide planning changes any requirement of the Clean Air Act.

The bill lists a series of factors to be considered in developing plans and programs. In summary these include:

(1) efficient use of existing transportation facilities;

(2) energy conservation goals;

(3) social, economic and environmental effects;

(4) Clean Air Act requirements;
(5) methods to reduce and prevent traffic congestion;
(6) methods to expand and enhance transit use;
(7) effect on land use and land development;
(8) transportation needs identified by management systems;
(9) innovative methods financing;
(10) preservation of transportation corridors;
(11) long range needs;
(12) methods to enhance efficient movement of commercial vehicles;
(13) life cycle costs in design and engineering of bridges, tunnels, and pavements.

In addition to any other requirements, urbanized areas over 200,000 in population must develop plans and programs in cooperation with the state and affected transit operators. Also these urbanized areas must identify methods to reduce congestion that are appropriate for the size of the area and the complexity of the transportation problems in the area. In nonattainment areas, the methods must be coordinated with the development of the state implementation plan for the Clean Air Act.

Finally, the bill provides for the establishment within DOT of an advisory committee to review the metropolitan planning procedures and their relationship with the state planning process.

Senate amendment

Amends 23 U.S.C. 134, Transportation Planning in Certain Urban Areas. The term "certain urban areas" (urban areas of more than 50,000 population) is replaced with the term "metropolitan areas" and the title of Section 134 is now "Metropolitan Planning". Metropolitan area boundaries are determined by the metropolitan planning organization and the Governor, and as a minimum must encompass the existing urbanized area and the area expected to be urbanized within the forecast period. The metropolitan area may encompass the entire Metropolitan Statistical Area/Consolidated Metropolitan Statistical Area. For areas designated as non-attainment for ozone or carbon monoxide, the boundaries must be the boundaries for the non-attainment area unless otherwise provided by the metropolitan planning organization.

The requirement that a metropolitan planning organization (MPO) be designated for each urbanized area over 50,000 population by agreement among the local units of general purpose government and the Governor is continued. Designations made prior to enactment remain valid and redesignation is not required.

The current requirement for a continuing, cooperative, and comprehensive urban transportation planning process in all urbanized areas over 50,000 population is continued with modifications to strengthen the planning process, particularly for metropolitan areas with a metropolitan statistical area (MSA) population of more than 250,000 and in areas classified as non-attainment for ozone or carbon monoxide under the Clean Air Act. Increased emphasis is placed on preserving and making more efficient use of existing transportation facilities; consistency with energy conservation programs, goals and objectives; congestion relief; Clean Air Act requirements; effect of transportation policy decisions on land use and development, and the provisions of land use and development plans; use of innovative financing mechanisms including value capture, tolls, and congestion pricing; programming of transportation enhancement activities; development of transportation improvement programs that are consistent with anticipated funding sources; and establishment of project priorities for implementing the transportation plan.

Transportation improvement programs (TIP) are developed by the MPO, in cooperation with the State and relevant transit operators, and must include all projects to be funded under Title 23 and the Urban Mass Transportation Act. The TIP must be consistent with the long range transportation plan and in nonattainment areas for ozone and carbon monoxide conform with the applicable State implementation plan developed pursuant to the Clean Air Act. The TIP must be approved by the MPO and the Governor, and be updated at least every two years. For metropolitan areas of 250,000 population or less, projects to funded (programmed) with Title 23 funds are selected from the TIP by State in cooperation with the MPO.

In metropolitan areas with a MSA population of more than 250,000, a congestion management system that provides for the effective management of new and existing transportation facilities through travel demand reduction and operational management strategies must be developed through the required technical process. In nonattainment areas for ozone or carbon monoxide where a transportation element of the State Implementation Plan is required by the Clean Air Act, the congestion management system must be coordinated with it. Further in non-attainment areas for ozone or carbon monoxide, Federal funds cannot be used for any highway project that provides a significant increase in carrying capacity for single occupant vehicles unless the project is part of the congestion management system. The conformity review process for transportation plans, programs, and projects funded under Title 23 or the Urban Mass Transportation Act in nonattainment areas must take into account any lack of progress in implementing projects in accordance established priorities and take into consideration the emissions expected from all regionally significant transportation projects regardless of the source of funding. Although emissions from all regionally significant projects will be taken into account, any finding of non-conformity will only delay Federally assisted projects.

In areas over 250,000 population, all projects to be funded under Title 23 (except Bridge and Interstate Maintenance projects) or the Urban Mass Transportation Act must be selected by the MPO and the Governor, and must be consistent with the TIP including the priorities established in the TIP. Bridge and Interstate Maintenance projects are selected by the State in cooperation with the MPO.

In areas over 250,000 population, the Secretary must assure that the requirements of this section are adequately carried out in each metropolitan area and certify the process in each area on annual basis. If at any time after October 1, 1992, the Secretary does not certify the process for an area, the obligation authority for Surface Transportation Program that is attributed to the area automatically lapses and is redistributed to other States.

One percent of the funds authorized for programs under Sections 104 and 144, except for the Interstate Construction and Interstate Substitution programs, is set aside for metropolitan planning. The State must distribute the metropolitan planning funds to MPOs by a formula approved by the Secretary which considers population, status of planning, attainment of air quality standards, metropolitan area transportation needs and other factors necessary to provide an appropriate distribution of funds to carry out applicable statutory requirements. Metropolitan planning funds made available to a MPO and not needed to carry out the provisions of this section may be made available to the State to carry out Statewide transportation planning.

Conference substitute

The Conference Bill incorporates selected provisions from the Highway & Transit Titles of the Senate with the selected provisions of the House Bill to revise and strengthen the metropolitan planning process.

Metropolitan planning organizations are to be designated in each urbanized area over 50,000 population by agreement among the local units of general purpose government and the Governor is modified to require the agreement of local officials representing at least 75 percent of the affected population (including central cities or cities as defined by the Bureau of Census), or as otherwise provided under state or local procedures. All designations whether under this provision or previous provisions of law remain in effect until revoked by agreement between the Governor and local units of general purpose governments representing at least 75 percent of the affected population. If the Governor and local units of government representing 75% of the affected population decide they want to redesignate the metropolitan planning organization, the existing metropolitan planning organization will remain in effect until a new metropolitan planning organization is designated by the Governor and local officials representing 75 percent of the affected population or the existing metropolitan planning organization is revoked by the Governor and local officials representing 75 percent of the population. A special provision is included to allow metropolitan planning organizations to reorganize under certain conditions that pertain to the Chicago and Los Angeles regions.

The managers recognize that the Lake Tahoe Basin was recognized by Congress in P.L. 96-551 as an ecologically fragile area of national significance. The Federal ownership of lands in this California/Nevada Bi-State Basin is approximately 73% and MPO status for purposes of federal transit and transportation funding and assistance is appropriate.

For redesignations or reorganizations of metropolitan planning organizations in transportation management areas subsequent to enactment where the proposed membership varies from the current membership, the metropolitan planning organization must include local elected officials, officials of agencies that administer or operate major modes of transportation in the metropolitan area (including all agencies included as of June 1, 1991), and appropriate State officials. However, the requirement is not intended to interfere with any authority of public agencies with multimodal transportation responsibility under State law to develop plans and programs for adoption by the metropolitan planning organization.

Metropolitan area boundaries are determined by the metropolitan planning organization and the Governor, and as a minimum must encompass the existing urbanized area and the area expected to be urbanized within the forecast period. The metropolitan area may encompass the entire Metropolitan Statistical Area/Consolidated Metropolitan Sta-

tistical Area. For areas designated as non-attainment for ozone or carbon monoxide, the boundaries must be the boundaries for the non-attainment area unless otherwise provided by the metropolitan planning organization and the Governor.

The planning process in metropolitan areas must as a minimum consider the following items:

(1) efficient use of existing transportation facilities;

(2) energy conservation goals;

(3) methods to reduce and prevent traffic congestion;

(4) effect on land use and land development;

(5) programming of expenditures for transportation enhancement activities;

(6) effects of all transportation projects regardless of source of funds;

(7) international border crossings and access to major traffic generators such as ports, airports, intermodal transportation facilities, and major freight distribution routes;

(8) connectivity of roads within the metropolitan area with roads outside the metropolitan area;

(9) transportation needs identified by management systems;

(10) preservation of transportation corridors;

(11) methods to enhance efficient movement of commercial vehicles;

(12) life cycle costs in design and engineering of bridges, tunnels, and pavement;

(13) social, economic and environmental effects.

Each MPO is required to prepare and update a long range transportation plan for its metropolitan area in accordance with a schedule established by the Secretary. The long range plan must identify transportation facilities that should function as an integrated metropolitan transportation system, giving emphasis to those facilities that serve important national and regional transportation functions. In nonattainment areas for transportation related pollutants, the metropolitan planning organization must coordinate the development of the long range plan with the process for development of transportation measures of the State Implementation Plan required by the Clean Air Act. The long range plan must be made available for public review prior to approval.

Transportation improvement programs (TIP) are developed by the MPO, in cooperation with the State and relevant transit operators, and must include all projects to be funded under Title 23 and the Federal Transit Act. The TIP must be approved by the MPO and the Governor, and be updated at least every two years. The TIP must be made available for public review prior to approval. In areas that are not designated as transportation management areas, projects are selected by the State in cooperation with the metropolitan planning organization from the approved TIP.

For urbanized areas not designated as transportation management areas, the Secretary may prescribe abbreviated requirements for the development of transportation plans and programs. However, the Secretary may not prescribe abbreviated requirements for any area designated as nonattainment for ozone or carbon monoxide under the Clean Air Act.

Urbanized areas over 200,000 population must be designated as transportation management areas. In addition to the general requirements for all urbanized areas, transportation management areas must develop a transportation management system that provides for effective management of new and existing transportation facilities through travel demand and operational management strategies. In transportation management areas all projects funded under Title 23 (except for National Highway System, Bridge or Interstate Maintenance projects) and the Urban Mass transportation Act are selected by the metropolitan planning organization in consultation with the State. National Highway System, Bridge and Interstate Maintenance projects are selected by the State in cooperation with the metropolitan planning organization.

The Secretary must assure that the requirements of this section are adequately carried out in each transportation management area and certify the process in each transportation management area at least every 3 years. If an area is not certified, the Secretary may withhold, in whole or part, the apportionments under the Surface Transportation Program attributed to the metropolitan area.

In areas classified as nonattainment for ozone or carbon monoxide, Federal funds may not be used for any highway project that will significantly increase the carrying capacity for single occupant vehicles unless the project is part of or consistent with the approved congestion management system.

The Secretary shall prescribe an appropriate phase-in schedule for any new requirements under this section.

One percent of the funds authorized for programs under Sections 104 and 144, except for the Interstate Construction and Interstate Substitution programs, is set aside for metropolitan planning. The State must distribute the metropolitan planning funds to MPOs by a formula approved by the Secretary which considers population, status of planning, attainment of air quality standards, metropolitan area transportation needs and other factors necessary to provide an appropriate distribution of funds to carry out applicable statutory requirements. Metropolitan planning funds made available to a MPO and not needed to carry out the provisions of this section may be made available to the State to carry out Statewide transportation planning.

STATEWIDE PLANNING

House bill

In carrying out statewide transportation planning, the state is required to prepare a long-range plan and a transportation improvement program, taking into consideration the factors listed for the metropolitan planning process. Specifically, the state is required to incorporate, coordinate, and reconcile the plans and programs developed under the metropolitan planning process, provide for comprehensive planning in areas of the state which are not urbanized areas, consult with Indian tribal governments, and establish management and traffic monitoring systems.

Senate amendment

This section would establish a requirement for a statewide transportation planning process in Section 135 of Title 23. Under this section the States would be required to have a Bridge Management System, a Pavement Management System, a Safety Management System, and a Congestion Management System developed in accordance with regulations issued by the Secretary. A State that certifies to the satisfaction of the Secretary that no congestion exists or is expected to exist will not be required to have a congestion management system. These systems are currently in various stages of development. Full development is expected to occur in stages with final implementation by 1995. If a State does not have approved management systems by 1995, the Secretary may: (1) withhold project approvals under 23 U.S.C. 106 and (2) decline acceptance of the State's certification and notice under the 23 U.S.C. 133(c)(2). Each State must also have a Traffic Monitoring System to provide data determined necessary under Title 23. Guidelines and requirements will be established by the Secretary.

The Statewide transportation planning process must take into account the required management systems; Federal, State or local energy use goals, objectives, programs or requirements; and valid state or local development or land use plans, programs, or requirements. The process must provide for comprehensive surface transportation planning for non-metropolitan areas and the integration of any non-metropolitan area plan with any metropolitan area plans. In nonattainment areas for ozone and carbon monoxide, the process must be coordinated with development of the transportation portion on any state implementation plan (SIP) required under the Clean Air Act (CAA) and must provide for compliance with any revelant requirements of the SIP. Any State containing a non-attainment area for ozone or carbon monoxide must develop a State transportation plan and update it at least every two years. In addition to the general requirements for a State transportation plan, the plans in non-attainment areas must incorporate without change metropolitan area plans and provide for coordination in the development of the plan with the SIP.

The funds set aside under 23 U.S.C. 307(c)(1) are available to carry out the requirements of this section.

Conference substitute

The conference Bill incorporates selected provisions from the Senate Bill with the selected provisions of the House Bill to establish a statewide multimodal transportation planning process for the development of transportation plans and programs for all areas of the state. The planning process must consider all modes of transportation and must be continuing, cooperative, and comprehensive to the degree appropriate based on the complexity of the transportation problems.

In developing the transportation plan, the State must provide an opportunity for public involvement and consult with Indian tribal governments having jurisdiction over lands within the State. In developing the transportation improvement program, the State must provide an opportunity for public involvement and cooperate with the metropolitan planning organizations. The transportation improvement programs must include all projects proposed for funding under title 23 or the Federal Transit Act, and must be reviewed and approved at least biennially.

The States would be required to have a Bridge Management System, a Pavement Management System, a Safety Management System, a Congestion Management System, a Transit Management System, and an Intermodal Management System developed in accordance with regulations issued by the Secretary. A State that certifies to the satisfaction of the Secretary that no congestion exists or is expected to exist will not be required to have a congestion management system. These systems are currently in various stages of development. Full development is expected to occur in stages with final implementation by 1995. If a State does

not have approved management systems, the Secretary may: (1) withhold project approvals under 23 U.S.C. 106 and (2) decline acceptance of the State's certification and notice under the 23 U.S.C. 133(c)(2). Each State must also have a Traffic Monitoring System to provide data determined necessary under Title 23. Guidelines and requirements will be established by the Secretary.

The Statewide transportation planning process must provide for or take into account:

(1) transportation needs identified by management systems;

(2) plans for bicycle transportation and pedestrian walkways in the various areas of the State to the degree appropriate;

(3) energy conservation goals;

(4) international border crossings and access to major traffic generators such as ports, airports, intermodal transportation facilities, and major freight distribution routes;

(5) comprehensive surface transportation planning for nonmetropolitan areas through a process that includes consultation with local elected officials;

(6) metropolitan plan developed under section 134;

(7) connectivity between metropolitan areas within the State and with metropolitan areas in other States;

(8) recreational travel and tourism;

(9) any State plan developed pursuant to the Federal Water Pollution Control Act;

(10) Clean Air Act requirements in nonattainment areas for transportation related pollutants;

(11) transportation system management and investment strategies to make efficient use of existing transportation facilities;

(12) social, economic and environmental effects;

(13) methods to reduce and prevent traffic congestion;

(14) methods to expand and enhance transit use;

(15) effect on land use and land development;

(16) transportation needs identified through use of the management systems required by this section;

(17) innovative methods of financing;

(18) preservation of transportation corridors;

(19) long range needs;

(20) methods to enhance efficient movement of commercial vehicles;

(21) life cycle costs in design and engineering of bridges, tunnels, and pavements.

The Secretary shall prescribe an appropriate phase-in schedule for the requirements of this section.

The funds set aside under 23 U.S.C. 307(c)(1) are available to carry out the requirements of this section.

INDIAN NONDISCRIMINATION

House bill

Section 140 of Title 23 is amended to make Indian tribal governments eligible for grants to develop, conduct and implement highway construction training and skills programs.

Section 140(d) is amended to authorize states to extend Indian employment preference programs to projects near reservations. Currently, such programs are limited to Indians living on or near reservations and to projects on Indian reservation roads.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House provision.

PUBLIC TRANSPORTATION

House bill

The House amendment allows for the improved access between intercity and rural bus service.

Senate amendment

No comparable provision.

Conference substitute

The House recedes to the Senate.

BRIDGE REPLACEMENT AND REHABILITATION

House bill

The Secretary, in consultation with the Secretary of Interior is required to conduct an inventory of Indian reservation and park bridges; classify them according to serviceability, safety, and essentiality for public use; assign a priority for replacement or rehabilitation; and determine the cost of replacing or rehabilitating each bridge.

Bridge painting and the application of calcium magnesium acetate is made an eligible cost under the bridge program.

The Federal share is 80 percent.

There is authorized $ million per fiscal year for each of the fiscal years 1992 through 1996 for the bridge discretionary program. Of that amount, $ million per fiscal year is set-aside for timber bridges.

The provisions of the off-system bridge program are extended to permit the cost of bridge painting and the application of calcium magnesium acetate to off system bridges.

No less than 1 percent of the amount apportioned to each state in bridge funds shall be used on Indian reservation bridges. The funds will be deducted in advance of each state's apportionment and allocated to the Secretary of the Interior for expenditure. The Secretary may reduce the set-aside with the concurrence of the Secretary of the Interior after consultation with the state and tribal governments if it is determined that there are inadequate needs to justify such expenditure. The non-Federal share for Indian reservation bridge projects may be paid from amounts made available from the Indian reservation roads program.

Subsection (g) protects any previously apportioned bridge funds.

Funds are authorized and allocated for high cost bridge projects.

Senate amendment

This section amends Section 144 of Title 23, United States Code. The Federal share payable is retained at 80% for bridge projects where rehabilitation or replacement is for structural reasons. It is also retained for replaced or rehabilitated bridges where additional capacity is needed for other than single occupant vehicles. Where expanded capacity is proposed by either replacement or rehabilitation for use by single occupant vehicles, the federal share is 75 percent. For example, an existing two-lane bridge could be rehabilitated or replaced by a new two-lane bridge with a Federal share of 80 percent. However, if an additional third lane primarily available to single occupant vehicles is constructed, the federal share for the third lane would be 75 percent. Pay back provisions are included for those cases where a State uses 80 percent Federal funding for a bridge, but later converts the bridge for use by single occupant vehicles. The Secretary is to develop the criteria for determining the appropriate Federal share of bridge replacement or rehabilitated bridge projects.

Bridge painting and seismic retrofit is made an allowable expense for bridges eligible for bridge program funding. The discretionary bridge program is repealed.

States need to fully consider the environmental effects and long-term economic costs associated with traditional highway and bridge maintenance and safety practices such as the use of road salt in winter. To encourage States to adopt environmentally safer highway maintenance practices, calcium magnesium acetate (CMA) is included as an eligible expense under the Bridge program. This action is a continuation of Section 173 of Public Law 100-17. This provision should encourage States to use CMA on a limited number of bridges in order to extend their useful life, and to protect the surrounding environment.

Level-of-service criteria are to be established for the bridge program by January 1, 1992. The level-of-service criteria are target values against which bridge characteristics are to be compared. The values vary by highway system or functional classification. Using the comparison, bridges can be categorized as needing or not needing rehabilitation or replacement. The bridges thus categorized are those eligible for bridge program funds, and are the bridges used in apportioning these funds to the States. The bill also permits the States to expend up to 35 percent of Federal bridge funds on bridges that are not in the level-of-service inventory.

Conference substitute

The Conference Substitute adopts the House provisions with an amendment that permits seismic retrofit as an eligible expense for bridges.

SPEED LIMIT

House bill

Section 130 of the House bill establishes new compliance requirements to reflect the higher risk associated with higher speeds, road design, and enforcement capabilities. The House bill also modifies the current sanction requirement.

Under the House bill, the Secretary is required to transfer not less than 1 percent and not more than 5 percent of a state's National Highway System funds to its apportionment under section 402 of this title if the percentage of vehicles in such state (A) on 55 mph Interstate highways are traveling at speeds in excess of the posted speed limit plus 5 miles per hour exceed 50%, (B) on 55 mph Interstate highways are traveling at speeds in excess of the speed limit plus 10 miles per hour exceeds 30 percent, (C) on 65 mph Interstate highways are traveling at speeds in excess of the posted speed limit plus 5 miles per hour exceeds 35 percent, (D) on 65 mph Interstate highways are traveling at speeds in excess of the speed limit plus 20 miles per hour exceeds 20 percent, (E) on non-interstate highways are traveling at speeds in excess of the posted speed limit plus 5 miles per hour exceeds 30 percent, or (F) on non-interstate highways are traveling at speeds in excess of the posted speed limit plus 10 miles per hour exceeds 15%.

Fifty percent of any funds transferred to Section 402 must be used for speed enforcement activities and public education and information. At the request of a state, the Secretary may waive this requirement for any fiscal year quarter after a fiscal year quarter the state is found to be in compliance with this section.

The bill also codifies the current provisions that permit states to raise the speed limit up to 65 mph on certain non-Interstate highways built to Interstate standards and located outside of an urbanized area. In addition, it requires the collection of uniform data on 55 mph and 65 mph highways and re-

quires the Secretary to issue regulations that devices and equipment are placed at locations on maximum speed limit highways on a scientifically random basis which takes into account the relative risk of motor vehicle accidents as they relate to speed and class of highways.

The House bill would further transfer the administration of this section and appropriate Federal Highway Administration personnel to the National Highway Traffic Safety Administration.

Senate amendment

Section 139(a) repeals 23 U.S.C. 141(a), which requires each state to certify annually that it is enforcing all speed limits on public highways posted at the national maximum speed limit and requires the Secretary to withhold project approval in any state that fails to certify accordingly. The language of 23 U.S.C. 141(a) is incorporated in 23 U.S.C. 154 as rewritten in subsection (b) of this section.

Subsection (b) rewrites 23 U.S.C. 154, the national maximum speed limit law. As rewritten, section 154:

(1) continues the current national maximum speed limit of 55 mph on public highways other than Interstate highways located outside of an urbanized area and 65 mph on Interstate highways located outside of an urbanized area;

(2) codifies the current permission for states to raise the speed limit up to 65 mph on certain non-Interstate highways built to Interstate standards and located outside of an urbanized area.

(3) requires each state to collect and submit to the Secretary annual speed-related data on public highways posted at or above 55 mph (current data collection and compliance requirements apply only to highways posted at 55 mph);

(4) incorporates the language of the current section 141(a) prohibiting the approval of state highway construction projects in a state that fails to certify that it is enforcing all speed limits on public highways; and

(5) repeals, by omission, current provisions of the national maximum speed limit law that: (a) require states to submit to the Secretary compliance data for a 12-month period on the percentage of motor vehicles exceeding 55 mph on their public highways posted at 55, and (b) establish a process under which a state could lose up to 10 percent of its non-Interstate highway construction funds for the following fiscal year if the state's 12-month compliance data show that more than 50 percent of its motorists exceeded the posted 55 mph limit;

Conference substitute

The Conference Substitute modifies Sec. 154(e), Title 23 U.S.C., to provide that speed limit data to be reported annually to the Secretary include, but not be limited to, data on citations, travel speeds and the posted speed limit and the design characteristics of roads from which such travel speed data are gathered. The Substitute also adopts the House language regarding the collection of data and the adoption of regulations by the Secretary on the placement of monitoring devices.

The House provision relating to enforcement is amended by requiring the Secretary, one year after the enactment of this Act, to publish in the Federal Register a proposed rulemaking to establish speed limit enforcement requirements which shall devise a formula for determining compliance with the requirements of the rulemaking (1) which assigns greater weight for violations of such speed limits in proportion to the amount by which the speed of the motor vehicle exceeds the speed limit and (2) which differentiates between the type of road on which speed limit violations occur. In developing the formula, the Secretary is required to consider factors relating to (1) the enforcement of efforts made by the states, data concerning fatalities and serious injuries occurring on roads posted at 55 mph or higher, and (2) any other measure of speed enforcement or speed-related highway safety trends which the Secretary deems appropriate. The Conference Substitute applies the same reprogramming provision and Secretarial discretion with regard to the percentage transferred as in the House bill.

The Secretary must publish the final form of the prescribed regulations in the Federal Register within 60 days after publication of the proposed rulemaking. Such final rule shall take effect no later than 12 months after such publication.

MINIMUM ALLOCATION

House bill

The House bill increases the minimum allocation level from 85 percent to 90 percent, i.e. it assures that each State's share of the Federal-aid program (calculated based on that year's apportionment and prior year's allocations) will not be less than 90 percent of its relative share of contributions to the Highway Trust Fund. The base upon which this calculation takes place includes all Federal-aid programs with the exception of forest highways, Indian reservation roads, parkways and park roads, highway related safety grants, non-construction safety grants, motor carrier safety grants, and projects from either this Act or the 1987 STURAA.

Further, the House bill provides a separate guaranteed minimum for the projects contained in the House bill.

Senate amendment

The Senate amendment contains no comparable provision, thus continuing minimum allocation as in current law.

Conference substitute

The conference substitute retains the minimum allocation concept, increased to a 90 percent level, although the base upon which it is calculated is changed. That base includes apportionments for interstate construction, interstate substitution, interstate maintenance, bridge and surface transportation programs as well as prior years discretionary allocations derived from these programs.

BICYCLE TRANSPORTATION AND PEDESTRIAN WALKWAYS

House bill

Section 132 amends Section 217 of title 23, United States Code to provide that, with the approval of the Secretary, a state may obligate its Rural and Urban Mobility and Flexible funds to construct pedestrian walkways and bicycle transportation facilities on any Federal-aid highway, except on the Interstate system. No bicycle projects may be carried out that are not principally for transportation rather than recreational purposes. Also with the Secretary's approval, a state may obligate its national highway system funds to construct bicycle transportation facilities on land adjacent to any National Highway System highway other than on the Interstate system. Funds authorized for forest highways, forest and public lands development, roads and trails, park roads, parkways, Indian reservation roads and public lands highways shall be available for the construction of pedestrian walkways and bicycle transportation facilities in conjunction with such trails, roads, highways and parkways at the discretion of the department which administers the funds.

States shall use urban and rural mobility and flexible apportionments to fund a bicycle and pedestrian coordination position with the state department of transportation. The coordinator shall promote and facilitate increased use of nonmotorized modes of transportation, development of pedestrian and bicycle facilities, public education, and promotional and safety programs for using the facilities. At least 50 percent of the coordinator's position shall be dedicated to coordinating and developing such programs and facilities.

On Federally assisted bridge deck replacement or rehabilitation projects and on highways which are not fully access controlled, where bicycles are permitted to operate at each end, accommodations for bicycles may be included in the project if the Secretary determines it is safe to do so and it can be provided at a reasonable cost. Pedestrian walkways and bicycle transportation facilities shall be located and designed as part of an overall plan with due consideration for safety and contiguous routes, and no motorized vehicles shall be permitted on pedestrian walkways and trails except for maintenance purposes or when snow conditions and state or local regulation permit, motorized wheelchairs.

Senate amendment

The Senate amendment continues existing law with conforming amendments. It also includes facilities for pedestrian and bicycles as an eligible item for funding under transportation enhancement activities.

Conference substitute

The Conference Substitute adopts the House provision.

INDIAN RESERVATION ROADS

House bill

The House bill provides for 2% of IRR funding under the Federal Lands Highway Program to be allocated to tribes applying for transportation planning pursuant to the provisions of the Indian Self Determination and Education Assistance Act. In addition, the bill directs the Secretary to conduct a study related to Indian reservation roads.

Senate amendment

The Senate bill also provides for 2% of IRR funding to tribes applying for transportation planning.

Conference substitute

The managers have agreed to the House language with the exception that the 2% of the funding provided has been amended to provide "up to" 2% is provided.

FEDERAL LANDS

Indian Reservation Roads

House bill

The House amendment directs the Secretary to conduct a study on differences between the use of funds from the Highway Trust Fund on Indian reservation roads and other federal-aid highways to identify inequities. The study results, including legislative and administrative recommendations, shall be sent to Congress within one year.

Senate amendment

The Senate bill contains no comparable provision.

Conference substitute

The Senate recedes to the House.

House bill

The House bill provides that two percent of each year's Indian Reservation Roads funds

be allocated to tribal governments applying for transportation planning pursuant to the Indian Self-Determination and Assistance Act.

Senate amendment

The Senate bill provides an identical provision.

Conference substitute

The Conference substitute amends the provision for "up to" two percent for such purposes so allocated amount is based on actual applications by tribal governments. Tribes not applying for planning grants under the Self Determination Act will continue to receive such services from the Bureau of Indian Affairs administrative cost account.

Program Structure

House bill

The House bill contains no comparable provisions.

Senate amendment

The Senate amendment restructures the federal land category by consolidating the forest roads and nation-wide discretionary account into a new public lands highway program. Sixty-six percent of the public lands highway account shall be allocated to the Forest Service regional offices for use in 41 states based on forest highway criteria. The remaining 34 percent shall be allocated by the Secretary based on national competition for other forest or public land highways.

The Senate amendment qualifies each class of Federal land highways for transportation planning for tourism and recreational travel and makes certain costs such as interpretative signage and rest areas eligible cost items.

The Senate amendment authorizes the Secretary to transfer appropriate funds to the Secretary of Interior to cover road-related administrative costs of the Bureau of Land Management in connection with public lands highways.

The Senate amendment directs the Secretaries of Transportation, Interior and Agriculture to develop appropriate transportation planning procedures, and safety, bridge and pavement management systems for funds funded under the Federal Lands Highway Program.

CONFERENCE SUBSTITUTE

The Conference recedes to the Senate provisions.

Funding levels

House bill

The House amendment authorizes $268 million for forest roads, $193 million for public lands highways, $292 for parks and parkways, and $1,028 for Indian Reservation Roads over six years.

Senate amendment

The Senate amendment authorizes $1 billion for the new consolidated public land highways program, $600 million for parks and parkways, and $1 billion for Indian reservation roads.

Conference substitute

The Conference substitute provides $1 billion for the public lands highways, $486 million for parks and parkways and $1.114 for Indian reservation roads.

MANAGEMENT SYSTEMS

House bill

The House bill requires the Secretary to issue regulations within one year for the development, establishment, and implementation of six (6) management systems: pavement, bridges, safety, congestion, public transportation, and intermodal. Beginning with FY 96, the Secretary may withhold 10 percent of funds apportioned under Title 23 and the UMTA Act of 1964 for failure to implement and certify implementation of each system in the preceding year. Costs to develop and establish these systems are eligible uses of Federal-aid apportionments.

Senate amendment

The Senate amendment, as part of the Statewide planning process, requires the States to have systems comparable to those of the House bill with the exception of public transportation and intermodal. The penalty for failure to establish approved systems, at the discretion of the Secretary, withholding project approvals and/or decline acceptance for the certification necessary as part of the Surface Transportation Program.

Conference substitute

The Conference substitute adopts the House provision requiring the Secretary to withhold up to 10 percent of the funds apportioned to the states that have adopted and implemented management systems.

LIMITATION ON DISCOVERY OF CERTAIN REPORTS AND SURVEYS

House bill

This section clarifies that no report, survey schedule list, or data compiled for the purpose of complying with Section 130 and 144 of Title 23, United States Code, or for developing any highway safety construction project which may be implemented with Federal-aid highway funds shall be subject to discovery or admitted into evidence in a Federal or state court proceeding.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House Provision.

BUY AMERICA

House bill

This section clarifies the intent of Congress to include products manufactured with iron under the Buy America provisions.

The Secretary of Transportation is required to submit to Congress a report on purchases from foreign entities that include the dollar value of items for which waivers were granted under the Buy America provisions.

This section also contains provisions that establish penalties for certain violations and limitations on the applicability of waivers for products produced in foreign countries that have trade agreements with the United States.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House provision.

RELOCATION ASSISTANCE REGULATIONS RELATING TO THE RURAL ELECTRIFICATION ADMINISTRATION

House bill

This section exempts the Rural Electrification Administration (REA) from certain rules relating to appraisal required by the Department of Transportation to carry out property acquisitions. If the acquisition activities of the REA result in the dislocation of a person, then REA must follow the rules of adequately compensating a displaced person.

Senate amendment

The Senate amendment amends section 213(c) of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1973. It exempts the Rural Electrification Administration (REA) from the uniform regulation relating to the acquisition of real property under title III of that Act. The relocation provisions in title II of the Act would still apply where the activities of REA (or TVA which is already exempted) result in the displacement of persons or businesses.

Conference substitute

Adopts the Senate provision.

TEMPORARY MATCHING FUND WAIVER

House bill

The House bill contains a provision comparable to that incorporated into the 1987 STURAA, permitting the states to request a waiver of the non-Federal share for a qualifying project, in this case for fiscal years 1992 and 1993. The state shares waived must be fully repaid by March 30, 1994, with payments deposited in the Highway Trust Fund and repaid amounts credited to the appropriate apportionment account of the state.

Any amounts not repaid are to be deducted from the state's fiscal year 1995 and 1996 apportionments and then apportioned to other states which have not received a higher Federal share under this section and to those states which have made the required repayment.

Senate amendment

The Senate amendment contained no comparable provision.

Conference substitute

The conference substitute adopted the House provision.

HIGH PRIORITY CORRIDORS

House bill

This section identifies 16 high priority corridors that are regionally and nationally important. These corridors are required to be put on the National Highway System.

For all of these corridors, both long-range planning and specific feasibility and design studies will be carried out by the Secretary and the states cooperatively. For work on these corridors the Secretary may use certification acceptance under section 117 of title 23 and shall, to the maximum extent feasible, use procedures for acceleration of projects.

Specific high priority segments are identified for specific funding. The overall funding that is available for these projects is $200 million for FY 1992 and $450 million per year for each of FY 1993–1996. In addition, since this special funding will generally not be sufficient to complete work on these segments, the bill requires states to give priority to funding these segments with apportioned funds.

A separate authorization of $10 million per year is provided for feasibility and design studies. In addition, a revolving loan fund of $200 million is established from a $50 million set aside for each of FY 1993–1996. This Fund would be available to advance amounts to a state for construction of projects in the corridors, with priority given to the high priority segments. A state would repay amounts advanced from National Highway System apportionments.

Senate amendment

The Senate amendment contained no comparable provision.

Conference substitute

The conference substitute adopted the House provisions with the following changes: (1) various authorization levels for high priority segments were modified, (2) the mandatory "shall" language was made permissive by substituting the word "may," and (3) a

new corridor and segment was added in New York. Technical corrections were made to make the advance construction provisions workable for the Cumberland Gap as well as to clarify the intent of establishing contract authority for the feasibility studies funded under this Section.

HIGHWAY TIMBER BRIDGE RESEARCH AND DEMONSTRATION PROGRAM

House bill

The House amendment directs the Secretary to establish a Timber Bridge Construction and Discretionary grant program, allowing States to receive grants for the construction of highway timber bridges.

Senate amendment

The Senate amendment directs the Secretary to establish a Timber Bridge Construction Discretionary Grant Program, as well as a Program of Research on Wood Use in Transportation Structures.

Conference substitute

House recedes to Senate amendment with funding level to be split between Senate level and the level contained in House bill.

CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES

House bill

This section provides that the Secretary shall carry out a program for construction of ferry boats and ferry terminal facilities in accordance with section 129(c) of title 23. The Federal share for construction of ferry boats under this section shall be 80%. There is authorized $36 million for fiscal year 1992 and $43 million per fiscal year for each of the fiscal years 1993 through 1997 out of the Highway Trust Fund and shall be available to the Secretary each fiscal year to obligate at his or her discretion for grants under this section. The funds shall remain available until expended. All the provisions of chapter 1 of title 23 that apply to the National Highway System, except those related to the apportionment formula and Federal share, shall apply to funds made available to carry out this section, unless the Secretary determines they are inconsistent with this section.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House provision with modifications to the funding levels.

ASPHALT PAVEMENT CONTACTING RECYCLED MATERIALS

House bill

Section 143 of H.R. 2950 specifies that, for a period of five years, the Secretary of Transportation may not disapprove any state highway project on the basis that such project utilizes rubber modified asphalt. This section also requires the Secretary to conduct a two-year study on the utilization of recycled materials in paving materials and highway devices and appurtenances.

Senate bill

Section 127 of S. 1204 requires the Secretary of Transportation to withhold grants under title 23, other than for projects or grants relating to safety, from any state which cannot certify to the Secretary that it has met the minimum utilization requirement of the equivalent of 6 pounds of rubber derived from scrap tires for each ton of finished asphalt pavement used in federally-assisted highway projects. The provision allows the Secretary to set aside the requirement for any three-year period upon a determination that 1) the use or application of asphalt rubber pavement creates a risk to human health or the environment; 2) asphalt rubber pavement cannot be recycled to the same degree as conventional pavement; or 3) asphalt rubber pavement does not perform adequately as a paving material.

The Secretary, in cooperation with the Administrator of the Environmental Protection Agency, is required to conduct research on the environmental risks, technical performance and recyclability of asphalt rubber pavement.

Conference substitute

The Conference Substitute combines the major provisions of both the House and Senate bills. It includes the provision which prevents the Secretary from disapproving a highway project because it includes the use of asphalt pavement containing recycled rubber. It also requires the Secretary and the Administrator of EPA, in cooperation with the states, to conduct a study on the health and environmental threats, recyclability, and technical performance of asphalt pavement containing recycled rubber. In addition, the study will determine the economic savings, technical performance qualities, and environmental threats and benefits of using other recycled materials, including recycled glass, plastic and asphalt, in highway projects. The Secretary is instructed to encourage the use of recycled materials determined to be appropriate by this study. In procuring such materials, procuring agencies as defined in section 1004(17) of the Solid Waste Disposal Act shall comply with all applicable guidelines or regulations issued by the Administrator of the Environmental Protection Agency including those issued pursuant to section 6002 of the Solid Waste Disposal Act.

Beginning January 1, 1995, each state is required to certify to the Secretary that it has satisfied the minimum utilization requirement for asphalt pavement contacting recycled rubber, as follows: five percent in 1994; ten percent in 1995; 15 percent in 1996; and 20 percent in 1997 and each year thereafter. The Secretary shall withhold from any state failing to make such certification a percentage of highway construction, rehabilitation and repair apportionments equivalent to the percentage utilization requirements established in this section.

Other recycled materials, as determined appropriate by the Secretary and the Administrator of EPA, pursuant to the study required by this section, may be substituted for recycled rubber under the minimum utilization requirement up to five percent. The conferees recognize that other recycled materials with the potential for exhibiting technical performance qualities may require substantial time for further development and testing. In such case, it is intended that the Secretary will note this in the report submitted to Congress, and that the authorization to substitute will not go into effect until such time as such other recycled materials have been developed and tested, and as a result of such development and testing, demonstrate, to the satisfaction of the Secretary, that asphalt containing recycled material or materials will perform in a manner equivalent to asphalt contacting recycled rubber.

The conferees recognize that a state may not have a sufficient quantity of scrap tires to meet the minimum utilization requirements established by this section, because it is recycling or processing tires (which includes retreading or energy recovery), or shipping tires to another state for such recycling or processing. In such case the state may request that the Secretary, in concurrence with the Administrator of EPA, reduce the minimum utilization requirement for that state.

The term "recycled rubber", as used in this section, is any crumb rubber derived from processing whole scrap tires or shredded tire material taken from automobiles, trucks or other equipment owned and operated in the United States provided that, such processing does not produce, as a waste, casings or other round tire material that can hold water when stored or disposed above ground.

HIGHWAY USE TAX EVASION PROJECTS

House bill

This section provides in subsection (a) that the Secretary shall use funds made available by subsection (f) to carry out highway use tax evasion projects. At the discretion of the Secretary, the funds may be allocated to the Internal Revenue Service and the states.

Funds may be used only to expand efforts to enhance motor fuel tax enforcement; to fund additional Internal Revenue Service staff solely to carry out the functions described in this subsection; to supplement motor fuel tax examinations and criminal investigations; to develop automated data processing tools to monitor motor fuel production and sales; to evaluate and implement registration and reporting requirements for motor fuel taxpayers; to reimburse state expenses that supplement existing fuel tax compliance efforts; and to analyze and implement programs to reduce tax evasion of other highway use taxes.

The Secretary is authorized to conduct a study to determine the feasibility and the desirability of using dye and markets to aid in motor fuel enforcement activities. The Secretary must transmit a report on the results of the study not later than one year after the effective date of this section.

The Secretary shall establish an advisory committee to prepare a plan to carry out and coordinate highway use tax evasion projects, monitor the results of the projects, provide progress reports, and make recommendations to the Secretary for the distribution of funds under this section, including recommendations for distributing funds among states fairly and equitably. The advisory committee members shall be appointed no later than 180 days after enactment. Members shall include representatives of the Federal Highway Administration, the Internal Revenue Service and the States. The advisory committee shall terminate on September 30, 1996.

The Secretary may not make a grant to a state unless it certifies that the aggregate expenditure of state funds, exclusive of Federal funds, for fuel tax enforcement activities will not fall below the average level expended for the last two years.

On October 1 and April 1 of each year, the Secretary shall transmit to the Senate Committee on Environment and Public Works and the House on Public Works and Transportation a report on motor fuel tax enforcement activities and the expenditure of funds made available under this section including the hiring of additional staff by any Federal agency.

There is $7 million authorized for fiscal year 1992 and $8 million per year for fiscal years 1993 through 1997 to be made available to the Secretary for projects under this section. Funds shall be obligated in the same manner and to the same extent as funds apportioned under chapter 1 of Title 23, except that the Federal share for projects shall be 100% and remain available under expended.

For the purposes of this section "state" means the 50 States and the District of Columbia.

Senate amendment

The amendment authorizes $5 million for each of the fiscal years 1992 through 1996 to carry out highway use tax evasion projects. The funds will be allocated to the Internal Revenue Service at the discretion of the Secretary. The funds may be used only to expand efforts to enhance motor fuel tax enforcement, fund additional IRS staff, supplement motor fuel tax examination and criminal investigation and for other related purposes.

The Secretary shall transmit to the Congress a report on motor fuel tax enforcement activities and the expenditure of funds made available under this section, including the hiring of additional staff by any Federal agency, on October 1 and April 1 of each year.

Conference substitute

Adopts the House provision with an amendment that authorizes $25 million in contract authority and $15 million in General Fund appropriations spread out over the 6-year life of the bill.

SUBSTITUTE PROJECT

House bill

The House provision allows the Secretary to approve substitute highway, bus transit, and light rail transit projects, in lieu of construction of I-94.

Senate amendment

The Senate amendment is similar; however, the source of funding for any transit substitute projects approved shall be the Mass Transit Account of the Highway Trust Fund.

Conference substitute

The Senate recedes to the House.

RENTAL RATES

House bill

The House bill authorizes a study on equipment rental rate for use of reimbursing contractors for extra work on Federal-aid projects.

Senate amendment

The Senate amendment contained no comparable provision.

Conference substitute

The conference substitute adopts the House provision.

SCENIC BYWAYS PROGRAM

House bill

Section 147 of the House bill establishes a Scenic Byways Advisory Committee within the Department of Transportation for the purpose of assisting the Secretary in developing a national scenic byways program and in making recommendations to the Secretary regarding minimum criteria for use by state and Federal agencies in designating highways as scenic byways and all-American roads.

Membership must consist of the Administrator or a designate of the Administrator of the Federal Highway Administration; the Chief or designee of the Chief of the Forest Service of the Department of Agriculture; the Director or designee of the Director of the Bureau of Land Management of the Department of the Interior; the Under Secretary or designee of the Under Secretary for Travel and Tourism of the Department of Commerce; the Assistant Secretary or designee of the Assistant Secretary of Indian Affairs of the Department of the Interior; and appointees of the Secretary to represent the interests of conservationists, recreational users of scenic byways, the tourism industry, historic preservationists, highway users, state highway and transportation officials, local highway and transportations officials, an individual qualified to serve on the advisory committee as a planner, one representative each of the motoring public and of groups interested in scenic preservation, and a representative of the outdoor advertising industry.

Recommendations made by the advisory committee shall include consideration of the scenic beauty and historic significance of highways proposed for designation and the areas surrounding the highways; operation and management standards for scenic byways and all-American roads including strategies for maintaining and improving their scenic and historic qualities, for protecting and enhancing landscape and view corridors and for minimizing traffic congestion; standards for scenic byway-related signs, and other matters.

No later than 18 months after enactment, the advisory committee shall submit to the Secretary and Congress a report with all recommendations described in this section. The Secretary shall provide technical assistance and grants to the states for planning, design and development of state scenic byway programs.

An Interim Scenic Byways Program is created for fiscal years 1992, 1993 and 1994, during which the Secretary may make grants to the States for eligible projects on State-designated scenic byways. The Secretary is to give priority to eligibility projects which are included in a corridor management plan for maintaining scenic, historic, recreational, cultural and archeological characteristics of the corridor while providing for accommodation of increased tourism and development of related amenities; to eligible projects for which a strong local commitment is demonstrated for implementing the management plans and protecting the characteristics for which the highway is likely to be designated; to eligible projects included in programs which can serve as models for other States; and to eligible projects in multi-State corridors where the States submit joint applications. Eligible projects include planning, design, and development of State scenic byway programs; making safety improvements to the extent such improvements are necessary to accommodate increased traffic and changes in the types of vehicles using the highway; construction of facilities for the use of pedestrians and bicycles, rest areas, turnouts, highway shoulder improvements, passing lanes, overlooks, and interpretative facilities; improvements to the highway which will enhance access to an area for the purpose of recreation, including water-related recreation; protecting historical and cultural resources in areas adjacent to the highway; and developing and providing tourist information to the public, including interpretive information about the scenic byway.

Senate amendment

Section 129 provides for the creation of a National Scenic and Historic Byways Program and implements the recommendations from the national study completed by the Federal Highway Administration in January 1991. As part of this program, the Federal Highway Administration will establish the capability to provide information and technical assistance to the state agencies responsible for scenic and historic byway programs. In addition, the Federal Highway Administration will provide grants to these state agencies for the planning, design, and development of State scenic byway programs. These grants may be used for initiating or expanding planning and program development efforts and for providing such road user amenities as information services, maps and brochures, and interpretive displays on existing byways. Criteria for allocating these grants will be established by the Federal Highway Administration consistent with the findings from the national study.

The development of the All American Roads Programs should include a broad-based group of federal, state, local, and private sector representatives having knowledge and experience with scenic byway programs. At a minimum, the federal involvement should include representatives from the Department of Transportation, the United States Forest Service, the Bureau of Land Management, the National Park Service, the Bureau of Indian Affairs, and the U.S. Travel and Tourism Administration. The national study should be consulted in developing the criteria for the All American Roads program. Roads to be considered for this program are to be nominated by the states and federal agencies. For state-owned roads nominated by federal agencies, the state department of transportation shall concur in the nomination. The intent of the All American Roads program is to identify and designate roads having outstanding qualities of scenic, historic, and cultural attractiveness; to preserve and protect these roads and their unique characteristics; and to enhance rural tourism, economic development, and world-class tourism destinations.

Conference substitute

The Conference Substitute adopts the House version, but permits up to 10 percent of scenic highway funds to be used for billboard removal on scenic byways.

The Conferees intend that under the Conference agreement no new billboards shall be enacted on scenic byways on the Interstate or Primary Systems as those systems are in effect on the date of enactment of the Intermodal Transportation Efficiency Act of 1991.

UNIFORM TRAFFIC CONTROL DEVICES

House bill

This section authorizes the Secretary to carry out a project in Arkansas to provide training to country and town traffic officials in the need for and application of uniform traffic control devices and to demonstrate the safety benefits of providing for adequate and safe warning and regulatory signs.

A total of $1.2 million is authorized for fiscal year 1992 to carry out this project.

Senate amendment

The Senate amendment contains no comparable provision.

Conference substitute

The conference substitute adopts the House provision.

RURAL AND URBAN ACCESS PROJECTS

House bill

Subsection (a) authorizes specific projects for the Secretary to carry out to ensure better rural access and promote economic development in rural areas. $100 million is authorized for FY 1992 and $150 million is authorized for each of FY's 1993 through 1996 to carry out these projects.

Subsection (b) authorizes specific projects to enhance urban access and urban mobility. $100 million is authorized for FY 1992 and $150 million is authorized for each of FY's 1993 through 1996 to carry out these projects.

Senate amendment

The Senate amendment contains no comparable provision.

Conference substitute

The conference substitute contains the House provisions with the following changes:

(1) various authorization levels for projects were modified, and (2)

MOLLY ANN'S BROOK, NEW JERSEY

SECTION 150

House bill

The House bill directs the Secretary to carry out a project to make modifications to bridges necessary for the Secretary of the Army to carry out a project for flood control, Molly Ann's Brook, New Jersey, authorized by section 401 of the Water Resources Development Act of 1986. Any Federal expenditures for the raising of bridges over Molly Ann's Brook shall be treated as part of the non-Federal share of the cost of such flood control project.

Senate amendment

No comparable provision.

Conference substitute

Same as House bill.

PASSAIC AND BERGEN COUNTIES, NEW JERSEY

House bill

This section creates a model program of delegation to the State of New Jersey of the Administration of the completion of Route 21 in Passaic County. All aspects of law, regulation, policy and practice are delegated to the State and the State is authorized to administer all aspects of the project design and construction process pursuant to State laws, rules and regulations.

It is the intention of the Committee to continue to determine methods of reducing the time required to complete an urban highway project, as was provided for in the Surface Transportation and Uniform Relocation Assistance Act of 1987, Sec. 149(a)(1), when administration of all Federal Highway Administration requirements are delegated to a state. It is also the intention of the Committee that time reduction be demonstrated through acquisition of right-of-way prior to the determination of the preferred alternative.

The Committee expects expeditious construction of this long-delayed and badly needed project and, therefore, all Federal regulatory requirements, including but not limited to procurement of professional services, staging of design and Right-of-Way acquisition, and all Federal procedures, practices and interpretations, are delegated to the State and may be waived by the State if considered in the public interest.

Senate amendment

No comparable provision.

Conference substitute

Adopts House provision with a modification to authorize the Government to waive any and all Federal requirements relating to the scheduling of activities associated with such highway project, including final design and right-of-way activities.

REGULATORY INTERPRETATIONS

House bill

This section requires that any regulations, rulings, or decisions issued by the Department of Transportation relating to the Buy America requirements be applied as if to include coating.

This section also requires that Sec. 393.95 of Title 49 of the Code of Federal Regulations shall be applied so that fuses and flares are given equal priority with regard to use as reflecting signs.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House provisions.

HANDICAPPED PARKING

House bill

Subsection (a) requires the Secretary to conduct a study on the programs being made by the states in adopting and implementing a uniform system for handicapped parking regulations issued by the Department of Transportation.

Subsection (b) provides for the Secretary to report to the Congress within two (2) years from the date of enactment of this Act the results of the study.

Senate amendment

The Senate amendment contains no comparable provision.

Conference substitute

The conference substitute adopts the House provision.

ROADSIDE BARRIER TECHNOLOGY

House bill

This section requires each state use innovative safety barriers for at least 5 percent of the mileage of new or replacement permanent median barrier included in awarded contracts on Federal aid highways. Innovative safety barriers are those barriers, other than guard rail, that are classified by the Federal Highway Administration as experimental or that were classified as operational after January 1, 1985. Each state is required to certify annually to the Secretary its compliance with this requirement.

Senate amendment

No comparable provision.

Conference substitute

The conference substitute is the House provision with a modification in the requirement. The Conferees agree that 2.5%, rather than 5%, of new or replacement permanent median barrier erected in each state must be "innovative safety barrier".

DESIGN STANDARDS

House bill

Section 155 of the House bill requires the Secretary to conduct a survey to identify current state standards on all Federal-aid highways relating to geometric design, traffic control devices, roadside safety, safety appurtenance designs, uniform traffic control devices and sign legibility and directional clarity for the purpose of determining the need to upgrade such standards.

The Secretary must report to Congress on the results of the Survey and on the crashworthiness of traffic lights, traffic signs, guardrails, impact attenuators, concrete barrier treatments and breakaway utility poles for bridges and roadways currently used by states, together with any recommendations, within two years after enactment.

Senate bill

The Senate bill contains no comparable provision.

Conference substitute

The Conference substitute adopts the House language.

EFFECTIVE DATE

House bill

The House amendment allows unobligated balances of funds apportioned to the States to be transferred to program categories.

Senate amendment

Identical provision that includes the Senate program categories.

Conference substitute

The Conference substitute includes the Senate provision with comparable Senate categories.

UNOBLIGATED BALANCES

House bill

The House bill provides that the amendments of this title do not apply to funds appropriated before September 30, 1991. It also provides that unobligated balances apportioned before October 1, 1991 shall be obligated according to the law in effect on September 30, 1991. In some cases, the unobligated balances may be transferred to the primary, secondary, interstate 4R or urban system programs if the unobligated funds were apportioned before October 1, 1991.

Senate amendment

The Senate provision provides that unobligated balances apportioned for the primary, secondary and urban systems and the railway-highway crossing and hazard elimination programs may be obligated for the Surface Transportation Program.

Conference substitute

The managers have provided that unobligated balances already apportioned are transferable to the new program.

INNOVATIVE PROJECTS

House bill

This section authorizes the Secretary to carry out specific projects demonstrating innovative techniques and advanced technologies in highway construction. $100 million is authorized for FY 1992 and $225 million is authorized for each of Fy's 1993 through 1996 to carry out these projects.

Senate amendment

The Senate amendment contains no comparable provision.

Conference substitute

The conference substitute contains the House provisions with modifications to various authorization levels for projects.

ORANGE COUNTY TOLL PILOT PROJECTS

House bill

This section exempts certain toll pilot projects in Orange County, California, from section 4(f) requirements applicable to public park, recreation area, wildlife and waterfowl refuges.

Senate amendment

The Senate amendment contains no comparable provision.

Conference substitute

The conference substitute contains the House provision.

PRIOR DEMONSTRATION PROJECTS

House bill

This section amends the provisions of three demonstration projects located in Tampa, Florida; Santa Fe, New Mexico; and Larkspur to Korbel, California, that were authorized in the Surface Transportation and Uniform Relocation Assistance Act of 1987 to make the unobligated balances of funds available for other projects.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House provision.

WILLIAM H. HARSHA BRIDGE

House bill

This section renames the United States Route 68 bridge across the Ohio River between Aberdeen, Ohio, and Marysville, Kentucky, as the William H. Harsha Bridge.

Senate amendment

The Senate amendment contains no comparable provision.

Conference substitute

The conference substitute adopts the House provision.

COMMEMORATION OF DWIGHT D. EISENHOWER NATIONAL SYSTEM OF INTERSTATE AND DEFENSE HIGHWAYS

House bill

This section authorizes the Secretary to conduct a study to determine the appropriate symbol or emblem to be placed on highway signs to commemorate Former President Eisenhower for his efforts to enact legislation authorizing the construction of the Interstate System.

The report shall be submitted to the Congress not later than one year after the effective date of this title.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House provision.

USE OF HIGH OCCUPANCY VEHICLE LANES BY MOTORBIKES

House bill

This section requires the Secretary to not recognize any certification made by a state on the safety of motor bikes on high occupancy vehicle lanes that was made prior to the enactment of the Intermodal Surface Transportation Infrastructure Act of 1991 until the Secretary publishes notice of such certification in the Federal Register and provides an opportunity for public comment on such certification.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House provision.

TOURIST ORIENTED DIRECTIONAL SIGNS

House bill

This section directs the Secretary to encourage states to provide for equitable participation in the use of tourist oriented directional signs, or logo signs, along the Interstate and Federal-aid primary systems as covered under the Highway Beautification Act.

The Secretary is required to report to the Congress on the participation in the use of tourist oriented directional signs within one year of enactment.

There have been reports that new business enterprises opening at exits on Interstate highways are not afforded equal treatment as all competitors. The intent of this provision is to encourage states to administer their tourist oriented directional logo signs program fairly among all interested eligible enterprises.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House provision.

PENSACOLA, FLORIDA

House bill

This section authorizes the Secretary to conduct a study of the feasibility of constructing a 4-lane highway, in accordance with all Federal standards applicable to the construction standards of Interstate highways, to connect Interstate Route 65 and Interstate Route 10 in Pensacola, Florida.

The Secretary must transmit the report along with recommendations for the location of a corridor to construct the 4-lane highway connector not later than 2 years after the date of enactment of this Act.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House provision.

CALHOUN COUNTY, MISSISSIPPI

House bill

This section amends section 403 of the Appalachian Regional Development Act of 1965 to include Calhoun County, Mississippi as an eligible county for receipt of Appalachian Regional Development funds.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House provision.

HIGHER FEDERAL SHARE

House bill

This section authorizes for higher Federal share projects constructed on Federally-owned property and for projects entitled to a higher Federal share under Section 204 of 23 U.S.C.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House provision.

WORK ZONE SAFETY

House bill

Sec. 168 of the House bill requires the Secretary of Transportation to develop a work zone safety program which would improve work zone safety by enhancing the quality and effectiveness of traffic control devices, safety appurtenances, traffic control plans, and bidding practices for traffic control devices and services.

No later than 2 years after enactment of this title, the Secretary shall submit to Congress such proposed program and recommendations for implementation.

Senate amendment

The Senate amendment contains no comparable provision.

Conference substitute

The Conference Report directs the Secretary to develop and implement a work zone safety program.

MISCELLANEOUS PROJECTS

House bill

This section authorizes a series of miscellaneous highway projects to be appropriated.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House provision.

RAILROAD RELOCATION DEMONSTRATION PROGRAM

House bill

This section extends the amounts ($15 million per fiscal year) authorized for the railroad relocation demonstration program an additional three years through fiscal year 1994.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House provision.

J. CLIFFORD NAUGLE BYPASS

House bill

This section designates the highway bypass being constructed around the Borough of Ligonier in Westmoreland County, Pennsylvania, as the "J. Clifford Naugle Bypass." Mr. Naugle is the former mayor of Ligonier and has worked tirelessly to advance the construction of the bypass.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House provision.

INTERIM ADVANCE CONSTRUCTION PROGRAM

House bill

This section authorizes the reimbursement for the construction of eligible Federal-aid highway projects commenced after September 30, 1991 and before the date of enactment of this Act. The amounts obligated under this provision is limited to the amounts apportioned to the states for fiscal year 1991.

Senate amendment

No comparable provision.

Conference substitute

No provision.

PRESIDENTIAL HIGHWAY, FULTON COUNTY, GEORGIA

House bill

The bill authorizes the Secretary to approve the construction of the Presidential Highway as agreed to by the Georgia Department of Transportation, the city of Atlanta, and CAUTION, Inc. The execution of the settlement agreement by the DeKalb County, Georgia Superior Court will be deemed to constitute full compliance with all Federal laws applicable to carrying out the project.

There is also a limitation established on the expenditure of Federal funds for the construction of this project. All limitations on the construction and funding of the Presidential Highway are subject to the approval of the settlement agreement executed by all parties.

Senate amendment

No comparable provision.

Conference substitute

Adopts House provision.

INFRASTRUCTURE AWARENESS PROGRAM

House bill

This section authorizes $2 million for the purpose of creating an awareness by the public and state and local governments of the state of the Nation's infrastructure and to encourage and stimulate efforts by the public and governments to undertake studies and projects to improve the infrastructure.

The Secretary is authorized to fund the production of a documentary on the state of the Nation's infrastructure with a not-for-profit national public television station.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House provision.

UNITED STATES-CANADA BRIDGES

House bill

This section authorizes the Secretary to collect and analyze data on the volume of traffic crossing at three international bridge crossings under the authority of the Niagara Falls Bridge Commission.

Senate amendment

No comparable provision.

Conference substitute

The Conference substitute provides the Niagara Falls Bridge Commission the authority to issue tax exempt bonds.

USE OF COMPOST

House bill

This section expresses the sense of Congress that State and local governments should encourage the environmentally safe use of compost and other products along the rights-of-way of Federal-aid highways.

Senate amendment

No comparable provision.

Conference substitute

No provision.

STUDY ON STATE COMPLIANCE WITH REQUIREMENTS FOR REVOCATION AND SUSPENSION OF DRIVERS' LICENSE

House bill

This section authorizes the Secretary to conduct a study of States' efforts to comply with provisions relating to revocation and suspension of drivers' licenses for individuals convicted of drug and alcohol offenses. The study shall be transmitted to Congress not later than 180 days after the date of enactment.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House provision with a change in the date of the report.

PRIVATE SECTOR INVOLVEMENT PROGRAM

House bill

This section authorizes the Secretary to establish a private sector involvement program to encourage States to contract with private firms for engineering and design services in carrying out Federal-aid highway projects.

The Secretary is also authorized to make grants to States to conduct this program.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House provision with a modification to ensure that any contracts would be cost effective.

NEW HAMPSHIRE FEDERAL-AID PAYBACK

House bill

This section authorizes the State of New Hampshire to repay to the Treasurer of the United States the amount of Federal-aid highway funds paid on account of those completed sections of the Nashua-Hudson Circumferential. The amounts repaid will be deposited to the credit of the unprogrammed balance of funds apportioned to the State of New Hampshire. The amounts credited to the State will be in addition to all other funds apportioned to the State and shall remain available until expended.

Upon repayment of the Federal share of the cost to construct certain segments of the Nashua-Hudson Circumferential, the State of New Hampshire may impose and collect tolls on the Nashua-Hudson Circumferential.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House provision.

METRIC SYSTEM SIGNING

House bill

Repeals the prohibition for the placement of metric signs along Federal-aid highways.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House provision.

SIGNING OF UNITED STATES HIGHWAY 71

House bill

This section authorizes the Arkansas State Highway and Transportation Department to erect signs along United States Highway 71 from the I-40 intersection to the Missouri-Arkansas State line designating the highway as the "John Paul Hammerschmidt Highway" as required to be erected by the Arkansas State law designated as Act 6 of 1989.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House provision.

DISPOSITION OF PAVING MATERIALS

House bill

Section 186 of the House bill requires the Secretary to initiate, no later than 60 days after enactment of this Act, a rulemaking proceeding to establish minimum requirements for the economic reuse and environmentally sound disposition of pavement materials removed during construction, reconstruction, or repaving in any federally assisted highway project.

Senate amendment

The Senate amendment contains no comparable provision.

Conference substitute

The House recedes to the Senate since section 143, Recycled Paving Materials, contains a provision requiring the Secretary to study state practices with regard to disposal of pavement materials removed during construction.

STUDY ON IMPACT OF CLIMATIC CONDITIONS

House bill

This section authorizes the Secretary to conduct a study of the effects of climatic conditions on the costs of highway construction and maintenance. The study shall consider various climatic conditions and the impact of the climatic conditions on increased highway design costs and decreased highway service life in the various regions of the United States.

The Secretary shall transmit the results of the study along with any recommendations to Congress not later than September 30, 1993.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House provision.

METHODS TO REDUCE TRAFFIC CONGESTION DURING CONSTRUCTION

House bill

This section expressed a sense of Congress that many highway projects are carried out in a way which unnecessarily disrupts traffic flow during construction and that methods need to be adopted to eliminate or reduce these disruptions.

The Secretary is required to conduct a study on methods of enhancing traffic flow during construction and report to Congress on the results of the study not later than September 30, 1992.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House provision.

GUARANTY AND WARRANTY CLAUSES

House bill

This section requires the Secretary to develop regulations to permit a State highway department to include a clause in a contract for engineering and design services, or for the construction of any Federal-aid highway projects for work performed.

Senate amendment

No comparable provision.

Conference substitute

The conference substitute authorizes a study to be conducted by the Secretary on the feasibility of requiring the inclusion of warranty or guaranty clauses for work performed on Federal-aid highway projects.

HIGHWAY TREE PLANTING PROGRAM

House bill

The bill authorizes $5 million per fiscal year for each of the fiscal years 1992 through 1996 for the Secretary to make grants to States for developing a plan for tree planting, developing, and implementing a program for the planting of trees along the rights-of-way of Federal-aid highways. The maximum aggregate amount of grants to a State in a fiscal year is limited to $500,000 and the Federal share may not exceed 60 percent.

The Secretary is required to take action as necessary to encourage State highway departments to enter into cooperative agreements with State foresters to implement the requirements of this subsection. The donation of trees is permitted for carrying out the provisions of this section.

Senate amendment

No comparable provision.

Conference substitute

House recedes to the Senate.

FEDERAL SHARE ON SPECIAL PROJECTS

House bill

This section requires the Federal share payable on account of any demonstration project authorized under certain sections to be 80 percent.

Senate amendment

No comparable provision.

Conference substitute

Adopts the House provision.

PRIVATE PROPERTY RIGHTS

House bill

No comparable provision.

Senate amendment

Title IV of the Senate Amendment imposes certain procedural requirements for regulations issued by all Federal agencies. Prior to the promulgation of any regulations by any agency, the Attorney General must certify that the regulation is in compliance with the Executive Order 12630 or similar procedures relating to minimizing the taking of private property as a result of regulatory activity.

Conference substitute

The Senate recedes to the House.

CLEVELAND HARBOR, OHIO

House bill

Section 182 of the House bill deauthorizes a portion of the navigation project for Cleveland Harbor, Ohio to allow for the consideration of permit applications related to construction activities within a portion of Cleveland Harbor. The U.S. Army Corps of Engineers will not consider applications for permits to conduct activities in navigable waters which would impact upon a Federally authorized navigation project.

Senate amendment

No comparable provision.

Conference substitute

The conference Substitute adopts the House provision with an amendment. The Conference Substitute adds language to also declare a certain portion of Cleveland Harbor as nonnavigable waters of the United States.

STORMWATER PERMITS

House bill

No comparable provision.

Senate amendment

Section 140L of the Senate Amendment extends certain application deadlines for and

enforcement of the stormwater permitting requirements of Section 402(p) of the Federal Water Pollution Control Act (33 U.S.C. 1342(p)) for industrial activities owned or operated by municipalities with a population of under 100,000.

Conference substitute

The conference substitute extends individual and group permit application deadlines for stormwater discharges associated with industrial activities from municipally owned or operated facilities. Individual permit applications must be submitted no later than October 1, 1992, except that where a timely group permit application is denied the applicant would be entitled to an additional six months from the date of the denial to submit an individual application. Group application deadlines are extended until September 30, 1991 for Part I and October 1, 1992 for Part II except that for municipalities of under 250,000 an additional period of time is provided. No stormwater discharge permits for industrial activities for municipalities of under 100,000 are required prior to October 1, 1992 except stormwater discharges from municipally owned or operated power plants, airports, and certain landfills. The conference substitute also requires that general permit regulations for stormwater discharge permits be promulgated no later than February 1, 1992. The conference substitute is not intended to prejudice or in any manner affect any ongoing litigation.

HUDSON RIVER, NEW YORK

House bill

No comparable provision.

Senate amendment

Section 140U of the Senate Amendment declares a portion of the Hudson River, New York to be nonnavigable waters of the United States. The area declared as nonnavigable is the current location of the structure known as Pier A and its immediate surroundings. The nonnavigability declaration does not affect the application of Federal laws or regulations to activities within the area declared nonnavigable.

Conference substitute

Same as the Senate Amendment.

PROVIDENCE, RHODE ISLAND, BRIDGE REMOVAL

House bill

No provision.

Senate amendment

No provision.

Conference substitute

The Conference Substitute includes a provision to extend the authorization for a project to remove the center span of the India Point Railroad Bridge over the Seekonk River in Providence, Rhode Island. The project was originally authorized pursuant to Section 1166(c) of the Water Resources Development Act of 1986 but has been deauthorized by operation of law.

BRUNSWICK HARBOR, GEORGIA

House bill

No provision.

Senate amendment

No provision.

Conference substitute

The Conference Substitute includes a provision to deauthorize the Academy Creek feature of the Brunswick Harbor, Georgia navigation project. This feature is no longer needed for commercial navigation.

PORT CANAVERAL, FLORIDA

House bill

No provision.

Senate amendment

No provision.

Conference substitute

The Conference Substitute includes a provision to deauthorize a portion of the Federal navigation project for Port Canaveral, Florida, to accommodate new, larger cruise ships at the Port's terminals.

JOSEPH RALPH SASSER BOAT RAMP

House bill

No provision.

Senate amendment

No provision.

Conference substitute

The Conference Substitute includes a provision to name a boat ramp facility on the Mississippi River in Shelby County, Tennessee on behalf of Joseph Ralph Sasser, the late father of Senator Jim Sasser.

Mr. Sasser joined the Soil Conservation Service—Civilian Conservation Corps in Selmer, Tennessee in 1935. He attained the rank of major in the 1st Marine Division during World War II. After the war, he returned to work with the Soil Conservation Service until 1970. He then went to Tennessee State University as U.S. Department of Agriculture Liaison Officer until his retirement in 1972. He worked tirelessly for the improvement and preservation of the natural resources of Tennessee.

LINDY CLAIBORNE BOGGS LOCK AND DAM

House bill

No provision.

Senate amendment

No provision.

Conference substitute

The Conference Substitute includes a provision renaming lock and dam number 1 on the Red River Waterway in Louisiana as the Lindy Claiborne Boggs Lock and Dam.

Congresswoman Boggs served in the House of Representatives from 1973, succeeding her husband Hale Boggs, who had served in the House for 27 years, until the end of the 101st Congress. She was the first woman from Louisiana to serve in the House. She devoted great energies to improving the lives of children and to protecting the rights of all Americans. She represented the people of New Orleans with grace, wit, and dedication to the best public policies.

ROCKAWAY INLET TO NORTON POINT, NEW YORK

House bill

No provision.

Senate amendment

No provision.

Conference substitute

The Conference Substitute includes a provision modifying the project for shoreline protection, Atlantic Coast of New York City from Rockaway Inlet to Norton Point, to authorize construction of the project in accordance with the current General Design Memorandum dated April 1991. The project was originally authorized for construction by section 501(a) of the Water Resources Development Act of 1986.

APPOMATTOX RIVER, VIRGINIA

House bill

No provision.

Conference substitute

The conference substitute provides that the Federal Energy Regulatory Commission (FERC) shall re-issue a license under the Federal Power Act to the Appomattox River Water Authority together with any amendments necessary and appropriate and extend the period for construction for three years after enactment. The order would be subject to the requirements of this section and the Federal Power Act. During the three year period FERC is directed to issue an order at the request of the Authority permitting the authority to transfer a license to a third party for the purpose of protecting the Authority from challenge as specified in this provision. The transferee would be subject to, and must comply with, the Federal Power Act, including provisions of section 10 relating to fish and wildlife.

The transferred license would be subject to revocation at the request of the Authority to permit the Authority to surrender the license. That surrender could not take place, however, until notice, the completion of the project construction, including fish and wildlife facilities, and delivery to FERC of a statement by the Board of the Authority that there is a need to surrender because the Authority would be acting in violation of its charter or be inconsistent with bond indentures. The provision requires FERC to accept this surrender.

In addition, the provision includes authority for the FERC to extend the period for construction under section 13 of the Federal Power Act for three identified projects.

Finally, the provision relates to a project in Union City, Michigan and provides that it is not unlawful for the municipality of Union City to operate, maintain, repair, reconstruct, replace or modify the project without a license from FERC.

INTERSTATE MAINTENANCE

House bill

The House bill does not continue Interstate 4R as a separate category, however, it requires that a minimum amount of funds apportioned to the states for the National Highway System must be used for interstate resurfacing, restoring, and rehabilitating. The minimum amount shall be equal to 70 percent of the amounts apportioned to each state in fiscal year 1991 under the Interstate 4R program.

Senate amendment

The Senate amendment renames and modifies the existing Interstate 4R program to eliminate eligibility for projects which expand capacity, except in the case of expansion of capacity for projects where the expansion is for other than single occupant vehicles.

The provisions which allow an unconditional transfer of up to 20 percent of the Interstate Maintenance Program funds to other categories are retained. It requires a positive finding by the Secretary that a State transportation department is adequately maintaining the Interstate system before a State may be allowed to transfer to other categories an amount of Interstate Maintenance funds in excess of 20 percent of its Interstate Maintenance apportionment.

The Federal share for any Interstate maintenance project is established at 80 per centum. The provisions to allow increases in participation ratios up to 95 percent based on the percentage of Indian or Federal lands within the State has been retained.

The Secretary is required to develop guidance for the State transportation departments for determining what share of a project is attributable to the expansion of capacity of an Interstate highway and for what criteria will be used to determine whether the State is adequately maintaining the Interstate system before the State is al-

lowed to transfer to other categories an amount of Interstate Maintenance funds in excess of 20 percent of its Interstate Maintenance apportionment.

Conference substitute

The conference substitute adopts the Senate amendment with some technical changes: (1) eligibility for preventative maintenance is tied to a cost effectiveness determination per recommendations by the General Accounting Office, and (2) eligible for funding for non-chargeable interstate segments.

TOLL FACILITIES

House bill

The House bill amends title 23, United States Code, to permit Federal participation in toll highways, bridges and tunnels at the option of all states. The House bill contains limitations on the kinds of facilities that may be tolled and continues the maximum federal participation at 35%.

Senate amendment

The Senate amendment amends title 23, United States Code, in a manner similar to that of the House. In addition, the Senate would permit up to 80% federal participation in the cost of the project for rehabilitation of existing toll facilities or conversion of existing free facilities to toll facilities.

Conference substitute

The conference substitute contains the provision allowing all states the option of using federal-aid highway funds on toll road facilities except for Interstate Highways. Other provisions contained in the House bill and Senate amendment thereto have been combined.

NATIONAL MAGNETIC LEVITATION DESIGN PROGRAM

House bill

No comparable provision.

Senate amendment

The Senate amendment declares that it is the policy of the United States to establish in the shortest time practicable a United States designed magnetic levitation technology capable of operating along Federal-aid highway rights-of-way as part of a national transportation system of the United States. It establishes a National Magnetic Levitation Design Program to be managed jointly by the Secretary of Transportation and the Assistant Secretary of the Army for Civil Works and requires development of a strategic plan for the design and construction of a magnetic levitation surface transportation system to be delivered to Congress within 18 months of enactment of the Act.

It establishes a three-phase competitive contract program to ultimately develop and construct an operational prototype maglev system within six years of enactment of the Act. Projects are to be cost-shared with non-federal organizations to encourage collaborative research. The Senate amendment authorizes $750 million for the program, and periodic reports to Congress are required.

Conference substitute

The conference agreement accepts the Senate amendment with substantial modifications. The title of the section is changed to the National High-Speed Ground Transportation Programs, and a National High-Speed Ground Transportation Technology Demonstration Program and high-speed ground transportation research and development are added to the maglev prototype development program. The strategic plan for development of a national maglev transportation system is replaced with a report to Congress in 1995 on the commercial feasibility of one or more high-speed ground transportation systems in the United States, and the time line to develop the maglev prototype is extended by 18 months. Funding for the maglev prototype program is reduced to $700 million, of which $475 million is to come from the Mass Transit Account of the Highway Trust Fund and the rest from general revenues. Authorization for the Transportation Technology and Demonstration Program is $50 million, of which $25 million is to come from the Mass Transit Account and the remainder from general revenues. The research and development program is authorized at $25 million from general revenues.

The Secretary will be required to establish, no later than June 1, 1996, a National High-Speed Ground Transportation Policy. In addition, current law is amended to permit the Secretary to guarantee obligations for qualified high-speed rail systems pursuant to Section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976, 45 U.S.C. 831. It is the intent of the conferees that all obligations authorized pursuant to this section, National High-Speed Ground Transportation Programs, will be funded in full.

Section 302 of title 49, United States Code, is amended by declaring it to be the policy of the United States to promote the construction and commercialization of high-speed ground transportation systems by conducting economic and technological research demonstrating advancements in high-speed ground transportation technologies, and establishing a comprehensive policy for the development and integration of various high-speed ground transportation technologies, and minimizing long-term risks to investors.

The conferees recognize that increasing delays related to congestion on highways and airports could be mitigated by high-speed ground transportation technologies such as maglev and high-speed steel wheel, but that the risks of development are too great to be borne without government participation. It is the intent of the conferees to encourage development of such technologies, cooperatively with the non-federal organizations, by sharing in the costs and risks of development. The conferees recognize that government subsidies for high-speed ground transportation systems may be appropriate in cases where economic externalities such as pollution, time lost due to congestion, and condemnation of private property to build new airports and highway lanes, are not adequately reflected in the cost of alternative transportation modes.

This section also declares that it is the policy of the United States to establish in the shortest time practicable a United States-designed and constructed maglev technology capable of operating along Federal-aid highway rights-of-way, as part of a national transportation system of the United States. The conferees recognize that maglev technology was originally developed in the United States in the 1970's, but that since that time lack of funding has resulted in technology development for maglev and high-speed steel wheel technology shifting to Japan and Europe. This section reflects the conferees' desire to shift the balance back toward the United States by encouraging development of next-generation U.S. technologies relating to maglev, superconductors, vehicles, switching, and other technology relating to maglev and/or high-speed steel wheel. Because of the significant cost of right-of-way acquisition in congested corridors, the conferees further intend that high-speed ground transportation technologies be developed to take advantage of existing Federal-aid highway and/or railroad rights of way along substantial portions of their route.

There is established a National Magnetic Levitation Prototype Development Program to be managed by a Program Director appointed jointly by the Secretary of Transportation and the Assistant Secretary of the Army for Civil Works. The Director will carry out the program through a National Maglev Joint Project Office. The conferees recognize that if the program is to be successful, it must have a single leader of exceptional capability, who can coordinate the considerable and varied expertise available to the program from the Department of Transportation and the Corps of Engineers, as well as other interested Federal agencies. The conferees intend that the Director should have substantial technical expertise in a maglev-related technology and successful experience in managing large, complex research and development programs. The conferees do not intend for the Maglev Joint Project Office to be larger than the minimum needed to support the activities of the Director.

Development of a maglev prototype shall occur in three phases. Not later than 12 months after enactment of the Act, the Maglev Project Office shall release a request for proposals for research and development of conceptual designs for a maglev prototype system. The conferees extended the time for submission of the request for proposals to allow the technical results from research currently funded under the National Maglev Initiative to be applied to the preparation and review of Phase I proposals.

Not later than 15 months after enactment of the Act, the Secretary and Assistant Secretary shall award up to five Phase I contracts for development of conceptual plans for development of the prototype. Criteria that should be considered in reviewing the proposals include cost-effectiveness, ease of maintenance, safety, limited environmental impact, ability to achieve sustained high speeds, ability to operate along Interstate highway rights-of-way, the potential of a guideway design to be a national standard, the bidder's resources, capabilities, and history of successfully designing and developing systems of similar complexity, and the desirability of geographic diversity among contractors. The conferees intend that these criteria be applied in such a way as to maximize the probability that the conceptual design will successfully meet the criteria for selection of a Phase III contract, and that awards be made according to the technical merits of the proposals as determined by the Director with advice from expert peer reviewers. The conferees do not intend that poor Phase I projects be selected to satisfy the geographic criterion, but do intend that criterion to be applied to technically acceptable proposals. Bidders are to pay ten percent of the Phase I project costs. it is the intention of the conferees that Phase I contracts be funded at $7–10 million each. Phase I project reports are to be completed within 12 months of contract awards.

It is the intention of the conferees that Phase I and all other contracts include opportunities to conduct research and development in support of components of the proposed designs. The conferees recognize the need to conduct research and development in such areas as superconducting magnets, low-weight vehicle technology and aerodynamics, electromagnetic shielding, environ-

mental mitigation, propulsion systems, guideway configuration and manufacturing technology, switching technology, and rider safety and comfort. The conferees believe that such research and development will be more efficient and productive if it is associated with one or more integrated conceptual designs, than if it is conducted in isolation, but believe that it is critical to the success of developing a United States maglev industry.

Within 3 months of receiving the final reports from the Phase I projects, the Secretary and Assistant Secretary shall select not more than three participants to receive 18-month Phase II contracts for development of detailed designs for the prototype. Selection is to be based on technical merit and potential for further development of the design into a prototype. The Director will make recommendations to the Secretary and Assistant Secretary as to technical merit. Phase II contractors must contribute 20 percent of project costs and submit a final report within 18 months of contract awards.

It is the intention of the conferees that Phase II contracts be funded in the range of $40–50 million each and provide substantial requirements for research and development of components of the prototype. The conferees intend that at least two Phase II awards be made in order to allow alternative system designs to be evaluated. The conferees intend that at least one of the Phase II contracts be based on a superconducting suspension system, unless no acceptable design is submitted in Phase I. The conferees are willing to accept some risk and uncertainty in selection of Phase II contracts in return for reasonable prospects of developing an all-American maglev technology, except that the best technical Phase I project should be selected for Phase II, regardless of the technology. The conferees do not intend for a contract to be awarded to any contractor who did not submit a Phase I project report.

Within six months of receiving the detailed designs developed under Phase II, the Secretary and Assistant Secretary shall select one design for development into a full-scale prototype, unless they determine that no design should be selected based on technical feasibility and projected cost. A Maglev Prototype Selection Committee composed of members appointed by the Secretary, the Assistant Secretary, and the Majority and Minority Leaders of both Houses of Congress, is established to make a recommendation to the Secretary and Assistant Secretary on the prototype project to be selected. The conferees intend that the members of the Maglev Prototype Selection Committee be chosen for their technical expertise and experience in transportation systems planning and engineering. The conferees intend that the Director be responsible for providing thorough technical reviews of the Phase II contracts to the Committee, and otherwise assisting the Committee in making its recommendation.

If the Secretary and Assistant Secretary determine not to select a design, they shall report to Congress on the basis for such a determination, together with recommendations for further action, including further research, development or design, or termination of the program, or such other action such as they deem appropriate. The conferees intend that a failure to select a prototype design within the specified period constitutes a decision not to proceed, requiring a report to Congress.

It is the intent of the conferees that no prototype be developed if, in the opinion of the Director and the Selection Committee, none of the Phase II conceptual designs will yield a working prototype at a reasonable cost. The conferees understand that it is difficult accurately to anticipate the risks of implementing a new technology, and are willing to accept a prudent amount of risk in this regard. The conferees also intend that additional research and development will be performed as a component of prototype implementation.

In awarding a prototype contract, the Secretary and Assistant Secretary shall encourage the development of domestic manufacturing capabilities and, in selecting awardees, shall consider existing railroads with excess production capacity, including railroads with experience in advanced technologies, including self-propelled cars. The conferees do not intend to exclude manufacturers of aircraft, automobiles, or other vehicles by this provision.

Selection of a prototype design shall be based on consideration of the following factors, among others:

The project should be capable of utilizing interstate highway rights-of-way along significant portions of its route, and may also use railroad rights of way. The conferees recognize that right-of-way acquisition often represents a significant fraction of guideway cost in congested areas and intend to encourage technologies capable of minimizing such costs by incorporating guideway/vehicle systems capable of operation within the constraints of curve radii, interchanges, overpasses, and other features typical of interstate highway and railroad rights of way.

The project shall have sufficient length, at least 19 miles, to allow significant full-speed operation between stops. The conferees intend that the prototype be capable of evaluating factors that attend sustained high-speed operation which may be relevant to long-distance maglev systems.

No more than 75% of the cost shall be borne by the United States. The conferees intend the substantial non-federal investment to discourage contractors that do not have substantial confidence in completion of a successful operational prototype.

The project shall be constructed and ready for operational testing within 3 years. The conferees intend to attract non-federal cost-sharing by insuring that funding for the prototype will be available within the authorization period covered by this Act, and that the full cost of the prototype be obligated within the authorization period, with funds to be available until expended.

The project shall be located in an area that provides a potential ridership base for future commercial operation. The conferees intend that the maglev prototype be an experimental system capable of fully evaluating the chosen technical design, but the substantial federal investment, including the anticipated non-federal cost sharing, makes it highly desirable that upon completion of adequate testing, the system also be useful for assessing the economics of maglev travel, as well as providing a public service.

The project shall utilize a technology capable of being applied in commercial service in most parts of the contiguous United States. The conferees intend that the site chosen for construction of the project should, to the extent feasible, be so located as to test the technology in the rain and snow, changes in elevation, wind, and heat. To the extent that this is not completely feasible, the conferees intend that these factors be considered as part of the design, even if testing is not possible.

The project shall have at least one switch. The conferees recognize that high-speed switching technology is essential to the commercial application of maglev technology and should be tested in the prototype. The conferees believe that it also would be highly desirable to be able to test the effects of two vehicles passing in opposite directions on a guideway.

The section protects trade secrets and commercial or financial information, and protects any technology developed pursuant to this section under the Stevenson-Wydler Technology Innovation Act of 1980. The section provides contract authority and defines eligible participants as United States private businesses, United States public and private research organizations, Federal Laboratories, and consortia of such businesses, organizations, or laboratories.

The conference agreement amends Subchapter I of Chapter 3 of Title 49, United States Code, to provide for a National High-Speed Ground Transportation Technology Demonstration Program, and a research and development program. It requires the Secretary, in consultation with the Secretaries of Commerce, Energy, and Defense, the Administrator of the Environmental Protection Agency, the Assistant Secretary of the Army for Civil Works, and other heads of interested agencies, to lead and coordinate Federal efforts in the research and development of high-speed ground transportation technologies in order to foster the implementation of magnetic levitation and high-speed steel wheel on rail transportation systems as alternatives to existing transportation systems. This subsection also authorizes the Secretary to award grants and contracts for demonstrations of specific technologies in high-speed ground transportation projects or systems under construction or in commercial revenue service to determine the contributions that high-speed ground transportation could make to more efficient, safe, and economical intercity transportation systems.

The conferees intend that under the National High-Speed Ground Transportation Technology Demonstration Program established by this subsection, any eligible applicant may submit to the Secretary a proposal for demonstration of any advancement in a high-speed ground transportation technology or technologies to be incorporated as a component, subsystem or system in any revenue-service high-speed ground transportation project or system under construction or in operation at the time the application is made. The conferees intend that one or more of the specific criteria enumerated under this subsection be considered in awarding grants or contracts to applicants showing demonstrable benefit to the research and development, design, construction, or ultimate commercial operation of any maglev technology or high-speed steel wheel on rail technology. A total of $50 million, of which $25 million shall be derived from the Highway Trust Fund, shall be made available for grants and contracts awarded pursuant to this subsection.

The conferees intend that the Secretary shall have discretion over the amount and distribution of grants and contracts made pursuant to this subsection, except that no grants or contracts shall be awarded to demonstrate a technology to be incorporated in a State that prohibits under State law the expenditure of non-Federal public funds or revenues on the construction or operation of such projects or systems. Applicants eligible to participate under this demonstration pro-

gram include any United States private business, State government, local government, organization of State or local governments, or any combination thereof. Any business owned in whole or in part by the Federal government is not considered to be eligible for participation. Recipients of grants made pursuant to this paragraph shall agree to submit a report to the Secretary detailing the results and benefits of the technology demonstration, during the demonstration or following the demonstration as required by the Secretary.

In establishing a high-speed ground transportation research and development program pursuant to this subsection, the Conferees intend to make available up to $25 million from general obligations to fund broad research and development into all forms of high-speed ground transportation. Specifically with respect to research and development related to maglev technology, several other Federal agencies in addition to the Department of Transportation have participated in the assessment of the future potential for maglev systems, including the Department of Energy, the Army Corps of Engineers within the Department of Defense, the Department of Commerce, and the Environmental Protection Agency. The national laboratories, including the Brookhaven and Argonne National Laboratories, have also been involved in maglev through the National Maglev Initiative program. The Conferees intend for the Secretary to coordinate and cultivate the relationships already established with these various Federal agencies and entitles as the present maglev technology assessment phase moves forward into further research, development, design and eventual construction of a prototype system.

In order further to promote research and development of all high-speed ground transportation technologies, including high-speed steel wheel on rail technologies, this section would give the Secretary authority to enter into cooperative research and development agreements (CRADAs) (as defined under section 12 of the Stevenson-Wydler Technology Innovation Act of 1980), and one or more funding agreements (as defined by section 201 (b) of title 35, United States Code), with U.S. companies. These CRADAs and funding agreements would be entered into in order to conduct research to overcome technical and other barriers to the development and construction of high-speed ground transportation systems and to transfer that research and basic generic technologies to industry. The purpose of these agreements would be to help stimulate a viable commercial high-speed ground transportation industry within the United States.

The conferees envision that the Secretary would determine, with assistance from the director of any Government-operated Federal laboratory, which CRADAs to enter into with other Federal agencies; units of State and local government; industrial organizations (including corporations, partnerships, and limited partnerships, and industrial development organizations); public and private foundations; nonprofit organizations (including universities); or other persons (including licensees of inventions owned by the Federal agency). The Department of Transportation's Systems Center in Cambridge, Massachusetts, is a Federal laboratory with the demonstrated capability of performing research and development activities pursuant to this legislation. It is, however, the intent of the Conferees to provide the Secretary with sufficient flexibility to contract with any Federal laboratory as the Secretary deems appropriate.

In addition to the CRADA mechanism, the Conferees intend for the Secretary to enter into one or more funding agreements which do not require the participation of a Federal laboratory. Under a "funding agreement," the non-Federal recipient of Federal funds automatically gets the right to ownership of any patentable inventions resulting from research conducted under the agreement. Under a CRADA, the disposition of rights is negotiated. The Federal laboratory may agree to give up its ownership rights, or to grant licensing rights in advance.

The Conferees intend to provide the Secretary with clear authority to commit Federal funds to maglev and other high-speed ground transportation research and development both within and outside of the Federal laboratory environment. The conferees believe the use of funding agreements would provide additional incentives for private industry to participate in the research and development process.

In order to monitor the results of technology research, development and transfer conducted pursuant to this subsection, the conferees intend that the Secretary be required to provide reports to Congress at the end of FY 1993 and FY 1996 on activities conducted as a result of this subsection.

The conference agreement also requires the Secretary of Transportation to complete a study of the feasibility of constructing one or more high-speed ground transportation systems in the United States and to submit the results of such study to Congress by June 1, 1995. The study required under this section would consist of the following three parts: (1) an economic and financial analysis; (2) a technical assessment; and (3) recommendations for model legislation for State and local governments to facilitate construction of high-speed ground transportation systems.

The first part of the study is required to include the following components: (1) an examination of the potential market for a nationwide high-speed ground transportation network; (2) an examination of the potential markets for short-haul (e.g., commuter) high-speed ground transportation systems and for intercity and other long-haul high-speed ground transportation systems, including an assessment of the current transportation practices and trends in each market and the extent to which high-speed ground transportation systems would relieve the current or anticipated congestion on other modes of transportation; (3) projections of the costs of designing, constructing, and operating high-speed ground transportation systems, the extent to which such systems can recover their costs (including capital costs), and the alternative methods available for public and private financing; (4) consideration of the utility and availability of rights-of-way to serve each market, including the possibility of acquiring additional rights-of-way without significant adverse effects on adjacent communities; (5) a comparison of the projected costs of the various competing high-speed ground transportation technologies; (6) recommendations for funding mechanisms, tax incentives, liability provisions, and changes in statutes and regulations necessary to facilitate the development of individual high-speed ground systems and the completion of a nationwide high-speed ground transportation network; (7) an examination of the effect of the construction and operation of high-speed ground transportation systems on regional employment and economic growth; (8) recommendations for the roles appropriated for local, regional, and State governments to facilitate construction of high-speed ground transportation systems, including the roles of regional economic development authorities; (9) an assessment of the potential of a high-speed transportation technology export market; (10) recommendations regarding the coordination and centralization of Federal efforts relating to high-speed ground transportation; (11) an examination of the role of the National Railroad Passenger Corporation (Amtrak) in the development and operation of high-speed ground systems; and (12) any other economic or financial analyses the Secretary considers important for carrying out this title.

The economic and financial analysis described in the previous paragraph will require the Secretary to consider and analyze a broad range of issues. The conferees believe this analysis should provide Congress with an understanding of the current and future transportation marketplace and its relation to high-speed ground transportation, reasonable estimates of the cost of various high-speed ground transportation technologies, reasonable estimates of the cost of constructing high-speed ground transportation systems, possible and practical financial incentives for facilitating the development of high-speed ground systems, the relative benefits of high-speed ground transportation systems compared to current transportation systems, the economic benefits of developing high-speed ground transportation technology and systems, and the potential role of Amtrak in high-speed ground transportation systems in the United States.

The technical assessment required under the second part of the study requires the Secretary to examine: (1) the various technologies developed for use in the transportation of passengers by high-speed ground transportation, including a comparison of the safety (including dangers associated with grade crossings), energy efficiency, operational efficiencies, and environmental impacts of each system; (2) the potential role of a United States-designed maglev system, developed as a prototype under the National Magnetic Levitation Prototype Development Program of this Act in relation to the implementation of other high-speed ground transportation technologies and the national transportation system; (3) the work being done to establish safety standards for high-speed ground transportation as a result of the enactment of section 7 of the Rail Safety Improvement Act of 1988; (4) the need to establish appropriate technological, quality, and environmental standards for high-speed ground transportation systems; (5) the significant unresolved technical issues surrounding the design, engineering, construction, and operation of high-speed ground transportation systems, including the potential for the use of existing rights-of-way; (6) the effects on air quality, energy consumption, noise, land use, health, and safety as a result of the decreases in traffic volume on other modes of transportation that are expected to result from the full-scale development of high-speed ground transportation systems; and (7) other technical assessments the Secretary deems important for carrying out the study.

This technical assessment uses the Department's expertise in dealing with a number of technological and inter-disciplinary issues. For example, as the Department responsible for issuing regulations with respect to all aspects of transportation safety (including high-speed railroads, as provided in the Rail Safety Improvement Act of 1988), the Department is in an ideal position to fully analyze

and assess the progress of efforts to ensure and enhance high-speed ground safety.

The third prong of the study requires the Secretary to make recommendations for model legislation for State and local governments to facilitate construction of high-speed ground transportation systems. The conferees recognize the critical role of State and local governments in the development of high-speed ground transportation. States and local governments currently are on the cutting edge of exploring innovative and diverse mechanisms to encourage high-speed ground transportation systems. The conferees believe that States and local governments will continue to lead the way toward actual implementation of high-speed ground transportation systems but that model legislation could help to encourage and coordinate such efforts.

Finally, within 12 months after the submission of the study described above, this act requires the Secretary to establish the National High-Speed Ground Transportation Policy. The Policy is to include: (1) provisions to promote the design, construction and operation of high-speed ground transportation systems in the United States; (2) a determination regarding whether the various high-speed ground transportation technologies can be integrated effectively into a national network and, if not, whether one or more technologies should receive Federal government encouragement in order to enable a national network; (3) a strategy for prioritizing markets and corridors for high-speed ground transportation construction; and (4) provisions designed to promote American competitiveness in the market for high-speed ground transportation technologies. The Secretary is required to solicit public comments and may consult with other federal agencies as appropriate in developing the Policy.

The conference agreement also amends section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976, to provide projects designed to acquire, rehabilitate, improve, develop, or establish high-speed ground transportation facilities or equipment will also be eligible for consideration by the Secretary under section 511. Currently, under section 511, the Secretary is authorized to guarantee the payment of obligations that are used to acquire or to rehabilitate and improve railroad facilities and equipment, or to develop or establish new railroad facilities. The amendment would not alter the terms of the current section 511 program (or applicable regulations issued thereunder; see, 49 CFR Part 260), which includes provisions limiting the rate of interest which may be applicable to an obligation, a requirement that the obligation be adequately secured, a requirement that the terms of the obligation not extend beyond 25 years, a requirement that the financing be justified by the present or probable future demand for rail services, a requirement that the equipment and facilities be economically utilized, a requirement that the prospective earning power of the applicant be sufficient to provide the Federal government with reasonable security and protection, limitations on making discretionary dividend payments, a requirement that the applicant not use funds or assets of the operation for nonrail purposes, authority of the Secretary to assess and collect certain fees from the applicant, and the authority of the Comptroller General to audit operations of the fund established under section 511.

Finally, the bill requires the Comptroller General, within two years after the date of enactment, and annually thereafter, to analyze the effectiveness of application of section 511 of the Railroad Revitalization and Regulatory Reform Act to high-speed ground transportation facilities and equipment, and to report the results of such analysis to the conferees of jurisdiction.

ACCESS TO RIGHTS OF WAY

House bill

No comparable provision.

Senate amendment

This section amends subsection 142(g) of Title 23, United States Code, to require the Secretary to authorize a State to make Federal-aid highway right-of-way available with or without charge to a publicly or privately-owned authority or company for passenger or commuter rail (including high-speed rail), magnetic levitation systems, and other mass transit facilities.

Section 156 of title 23 is also amended to expand the exclusions to the application of section 156 to include governmental use, use by public or private entities for passenger or commuter rail (including high speed rail), magnetic levitation systems, mass transit facilities, and utility use and occupancy necessary for a transportation improvement allowed under this section, in addition to the current exclusions for utility use and occupancy and use for transportation projects eligible for assistance under title 23 U.S.C.

Section 142 is further amended by the deletion of several related subsections; (a)(2), (c), (e)(2), (i), and (k), which, in effect, become redundant because their subject matter is provided in section 106 of this bill which adds Section 133 to title 23 U.S.C.

Conference substitute

The conference substitute contains the Senate amendment.

REIMBURSEMENT

House bill

No comparable provision.

Senate amendment

The Senate amendment provides for an update of the findings of the report required by section 114 of the Federal-Aid Highway Act of 1956 to determine what amount the United States would pay to the States to reimburse the States for segments incorporated into the Interstate System that were constructed at non-Federal expense.

Conference substitute

The conference substitute provides that, during the fifth and sixth year of the bill, the reimbursement program will be implemented.

PROGRAM EFFICIENCIES

House bill

No comparable provision.

Senate amendment

The Senate amendment amends sections 102, 109, and 302 of title 23 U.S.C.

23 U.S.C. 102(a) provides that all Surface Transportation Program projects must be designed, constructed, operated, and maintained in compliance with applicable state and federal requirements. The design and construction standards adopted by states for projects on principal arterials shall be AASHTO standards. Any state may request that the Secretary no longer undertake project-by-project review of design and construction standards for any project, except those on an Interstate highway or a multilane limited access control highway. After receiving such a request, the Secretary can only undertake project design and construction review as requested by the State.

23 U.S.C. 102(b) allows a state highway department to approve the design of any pavement rehabilitation or highway resurfacing project. Once the state highway department has approved the design of such a project, the secretary's approval of the design is not required.

23 U.S.C. 102(c) provides that a state highway department may establish its own standards for routine maintenance of projects constructed under title 23. Those standards will be subject to annual review and approval by the Secretary. If a state is meeting its own standards for routine maintenance, as approved by the Secretary, the Secretary may not withhold project approval pursuant to section 106.

23 U.S.C. 102(d) provides that a state may establish the occupancy requirements of vehicles travelling in HOV lanes, except that no fewer than two occupants may be required. Motorcycles and bicycles are not single occupant vehicles for purposes of title 23, and nothing in this section alters the requirement that each state allow the operation of motorcycles in HOV lanes unless the state certifies that such operation would create a safety hazard.

23 U.S.C. 102(e) provides that a state must repay all federal funds for preliminary engineering for any project that has not advanced to construction or acquisition of right-of-way within 10 years after receipt of the federal funds. Current law requires a state to repay federal funds received for preliminary engineering if a project has not advanced after a period of time. This subsection establishes a uniform period of time before such repayment is required.

23 U.S.C. 109 is amended to allow Interstate Substitute, Surface Transportation Program, and Bridge Rehabilitation projects which are located in areas of historic and scenic value to be designed to standards appropriate to preserve the historic and scenic value of the road. The standards in section 109 (a) and (b) may be modified to provide alternative standards to preserve these historic and scenic values as long as safety of the facility is maintained.

23 U.S.C. 302 is amended to authorize the Secretary, at the request of the Governor of any state, to permit the highway department of a city of over 1 million population within the state to perform the duties and responsibilities of the state highway department for projects undertaken within the city.

Conference substitute

Same as the Senate with respect to the provisions regarding HOV occupancy requirements and repayment of preliminary engineering funds. The Senate recedes with respect to highway maintenance standards. With respect to project approval and design and construction standards, the conferees agreed to the following: 23 U.S.C. 109 is amended to establish design and construction standards for the National Highway System (NHS) highway projects and non-NHS highway projects. The design and construction standards for NHS projects are those approved by the Secretary in cooperation with the state highway agencies. For non-NHS projects, the design and construction standards are established in accordance with State laws, regulations, or directives, based on state-of-the-art practices.

23 U.S.C. 106 is amended to allow a State highway agency to request that the Secretary no longer review plans, specifications, and estimates for any project other than an NHS project or an NHS project with an estimated construction cost of $1 million or less.

23 U.S.C. 106 is further amended to allow a state highway agency to approve, on a

project-by-project basis, the plans, specifications, and estimates for any pavement resurfacing, rehabilitation, or restoration project on the NHS. Further, this subsection allows states to meet or exceed standards for eligible work.

23 U.S.C. 106 is further amended to allow safety considerations to be met by phase construction consistent with the Safety Management System developed under section 303.

Subsection delegating duties and responsibilities of the state highway department to the highway department of a city of over 1 million population is deleted.

New subsection is added to state that nothing in this section shall affect or discharge any responsibility or obligation of the secretary under any federal law, including the National Environmental Policy Act of 1969, section 303 of title 49, title VI of the Civil Rights Act of 1964, title VIII of the Act of April 11, 1968, and the Uniform Relocation Assistance and Land Acquisition Policies Act of 1970.

SECTION 204—GRANTS TO STATES WHICH ADOPT NATIONAL SAFETY BELT AND MOTORCYCLE HELMET USE REQUIREMENTS

House bill

Authorize the Secretary to make grants to a State which has laws which make unlawful both the operation of a motorcycle by an individual who is not wearing a motorcycle helmet and the operation of a passenger vehicle whenever an individual in the front seat (other than a child secured in a child restraint system) is not wearing a seatbelt.

Requires a State to use grants to adopt and implement traffic safety programs in vehicle safety and education, law enforcement training, monitoring of compliance, and enforcement of laws.

Requires a State, as a condition of receiving grants, to maintain their aggregate expenditures for such traffic safety programs at or above their average level in the preceding two fiscal years.

Prohibits any State from receiving a grant in more than 3 fiscal years. Stipulates that federal grants shall be a maximum of 75 percent of a State's cost of implementing such traffic safety programs in the first fiscal year, a maximum of 50 percent in the second year, and a maximum of 25 percent in the third fiscal year.

Limits aggregate amount of grants to a State under this section to 90 percent of such State's apportionment for fiscal year 1990 under section 402 of this title.

Requires as a general condition for receiving grants in any fiscal year that a State enter into an agreement with the Secretary to implement a traffic safety program. Additionally requires for a State to receive a grant in a fiscal year succeeding the first fiscal year it receives a grant that it have a law requiring seatbelt use and achieve a rate of compliance with such law of not less than 70 percent and have a law requiring motorcycle helmet use and achieve a rate of compliance with such law of not less than 65 percent. Additionally requires for a State to receive a grant in a fiscal year succeeding the second fiscal year that it receives a grant that it have a law requiring seatbelt use and achieve a rate of compliance with such law of not less than 80 percent and have a law requiring motorcycle helmet use and achieve a rate of compliance with such law of not less than 80 percent.

Provides that each State shall measure compliance using methods which conform to guidelines issued by the Secretary.

Stipulates that if a State does not have both a law requiring helmet use and a law requiring seatbelt use at all times in fiscal year 1994 the Secretary shall transfer 1½ percent of funds apportioned to the State under each of the subsections (b)(1), (b)(2) and (b)(6) of Section 104 of this title to the apportionment of the State under Section 402 of this title. Stipulates that if at any time after September 30, 1994 a State does not have both a law requiring helmet use and a law requiring seatbelt use at all times during a fiscal year, then in the succeeding fiscal year the Secretary shall transfer 3 percent of the funds apportioned to the states under each of the above subsections to the apportionment of the State under Section 402 of this title.

Defines terms.

Authorizes to be appropriated out of the Highway Trust Fund $40,000,000 for fiscal year 1992, $30,000,000 for fiscal year 1993, and $25,000,000 for fiscal year 1994.

Provides that certain provisions of chapter 1 of this title are applicable to the funds authorized to be appropriated under this Section and that funds authorized to be appropriated under this Section shall remain available until expended.

SECTION 122—USE OF SAFETY BELTS AND MOTORCYCLE HELMETS

Senate amendment

Authorizes the Secretary to make grants to a State which has laws which make unlawful both the operation of a motorcycle if any individual on the motorcycle is not wearing a motorcycle helmet and the operation of a passenger vehicle whenever an individual in the front seat (other than a child secured in a child restraint system) is not wearing a seatbelt.

Requires a State to use grants to adopt and implement traffic safety programs in vehicle safety and education, law enforcement training, monitoring of compliance, and enforcement of laws.

Requires a State, as a condition of receiving grants, to maintain their aggregate expenditures for such traffic safety programs at or above their average level of the preceding two fiscal years.

Prohibits any State from receiving a grant in more than 3 fiscal years. Stipulates that federal grants shall be a maximum of 75 percent of a State's cost of implementing such traffic safety programs in the first fiscal year, a maximum of 50 percent in the second year, and a maximum of 25 percent in the third fiscal year.

Limits aggregate amount of grants to a State under this section to 90 percent of such State's apportionment for fiscal year 1990 under Section 402 of this title.

Requires as a general condition for receiving grants in any fiscal year that a State enter into an agreement with the Secretary to implement a traffic safety program. Additionally requires for a State to receive a grant in a fiscal year succeeding the first fiscal year it receives a grant that it have a law requiring seatbelt use and achieve a rate of compliance with such law of not less than 50 percent and have a law requiring motorcycle helmet use and achieve a rate of compliance with such law of not less than 75 percent. Additionally requires for a State to receive a grant in a fiscal year succeeding the second fiscal year that it receives a grant that it have a law requiring seatbelt use and achieve a rate of compliance with such law of not less than 70 percent and have a law requiring motorcycle helmet use and achieve a rate of compliance with such law of not less than 85 percent.

Provides that each State shall measure compliance using methods which conform to guidelines issued by the Secretary.

Stipulates that if a State does not have both a law requiring helmet use and a law requiring seatbelt use at all times in fiscal year 1994 such State shall expend for highway safety programs 1½ percent of funds apportioned to the State under subsection (b)(1) of Section 104 of this title. Stipulates that if at any time after September 30, 1994 a State does not have both a law requiring helmet use and a law requiring seatbelt use at all times during a fiscal year, then in the succeeding fiscal year such State shall expend for highway safety programs 3 percent of funds apportioned to the State under subsection (b)(1) of Section 104 of this title. Provides that States required to expend funds for highway safety programs spend such funds for purposes eligible under Sections 402, 152 (except repavement) and section 130. Stipulates that the federal share for such projects shall be 100 percent. Stipulates that funds required to be set aside under this subsection shall be available only in the year for which they were apportioned and shall thereafter lapse.

Defines terms.

Authorizes to be appropriated out of the Highway Trust Fund $45,000,000 for fiscal year 1992, $30,000,000 for fiscal year 1993, and $25,000,000 for fiscal year 1994.

Provides that certain provisions of chapter 1 of this title are applicable to the funds authorized to be appropriated under this Section and that funds authorized to be appropriated under this Section shall remain available until expended.

Requires the Secretary to conduct a study of the cost and severity of injuries of restrained and unrestrained individuals injured in motor vehicle crashes and of helmeted and non-helmeted motorcyclists injured in motorcycle crashes. Authorizes to be appropriated out of the Highway Trust Fund $5 million for such study. Requires the Secretary to report the results of such study within 40 months after the date of enactment of this Act.

Requires the Secretary to issue regulations to carry out this Section within 180 days of the date of enactment of this Act.

Conference agreement

The conference agreement generally follows the Senate Bill. The agreement adopts the House language on the purposes for which redirected funds may be spent by the States, and adopts the House language on definitions.

House bill

No provision.

Senate bill

Section 123 allows States to use as a credit toward meeting non-Federal match requirements non-Federal capital expenditures on toll facilities that are an integral part of the interstate commerce network.

In receiving such a credit, a State would have to maintain its aggregate transportation capital spending, excluding Interstate and discretionary funding, at or above the average level of such spending for the preceding three fiscal years, as required by the Secretary.

Under this section, an agency from which the credit is generated would not be subject to any additional Federal oversight or regulation, above and beyond any that otherwise exist.

Conference substitute

Same as Senate bill.

The conferees do not intend that these credits would result in a small reduction in non-Federal transportation spending by a State receiving the credit.

ACQUISITION OF RIGHTS OF WAY

House bill

No comparable provision.

Senate amendment

Summary

This section amends 23 U.S.C. 108 makes three changes to current law. First, the period within which construction must be commenced on a right-of-way funded from the right-of-way revolving fund is increasing from 10 years to 20 years.

Second, costs incurred by a State to acquire rights-of-way in advance of Federal approval or authorization and costs incurred to acquire land necessary to preserve environmental and scenic values may be reimbursed with Federal funds if certain conditions are satisfied.

Third, to conform section 108 of title 23 with the other title 23 changes being made by this legislation, this section eliminates the requirement that right-of-way revolving fund advances be for projects "on the Federal-aid system" and authorizes the use of the fund for projects such as passenger rail facilities, magnetic levitation systems, transportation corridor preservation, and long-term transportation planning.

Discussion

This amendment will allow states that have rigorous planning and environmental impact analysis requirements to purchase rights-of-way prior to obtaining Federal approval or authorization and to use Federal funds to reimburse the costs of early acquisition if certain conditions are satisfied. As a result, States will be better able to identify and preserve corridors with the express intent of protecting environmental sensitive areas.

To take advantage of the authority provided in this section, the state must satisfy a number of conditions, including demonstrating to the Secretary that: (1) the state has considered the environmental impacts of the acquisition and various alternatives; (2) the early acquisition did not influence the environmental assessment of the underlying project, the decision to proceed with this project, or the selection of the project design or location; (3) the state has a mandatory comprehensive and coordinated land use, environment, and transportation planning process under state law; (4) the acquisition is certified by the Governor as being consistent with the state planning process; and (5) prior to approval of the use of Federal funds to reimburse the costs of early acquisition, all applicable Federal environmental laws have been complied with, including but not limited to the National Environmental Policy Act, section 4(f) of the Department of Transportation Act, and section 7 of the Endangered Species Act. The directive that the Secretary identify the applicable environmental laws in regulations does not authorize the Secretary to waive or otherwise modify the requirements of any environmental law and failure of the Secretary to identify a law shall not affect the substantive or procedural requirements of the law.

Conference substitute

The conference substitute includes the Senate provision with a study added by the House and technical language amendments.

House bill

No similar provision.

Senate amendment

TRANSPORTATION IN PARKLANDS

(a) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, the Secretary, in consultation with the Secretary of the Interior, shall submit to the Congress a study of alternative transportation modes for use in the National Park System. Such study shall consider the economic and technical feasibility, environmental effects, projected costs and benefits as compared to the costs and benefits of existing transportation systems, and the general suitability of transportation modes that would provide efficient and environmentally sound ingress to and egress from National Park lands. The study shall also consider methods to obtain private capital for the construction of such transportation modes and related infrastructure.

(b) Authorization of Appropriations.—From within the sums authorized to be appropriated for subsection 202(d) of title 23, United States Code, $300,000 shall be made available to carry out this section.

Conference substitute

SEC. 125. TRANSPORTATION IN PARKLANDS

(a) IN GENERAL.—Not later than twelve months after the date of enactment of this Act, the Secretary, in consultation with the Secretary of the Interior, shall submit to the Congress a study of alternative transportation modes for use in the National Park system that is consistent with the findings and purposes of Section 301 of Public Law 95-344. Such study shall consider the economic and technical feasibility, environmental effects, projected costs and benefits as compared to the costs and benefits of existing transportation systems, and the general suitability of transportation modes that would provide efficient and environmentally sound ingress to and egress from National Park System lands. Such study shall also consider methods to obtain private capital for the construction of such transportation modes and related infrastructure.

(b) (same as Senate language, except amount authorized and appropriated is $240,000)

TRAFFIC CONTROL STANDARDS

House bill

No comparable provision.

Senate amendment

The Senate amendment directs the Secretary to revise the Manual of Uniform Traffic Control Devices to include a standard minimum maintenance level of retroreflectivity for pavement markings and signs and to define the roads that must have a center line or edge line or both. The functional classification of roads, traffic volumes, and the number and width of the lanes are to be considered in making this standard.

Conference substitute

House recedes.

RIGHT OF WAY REVOLVING FUND

House bill

No comparable provision.

Senate amendment

Summary

Section 128 amends Section 108, title 23 U.S.C. by expanding projects eligible for right-of-way revolving fund advances to passenger rail facilities.

Discussion

The right-of-way revolving fund was established by the Federal-Aid Highway Act of 1956 to facilitate the acquisition of rights-of-way in anticipation of construction on the federal-aid highway system. This change was made to make this program consistent with the intermodal philosophy of this bill and to encourage corridor preservation and long-term transportation planning.

Conference substitute

The conference substitute recedes to the House.

RECODIFICATION

House bill

No comparable provision.

Senate amendment

The Senate amendment requires the Secretary to prepare and submit a recodification of title 23, United States Code, to Congress for consideration by October 1, 1993.

Conference substitute

The conference substitute requires the Secretary to prepare and submit a proposed recodification of title 23, United States Code, to Congress for consideration by October 1, 1991.

INDIAN ROAD SEALING

House bill

No comparable provision.

Senate amendment

The Senate amendment amends title 23, United States Code, to establish that the Bureau of Indian Affairs of the Department of the Interior shall be allowed to use Highway Trust Funds for the purpose of the sealing of Indian reservation roads under their jurisdiction.

Conference substitute

The managers have included language authorizing the use of Highway Trust Funds for road sealing projects on Indian reservations but want to make quite clear that these funds are entirely distinguishable from road maintenance funds historically requested in the Bureau of Indian Affairs annual budget. In light of the significant underfunding of Indian reservation roads, the extremely poor conditions of said roads and the need to have an acceptable infrastructure for our Native American communities, it is the Committee's intent that HTF funds are authorized in addition to—and not in lieu of—the BIA's road maintenance program. Pursuant to the provisions of Title 23, Section 116 and 204, and pursuant to the Memorandum of Agreement between BIA and FHWA signed on May 24, 1983, the BIA is clearly responsible for maintaining roads built with Highway Trust Fund dollars. The managers expect the BIA to request funding in FY 1993 that is at least consistent with the level requested and appropriated in FY 1992.

HIGHWAY CONSTRUCTION TRAINING

House bill

No comparable provision.

Senate amendment

The Senate amendment allows one-fourth of 1 percent of funds apportioned to a State for the Surface Transportation Program or Bridge Program may be available for highway construction training.

Conference substitute

House recedes to Senate amendment.

EROSION CONTROL

House bill

No provision.

Senate bill

Section 140B directs the Secretary to develop erosion control guidelines for States to follow in carrying out projects under this Act.

Conference substitute

Same as Senate bill.

INTERNATIONAL TRANSPORTATION OUTREACH

House bill

The House amendment authorizes the Department of Transportation to conduct a

program to share technological innovations developed abroad with the U.S. highway community and to increase transfers of U.S. highway transportation technology to foreign countries. Chapter 3 of title 23, United States Code, is amended.

Senate amendment

The Senate amendment authorizes the Department of Transportation to conduct a program to share technological innovations developed abroad with the U.S. highway community and to increase transfers of U.S. highway transportation technology to foreign countries.

Conference substitute

The Conference Substitute includes the Senate provision with the House amendment to Chapter 3 of title 23, United States Code.

EDUCATION AND TRAINING PROGRAM

House bill

The House bill authorizes the Secretary of Transportation to make grants and enter into contracts for a transportation assistance program to provide access to modern highway technology for urbanized areas with populations of 50,000 to 1,000,000 and rural areas. Technical assistance program centers are established to provide usable technology and information to rural and urban transportation agencies to expand their expertise in road and transportation areas.

The Secretary of Transportation is authorized to conduct and report to Congress on the results of a study to determine the appropriate symbol for highway signs to commemorate the Interstate system as the Dwight D. Eisenhower National System of Interstate and Defense Highways.

Senate bill

The Senate amendment contains a provision authorizing the Secretary to make grants and enter into contracts for a transportation assistance programs to provide access to modern highway technology to urbanized areas with populations of 50,000 to 1,000,000 and rural areas. Technical assistance program centers are established to provide usable technology and information to rural and urban transportation agencies to expand their expertise in road and transportation areas.

The Secretary shall establish and administer the Dwight David Eisenhower Transportation Fellowship Program to attract qualified students to the field of transportation engineering and research. No less than $2,000,000 per fiscal year is provided for the fellowship program.

Conference substitute

The conference substitute contains a provision authorizing such sums as may be necessary for the Secretary to make grants and enter into direct contacts for a transportation assistance program to provide access to modern highway technology to urbanized areas with populations of 50,000 to 1,000,000 and rural areas. Technical assistance program centers are established to provide usable technology and information to rural and urban transportation agencies to expand their expertise in road and transportation areas.

The Secretary shall establish and administer the Dwight David Eisenhower Transportation Fellowship Program to attract qualified students to the field of transportation and engineering and research. No less than $2,000,000 per fiscal year is provided for this program. Development of new and efficient combinations of transportation infrastructure requires that the nation's brightest minds be attracted to the transportation and engineering and research professions. The Dwight David Eisenhower Transportation Fellowship Program is designed to accomplish this objective.

The conferees recognize that the fellowship program will be most successful if it serves to attract critical masses of students and professors to evolve into centers of excellence. Therefore, the conferees intend that the program shall be limited to no more than fifty universities, to be selected by the Secretary on the basis of their academic reputation in the transportation engineering and research areas. The conferees intend that the fellowships should be awarded competitively, and be available only to students enrolled in work toward a graduate degree in transportation engineering or research, but exceptions can be made for students in the final year of undergraduate engineering degrees who can demonstrate that they intend to specialize in a transportation-related field following graduation.

The Secretary of Transportation is authorized to conduct and report to Congress on the results of a study to determine the appropriate symbol for highway signs to commemorate the Interstate system as the Dwight D. Eisenhower National System of Interstate and Defense Highways.

NATIONAL HIGHWAY INSTITUTE

House bill

The House bill establishes a National Highway Institute within the Federal Highway Administration to provide technical training programs for federal, State and local employees, U.S. citizens, and foreign nationals engaged in highway work. Up to one-fourth of one percent of all funds apportioned to a State for the Federal-aid primary system funds are available to the State highway department for payment of up to 80 percent of the cost of tuition and direct expenses.

Senate amendment

The Senate amendment establishes a National Highway Institute within the Federal Highway Administration to provide technical training programs for federal, State and local employees, U.S. citizens, and foreign nationals engaged in highway work. Up to one-fourth of one percent of all Surface Transportation Program funds apportioned to a State are available to the State highway department for payment of up to 75 percent of, the cost of tuition and direct educational expenses.

Conference substitute

The House recedes with modification of subsection (b) to reflect the 80% federal share provided in the House bill and with modification that any fees collected by the National Highway Institute be placed in a special account for recovering costs for the purpose of this section.

ZEBRA MUSSELS

House bill

No comparable provision.

Senate amendment

Establishes a study and program for the use of Zebra Mussels as an infrastructure building material.

Conference substitute

Senate recedes to the House.

INFRASTRUCTURE INVESTMENT COMMISSION

House bill

No comparable provision.

Senate amendment

The Senate amendment establishes the Commission to Promote Investment in America's Infrastructure, to be composed of seven members: two each to be appointed by the Majority Leader of the Senate and the Speaker of the House of Representatives; respectively; and one each to be appointed by the Minority Leaders of the Senate, the Minority Leader of the House of Representatives, and the President of the United States, respectively. Members of the Commission are to have appropriate backgrounds in finance, construction, lending, actuarial disciplines, pensions, and infrastructure policy.

The Commission will conduct a study of the feasibility and desirability of creating a type of infrastructure security which would permit the investment of pension funds in funds used to design, plan, and construct infrastructures in the United States. The Commission can include recommendations for private sector or other innovative public policy alternatives to encourage infrastructure investments at all levels of government. The Commission will report to Congress on its findings and recommendations within 180 days of enactment of this Act.

This section provides for reimbursing Commission members for expenses and for a staff to assist the Director is he so chooses. Such sums as may be necessary are authorized to carry out this section.

Conference substitute

The conference accepts the Senate substitute.

REGULATORY INTERPRETATION

House bill

No comparable provision.

Senate amendment

The Senate amendment establishes that steel coating is covered by the federal regulations interpreting Buy America legislation.

Conference substitute

Same as Senate amendment.

CLEAR GASOLINE REQUIREMENT

House bill

No comparable provision.

Senate amendment

The Senate amendment imposes a clear gasoline requirement on refiners pursuant to the Clean Air Act.

Conference substitute

The Senate recedes to the House.

NATIONAL DEFENSE HIGHWAYS

House bill

No comparable provision.

Senate amendment

The Senate amendment declares that upon certification by the Secretary, after consultation with the Secretary of Defense, a highway or portion of highway located outside the territory of the United States is important to the national defense, up to $20,000,000 shall be made available for reconstruction of an eligible highway from the Interstate Construction Program funds.

Conference substitute

House recedes to Senate amendment.

ALLOCATION FORMULA STUDY

House bill

No comparable provision.

Senate amendment

The Senate amendment authorizes a study to be conducted to determine a fair and equitable apportionment formula for the allocation of Federal-aid highway funds.

Conference substitute

The conference substitute contains the allocation formula study.

STORMWATER PERMITS

House bill

No comparable provision.

Senate amendment

Section 140L of the Senate Amendment extends certain application deadlines for and enforcement of the stormwater permitting requirements of Section 402(p) of the Federal Water Pollution Control Act (33 U.S.C. 1342(p)) for industrial activities owned or operated by municipalities with a population of under 250,000.

Conference substitute

The conference substitute extends individual and group permit application deadlines for stormwater discharges associated with industrial activities from municipally owned or operated facilities. Individual permit applications must be submitted no later than October 1, 1992, except that where a timely group permit application is denied the applicant would be entitled an additional six months from the date of the denial to submit an individual application. Group application deadline are extended until September 30, 1991 for Part I and October 1, 1992 for Part II except that for municipalities of under 250,000 an additional period of time is provided. No stormwater discharge permits for industrial activities for municipalities of under 100,000 are required prior to October 1, 1992 except stormwater discharges from municipally owned or operated power plants, airports, and certain landfills. The conference substitute also requires that general permit regulations for stormwater discharge permits be promulgated no later than February 1, 1992. The conference substitute is not intended to prejudice or in any manner affect any ongoing litigation, including Natural Resources Defense Council v. U.S. Environmental Protection Agency, Case Nos. 90–70671 and 91–70200 (9th Cir., 1990).

INVESTIGATION AND REPORT

House bill

No comparable provision.

Senate amendment

The Senate amendment provides for a study on the feasibility of requiring that trucks be restricted from using the left lanes of Interstate highways.

Conference substitute

The Senate recedes to the House.

USE OF OXYGENATED FUELS

House bill

No comparable provision.

Senate amendment

The Senate amendment requires the Secretary, in consultation with the EPA Administrator to submit to Congress a report on the feasibility and effectiveness of requiring all cities and metropolitan statistical areas with a population of 250,000 or more the use of oxygenated fuels (with a percentage of 2.7 or greater).

Conference substitute

Senate recedes to House.

YOUTH JOBS PROGRAMS

House bill

No comparable provision.

Senate amendment

The Senate amendment establishes a youth program in conjunction with highway landscaping and beautification activities and allows States to use up to 0.2 percent of their funds for this purpose.

Conference substitute

The Senate recedes to the House.

INTERSTATE STUDY COMMISSION

House bill

No comparable provision.

Senate amendment

Interstate Transportation Agreements and Compacts. States have Congressional approval to enter into and carry out agreements or compacts to address interstate highway and bridge problems of regional significance identified by metropolitan planning organizations.

Conference substitute

The conference substitute establishes the Interstate Study Commission for Transportation for the National Capital Region to make recommendations on funding and management of the transportation system of the region. The Commission will evaluate existing mechanisms and processes by which transportation decisions are made within the region and make recommendations to provide a coordinated regional approach and process for funding and implementing transportation improvements, primarily focusing on interstate highway and bridge systems. The conferees intend that the recommendations developed by the commission will be consistent with the planning requirements for metropolitan areas, and the recommendations will be made to Congress, the Department of Transportation, the governors of Maryland and Virginia, the mayor of the District of Columbia and the National Capital Region Transportation Planning Board.

MONTANA-CANADA TRADE

House bill

Identical provision.

Senate amendment

The Senate amendment states that the Secretary may not withhold funds from the State of Montana on the basis of actions taken by Montana pursuant to a draft memorandum with the Province of Alberta, Canada, regarding truck transportation between Canada and Shelby, Montana.

Conference substitute

The Conference Substitute contains the Senate amendment.

LEVEL OF EFFORT

House bill

No comparable provision.

Senate amendment

Provides additional funding to states who have a lower than average per capita discretionary spending and higher than average gasoline tax.

Conference substitute

Senate recedes to House.

The conference agreement includes a study to measure a state's total level of effort with regard to state highway expenditures. Three months after the date of enactment, the Secretary and the newly formed DOT Bureau of Statistics are directed to conduct a study of state level of effort. Not later than nine months, the Secretary is to provide such report to the Senate Environment and Public Works Committee and the House Committee on Public Works.

The Secretary is directed to use data reflecting state and local revenue support for highways. This data shall include: income fuel taxes, toll revenues including bridge tolls and highway tolls, sales taxes (if used by a state on highway expenditures), general fund revenues used for highways, property taxes used for highways, bonds, administrative fees such as vehicle registration and driver license fees collected that may be expended by a state for highway expenses, taxes on commercial vehicles and other appropriate state and local revenue sources.

There was much discussion on the Senate floor with regard to how best to measure a state's total level of effort. The conferees direct the Secretary to conduct a comprehensive study that will compare a state's total level of effort comparing revenues raised and expended for highway purposes with per capita income.

NATIONAL POLICY FOR INFRASTRUCTURE REUSE

House bill

No comparable provision.

Senate amendment

The Senate amendment amends Sec. 307 of title 23 of the United States Code by adding a section at the end that requires within 12 months of the date of enactment of this Act, that the Secretary conduct a study of methods to facilitate the reuse of industrial manufacturing facilities. The Secretary shall consult with other government officials to ascertain regulatory, technical, and other barriers or constraints associated with reusing industrial manufacturing facilities. The Secretary shall report the results of the study to Congress upon its completion. $200,000 is authorized to be taken from administration and research funds in Sec. 104 to conduct the study.

Conference substitute

The conference accepts the Senate substitute.

NONNAVIGABILITY DECLARATION

House bill

No comparable provision.

Senate amendment

The Senate amendment establishes a nonnavigable status for a portion of the Hudson River adjacent to a bulkhead line.

Conference substitute

The House recedes to the Senate.

SENSE OF SENATE (LEVEL OF EFFORT)

House bill

No comparable provision.

Senate amendment

The Senate amendment directs committee conferees to determine each State's total apportionments in a way that reflects each State's total effort for highways including each State's ability to finance its total effort for highways, as measured by its per capita disposable income as compared to the average State per capita disposable income, as well as taking into account the effect of such apportionment formula on energy conservation, energy security, and environmental quality.

Conference substitute

Senate recedes to House.

MILLER HIGHWAY

House bill

No comparable provision.

Senate amendment

No comparable provision.

Conference substitute

The conferees have authorized $14.5 million to undertake engineering and environmental studies and begin to realign Miller Highway inland, between 59th and 72nd Streets, to promote the development of a major public-private works project which will include the creation of a 23-acre public waterfront park to be built with private funds. This author-

ization shall not be construed to interrupt or interfere with the current rehabilitation of the Miller Highway on its present alignment, which is urgently needed to ensure public safety. Moreover, this project shall be deemed separate and independent from the Route 9A project between the Battery and 59th Street, which has independent utility and logical termini and should be advanced *under* [at] its own *independent engineering and environmental process and* rapid schedule.

REVISION OF MANUAL

House bill

Section 121(m) requires the Secretary to revise the Manual of Uniform Traffic Control Devices and other Federal Highway Administration regulations as may be necessary to permit states and local governments to install stop or yield signs at any rail-highway grade crossing without automatic traffic crossing devices with 2 or more trains operating across such rail-highway crossing.

Senate amendment

The Senate amendment contains no comparable provision.

Conference substitute

The Conference Substitute adopts the House provision.

ROADSIDE BARRIERS AND SAFETY APPURTENANCES

House bill

Section 121(c) of the House bill requires the Secretary to initiate a rulemaking proceeding to revise the guidelines and establish standards for installation of roadside barriers and other safety appurtenances. This rulemaking shall reflect criteria related to approval standards contained in the National Cooperative Highway Research Program Report 230 which provide a level of crashworthy performance to accommodate vans, minivans, pickup trucks and 4-wheel drive vehicles, along with all other vehicles.

The Secretary shall issue the final rule no later than one year after the date of enactment of this Act regarding the implementation of such guidelines and standards.

Senate amendment

The Senate amendment contains no comparable provision.

Conference substitute

The Conference substitute adopts the House provision.

TITLE II—HIGHWAY SAFETY

PART A—HIGHWAY SAFETY GRANT PROGRAMS

SECTION 2000—SHORT TITLE

House bill

No provision.

Senate amendment

No provision.

Conference substitute

The short title of this part is the "Highway Safety Act of 1991".

SECTION 2001—HIGHWAY SAFETY PROGRAMS

House bill

The House bill, in section 2001, amends Section 402 to provide for mandatory and optional programs for Section 402 grants. To qualify for a 402 grant, each state would be required to establish programs on drunk driving; speeding; occupant protection; emergency medical services; motorcycle safety; uniform data collection and reporting; accident location; highway design; construction and maintenance; traffic engineering services. Programs on bicycle, pedestrian, school bus safety, police traffic services, and traffic record systems, would be left to the discretion of the states.

Senate amendment

The Senate bill contains no comparable provisions.

Conference substitute

The substitute adopts the Senate version which, in effect, maintains existing law, but requires that the programs listed as mandatory programs under the House bill be listed as priority items within the guidelines promulgated by the Secretary. If the Secretary does not prioritize the programs, the Secretary is required to submit a report to the Congress describing why there is no need for the prioritization of the programs.

The agreement also provides that the Secretary is to establish a program to provide for a national uniform data collection and reporting system of traffic-related deaths and injuries. The purposes of this program are to allow the Secretary to determine the causes of such deaths and injuries, to develop programs to reduce such deaths and injuries, and to make recommendations to Congress concerning legislation necessary to implement such programs. The program shall include information obtained by the Secretary under section 404 of the Act and provide for annual reports to the Secretary on the efforts being made by the states in reducing deaths and injuries occurring at highway construction sites and the effectiveness and results of these efforts. In addition, the Secretary is required to establish minimum reporting criteria to obtain certain accident information necessary to improve analysis at the state and federal levels. Such criteria shall include criteria on deaths and injuries resulting from police pursuits, school bus accidents, and speeding, on traffic-related deaths and injuries at highway construction sites, on the configuration of commercial motor vehicles involved in motor vehicle accidents, and any other data elements essential for analysis of highway safety issues the Secretary shall develop through the Critical Automated Data Reporting Elements for Highway Safety Analysis (CADRE).

SECTION 2002—HIGHWAY SAFETY RESEARCH AND DEVELOPMENT

House bill

The House bill, in section 202, amends current law to authorize research into all aspects of highway safety and traffic conditions, including the relationship between the use of drugs and its effect on highway safety and driver performance. The bill provides that funds appropriated for Section 403 of 23 U.S. Code be used for training and education of highway safety personnel; research fellowships in highway safety; accident investigation procedures; emergency service plans; demonstration projects; and any other related activities the Secretary believes will promote highway safety. The bill also authorizes the Secretary to undertake collaborative research and development with nonfederal entities, including state and local governments, universities, corporations and partnerships, on cost-shared basis.

Senate amendment

The Senate bill contains no comparable provisions.

Conference substitute

The conference substitute adopts the House provision.

SECTION 2003—ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES

House bill

The House bill, in Section 203, maintains the existing program under section 410 of title 23, but establishes new grant requirements for the program. The bill establishes basic and supplemental grant programs. To be eligible for a basic grant, a state would have to institute a program involving (1) highway sobriety checkpoints; (2) prompt license suspension of individuals operating vehicles under the influence of alcohol or drugs; (3) a requirement that any person with a blood alcohol concentration (BAC) equal to or greater than 0.10 percent for the first two years of the program, and 0.08 percent thereafter is deemed to be driving under the influence; and (4) mandatory minimum sentences for persons convicted of impaired driving. States that met the basic grant criteria would receive an amount equal to 80% of their allocation under Section 402 of Title 23.

Supplemental grants would be available for each of the following actions: (1) enhanced enforcement of "21 drinking age" laws; (2) the enactment of laws prohibiting the possession of open containers of alcohol in the passenger area of motor vehicles (excepting charter buses) while on the road; and (3) the suspension of car licenses and registrations, and the impoundment of vehicles of repeat offenders of impaired driving laws. States that met the supplemental grant criteria would be eligible for an amount equal to five percent of their 402 grant allocation.

The House bill also authorizes, from funds made available to carry out section 402 of Title 23, the use of $17 million for each of the fiscal years 1993–1997 to carry out this program.

Senate amendment

The Senate amendment, in Section 226, amends Chapter 4 of title 23, to establish a new and comprehensive drunk and impaired driving program. The new program would have a structure identical to that of the existing sections 408 and 410 programs, and would replace those programs when the terms of those programs expired. The program would make available to the states basic and supplemental grants for a maximum of five years. States that met certain basic criteria would receive a grant equal to 30 percent of their section 402 grant amount, which would be funded on a declining share basis—75% for the first year, 50% for the second year, and 25% for the third year.

The amendment provides that a state is eligible for a basic grant if it establishes requirements for (1) administrative revocation of drunk drivers' licenses; (2) sobriety checkpoints; (3) a 0.10 BAC standard for persons who are deemed to be driving while under the influence of alcohol, that would have to be reduced to 0.08 BAC after 3 years; (4) videotaping of drunk drivers; (5) mandatory minimum sentences for those convicted of impaired driving; and (6) a requirement that the program be planned to become self-supporting. The bill provides a waiver of any one of the basic grant criteria for any state which achieves a decrease in its alcohol-related fatalities by an average of three percent per calendar year for five consecutive years.

States that met the criteria for a basic grant would be eligible for supplemental grants for each of the following: (1) the adoption of a mandatory blood alcohol testing program for drivers in accidents involving fatalities or serious injuries; (2) providing for enhanced enforcement of "21 drinking age" laws; (3) the establishment of laws preventing drugged driving, including prompt license suspension, presumed driver consent to drug testing, mandatory minimum sentences for those convicted of drugged driving, and a system of detection of drugged drivers; (4)

the establishment of a mandatory BAC intoxication level of 0.08 during the first three years of the grant; (5) making it unlawful to possess open containers of alcohol in the passenger area of motor vehicles (excepting charter buses) while on the road; or (6) and requiring the suspension of car license plates and registrations for repeat offenders of impaired driving laws. For each supplemental grant criteria that is met, a state would receive an amount equal to 10 percent of its section 402 allocation.

The Senate amendment also authorizes appropriations out of the Highway Trust Fund (other than the Mass Transit Account) in the following amounts to carry out this program: $25 million in FY 1992; and $50 million for each of the fiscal years 1993–1996.

Conference substitute

The Conference substitute, in large part, adopts the Senate provisions regarding the grant program. The agreement, however, deletes the waiver provision for the basic requirements, and provides that a state only has to meet five of the six requirements under the basic grant criteria of be eligible for a basic grant. In addition, videotaping of drunk drivers is now a supplemental grant criteria, and distinguishable license for those under 21 is a basic grant criteria.

SECTION 2004—AUTHORIZATION OF APPROPRIATIONS

House bill

The House bill, in Section 205(1), for programs under section 402 of Title 23 U.S. Code, provides for an authorization out of the Highway Trust Fund (other than the Mass Transit Account) of $121 million for FY92, $190 million for fiscal years 1993–1995, and $168 million for fiscal years 1996–1997.

The House bill, in section 205(2), authorizes an appropriation of $25 million for FY 1992, and $50 million each for FYs 1993 through 1997, for the program under Section 403 of Title 23, U.S. Code.

The bill also authorizes $14,000,000 for carrying out Section 410 of Title 23 U.S. Code for fiscal year 1992.

Senate amendment

The Senate amendment, in section 203(d), authorizes expenditures from the Highway Trust Fund (other than the Mass Transit Account) to carry out section 402 of title 23 of the U.S. Code for FY 1992 through 1996. The amendment provides for an authorization of $126 million for FY 1992; $130,788,000 for FY 1993; $135,757,944 for FY 1994; $140,916,745 for FY 1995; and $146,271,537 for FY 1996.

The Senate amendment, in section 203(e), authorizes expenditures out of the Highway Trust Fund to carry out Section 403 of title 23, U.S. Code. The bill provides for an authorization of $45,869,000 for FYs 1992–1996.

The Senate amendment, in section 226(—), authorizes expenditures out of the Highway Trust Fund (other than the Mass Transit Account) for carrying out the impaired driving programs set out in that section as follows: $25,000,000 for FY 1991; and $50,000,000 for each of the fiscal years 1992–1995.

The Senate amendment, in Sections 226(a) and 226(b), authorizes appropriations for the National Highway Traffic Safety Administration to carry out its responsibilities under the National Traffic and Motor Vehicle Safety Act of 1966 as follows: FY 1992—$68,722,000; FY 1993—$71,333,436; FY 1994—$74,044,106. These amounts reflect the Administration's budget request for 1992 increased by the inflation factor recommended by the Congressional Budget Office for the remaining fiscal years. It also authorizes appropriations for the National Highway Traffic Safety Administration to carry out the Motor Vehicle Information and Cost Savings Act as follows: $6,485,000 for fiscal year 1992; $6,731,430 for FY 1993; and $6,987,224 for FY 1994.

Conference substitute

The Conference substitute provides new authorization levels for both Sections 402 and 403, and the Impaired Driving Enforcement program. For programs under Section 402, the agreement provides for an authorization of $126 million for FY92; $175 million for FYs 1993–1994; and $171 million for FYs 1995–1997. For programs under Section 403, the agreement provides for expenditures in the amount of $44,000,000 per year for FYs 1992–1997. For the Impaired Driving Enforcement program, the agreement provides for authorization of $25 million per year for FYs 1992–1997.

The Conference substitute adopts the Senate provisions with respect to expenditures for the National Highway Traffic Safety Administration's administration of the National Traffic and Motor Vehicle Safety Act of 1966 and the Motor Vehicle Information and Cost Savings Act, and includes an authorization for FY 1995 for the latter two purposes.

SECTION 2005—DRUG RECOGNITION EXPERT TRAINING PROGRAM

House bill

The House bill, in section 206, provides for the establishment of a drug recognition expert training program. The purpose of the program is to train law enforcement officers to recognize and identify individuals who are operating a motor vehicle while under the influence of alcohol, a controlled substance, or other drug. The bill also establishes a citizens' advisory committee to monitor the progress of the implementation of the program. The advisory committee is to include one member from the organization Mothers Against Drunk Driving. The bill provides for an authorization of $5 million for FY92, and $6 million each for FYs 1993–1997, from the highway trust fund (other than the Mass Transit Account) to carry out the program.

Senate amendment

No comparable provision.

Conference substitute

The Conference substitute adopts the House provision, but reduces the funding to $4 million each for FYs 1992–1997. The agreement also provides that the citizens' advisory committee shall include a member of the American Bar Association, and a member of the American Medical Association.

SECTION 2006—NATIONAL DRIVER REGISTER ACT AUTHORIZATIONS

House bill

The House bill, in section 207, provides an authorization of $4 million each for FYs 1992–1994 for programs under the NDR Act.

Senate amendment

The Senate bill, in section 203, provides for a three year authorization to carry out programs under the National Driver Register Act. The bill authorizes expenditures in the amount of $6,131,000 for FY '92; $6,363,978 for FY '93; and $6,605,809 for FY '94.

Conference substitute

The Conference substitute adopts the House provision.

SECTION 2007—OBLIGATION CEILING FOR FISCAL YEAR 1992

House bill

Section 210 of the House bill established obligation ceilings for a number of highway safety programs.

Senate amendment

No provision.

Conference substitute

The conference substitute provides for the following obligation ceilings:

(1) Fiscal Year 1992—Sums authorized for sections 2004(1), 2004(3), and 2005(c) of this Act, and Section 211(b) of the National Driver Register Act of 1982 for Fiscal Year 1992, are subject to the obligation limitations of Section 102 of this Act.

(2) Fiscal Years 1993–1997—2003, 2004(1) and 2005 of this Act and Section 211(b) of the National Driver Register Act of 1982 should be reduced proportionally if an obligation ceiling is placed on the sums authorized to be appropriated to carry out Section 402 of Title 23, United States Code.

PART B—AUTHORIZATIONS AND GENERAL PROVISIONS

SECTION 2500—SHORT TITLE

House bill

No provision.

Senate amendment

The Senate bill in Section 201, provides the following short title: "National Highway Traffic Safety Administration Authorization Act of 1991".

Conference substitute

The Conference substitute adopts the Senate provision.

SECTION 2501—AUTHORIZATION OF APPROPRIATIONS

House bill

No provision.

Senate amendment

The Senate amendment, in Sections 226 (a) and (b), authorizes appropriations for the National Highway Traffic Safety Administration (NHTSA) to carry out its responsibilities under the National Traffic and Motor Vehicle Safety Act of 1966 as follows: $68,722,000 for FY 1992; $71,333,436 for FY 1993; $74,044,106 for FY 1994. These amounts reflect the Administration's budget request for FY 1992, increased by the inflation factor recommended by the Congressional Budget Office for the remaining fiscal years. The Senate amendment also authorizes appropriations for the National Highway Traffic Safety Administration to carry out the Motor Vehicle Information and Cost Savings Act as follows: $6,485,000 for FY 1992; $6,731,430 for FY 1993; and $6,987,224 for FY 1994.

Conference substitute

The Conference agreement adopts the Senate provisions, with modifications to include an additional authorization for FY 1995 of $76,857,782 for carrying out the National Traffic and Motor Vehicle Safety Act of 1996; and $7,252,739 for the Motor Vehicle Information and Cost Savings Act.

SECTION 2502—GENERAL PROVISIONS

House bill

No provision.

Senate Amendment

The Senate amendment, at Section 202, sets out definitions of terms used in the amendment, including definitions of passenger car and multipurpose passenger vehicles (MPVs). These definitions, according to NHTSA, are identical to those used in current NHTSA regulations.

Conference substitute

The Conference adopts the Senate definitions. The Conference agreement also sets out procedures to be used in carrying out the rulemakings required by the Conference agreements.

SECTION 2503—MATTERS BEFORE THE SECRETARY

House bill

No provision.

Senate amendment

The Senate requires the Secretary of Transportation to conduct rulemakings on a number of issues:

(1) Side impact standard: Section 205 of the Senate amendment requires the Secretary, within 18 months after enactment, to promulgate a final rule to extend FMVSS 214, to MPVs and other light trucks, such as minivans, sport utility vehicles and small trucks.

The Senate notes that approximately 8,000 Americans die each year in side impact crashes, and approximately 23,000 suffer serious, nonfatal injuries. After many years of work, NHTSA recently issued an upgraded side impact protection standard for passenger cars, to prevent injuries to the chest and pelvis in such crashes. At the same time, NHTSA indicated that it would continue its work to address head injury prevention in such crashes. MPVs and other light trucks are not currently required to meet the passenger car standard for protection of the chest and pelvis. This section of the Senate amendment would require that the passenger car standards be applied to MPVs and other light trucks.

This Section also would require that the Secretary complete a rulemaking, within a time certain, to consider methods of preventing head injury in side impact crashes.

(2) Protection against rollover: Section 210 of the Senate amendment requires rulemaking to prevent unreasonable risk of rollover in passenger cars, MPVs and other light trucks. The Senate notes that NHTSA's own research indicates that a significant percentage of accidents involving certain types of MPVs, other light trucks and passenger cars involve vehicle rollover. To date, no rule has been issued to deal with this problem. This section of the Senate amendment would require completion of the rulemaking within 12 months of enactment.

(3) Improved design for seatbelts: Section 224 of the Senate amendment requires a rulemaking, to be completed within 12 months of enactment, to consider whether to amend the current standard for seatbelt design to take into account the needs of children and shorter adults. The Senate notes that there is some evidence that current seatbelt design does not protect adequately such individuals, and that this situation could be remedied easily by minor design changes. The Senate notes that while NHTSA recently terminated a rulemaking on this issue, that analysis did not consider the affect on children of such an amendment to the standard. The rulemaking required by the Senate amendment would have to consider the safety of children.

(4) Safety child booster seats used in passenger cars and other motor vehicles: Section 213 of the Senate amendment requires a rulemaking proceeding, to be completed within 12 months of enactment, to increase the safety of child booster seats. Booster seats, used by toddlers and older children, are designed to elevate children so that they are in the proper position to use lap and shoulder belts. The Senate notes that a study conducted for NHTSA, "Evaluation of the Performance of Child Restraint Systems," indicates that some of these systems may not restrain adequately a child in a crash, and some may put pressure on the child's abdomen during a crash. The Senate amendment is a response to the concerns expressed in this study.

(5) Methods of reducing head injuries: Section 219 of the Senate amendment would require a completion of a rulemaking, within two years of enactment, to consider methods of reducing head injuries caused by contact with the interior components of passenger automobiles, MPVs and other light trucks.

The Senate notes that each year a large number of Americans suffer head injuries in automobile crashes. Many of these victims are permanently disabled. The Senate notes that an airbag can reduce the number of head injuries resulting from frontal crashes. Even if all cars were equipped with airbags, however, head injuries will still occur from rollover, side impact, and other crashes. NHTSA's own research indicates that many of these head injuries could be prevented if additional padding were placed in the interior portions of the vehicles likely to come into contact with a crash victim's head.

Conference substitute

The conference substitute provides in lieu of the above mentioned provisions a process for conducting rulemakings in accordance with the National Traffic and Motor Safety Act of 1966. It also provides that any resulting standards be enforced in accordance with the 1966 statute. The process includes a procedure for initiating a rulemaking either as an Advanced Notice of Proposed Rulemaking (ANPRM) or a Notice of Proposed Rulemaking (NPRM) at the discretion of the Secretary of Transportation. It also provides for completion of the rulemakings consistent with the 1966 statute and the Administrative Procedure Act. Except as otherwise provided, completion could include promulgation of a final rule (with or without changes from the proposed rule), or deciding not to promulgate a rule through termination of the rulemaking process (which decision may include a deferral of a rule, or a decision to start all over at some future time). The Department cannot, however, terminate the rulemaking because it lacked time to complete the rule. Whatever action is taken it must be published in the Federal Register in accordance with the Administrative Procedure Act and the 1966 Act and must include the reasons for that action.

Section 2503 lists five priority matters for which the Secretary must initiate a rulemaking in accordance with these general procedures. They are as follows:

(1) Unreasonable risk of rollovers in passenger cars, MPVs and light trucks.

(2) Extension of passenger car side impact protection to MPVs and light trucks.

(3) Safety of child booster seats in passenger cars and other appropriate vehicles.

(4) Improved design for safety belts.

(5) Improved head impact protection.

With the exception of number five, the listing of these matters for initiating rulemaking decisions is not to be construed as a determination by Congress as to whether or not a rule shall be finalized or if it is finalized what it should contain. The objective of the conferees is to require that the Secretary give priority consideration to these matters without affecting other rulemakings or decisions pending at the Department.

For these five matters, the conferees expect the Secretary to initiate either an ANPRM or a NPRM by May 31, 1992. If the Secretary cannot begin any one of these by that date, he must give notice of the decision to initiate them and provide a date certain for the initiation of either an ANPRM or a new NPRM. Such date certain shall not extend beyond January 31, 1993. He must also explain the reasons for this delay. A decision to provide a new date for that decision will not be reviewable.

Once a rulemaking is initiated, the Secretary must complete the rulemaking within 26 months after initiation, in the case of an ANPRM, and within 18 months after initiation, in the case of an NPRM. However, with the exception of the head injury rulemaking, in the case of an ANPRM, the Secretary may decide not to proceed to an NPRM after issuing the ANPRM if, after consideration of the ANPRM and the comments thereon, he so decides and publishes this decision against continuation of the rulemaking process. He must do this in a manner consistent with the APA and the 1966 Act. The Secretary may in the case of an NPRM extend the 18 month period for an additional 6 months. That extension is not reviewable.

In the case of Section 2503(5) which provides for improved head injury protection regarding interior components of passenger cars (i.e., roofs, pillars, and front headers) there is a special rule. Under that special rule the Secretary must complete the rulemaking and issue a final rule within 24 months after the date of initiation of rulemaking by publication of the ANPRM or the NPRM. That publication must occur either by May 31, 1992 or, as indicated above, by January 31, 1993. If the Secretary determines that there is a need for delay and if the public comment period is closed, the Secretary may extend the date of completion by an additional six months and publish a notice thereof in the Federal Register. The conferees emphasize that in the case of this special provision a final rule is to be promulgated within the timeframe specified.

Thus, with exception of the head injury protection issue, the conferees do not predetermine the outcome of these rulemakings. The Secretary is free to conclude the rulemaking in any manner consistent with the APA and the 1966 Act. The conferees expect the Secretary to act on these matters in accordance with the time schedule provided.

The conferees expect NHTSA to move quickly on these matters and give preference to rollover protection, and to extension of passenger car side impact protection to light duty trucks and MPVs. In the case of rollovers, the conferees note that in a November 7, 1991 letter to the Committee on Energy and Commerce, the Administrator of NHTSA said:

The rulemaking process will develop an advanced notice of proposed rulemaking (ANPRM) which will be published late this year. This will be followed by a notice of proposed rulemaking. If the comments and other information in the rulemaking record support the issuance of a final rule, the agency would adopt such a rule.

Since the late 1980s, the agency has conducted research to determine if vehicle attributes exist which are related to vehicle rollover. In a multi-contract effort, the agency has collected engineering data on approximately 60 different vehicles, including MPVs, vans, trucks, and passenger cars. In addition, the agency has collected and analyzed over 100,000 accidents associated with rollover and non-rollover crashes of these vehicles. These two data sets, the physical measurements of the vehicles and the rollover propensity of the vehicles as measured by their actual accident history, were analyzed to determine correlations between vehicle rollover propensity and accident involvement. Correlations were found when controlling for variations in the individual crashes, such as driver demographics, weather conditions, and road conditions. This

analysis was completed in the spring of 1991 and will provide the basis for the forthcoming ANPRM.

The conferees would expect NHTSA to issue an ANPRM before May 31, 1992. Indeed, the conferees understand that an ANPRM has recently been submitted to the Office of Management and Budget.

SECTION 2504—RECALL OF CERTAIN MOTOR VEHICLES

House bill

No provision.

Senate amendment

Section 216 of the Senate amendment provides the Secretary with authority to require manufacturers to send a second notification to owners of defective vehicles to enhance safety defect and non-compliance recall response rates. DOT's review of techniques such as postcard reminders to increase recall response rates shows that a follow-up notice can achieve response rates significantly higher than those achieved by the initial notification.

This section further requires that any owner of leased vehicles who receives a recall notice shall send a copy of such notice to the lessee of the vehicle. Finally, the section requires that any dealer who receives a recall notice with respect to any vehicle or item of equipment may not sell or lease that product unless the defect is remedied or the recall order has been restrained or set aside. This provision, according to the Senate, is intended to close a loophole that exists in the Safety Act.

Conference substitute

The conference substitute adopts the Senate provision. The conferees note that according to a letter from NHTSA Administrator Jerry Curry to the Chairman of the House Committee on Energy and Commerce, dated November 7, 1991, 1991, this provision was recommended by the Department of Transportation.

SECTION 2505—STANDARDS OF COMPLIANCE TEST PROGRAM

House bill

No provision.

Senate amendment

Section 207 requires the Secretary to establish a schedule for investigating compliance with each Federal Motor Vehicle Safety Standard in effect which is capable of being tested. This provision is a result of a December 1986 GAO report, "Motor Vehicle Safety: Enforcement of Federal Standards Can Be Enhanced," which found that enforcement of these standards could be enhanced by insuring that each standard is subject to testing on a regular, rotating basis.

Conference substitute

The conference substitute requires the Secretary to maintain, on a continuing basis, a five-year plan for testing Federal Motor Vehicle Safety Standards. The initial plan may be the five-year plan for compliance testing that is in effect on the date of enactment of the substitute. This provision provides the Secretary with considerable leeway in development of the plan and its implementation. The Conferees intend that the Secretary's testing plan will be available to the public, as it is currently.

SECTION 2506—REAR SEATBELTS

House bill

No provision.

Senate amendment

Section 211 of the Senate bill provides that the Secretary expend such funds as are deemed necessary from funds appropriated to carry out the Cost Savings Act for FYs 1992 and 1993 to provide consumers with information about retrofitting their vehicles with rear seat lap-and-shoulder belts. The Senate notes that such belts only recently have been required to be installed as original equipment, and there is ample evidence, compiled in part through NHTSA's rulemaking, to conclude that rear seat shoulder belts enhance vehicle safety.

All rear passenger car seats have been required since 1968 to be equipped with brackets to allow installation of lap-shoulder belts. Consumers and auto dealers should be made fully aware of the availability of retrofit kits.

Conference substitute

The conference adopts the Senate provision, with the modification that the program would be conducted solely during FY 1993.

SECTION 2507—BRAKE PERFORMANCE STANDARDS FOR PASSENGER CARS

House bill

No provision.

Senate amendment

Section 222 of the Senate amendment requires a rulemaking, to be completed within 12 months of enactment, to consider whether to adopt a standard requiring antilock brake systems for cars and MPVs. The Senate notes that there is evidence that these systems are useful in avoiding accidents, particularly in bad weather, and this section requires that NHTSA give priority consideration to whether they should be required.

Conference substitute

Not later than December 31, 1993, the Secretary, in accordance with the National Traffic and Motor Vehicle Safety Act of 1966, shall publish an Advanced Notice of Proposed Rulemaking to consider the need for any additional brake performance standards for passenger cars, including antilock brake standards. The rulemaking is to be completed not later than 36 months from the date of initiation of the ANPRM, in accordance with clause 2502(b)(2)(B)(ii). In order to facilitate and encourage innovation and early application of economical and effective antilock brake systems for all such vehicles, the Secretary shall consider as part of the rulemaking, any brake system adopted by a manufacturer.

SECTION 2508—AUTOMATIC CRASH PROTECTION AND SAFETY BELT USE

House bill

No provision.

Senate amendment

The Senate notes that the current regulations of the Department of Transportation (DOT) require that passenger cars be equipped with "passive restraints," which include either airbags or automatic seatbelts that do not require action by the occupant in order to be engaged. When fully effective, in model year 1994, these regulations will require that all cars have one of these forms of passive restraint on both the driver and passenger side of the front seat (i.e. the front outboard seating position). 49 C.F.R. 571.208.

The Senate notes that in March 1991, DOT issued a similar requirement for passive restraints in the "light truck" fleet, which includes minivans, small pickups, and sport utility vehicles. 56 Fed. Reg. 12472-12487 (March 26, 1991). These vehicles, which originally were used primarily for cargo or work purposes, now make up approximately one-third of the new passenger vehicles sold, and are increasingly used by families. Under the DOT rule, "light trucks" will be required to have "passive restraints" (automatic belts or airbags) on both the driver and passenger sides on the following schedule: 20 percent of the vehicles manufactured after September 1, 1994; 50 percent of those manufactured after September 1, 1995; 90 percent of those manufactured after September 1, 1996; and 100 percent after September 1, 1997. However, those manufacturers that install airbags instead of automatic seatbelts on the driver side are permitted through a credit system to delay installation of any airbags on the passenger side until September 1, 1998.

The Senate amendment addresses the fact that the current rule permits manufacturers to choose between two forms of passive restraints. The Senate notes that DOT has estimated that airbags could save over 9,000 lives and prevent 155,000 moderate to serious injuries each year as compared to the situation if no cars were equipped with airbags. 49 Fed. Reg. 28986 (July 17, 1984).

Section 214 of the Senate amendment sets out two requirements with respect to airbags in passenger vehicles.

First, subsection 214(a) requires that, to the extent practicable, the Secretary, in cooperation with the General Services Administration and heads of other federal agencies, insure that passenger automobiles purchased for the federal fleet be equipped with airbags. Driver side airbags would be required for passenger cars acquired after September 30, 1991, and driver and passenger side airbags would be required for passenger cars acquired after September 30, 1993. If only one source of airbag-equipped vehicles is available, so that competitive bidding cannot occur, such purchase may not be practicable. However, since most manufacturers have announced plans to install airbags in their passenger car fleet in the mid 1990s, this problem is not likely to occur.

Second, subsection 214(b) requires that manufacturers equip all passenger cars and other passenger vehicles as defined in the section to include most multipurpose vehicles, with airbags on a phased-in schedule set out in the bill. Specifically, all passenger cars manufactured on or after September 1, 1995 must be equipped with airbags on both the driver and right front outboard seating positions. In addition, all trucks, buses and multipurpose passenger vehicles with a gross vehicle weight rating of 8,500 pounds or less and an unloaded vehicle weight of 5,500 pounds or less must have a driver side airbag if manufactured after September 1, 1996 and a passenger side airbag if manufactured on or after September 1, 1997.

Conference substitute

Paragraph (a)(1) requires the Secretary to issue a rule, by September 1, 1993, amending FMVSS 208 in a number of ways, including requiring the installation of an airbag that meets the requirements of FMVSS 208 on both the driver and front outboard passenger seating positions of passenger cars and MPVs and other light trucks. The issuance of a rule to accomplish mandatory airbags in the manner specified in this section is required notwithstanding any other provision of law or rule, but the rule is to be promulgated in accordance with the National Traffic and Motor Vehicle Safety Act of 1966 to the extent such Act is not in conflict with this section. This subsection requires a rule that supplements and revises but does not replace existing FMVSS 208, which was amended on March 26, 1991 to extend the standard's requirements to MPVs and other light trucks.

Paragraph (a)(2) requires that after the promulgation of the amendment in (a)(1), the

Secretary shall require that owner's manuals contain specific language informing consumers about the need to wear seatbelts even in vehicles equipped with airbags. It states:

(A) that the vehicle is equipped with an inflatable restraint referred to as an "airbag" and a lap and shoulder belt in either or both the front outboard seating positions;

(B) that the airbag is a supplemental restraint;

(C) that the airbag does not substitute for lap and shoulder belts which must also be correctly used by an occupant in such seating positions to provide restraint or protection not only from frontal crashes but from other types of crashes or accidents; and

(D) that all occupants, including the driver, should always wear their lap and shoulder belts where available or other safety belts, whether or not there is an inflatable restraint.

Paragraph (a)(3) contains a finding that it is in the public interest for all States to adopt and enforce mandatory seat belt laws and for the Federal government to adopt and enforce mandatory seat belt rules. The conferees note that nine states have not yet adopted such a law. Also, the DOD and the Interior Department's Bureau of Land Management and National Park Service have adopted such rules.

Subsection (b) sets forth the following schedule for implementation of requirements of subparagraph (a)(1): (1) New Passenger Cars—95% of each manufacturer's production volume of cars manufactured on or after September 1, 1996 and before September 1, 1997, and 100% of all such production manufactured on or after September 1, 1997. (2) New MPVs and other light trucks and buses—80% of each manufacturer's production volume manufactured on or after September 1, 1997 and before September 1, 1998, and 100% of each manufacturer's production volume manufactured on or after September 1, 1998.

Subject to the provisions of subsection (c), the requirements for 100% coverage mean that all of these vehicles actually are equipped with airbags on both sides. This is not to be a mathematical calculation involving credits available under the 208 standard, as amended by this bill, from which the Secretary would derive 100% coverage. Rather, it is actual 100% coverage. The subsection provides that the incentives or credits available to the manufacturers under the amended Standard 208 are no longer available when the requirement for 100% coverage becomes effective.

Subsection (c) provides for a temporary exemption from requirements of this section due to supply and unavoidable disruptions. This exemption authority is permanent and is available even after the 100% requirement.

The Conferees intend that the temporary exemption be granted or renewed where there is a disruption of supply, or a disruption in the use and installation by the manufacturer of such component due to unavoidable events totally beyond the manufacturers' control. The Conferees expect that these exemptions will be rarely necessary. However, history shows that there have been supply problems in the past, as shown by a recent report of the General Accounting Office.

The Conferees expect that the Secretary will require written documentation of the facts that have made the inflatable restraint unavailable. The exemption is not intended to be available in situations in which vehicle production plans are interrupted or altered for reasons unrelated to the inflatable restraint, such as general economic conditions or work stoppages at the vehicle manufacturing plant.

In granting the exemption, the Secretary must require that the manufacturer recall the exempted vehicle and install the inflatable restraint within a reasonable time, which is to be proposed by the manufacturer subject to approval by the Secretary. Thus, each grant of exemption by the Secretary must include a requirement for vehicle recall and installation of the inflatable restraint, and a date by which that recall and installation must be completed.

The substitute directs the Secretary to require labeling for each exempted motor vehicle and to provide that the label can only be removed after recall and installation of the airbag. If the vehicle is delivered to the dealer without an inflatable restraint the Secretary shall require that written notification of exemption be delivered to the dealer and first purchasers of such exempted motor vehicles in such manner and containing such information as the Secretary deems appropriate. The purpose of this notice requirement is to inform the dealer and the consumer once the vehicle has reached the showroom of the dealer. Such notice is not necessary if the exemption is granted for the vehicle, and the vehicle is not sold by the manufacturer to the dealer prior to installation of the airbag. The bill does not specify the contents of the label. However, the intent is to inform the prospective purchaser that the inflatable restraint is absent and will have to be installed within a specified period of time. It is, of course, the intention of the Conferees that, in the case of a label, it be conspicuous and that it not be removed by anyone until the restraint has been installed as required.

With respect to subsection (d), the Conferees, noting NHTSA's letter of November 7, 1991, do not want by this section to change the law on liability as it existed prior to enactment. This section is not intended to be a "sword" or a "shield" in litigation or otherwise.

Subsection (e) provides for the Secretary to report biannually on the actual effectiveness of occupant restraint systems.

Subsection (f) provides for the establishment of a program, consistent with applicable provisions of Federal procurement law and available appropriations, under which light duty vehicles acquired by the Federal Government, to the maximum extent practicable, will have driver and passenger-side airbags.

SECTION 2509—HEAD INJURY IMPACT STUDY

House bill

No provision.

Senate amendment

Section 205 of the Senate amendment requires the Secretary, within 12 months of enactment, to issue a final rule amending Federal Motor Vehicle Safety Standard (FMVSS) 214 to establish performance criteria for passenger cars, to provide improved occupant protection from head injury in a side impact crash.

The Senate notes that approximately 8,000 Americans die each year in side impact crashes, and approximately 23,000 suffer serious, nonfatal injuries. Thirty-five percent of the life-threatening automobile injuries occur in side crashes. After many years of work, NHTSA recently issued an upgraded side impact protection standard for passenger cars, to prevent injuries to the chest and pelvis in such crashes. The Senate notes that, at the same time, NHTSA indicated that it would continue its work to address head injury prevention in such crashes.

Conference substitute

The conferees understand that there are other head injury protection matters which are the subject of research at NHTSA and which are not covered by section 2503(5) of this bill. This could include head injury protection matters from various types of crashes, such as side impact.

This section of the bill directs the Secretary to report on the need for rulemaking regarding this research and the extent of that research. The report would be provided by the end of FY 1993 and would identify such research matters and their status. It would also include a statement of any actions planned by the DOT toward initiating rulemaking not later than FY 1994 or 1995. Such a rulemaking would be either an ANPRM or NPRM and would be completed as soon as possible after proposal.

AUTOMOBILE CRASHWORTHINESS DATA

House bill

No provision.

Senate amendment

Section 206 of the Senate amendment required the Secretary to enter into agreements with the National Academy of Sciences to conduct a study, within specified time frames, to consider means of establishing a uniform rating system to permit consumers to compare the crashworthiness of different vehicles. Upon completion of the study, it is to be furnished to Congress, and the Secretary is to begin a period of public comment on the recommendations made in the study. The Secretary then shall determine whether such a crashworthiness rating system can be developed, and shall publish that determination. If it is determined that such a system can be developed, the Secretary is to conduct a rulemaking proceeding to develop such a rule within established time limits.

The Senate notes that the Motor Vehicle Information and Cost Savings Act currently requires DOT to compile crashworthiness information. However, the only such information available is obtained through random sampling in connection with NHTSA's New Car Assessment Program, and is not available at the vehicle's point of sale. The Senate notes that NHTSA studies indicate that prospective new car purchasers favor the idea of a Government safety rating. While a system that could compare all crashworthiness features with just one rating would be preferable and should be explored, the Senate amendment recognizes that a single rating may not be workable, and that a system of several ratings to indicate crashworthiness in various situations may be necessary. This section would permit either a single rating or multiple ratings.

Conference substitute

Senate recedes. The conferees believe that the development of such a system could be beneficial to consumers and encourage NHTSA to continue to work on providing vehicle purchasers usable, accurate, and timely crashworthiness information, taking into consideration all relevant factors in obtaining and disseminating such information.

INVESTIGATION AND PENALTY PROCEDURES

House bill

No provision.

Senate amendment

Section 208 of the Senate amendment requires the Secretary to establish written guidelines for conducting expeditious and thorough investigations of noncompliance with any requirements issued under the Safety Act, which includes NHTSA safety standards and recall orders. The Secretary also is to develop written guidelines for de-

termining when the results of such investigations shall be the subject of a civil penalty proceeding. This provision was based on recommendations in the 1986 GAO report previously referred to in connection with section 207 of the Senate amendment.

Conference substitute

Senate recedes.

MULTIPURPOSE PASSENGER VEHICLE SAFETY

House bill

No provision.

Senate amendment

Section 209 of the Senate amendment requires that the Secretary complete, within 12 months of enactment, a rulemaking to review the classification system for safety purposes of vehicles that weigh under 10,000 pounds. The Senate notes that in the 1960s, NHTSA defined a number of vehicle classes, including a category referred to as multipurpose vehicles (MPVs) (less than 10,000 pounds and designed for carrying 10 persons or less, constructed either on a truck chassis or for occasional off-road operation). GAO recommended in 1978 that NHTSA review its system of classification of vehicles under 10,000 pounds. The Senate notes that since the original classification of passenger vehicles, the types of vehicles making up the passenger fleet have changed dramatically. The use patterns of multipurpose vehicles (MPVs) have changed from primarily cargo-carrying to primarily passenger-carrying. The Senate notes that there are differences between Customs Service classifications for duty purposes and NHTSA classification for safety purposes.

The Senate notes that in 1988 NHTSA issued a Notice of Proposed Rulemaking to consider reclassification. NHTSA terminated this rulemaking proceeding in April 1991, finding that although there could be some benefits associated with a new classification scheme, reclassification was less important because many passenger car safety standards had been extended to light trucks. The Senate notes, however, as NHTSA recognizes, the current situation with respect to current safety standards does not resolve the classification issue for the future. The Senate amendment intends that classification review should be completed to insure that the current classifications are logical and accurate, and insure that future safety standards are applied appropriately across the fleet.

In addition, this section requires that any reclassification of vehicles weighing under 10,000 pounds which is undertaken must consider the Customs Service Classification of vehicles and, to the maximum extent practicable, include as a passenger automobile any vehicle classified by the Customs Service as a vehicle principally designed for the transport of persons. The Senate amendment recognizes that there currently is no coordination between NHTSA and Customs, and that vehicles receiving favorable duty treatment as passenger vehicles may not be required to meet passenger car safety standards. While it may not be practicable to conform NHTSA passenger automobile classification completely to the classification made by the Customs Service, it is the intent of this section to insure that NHTSA reviews the Customs classification in the course of its classification process.

Conference substitute

Senate recedes.

IMPACT RESISTANCE CAPABILITY OF BUMPERS

House bill

No provision.

Senate amendment

Section 212 of the Senate amendment establishes two requirements with respect to bumpers. Subsection 212(a) amends the Motor Vehicle Information and Cost Savings Act to require the Secretary to promulgate a rule regarding disclosure by the manufacturers of the speed at which the bumper meets the applicable Federal damage criteria. Such information must be provided to the Secretary and disseminated by the Secretary to consumers in a form to facilitate comparison among various vehicle types. Subsection 212(b) requires the Secretary to amend, within one year of enactment, the current standard for bumper impact capability, in order to return to the standard in effect on January 1, 1982. The current standard requires bumpers to withstand established levels of damage at impact speeds up to 2.5 miles per hour without damage to the safety features or the exterior sheet metal of the vehicle. The standard to be implemented requires the vehicle to withstand certain levels of damage at impact speeds up to 5 miles per hour.

Conference agreement

Senate recedes.

STATE MOTOR VEHICLE INSPECTION PROGRAMS

House bill

No provision.

Senate amendment

Section 215 of the Senate amendment requires the Secretary to report regularly to Congress on its efforts to assist states and coordinate with EPA in establishing state motor vehicle inspection programs. The Senate notes that a recent GAO report, "Motor Vehicle Safety: NHTSA Should Resume Its Support of State Periodic Inspection Programs," found that such inspection programs reduce highway accident rates by reducing the number of poorly maintained vehicles. This section will allow Congress to monitor more effectively NHTSA's activities in this area.

Conference substitute

Senate recedes.

DARKENED WINDOWS

House bill

No provision.

Senate amendment

Section 217 of the Senate amendment requires the Secretary to conduct a rulemaking to consider certain safety issues related to the use of dark tinted windows in passenger vehicles and the adequacy to current safety standards in this regard. The Senate notes that NHTSA completed a study of this issue in March 1991, and determined that rulemaking is appropriate. This section would insure that the rulemaking is completed in a timely fashion.

Conference substitute

Senate recedes.

GRANT PROGRAM CONCERNING USE OF SEATBELTS AND CHILD RESTRAINT SYSTEMS

House bill

No provision.

Senate amendment

Section 218 of the Senate amendment establishes a grant program to encourage the states to increase the rate of seat belt usage among their citizens, and to educate their citizens about the proper use of child restraint systems. Grants would be available for a maximum of three fiscal years, to fund a declining percentage of the cost to states of their programs to achieve the required goals. Grants would be available to states that (1) have in effect mandatory seat belt use laws applicable to front seat passengers; (2) achieve either 70 percent seat belt usage by those passengers or a stated, and increasing, improvement over 1989 use rates; and (3) have in effect a program determined by the Secretary to encourage the correct use of child restraint systems.

Conference substitute

Senate recedes. A similar grant program is included in Title I of the conference report.

PEDESTRIAN SAFETY

House bill

No provision.

Senate amendment

Section 220 of the Senate amendment required that NHTSA complete a rulemaking, within two years of enactment, to minimize pedestrian injury attributable to vehicle design elements such as hoods, hood ornaments, fenders and grills. The Senate notes that, according to NHTSA, almost 7,000 pedestrians are killed annually in the United States. Since 1981, NHTSA had done considerable research on reducing pedestrian injuries, and identifying sources of these injuries. This section would require that a rulemaking be conducted utilizing that research.

Conference substitute

Senate recedes.

DAYTIME RUNNING LIGHTS

House bill

No provision.

Senate amendment

Section 221 of the Senate amendment required a rulemaking, to be completed within 12 months of enactment, to authorize passenger cars and MPVs to be equipped with daytime running lights. The Senate notes that some preliminary research in other countries has indicated that these lights reduce accidents. However, some state laws on headlight configuration have the effect of prohibiting the use of such lights. This section would allow their use. The section also requires that the Secretary report to the appropriate congressional committees, within two years of enactment, on the safety implications of these lights.

Conference substitute

Senate recedes. The conferees note that on August 12, 1991 NHTSA issued a notice or proposed rulemaking on the issue of whether manufacturers should be permitted to produce vehicles with daytime running lights despite state laws concerning headlight configuration.

HEADS-UP-DISPLAYS

House bill

No provision.

Senate amendment

Section 223 of the Senate amendment required a rulemaking, to be completed within 12 months of enactment, to consider whether heads-up displays, which permit the driver to obtain information on speed, fuel level, and other instrument readings without looking down, should be required in cars and MPVs. The Senate notes that there is some information that such displays may reduce accidents by allowing the driver to keep his or her eyes on the road while obtaining instrument information. The rulemaking required by this section would not have to result in the issuance of a new or different performance standard or requirements. It is presumed, however, that NHTSA would establish such standard if its investigation showed that they were practicable, would meet the

need for motor vehicle safety, and could be stated in objective terms.

Conference substitute

Senate recedes.

TITLE III—TRANSIT

House Bill

The House bill provides that unless specifically identified otherwise, all changes to existing law contained in the Act have been made to the Urban Mass Transportation Act of 1964 (49 U.S.C. App. 1601–1621).

Senate amendment

The Senate bill contains a similar provision.

Conference substitute

Senate recedes to House.

AGENCY NAME CHANGE

House bill

The House contains a provision that would rename the Urban Mass Transportation Administration (UMTA) as the Federal Transit Administration (FTA).

Senate amendment

Senate contained similar provision.

Conference substitute

The conference report includes the House provision.

FINDINGS AND PURPOSES

House bill

No similar provision.

Senate bill

The Senate bill contained a provision not included in the House bill that would add a new finding that a significant improvement in public transportation is necessary to achieve national goals for improved air quality, energy conservation, international competitiveness and mobility for the elderly, persons with disabilities and the economically disadvantaged in urban and rural areas of the country.

This section would also amend Section 2(b) to state that an objective of the Act will be to provide State and local governments with financial resources to help implement the national goals related to improved air quality, international competitiveness and mobility for the elderly, persons with disabilities and economically disadvantaged persons.

Conference substitute

The conference report includes the Senate provision which has been incorporated into Title I.

CAPITAL GRANTS—ELDERLY AND PERSONS WITH DISABILITIES

House bill

No similar provision.

Senate bill

The Senate bill contained a provision not included in the House bill that would amend Section 3 of the Act to allow public transit agencies to apply for capital funding under the Section 3 grant program for transportation projects that are specifically designed to meet the needs of elderly persons and persons with disabilities.

Conference substitute

The conference report includes the Senate provision.

SECTION 3—PROGRAM ALLOCATIONS

House bill

The House bill contains a provision not included in the Senate bill that would allocate 10 percent of Section 3 funds for a minimum apportionment program which guarantees that each State will receive ⅓ of 1 percent of Mass Transit Account funds distributed annually. These funds may be used, at the discretion of the Governor of the state, for any highway or transit capital project eligible for Federal funding. The Federal share for minimum apportionment projects will be 80 percent, unless a lower Federal share in specified under title 23, United States Code.

Senate amendment

The Senate bill contained a provision not included in the House bill that would require the Secretary to allocate Section 3 grant funds in the following way: 40 percent for rail modernization; 40 percent for construction of new fixed guideway systems and extensions to fixed guideway systems; and 20 percent for the replacement, rehabilitation and purchase of buses and related equipment and the construction of bus-related facilities.

Conference substitute

House recede to Senate with an amendment to create a rural transit set aside of 5.5 percent of the 20 percent allocated for the replacement, rehabilitation and purchase of buses and bus related equipment and the construction of bus facilities.

ADVANCE CONSTRUCTION—TECHNICAL AMENDMENT RELATED TO INTEREST COST

House bill

No similar provision.

Senate bill

The Senate bill contained a provision not included in the House bill that would amend Section 3(l) to make the advance construction mechanism more workable by deleting language that requires grantees to bet on future inflation. The bill substitutes the requirement that operators obtain the most favorable interest terms reasonably available for the project at the time of borrowing.

Conference substitute

The conference report includes the Senate provision with an amendment to ensure that operators use due diligence in obtaining the most favorable interest terms.

CAPITAL GRANTS—EARLY SYSTEMS WORK CONTRACTS

House bill

No similar provision.

Senate amendment

The Senate bill contained a provision not included in the House bill that would authorize the Secretary to enter into full funding contracts and early systems work agreements with applicants to provide for more efficient project management.

Conference substitute

The conference agreement includes the Senate provision with technical amendments.

TRANSIT DEFINITIONS

House bill

The House bill contains a provision not included in the Senate bill that makes the terms transit, public transportation and mass transportation synonymous.

Senate amendment

The Senate bill did not include a similar provision.

Conference substitute

The conference report includes the House provision.

CAPITAL GRANT OR LOAN PROGRAM

House bill

No similar provision.

Senate bill

The Senate bill contained a provision not included in the House bill that would rename section 3 of the Urban Mass Transportation Act of 1964 to read "Capital Grant or Loan Program" rather than "Discretionary Grant or Loan Program".

Conference substitute

The conference report does not include the Senate provision.

SECTION 3—LETTER OF INTENT

House bill

The House bill contains a provision not included in the Senate bill that eliminates the letter of intent process currently used by the Secretary to make discretionary grants under the UMTA Section 3 program.

Senate amendment

No similar provision.

Conference substitute

House recede to Senate.

SECTION 3—INNOVATIVE TECHNIQUES

House bill

No similar provision.

Senate amendment

The Senate bill contained a provision not included in the House bill that would expand eligible activities under the section 3 discretionary program to include projects that introduce innovative techniques and methods to public transportation. This change merely codifies existing statute by incorporating language from section 4(i) into section 3.

Conference substitution

The conference report does not contain the Senate provision.

SECURITY GRANTS

House bill

The House bill contained a provision not included in the Senate bill that would set aside $10,000,000 annually from the section 3 bus discretionary program for projects which enhance transit security.

Senate bill

No similar provision.

Conference substitution

The conference report contains the House provision with an amendment to provide funding for transit security through the section 9 formula program rather than the section 3, a discretionary program. Section 9 recipients must spend 1 percent of their formula apportionment on transit security projects or certify to the Secretary that transit security needs are adequately met. Transit security would also be added as a factor for consideration in the development of transportation plans and programs.

SECTION 3—GRANDFATHERED JURISDICTIONS

House bill

No similar provision.

Senate bill

The Senate bill contained a provision not included in the House bill that would clarify that all existing letters of intent, full funding grant agreements and letter of commitment will remain in effect with passage of this Act.

Conference substitute

The conference agreement included the Senate provision.

MATCHING SHARES

House bill

The House bill contains a provision not included in the Senate bill that would increase the Federal share for projects under Section

3 of the UMT Act from 75 percent to 80 percent.

Senate bill

The Senate bill contained a provision not included in the House bill that would establish a higher federal match for those projects funded under sections 3, 9, 16(b), and 18 that involve the acquisition of bus-related equipment (e.g. lift equipment, particulate traps) or the construction of facilities (e.g. alternative fuels facilities) required by the Clean Air Act Amendments of 1990 or the Americans with Disabilities Act. The federal match would be set at 90 percent of the cost of such equipment or facilities. The Secretary would determine the portion or portions of a project eligible for the higher federal match.

Conference substitute

The conference report includes the House provision and the Senate provision with an amendment to also make vehicle-related equipment required by the Clean Air Act, as amended, or the Americans with Disabilities Act eligible for a 90 percent federal match.

PLANNING

House bill

Section 305 creates an intermodal transportation planning process by combining the fundamental requirements of highway and transit planning under sections 134 and 135 of title 23, United States Code.

Senate amendment

The Senate bill contains a similar provision.

Conference substitute

The Conference agreement contains elements of both the House and Senate bills.

The conferees intend and expect that MPOs when developing long-range plans will cooperate with States and units of local government in outlying areas that are not yet urbanized but are included in the long-range plan since they are expected to become urbanized in the future.

Private Enterprise and MPO Certification

In accordance with this provision, localities shall be afforded wide flexibility in establishing criteria to be used in determining the "feasibility" of private involvement in local programs. However, nothing in this provision shall diminish the responsibility of the Secretary to encourage grantees of federally funded projects to provide for the maximum feasible participation of private enterprise in accordance with Section 8(e).

SECTION 9 PROGRAM

House bill

The House bill contains a provision not included in the Senate bill that would increase the share of formula grant funds allocated to urbanized areas of less than 200,000 population from 8.64 percent to 10 percent and consequently reduce the share of formula grant funds allocated to urbanized areas of 200,000 or more population from 88.43 percent to 85 percent.

The House bill would specifically extend the safety authority of the FTA to the Section 9 formula grant program.

The bill would redefine "materials and supplies" as associated capital maintenance items.

It provides that the operating assistance limitation imposed on urbanized areas under the section 9 formula grant program will be adjusted for inflation according to the Consumer Price Index of the most recent calendar year on October 1, 1991 and each year thereafter.

Senate bill

The Senate bill contained a provision not included in the House bill that would make several amendments to simplify the section 9 grant application process—particularly the existing requirements that recipients self-certify their compliance with various statutory mandates.

The bill would mandate that all certifications required by law be incorporated into a single document to be submitted annually as part of the Section 9 application. The subsection would also require the Secretary to publish an annual list of all required certifications in conjunction with its annual publication—currently required by Section 9(q)—of information outlining the apportionment of Section 9 funds.

The bill would require the Secretary to establish streamlined procedures to govern a recipient's "continuing control" certification with respect to track and signal equipment. Under existing law, a section 9 recipient is required to certify that it has or will have "satisfactory continuing control" over the use of its facilities and equipment. Transit operators have found that UMTA's interpretation of this requirement with respect to track and signal equipment imposes unnecessary administrative burdens on transit recipients.

The Senate bill contained a provision not included in the House bill that would amend section 9 to prevent a transit recipient that undertakes certain energy efficiency initiatives from losing formula funds.

The Senate bill contained a provision not included in the House bill that would apply Section 22 of the Federal Transit Act, which gives the Secretary investigatory powers to ensure safety in mass transit systems, to the section 9 program. The provision is necessary because of the requirement in section 9(e)(1) that only specified sections of the Federal Transit Act apply to section 9.

Conference substitution

The conference report includes the Senate provisions with the following amendments. The share of formula grant funds allocated to urbanized areas of less than 200,000 population is increased from 8.65 percent to 9.32 percent; the share of formula funds for urbanized areas greater than 200,000 population is consequently reduced from 88.43 to 85.10.

The operating assistance limitation in current law would be adjusted for inflation based on the consumer price index, but such increase could not be greater than the increase in the section 9 appropriations from the previous fiscal year.

Energy Efficiency

"The conferees expect that the FTA will adhere to the energy efficiency policy in this legislation. Grantees are deemed in compliance with this policy should they operate shorter trains during certain time periods in order to achieve energy and operating efficiencies."

Security Grants

"The conferees agree that eligible projects include safety communications equipment, as well as, the design and construction of safety and security facilities located on transit system premises."

SECTION 9 PROGRAM—ELIMINATION OF INCENTIVE TIER

House bill

No similar provision.

Senate bill

The Senate bill contained a provision not included in the House bill that would eliminate the "incentive tier" provisions of the section 9 bus and rail funding formulas.

Conference substitute

The conference report does not include the Senate provision.

SECTION 9 PROGRAM—PROGRAM OF PROJECTS

House bill

No similar provision.

Senate bill

The Senate bill contained a provision not included in the House bill that would require a recipient, in developing its program of projects, to assure that the program provides for the maximum feasible coordination of public transportation services assisted under the section 9 program with transportation services assisted by other federal sources. A similar provision currently is in Section 18 of the Act.

Conference substitute

The conference report includes the Senate provision with an amendment to delete the words "maximum feasible."

MODIFIED BUS SERVICE

House bill

The House bill contained a provision not included in the Senate bill that would allow "tripper service" to accommodate the needs of students in New York City.

Senate bill

No comparable provision.

Conference substitute

The conference report includes the House provision with a modification to define express bus service to include special school bus service intended to alleviate pressure on regularly scheduled local bus service.

USE OF POPULATION ESTIMATES AND CENSUS DATA

House bill

The House bill did not include a similar provision.

Senate bill

The Senate bill contained a provision not included in the House bill that would require more frequent updates of the population statistics used to distribute funds under Section 18 and Section 9 for small urbanized areas. Under current law, all UMTA formula programs use population statistics from the most recently available Federal Census. This section would require the Secretary to use interim population estimates provided by the Secretary of Commerce to update the formulas every four years.

The Senate bill also contained a provision not included in the House bill that would require the Secretary to use data from the 1990 census, to the extent practicable, in determining allocation of funds under Sections 9, 16(b)(2) and 18 for fiscal year 1992. The Secretary of Transportation and the Secretary of Commerce would be required to coordinate efforts to expedite the availability of census data in a form that is appropriate for the transit program formulas. The Secretary of Transportation must notify the Congressional authorizing Committees of actions taken under this section within 9 months of enactment of the Federal Transit Act.

Conference substitute

The conference agreement contained the Senate provision with an amendment to drop the use of the 1990 Census to the extent practicable for fiscal year 1992 and limiting the use of interim estimates to the Section 16(b)(2) and 18 programs.

FORMULA GRANT PROGRAM—DISCRETIONARY TRANSFER OF APPORTIONMENT

House bill

The House bill would allow the Governor of a state to transfer 25 percent of the funds allocated to that state for expenditure in urbanized areas of less than 200,000 population under the section 9 program to any other transportation purpose eligible for Federal funding under title 23, United States Code, and an additional 10 percent if transit services are being adequately maintained in those areas.

The House bill would also allow the Governor of a state to transfer 25 percent of the funds allocated to that state for expenditure in rural areas under the section 18 program to any other transportation purpose eligible for Federal funding under title 23, United States Code, and an additional 10 percent if transit services are being adequately maintained in those areas.

Senate bill

The Senate bill would provide that, in a transportation management area, formula grants for construction projects could also be used for highway projects; provided that (i) such use is approved by the metropolitan planning organization in accordance with section 8(c) after appropriate notice and opportunity for comment and appeal is provided to affected transit providers, (ii) adequate provision is first made for any program of investments required to comply with the Americans with Disabilities Act and (iii) funds for the State or local government share of the project are eligible to fund either highway or transit projects, or the Secretary finds that State or local law provides a dedicated source of sufficient funding available to fund local transit projects.

Conference substitute

The conference report contains the Senate provision with an amendment to remove the Secretary's authority to certify that sufficient funding is available to fund transit projects.

SPECIAL PROCUREMENT

House bill

The House bill contains a provision that would permit the use of "turnkey" procurement in the award of grants for the construction of new transit systems. A "turnkey system project" is defined as one in which a grant recipient contracts with a consortium of firms, an individual firm(s), or a vendor to build a transit system that meets specific performance criteria and which is operated by the vendor for a period of time. Multiyear rolling stock procurements are also specifically permitted.

Senate amendment

The Senate bill contained a similar provision.

Conference substitute

The conference report includes the House provision with an amendment to ensure that the Secretary must allow at least two projects to pursue turnkey system procurements, and to require the Secretary to consider any other projects using turnkey procurement in the development of regulations. The report also includes a provision to allow transit grantees to select other than the lowest bidder if such selection furthers objectives which are consistent with the purposes of this Act, such as improved long term operating efficiency and lower long term costs.

RULEMAKING

House bill

No comparable provision.

Senate bill

The Senate bill would require the Secretary to use the notice-and-comment rulemaking process on a range of significant Federal Transit Administration policy issues but would not require the process to be followed in the case of emergency rules, routine matters, or matters of insignificant impact.

Conference substitute

The conference report includes the Senate provision. The conferees do not intend that the Secretary publish all of the Federal Transit Administration's instructions or routine requirements as rulemakings. Examples of matters not subject to the rulemaking process include the issuance or revision of grant application circulars, such as those for the section 9 or 18 programs, letters of explanation or interpretation of regulations or policies in response to requests from Members of Congress or the public, internal procedures on administrative issues, and other routine managerial and program issues.

TRANSFER OF FACILITIES AND EQUIPMENT

House bill

The House bill contains a provision not included in the Senate bill that would allow the transfer of capital assets acquired with Federal assistance, which are no longer needed for the purpose for which they were acquired, to any public purpose, provided that the Secretary determines that certain conditions regarding the value and use of the assets have been met.

Senate bill

The Senate bill included a similar provision. The Senate bill also included a provision to allow a similar transfer of assets between the section 18 and section 16 programs.

Conference substitute

The conference report includes the House provision and the Senate provision for transfer of assets under section 18 and section 16.

ELDERLY AND PERSONS WITH DISABILITIES

House bill

The House bill would permit the use of section 16(b) funds for operating expenses. Also, transit service providers receiving assistance under sections 16 or 18 may coordinate and assist in providing meal delivery service for homebound persons on a regular basis if providing the meal service does not conflict with the provision of transit service or result in a reduction of service to transit passengers.

Senate bill

The Senate bill contained a provision not included in the House bill that would clarify existing FTA practice by specifying that funds provided under the Section 16(b)(2) program will be allocated to the States, who in turn will distribute funds to eligible private non-profit organizations. States would submit a program of projects to the Secretary for approval as is current practice. The section also requires an assurance that the State's program of projects provides for the coordination of Section 16(b)(2) transportation services with transportation services assisted from other Federal sources. This provision is designed to encourage more effective coordination and to avoid duplication of service.

In addition, the section would authorize assistance to public bodies that are approved by a State to coordinate transportation services for elderly persons and persons with disabilities. This provision is designed to support the efforts of States attempting to coordinate transportation services.

The Senate bill would allow the Governor of each State to use any funds that remain unobligated from the Section 16(b)(2) program during the final 90 day period prior to the expiration of the grant to be used to supplement funds distributed under either the Section 18 program or the Section 9 program.

The Senate bill would also require the Secretary to issue regulations to allow recipients of 16(b)(2) funds to lease their equipment to public transit entities. The section specifies that the regulations shall be issued within 60 days of enactment of the bill.

Conference substitute

The conference report includes the Senate provisions with an amendment to clarify that public bodies are eligible for capital funding under Section 16(b)(2) only if they certify to the Governor that no non-profit corporations are readily available in an area to provide transportation for elderly persons and persons with disabilities. The conference report includes a provision to allow eligible capital expenses to include the acquisition of transportation services under a contract, lease or other arrangement. The report includes the House provision regarding meal delivery service for homebound persons.

ELIGIBILITY STUDY

House bill

The House bill contains a provision not included in the Senate bill that requires the Secretary to conduct a study on the eligibility requirements of individuals with disabilities for off-peak reduced transit fares.

Senate amendment

The Senate bill did not include a similar provision.

Conference substitute

The conference report includes the House provision.

E&H FUNDS FOR PENNSYLVANIA

House bill

Section 329 sets aside an additional $1,000,000 in Section 9 and 18 funds in FY 1992 for the State of Pennsylvania for elderly and handicapped transportation services.

Senate amendment

No comparable provision.

Conference substitute

The conference report does not include the House provision.

INTERCITY BUS TRANSPORTATION

House bill

The House bill contains a provision not included in the Senate bill that would provide that, before apportioning section 18 funds, the Secretary shall set aside $20,000,000 for intercity bus transportation.

Senate amendment

The Senate bill did not include a similar provision.

Conference substitute

The conference report includes the House provision with an amendment to set aside funds for intercity bus service from each State's apportioned section 18 funds rather than provide a discretionary set-aside from the total program. A State would be required to spend 5% of its section 18 allocation in fiscal year 1992, 10% in fiscal year 1993 and 15% in fiscal year 1994 and all years thereafter, for the development of an intercity bus program unless it certifies to the Secretary that the State's intercity bus needs have been adequately met relative to other rural needs in the State.

GAO STUDY ON PUBLIC TRANSIT NEEDS

House bill

The House bill contains a provision requiring the Secretary, beginning in January 1993

and biennially thereafter, to report to the Congress a comprehensive estimate of the future transit needs of the nation, including an assessment of the impact of the transferability of transit funds to highway projects.

Senate bill

The Senate bill contained a similar provision that would require the General Accounting Office, on a biennial basis, to submit a report to Congress that evaluates the extent to which the nation's transit needs are being adequately addressed. The report would include (1) an analysis of the unmet needs for transit; (2) a projection of the maintenance and modernization needs that will accrue over the coming five years as existing transit equipment and facilities deteriorate; and (3) a projection of the need to invest in additional transit facilities over the coming five years to meet changing economic, commuter and residential patterns. The report would also estimate (1) the cost of meeting the needs identified above; (2) the public and private resources that will be available to support public transit; and (3) the gap between transit needs and resources.

Conference substitution

The Conference Agreement contains the Senate provision requiring the General Accounting Office to conduct a comprehensive study on total funding needs for public transit systems as well as a study on the effects of shifting transit funds to highway projects.

ENGINEERING AND DESIGN SERVICES

House Bill

The House contains a provision not included in the Senate bill that would allow the use of indirect cost rates established in accordance with Federal acquisitions regulations in the performance of, or auditing of, FTA grants.

Senate bill

No similiar provision.

Conference substitute

Recede to Senate.

SAFETY CONDITIONS IN MASS TRANSIT

House bill

The House bill included a provision not in the Senate bill that would require states to establish and implement a safety program for fixed guideway transit systems and require the Secretary to withhold transit funds if the State does not comply with the provisions of the section.

Senate bill

The Senate bill contained a provision not included in the House bill that would require the Secretary to submit a report to Congress within 180 days of enactment on the safety of mass transit. The report would include a summary of all passenger-related and employee-related deaths and injuries resulting from unsafe conditions in mass transit facilities. The report would also include a summary of the investigative and remedial actions taken by the Secretary in accordance with the authority provided by Section 22. Finally, the report would make recommendations concerning any legislative or administrative actions that are necessary to ensure that recipients of federal funds will institute the best means available to correct or eliminate safety hazards.

Conference substitute

The conference report includes the Senate provision and the House provision with an amendment to limit the ability of the Secretary to withhold transit funds.

AWARD AUDITS

The House bill contains a provision not included in the Senate bill.

House bill

Section 310 clarifies Congressional intent regarding pre-award and post-award audits of rolling stock purchases.

Senate amendment

No comparable provision.

Conference substitute

The conference report does not contain either provision.

M ACCOUNT

House bill

The House bill contains a provision not included in the Senate bill.

Preserves the availability of M account balances available as of August 1, 1991.

Senate amendment

No similar provision.

Conference substitute

The conference report includes the House provision.

PROJECT MANAGEMENT OVERSIGHT

House bill

No comparable provision.

Senate bill

The Senate bill contained a provision not included in the House bill that would increase the percentage of funds reserved for FTA's project management oversight program. The current ½ percent takedown of all funds available to carry out sections 3, 9, 18, interstate transfer projects, and the National Capital Transportation Act (authorizing legislation for D.C. Metro) would be increased to ¾ percent. A technical restriction would be removed that currently limits the use of these "takedowns" from each eligible program to projects funded under that same particular section. Instead, FTA could aggregate all of these funds for use on projects in any of the eligible programs.

Conference substitute

The conference report includes the Senate provision with an amendment to limit the increase to ¾ percent set-aside to section 3 projects at the discretion of the Secretary.

PLANNING AND RESEARCH

House bill

Section 317 establishes a combined planning and research program under a new section 26. Of the funds made available annually, one-third is available to the Secretary to make grants under sections 6, 8, 10, 11(a), 18(h), or 20.

The remaining two-thirds is available to the states and metropolitan planning organizations for transit-related planning under sections 134 and 135 of title 23, United States Code.

Senate amendment

The Senate bill included a similar provision with a different funding structure.

Conference substitute

The conference report includes the Senate provision with an amendment to add several research demonstration projects.

The suspended Light Rail System Technology Pilot Project should be administered and implemented by the Federal Transit Administration Office of Technology Assistance and Safety with normal oversight and control by the Office of the Administrator.

The conferees want to make clear their intentions with regard to the transit cooperative research program under Section 317(a) of the House bill and under Section 341 of the Senate bill. It is our intention, as specified under an understanding between UMTA and the transit industry and as outlined in the Floor statement of Public Works and Transportation Chairman Roe, that the Transit Development Corporation be designated as the independent governing board that determines what research and related activities are carried out. In interpreting the statutory language it is the conference committee's expectation that this independent governing board will have the authority to provide its own staffing and that UMTA will pay for such expenses. In addition, while the conferees envision that the Transportation Research Board, under the National Academy of Sciences will conduct the research projects designated by the Transit Development Corporation, they expect that the Transit Development Corporation and the American Public Transit Association will have the opportunity to disseminate the results of such research and that UMTA will support such dissemination costs.

CHARTER SERVICE DEMONSTRATION PROGRAM

House bill

No comparable provision.

Senate amendment

The Senate bill contained a provision that would require GAO to conduct a study on charter service regulation.

Conference substitute

The GAO charter service regulation study is amended to include a demonstration program. In response to the concerns expressed by local transit operators regarding the existing charter service regulation, the Conferees have mandated the Secretary to implement an alternative set of regulations in not more than four states that would permit transit operators to provide charter services.

These regulations should be designed to enable public transit operators to provide charter services to government, civic, charitable and other community organizations that serve a public purpose and help address unmet transit needs. It is intended that these regulations will grant public transit operators with additional flexibility that is not afforded under the existing charter services regulations, but will to the maximum extent feasible, not create undue competition for privately owned charter services.

It is the desire of the Conferees to ensure that the regulations provide proper balance between the interests of public and private operators. Thus, in developing the regulations, the Secretary will be required to consult with an advisory board which has equal representation of public transit operators and privately owned charter services.

The Conferees intend to throughly monitor the demonstration program and to review the results of the study carefully during consideration of the interim surface transportation bill.

The Conferees believe this demonstration program will provide Congress and the Secretary with information to determine: (1) the most effective methods for providing charter services to local communities; and (2) whether the current regulations are in need of modification. The Conferees recommend that the Secretary select the state of Michigan as a participant in the program.

EFFECTIVE DATE

House bill

Section 331 sets an effective date of October 1, 1991 for the Act.

Senate amendment

No comparable provision.

Conference substitute

The conference report does not include the House provision.

BUDGET COMPLIANCE

House bill

Section 332 ensures compliance with budgetary guidelines.

Senate amendment

No comparable provision.

Conference substitute

The conference report includes the House provision with a conforming amendment.

House bill

The House bill contains a provision not included in the Senate bill that would allow the New Jersey Transit Corporation to apply Petroleum Violation Escrow Account (PVEA) Funds as a credit toward the non-Federal match of transit projects.

Senate bill

The Senate bill did not include a similar provision.

Conference substitute

The conference report includes the House provision.

FORGIVENESS OF OBLIGATION

House bill

The House bill would forgive the balance on a grant agreement made to the Fayetteville Transit Authority.

The House bill would extend the period by which the Southeastern Pennsylvania Transit Authority (SEPTA) must repay certain loans to UMTA by 10 years.

Senate bill

No comparable provision.

Conference substitute

The conference report includes the House provision with an amendment to forgive the SEPTA loan.

MILWAUKEE ALTERNATIVES ANALYSIS

House bill

Section 333 requires the Secretary to approve the undertaking of an alternatives analysis for the East-West Central Milwaukee Corridor.

Senate amendment

The Senate bill did not include a similar provision.

Conference substitute

Conference agreement included the House provision.

House bill

The House bill would allow the New Jersey Transit Corporation to apply Petroleum Violation Escrow Account (PVEA) Funds as a credit toward the non-Federal match of transit projects.

The House bill would provide an additional $4,000,000 to the Niagara Frontier Transit Authority for service associated with the 1993 World University Games.

The House bill would increase the operating assistance limitation for the Staten Island Ferry by $2,700,000 in FY 1992.

Senate amendment

The Senate bill would amend the Surface Transportation and Uniform Relocation Assistance Act of 1987 Act to permit a commuter rail line (Tri-County Rail Authority) in south-eastern Florida to continue to receive federal operating assistance under section 9.

Conference substitute

The conference report includes the House and Senate provisions.

PETROLEUM VIOLATION ESCROW ACCOUNT FUNDS

House bill

The House bill would allow the New Jersey Transit Corporation to apply Petroleum Violation Escrow Account (PVEA) Funds as a credit toward the non-Federal match of transit projects.

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The House bill would provide an additional $4,000,000 to the Niagara Frontier Transit Authority for service associated with the 1993 World University Games.

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Conference substitute

The conference report includes the House and Senate provisions.

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Senate amendment

The Senate bill did not include a similar provision.

Conference substitute

The conference agreement included the House provision.

SECTION 3—NEW STARTS

House bill

The House bill included provisions that would require all new start projects to be authorized in statute in order to receive funds. The bill would require FTA to submit to Congress annually a report on new starts.

Senate bill

The Senate bill included provisions not included in the House bill that would revise the new starts criteria and project development process.

Conference substitute

The conference report contains provisions from both the House and Senate bills.

The Conferees want to make clear that, in establishing guidelines for construction of new fixed guideway systems or extensions to such systems, the Act's directive that the "degree of local financial commitment shall be considered acceptable only if—"(ii) each proposed local source of capital and operating funding is stable, reliable, and available within the proposed project timetable;" shall not prevent funding for projects for which there is a reasonable expectation of local funding. The conferees expect that the guidelines would include among the types of financial commitment that constitute an acceptable degree of local financing, state and local tax levies or assessments, annual state or local general fund appropriations, anticipated bond revenues, in kind contributions, and other possible funding sources.

3(C)(iii)—The Conferees want to make clear that, in establishing guidelines for construction of new fixed guideway systems or extensions to such systems, the Act's directive that the "degree of local financial commitment shall be considered acceptable only if—"local resources are available to operate the overall proposed transit system (including essential feeder bus and other services necessary to achieve the projected ridership levels) without requiring a reduction in existing transit services in order to operate the proposed project" shall not prevent funding for projects where such proposed projects would provide a substantially similar level of existing transit service. The conferees do not intend such guidelines to prevent initiation of fixed guideway projects that would provide a level of service similar to that already provided through other means.

NEW JERSEY URBAN CORE PROJECT

House bill

The House bill would prescribe terms and conditions which the Secretary must include in a full funding grant agreement for the construction of the New Jersey Urban Core Project.

Senate amendment

The Senate bill did not include a similar provision.

Conference substitute

The conference report includes the House provision.

SAN FRANCISCO BAY AREA RAIL EXTENSION PROGRAM

House bill

The House bill would prescribe terms and conditions which the Secretary must include in a full funding grant agreement for the construction of an extension of BART to the San Francisco International Airport and for the construction of the locally preferred alternative for the Tasman Corridor Light Rail Project.

Senate amendment

The Senate bill did not include a similar provision.

Conference substitute

The conference report includes the House provision.

MULTI-YEAR METRO RAIL CONTRACT

House bill

The House bill would prescribe terms and conditions which the Secretary must include in a multi-year grant agreement for the construction of planned extensions to the Metro Rail Rapid Transit System in Los Angeles, California.

Senate amendment

The Senate bill did not include a similar provision.

Conference substitute

The conference report includes the House provision.

MISCELLANEOUS MULTI-YEAR CONTRACTS

House bill

The House bill would prescribe terms and conditions which the Secretary must include in various multi-year grant agreements for specified transit projects.

Senate amendment

The Senate bill did not include a similar provision.

Conference substitute

The conference report includes the House provision with amendments.

The conferees expect the Connecticut Department of Transportation to continue to designate the Penquonnock (Peck) River Railroad Bridge project as a high priority project to be completed within available funds. The conferees concurrently direct the federal Urban Mass Transportation Administration, in acting on the Connecticut Department of Transportation's funding request for the Peck Bridge project, to take account of the importance the conferees place on the completion of this project for the state of Connecticut and the proper functioning of the entire Northeast rail corridor.

The managers direct that $250,000 of the funds made available under section 3 be used to initiate an analysis of the possible route, options and incremental phases for assistance necessary for a rail connection between North Station and South Station in Boston, Massachusetts.

This study should include an operating analysis, taking into consideration the option of connecting such service with existing or proposed rail services to and from Boston, including the connection's capability of meeting the regional, intrastate and interstate transportation demands.

This study should include an engineering and financial analysis, taking into consideration a regional commuter railroad service, Massachusetts intercity service and/Amtrak interstate service. UMTA is responsible for the overall study, but should conduct it in coordination, as deemed necessary, with the Federal Railroad Administration, Amtrak, private freight lines and regional transportation authorities.

The study is intended only as an assessment of feasibility, but shall include recommendations for possible federal assistance. This analysis shall be of rail link separate and distinct from the Boston Central Artery/Third Harbor Tunnel project and the Federal Highway Administration.

Of the funds authorized to be appropriated under this Act, the conferees intend that $750,000 be provided to assist the Research Triangle Regional Public Transportation Authority with a regional transit planning study to identify transportation system deficiencies, possible solutions, and evaluate transit technology alternatives.

AUTHORIZATIONS

House bill

The House bill would authorize the following amounts for FTA programs:

FEDERAL TRANSIT ADMINISTRATION

[In millions of dollars]

FTA Program		1992	1993	1994	1995	1996	1997
Sec. 9, 18	(G)	2,130	2,125	2,025	2,125	2,225	2,305
	(M)	0	555	555	555	555	1,555
(Blend)	(M)	180	300	400	300	200	275
Total Sec. 9, 18		2,310	2,980	2,980	2,980	2,980	4,135
Sec. 3	(M)	1,350	1,680	1,580	1,680	1,780	2,485
(Blend)	(M)	180	300	400	300	200	275
Total Sec. 3		1,530	1,980	1,980	1,980	1,980	2,760
Sec. 4(i), 16(b)	(M)	25	35	35	35	35	45
Sec. 16(b)	(G)	20	25	25	25	25	35
Planning [1]	(M)	67	123	123	123	123	158
UTC	(M)	7	7	7	7	7	7
Admin.	(G)	50	50	50	50	50	60
Total		4,009	5,200	5,200	5,200	5,200	7,200
UTC	(H)	7	7	7	7	7	7
Inter-Sub. Transit	(G)	160	160	0	0	0	0
Total		4,176	5,367	5,207	5,207	5,207	7,207

G=General Funds.
M=Mass Transit Account, Highway Trust Fund.
H=Highway Account, Highway Trust Fund.
[1] Combined Planning, Research, Training, and Human Resources program.

Senate amendment

MASS TRANSIT ACT

[Dollars in thousands]

	Fiscal year 1991	Admin 1992	Fiscal year— 1992	1993	1994	1995	1996
Sources of funds:							
Sec. 3 Capital Grants:							
Trust fund	$1,200,000	NA	$535,000	$580,000	$680,000	$750,000	$835,000
General funds	213,100	0	775,000	780,000	798,600	828,900	850,400
Subtotal section 3	1,413,000	NA	1,310,000	1,360,000	1,478,600	1,578,900	1,685,400
Formula grants and other:							
Trust fund—contract	200,000	NA	1,070,500	1,220,000	1,300,000	1,450,000	1,565,000
Trust fund—appropriation	0	0	450,000	525,000	550,000	400,000	300,000
General funds	1,581,483	0	990,000	862,000	801,000	981,000	1,160,000
Subtotal formula and other	1,781,483	NA	2,510,500	2,607,000	2,651,000	2,831,500	3,025,000
All Grants:							
Trust fund—contract	1,400,000	$350,000	1,605,500	1,800,000	1,980,000	2,200,000	2,400,000
Trust fund—Appropriation	0	2,899,499	450,000	525,000	550,000	400,000	300,000
General funds	1,794,583	0	1,765,000	1,642,000	1,599,600	1,810,400	2,010,400
Total FTA funds	3,194,583	3,249,499	3,820,500	3,967,000	4,129,600	4,410,400	4,710,400
Use of funds:							
Sec. 3 capital grants:.							
Rail modernization	455,000	(Sec. 9)	524,000	544,000	591,440	631,560	674,160
New starts	440,000	300,000	524,000	544,000	591,440	631,560	674,160
Bus	220,000	(Sec. 9)	262,000	272,000	295,720	315,780	337,080
ADA and clean air	0	50,000	0	0	0	0	0
Subtotal sec. 3	1,115,000	350,000	1,310,000	1,360,000	1,478,600	1,578,900	1,685,400
Formula grants: Section 9 and 9B							
Rail modernization	(sec. 3)	600,000	(sec. 3)	(sec. 3)	(sec. 3)	(sec. 3)	(sec. 3)
Bus	1,156,427	1,446,106	1,330,032	1,382,219	1,507,265	1,610,313	1,720,820
Fixed guideway	578,214	419,802	665,016	691,109	753,633	805,157	860,410
Subtotal section 9 and 9B	1,734,641	2,465,908	1,995,048	2,073,328	2,260,898	2,415,470	2,581,230
Sec. 16(b) elderly/handicapped	35,000	45,000	58,508	60,705	63,144	67,356	71,856
Sec. 18 rural	65,359	89,000	127,343	132,340	144,313	154,179	164,759

MASS TRANSIT ACT—Continued

[Dollars in thousands]

	Fiscal year 1991	Admin 1992	Fiscal year— 1992	1993	1994	1995	1996
Subtotal formula	1,835,000	2,599,908	2,180,899	2,266,374	2,468,355	2,637,005	2,817,845
Planning and research:							
MPOs	45,000	(state)	52,657	54,635	56,830	60,620	64,670
State program	.....	62,151	11,702	12,141	12,629	13,471	14,371
Transit cooperative	.....	(state)	11,702	12,141	12,629	13,471	14,371
National program	8,000	31,075	35,105	36,423	37,886	40,414	43,114
University centers	5,000	6,000	5,000	5,000	5,000	5,000	5,000
Rural: RTAP	5,000	(TP&R)	5,851	6,071	6,314	6,736	7,186
Administrative Expenses	32,583	40,365	47,586	49,373	51,357	54,783	58,443
Interstate transfer	149,000	160,000	160,000	164,843	0	0	0
Total FTA program	3,194,583	3,249,499	3,820,500	3,967,000	4,129,600	4,410,400	4,710,400

Conference substitute

	1992	1993	1994	1995	1996	1997
Transit account	1.90	2.88	2.98	2.88	2.78	4.80
General funds	1.75	2.36	2.15	2.25	2.35	2.45
Total	3.65	5.24	5.13	5.13	5.13	7.25
Capital grants	1.35	2.03	1.98	1.98	1.98	3.18
Formula grants	1.91	2.61	2.67	2.67	2.67	3.43
Rural	0.06	0.15	0.16	0.16	0.16	0.20
All other	0.33	0.45	0.32	0.32	0.32	0.44

TITLE IV—MOTOR CARRIER ACT OF 1991

House bill

SECTION 401, SHORT TITLE

This title may be cited as the "Motor Carrier Act of 1991".

Senate amendment

This part may be cited as the Motor Carrier Safety Assistance Program Reauthorization Act of 1991.

Conference substitute

Retains the House title.

MOTOR CARRIER SAFETY ASSISTANCE PROGRAM AMENDMENTS

House bill

Amends section 402 of the Surface Transportation Assistance Act of 1982. The principal changes affect the purposes and goals of the program and the plan that must be submitted by the states participating in the program.

Subsection (a) permits new activities to be initiated in this program. It further provides that state plans must ensure that these new activities will not diminish other aspects of the program. In addition, subsection (a) requires the plan to ensure that fines imposed and collected will be reasonable and appropriate, and that the program will be coordinated with the state highway safety plan under section 402 of Title 23 of the United States Code.

Subsection (b) requires that the states initiating these new efforts must maintain current support for their programs for enforcement of size and weight laws, controlled substance laws and traffic law enforcement laws.

Subsection (c) amends the program to allow states to begin certain new activities and to incorporate these activities into their respective programs. States may incorporate motor vehicle size and weight enforcement, controlled substance interdiction activities, and enforcement of state traffic laws. The size and weight enforcement activities under this program must be directed at weighing vehicles at other than fixed-site weighing stations. The activities can include weighing activities at seaports and at locations such as steep grades or mountainous terrains where weight may cause more acute safety problems. These activities can be carried out only in conjunction with principal activity of this program; namely, roadside safety inspections.

Subsection (d) establishes funding levels for the Motor Carrier Safety Assistance Program established under section 404 of the Surface Transportation Assistance Act of 1982. The levels are $65 million for fiscal year 1992, $80 million for fiscal year 1993, and $100 million per fiscal year for fiscal years 1994, 1995, and 1996.

Subsection (e) provides that grants made under the program will be available to the states for three years, rather than for one year.

Subsection (f) provides that funds made available for this program are now available until expended.

Subsection (g) provides that the Secretary may use one percent rather than one-half of one percent for administrative purposes.

Subsection (h) provides earmarking of funds for training roadside inspectors in the hazardous materials regulations, for making grants to states to adopt uniform accident reporting forms for truck and bus accidents, for research, for essential administrative functions, for public education, and for several specified reports.

Subsection (i) authorizes appropriations for carrying out the motor carrier safety functions of the Federal Highway Administration.

Subsection (j) lists a number of reports which the Secretary is required to make. The reports are to be funded at $150,000.00 per year for fiscal years 1992 and 1993.

Senate amendment

This section amends Chapter 4 of title 23 of the U.S. Code by adding a new section 411. Subsection (a) of this new section authorizes the Secretary to make grants to eligible States for the enforcement of Federal or compatible State commercial motor vehicle safety rules, regulations, standards, and orders, as well as State and local traffic safety laws and regulations.

Subsection (b) of this new section requires the Secretary to formulate procedures for a State to use when submitting its annual Motor Carrier Assistance Program plan. This section requires States to adopt and assume responsibility for enforcing Federal motor carrier safety rules, regulations, standards, and orders, including vehicle size and weight requirements and commercial motor vehicle alcohol and controlled substances awareness and enforcement (including interdiction of illegal shipments), or compatible State rules in these areas. This new section provides the Secretary with discretion to approve State plans which designate a lead State agency responsible for administering the plan, ensure qualified personnel and adequate funds to administer the plan, provide a right of entry and inspection and that the State will grant maximum reciprocity for inspections conducted pursuant to the North American inspection standard, provide for the adoption of uniform reporting requirements and use of uniform recordkeeping and inspection forms, ensure participation in databases on drivers, vehicle inspections, and driver compliance with traffic safety laws and regulations, and ensure that size and weight inspection activities will not diminish other safety initiatives. Additionally, this new section requires that a State plan give satisfactory assurances that the State would conduct effective activities in the area of drug and alcohol enforcement, provide training to Motor Carrier Assistance Program officials and employees in drug recognition techniques, promote Commercial Drivers' License enforcement, ensure adequate enforcement of traffic safety, improve the enforcement of hazardous materials transportation regulations by encouraging more inspections of shipper facilities and vehicle loads, promote drug interdiction activities, and attempt to ensure that fines imposed and collected by the State will be reasonable and that the State will seek to implement the recommended fine schedule published by the Commercial Vehicle Safety Alliance.

In the areas of commercial motor vehicle safety and drug and weight enforcement, this new section specifies that a State maintain an average of the expenditures for the last three years, exclusive of Federal funds or State matching funds, in order to receive Program funds for these purposes. If a State chooses to use Program funds for weight enforcement, a State must couple that enforcement with a safety inspection and conduct enforcement at locations other than fixed-weight facilities, such as at specific geographic locations, or on containers being loaded or unloaded at seaports.

Each fiscal year, this new section allows the Secretary to deduct up to 1.25 percent of the funds available for the administration of the Program, of which 75 percent is to be used for the training of non-Federal employees and development of training material. In order for this plan to be approved, a State must maintain a level of motor carrier safety expenditures which does not fall below an average of the previous 3 fiscal years, exclusive of Federal funds and State matching funds required to receive Federal funds. Funds made available to a State are to remain available for the fiscal year in which they were allocated and one succeeding fiscal year. If not expended by a State during those 2 years, the Secretary is to reallocate these funds. This section provides funding for the Motor Carrier Assistance Program at levels not to exceed $70 million in fiscal year 1993, $75 million in fiscal year 1994, $80 million in fiscal year 1995, and $85 million in fiscal year 1996.

Funding is increased to take into account inflationary costs that will raise the cost of

the Program's current inspection and audit work. In addition, the new section's funding level recognizes the need for increased traffic-related enforcement efforts (not less than $7.5 million to be spent for this purpose annually, beginning in fiscal year 1993). The new section requires that each of the States should use Program funds to improve their existing traffic safety enforcement programs affecting operators of commercial motor vehicles, and therefore, each of the States should receive an appropriate portion of the earmarked funds.

Finally, section 2(b) of the bill amends the existing Motor Carrier Assistance Program provisions of the Surface Transportation Assistance Act of 1982. Under that amendment, funding of $65,000,000 is allocated for fiscal year 1982 and is not subject to the new State plan requirements. A State may, however, resubmit its fiscal year 1992 State enforcement plans and seek reimbursement for any of the new activities required in fiscal year 1993.

Conference substitute

The Conference substitute on the funding levels for the Motor Carrier Safety Assistance Program established under Section 404 of the Surface Transportation Assistance Act are $65 million for fiscal year 1992, $76 million for fiscal year 1993, $80 million for fiscal year 1994, $83 million for fiscal year 1995, $85 million for fiscal year 1996, and $90 million for fiscal year 1997.

The substitute retained the general structure of the House bill. The substitute permits new activities to be initiated in this program. It further provides that state plans must ensure that these new activities will not diminish other aspects of the program. In addition, subsection (a) requires the plan to ensure that fines imposed and collected will be reasonable and appropriate, that the program will be coordinated with the state highway safety plan under section 402 of Title 23 of the United States Code, and that the 48 contiguous states participate in SAFETYNET by January 1, 1994.

The substitute allows states to begin certain new discretionary activities and to incorporate these activities into their respective programs. States may incorporate motor vehicle size and weight enforcement, controlled substance interdiction activities, and enforcement of state traffic laws. The size and weight enforcement activities under this program must be directed at weighing vehicles at other than fixed-site weighing stations. The activities can include weighing activities at seaports and at locations such as steep grades or mountainous terrains where weight may cause more acute safety problems. These activities can be carried out only in conjunction with principal activity of this program; namely roadside safety inspections.

The substitute requires that the states initiating these new efforts must maintain current support for their programs for enforcement of size and weight laws, controlled substance laws and traffic law enforcement.

The substitute retains slightly altered House provision on the commercial motor vehicle information system, the truck and bus accident data grant program and the common carriers providing transportation for charitable purposes. It also incorporates amended language on the provisions in the Senate bill dealing with research and development, public education, and the new allocation formula. The Senate provisions on violations of out-of-service orders, intrastate compatibility, and FHWA positions are incorporated into the Conference Substitute.

The conferees expect that local governments receiving motor carrier assistance program funds from the States will continue their existing motor carrier safety and combined motor carrier safety and associated traffic enforcement efforts and use MCSAP funds to supplement their existing efforts.

COMMERCIAL MOTOR VEHICLE INFORMATION SYSTEM

House bill

Section 403 amends Part A of title IV of the Surface Transportation Assistance Act of 1982 by adding a new section 407.

New subsection 407(a) empowers the Secretary to review state motor vehicle registration systems for license tags in order to determine if such systems could be utilized in establishing a Commercial Motor Vehicle Information System. The system established by the Secretary should be designed to link state registration systems to the Department of Transportation's Safetynet System which contains essential data on the safety fitness of interstate motor carriers. The system is to be maintained by user fees.

The Commercial Motor Vehicle Information System could be operated by the Secretary, by a state or states, or a third party. Uniform data collection and reporting by all states would be required.

New subsection 407(b) provides that as part of the development of this program, the Secretary is empowered to carry out a pilot project with states in order to determine how to provide the needed linkage of the relevant systems and to determine types of sanctions which might be imposed on registrants to ensure safety compliance.

New subsection 407(c) authorizes the Secretary to issue regulations to implement this section.

New subsection 407(d) provides the funding necessary to carry out this section as provided in section 404(g)(2) of this title. The Secretary is provided $2 million per fiscal year for fiscal years 1992–1996 for carrying out the pilot project. The money is from the Motor Carrier Safety Assistance Program.

New subsection 407(e) defines a commercial motor vehicle for the purpose of this section.

Senate amendment

No comparable provision.

Conference substitute

The House bill, with one additional provision. The provision is that the Secretary of the Department of Transportation should prepare and submit a report assessing the costs, benefits, and feasibility of such a system. The report should include legislative recommendations on the nationwide implementation of such system, if the Secretary finds that such a nationwide system would be beneficial.

TRUCK AND BUS ACCIDENT DATA GRANT PROGRAM

House bill

Section 404 amends Part A of title IV of the Surface Transportation Assistance Act of 1982 by adding a new section 408.

New subsection 408(a) authorizes the Secretary to make grants to states to assist them in adopting and implementing uniform reporting of accident data for trucks and buses.

New subsection 408(b) provides that grants may be made for assisting states in designing appropriate forms, in preparing instruction manuals, in training state and local officers, and for such other activities as are determined to be appropriate.

New subsection 408(c) requires the Secretary to coordinate grants made under this section with the highway safety programs under section 402 of title 23 U.S.C.

Under new subsection 408(d), the Secretary is authorized to make grants of up to $3 million per year for fiscal years 1993 through 1996.

Senate amendment

No comparable provision.

Conference substitute

The House bill, with several changes. The funding level is changed to $2 million per fiscal year for fiscal years 1993 through 1997. Another change adds training language pertaining to accident investigation techniques. Finally, it permits grant money to be used for analyzing and evaluating safety data.

SINGLE STATE REGISTRATION SYSTEM

House bill

Amends section 11506 of title 49 U.S.C.

Subsection 406(a) provides that effective January 1, 1994 states are prohibited from requiring motor carriers regulated by the Interstate Commerce Commission to file certificates or permits with the states in which they operate. It further eliminates the requirements for displaying a decal to indicate the possession of such a permit or certificate or the collection of a fee for such registration or decals.

States may continue the practice of requiring motor carriers to file and maintain proof of insurance.

Subsection 406(b) authorizes the Secretary to make grants to states to offset revenues lost as a result of subsection (a). A state is eligible if it had imposed and collected fees in 1991. The funding is established at $50 million for fiscal year 1994. Reimbursement is for one year only.

Senate amendment

No comparable provision.

Conference substitute

Section 405 repeals, effective January 1, 1994, the "bingo stamp" program authorized by Congress in 1965 through enactment of P.L. 89–170. The bingo stamp program allowed states to require interstate carriers to register their interstate operating authority with the state and charge a fee for doing so. The interstate carrier then received identification or "bingo" stamps from the state. Currently, 39 states require interstate carriers to carry such a stamp in the cab of each commercial motor vehicle operating within its borders.

The bingo stamp program authorized by P.L. 89–170 has been characterized as inefficient and has been an administrative burden on the trucking industry and the states. The trucking industry estimates that the program costs interstate carriers up to $250 million per year. Meanwhile, the 39 participating states collect only about $50 million under the program. The repeal of the bingo stamp program under Section 405 is intended to benefit the interstate carriers by eliminating unnecessary compliance burdens. It is the hope of the Conferees that, ultimately, consumers will also benefit from the cost savings associated with the elimination of the bingo program.

In order to preserve revenues for the states which had participated in the bingo program, Section 405 establishes a new annual fee system enabling such states to continue to collect funds from interstate motor carriers. The fee is based upon the carrier's filing of proof of required liability insurance. Fee revenues under this system must be collected through a streamlined administrative process established by Section 406 known as the "single state" or "base state" registration

system. Under the single state registration system, a carrier will pay its annual fees to a single state (its base state) and that state will distribute the collections to other participating states in which the carrier's vehicles operate. This system is to be instituted by the Interstate Commerce Commission, in consultation with the participating states and the trucking industry, in such a manner as to eliminate as much of the paperwork and other compliance burdens as possible. Section 405 specifies that the only evidence of payment or other identification a vehicle must carry under this system is a copy of the receipt given the carrier by the base state.

States which did not collect bingo stamp fees under the former program will not be able to collect the new fees authorized by Section 405. Additionally, states must participate in the base state program in order to collect the fees authorized by Section 405. States are expressly prohibited from charging a fee for the registration of a carrier's interstate operating authority or for any other filings which may be required under Section 405.

The new fee system is to be based upon the number of vehicles which a carrier operates in a state and the number of states in which that carrier operates. States will not be allowed to charge a greater fee under Section 405 than the fee they charged under the former program as of November 15, 1991. The fee cannot exceed $10 per vehicle under any circumstances.

The Conference version of Section 405 does not authorize any funds to be distributed to the states from the Highway Trust Fund.

VEHICLE LENGTH LIMITATION

House bill

Section 407(a) amends the Surface Transportation Assistance Act of 1982 by adding a new subsection (j) to section 411.

New subsection (j)(1) prohibits a state from allowing operation of any commercial motor vehicle combination with two or more cargo carrying units (not including the truck tractor) which units as measured from the front of the first cargo carrying unit to the rear of the last carrying unit are a total length greater than were authorized by state statute or regulation and were being lawfully operated on or before June 1, 1991. The prohibition applies to the National System of Interstate and Defense Highways and those classes of qualifying Federal-aid primary system highways as designated by the Secretary subject to subsection 411(e).

New subsection (j)(2) allows the operation of commercial motor vehicle combinations with two or more cargo carrying units (not including the truck tractor) to continue to operate on the relevant highway system if (A) the state determined on or before June 1, 1991 that such commercial motor vehicle combination could lawfully operate on such relevant system or highways pursuant to a state statute or regulation in effect on June 1, 1991; (B) the commercial motor vehicle combination was in lawful operation on a regular or periodic basis (including seasonal operation or operation pursuant to a permit issued by the state) on the relevant system or highways on or before June 1, 1991; and (C) if all operations of such commercial motor vehicle combinations on such relevant system and highways continue to be subject to, at a minimum, all state statutes, regulations, limitations and conditions (including routing-specific and configuration specific designations and all other restrictions) in effect on June 1, 1991; except that, subject to guidelines established by the Secretary, the state may make minor adjustments to route-specific designations and vehicle operation restrictions for safety purposes and for road construction purposes.

New subsection (j)(3) provides that in addition to the vehicles which may continue to operate in the State of Wyoming under (j)(2), such State may allow commercial motor vehicle combinations not in actual use on June 1, 1991 on the relevant system and highways by enactment of a State law on or before November 3, 1992. The State must notify the Secretary of enactment of such State law within 30 days and the Secretary must publish notice of the enactment of such law in the Federal Register.

New subsection (j)(4) provides that states may further restrict or prohibit vehicles covered by this provision, however, any such restriction or prohibition must be consistent with sections 412 and 416 of this Act. Any such changes must be submitted to the Secretary. Such change must be published in the Federal Register by the Secretary.

New subsection (j)(5) requires that within 90 days after the effective date of this subsection (October 1, 1991) states must complete and file in writing with the Secretary a complete list of all state statutes, regulations, limitations and conditions governing the operation of these types of vehicles.

If the state fails to file within the specified time, the Secretary is given the authority to complete and file the list for the state.

The state is further required to certify in writing that the state had determined pursuant to a state statute or regulation in effect on June 1, 1991 that such commercial motor vehicle combinations could lawfully be operated on such relevant system and highways, and such combinations were in operation on a regular or periodic basis on such system and highways on or before June 1, 1991.

The Secretary is required to publish the list in the Federal Register. After publication the Secretary is required to review the certifications and may commence a proceeding, on the Secretary's own initiative or pursuant to a challenge by any person, to determine whether or not the state's certification is inaccurate. The state has the burden of proof.

If the Secretary determines the certification is inaccurate, the Secretary is required to amend the list published in the Federal Register.

This subsection also provides that no state statute or regulation shall be included on the list published by the Secretary merely on the grounds that it is authorized, or could have authorized, by permit or otherwise, the operation of commerical motor vehicle combinations not in actual operation on a regular or periodic basis on or before June 1, 1991.

This subsection further provides the lists published in the Federal Register shall become final on the 30th day after publication, with the exception of adjustments made pursuant to paragraphs 2(C), (3), and (4) and subparagraph (D) of paragraph 5.

New subsection (j)(6) requires the Secretary to issue regulations establishing guidelines for states to follow in making minor adjustments for safety or road construction purposes.

New subsection (j)(7) provides that nothing in this subsection should be construed to allow operation on the relevant system or highways of any commercial motor vehicle prohibited under section 127(d) of title 23, U.S.C., or to affect in any way the operation of commercial motor vehicles having only cargo carrying unit.

New subsection (j)(8) defines cargo carrying unit.

Subsection 407(b) amends section 411(a) to include buses having lengths of 45 feet. States must allow buses of up to 45 feet to utilize the Interstate System and those classes of Federal-aid Primary System highways as designated by the Secretary pursuant to section 411(e). It also includes these vehicles in the access provisions of subsection 412(a).

Senate amendment

The Senate Amendment contains a similar length limitation. A state is prohibited from allowing the operation on the National System of Interstate and Defense Highways and designated Federal-aid Primary highways of any commercial motor vehicle combination with two or more cargo carrying units whose cargo units exceed the maximum state length limitation authorized by state law on or before June 1, 1991, or were not in actual continuing lawful operation in the state on or before June 1, 1991.

A state would not be prevented from further restricting commercial motor vehicle combinations consistent with parameters of current law. If a state further restricted the operations of commercial motor vehicle combinations, it would be required to so advise the Secretary within 30 days and the Secretary would publish a notice of the state's action in the Federal Register.

Combinations of commercial motor vehicles could continue to operate if such vehicles were in actual, continuing operation (including continuing seasonal operation) in that state on or before June 1, 1991, and were authorized pursuant to state law.

The provisions on the preparation of the list of state length limits differs under the Senate Amendment. Specifically, the Secretary would determine and publish within 60 days of enactment the list of applicable state length limitations as of June 1, 1991. The list would become final within 60 days after publication.

The Senate Amendment has no comparable provisions on length of buses as contained in the House bill.

Conference substitute

The Conference Agreement includes the length limitation for commercial motor vehicles as provided by both House and Senate versions. No state can allow by state law or any other means the operation on the National System of Interstate and Defense Highways and designated classes of qualifying Federal-aid primary system highways of any commercial motor vehicle combinations with two or more cargo carrying units whose cargo units exceed the length limitations authorized by state law on or before June 1, 1991, or whose cargo carrying units by specific configuration were not in actual, lawful operation on a regular or periodic basis (including continuing seasonal operation) in the state on or before June 1, 1991. States could further restrict the operation of commercial motor vehicle combinations consistent with the parameters of current law. A state making such further restrictions must advise the Secretary within 30 days and the Secretary is required to publish notice of such action.

Limited narrow transitional rules for determining the applicable date of state law length limitations are included for the States of Wyoming and Alaska. In addition, a limited narrow exception is included for a 1-mile segment on Ohio State Route 7.

The Conference Agreement length limitation contains a narrow exception for nondivisible vehicles and loads which have been issued special permits under state law.

The Secretary is required to define by regulation nondivisible loads for purposes of this exception. The types of nondivisible loads envisioned by this provision are long loads, e.g., missiles or bridge section on two or more connected flat bed trucks. The Secretary should interpret this exception so as to ensure that no state allows any genuine divisible load to operate contrary to the length limit freeze. Permits issued under this provision shall be on a temporary and exceptional basis. This provision is more narrow than the House bill's original exception for special permits under state law. The Senate Amendment did not contain an express provision on special permits under state law.

The Conference Agreement also contains a modified and more narrow version of the House provision which allowed a state to make minor adjustments to routing-specific and vehicle operation restrictions in effect on June 1, 1991, for safety purposes and road construction. The Senate Amendment did not contain a similar provision. Under the Conference Agreement, a state can only make minor adjustments to route designations and vehicle operating restrictions if the minor adjustments are of a temporary and emergency nature. In addition, such adjustments would have to be for specific situations made necessary by safety purposes and road construction. The Secretary is required to issue regulations establishing criteria for states to follow in making such minor adjustments. Any state making such minor adjustments is required to notify the Secretary within 30 days. The Secretary is required to publish notice of such action.

Preparation of the list of state length limitations under the conference agreement proceeds in the following manner: Within 60 days of the date of enactment, each state is required to submit to the Secretary a complete list of its length limits under state law. This initial list is considered an interim list. No state statute or regulation is to be included on the list submitted by a state merely because it authorized, or could have authorized, by permit or otherwise, the operation of commercial motor vehicle combinations not in actual operation on a regular or periodic basis on or before June 1, 1991.

Not later than 90 days after enactment, the Secretary is required to publish the interim list in the Federal Register. The Secretary is required to review the list for accuracy and also solicit public comment on the accuracy of the information in the interim list. Not later than 180 days after enactment, the Secretary is required to publish a final list after making any revisions to correct inaccuracies. After publication of the final list, commercial motor vehicle combinations with two or more cargo carrying units may not operate on the National System of Interstate and Defense Highways and designated Federal-aid primary system highways except as published on the list. A procedure is provided for the Secretary to correct any inadvertent mistakes which may later be discovered on the list.

In addition, the Conference Agreement includes the provisions in the House bill requiring states to allow passenger buses of up to 45 feet to utilize the Interstate System and designated classes of Federal-aid Primary System highways and related House language to include passenger buses within the access provisions of subsection 412(a).

LONGER COMBINATION VEHICLE REGULATIONS, STUDIES AND TESTING

House bill

Provides that the Secretary must begin and complete a rulemaking to establish minimum training requirements for operators of longer combination vehicles. A final rule is required two years after October 1, 1991.

New subsection 408(b) provides for a safety study on longer combination vehicles. The report on the study is due two years after October 1, 1991.

New subsection 408(c) requires the Secretary to study the effects on drivers, including driver fatigue, of driving longer combination vehicles. The report is due two years after October 1, 1991.

New subsection 408(b) directs the Secretary to conduct tests on the operation of longer combination vehicles in order to determine whether any modifications to the Federal safety regulations are needed for longer combination vehicles. The Federal safety regulations to be addressed are those contained in Subchapter B of Chapter III of Title 49 of the Code of Federal Regulations. The report is due 3 years after October 1, 1991.

New subsection 408(e) provides $1,000,000 a year out of the Highway Trust Fund for FY 1992-1996 for the Secretary to carry out this section.

New subsection 408(f) defines longer combination vehicles for purposes of this section.

Senate amendment

No comparable provision.

Conference substitute

The conference agreement includes the House (previously section 402 of the House bill) and Senate (previously section 241 of the Senate bill) requirement of a report by the Secretary of Transportation to Congress on the effectiveness of efforts of the private sector to ensure adequate training of entry-level drivers. The due date of the report has been changed to 12 months, with an additional requirement that a rulemaking by the Secretary on the need to require training of all entry-level drivers of commercial motor vehicles be completed not later than 24 months after the date of the enactment. If the Secretary determines that it is not in the public interest to require a rule that requires training for all entry-level drivers, a report on the reasons for such decision is required not later than 25 months after enactment.

The House bill language on the rulemaking to establish training requirements for operators of longer combination vehicles, the safety study and report on longer combination vehicles and the testing of the operations of these vehicles has been included, with several changes. The rulemaking on longer combination training requirements is due within 24 months of enactment of the Act.

The scope of the safety study is expanded to require an assessment of the adequacy of currently available data bases for the purpose of determining the safety of longer combination vehicles and recommendations for safety improvements. The economic and safety impact of these vehicles on shared highways also is to be a component of the study.

The safety report is due 2 years after the date of enactment. The testing language was expanded to include the study of fatigue with a focus on examination of driver stress, and characteristics of longer combination vehicles, including an assessment of on-board computers, anti-lock brakes, and anti-trailer under-ride systems to determine the potential safety effectiveness of those technologies as applied to such vehicles. This report is due not later than 3 years after the date of enactment of this Act. The funding of $1,000,000 to carry out this section remains unchanged.

The title of the section is changed to "Training of Drivers; Longer Combination Vehicle Regulations, Studies, and Testing".

PARTICIPATION IN INTERNATIONAL REGISTRATION PLAN AND INTERNATIONAL FUEL TAX AGREEMENT

House bill

The House bill provides that after September 30, 1996, no State except those participating in the International Registration Plan, shall establish, maintain, or enforce any commercial motor vehicle registration law, regulation, or agreement which limits the operation of any commercial motor vehicle within its borders which is not registered under the laws of that state if the commercial motor vehicle is registered under the laws of a state that is a participant in the Plan.

The House bill further provides that after September 30, 1998, no State shall establish, maintain, or enforce any law or regulation which has fuel use tax reporting requirements (including tax reporting forms) which are not in conformity with the International Fuel Tax Agreement.

The House bill establishes a working group to establish procedures for resolving disputes among states participating in the Plan and the agreement and for providing technical assistance. It will be comprised of state and local officials, representatives from the National Governor's Association, the American Association of Motor Vehicle Administrator's and the National Conference of State Legislatures, the Federation of Tax Administrators, and the Board of Directors for the International Fuel Tax Administrators. The bill further provides $1 million per fiscal year for activities of the working group and $5 million per fiscal year for grants to states to facilitate participation in the Plan and Agreement.

Senate amendment

No comparable provision.

Conference substitute

The Conference substitute retains the House bill, but changes the preemption date for the International Fuel Tax Agreement from September 30, 1998 to September 30, 1996. It also allows for the continuation of the Regional Fuel Tax Agreement currently in effect in Maine, New Hampshire, and Vermont.

However, nothing in this section should be construed as Congressional authorization for the charging of fees for decals and other markings by RFTA members or as insulating RFTA from court challenge based on the constitutionality of the RFTA system. This statute is silent on those issues and does not disturb the status quo.

Grant funding available for the purpose of facilitating participation in IRP and IFTA may also be extended to those states participating in RFTA for purposes of technical assistance, personnel training, travel reimbursement, and technology and equipment associated with their participation in RFTA. Improvements to the fuel use tax administration in RFTA states benefit the motor carrier industry as well.

Violations of Out-of-Service Orders

House bill

No provision.

Senate amendment

The Senate amendment imposes new penalties and disqualifications for operators of commercial motor vehicles for violating out-of-service orders. Penalties are also imposed upon employers that allow or require an operator to violate such orders.

Conference substitute

Senate Amendment.

BRAKE PERFORMANCE STANDARDS

House bill

No provision.

Senate amendment

The Senate provision required the Department of Transportation to conduct a rulemaking on methods for improved braking performance for commercial motor vehicles. The required rulemaking would be comprehensive, addressing basic brake problems, such as the compatibility between tractor brakes and trailer brakes, methods of ensuring effective brake timing, and antilock braking systems. The Senate provision required such rulemaking to be initiated by July 1, 1991 and completed by April 1, 1992. Antilock brakes have been required on heavy trucks and buses in Europe since October 1, 1990 and will be required in Japan before the end of this year.

Conference substitute

Section 412 requires the Department of Transportation to inititate a rulemaking proceeding concerning methods for improving the braking performance of newly manufactured commercial motor vehicles with a gross vehicle weight of 26,001 or more pounds. This rulemaking is required to be initiated by May 31, 1992 and completed within 18 months after initiation unless the Secretary determines that a six month extension is necessary. The rulemaking proceeding must include an examination of antilock systems, means of improving brake compatibility and methods of ensuring effectiveness of brake timing.

The Conferees note that a critical component of rulemaking on truck brake performance is the issue of stopping-distance performance. On October 21, 1991 NHTSA published a notice in the Federal Register, Vol. 56. No. 203 indicating:

Accidents involving heavy trucks have a disproportionate (higher) fatality rate than all other motor vehicles. This [planned] rulemaking proposes to reinstate stopping distance performance requirements in Standard 121 so as to help improve heavy vehicle braking performance and hence reduce the number of accidents involving these vehicles. Although a court decision found that Standard 121, as it then existed was unenforceable, additional accident data and technical review have persuaded NHTSA that the court's requirement can now be met.

NHTSA goes on to indicate that it intends to issue a notice of proposed rulemaking on stopping distance in October, 1991. Thus, the Conferees expect that the rulemaking in question under this section as it relates to stopping distance will be initiated through a NPRM rather than an ANPRM.

FEDERAL HIGHWAY ADMINISTRATION POSITIONS

House bill

No provision.

Senate amendment

The Senate amendment provides for two new positions as the Federal Highway Administration. The new personnel will be used to implement this Title.

Conference substitute

Senate Amendment.

COMPLIANCE REVIEW PRIORITY

House bill

No provision.

Senate amendment

The Senate amendment provides that the Secretary shall give priority to compliance safety reviews for motor carriers that have drivers who are found to have a pattern of violations of safety laws.

Conference substitute

Senate Amendment.

TRANSPORTATION DRUG AND ALCOHOL TESTING

House bill

No provision.

Senate amendment

The Senate bill provides a requirement for drug and alcohol testing of transportation workers in the aviation, railroad, motor carrier and mass transportation industries.

Conference substitute

Senate recedes to House. Sections 263 through 266 in Part C of S. 1204 would require drug and alcohol testing of transportation workers in the aviation, railroad, motor carrier and mass transportation industries. Identical provisions were signed into law on October 29, 1991, as a part of the Fiscal Year 1992 Department of Transportation Appropriations Conference Report (Public Law 102–143).

ENFORCEMENT OF BLOOD ALCOHOL CONCENTRATION LIMITS

House bill

No provision.

Senate amendment

The Senate amendment requires the Department of Transportation to initiate, within 3 months of the bill's enactment, and complete, within 12 months after enactment, a model program to enforce the .04 percent maximum blood alcohol concentration standard for commercial drivers which was established by the Department as required under the Commercial Motor Vehicle Safety Act of 1989.

Conference substitute

Senate recedes to House.

NEW FORMULA FOR ALLOCATION OF FUNDS

House bill

No provision.

Senate amendment

The Senate amendment requires certain modification of the allocation formula for the Motor Carrier Safety Assistance Program. It provides incentives based upon certain factors.

Conference substitute

The Senate amendment with language adding special language for states that conduct the discretionary traffic safety enforcement activities as provided for in Title IV.

RESEARCH, DEVELOPMENT, DEMONSTRATIONS AND TRAINING MANUALS

House bill

Section 405 amends Part A of title IV of the Surface Transportation Assistance Act of 1982 by adding a new section 409.

New subsection 409(a) authorizes the Secretary to make grants for research and for other specified purposes that will enhance commercial motor vehicle safety. In addition, the Secretary may utilize some of the funds authorized for educating the public on the use of highways with commercial motor vehicles.

New subsection 409(b) provides that grants must be announced publicly and awarded on a competitive basis whenever practicable.

New subsection 409(c) provides that some of the funds may be used to pay for the development, publication, and distribution of training manuals and other training devices for roadside inspectors involved in the Motor Carrier Safety Assistance Program.

New subsection 409(d) earmarks money for educating the public on the use of highways with commercial motor vehicles. Note, funding for this section is contained in 402(h). That section requires the Secretary to spend at least $500,000 annually for this program, but he or she may spend up to $2 million annually for this grant program.

Senate amendment

The Senate amendment provides for the same funding levels; however, it contains separate funding for driver education and includes training and training materials funding in its deductions permitted to be made by the Secretary for administrative purposes. The Senate amendment requires that grants be made on a competitive basis. The funding is at 100 percent.

Conference agreement

The Senate amendment with a cap placed upon research grants at $500,000.00 and driver education at $350,000.00 for each fiscal year. The provision is included in Section 402.

INTRASTATE COMPATIBILITY

House bill

No provision.

Senate amendment

The Senate amendment provides for the issuance of regulations specifying tolerance guidelines and standards for ensuring compatibility of intrastate commercial motor vehicle safety laws with Federal safety regulations under the Motor Carrier Safety Assistance Program.

Conference substitute

Senate Amendment.

COMMON CARRIERS PROVIDING TRANSPORTATION FOR CHARITABLE PURPOSES

House bill

New section 410 amends Section 10723(b)(2) of title 49, U.S.C. to allow for animals trained to assist blind or disabled individuals to accompany them on common carriers or to allow dogs trained to assist a hearing impaired individual to accompany the individual at a rate equal to that of one individual.

Senate amendment

No comparable provision.

Conference substitute

House Bill.

DRUG-FREE TRUCK STOPS

House bill

No provision.

Senate amendment

The Senate amendment adds to the Controlled Substances Act (21 U.S.C. 801 et seq.), after section 408, a new section 409 entitled "Transportation Safety Offenses." This new section provides that any person who violates section 401(a)(1) or section 416 of that Act by distributing or possessing with intent to distribute a controlled substance in or on, or within 1,000 feet of a truck stop or safety rest area is subject to a maximum term of imprisonment, fine, or term of supervised release for a first offense that is twice that authorized by section 401(b). A term of imprisonment under this section does not apply to offenses involving 5 grams or less of marijuana.

Additionally, this new section specifies that after a prior conviction under the new section, a person who again violates section 401(a)(1) or section 416 of the Controlled Substances Act shall be subject to the greater of (1) a term of imprisonment of not less than 3 years and not more than life imprisonment, or (2) three times the maximum punishment authorized by section 401(b) for the first offense.

New section 409 prohibits the suspension or probation of any sentence imposed under section 409. Also, an individual convicted under this section is required to serve a minimum sentence prior to being eligible for parole.

The new section uses the term "safety rest area" as it is defined in part 752 of title 23 of the Code of Federal Regulations.

Also, new section 409 requires the U.S. Sentencing Commission, to promulgate or amend sentencing guidelines for a defendant convicted of violating section 409 of the Controlled Substances Act to provide that a sentence is two levels greater than the level that would have been assigned for the underlying controlled substance offense and not less than level 26. This new section also specifies that if the sentencing guidelines are amended after the effective date of this section, the Sentencing Commission should use the instruction in paragraph (1) to achieve a comparable result. These offenses would be subject to only one enhancement as found under the guidelines.

Conference substitute

The Senate recedes to the House based on an understanding of the Conferees that the House and Senate Conferees on the Crime bill have agreed to include a drug-free truck stop provision in the conference report on that bill.

EXEMPTION OF CUSTOM HARVESTING EQUIPMENT

House bill

No provision.

Senate amendment

The Senate amendment provides that states may waive the commercial drivers license requirement with respect to drivers of certain types of vehicles. The vehicles are those used to transport farm supplies from retail dealers to or from a farm, vehicles used for custom harvesting, and to vehicles used to transport livestock feed, whether or not such vehicles are controlled and operated by a farmer.

Conference substitute

The substitute removes custom harvesting farm machinery from the Act. Operators of such machinery are not covered by the Commercial Motor Vehicles Safety Act of 1986. A state, however, may still impose a requirement for a commercial drivers license if it so desires. The change does not apply to vehicles used to transport this type of machinery.

TITLE V—INTERMODAL TRANSPORTATION

NATIONAL GOAL TO PROMOTE INTERMODAL TRANSPORTATION

House bill

The House bill establishes as a national goal the encouragement and promotion by the Federal government of an intermodal transportation system to improve energy-efficiency, productivity growth, international competitiveness and to obtain the optimum yield from the Nation's transportation resources.

Senate amendment

No comparable provision.

Conference substitute

Same as the House provision.

The fundamental transportation challenge facing the Nation today is the development of an intermodal transportation system that will accelerate, expedite, enhance and improve the movement of people and goods in an energy-efficient manner. Audacious and bold new approaches are needed if the nation is to transform the existing separate, balkanized transportation systems into a single, coordinated unit that will provide the foundation for the nation to confront the realities of the 1990s and the 21st century.

An intermodal transportation system—the use of connections between, and improved access to, different forms of transportation to enhance efficiency—will be the key to meeting the economic, energy and environmental challenges of the coming decades. The nation will not be able to meet all of those demands through continued reliance on separate, isolated modes of transportation.

Development of an intermodal transportation system will result in the increased productivity growth the nation needs to compete in the global economy of the 21st century. We can no longer rely on a transportation system designed for the 1950s to provide the support for American industry to compete in the international marketplace.

Since 1973, real wages and the American standard of living have been declining. Transportation advances using new innovative technology as well as better use of our existing transportation systems are essential to reversing this decline in the quality of life.

An intermodal transportation system will provide the means to confront the nation's energy vulnerability. With fully 63 percent of our oil resources devoted to transportation, two-thirds to automobiles, a transportation policy is an energy policy. Events in the Persian Gulf in 1990 and 1991 have shown that the nation can no longer afford to rely on volatile and insecure nations for our oil supply. If the nation is to reduce its dependence on foreign oil sources, reduced use of oil for transportation is required.

The Clean Air Act Amendments of 1990 made air pollution policy an overriding factor in transportation policy. The centerpiece of the plan to reduce air pollution is transportation control measures, many of which focus on reduced Vehicle Miles Traveled (VMT). States and Metropolitan Planning Organizations must develop Transportation Improvement Programs (TIPs) that comply with State Implementation Plans (SIPs) under the Clean Air Act Amendments.

DUTIES OF SECRETARY; OFFICE OF INTERMODALISM

House bill

The House bill creates as a duty of the Secretary of Transportation the coordination of Federal intermodal transportation policy and the initiation of policies to promote efficient intermodal transportation.

To carry out the intermodal responsibilities of the Secretary, an Office of Intermodalism is established within the Department of Transportation to be headed by a Director who must be appointed within six months of the date of enactment.

The Director is required to develop an intermodal transportation data base in coordination with states and metropolitan planning organizations. The compilation of such data, especially along state and regional lines, is crucial to the development of an efficient transportation system. The data base is to include information on the movement of people and goods by intermodal transportation, patterns of movements by intermodal transportation, and information on public and private investment in intermodal transportation facilities and services.

The Director must coordinate Federal research on intermodal transportation and must provide technical assistance to state and metropolitan planning organizations in urban areas with populations of 1 million or more to facilitate collection of data on intermodal transportation.

Senate amendment

No comparable provision.

Conference substitute

The conference substitute adopts the House provision except that the Office of Intermodalism is created within the Office of the Secretary. The Director is required to collect, maintain and disseminate intermodal transportation data through the new Bureau of Transportation Statistics.

In addition, it creates an Intermodal Transportation Advisory Board consisting of the Secretary as Chairman and the administrators of the Federal Highway Administration, the Federal Aviation Administration, the Maritime Administration, the Federal Railroad Administration and the Federal Transit Administration to provide recommendations for furthering the implementation of intermodalism.

An intermodal transportation system is vitally needed to meet the economic realities of the 1990s. The American economy is no longer a separate entity but part of the larger global economy. New methods of shipment of goods and advanced marketing techniques, such as "just-in-time" deliveries, have replaced the outdated warehouse. Fully one-third of the nation's economic activity involves international commerce which is projected to be one-half of the economy in the next 10 to 15 years.

In 1989, 973 million short tons of cargo, worth $438 billion, moved through our nation's ports—an increase of 30 percent in the last half of the 1980s alone. The virtual explosion of trade with the Pacific Rim nations has produced unprecedented growth at many West Coast ports and the development of the "mini-land bridge" to bring imported Asian products to the Midwest and East Coast. East Coast ports are projecting similar substantive growth as a result of Europe 1992.

Air cargo shipments, now being referred to as "flying warehouses," grew by more than 10 percent annually during much of the 1980s. In less than a decade, air cargo tonnage at Newark International Airport, John F. Kennedy International Airport and LaGuardia Airport increased by 41 percent.

An intermodal transportation system is essential to move our goods expeditiously and efficiently to and from harbors and airport facilities. Without adequate landside access, first-rate airport and port facilities are wasted and the ability of U.S. industry to compete and capture our share of the global economy is seriously limited.

This title firmly establishes national intermodal transportation policy. It is intended to bring the need for intermodalism to the forefront of the nation's transportation and economic debate. It establishes the central focal point for intermodalism in the Department of Transportation where policy is currently set through separate administrators for each mode of transportation with very limited interaction and coordination.

The Office of Intermodalism will promote policies which will enhance intermodal connectivity and foster continued development of intermodal transportation systems.

The Office will create a national data base with information on flows of people and goods to and from major metropolitan areas, to indicate the mode of choice and where two or more modes are used. The Office should also maintain policy balance in the Department between transportation modes and

work to ensure interconnectivity of all transportation modes.

MODEL INTERMODAL TRANSPORTATION PLANS

House bill

The House bill requires the Secretary to award grants of no more than $500,000 for the development of model state intermodal transportation plans. The grants must be awarded to a maximum of six states representing a variety of geographic regions and transportation needs, patterns and modes. States must complete the plans within 18 months of the grant award.

Senate amendment

No comparable provision.

Conference substitute

The conference substitute contains the House provision except that the grants for model intermodal plans may be awarded to more than six states.

This title is designed to establish the essential process of developing transportation systems that will include the necessary interconnections and access to seaports, airports, urban centers and rural areas. Some regions have already started the process. In Southern California, the planned $800 million Alameda corridor to move cargo to and from the Ports of Los Angeles and Long Beach through the most efficient intermodal use of trucks and rail is an outstanding example.

SURFACE TRANSPORTATION ADMINISTRATION

House bill

The House bill directs the Secretary to enter into an agreement within 60 days of enactment with the National Academy of Public Administration to continue a study of options for organizing the Department of Transportation to increase the effectiveness of program delivery, reduce costs, and improve intermodal coordination among surface transportation-related agencies.

The Secretary must report to Congress on the findings of the study and recommend appropriate organizational changes no later than January 1, 1993. Organizational changes are prohibited unless approved by law.

Senate amendment

No comparable provision.

Conference substitute

The conference substitute contains the House provision.

NATIONAL COMMISSION ON INTERMODAL TRANSPORTATION

House bill

The House bill contains no provision.

Senate amendment

The Senate amendment authorizes a transportation assistance program to provide highway and transportation agencies in urbanized areas of 50,000 to 1 million population and in rural areas, access to modern highway technology.

Conference substitute

This section establishes a National Commission on Intermodal Transportation, consisting of 11 members selected to represent diversified transportation expertise on intermodalism, to develop a National Intermodal Transportation Plan with a specific agenda for implementation. The Commission is to submit the Plan and implementing agenda to Congress by September 30, 1993.

It is crucial for the development of an efficient intermodal transportation system that the Commission recognize the need for innovation through the maximum integration of transportation systems and the earliest possible application of advanced technology to increase efficiency. New approaches are needed for the economic, energy and environmental challenges of the 1990s and the 21st century to enhance the nation's leadership in the global economy.

The Commission should review the need for unified decision-making on transportation policy and implementation. The structure of existing modal administrations may no longer be the best means of developing transportation efficiency and advances.

In its Plan, the Commission should recognize the accelerated importance of foreign trade and international commerce to the nation's future economic growth and the finding in the 1990 Census that more than 50 percent of the nation's population now lives in metropolitan areas of more than 1 million. Both of these trends have enormous implications for future transportation policy.

It is important that the Commission pay special attention to economic productivity concerns. The intermodal research agenda should be oriented towards increasing our nation's productivity.

The Commission should focus on creating a public-private alliance to target intermodal projects that are essential to close obvious deficiencies and gaps in our transportation system.

International product standardization, both technological and administrative, is also vital to the promotion of intermodalism. The Commission should review issues such as international freight rates and customs procedures, as well as the development of standardized designs for containers and any other innovative technology to expedite and stimulate intermodal transfers of goods and people. The Commission should review innovative equipment and hub terminal designs to provide for maximum efficiency.

Intermodal use of urban terminals is especially important to make the most efficient use of space and congested transportation corridors in crowded environments. The Commission is to examine the status of intermodal transportation, identify problems, and determine the resources needed to implement policies to achieve the national goal of an efficient intermodal transportation system.

The Commission is specifically directed to investigate and study:

1. The benefits of and impediments to international intermodal standardization, in coordination with the National Academy of Science;

2. Capital investment for infrastructure development necessary to accommodate intermodal transportation, especially surface transportation access to airports and ports;

3. Legal impediments to efficient intermodal transportation, specifically regulation of individual modes of transportation;

4. Impediments to efficient financing of intermodal transportation, including the most efficient use of existing sources of funds to connect individual modes of transportation, to accommodate intermodal transfers. The Commission must address the use of innovative methods of financing, current methods of public funding and increased use of private sources of private funding;

5. New technologies and problems with incorporating new technologies in intermodal transportation;

6. Problems in documentation and the need to achieve uniform, efficient, and simplified documentation;

7. Areas for additional research and development with an agenda for carrying out the research and development program; and

8. The relationship of intermodal transportation to rates, costs and economic productivity.

The Commission will be composed of 11 members, three appointed by the President and two each by the Speaker of the House, the House Minority Leader, the Senate Majority Leader, and the Senate Minority Leader. The Commission members should include representatives of Federal, State and local governments, other public transportation authorities or agencies, transportation providers, shippers, labor, the financial community, and consumers.

The Commission is required to submit its final report to Congress by September 30, 1993.

The following projects in this title are considered by the Managers as necessary to meet the existing transportation needs of the area and are not dependent or conditioned on any future development in the area. Moreover, funds authorized to be appropriated for these projects may be interchanged so long as the Federal contribution on any one project does not exceed 80 percent.

Long Beach, California—Interchange at Terminal Island Freeway and Ocean Boulevard.

Wilmington/Los Angeles, California—Widening of Anaheim Street Viaduct.

Wilmington/Los Angeles, California—Grade Separation Project of Pacific Coast Highway near Alameda Street.

Compton City/Los Angeles County, California—Widening of Alameda Street and grade separation between Rt. 91 and Del Amo Boulevard.

Carson/Los Angeles Counties, California—Grade Separation Project at Sepulveda Boulevard and Alameda Street.

TITLE VI

RESEARCH AND TECHNOLOGY PROGRAM

House bill

The House bill amends the general research authority of the Secretary under Section 307(a) to clarify authority to conduct research on motor carrier transportation, highway planning, and highway operations. The Secretary is authorized to engage in cost-shared collaborative research with non-Federal entities, including state and local governments, foreign governments, colleges and universities, corporations, institutes, partnerships, sole proprietorships, and trade associations. The average Federal share may not exceed 50 percent unless it can be demonstrated that there is substantial public interest or benefit. Funds to carry out collaborative research under this section shall be derived from Section 104(a) administrative funds. Not less than 15 percent of the funds are to be used for long-term projects.

The House bill also directs the Secretary to conduct systems research for a short-haul passenger transportation system, an expansion of transportation infrastructure research and development and implementation of Strategic Highway Research Program results. The Secretary also must continue long-term pavement performance testing.

Section (f) of this section requires 1½ percent of state apportionments under Sections 104 and 144 be reserved to state research and planning purposes only, and requires that states use 25 percent of such funds for research, development, and technology transfer purposes.

Senate amendment

The Senate amendment directs the Secretary to establish a coordinated long-term program of highway research for the develop-

ment, use and dissemination of performance indicators to measure the performance of the surface transportation system, including the indicators for productivity, efficiency, energy use, air quality, congestion, safety, maintenance, and other factors that reflect the overall performance of the surface transportation system.

Conference substitute

The conference substitute combines the House and Senate provisions. Two percent of state apportionments are to be made available for state research and planning purposes.

EISENHOWER FELLOWSHIP PROGRAM

House bill

No comparable provision.

Senate amendment

The Senate amendment provides for the establishment of a transportation research fellowship program at a level of $2,000,000 per fiscal year.

Conference substitute

The conference substitute is the provision in the Senate amendment. Development of new and efficient combinations of transportation infrastructure requires that the nation's brightest minds be attracted to the transportation engineering and research professions. The Dwight David Eisenhower Transportation Fellowship Program is designed to accomplish this objective. The conferees recognize that the fellowship program will be most successful if it serves to attract critical masses of students and professors to evolve into centers of excellence. Therefore, the conferees intend that the program shall be limited to no more than fifty universities, to be selected by the Secretary on the basis of their academic reputation in the transportation engineering and research areas. The conferees intend that the fellowships should be awarded competitively, and be available only to students enrolled in work toward a graduate degree in transportation engineering or research, but exceptions can be made for students in the final year of undergraduate engineering degrees who can demonstrate that they intend to specialize in a transportation-related field following graduation.

NATIONAL HIGHWAY INSTITUTE

House bill

The House bill provides for the continuation of the National Highway Institute and removes the current limitation on training to allow for training of U.S. citizens and foreign nationals engaged in highway work of interest to the United States.

Senate amendment

The Senate amendment is the same as the House bill but provides for a 75 percent Federal share.

Conference substitute

The conference adopts the Senate amendment with an 80 percent Federal share.

INTERNATIONAL TRANSPORTATION OUTREACH PROGRAM

House bill

The House bill requires the Secretary of Transportation to conduct an international transportation outreach program to (1) seek, evaluate, and disseminate information about innovations abroad for application in the U.S.; (2) to encourage use of American goods and services abroad; and (3) to assist developing countries to improve their surface transportation technology and institutions. Funds provided by cooperating organizations or persons may be held in a special account and used in furtherance of the outreach program.

Senate amendment

The Senate amendment provides authority for an international outreach program but does not require it.

Conference substitute

The Conference substitute is the Senate amendment modified by a House provision requiring coordination with other appropriate Federal agencies.

EDUCATION AND TRAINING

House bill

The House bill continues the Rural Transportation Assistance Program (RTAP) to provide technical assistance to highway and transportation agencies in rural areas and urbanized areas of 50,000 to 1,000,000 in population.

Senate amendment

The Senate amendment contains two provisions continuing the Rural Transportation Assistance Program. Both continue the program as proposed in the House bill, but one expands RTAP activities to include tourism and recreational travel assistance. The provision also requires that four program centers be designated to provide training on intergovernmental transportation planning and project selection and tourism recreational travel for American Indian tribal governments. In 1992 $5 million is provided to fund tourism and recreational travel assistance, and $8 million is provided annually to fund the RTAP program and new services for American Indian tribal governments at a 100 percent share.

Conference substitute

The Conference substitute continues RTAP technical assistance programs and expands RTAP services to include assistance to urban areas between 50,000 and 1,000,000 in population and tourism and recreational travel technical assistance. Two centers must be designated to provide training on intergovernmental transportation planning and project selection and tourism recreational travel to American Indian tribal governments. The RTAP program is authorized at $6 million annually and services to American Indian tribal governments are funded at a 100 percent share. In addition, the Secretary of the Interior may reserve funds from the Indian reservation roads program to finance Indian technical centers.

APPLIED RESEARCH AND TECHNOLOGY PROGRAM; SEISMIC RESEARCH PROGRAM

House bill

The House bill amends Section 307 of Title 23 to require the Secretary to establish and implement an applied research and technology program. The purpose of the program is to accelerate testing, evaluation, and implementation of technologies that may improve the durability, efficiency, environmental impact, productivity, and safety of highway, transit, and intermodal transportation systems. Eighteen months after date of enactment, the Secretary must issue guidelines on selection of technologies, test locations, and collection and evaluation of test data. The Secretary is directed to carry out projects to assess the state of technology for heating bridge decks on a minimum of ten bridges being replaced or rehabilitated, to carry out a project demonstrating the environmental and safety benefits of elastomer modified asphalt, to conduct a program to demonstrate the safety benefits and durability of all weather pavement markings, to assess the state of technology of thin bonded overlay and surface lamination of pavement, and to demonstrate the durability and construction efficiency of high performance blended hydraulic cement. Highway projects carried out under this program must be conducted on the Federal-aid system.

The Secretary is required to transmit to Congress an annual report on the progress and findings of the applied technology program.

Funding for the applied technology program established under this section is derived from administrative and research funds set aside under section 104(a) of title 23 and section 21(h) of the Urban Mass Transportation Act of 1964 as amended at $35 million in fiscal year 1992, and $41 million per fiscal year for each of fiscal years 1993, 1994, 1995, 1996 and 1997. Not less than $4 million per fiscal year must be expended for projects related to heated bridge technologies, not less than $2 million must be expended for projects related to all weather pavement markings, and not less than $2,500,000 per fiscal year must be expended on thin bonded overlay projects.

A seismic research program must be carried out under this section in cooperation with a national earthquake engineering center to study the vulnerability of Federal-aid system highways, tunnels, and bridges to earthquakes and to develop and implement cost-effective methods of retrofitting highway facilities. Program progress and research findings are to be reported to Congress two years after date of enactment. Up to $2 million per fiscal year may be expended for carrying out seismic research under this section. The research is to be carried out in cooperation with the National Center for Earthquake Engineering at the University of Buffalo.

Senate amendment

No comparable provision.

Conference substitute

The conference substitute is the provision in the House bill with clarification that in implementing the seismic research program the Secretary shall consult and cooperate with other Federal agencies participating in the National Earthquake Hazards Reduction Program and ensure the program is consistent with objectives and planning of the Federal Emergency Management Agency.

BUREAU OF TRANSPORTATION STATISTICS (SEC. 606)

House bill

No comparable provision.

Senate amendment

The Senate amendment amends sec. 303 of title 23 U.S.C. to create a Bureau of Transportation Statistics, to be headed by a Director appointed by the President, to collect information on the performance of the national transportation system, to produce annual estimates of the use, productivity, safety, durability, and environmental effects of transportation systems, and to report these results annually to Congress.

Conference substitute

The conference agreement accepts the Senate language, with several modifications. It changes the reporting interval to once every two years, requires the Bureau to collect data relative to intermodal transportation, and affirms that the existence of the Bureau does not relieve the modal Administrators from responsibility of data collection and dissemination. $90 million is authorized from the Highway Trust Fund to fund the operation of the Bureau.

The Bureau of Transportation Statistics shall be responsible for compiling, analyzing, and publishing a comprehensive set of trans-

portation statistics of sufficient scope, quality, relevance, and reliability that Federal and nonfederal agencies and Congress have adequate and accurate information about the availability, reliability, costs, and benefits of alternative transportation technologies to make informed decisions about how best to allocate Federal funds among transportation projects and programs. Such information should include productivity in various portions of the transportation sector, traffic flows, travel times, vehicle weights, variables affecting the choices people make about travel (including the mode, time, and willingness to pay), the availability and number of passengers served by mass transit for each transit authority, the frequency of vehicle and infrastructure repairs and resulting losses of time and money, frequency of accidents, injuries and fatalities, damage to the environment resulting from transportation, and the condition of transportation infrastructure. All data shall, to the extent practicable, be comparable across transportation modes and intermodal transport systems. The conferees intend that all such statistics must have a sound scientific basis, be as free as possible from bias resulting from data collection or interpretation procedures, and they must be widely accepted by decision-makers as accurate and relevant.

The Director of the Bureau shall, in cooperation with the modal administrators, other federal agencies, the States, and other non-federal entities, pursue a comprehensive program for the collection and analysis of data relating to the performance of the national transportation system.

A necessary step in this process is developing better indicators for productivity, efficiency, energy use, air quality related to vehicle operation, congestion, safety, maintenance, and other factors that reflect the overall performance of the surface transportation system. It is the intention of the conferees that the Director be directly involved in planning and review of the research to develop performance indicators for the national transportation systems. The most often reported indicators of productivity of transportation systems today are weight-miles or person-miles per employee-hour. While the underlying data are easily collected, these indicators are inadequate, because they convey little information about important issues such as the amount of fuel consumed, the cost of maintaining and repairing infrastructure and vehicles, the amount of pollution produced, the number of injuries, the reliability of timely arrival, and other factors that affect the costs and benefits of alternative decisions involved in transportation infrastructure planning. It is the intention of the conferees that the Director insure that such indicators are identified, and that data relative to their measurement are collected, analyzed, and reported.

The Director shall assure that data and other information are collected in such a manner as to maximize the ability to compare data from different regions, and over time, such that trends and regional differences, if they exist, can be detected and analyzed for statistical significance. The Director shall insure that the data are quality-controlled for accuracy, and promulgate guidelines for the collection of such information to insure that the information is accurate, reliable, relevant, and in a form that permits systematic analysis.

The Director shall coordinate the activities of the Bureau with related information gathering activities of other agencies. The conferees intend that data managed by the Bureau shall not be limited to highway transportation, but is extended to include rail, maglev, and intermodal transportation systems involving rail, highways, ships, and air transport. The purpose of this change in section 115 of the previous Act is to ensure that the efficiency and productivity of the transportation systems in the United States is maximized. This cannot be done by developing newer technology for highways alone. Strategic research planning must consider the importance of potential and actual products in the context of competing transport modes or economies of intermodal approaches to transport. The conferees intend that the Bureau integrate environmental effects and economics into transportation statistics, and that the Director coordinate data collection activities with those of the Environmental Protection Agency, the Department of Commerce, and other government agencies, wherever appropriate.

The Director shall make transportation statistics readily available to federal and non-federal agencies and other organizations. It is the intention of the conferees that data managed by the Bureau be accessible in computerized format, with adequate documentation and user-services.

The Director shall review information needs at least annually with the Advisory Council on Transportation Statistics and make recommendations to appropriate officials responsible for research programs in the Department of Transportation and other agencies involved in indicator research and development. The Director shall appoint an Advisory Council on Transportation Statistics, comprised of no more than six private citizens who have experience in transportation statistics and analysis (at least one of whom should have expertise in economics) to provide advice on the operation of the Bureau. The Council shall be subject to the provisions of the Federal Advisory Committee Act. It is the intention of the conferees that at least one of the Council members be a professional statistician. No later than one year after the start of Bureau operations, the Bureau shall enter into an agreement with the National Academy of Sciences for a study of the adequacy of the data collection resources, needs, and requirements, including data collection procedures and capabilities, data analysis procedures and capabilities, the ability of data bases to integrate with one another, computer hardware and software capabilities, information management systems (and their ability to integrate with one another, personnel, and budgets. The report shall be delivered within 18 months of initiation of the agreement, and should include recommendations for improving data collection systems, procedures, hardware, software, and information management systems. It is the intention of the conferees that this study serve as the first of the annual data reviews required of the Director.

Nothing in paragraph (1) shall authorize the Bureau to require the collection of data by any other monitoring Department, or to establish observation or monitoring programs. It is the intention of the conferees that the Director use Bureau resources to enhance data collection, analysis, and reporting by other organizations to fill identified data gaps, rather than to organize stand-alone monitoring programs, in order to insure the most cost-effective use of transportation monitoring resources.

The Bureau shall be under the direction of a Director of Transportation Statistics, who shall be appointed by the President, by and with the advice of the Senate. The Director shall have substantial technical experience in the compilation and analysis of transportation statistics. The term of the appointment shall be four years, to begin within 180 days of enactment of this Act. It is the intention of the conferees that the term of office of the Director overlap with that of the President. The Director shall report directly to the Secretary and be compensated at Level V of the Executive schedule. The conferees intend that the Director be given substantial latitude to insure that Bureau data and information are not biased in any way by political considerations, and that release of data shall not be subject to policy review.

Data collected by the Bureau shall not be disclosed publicly in a manner that would reveal the personal identity of an individual, consistent with the Privacy Act of 1974 (5 U.S.C. 552a), or to reveal trade secrets and commercial or financial information provided by any person to be identified with such person. The conferees recognize that statistics may become biased if the very fact that a datum is being measured causes the object of measurement to change its characteristics or behavior. This may happen if data collected for the purpose of describing a system also can be used to cause harm to someone by legal or economic means. If this happens people may take great pains to conceal the true characteristics of the object. In order to avoid such bias, the conferees intend that the Director establish such procedures as necessary to ensure that all Bureau data are collected and stored in such a way that they cannot be used to prosecute individuals or reveal business information that could harm persons or corporations. The conferees intend that the Director consult with officials involved in other Federal data collection activities to identify the most appropriate means to meet the criteria.

The Director shall produce annual reports on transportation statistics and submit them to Congress, the states, and other interested parties. These reports shall compare transportation statistics among the states and regions, as well as reporting on trends at the state, regional, and national level. The conferees intend that if the statistics are based on estimates, rather than complete censuses, quantitative estimates of precision and statistical significance of trends and changes also shall be provided. The report shall include such indicators as are enumerated in section 303(b), indicators developed under section 115(a)(3), and other indicators, as appropriate for conducting cost-benefit analyses, prioritizing transportation system problems, and analyzing proposed solutions. In the estimation of costs and benefits, the conferees intend that it is not acceptable to set a cost or benefit at zero only because it cannot be quantified precisely. The conferees also intend that opportunity costs and costs such as decreased property values next to rights-of-way should be included, as well as benefits associated with increased reliability, more enjoyable travel, and other social costs and benefits.

The Director should, wherever feasible, use data already collected by the modal Administrators or other agencies. The Director should identify any additional specifications or quality assurance that must be applied to such data to ensure that it meets the needs of the Bureau.

$90 million is authorized to conduct the work of the Bureau. The conferees intend that the Bureau be funded at a minimum of $4 million during fiscal year 1992, plus $500,000 to begin the National Academy of Sciences study. It is the intent of the con-

ferees that the Bureau be funded at no less than $25 million per year in the last year of this authorization.

ADVISORY COUNCIL ON TRANSPORTATION STATISTICS

House bill

No comparable provision.

Senate amendment

The House amendment provides for the establishment of an Advisory Council on Transportation Statistics to advise the Director of the Bureau of Transportation Statistics.

Conference substitute

The Conference substitute is the Senate provision.

DOT DATA NEEDS

House bill

The House bill requires the Secretary to enter into an agreement with the National Academy of Sciences to conduct a study on the adequacy of data collection procedures and capabilities of the Department of Transportation.

Senate amendment

The Senate amendment requires a similar data needs study but requires the Secretary to consult with the Director of the Bureau of Transportation Statistics in entering into the agreement with the National Academy of Sciences.

Conference substitute

The Conference substitute is the Senate provision.

SURFACE TRANSPORTATION RESEARCH AND DEVELOPMENT PLANNING

House bill

The Secretary is instructed to develop and submit to Congress an annual integrated national surface transportation research and development plan.

Senate amendment

No comparable provision.

Conference substitute

The conference substitute includes the annual surface research and development plan from the House version. The plan's purpose is to more sharply focus research and development activities within the Department. It is to include all ongoing research and development activities throughout the Department, as well as those planned for future years. The plan shall also include a 10-year projection of Department-funded long-term research and development. A plan modelled after the Experimental Program to Stimulate Competitive Research (EPSCoR) at the National Science Foundation should be included to assure that university research efforts are broadly based geographically. Major contracts must be described. Through the plan, specific objectives are to be followed leading to advanced technologies being commercially developed by U.S.-based companies. The plan is being commercially developed by U.S.-based companies. The plan is to be complete, identifying specific scopes of work, organization of personnel, milestone schedules, estimated costs by phase of activity, current state-of-the-art, and accomplishments. Plans and organization for future activities should also be included. For new systems, broad scope preliminary cost estimates are acceptable the first year if followed a year later with firm cost estimates the Congress can use in making informed budget decisions.

NATIONAL COUNCIL ON SURFACE TRANSPORTATION RESEARCH

House bill

The House bill establishes a seven-member National Council on Surface Transportation Research, with three members appointed by the President and one each by the Speaker of the House minority leader, the Senate majority leader and the Senate minority leader, to investigate and study current surface transportation research and technology developments in the United States and internationally.

The Council is to identify gaps and duplication in current surface transportation research efforts, determine research and development areas which may increase efficiency, productivity, safety and durability in the nation's surface transportation systems, and develop a national surface transportation research and development plan for immediate implementation.

The Council is to survey current surface transportation research efforts in the United States and internationally, examine factors causing fragmentation of surface transportation research and determine how to achieve increased coordination, compare the role of the Federal Government with the role of foreign governments in promoting surface transportation, identify barriers to innovation in surface transportation research, examine funding arrangements for surface transportation research and the level of resources currently available and identify surface transportation research areas and opportunities, including opportunities for international cooperation, to develop a short-range and long-range national surface transportation research and development plan.

Council members are to be appointed from among individuals involved in surface transportation research, including all levels of government, other public agencies, colleges and universities, public, private and nonprofit research organizations, and organizations representing transportation providers, shippers, labor, and the financial community. One member appointed by the President shall serve as an international research advisor for the Council.

Senate amendment

No comparable provision.

Conference substitute

The conference substitute contains the House bill provision.

RESEARCH ADVISORY COMMITTEE

House bill

The Research Advisory Committee (RAC) is established in the House bill to ensure that the Department takes maximum advantage of available outside advice in planning and evaluating its research program and projects, especially the long-term efforts. The Department's research must both feed and be fed by the research programs of other organizations and the results of the Department's research must serve the interests of the surface transportation community of the United States. Both these objectives will be furthered by the establishment of the RAC which is to be formed after the report by the National Council on Surface Transportation Research is submitted September 30, 1993.

Appointees to the RAC should be selected on the basis of their technical knowledge of the state-of-the-art and the requirements for the research, rather than as representatives of organizations, but inclusion of a representative sample of major Department constituencies is desirable. Members are to include representatives from labor and universities that have experience in developing the surface transportation technologies that are being examined by RAC. RAC members are not to be paid for their service, but in some instances, individuals can be reimbursed for the transportation and other expenses necessary to participate. The application of certain limitations clauses is intended to make appropriate staffing available to the RAC. There will be a need for certain research advice which is too specialized to be effectively considered by the full RAC. Subordinate committees composed of experts with specialized backgrounds may be used to deal with such issues.

Senate amendment

The Senate amendment contains no comparable provision.

Conference agreement

The Conferees accept the House provision.

COMMEMORATION OF EISENHOWER NATIONAL SYSTEM OF INTERSTATE AND DEFENSE HIGHWAYS

House bill

The House bill requires that a study be conducted to determine an appropriate emblem to be placed on highway signs referring to the Interstate System to commemorate the vision of President Dwight D. Eisenhower.

Senate amendment

No comparable provision.

Conference substitute

The conference substitute is the provision in the House bill.

STATE LEVEL OF EFFORT

House bill

The House bill directs the Secretary to begin a comprehensive study of the most appropriate and accurate methods of calculating State level of effort in funding surface transportation programs.

The study shall examine data relating to state and local revenues collected and spent on surface transportation programs, including fuel taxes, toll revenue, sales taxes, general fund appropriations, property taxes, bonds, administrative fees, taxes on commercial vehicles, and other state and local revenue sources.

The Secretary is to report to Congress within 12 months of enactment with recommendations.

Senate amendment

The Senate amendment is similar to the House provision except that it requires the study to be conducted jointly by the Secretary and the Director of the Bureau of Transportation Statistics. The report is to be submitted to Congress within nine months of enactment.

Conference substitute

The conference substitute contains the Senate amendment.

EVALUATION OF STATE PROCUREMENT PRACTICES

House bill

The House bill directs the Secretary to conduct a study of whether current procurement practices used by state departments and agencies are adequate to ensure the highest quality of materials and cost-effectiveness of projects. The Secretary is directed to report to Congress within two years with an assessment of the need for a national policy on quality assurance.

Senate amendment

No comparable provision.

Conference substitute

The conference substitute contains the House bill provision.

BORDER CROSSINGS

House bill

The House bill provides for improvement and integration of intermodal transportation facilities, including methods of achieving the optimum yield from such systems.

Senate amendment

The Senate amendment directs the Secretary to assess the need for transportation infrastructure improvements to facilitate U.S. to Mexico and U.S. to Canada trade. The Senate amendment also directs the Secretary to determine whether U.S. to Canada border crossing are designed for future growth and expansion and whether they will accommodate greater commercial traffic resulting from free trade agreements and increased tourism traffic.

Conference substitute

The conference substitute combines the provisions of the House bill and Senate amendment.

FUNDAMENTAL PROPERTIES OF ASPHALTS AND MODIFIED ASPHALTS

House bill

No comparable provision.

Senate amendment

The Senate amendment requires the Federal Highway Administration to enter into a contract with a nonprofit organization for studies of the fundamental chemical properties and physical properties of petroleum asphalts and modified asphalts used in highway construction. Authorizations of $3 million per fiscal year are provided to fund the studies. A test strip must be implemented to demonstrate energy and environmental advantages of shale oil modified asphalts under extreme climatic conditions. Funds for the test strip are to be made available from funds for parks and park highway.

Conference substitute

The conference substitute directs the Administrator of the Federal Highway Administration to undertake fundamental studies of the performance of petroleum asphalts and modified asphalts used in highway construction. The conferees direct the Administrator to contract with the Western Research Institute, located in Laramie, Wyoming, a nonprofit organization, for purposes of complying with this section, as the prime organization responsible for carrying-out the technical and analytical support and related research. Based on previous research and the volume of performance data that must be considered, the conferees direct the Administrator to provide at least $3 million each year. This funding level will ensure that there is alignment between field performance characteristics of petroleum asphalts with diagnostic chemical and physical property tests designed to predict performance of petroleum asphalts. The conferees further direct the Administrator to enter into such contracts on the basis of the Western Reseach Institute's demonstrated expertise and experience in such related research programs in addition to the organization's past research activities on behalf of the Strategic Highway Research Program.

The Administrator is further directed, in coordination with the Western Research Institute, to implement a test strip of a shale oil-modified asphalt in Yellowstone National Park. The conferees direct this demonstration to be constructed with the expressed purpose of providing findings on whether such shale oil modified asphalt will provide a domestic asphalt feedstock alternative that provides enhanced performance characteristics, economic, and environmental advantages over current technologies. The conferees directed the selection of the demonstration site to ensure that such a test strip is subjected to severe and extreme climate conditions. Because of the importance of this demonstration, the conferees have directed a final report on the findings of this demonstration to be submitted to Congress not later than November 30, 1995.

RESEARCH AND DEVELOPMENT AUTHORITY OF SECRETARY OF TRANSPORTATION

House bill

Title 49 of the U.S. Code, subtitle I, lists the purposes of the Department of Transportation (DOT). The Department purposes should also include basic research if DOT is to promote and undertake research and development related to transportation. The House bill adds the requirement to ". . . include basic automotive highway vehicle science." This provides DOT with a mandate to conduct research in long-term, high-risk basic highway vehicle science.

Senate amendment

The Senate amendment contains no comparable provision.

Conference substitute

The Conferees adopt the House provision.

PURPOSES OF DEPARTMENT OF TRANSPORTATION

House bill

This House bill amends Title 49, USC subchapter I on the duties of the Secretary of the Department of Transportation to include that the Department will stimulate technological advances in transportation "through research and development." Both basic scientific research and research in long-term, high-risk highway vehicle sciences, are very important. Accordingly, the House bill authorizes research to be included in the fundamental mandates of the Department.

Senate amendment

The Senate version contains no comparable House provision.

Conference substitute

The Conference substitute includes the House provision.

ADVANCED AUTOMOTIVE RESEARCH CONFERENCE AND AWARD

House bill

The House bill establishes an Advanced Automotive Research Conference and a National Award for the Advancement of Motor Vehicle Research. It does so through the Stevenson-Wydler Technology Innovation Act of 1980, which established a program to support industry's technology development efforts. The Act also established a National Technology Medal for companies that have made outstanding contributions to the promotion of technology.

In order to examine and analyze the strengths and weaknesses of the U.S. motor vehicle industry, a conference on advanced automotive research and development should be convened. Accordingly, the House bill amends the Stevenson-Wydler Act to mandate that the Department of Commerce convene a conference of automotive experts including representatives of labor and academia to examine ways in which technology transfer of research results from the federal laboratories can improve U.S. motor vehicle industrial competitiveness. The results of the conference would be published and submitted to Congress. The recommendations of the conference should focus on further research necessary to improve U.S. competitiveness in automotive technology. The House bill also amends the Stevenson-Wydler Act to establish a National Award for the Advancement of Motor Vehicle Research. The award consisting of a medal, and potentially a privately supported cash prize, will honor domestic motor vehicle manufacturers, suppliers, or Federal laboratory personnel who have substantially improved the domestic motor vehicle in safety, energy savings, or environmental impact.

Senate amendment

The Senate amendment contains no comparable provision.

Conference substitute

The Conference substitute contains the House provision.

UNDERGROUND PIPELINES

House bill

The House bill requires the Secretary to study the feasibility, costs, and benefits of constructing and operating pneumatic capsule pipelines for underground movement of commodities.

Senate amendment

No comparable provision.

Conference substitute

Same as House bill.

BUS TESTING

House bill

Subsection (a) amends Section 12(h) of the Urban Mass Transportation Act of 1964 to clarify that new bus models required to be tested under that Act include buses using alternative fuels.

Subsection (b) amends 317(b)(1) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 to require braking performance and emissions tests be conducted on new bus models. Funding of $1.5 million is provided to the bus testing center to purchase and install new testing equipment in accordance with new testing requirements.

Subsection (c) establishes a revolving loan fund of $2.5 million to fund bus testing facility operations and maintenance. In programming the use of the revolving loan fund, it is intended to allow the operators of the testing facility to borrow from the fund only to cover operating expenses brought on by a lack of vehicles to be tested.

Senate amendment

The Senate has no comparable provision.

Conference substitute

Same as House bill.

NATIONAL TRANSIT INSTITUTE

House bill

The House bill directs the Secretary to make grants for the establishment of a national transit institute to develop and administer training programs on a broad range of transit matters, techniques and procedures for Federal, state and local transportation employees engaged or to be engaged in Federal-aid transit work.

The Secretary is to make available $3 million per fiscal year for carrying out national transit institute activities.

States and public transit agencies may use up to one-half percent of section 3 and 9 funds for up to 80 percent of tuition and direct education and training expenses for state and local transportation department employees.

Senate amendment

No comparable provision.

Conference substitute

The conference substitute contains the House bill provision, with a modification to provide that the National Transit Institute will be funded equally from the State and national research programs under section 26 of the Federal Transit Act of 1969.

UNIVERSITY TRANSPORTATION CENTERS

House bill

The House bill amends Section 11(b)(2) of the Urban Mass Transportation Act of 1964 to include transportation safety as an area of responsibility for University Transportation Centers. Section 11 is also amended to designate three new centers: a national center for transportation management, research, and development at Morgan State University; a center for transportation and industrial productivity at New Jersey Institute of Technology; and a national rural transportation study center at the University of Arkansas. The Secretary also is directed to make a grant of $2.42 million in fiscal year 1992 to Monmouth College for the James and Marlene Howard Transportation Information Center. Provisions of the 1964 Act requiring a National Advisory Council are deleted and replaced by a requirement that the Centers' studies be coordinated and disseminated by the Secretary. Up to one percent of funds provided for the University Transportation Center program are made available to the Secretary for its administration.

Senate amendment

The Senate amendment calls for the establishment of three new additional National Centers for Transportation Management, Research, and Development to accelerate involvement and participation on the part of minority individuals and women in transportation-related professions.

Conference substitute

The conference substitute in the House provision with the addition of a provision establishing a grant for a National Center for Advanced Transportation Technology at the University of Idaho.

This center shall be similar to the other national centers established under this section but it shall not be subject to all of the provisions of 49 U.S.C. 1607(b) such as the federal share. It shall be specifically funded for three fiscal years at 80% federal share and the funds shall not be subject to any obligation limitation.

UNIVERSITY RESEARCH INSTITUTES

House bill

Section 11 of the Urban Mass Transportation Act of 1964 is amended by the House bill to require the Secretary to make grants to establish and operate an institute for national surface transportation policy studies at San Jose State University, an infrastructure technology institute at Northwestern University, an Urban Transit Institute with the University of South Florida, and an Institute for Intelligent Vehicle Highway Concepts at the University of Minnesota. Funding of $250,000 per fiscal year is authorized for the Institute for National Surface Transportation Policy Studies; $3 million per fiscal year is authorized for the Infrastructure Technology Institute; and $1 million per fiscal year is authorized for each of the Urban Transit Institute and the Institute for Intelligent Vehicle Highway concepts.

Senate amendment

No comparable provision.

Conference substitute

The conference substitute adopts the House provision and establishes at the University of North Carolina an Institute for Transportation Research and Education (ITRE). To support minority participation in urban transit research, grants will be made to North Carolina A&T State University in conjunction with the University of South Florida and a consortium of Florida A&M, Florida State University, and Florida International University for Interdisciplinary Study to address the diverse transportation problems of urban areas experiencing significant and rapid growth.

INTELLIGENT VEHICLE HIGHWAY SYSTEMS

House bill

The house bill establishes a program to research, develop, operationally test, and implement intelligent vehicle/highway systems. The bill requires development and implementation of a strategic plan and provides for planning grants to states and local governments, as well as assistance for operational technical projects. The bill establishes a program of financial and technical assistance for implementation of IVHS corridors.

Senate amendment

The Senate provisions are similar to those in the House bill, but establishes a "Congested Corridors" program for implementation of IVHS Technology.

Conference substitute

The conference substitute combines the provisions of the House bill and Senate amendment. Requirements for development of a prototype by 1997 may be satisfied through a test track, and implementation of IVHS technology in corridors and other areas must make a potential contribution to the Secretary's strategic plan.

ADVANCED TRANSPORTATION SYSTEMS

House bill

The House bill authorizes the Department of Transportation to award grants, matched on the state or local level, to set up capital manufacturing consortia dedicated to the development of cleaner transit systems and electric vehicles. The program provides seed money needed by small and medium size suppliers, larger manufacturers, universities and other research and manufacturing groups to collaborate on pushing an idea from laboratory to market. The program will give states maximum freedom in fostering public/private partnerships based on their own unique situations and recognizes the public benefits of solving mobility and energy problems with cleaner vehicles.

Senate amendment

No comparable provision.

Conference substitute

The conference substitute is the provision in the House bill.

TITLE VII—AIRPORT AUTHORITY

Conference substitute

The Conference Substitute enacts the Metropolitan Washington Airports Act Amendments of 1991. The substitute is the same as H.R. 3762, passed by the House on November 18, 1991. The substitute restores the full authority of the Metropolitan Washington Airports Authority which operates Washington National and Dulles Airports.

The legislation is necessary because of the Supreme Court's decision in Metropolitan Washington Airports Authority v. Citizens for the Abatement of Aircraft Noise, holding unconstitutional the provisions in the MWA Act of 1986 which established a Board of Review of nine Members of Congress with veto power over specified major decisions of MWAA's Board of Directors. As a result of this decision, MWAA, which runs National and Dulles Airports, is unable to take the actions over which the Board of Review held veto power, including adoption of a budget and authorization of the issuance of bonds for airport development.

The Conference Substitute makes the following changes in the 1986 Act and develops a constitutionally acceptable structure[1] which will ensure that decisions of the Airports Authority will take account of the interests of users of the airports.

(1) Under the 1986 Act, the Board of Review members were selected by the Airports Authority from lists provided by the Speaker of the House and the President pro tempore of the Senate. In its decision that the Board of Review procedure was unconstitutional, the Supreme Court criticized the requirements in the 1986 Act that the Board members must be Representatives and Senators from the authorizing and appropriating committees; the absence of a specific authorization for the Airports Authority to reject a list and request additional nominations; the absence of a requirement that the Board members be users of the airport; and the absence of power in the Airports Authority to remove Members of the Board of Review.

The Conference substitute continues the requirements for a Board of Review by directing the Airports Authority to establish a Board of Review of nine members; four from a list provided from the Speaker of the House, four from a list provided by the President pro tempore of the Senate, and one chosen alternately from a list provided by the Speaker and the President pro tempore. However, in response to the matters raised by the Supreme Court, the Conference substitute makes a number of changes in the requirements for the Board. The substitute gives the Airports Authority the right to reject a list and request additional recommendations. The individuals on the list submitted by the Speaker and the President pro tempore do not have to be Senators or Representatives. They are required to have experience in aviation matters and be frequent users of the Metropolitan Washington Airports. The Airports Authority Board of Directors is given authority to remove members of the Board of Review for cause by a two thirds vote.

(2) The 1986 Act requires the Airports Authority to submit to the Board of Review, at least 30 days before their effective dates (60 days in the case of a budget), the Authority's budget, authorizations for the issuance of bonds, actions on an airport master plan, actions on regulations, and appointment of a chief executive officer. The substitute continues the requirements that these actions be submitted to the Board of Review and requires that the following additional matters to be submitted to the Board of Review: amendments to the Airports Authority's annual budget; an annual plan for issuance of bonds and any amendments to such plan; the award of a contract (other than a contract in connection with the issuance or sale of bonds) which has been approved by the Board of Directors of the Airports Authority; any action of the Board of Directors approving terminal design or airport layout or modifications thereof; and an authorization for disposal of land or the grant of an easement.

(3) The 1986 Act is modified to end the Board of Review's authority to disapprove

[1]See, for example, the opinion of the American Law Division of the Congressional Research Service that the legislation is constitutional, Congressional Record of November 18, 1991 at pp. H10347-10349.

actions submitted by the Airports Authority. Instead, the Board of Review would have authority to recommend changes in an action submitted by the Airports Authority (including recommendations that the Authority not take the proposed action). The time for Board of Review action would be changed from 30 days in existing law, to 30 calendar days or 10 legislative days, whichever period is longer.

If the Board of Review made a recommendation, the Authority could not take the proposed action until the Authority had evaluated and responded in writing to the recommendation of the Board of Review. If the Authority's proposed action followed the recommendations of the Board of Review, the action could be taken. If the Authority did not follow the Board of Review's recommendations, the proposed action could not be taken until the proposal had been submitted to the Congress and sixty legislative days had passed. During this period, Congress would be able to consider a joint resolution (which would have to be signed by the President) disapproving the proposed action.

The substitute establishes special Congressional procedures to ensure that procedural difficulties would not prevent Congress from passing a resolution of disapproval during the sixty day period. The special procedures for resolutions of disapproval are modeled on those in the D.C. Home Rule legislation. Under the procedures in the substitute, a resolution of disapproval of an action of the Airports Authority would be referred to the House Committee on Public Works and Transportation and the Senate Committee on Commerce Science and Technology. If the Committee to which a resolution had been referred had not reported it at the end of twenty calendar days, it would be in order to move to discharge the Committee from further consideration of the joint resolution. A motion to discharge would be highly privileged, and debate would be limited to not more than one hour. An amendment would not be in order, nor would it be in order to move to reconsider. Additional procedures are established for consideration by the Senate of resolutions of disapproval which have been reported or discharged. Debate on a resolution would be limited to not more than ten hours and amendments or motions to recommit would not be in order.

(4) The substitute includes a provision ratifying actions of the Airports Authority which were submitted to the Board of Review before the Supreme Court's decision. This provision basically clarifies existing law on the effect of an adverse court order on the Board of Review's powers.

(5) The substitute includes a provision that until the Airports Authority establishes a new Board of Review, and at any time the Airport Authority fails to fill more than four vacancies on the Board of Review, the Airports Authority will have no power to take the actions which must be submitted to the Board of Review. This will protect against the Airports Authority failing to comply with the statutory requirement that it appoint a Board of Review.

(6) A new provision is added to existing law directing the Comptroller General to review the Airports Authority's contracting procedures for consistency with sound government contracting principles and the provisions of existing law requiring the Authority to use competitive bidding procedures. The Comptroller General would be required to file periodic reports with the House and Senate Aviation committees.

(7) To supplement the new authority given the Board of Review to review contracts of the Airports Authority, the substitute adds a new requirement that every contract must include a provision that no member of the Board of Review may benefit from the contract.

(8) The substitute authorizes the Secretary of Transportation to amend the lease of the airports to the Authority to incorporate the new Board of Review procedures.

Several provisions in the Conference Substitute should be clarified; the exception in section 6007(f)(4)(B)(vi) which states that "a contract in connection with the issuance or sale of bonds" is not subject to review by the Board of Review. It should be clear that this exception applies only to those documents necessary for the bond issuance and not to any contract relating to the selection of underwriters or to contracts funded by the bond proceeds.

Section 6007(h) has been amended to clarify its original intent. Any interruption in the Airports Authority's power was meant to be prospective; actions taken before a court order were not to be invalidated by such an order.

In addition, the Conferees believe that an objective in the redesign of the Metropolitan Washington Airports should be to minimize walking distances between terminals and between terminals and parking facilities. At National Airport, the Authority should make every reasonable effort to construct a permanent system for transporting people between the new North Terminal, the principal on-airport public parking facilities and the southern-most passenger terminal facilities, using a continuous loop system or a system of moving sidewalks. The Authority should periodically report to the Board of Review on the progress of its efforts.

The Conferees have been concerned with the difficulties which new entrants and limited incumbents have faced in obtaining slots at National Airport. In recognition of these difficulties, the Federal Aviation Administration, on February 24, 1984, awarded an exemption to Braniff Airlines to conduct four daily operations at National. These operations were being conducted at the time of passage of the Metropolitan Washington Airports Act of 1986. On January 12, 1990, after Braniff had ceased operations, FAA awarded America West an exemption to operate the slots previously held by Braniff. The rationale for the exemption was "the Department's policy of promoting competition in the airline industry."

The original America West exemption was granted for 6 months. Since then, the exemption has been extended for two one-year periods.

The Conferees agree with the FAA's decision to award four slots to America West in the interest of competition. However, we are concerned that the relatively short term of each renewal of the exemption makes it difficult for the carrier to engage in long-term planning, and may limit the willingness of creditors to advance funds to America West. With the decline in competition and the financial difficulties of the airline industry, the survival of major carriers such as America West is of great importance. Accordingly, we urge FAA to consider a long-term exemption to America West to operate the four slots, subject, of course, to the same rights FAA retains for any of the slots at National Airport.

Another matter of concern to the Conferees has been the expiration of provisions in the 1986 Act guaranteeing to airport employees, for five years, continuation of the rates of pay and other employee benefits which were in effect on the date the airports were leased to the regional Airports Authority. Notwithstanding the expiration of these provisions we expect the Authority to continue to afford employees fair treatment with respect to wages and other conditions of employment. We expect to monitor employee relations at the Airport, and to take appropriate corrective action if necessary.

TITLE VIII—REVENUE-RELATED PROVISIONS

A. HIGHWAY-RELATED EXCISE TAX PROVISIONS

1. TAX RATES

Present law

Current highway motor fuels and other highway excise taxes (the "HTF taxes") are scheduled to expire after September 30, 1995. These taxes include: 11.5 cents per gallon on gasoline and special motor fuels (including motorboat and small engine fuels); 17.5 cents per gallon on highway diesel fuel; 12 percent of retail price on heavy trucks and truck trailers; graduated rates on heavy highway vehicle tires; and a graduated annual use tax on heavy highway vehicles. All revenues from these tax rates are deposited in the Highway Trust Fund ("HTF"), except that revenues from taxes on motorboat and small engine gasoline fuels deposited in the HTF are transferred to the Aquatic Resources Trust Fund ("Aquatic Fund").

Gasoline, special motor fuels, and diesel fuel (including diesel fuel used in trains) are taxed at 2.5 cents per gallon through September 30, 1995. Revenues from these taxes are retained in the General Fund. Further, a separate 0.1-cent-per-gallon tax applies to these fuels to finance the Leaking Underground Storage Trust Fund ("LUST fund").

House bill

The House bill extends current HTF taxes (and exemptions from these taxes) for four years, through September 30, 1999. Also, the House bill extends current trust fund taxes on motorboat and small engine fuels for that period.

The current 2.5 cents-per-gallon deficit reduction rate on motor fuels, including the train diesel fuel tax, is not extended beyond the current 1995 expiration. Thus, from October 1, 1995, through September 30, 1999, the motor fuels tax rates (not including the LUST fund rate) will be 11.5 cents per gallon for gasoline and special motor fuels and 17.5 cents per gallon for highway diesel fuel.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

2. DEPOSITS AND TRANSFERS OF REVENUES

Present law

Gross revenues from the HTF taxes are transferred to the HTF through September 30, 1995. Gross revenues from the 11.5 cents-per-gallon taxes on certain motorboat fuels and small-engine gasoline fuel are transferred from the HTF to the Aquatic Fund through September 30, 1995.

House bill

The House bill extends the transfers of gross revenues from the current HTF taxes to the HTF through September 30, 1999. The House bill also extends transfers from the HTF to the Aquatic Fund of the fuels taxes currently transferred to the Aquatic Fund through September 30, 1997 (to conform to the HTF expenditure authority termination date).

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

B. HIGHWAY TRUST FUND PROVISIONS

1. TRUST FUND EXPENDITURE AUTHORITY

Present law

HTF expenditure authority is scheduled to expire on October 1, 1993.

The Aquatic Fund consists of two accounts: the Sport Fish Restoration Account for which there is no scheduled expiration date of expenditure authority and the Boat Safety Account for which expenditure authority is scheduled to expire after March 31, 1994.

House bill

The House bill extends HTF expenditure authority through September 30, 1997. Expenditure authority for the Aquatic Fund's Boat Safety Account is extended through March 31, 1998.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

2. TRUST FUND EXPENDITURE PURPOSES

a. Highway Account Generally

Present law

HTF Highway Account amounts are available, as provided in appropriations acts, to funds obligations incurred under the Highway Revenue Act of 1956, the Surface Transportation Act of 1982, the Surface Transportation and Uniform Relocation Act of 1987 ("1987 Act"), or for amounts for a general purpose authorized under these acts as in effect on the date of enactment of the 1987 Act.

House bill

The House bill adds to the permissible HTF expenditure purposes expenditures for purposes provided under the Intermodal Surface Transportation Infrastructure Act (H.R. 2950).

The House bill further provides that the permissible HTF expenditure purposes include only those specified in each Act cited above, as those Acts are in effect on the date of enactment of H.R. 2950.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

b. Mass Transit Account

Present law

Amounts in the Mass Transit Account of the HTF are available through September 30, 1993, as provided in appropriation acts, for making capital expenditures under section 21(a)(2) of the Urban Mass Transportation Act of 1964 ("UMTA"). UMTA section 21(a)(2) authorizes Mass Transit Account expenditures for construction and purchase of facilities and rolling stock, innovative techniques in public transportation services, planning and technical studies, and grants to assist elderly and handicapped needs.

House bill

The House bill provides that Mass Transit Account amounts are to be available for "capital" and "capital-related" purposes under UMTA sections 21 (a)(2), (b), (c), (g)(2), (h), or (j)(1), as in effect on the date of enactment of H.R. 2950.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

c. Highway Tax Compliance

Present law

Internal Revenue Service ("IRS") highway tax compliance expenditures are financed from General Fund appropriations.

House bill

Provisions contained in the non-revenue titles of the House bill authorize HTF amounts for grants to the IRS and/or States for motor fuels and other highway use tax enforcement activities. These provisions also provide for an Advisory Committee to the Secretary of Transportation (from the Federal Highway Administration, IRS, and the States) to prepare and coordinate the highway tax enforcement projects, with semi-annual reports to be made to the House and Senate authorizing committees ("Public Works") on the expenditure of such monies.

The House bill's revenue title provides that Department of Transportation may not impose any conditions on the use of any funds allocated to the IRS, and that the IRS must submit a report to the Ways and Means and Finance Committees at least 60 days before the start of each fiscal year (after FY 1992) on the projected use of any such funds it receives. Further, the revenue title provides that the semi-annual reports by the Advisory Committee also are to be made to these tax-writing committees.

Senate amendment

The Senate amendment authorizes HTF amounts for grants to the IRS and/or States, to be used only to expand motor fuel tax enforcement activities and to reduce other highway use tax evasion. Semi-annual reports are to be made to the House and Senate Public Works committees on the expenditure of these monies.

Conference agreement

The conference agreement follows the House bill's restrictions on monies allocated to the IRS.

C. NATIONAL RECREATIONAL TRAILS TRUST FUND

Present law

Gasoline used in off-highway business uses is exempt from the HTF and deficit reduction rates of the gasoline excise tax. Off-highway recreational (i.e., nonbusiness) use is not exempt.

Revenues generated at the HTF tax rate that are attributable to nonbusiness off-highway uses are transferred to the HTF. Revenues attributable to the HTF rate on gasoline in a nonbusiness use of small-engine outdoor power equipment are then transferred from the HTF to the Aquatic Fund's Sport Fish Restoration Account.

House bill

No provision.

Senate amendment

Establishment of trust fund and transfer of revenues

The Senate amendment establishes a National Recreational Trails Trust Fund ("Trails Fund") in the Trust Fund Code of the Internal Revenue Code (the "Code"). For the first year of the new Fund's existence, amounts equivalent to 0.3 percent of total HTF receipts and, after the first year, revenues corresponding to those received from "nonhighway recreational fuel taxes," are to be transferred annually from the HTF to the Trails Fund.

Nonhighway recreational fuel taxes are defined as those imposed on gasoline, diesel, and special motor fuels (at the HTF rates) for (1) fuel used in vehicles and equipment on recreational trails or back country terrain (including highway vehicles when used on recreational trails, trail access roads not eligible for Federal highway funding, or back country terrain) and (2) fuel used in camp stoves and other outdoor recreational equipment.

Expenditures from trust fund

The Senate amendment authorizes general expenditure purposes from the Trails Fund by cross-referencing Public Works' provisions of the bill.

The Public Works' provisions in the Senate amendment set specific rules for allocating monies to the States for use on trails and trail-related projects. Among the authorized uses of the funds are (1) acquisition of new trails and access areas, (2) maintenance and restoration of existing trails, (3) State environmental protection education programs, and (4) program administrative costs.

Conference agreement

The conference agreement follows the Senate amendment with the following modifications:

(1) The conference agreement provides that the annual revenue transfers to the Trails Fund may not exceed the annual obligation ceilings contained in the bill; the Treasury Department must report annually the amount of revenues it determines to be attributable to nonhighway recreational fuels taxes to the Committees on Ways and Means and Finance;

(2) The conference agreement clarifies that revenues transferred to the Trails Fund do not include revenues currently transferred to the Aquatic Fund; and

(3) The conference agreement sunsets revenue transfers to and expenditure authority from the Trails Fund on October 1, 1997.

(4) The agreement also includes additional technical modifications to conform the Trails Fund to the Code trust funds.

D. NATIONAL HIGHWAY INSTITUTE FUNDING AND FEES

Present law

There is a National Highway Institute which (among its activities) conducts training programs for Federal, State, and local highway employees.

House bill

No provision.

Senate amendment

The Senate amendment expands the Institute's charter to authorize training programs for employees of private agencies. The Institute also is authorized to establish and collect fees from any entity and to place such fees in a special account to fund its operations.

Conference agreement

The conference agreement follows the Senate amendment, with the modification limiting fees that may be assessed to amounts charged to users of the Institute's training programs, not to exceed the costs of services provided.

E. RURAL TOURISM DEVELOPMENT FOUNDATION

Present law

The Code provides tax-exempt status for any corporation which is organized under an Act of Congress and is an instrumentality of the U.S., but only if the corporation is exempt from Federal income tax under (1) provisions contained in the Code (including sec. 501(e)), (2) the corporation's organizing Act

(as in effect before July 18, 1984) or (3) a revenue Act enacted after July 17, 1984.

Contributions and gifts to or for the use of the United States for exclusively public purposes are deductible for Federal income, estate, and gift tax purposes.

House bill

No provision.

Senate amendment

The Public Works' provisions in the Senate amendment establish a charitable, nonprofit corporation to be known as the Rural Tourism Development Foundation to plan and implement projects and programs to attract foreign visitors to rural America. The provisions specifically provide that the Foundation and any income or property received or owned by it, and all transactions relating to such income or property, are exempt from all Federal, State, and local taxation.

The provisions also provide that contributions, gifts, and other transfers made to or for the use of the Foundation are regarded as contributions, gifts, or transfers to or for the use of the United States.

Conference agreement

The conference agreement follows the House bill.

F. SENSE OF THE CONGRESS RELATING TO COMMUTE-TO-WORK BENEFITS

Present law

Present law allows employers to provide employee benefits excludible from gross income of up to $21 per month (recently raised from $15 by the IRS) for mass transit use.

House bill

No provision.

Senate amendment

The Senate amendment includes a "Sense of Congress" resolution that the current dollar limit on the exclusion for employer-provided transit benefits unduly penalizes employer efforts to encourage mass transit use by employees. The Senate amendment urges that the amount excludible from employee gross income be increased.

Conference agreement

The conference agreement follows the Senate amendment.

G. BUDGET ACT COMPLIANCE

Present law

The 1990 Budget Enforcement Act provides "spending caps" for certain expenditures and a "pay-as-you-go" requirement for net increases in direct spending and revenues during FY 1991–1995. If net direct spending increases are not offset, a sequester (automatic across-the-board reduction) in non-exempt direct spending programs will occur.

House bill

The House bill provides that notwithstanding any other provision of the House bill, no new direct spending would be created by the bill. The bill requires a proportional reduction in highway and transit obligations for FY 1992 in the event that outlays pursuant to the FY 1992 obligations under the House bill exceed those contained in any transportation appropriations bill for FY 1992.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

From the Committee on Public Works and Transportation for consideration of the entire House bill (except title VII), the entire Senate amendment, and modifications committed to conference:

ROBERT A. ROE,
GLENN M. ANDERSON,
NORMAN Y. MINETA,
JAMES L. OBERSTAR,
HENRY J. NOWAK,
NICK RAHALL,
DOUGLAS APPLEGATE,
RON DE LUGO,
GUS SAVAGE,
ROBERT A. BORSKI,
JOE KOLTER,
JOHN PAUL HAMMERSCHMIDT,
BUD SHUSTER,
WILLIAM F. CLINGER,
THOMAS E. PETRI,
RON PACKARD,
SHERWOOD BOEHLERT,
HELEN DELICH BENTLEY,

From the Committee on Ways and Means, for consideration of title VII of the House bill, and secs. 140E, 141 through 144, 271(b)(12), and 305 of the Senate amendment, and modifications committed to conference:

DAN ROSTENKOWSKI,
SAM GIBBONS,
J. J. PICKLE,
CHARLES B. RANGEL,
PETE STARK,
GUY VANDER JAGT,

As additional conferees from the Committee on Energy and Commerce, for consideration of secs. 5, 121(a), 123, 124, 134 (a) and (b), 143, 184, 209, 322(m), 335, title V (insofar as it addresses railroads), secs. 601(b), 608 through 610, 617, and 620 of the House bill, and secs. 103(b) (1), (2), and (9), 106(a), 107, 113, 114, 115 (a)(2) and (d), 116, 117, 122(b), 127, 128, 131, 140G, 140T, 140U, 239, 261, 262, 319, and 336 of the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
AL SWIFT,
GERRY SIKORSKI,
NORMAN F. LENT,
DON RITTER,

Provided that Mr. Dannemeyer is appointed in place of Mr. Ritter for consideration of secs. 123 and 124 of the House bill, and secs. 103(b)(2), 106(a) (insofar as it addresses 23 U.S.C. 133(a)(10)), 107, 113, 114, and 319 of the Senate amendment:

As additional conferees from the Committee on Energy and Commerce, for consideration of secs. 140I, 140N, part A of title II (except secs. 204, 218, and 226), 264, and 271 of the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
AL SWIFT,
DENNIS E. ECKART,
W.J. (BILLY) TAUZIN,
JIM SLATTERY,
RICK BOUCHER,
THOMAS J. MANTON,
TERRY L. BRUCE,
CLAUDE HARRIS,
MIKE SYNAR,
NORMAN F. LENT,
CARLOS J. MOORHEAD,
MATTHEW J. RINALDO,
DON RITTER,
JACK FIELDS,
MICHAEL G. OXLEY,

As additional conferees from the Committee on the Judiciary, for consideration of sec. 409 of the House bill, and sec. 238 and title IV of the Senate amendment, and modifications committed to conference:

JACK BROOKS,
DON EDWARDS,
BARNEY FRANK,
HAMILTON FISH, Jr.,
CARLOS J. MOORHEAD,

As additional conferees from the Committee on Science, Space, and Technology, for consideration of secs. 141 (a) and (e), 202, 317, 405, 502, 601, 604 through 609, 616 through 618, 651 through 659, and 671 through 673 of the House bill, and secs. 103(b) (9) and (10), 106(a), 107, 115, 116, 127(g), 136(b), 203(e), 204, 232(a), 329, and 341 of the Senate amendment, and modifications committed to conference:

GEORGE E. BROWN, Jr.,
TIM VALENTINE,
DAN GLICKMAN,
TOM LEWIS
(Except Sections 103(b)(9) and 116),

As additional conferees from the Committee on Government Operations, for consideration of title IV of the Senate amendment and modifications committed to conference:

JOHN CONYERS, Jr.,
FRANK HORTON,

Managers on the Part of the House.

From the Committee on Environment and Public Works:

DANIEL PATRICK MOYNIHAN,
QUENTIN BURDICK,
GEORGE MITCHELL,
FRANK R. LAUTENBERG,
HARRY REID,
JOHN H. CHAFEE,
STEVE SYMMS,
JOHN WARNER,
DAVE DURENBERGER,

From the Committee on Commerce, Science, and Transportation:

J. JAMES EXON,
RICHARD H. BRYAN,
JOHN DANFORTH,
SLADE GORTON,

From the Committee on Banking, Housing, and Urban Affairs:

DON RIEGLE,
ALAN CRANSTON,
PAUL SARBANES,
CHRISTOPHER S. BOND,
ALFONSE D'AMATO,

From the Committee on Finance:

LLOYD BENTSEN,
DANIEL PATRICK MOYNIHAN,
MAX BAUCUS,
BOB PACKWOOD,
BOB DOLE,

From the Committee on Governmental Affairs, only for the consideration of the Uniform Relocation Act Amendment:

JOHN GLENN,
CARL LEVIN,
BILL ROTH,

Managers on the Part of the Senate.

Mr. ROE. Mr. Speaker, pursuant to the rule, I call up the conference report on the bill (H.R. 2950) to develop a national intermodal surface transportation system, to authorize funds for construction of highways, for highway safety programs, and for mass transit programs, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

Mr. ROE. Mr. Speaker, I would like to request, if I may, the balance of the time that is allocated to both sides.

The SPEAKER pro tempore. The gentleman from New Jersey [Mr. ROE] under his unanimous-consent request has 18 minutes remaining, and the gentleman from Arkansas [Mr. HAMMERSCHMIDT] has 17 minutes remaining.

Mr. ROE. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Mr. Speaker, I thank the indefatigable chairman of our committee, the gentleman from New Jersey [Mr. Roe] whose relentless pursuit of this legislation has brought us to the successful conclusion we celebrate this morning.

Mr. Speaker, the key word and the key concept in this bill is intermodal. This is the first time in the history of transportation legislation that one bill brings together, knits and threads together in one conceptual and detailed piece of legislation, the several modes by which we move people and goods in this country.

As this legislation unfolds and is put into place in the many programs authorized under it, a person will be able to take a ride to an airport, unload his bicycle from the trunk, get aboard that airplane, fly to the destination, mount that bicycle on a car, take a drive on a scenic byway, dismount, and ride that bicycle on a bike path or on to an abandoned railroad bed that has been paved over for bicycling, dismount the bike and walk a beautiful vista along that pathway, get back into the car, and drive to his final destination and enjoy the beauty of this country through the several modes of transportation made possible.

Mr. Speaker, we chart a whole new course with this legislation. We will relieve urban congestion, we will improve rural transportation, we will improve the highways of this country, we will develop new concepts through the maglev that is included in this legislation, and we will indeed chart the course for transportation now through the beginning of the next century.

Mr. Speaker, I rise in support of H.R. 2950, the Intermodal Transportation Efficiency Act of 1991, and urge its passage. I also commend, in the strongest meaning of that word possible, the leadership of the House Committee on Public Works and Transportation, the indefatigable gentleman from New Jersey [Mr. ROE], the gentleman from California [Mr. MINETA], the gentleman from Arkansas [Mr. HAMMERSCHMIDT], and the gentleman from Pennsylvania [Mr. SHUSTER], as well as the staff of the Subcommittee on Surface Transportation, for the truly heroic effort they have put into this bill over the last 6 months and more.

Along with its other landmark provisions, directing our Nation's transportation policy for the remainder of this century and into the next. H.R. 2950 contains two programs which I initiated, and in which I am particularly interested.

SCENIC BYWAYS

Section 147 of H.R. 2950 authorizes a Scenic Byways Program incorporating a substantial portion of my own bill, H.R. 2957, which my colleague, the gentleman from Oregon [Mr. DEFAZIO], the Senator from West Virginia [Mr. ROCKFELLER], and I developed in cooperation with a broad range of groups to meet the need of recreational Americans, particularly the recreational driver, as well as the bicyclist and hiker.

Growing numbers of recreational drivers, particularly, long to escape the fast lanes funded by most of this and past legislation, and to tour slowly the backways and byways of America, savoring at a leisurely pace the richness of America's scenic, recreational, historic, cultural, and archaeological treasures and bringing economic diversity to small towns bypassed by the mainarteries of our highway system.

Many States already have their own Scenic Byways Programs, such as the Blue Ridge Parkway in Virginia, or the 10-State Great River Road, which crisscrosses the mighty Mississippi River along its 2,000-mile course from Minnesota to the Gulf of Mexico.

H.R. 2950 authorizes $80 million, over 6 years, from the highway trust fund under contract authority, for scenic byways.

While the provision of our scenic byways bill authorized an Office of Scenic Byways, this provision was not adopted into H.R. 2950. A complete office may not be necessary, but I would insist that the Department of Transportation and the Federal Highway Administration devote adequate staff to administering this $80 million program. This is a substantial amount of public funds, but more important, the program needs the sensitivity, judgment, and time of a staff dedicated solely to it. If it simply becomes a part-time job, imposed on already overworked staff, the program will not be the success it could be.

Section 147 of H.R. 2950 establishes a Scenic Byways Advisory Committee, to develop and present to the Secretary of Transportation recommendations regarding minimum criteria for use by State and Federal agencies in designating highways as scenic byways and as All-American Roads. The section recognizes the need for flexibility in this Federal program, to accommodate State programs, some of which have existed for many years. At the same time, it is important to establish these minimum criteria, so that people's expectations are not disappointed when they make the long trip to travel a road with the scenic byways designation.

The advisory committee has 18 months to develop these minimum criteria and present their recommendations to the Congress and the Department of Transportation. I would expect the Secretary to take these recommendations fully into account in approving funding for projects on State-designated scenic byways. This is especially important because section 147, unlike our bill, makes no provision for the States to nominate, or the Secretary to designate, highways for the scenic byways and All-American Roads systems.

Section 147 does not define All-American Roads, but I would expect the Secretary to adopt the definition contained in H.R. 2957: "those highways designated as scenic byways * * * which are of national significance, are of outstanding natural beauty, are in areas of quintessential scenery, are of high cultural interest, or are of exceptional or unique value."

Section 147 also establishes a 3-year Interim Scenic Byways Program. Under this interim program, the Secretary is required to give priority consideration to certain projects. These priorities are designed to protect the scenic, historical, recreational, cultural, and archeological characteristics for which the byway is designated, while assuring the appropriate local and private roles in project funding. The section gives priority to projects with corridor management plans designed to protect scenic byway values, and to those with a strong local commitment to implementing the management plans and protecting the scenic and other characteristics.

Priority is also accorded to those eligible projects which are included in programs that can serve as models for other States to follow, and to eligible projects in multi-State corridors where the States submit joint applications.

Eligible projects are clearly spelled out. The conference added a provision permitting 10 percent of the funds to be used for billboard removal.

Mr. Speaker, I want to stress, as strongly as possible, that the purpose of the Scenic Byways Program is to maintain and enhance the values associated with scenic byways. These byways are more than concrete and asphalt; more than paving and pothole fixing. The Scenic Byways Program is to be an adjunct to, rather than a replacement for or duplication of, other programs in H.R. 2950.

Finally, section 147 provides specific protections for byways, by stipulating that the Secretary shall not fund any project that would not protect the scenic, historic, recreational, cultural, natural, and archeological integrity of the highway and adjacent area.

H.R. 2950 provides for a mid-term review of many programs. It is my clear understanding that scenic byways will be one of those programs reviewed, with the purpose of following the interim program with a full-fledged, adequately funded, permanent Scenic Byways Program.

BICYCLE AND PEDESTRIAN FACILITIES

Mr. Speaker, H.R. 2950 also contains important provisions to assure the construction of many more bicycle lanes, paths and trails, and more pedestrian walkways in urban and rural areas. Many of these provisions are patterned on H.R. 2267, my bicycle and pedestrian facilities bill.

Strategically placed throughout the highway provisions of H.R. 2950 are provisions relating to planning and location of bicycle and pedestrian facilities.

Section 132, bicycle transportation and pedestrian walkways, provides further direction to State Departments of Transportation to use funds apportioned under the National Highway System, the urban and rural mobility programs, the flexible program, and the Federal lands highway programs, for these facilities.

Section 132 also creates the position of State Bicycle and Pedestrian Coordinator in each State Department of Transportation. The coordinator would be responsible for promoting and facilitating the increased use of nonmotorized modes of transportation, including developing facilities for the use of pedestrians and bicyclists and public education, promotional, and safety programs for using such facilities. It is vitally important to have an advocate for bicyclists and pedestrians within each State DOT, providing the critical focal point for contact between bicycle and pedestrian groups and their agency.

The same section would provide that any bridge deck replacement or rehabilitating project would have to accommodate bicycles if they, the bikes, are permitted to operate at both ends of the bridge, as long as such ac-

commodation can be provided at reasonable cost.

Finally, the use of motorized vehicles would be prohibited on these trails and walkways, unless State or local regulations permit snowmobiles and motorized wheelchairs, and under other circumstances as the Secretary deems appropriate.

The point I wish to stress is that Congress intends that more trails and walkways be built in conjunction with projects funded under this bill, and independent of these projects, to accommodate the legitimate needs of bicyclists and walkers—who are, for the most part, also drivers who contribute their fair share to the highway trust fund.

Section 217 of title XXIII, which this section amends, has for many years permitted the States to use highway funds for bicycle and pedestrian paths and trails, yet few have been built. It is thus highly appropriate, in the Intermodal Transportation Efficiency Act, to add provisions requiring accommodation of these modes which provide energy efficient, environmentally protective, cost-saving and congestion-lessening transportation to this bill.

As the bicycle and pedestrian provisions are implemented, I will observe closely how well State DOT's respond to citizen demands for bike lanes and trails, and pedestrian walkways. They have had a hard time being heard under the existing, voluntary, construction program. I hope the program established under H.R. 2950 will go much farther toward answering their needs, and toward providing the relief the Nation needs from transportation congestion, pollution, and costs to the taxpayer and the individual commuter.

□ 0500

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. CLINGER].

Mr. CLINGER. Mr. Speaker, first of all, I want to commend the leadership of our committee for the outstanding job that they have done in crafting this legislation which has taken weeks and months and endless hours of work to get to this point. It is absolutely imperative that we pass this bill tonight and get it to the President for signature.

Let me just give you about 34 reasons why we need to pass it tonight. Ten of them are the 10 States that have already run out of money for their highway programs, which means that the jobs involved in those programs are no longer there. The 10 States are Alabama, Arkansas, Connecticut, Florida, Nebraska, North Dakota, Oregon, Tennessee, Virginia, and Wisconsin. So those States at present are doing no highway construction because their funds have dried up. About 24 other States, if we do not pass this bill and move it to the President tonight, will run out of money within the next 3 weeks, and that means that their Highway programs will shut down. They consist of Delaware, the District of Columbia, Georgia, Idaho, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Minnesota, Michigan, Missouri, Nevada, New Mexico, New York, Ohio, Pennsylvania, South Carolina, Texas, Utah, and Washington.

My colleagues, these States are going to be out of business as of the 1st of January, if we do not pass this bill.

This is, as it has been said before, a jobs bill. It is a safety bill. It is a competition bill. It is a transit bill. It is all of these things. But most importantly, it is the only bill that we have before us and are going to have before us that really offers some measure of economic recovery and economic development, one that can go onstream immediately. It is going to put people to work. It is going to keep people working.

This is our economic growth bill that we can deal with in this session of this Congress right here, right now, and I urge support for this bill.

Mr. ROE. Mr. Speaker, I yield 30 seconds to the distinguished gentleman from Michigan [Mr. DINGELL], the chairman of the Committee on Energy and Commerce.

Mr. DINGELL. Mr. Speaker, I rise in support of conference report on this bill, H.R. 2950, and particularly in support of those portions of the legislation on which our committee participated as conferees.

I want to especially commend chairman ROE and ranking Republican member HAMMERSCHMIDT of the full committee, as well as chairman MINETA and ranking Republican member SHUSTER of the subcommittee, for their extraordinary leadership in the House and in the conference on this bill and this agreement today.

I also want to thank them and the other members of the Committee on Public Works and Transportation, as well as the Public Works staff on both sides of the aisle, for their great cooperation in ensuring that matters of concern to the Committee on Energy and Commerce were fully protected and properly addressed by our committee.

In addition, I want to commend our committee members, particularly Mr. SWIFT, Mr. LENT, Mr. SIKORSKI, Mr. ECKART, Mr. RITTER, and Mr. OXLEY for their help in developing this compromise. I also want to thank Senators HOLLINGS, BRYAN, DANFORTH, EXON, and GORTON and their staff.

Mr. Speaker, this is a good bill. It preserves the agreements reached between our two committees and the Senate in the last Congress regarding the Clean Air Act and highways.

The conformity provisions of section 176(c) of the Clean Air Act will continue to apply in the same manner and to the same extent as the House and Senate conferees expected when we adopted the 1990 amendments to the Clean Air Act. I expect the Secretary of Transportation, the Environmental Protection Agency, the States, and metropolitan planning organizations to comply fully with section 176(c). In addition, I expect the congestion management program to be carried out in a way to further the purposes of the Clean Air Act.

Importantly, the Senate receded from two energy provisions that would have been inconsistent with our resolution in the Clean Air Act, last year of the reformulated gasoline and oxygenated fuels issues.

The conference report also gives a tremendous boost to high speed rail and magnetic levitation technologies and will help the United States catch up to—and hopefully surpass—the Germans, French, and Japanese in this field. By combining the best elements of Senator MOYNIHAN's maglev provisions and the provisions of our committee's high speed rail bill, H.R. 1087, authored by Mr. SWIFT and Mr. RITTER, the chairman and ranking Republican member of our Subcommittee on Transportation and Hazardous Materials, the Congress has for the first time demonstrated a genuine financial commitment to high speed ground transportation.

One important provision of this demonstration program prohibits grants and contracts from going to support high speed ground transportation projects or systems located in States that by virtue of their own State laws have prohibited State funds or revenues from contributing to the construction or operation of such projects or systems. It is not necessary that a State actually have a present commitment to funding such projects or systems; however, it would be grossly unfair to use the tax dollars of my constituents in Michigan for this purpose, or of taxpayers in any State for that matter, when the State in which the project is located affirmatively prohibits its own State taxpayer dollars from being used for that project.

In support of these efforts, the legislation also includes a new high speed ground transportation research and development program, based on the excellent work of the House Science Committee in this area. This program is authorized to expend $25 million and, coupled with the economic, financial, and technical assessments required by the bill, will provide a sound basis for future decisionmaking in this area. Putting a package of this magnitude required the cooperation of five congressional committees working within very tight time constraints, and I applaud the chairmen and members of all those committees, as well as their staffs, for working so well together.

Mr. Speaker, the House and Senate bills both contained provisions dealing with asphalt rubber paving. The United States discards approximately 242 million tires each year, which are presenting enormous disposal problems and health hazards for local governments. In addition, 2 billion discarded tires have accumulated in piles or dumps

throughout the country. This legislation establishes a minimum utilization requirement on procuring agencies, as they are defined in section 1004(17) of the Solid Waste Disposal Act to use recycled rubber in asphalt pavement. This will help consume millions of old tires which are fouling our landscape and consuming valuable landfill capacity. Much more, however, needs to be done to develop markets for scrap tires. According to an October 1991 EPA report, the total usage of tires for recycling currently is estimated to be less than 7 percent of the annual generation. In the reauthorization of the Solid Waste Disposal Act, the Committee on Energy and Commerce will be pursuing further opportunities to address this troublesome health and environmental problem.

Mr. Speaker, as you know, the Senate added a non-germane amendment to this bill in the form of S. 1012, which the Senate had earlier passed separately and which relates to the activities of the National Highway Traffic Safety Administration, which is under the jurisdiction of this committee. There was no companion House provision.

The Senate committee report on S. 1012 notes that "no legislation" authorizing NHTSA funding has been enacted since 1982, which is true. It also points out that the Senate passed bills since 1986, authorizing such appropriations. That is also true. But those bills covered more than such authorizations. They made significant changes in the basic statutes administered by NHTSA. Until very recently, no similar House bills were introduced.

The lack of annual authorization has not affected NHTSA's duties and obligations under existing law. Moreover, Congress, through the appropriations process, has annually funded NHTSA.

As the Senate Committee on Commerce, Science, and Transportation report on S. 1012 observes, in 1986 both Houses passed separate versions of NHTSA authorization bills (S. 863 and H.R. 2248). Each also included significant changes in the existing NHTSA statutes. Efforts to reconcile informally the differences between the Senate and House proved unsuccessful before the 99th Congress adjourned sine die.

The bills introduced and passed in the Senate in subsequent Congresses did not include any of the provisions where agreements were reached in 1986. Indeed, they were nearly identical to the Senate version in the 99th Congress, which the House had rejected. They did not reflect any of the House view as expressed in H.R. 2248.

Beçause oversight is often quicker and more effective than legislation, our Committee, including the Subcommittee on Transportation and Hazardous Materials and the Subcommittee on Oversight and Investigations, worked closely with the Subcommittee on Transportation appropriations to commit NHTSA and the DOT to utilize in a timely fashion existing statutory authority to accomplish many of the safety objectives or requirements of S. 863 and H.R. 2248. Our view then and today was that the existing statutes—the National Traffic and Motor Vehicle Safety Act of 1966 and the Motor Vehicle Information and Cost Savings Act—provided broad authority that needed to be used in a more timely and effective manner to resolve safety concerns expressed by both Houses in the 99th Congress. This could be done through rulemaking and other means, whether or not legislation was considered. We also urged the industry to be supportive of such rulemaking and its early resolution.

As the Senate committee report observes, much has been done since 1986 by NHTSA or is underway within timeframes that have proved realistic and sensible. I also note that more and more vehicle safety features are being heavily advertised by the manufacturers and dealers, which I applaud. Safety has become important from a competitive standpoint. That is good and should continue.

Indeed, I urge that the industry adopt this same approach for fuel economy and emissions. The industry has achieved much since 1975, in improving fuel economy. They are continuing to do so. I believe that fuel economy needs attention in light of the global warming debate. We need to continue to improve fuel economy without further mandates.

I believe that the House and Senate committees and subcommittees just mentioned, as well as NHTSA and the DOT, deserve credit for these achievements under existing law. Nevertheless, while there are successes, there is always more to be done, and I expect DOT and NHTSA to carry out their commitments to our committee. This conference agreement is in furtherance of them.

Mr. Speaker, I think it is appropriate that at this time I briefly addressed some of the activities of the National Highway Traffic Safety Administration since 1986.

At the outset, I want to make it very clear that the conference agreement today does not provide any new authority for NHTSA. All of the activities covered by this bill relative to auto safety can be carried out and are being carried out under existing law. We are not ploughing new ground. Indeed, in some respects the foreign and domestic manufacturers are being penalized for volunteering to install safety related devices. I am concerned that we not dampen that voluntary approach which stems from competition and good sense.

The conference agreement today which included the provision of S. 1012 when it passed the Senate authorizes appropriations for NHTSA.

In response to my inquiry about this background, NHTSA in its letter to me of November 7, 1991 said:

It is NHTSA's view that the National Traffic and Motor Vehicle Safety Act of 1966 (Vehicle Safety Act) and the Motor Vehicle Information and Cost Savings Act (Cost Savings Act) give the agency ample regulatory authority to carry out the statutory purposes. Differences of opinion will inevitably arise as to whether a particular regulation should or should not be issued, but the existing statutory framework provides adequate means for interested parties to express their views and to ensure that the agency is acting in accordance with the statutory criteria. The committee oversight process has often helped to focus attention on specific issues and has influenced the general direction of agency rulemaking. We believe that the regulatory process has evolved satisfactorily within the existing statutory framework and that it is proved responsive to matters of Congressional concern.

We believe the responsiveness of the regulatory process is evident in the case of the side impact rulemaking, which was the principal regulatory action debated during consideration of S. 863 and H.R. 2248 in the 99th Congress.

Section 302 of S. 863 would have required the agency to: (1) establish performance criteria for improved occupant protection in side impacts for occupants of passenger cars; and (2) extend the applicability of such a standard to light trucks, vans, and multipurpose passenger vehicles. The agency has completed the following actions under FMVSS No. 214, Side Door Strength:

May 28-29, 1986—Public meeting on upgrading side impact protection for passenger cars.

January 27, 1988—NPRM proposing dynamic side impact test procedure and performance requirements for passenger cars.

January 27, 1988—NPRM proposing side impact test dummy.

August 19, 1988—ANPRM requesting comment on side impact protection for occupants of light trucks and multipurpose passenger vehicles.

December 12, 1989—NPRM to include light trucks and multipurpose passenger vehicles with a gross vehicle weight rating of 10,000 pounds or less in the existing FMVSS No. 214 static test requirements.

October 24, 1990—Final rules: (1) establishing dynamic side impact requirements for passenger cars; (2) reporting and record keeping for phase-in requirements; (3) specifications for side impact test dummy; and (4) specifications for side impact moving deformable barrier.

June 14, 1991—Final rule extending FMVSS No. 214 static test requirements to light trucks and multipurpose passenger vehicles with a gross vehicle weight rating of 10,000 pounds or less.

The agency estimates that once all passenger cars meet the dynamic side impact test requirements of FMVSS No. 214, the benefits will be a reduction of 512 fatalities per year, and a reduction of 2,636 moderate to critical (AIS 2-5) non-fatal injuries each year. The average consumer cost impact of this dynamic test requirement is estimated to be $51 per passenger car. This cost estimate includes lifetime fuel costs and secondary weight impacts.

In extending the static test requirements of FMVSS No. 214 to light trucks and multipurpose passenger vehicles, the agency esti-

mates that once all such vehicles complied with the requirements, the benefits would be a reduction of 58 to 82 fatalities per year and 1,569 to 1,889 hospitalized non-fatal injuries per year. The average consumer cost is estimated to be $47 to $59 per vehicle. These cost estimates include lifetime fuel costs and secondary weight impacts.

Mr. Speaker, I want to now discuss the provisions adopted by your conferees regarding NHTSA, as well as some of the Senate provisions not included in the final agreement before us today.

NHTSA APPROPRIATIONS

The bill adopts for fiscal years 1992 through 1994 the Senate dollar amounts. It adds another year, fiscal year 1995, and provides an increase. I note that in discussing the Senate's funding levels, NHTSA's November 7, 1991 letter to me said:

Funding would not be a significant problem with the implementation of these bills, if they allowed the agency to proceed with the research and rulemaking schedule outlined in its priority plan. The authorization levels would provide adequate funds to carry out the plan. The difficulty arises in the imposition of fixed rulemaking schedules, most of which would distort the agency's current plans and require it to redistribute its research and regulatory resources. The agency would not have the manpower or contract research resources to complete the rulemaking actions dictated by the bills within the timeframes allowed.

For example, the bills do not authorize funds to carry out the National Academy of Sciences study of automobile crashworthiness mandated by Section 202. The estimated $1 million required to conduct this study, whose value we question, would seriously compromise other projects that we believe to have a greater value for motor vehicle safety. Other research and regulatory actions dictated by the bills would have similar effects.

The conferees agreed not to include these crashworthiness provisions of the Senate bill in part due to this funding issue. As to the fixed rulemaking schedules of the Senate bill. I believe the conference agreement is more realistic and provides NHTSA with greater flexibility and should help to avoid deferral of other matters. I commend the Senators for this approach.

As to other funding concerns by our Committee, the NHTSA letter states:

The article in the August 3, 1991 edition of Status Report discusses NHTSA's research and development budget in relation to a 5-year program plan developed by the agency and published in late 1990. * * *

The article suggests that NHTSA's research and development budget is not sufficient for carrying out the research program described in the plan. This is not the case. The program plan describes the research needed to support the agency's priority safety initiatives. Further, the research budget requests to Congress are based on the funding needed for the research to support these priorities. Neither the safety initiatives nor the research to support them are constrained by any funding limitations. There are no important projects that are lying dormant as the article suggests.

If there were a need to ask for increased funding to support a new safety initiative, the agency would not hesitate to make the request. An example is the request for increased research funding to support the new Intelligent Vehicle/Highway Systems program. We envision that the crash avoidance capability of motor vehicles can be improved substantially through the application of emerging electronics technology. Based on this opportunity, and the recognition of this opportunity by the automotive industry and the safety community, the agency has asked for large increases in its research budget. The agency has also asked for significant increases in other areas where it identifies a need.

The dramatic increase in funding recommended in the Transportation Research Board report on Safety Research for a Changing Highway Environment referred to in the article is based on the research needs perceived by members of the committee rather than on any systematic development of safety initiatives and supporting research needs. The agency's priority safety initiatives and the research to support them were developed from such a systematic approach. While the agency endorses the report's recommendation that increased funding may be needed, the agency disagrees that increases of the magnitude recommended in the report are needed.

Finally, the agency does not envision a drastic change in emphasis from crash protection to crash avoidance. The agency's priority plan and its research plan describe ambitious crash protection, crash avoidance, highway safety, and data collection and analysis activities. The balance between the areas as reflected in budget requests may change from time to time as programs end and new initiatives are needed, but the agency's commitment to all areas remains undiminished.

GENERAL PROVISIONS

Before proceeding to discuss the bill further, I take note of the fact that the motor vehicle is principally regulated by two agencies, namely the NHTSA and the Environmental Protection Agency. When I inquired about this legislation, I asked:

As we try to resolve one problem relating to safety or emissions, we should not, at the same time, create by statute or regulation a new program that relates to an equally important regulated activity. How does Congress help to ensure that the Federal Government's regulatory actions under the various laws are not counterproductive in the area of emissions, safety, energy, and fuel economy? What are the priorities?

The NHTSA reply was:

NHTSA is in full agreement with your view that the method used to resolve one problem should not create another. In our view, the appropriate means of resolving potential conflicts between regulatory activities is to include in the statutory authority for each activities a requirement that the regulatory agency must consider the effects of its activity on other problems. The corporate average fuel economy law offers a good example of this, since it requires the Secretary to "consider the effect of other Federal motor vehicle standards on fuel economy." (15 U.S.C. 2002(e)(4)) This requirement obliges the agency to consider safety and environmental issues in its fuel economy rulemaking, and has afforded persons objecting to the agency's action a basis for seeking corrective action in court.

We believe that statutory criteria such as that cited above can be used effectively by Congress in the oversight process. If the Congress has plainly indicated that the agency should consider the effects of its actions in one area on other areas, Congress can act to ensure that the agency does so. In the particular case of fuel economy rulemaking, the agency has consistently taken safety into account in determining the appropriate fuel economy level. It is this experience that underlies our concern about efforts to legislate drastically higher fuel economy levels, since we believe that these levels will not be achieved except through size and weight reductions that will compromise the safety of vehicle occupants.

I fully agree that such a legislative provision could be helpful. But there was none in the Senate bill and of course, there was no House bill.

It is clear, however, that NHTSA, through its memorandum of understanding with the EPA, has the capability now to consider "the effects of its actions in one area on other areas." None of the laws administered by NHTSA preclude that. The Energy and Commerce Committee intends to ensure that NHTSA does this at all times.

The conference substitute provides in lieu of the above mentioned provisions a process for conducting rulemakings in accordance with the National Traffic and Motor Safety Act of 1966. It also provides that any resulting standards be enforced in accordance with the 1966 statute. The process includes procedure for initiating a rulemaking either as an Advanced Notice as Proposed Rulemaking (ANPRM) or a Notice of Proposed Rulemaking (NPRM) at the discretion of the Secretary of Transportation. It also provides for completion of the rulemakings consistent with the 1966 statute and the Administrative Procedures Act. Completion could include promulgation of a rule with or without changes, abandonment of the rule, a deferral of the rule, or starting all over at some future time. The Department cannot, however, terminate the rule because it lacked time to complete the rule. Whatever action is taken it must be published in the Federal Register in accordance with the Administrative Procedure Act and the 1966 Act and must include the reasons for that action.

Section 2503 lists four priority matters for which the Secretary must initiate a rulemaking in accordance with these general procedures. They are as follows:

First, unreasonable risk of rollovers for cars, light duty trucks and multipurpose passenger vehicles;

Second, extension of passenger car side impact protection to multi-purpose passenger vehicles and light duty trucks;

Third, safety of child booster seats in passenger cars; and

Fourth, improve design for safety belts.

The listing of these matters for initiating rulemaking decisions is not to be construed as a determination by Con-

gress as to whether or not a rule shall be finalized or if it is finalized what it should contain. The objective of the conferees is to require that the Secretary give priority consideration to these matters without affecting other rulemakings or decisions pending at the Department.

For these four matters, the conferees expect the Secretary to initiate either an ANPRM or a NPRM by May 31, 1992. If the Secretary cannot begin any one of these by that date, he must give notice of the decision to initiate them and provide a date certain for the initiation of either an ANPRM or a NPRM but which date certain shall not extend beyond January 31, 1993. He must also explain the reasons for this delay. A decision to provide a new date for that decision will not be reviewable.

Once a rulemaking is initiated, the Secretary must complete the rulemaking within 26 months after initiation, in the case of an ANPRM, and within 18 months after initiation, in the case of an NPRM. However, in the case of an ANPRM, the Secretary may decide not to proceed to an NPRM after issuing the ANPRM if based on the ANPRM he decides and publishes this decision against publication of a rule. He must do this in a manner consistent with the APA and the 1966 act. The Secretary may in the case of an NPRM extend the 18-month period for an additional 6 months. That extension is not reviewable.

In the case of section 2503 which provides for improved head injury protection regarding interior components of passenger cars, that is, roofs, pillars, and front headers there is a special rule. Under that special rule the Secretary must complete the rulemaking and issue a final rule within 24 months after the date of publication of the ANPRM or the NPRM. That publication must occur either by May 31, 1992 or, as indicated above, by January 31, 1993. If the Secretary determines that there is a need for delay and if the public comment period is closed, the Secretary may extend the date of completion by an additional 6 months and publish a notice thereof in the Federal Register. The conferees emphasize that in the case of this special provision that a final rule is to be promulgated within the timeframe specified. The bill does not set forth the content of the rule or what is to be covered. DOT must decide that.

Thus, with exception of the head injury protection issue, the conferees do not predetermine the outcome of these rulemakings. The Secretary is free to conclude the rulemaking in any manner consistent with the APA and the 1966 Act. The conferees expect the Secretary to act on these matters in accordance with the time schedule provided.

The conferees also expect NHTSA to move quickly on these matters and give preference to rollover protection, and to extension of passenger car side impact protection to light duty trucks and multipurpose passenger vehicles. In the case of rollovers, the conferees note that in a November 7, 1991 letter to the Committee on Energy and Commerce, the Secretary said:

The rulemaking process will develop an advanced notice of proposed rulemaking (ANPRM) which will be published late this year. This will be followed by a notice of proposed rulemaking. If the comments and other information in the rulemaking record support the issuance of a final rule, the agency would adopt such a rule. * * *

Since the late 1980s, the agency has conducted research to determine if vehicle attributes exist which are related to vehicle rollover. In a multi-contract effort, the agency has collected engineering data on approximately 60 different vehicles, including MPVs, vans, trucks, and passenger cars. In addition, the agency has collected and analyzed over 100,000 accidents associated with rollover and non-rollover crashes of these vehicles. These two data sets, the physical measurements of the vehicles and the rollover propensity of the vehicles as measured by their actual accident history, were analyzed to determine correlations between vehicle rollover propensity and accident involvement. Correlations were found when controlling for variations in the individual crashes, such as driver demographics, weather conditions, and road conditions. This analysis was completed in the spring of 1991 and will provide the basis for the forthcoming ANPRM.

The conferees would expect NHTSA to issue an ANPRM before May 31, 1992. Indeed, the conferees understand that an ANPRM has recently been submitted to the Office of Management and Budget.

In addition to the special provisions regarding head injuries just discussed, the conferees require a study and report to the Congress requiring additional types of protection against head injury which the Secretary is currently researching, including head injury prevention to occupants in various types of crashes, such as side impact. This report must also outline the Secretary's plans for initiating a rulemaking in these areas in fiscal year 1994 and 1995. Again, the conferees do not require a final rule or indicate what the rule, if any, would cover or do.

RECALL OF CERTAIN MOTOR VEHICLES

This provision was recommended by NHTSA. Indeed, in its November letter, NHTSA said:

The Department requested the provision concerning reminder notices in recall campaigns on the basis of experience with campaigns in which such notices had significantly improved the percentage of vehicles returned for repair. We continue to believe that a second notice would be useful in campaigns where the response rate is particularly low. Other measures, such as newspaper publicity, have been attempted without appreciable success.

The forwarding of copies of recall notices by lessors to their lessees will help ensure that leased vehicles are returned for repair. This will be of value not only to the lessees, who might not otherwise learn of a potential safety hazard, but to the subsequent purchasers of the leased vehicles. We do not regard the requirement as burdensome to the lessors, since they would routinely know the whereabouts of their lessees and could readily notify of any recall. From past recalls, NHTSA has noted that leased vehicles have a lower rate of return than other vehicles. This provision would help improve the rate.

The provision relating to the remedy of defects and noncompliances in new vehicles and vehicle equipment before sale or lease also arises from the agency's experience with situations in which vehicles subject to recall were sold to consumers without remedying the condition that led to the recall. While the agency does not believe that this is a frequent occurrence, the potential consequences for a new car buyer could be serious. Section 108(a)(1)(A) of the Vehicle Safety Act currently prohibits the sale of a new vehicle that does not comply with all applicable standards, but there is no corresponding provisions for vehicles that have been determined to contain a safety-related defect. This provision would correct that situation. The provision would apply only to new cars held by dealers before the first sale or lease, and not to used cars, thereby addressing a concern voiced by dealers.

We note that subsection (b) includes an important disclaimer regarding "offers" for sale or lease as opposed to actual sale or lease.

STANDARDS OF COMPLIANCE TEST PROGRAM

This Senate provision was, in the view of our committee and NHTSA, unnecessary, NHTSA said:

At this time, there are 50 Federal motor vehicle safety standards in effect. Of these, 40 are capable of being tested in a laboratory environment. The other 10 are evaluated by visual inspection. The attached table presents the 5-year plan for the 40 "testable" standards (41 standards are included, since FMVSS 131 will go into effect in September 1992).

It is important to emphasize that we believe all testable standards should be selected for testing over a period of time. We construe this section as permitting us to consider a number of factors in determining the priority of standards for testing, and thus do not strongly oppose it. Beginning with fiscal year 1987, NHTSA revised its testing schedule to respond to recommendations in a General Accounting Office (GAO) report on NHTSA's enforcement program. A legislative remedy to impose the same revisions would be moot.

You asked whether this provision is needed and if it is objectionable. We believe the provision is unnecessary, since we already have such a schedule. Based on test results for a given standard, however, our schedule may change in order to address important safety issues. For example, a compliance failure may dictate that we reallocate compliance test funds to address a critically important compliance problem that has a substantial real-world safety impact. A legislated test schedule would preclude this necessary flexibility. Accordingly, a rigid test schedule is objectionable.

The conferees listened to NHTSA. The conference substitute does not require a "rigid test schedule." The flexibility NHTSA wanted is provided.

REAR SEATBELTS

NHTSA's letter states:

NHTSA has undertaken a number of efforts to make the public aware of the benefits of retrofitting vehicles with rear seat lap/shoulder belts. These efforts include requiring information in owners manuals; encouraging manufacturers though direct telephone, letter, and personal contact to make retrofit kits widely available, publishing information directly; providing information to consumer and highway safety groups through NHTSA Regional Offices and State highway offices on the subject; and responding to consumer inquiries through the agency's toll-free Auto Safety Hotline.

However, we must point out that lap-only belts in the rear seat are proven safety devices. Studies of occupant protection from 1968 forward show that the lap-only safety belts installed in rear seating positions are effective in reducing the risk of death and injury, when worn properly. We estimate that there is a much larger potential safety benefit to be gained through working to increase belt usage than would be obtained through working to replace current equipment at today's usage rates. Thus, while lap/shoulder belts offers some increase in safety benefits over lap-only belts, we believe the greatest safety gain will be realized by increasing usage of whatever belt system is available.

In addition, no additional funds are authorized to the agency to cover the cost of an expanded effort in informing the public of the availability of rear seat lap/shoulder belts. In consideration of our current funding level, we believe that the agency is doing an effective job to inform the public of the availability of retrofitting vehicles with rear seat lap/shoulder belts.

Once again, the conferees listened. The program is for fiscal year 1993 only.

BRAKE PERFORMANCE STANDARDS FOR PASSENGER CARS

This is an area where the auto and truck manufacturers are voluntarily installing safety equipment. It is in the area of antilock braking systems or ABS. This bill recognizes this fact. ABS is already standard equipment, or at least available on all domestically produced light duty trucks. ABS is also being installed on many passenger cars today—including low-priced autos—as standard or optional equipment. The conference substitute recognizes this fact and requires the NHTSA Administrator to initiate an Advanced Notice of Proposed Rulemaking [ANPRM] to investigate the need for any additional brake performance standards for passenger cars, taking into account manufacturer's voluntary early application of economical and effective anti-lock brake systems on new cars.

AUTOMOTIVE CRASH PROTECTION AND SAFETY BELT USE

It is important to again note that the vast majority of the NHTSA authorization bill puts into law what the domestic auto and truck manufacturers are already doing. In a very real sense the old adage about never volunteering proves out to be true. This is even truer in the case of airbags.

This legislation mandates airbags for cars and light duty trucks and multipurpose passenger vehicles—while the automakers are now voluntarily installing airbags in such vehicles. Consumers already have a wide range of choices in showrooms today of vehicles equipped with airbags.

All of the domestic manufacturers and many of the foreign manufacturers have announced plans for voluntarily installing airbags in their vehicles during this decade. As noted many have already done so and have taken advantage of that effort in their advertising. They have done so, in accordance with their plans which takes into consideration many factors that affect the well-being of their business which in turn effects the well-being of the people who work in this industry. It also reflects the fact that there have been considerable problems with insuring adequate supply of airbags to meet the need. According to a recent Ford paper, Ford suppliers "have gone from producing 70,000 airbags for the 1989 model year to over one million for the 1991 model year." Ford states that the "supply base is still fragile and will be for some time."

The Senate bill attempted to suggest to the manufacturers that Congress knows better and is going to tell the manufacturer exactly how to run their operation. I believe that, particularly in this time of great distress that the auto industry is in because of the economic recession in this country, that such an approach by the Congress is ill-conceived. This industry is faced with enormous problems, including significant regulations under the Clean Air Act and the potential of tighter requirements in the case of fuel economy. In short, this industry is under siege. We need to "let up" and allow the industry and its workers to survive and be productive and profitable.

There were a couple of major concerns with the Senate provisions.

First, there is the problem of a design standard. It is believed to be the first time under the Safety Act, which spans the last quarter of a century, that Congress has told automakers what equipment they must put on their vehicles. Congress has, in the past, told them what we wanted manufacturers to accomplish—we have required performance standards—leaving room innovative technologies to evolve and be installed to meet performance criteria.

Second, the Senate bill failed to address the issue of seat belts.

Third, the Senate bill did not address supply problems.

While I continue to be concerned about any mandate regarding airbags, I believe that the joint conference substitute we are adopting today is reasonable and doable, although not without difficulties for the foreign and domestic industry.

While the conference agreement provides, in essence, a design standard it is not intended to be precedent setting. It is a unique situation. It should be treated accordingly.

I remain concerned that with the installation of airbags, people will become complacent and fail to consistently use their safety belts. Domestic automakers, NHTSA, and others have spent millions of dollars since the mid 1980's to encourage people to wear their safety belts. It has been a tremendous success as we have seen belt use increase from 12 percent to almost 60 percent. That is still not enough.

I emphasize that Congress has a responsibility to ensure that safety belt use continues to increase. Airbags are not substitute for felt use and the conference substitute makes that clear. I applaud that.

Safety belts are needed to hold the occupants in the proper or correct seating position in order for an airbag to be most effective and to provide restraint in the type of accidents where airbags do not work. For example, airbags may not be effective in side and rear impact and rollover accidents.

I am also pleased that this bill does not undo the light truck passive restraint rulemaking that NHTSA promulgated this past March. The new airbag requirement of this conference report recognizes that the manufacturers' product plants have been developed based on the March 1991 Federal rulemaking. This is why it is important to recognize that manufacturers are already installing airbags—both driver and passenger—in many of their vehicles. But just as the rule provided for some limited flexibility by providing for the carrying forward of credits until all light duty trucks must have passive restraints for both the driver and the outboard front seat passenger, this law will provide that those same credits be extended until 100 percent airbags are required on and after September 1, 1998, for both the driver and outboard front seat passenger.

The conference substitute calls for the amendment of the FVMSS 208. That amendment will provide a schedule for passenger cars and for light duty trucks, buses, and multi-purpose vehicles to meet regarding the installation of airbags on both the driver side and the right front seat passenger side of the vehicle. That schedule is reasonable but certainly difficult. It is reasonable, particularly in the case of light duty trucks and multi-purpose vehicles because in amending FVMSS 208, it provides that the credits or incentives available under the rule today will continue to be available until the companies are required to achieve 100 percent front seat inflatable restraints. That is a significant and important provision because it provides the flexibility for the industry to achieve the goal within reasonable bounds. I commend my colleagues in both bodies for agreeing to this provision.

I am also quite pleased to see that the conference substitute recognizes fully that the airbag is only a supple-

mental device and that it does not suffice for the properly worn lap and shoulder belt. The manufacturers can provide protection and they try to do so in the development of the vehicle. However, if the occupants, including the driver, fail to avail themselves of the means to achieve such protection, they, in effect, endanger themselves and make it more likely that in an accident death or injury could occur. I believe that is sad and I am pleased to see that the Congress agrees that we cannot afford to not recognize the primary benefits of seatbelts.

I am also pleased to see that the conference substitute contains a finding of a need for States to adopt mandatory seat belt use laws. It is my hope that all the remaining States will, in the very near future, adopt such a law. It is also my hope that they will do so in a manner that ensures that they will be enforced on a primary basis. In this regard, I note from the NHTSA letter of November 7, 1991, that at least one State, namely Connecticut, has a rule that if the vehicle is equipped with an airbag the occupant does not have to wear seatbelts. The letter indicates that Connecticut plans to change that law. I certainly think such a change is urgently needed.

The conference substitute also finds that the Federal Government should universally adopt seatbelt use rules. Again, this is a good provision and is consistent with the efforts of this committee to require such rules by the National Park Service, the Bureau of Land Management and the Defense Department.

Subsection (d) contains two disclaimers. The first, in essence, recognizes that the provisions of this section establish a design standard but in doing so the Congress does not intend to alter or affect the existing statutes the Secretary administers regarding the safety of passenger cars, trucks, buses and multipurpose vehicles. It also is intended that this particular design standard provision does not establish any precedent regarding the development and promulgation of any Federal motor vehicle safety standard.

The second indicates that nothing in this section, or in the amendments made by this section, by FMVSS 208 is intended to be construed by anyone to affect, change, or modify in any way existing or future court decisions or other applicable law in regards to vehicles with or without airbags.

The substitute also provides a program regarding the purchase by the Federal Government of airbag-equipped vehicles.

HEAD INJURY IMPACT STUDY

The conferees understand that there are other head injury protection matters which are the subject of research at NHTSA and which are not covered by section 2503(5) of this bill. This could include head injury protection matters from various types of crashes, such as side impact.

This section of the bill directs the Secretary to report on the need for rulemaking regarding this research and the extent of that research. The report would be provided by the end of fiscal year 1993 and would identify research matters and their status. It would also include a statement of any actions planned by the DOT toward initiating rulemaking not later than fiscal year 1994 or 1995. Such a rulemaking would be either an ANPRM or NPRM and would be completed as soon as possible after proposal.

The conferees agreed not to include several provisions regarding such matters as bumpers, crashworthiness, and pedestrian safety that were in the Senate amendment.

In the case of pedestrian safety, NHTSA said:

About 7,000 fatalities and an additional 21,000 serious injuries occur annually to pedestrians as a result of collisions with motor vehicles. In order of severe injury frequency, the extremities (arms and legs) are injured most frequently (49% of severe injuries), followed by the head/neck/face combined (34%) and the chest/pelvis/abdomen/back combined (17%).

The agency currently is pursuing research activities in the pedestrian protection area. On April 10, 1991, the agency terminated rulemaking on pedestrian leg protection that it had begun in 1981. Based on research results, the agency determined that there were no workable techniques to improve pedestrian leg protection and that the proposal would therefore not lead to improved pedestrian protection.

The agency held a public meeting on August 20, 1991 on the agency's pedestrian head impact protection research. Written comments on the subject of pedestrian head impact protection will be accepted by the agency until November 15, 1991. As noted in our priority plan, we will reach a decision on whether to pursue rulemaking further in this area by the end of this year.

Research on pedestrian thorax protection is continuing and will probably not be completed until sometime in 1993. If the agency decides to pursue rulemaking in this area, a two-year timeframe now for completion is unrealistic.

In activities under the Highway Safety Act, it should be noted that the agency, by notice of October 4, 1991, has expanded the list of most effective program areas under the Section 402 Program to include bicycle and pedestrian safety. The effect of this decision will be to provide simplified funding procedures for these programs.

I believe this is an important issue and observe that the Senate Appropriations Committee said recently:

The National Highway Traffic Safety Administration Authorization Act of 1991, as passed by the Senate, requires NHTSA to complete a rulemaking in this area within 2 years of enactment. The Committee requests, therefore, that NHTSA submit a report on data it has collected and research conducted regarding ways of reducing pedestrian deaths and injuries through making vehicles more forgiving by removing sharp edges, softening the hood and cowl area, increasing the space between the hood and engine components, and other approaches, the cost of such designs in new cars, and on the numbers of deaths and injuries currently by type of injury and by vehicle type causing the injuries. The report shall include information on vehicle designs for pedestrian protection in other countries.

Although we have not adopted the Senate provision mentioned by the Senate Committee, I believe such a report could be helpful. I look forward to the NHTSA report. I expect, however, that the report will also identify and explain the relevant issues regarding the development and issuance of any possible future rule applicable to pedestrians. This would include the problems, costs and benefits in applying such a rule to passenger cars and light duty and heavy duty trucks, taking into account the extent to which the front end of such a vehicle would need to be changed or modified and the problems and costs of such change or modification, including effects on all actions taken by vehicle manufacturers to meet various Federal safety, fuel economy and emission requirements. The report should also explain the extent to which the Secretary's research and applicable dummy research adequately represents various children and adults and represents accidents that occur between motor vehicles and pedestrians and the extent to which head injuries are attributable, not to the vehicle, but to impacts (occurring after the pedestrian is struck by the vehicle) against roadways, curbs, sidewalks, fences, or other hard surfaces. I will be expecting such information.

In the case of bumpers, NHTSA said:

Our view on the bumper system labeling disclosure provision of S. 1012 is that it would not be useful to consumers and might be misleading. Relating bumper performance only to impact speed does not account for accident frequency or the cost, including replacement costs, of any added protection attributed to higher speed damage-free bumper systems. In addition, a correlation between low-speed bumper impact tests and real world accident experience is not achievable because data sources for low speed accidents and costs do not exist, and would be extremely difficult, if not impossible, to develop. Data on low-speed damageability have failed to indicate that a viable consumer information program on bumpers could be developed, and the type of labeling proposed would not address the consumer costs associated with higher levels of bumper protection.

With regard to the amendment to the impact speed of the bumper standard as proposed in S. 1012 and H.R. 1967, the bumper standard was lowered from 5 mph to 2.5 mph in 1982, based on extensive analysis of the costs and benefits of 5-mph bumpers. While the agency recognized that 2.5 mph bumpers would lead to more vehicle damage in low-speed crashes, it found that this increase would be more than offset by consumer savings in the original and replacement costs of such bumpers and in fuel savings due to lighter weight.

Subsequently, in 1987 the agency conducted an extensive study comparing the benefits and costs to consumers of 5-mph and 2.5-mph bumper requirements. The study compared the collision damage experience and bumper

system costs of post-1982 passenger vehicles to bumpers on preamendment vehicles.

Among the conclusions of this agency study were that the net costs to consumers have not increased as a result of the modification of the standard from 5.0 mph impact resistance to 2.5 mph, and that the changed standard has not affected the protection of safety related parts. While a 2.5 mph bumper clearly gives a vehicle less protection than a 5 mph bumper in certain low-speed crashes, not every vehicle is involved in such low-speed crashes during its lifetime. Thus, only some car owners, particularly those in urban areas where low-speed crashes are more frequent, benefit from having 5 mph bumper requirements. A standard more stringent than the existing one would cause many passenger car owners to pay for protection that they would not need.

Accordingly, the agency determined that the modified 2.5 mph bumper standard best satisfies the Motor Vehicle Information and Cost Savings Act's mandate to "obtain the maximum feasible reduction of costs to the public and consumers," while considering other statutory factors. We are not aware of any data that would lead us to change this conclusion.

Question 16 also requested an explanation as to the safety nature of these provisions. Passenger car bumpers provide for a minimum level of damageability protection in low-speed impacts. (The bumper standard specifies no sheet metal damage or damage to safety systems when the vehicle is impacted at 2.5 mph.) However, this protection does not contribute significantly to reducing occupant injuries. At the higher crash speeds at which injuries are likely to occur, it is the structural performance of the vehicle as well as safety belts and/or other occupant crash protection equipment which provides occupant protection—not the bumper.

Next, question 16 asks to what extent the proposed amendments are related to insurance issues. The Insurance Institute for Highway Safety expends considerable effort to evaluate bumpers and report their findings in their Status Report. However, at the present time, insurance companies do not extend discounts to owners of vehicles with bumper systems that exceed our bumper standards' impact requirements, nor do they charge higher rates for bumper systems that just meet these requirements. This is an issue between the insurance industry and the auto manufacturers; the consumer, on average, is not affected.

Clearly in any consideration of bumpers, all of these matters must be considered.

In the case of crashworthiness, I think both NHTSA and the National Academy of Sciences have indicated that a study of the nature suggested by the Senate would be extremely costly and not provide the kind of information that all believe would be necessary in this area. However, as the conference report indicated this is a matter that should continue to be evaluated taking into consideration the above correspondence.

Mr. Speaker, I believe that the conferees have done a good job in coming up with a reasonable bill that is a vast improvement over the ones proposed in the Senate. I think it is important that we resolve these matters and put them behind us in the name of safety, and the need to provide some certainty and stability for the auto industry and its workers. I reiterate that this is an industry that is in difficulty. Many of its workers have lost their jobs. Today we know that plants are closed, some temporarily, some indefinitely. All of that has an impact not only on the manufacturers themselves but on the suppliers, who I dare say are located in all of your congressional districts.

I am pleased to be a supporter of this proposal. It will provide greater safety and while that will be costly to the consumer I think it is in the public interest.

I expect NHTSA to administer this program fairly and responsibly and I expect to maintain oversight over the agency in this regard.

Mr. Speaker, I urge adoption.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 4 minutes to the gentlewoman from Maryland [Mrs. BENTLEY], a distinguished member of the committee.

Mrs. BENTLEY. Mr. Speaker, I rise in strong support of the conference report on the transportation reauthorization bill.

I want to commend Messrs. ROSE and HAMMERSCHMIDT, the chairman and ranking minority member of the full Public Work and Transportation Committee, and Messrs. MINETA and SHUSTER, the chairman and ranking minority member of the Subcommittee on Surface Transportation, as well as all of my fellow conferees and the staff for their hard work and diligence during the past several weeks.

I want to assure all of our colleagues in this body, as well as the public, who will benefit from this legislation, that first and foremost, the conferees sought to achieve a compromise between the House and Senate versions of the transportation reauthorization bill that would be fair and equitable to all. I believe we accomplished that goal.

Mr. Speaker, the Intermodal Surface Transportation Efficiency Act indeed is a piece of Federal legislation for America.

It is, without question, the most significant and important public works bill this Congress has considered in the past two decades.

This transportation conference report provides an invaluable boost to the American economy, having an economic impact of $1.5 trillion; it will enable the return to the economy additional billions of dollars now lost to inefficiencies of our transportation network, and, more importantly, it will create almost 2 million jobs for Americans.

Furthermore, Mr. Speaker, the Buy-American clause—again providing many more jobs for Americans.

Improved safety features also are included—one of which I requested—namely to require installation of reflector lane markers so drivers know where their lane is on dark rainy nights.

Maryland is one of the 34 reasons which Mr. CLINGER cited as the reason why this should be approved.

The conference report, Mr. Speaker, will serve as the blueprint for America's transportation system that, in turn, will greatly aid America's productivity, efficiency, and competitiveness in the global arena.

Without its enactment, American businesses will continue to suffer, productivity will continue to stagnate, and gridlock will continue to cripple the movement of commerce and individual travel.

This Congress has invested billions of dollars in foreign aid at a time when our economy and budget deficit can ill afford it. With the use of Federal gas tax revenue and a spend down of the highway trust fund, now is the time for this Congress to invest in America. That is what this conference report does.

Mr. Speaker, I strongly urge my colleagues to vote for this conference report.

Mr. ROE. Mr. Speaker, I yield 3 minutes to the distinguished chairman of the Committee on Ways and Means, the gentleman from Illinois [Mr. ROSTENKOWSKI].

Mr. ROSTENKOWSKI. Mr. Speaker, I rise in strong support of the conference report on H.R. 2950, the Surface Transportation Act, including the financing title.

America needs renewed investment in infrastructure, and H.R. 2950 is a strong and welcome response to that need. It provides for much needed construction and repair of our Nation's roads and bridges, and strengthens America's mass transit network. It allows considerable transferability among the different transportation accounts, thus providing crucial flexibility for State and local officials to decide the best use of funding in their own locales. It funds infrastructure programs adequately over the next 6 years, but exhibits fiscal responsibility by spending only as fast as the funding allows.

The Public Works and Transportation conferees, under the able chairmanship of chairman ROBERT ROE, have labored long and hard over the last several weeks to present to this Congress a responsible, effective, fully-funded highway authorization bill.

It has been a difficult conference. But, in the end I believe they have successfully satisfied the competing goals of completing construction of the Nation's Interstate Highway System and repairing and maintaining our older well-used highways. They have balanced the needs of our wide-open rural areas with our heavily-populated urban areas. They have addressed safety, congestion, and pollution problems associated with surface transportation. They

have produced an excellent bill. They deserve our praise and our thanks.

The Ways and Means conferees, along with those of the Senate Finance Committee, are happy to join our Public Works colleagues in completing this bill by adding a financing title that will ensure that the necessary funding is available for the improvements in our transportation system provided by H.R. 2950.

The tax conferees' financing title would extend the expiration date of current highway fuels taxes and allow for continued transfers into, and authority to spend out of, the highway trust fund. The financing title would also provide an anti-sequester safeguard mechanism to reduce 1992 obligations from the bill in the event that the official scoring of H.R. 2950 would otherwise create a pay-as-you-go sequester.

Currently, all highway trust fund taxes, as well as the taxes on motorboat and small engine fuels, are scheduled to expire on September 30, 1995. The financing title would extend these taxes through September 30, 1999, to fully fund this bill's new 6-year authorization. The full amount of gross revenues from these existing trust fund taxes would continue to be deposited into the fund.

The 2½-cent deficit reduction tax on motor fuels, enacted last year, is also scheduled to expire on September 30, 1995. The deficit reduction tax is not extended in the financing title.

Mr. Speaker, I believe this bill is important for our country. I also believe it is important for my city, Chicago. I believe this bill will bring jobs to the people of my district. It will allow completion of the badly needed reconstruction of the Kennedy Expressway, which is only a stone's throw from my home. It will fund many important local projects like the State Street Mall redesign and several bridge repair programs.

Mass transit, important to Chicago, will finally be funded at a reasonable level. For Chicago, this will mean the central city circulator can be built to move people around the loop.

Mr. Speaker, I urge that H.R. 2950, including the financing title, be enacted because it is a good, responsible bill that will provide needed improvements in America's transportation system. My colleagues, I strongly urge your support for H.R. 2950 including its fiscally responsible financing provisions.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. LENT], the ranking member of the Committee on Energy and Commerce and a conferee.

Mr. LENT. Mr. Speaker, I rise today in support of the conference report and congratulate the Chairman, Mr. ROE, the vice-chairman, Mr. HAMMERSCHMIDT, and all members of the Committee on Public Works, for coming together on a bill that will most probably be signed into law by President Bush. While my colleagues have concentrated their remarks on the highway and transit portions of this bill, I would like to address my remarks to title II.

Highway safety is of great importance to each of us. Every day, hundreds of Americans die on our Nation's highways. I am pleased to report that our annual fatality rate is declining, but we still have much to do.

Title II reauthorizes the National Highway Traffic Safety Administration, which was last reauthorized in 1982. It also calls for the initiation of rulemakings designed to save lives. Under the terms of this legislation, by 1997, all automobiles sold in this country will be equipped with airbags. Head injury protection will be improved, and the National Highway Traffic Administration will undertake a major study for the improvement of braking systems.

While I realize that our domestic automobile industry is currently experiencing financial difficulty, I believe that the provisions of title II have been crafted in such a way as to avoid undue or burdensome regulation.

Mr. Speaker, both majority and minority staff have worked diligently to bring an agreement to us this morn. The balance struck is good for both those who use our highways, and those who make our cars. The legislation is overdue, but is before us tonight. I urge my colleagues to join with me in supporting the bill.

□ 0510

Mr. ROE. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Washington [Mr. SWIFT].

Mr. SWIFT. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, this is a historic day. We are considering critical legislation that will be the single most important blow Congress will strike against the recession this year. If approved, we will invest $150 billion in improving the Nation's productivity, start rebuilding our once mighty transportation facilities, and create at least 2 million jobs.

We will also be looking ahead. In addition to caring for highway and mass transit needs, this bill takes the extraordinary step of contemplating transportation systems of the future. The conferees have agreed on a package of high-speed ground transportation programs that, if carefully developed, should link major metropolitan areas and transportation hubs of all regions together in a coherent, accessible matrix.

We've all known for some time that high-speed trains, both magnetic levitation and steel-wheel, pose solutions to traditional energy-gulping, polluting forms of transportation. The Transportation Research Board, Office of Technology Assessment, National Research Council, and even the Department of Transportation have all concluded that high-speed trains will move people quickly, safely, and competitively while minimizing pollution and energy consumption.

The package we have crafted ensures the balanced pursuit of both maglev and high-speed, steel-wheel technologies. We are creating a three-phase competitive design program culminating in the construction of a third-generation maglev prototype. We are amending an existing program to make high-speed, steel-wheel development projects eligible for Federal loan guarantees up to $1 billion. And we are creating a basic research and technology demonstration program that will draw together all available knowledge to help advance both technologies.

Industry and Wall Street have indicated significant interest in high-speed ground transportation. They have been waiting for Congress to give the word. Well, I'm pleased to say that Congress has put money where its mouth is: The total package is funded by a $1.8 billion combination of direct financial support and loan guarantees. Indeed, we can now say to States and consortia waiting to make high speed rail inventment decisions, "the word is given."

I am also pleased that we have been able to include some very important, very necessary automobile safety measures within this reauthorization of the National Highway Traffic Safety Administration. Rarely do we have the opportunity to pass a measure that will have such direct and immediate impact upon the health and welfare of the American public. But that is the case here. This legislation will save lives. Many men, women, and children in the future will survive otherwise serious accidents on the Nation's highways because of requirements in this legislation to mandate airbags, to improve head injury protection, to direct NHTSA to target resources to make child booster seats safer, to lower the risk of vehicle rollover, to protect against side impact collisions, and to improve the design of safety belts.

This legislation was crafted with the care and concern that it deserved by Members from both Houses, from both sides of the aisle. Very early in the process there was a unanimous acknowledgment by all conferees that this was an opportunity to pass important reauthorization legislation that has eluded us for many years. I think all conferees can take a great deal of pride in the work we have accomplished, but I would particularly like to single out Chairman DINGELL of the Energy and Commerce Committee for his commitment to this process, and to Senator GORTON for his consistent support for conference efforts to find practicable answers to difficult problems.

There are issues we deal with around here that are arcane or very narrowly

crafted; there are issues where the anticipated results are far in the future or difficult to quantify. This legislation affects everyone, and the results will be seen every time someone walks away from a crash where before they would have suffered serious injury or death. Highway safety—protecting the public from injury and death—is one of the most important issues that can be addressed, and I think Congress should take a great deal of pride that we have addressed it in this legislation in a direct, effective, and responsible way. We will save lives because this legislation is on the books.

Finally, I would like to commend the conferees for including provisions in the conference report that address the specific congestion problems on the Interstate 5 corridor north of Seattle. The Marysville/Tulalip interchange and the Snohomish County HOV lanes will provide necessary—and long overdue—relief for commuters and businesses who have endured endless frustrations in I–5 snarls.

I would like to conclude by recognizing the herculean efforts that have formed the bedrock of this legislation. The chairman of the committee, Mr. ROE, the subcommittee chairman, Mr. MINETA, and the ranking Republican members, Messrs. HAMMERSCHMIDT and SHUSTER, have done a tremendous job pulling together the Nation's transportation policy for the next 6 years. I thank them for their efforts, and for working with me and the members of my committee in assuring that our repective jurisdictional concerns were addressed in a constructive and productive manner.

Mr. Speaker, the staff of the Committee on Public Works and Transportation has been particularly helpful, and for myself and my staff I want to let them know how much we appreciate that.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. PACKARD], a very able member of our conference and our committee.

Mr. PACKARD. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I want to rise in strong support of this piece of legislation and start by congratulating my committee leadership for their magnificent work, the committee members, the conferees, and particularly the staff members. They have done a magnificent job in working this bill for the last several months.

Mr. Speaker, let me touch upon several macropolicy changes that are going to take place in transportation policy in this legislation. No. one, this will be $151 billion into a sagging economy in the next 6 years, over 40 percent more than we have spent in transportation in any other year. This is a magnificent effort in rebuilding this country's infrastructure.

Mr. Speaker, for the last 10 years I and our committee have been looking for the money and the will to start rebuilding the sagging and crumbling infrastructure in this country. This bill starts that process for the first time in the 10 years I have served on the committee. For the last 10 years we have been trying to spend down the highway trust fund and not been successful. This bill will start the process. During the next 8 years we will spend down the highway trust fund down to a safety net level.

This bill for the first time puts flexibility in the spending of our transportation dollars. I served at the local level on one of the local metropolitan planning organizations. We never had the flexibility to make our own decisions and develop our own priorities as to where transportation dollars go. This bill provides that flexibility and sends money directly, not through the States, but directly to the metropolitan and local planning agencies. This is the first time we have ever done that. That will be a magnificent effort.

Mr. Speaker, this bill provides the necessary dollars to fulfill the requirements of the Clean Air Act.

Mr. Speaker, I strongly urge my colleagues to support this bill and vote it into law.

Mr. ROE. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Florida [Mr. BENNETT].

Mr. BENNETT. Mr. Speaker, before us tonight is the most comprehensive highway bill this Congress has considered in 35 years. I remember being in this Chamber in 1956 when we overwhelmingly supported and passed President Eisenhower's plan to build a national Interstate System. Some people say that that was the most effective piece of legislation in the Eisenhower administration; still others say it was one of the most important pieces of domestic legislation ever enacted into law.

In pursuit of President Eisenhower's dream, we established the Federal highway trust fund in which States contributed according to ability and received according to need. Such a system meant that large, growing States would contribute more in order to supplement those less populated States that could not fund their own interstates alone.

Those States that contribute more than their fair share have become known as donor States. Mr. Speaker, my State of Florida is one of those, and I am here to tell you that we are proud of the contribution Florida has made in helping other States to complete the Interstate System.

But as proud as we are of our efforts, we are as adamant about the need to modernize the distribution formulas. You see, in 1956, we faced unique needs and we developed a unique solution, but no longer does that same need exist, and the solution must be changed. Unfortunately, this conference report does not do that. Instead, it attempts to address modern transportation needs through antiquated formulas.

We are stuck with a formula in this legislation that distributes money, in part, based on rural mail carrier route miles and a State's land area. This is not the way to distribute transportation money to States who are trying to maintain and construct eight-lane superhighways and high-capacity bridges.

Even more unfortunate is the fact that this legislation disregards the formulas we included in the House bill. So many of us from donor States fought vigorously for the inclusion of the so-called FAST formula, which distributed Federal highway trust funds on the basis of modern transportation needs. The new formula analyzed vehicle miles traveled per State, lane miles per State, and State-wide diesel fuel use—factors that truly reflect need. Donor States had high hopes going into conference that our formula would be protected, but that is not the case and I must oppose this conference report and urge my colleagues to do the same.

Mr. Speaker, over the last 48 hours, I have reviewed all available information from the conference and am not pleased by what I've learned. The conference report before us will mean only 82 cents per dollar for my State. That is unacceptable for its unfairness, especially when you consider that we will do worse under the conference report than we did under the Senate and House bills. Many of my colleagues from donor States can make the same claim.

I have been criticized by some Members for distributing inaccurate numbers. They are not. They just tell the whole story. Until 2 o'clock this last afternoon, there was confusion as to what the conference report said. Even now, we have tables produced by the Federal Highway Administration that I am told exceed the level we can spend. Even more disheartening is the fact that few, if any, of us have had the opportunity to read the report language, yet we are expected to vote on the bill. If there is confusion as to what this conference report says or how various States are treated, it's understandable. Because, Mr. Speaker, there has not been enough time to analyze what is before us.

It is my sincere understanding that this conference report is not good for donor States and does not establish a policy which is fair, equitable, or forward thinking. Claims to the contrary are simply an overeager attempt to pass this bill. I am not that eager, Mr. Speaker, to lock my State into a formula for the next 6 years which will force us to contribute so much more to the trust fund than we will receive and

which does not address the equity issue which donor States have fought for so earnestly.

I urge the defeat of this bill, not in an effot to be belligerent or to keep our Nation from funding its transportation system. Rather than looking out for the short-term needs of this country, I am looking out for the long-term needs for the greater good. Mr. Speaker, if we are successful in defeating this legislation, I would support a temporary extension of current law so that time would be available to try to work out a bill that is more fair to donor States. The bill will do a lot of good even if enacted in its present form but it is not fair to donor States.

Mr. YOUNG of Florida. Mr. Speaker, will the gentleman yield?

Mr. BENNETT. Mr. Speaker, I yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I have to say that the debate has been overwhelming and creates a strong urge to vote for this bill. But my colleague from Florida [Mr. BENNETT] earlier this morning made quite an eloquent statement as to the formulas used in the distribution of these funds.

It is important to me as one who is going to be called upon to vote and one who is concerned about fair treatment for a growth State like the State of Florida to know just exactly what the figures are.

The eloquent statement of the gentleman from Florida [Mr. BENNETT] was very convincing. I am wondering if one of the managers of the bill could respond to the issue of just how is a growth State like Florida treated in this regard?

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

Mr. BENNETT. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Speaker, first, I have before me a document published yesterday by the Federal Highway Administration which reports that Florida, for the past 5 years, in the existing law received 77 cents of return on dollars paid into the highway account for every dollar paid in.

In this conference report Florida will receive return on dollars paid in highway account, 92 cents, according to the Federal Highway Administration. So it is a very substantial increase.

Beyond that, Florida for the past 5 years received $2,471,000,000. Under this legislation Florida will receive $4,637,000,000 or an 87 percent increase in dollars.

Mr. BENNETT. Mr. Speaker, reclaiming my time, as I expressed before, the 92 percent is really very inaccurate. Actually the return is about 82 cents on the dollar. That is because of where the money is applied. The formula, the percentages are applied not across the board in this bill, and it is actually 82 cents, according to the information coming to me from the Department of Transportation.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. ZIMMER].

Mr. ZIMMER. Mr. Speaker, I rise in support of this conference report. It is a tremendous investment in America's future. It will enable us to be competitive in the year 2000. It is going to create over 2 million jobs.

Mr. Speaker, we have talked for the last several weeks and today particularly of progrowth. This is progrowth. It will help us get our economy moving again. It will have a strong economic impact.

Mr. Speaker, I urge Members to vote in support of this conference report. It is progrowth, it is projobs, it is pro-America. Let us get moving. Let us pass it.

Mr. ROE. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from West Virginia [Mr. RAHALL], a member of our committee.

Mr. RAHALL. Mr. Speaker, I rise in strong support of the Intermodal Surface Transportation Act of 1991. I commend the bionic leadership of our chairman, the gentleman from New Jersey [Mr. ROE], and his partners in intermodalism, the gentleman from Arkansas [Mr. HAMMERSCHMIDT], the gentleman from California [Mr. MINETA], and the gentleman from Pennsylvania [Mr. SHUSTER]. This is truly an intermodal transportation act of profound ramifications for this country, well into the next century.

It has been said this morning that this bill may well be the most important piece of legislation of this Congress. I think it may be the most important piece of legislation in this decade.

This legislation will certainly cover this country as far as the concerns of the backpackers to the high tech mag lift projects, from the pedestrian walkways to high speed trains. It is indeed intermodal in its ramifications. It will have profound impact upon the workers of this country, providing, as we have already heard, over 2 million jobs over the next 6 years.

Mr. Speaker, I also reminded my colleagues, especially the gentleman from Florida [Mr. BENNETT], who just spoke before me, as well as those from donor States, that it is important to look at all of the ramifications of this legislation. Do not just look at the column in regard to highway legislation, because this is not a highway bill. It is a transportation bill. Look at the transit columns as well. Look at all of the formulas. Look at all of the transportation effects that this bill will have on your State before making any harsh judgments.

The transit funding, as the chairman of the subcommittee [Mr. MINETA] has so well said, is the highest transit spending that this country has ever embarked upon.

Mr. Speaker, I urge passage of the pending legislation.

□ 0520

Mr. ROE. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Ohio [Mr. APPLEGATE].

Mr. APPLEGATE. Mr. Speaker, I would like to just join in some of the accolades and say that I have never been so proud in 30 elected years of serving with such leadership as the gentleman from New Jersey, BOB ROE; the gentleman from Arkansas, PAUL HAMMERSCHMIDT; the gentleman from California, NORM MINETA; and the gentleman from Pennsylvania, BUD SHUSTER, the staffs who did an outstanding job, tremendous, and the conferees that I had a chance to work with.

Democrats and Republicans are sparring around a little bit like Holyfield and Tyson. They are not getting anywhere either, as far as an economic growth package is concerned.

We are talking about tax cuts from the Democrat side, tax breaks from the Republican side. I tell my colleagues, if one does not have a job, one cannot get a tax break. One cannot get a tax cut.

Americans want jobs; they do not want the handouts.

This transportation bill, if my colleagues will listen to me, is the jumpstart that the Nation's economy needs, and they need it now. It is $151 billion, 6 years, 2 million jobs, and I am not talking about these Wendy's jobs. I am talking about meat and potato jobs, jobs that will put something on the table.

It is a bill for all Americans, and it is one that I understand that the President is going to sign.

As America grows a million and a half people each year, by the year 2000 we are going to have a lot of people. And we will need the better roads of transportation. We will need the better infrastructure. We will need the building of our bridges to bring together everything to move into the 21st century.

I say this: That every State, every State is going to benefit by this to a great amount of money, much more than they have over previous years. Forty to fifty percent more money, we will be able to do a lot of things that we have not been able to do in the past.

America's economy needs this. The people want it. I say to my colleagues, do not go home without it.

Mr. ROE. Mr. Speaker, I yield 1 minute to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Speaker, I want to thank the chairman. I want to thank him and his fantastic staff for doing such a great job, along with the minority side and others.

I am only sorry that we are debating this wonderful all-American job bill that will repair our infrastructures and

provide transportation for the American people. And in Ohio alone, create about 40,000 jobs and sustain jobs for the people in my State and throughout the country.

Mr. Speaker, I want to tell my colleagues what it will do for Ohio because we are a donor State, but I will tell my colleagues with all of the discretionary funds that we anticipate getting, we think we are not going to be a donor State.

Over a 5-year period from 1987–91, we got $2.28 billion. Under this bill, we will have a 47-percent increase to $4.174 billion for the people of Ohio, return of their tax dollars that will generate into a new all-American spirit.

Congratulations, Mr. Chairman. You are terrific.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself 1 minute.

I would not want this debate on this conference report to go by without acknowledging the great hope that we receive from the Department of Transportation under Secretary Sam Skinner, especially through Dr. Tom Larson, the Federal Highway Administrator and Bryan Clymer, the Administrator of the Federal Transit Administration.

They gave us invaluable help. They did computer run after computer run. I wanted to acknowledge that in this debate.

Mr. ROE. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. Mr. Speaker, I rise to support this bill, although I agree with the gentleman from Florida [Mr. BENNETT] and the gentleman from Florida [Mr. YOUNG]. We still are really not fully satisfied.

If we add the trust fund money that will be spent to the money that Florida will add in and get back, we think it reduces it. But there is an overriding concern beyond that alone. The discretionary money which the gentlewoman from Ohio just talked about that Florida will get, which will create jobs and the rest of that.

People in Florida, like everywhere else in this country, are mobile. People in Florida expect when they drive to other States that there will be a better infrastructure in those States as well. They want the bridges and the roads and the tunnels and the highways to be good in other States, as they drive. They have paid their tax dollars in. They want to see other roads where they are participants, where they are users, to be safe and in satisfactory condition, not only for their residents but for us as well.

This will create jobs. In Florida the unemployment rate is over 8 percent. We need this as well.

We will come back and try to get parity on the formula eventually, but in the mean while America needs this bill. And so does Florida.

I urge my colleagues' support.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Kansas [Mr. NICHOLS], a member of the committee.

Mr. NICHOLS. Mr. Speaker, I rise in strong support of the intermodal transportation bill. This bill is properly regarded as an investment, not an expense, in America.

The multiplier effect of the moneys ranging from 2 to 10 times as the dollars bounce around will move all of our States in a progress direction. It will help gear us all up for the 21st century.

I strongly urge its passage.

Mr. ROE. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Speaker, I thank the chairman for yielding time to me, and it is a pleasure to rise at this early hour and express my strong support for the work of the chairman and the gentleman from California [Chairman MINETA] and the ranking minority members.

I strongly urge my colleagues to support this legislation, which in my view is one of the great highlights of this session.

There has been a lot of talk about economic growth packages, but my friends, this is the economic growth package that this Congress is going to pass, $151 billion over a 6-year period that will create 2 million jobs, according to the White House 4 million jobs, that is good news for all Americans.

In addition to that, the correction in this legislation as it affects donor States is also good news for many donor States who in the past have contributed a lot more to the highway trust fund than they got back. So that is another very important change in the highway bill as far as I am concerned.

The last point I would make, that I think is very important, is that for the first time we are giving the States the flexibility they need to most efficiently utilize the money that this legislation will provide them.

I urge strong support for this legislation, and I commend all the Members who have worked to move this legislation through the process.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. HASTERT], a distinguished member of the committee.

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

Mr. EMERSON. Mr. Speaker, will gentleman yield?

Mr HASTERT. I yield to the gentleman from Missouri.

Mr. EMERSON. Mr. Speaker, I rise in strong support of this bill.

Mr. Speaker, the merits of this bill will be told for years to come through the improved infrastructure it will provide. More importantly, thousands of people will participate in implementing the provisions of the law, and that is very welcome. This is a real jobs bill for real people addressing real needs in making America more competitive.

Mr. HASTERT. Mr. Speaker, I want to extend my congratulations to the ranking member and the ranking member of the subcommittee and certainly the chairman of both the subcommittee and the committee for the great work that they have done. I think it is important that we say the statements in this bill, too, that will change the competitiveness of this country for decades to come, because it sets up a streamlining for our transportation industry, a one-stop shopping and something that will save consumers and shippers billions of dollars as well as the fine work that has gone in to work the highway system and the infrastructure of the country.

I commend the chairman and the ranking member and urge strong support of this bill.

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Mr. ROE. Mr. Speaker, I have no further requests for time, but I want to do something in honor of the staff who have worked, Members just have no idea of the extraordinary job that the staff on both sides of the aisle and also in the Senate have done to contribute to this effort. I am going to do something unusual and I am going to name them, and I hope Members will indulge me and give them a response.

They are:

Bob Bergman, John Doyle, Maureen Dubia, Cindy Elliot, Sante Esposito, Jack Fryer, Eunice Goldring, Kathy Guilfoy, Kathy Hoffman, Ken House, Pam Keller, Sheila Lockwood.

Cheryl McCullough, Jimmy Miller, Toby Mullvain, George Noblin, Pepper Riley, Caryll Rinehard, Jack Schenendorf, Jeff Shoaf, Roger Slagle, Dave Smallen, Suzanne Sullivan, Becky Weber, and Susan Byneder.

Mr. Speaker, I think we should give them a big hand.

Mr. GOSS. Mr. Speaker, this is an anxious time of year in Washington. As Congress rushes to complete action on unfinished legislation before we adjourn, I remain gravely concerned that the people of Florida and other donor States are being taken for a ride by the Transportation conference report without serious consideration of its consequences. Florida has historically been badly shortchanged by the funding formula, leaving us to export millions of dollars in jobs and transportation project to other States.

The conference report, brought to the floor sight-unseen and in the middle of the night, does nothing to improve Florida's situation and that of other donor States. Legislators were asked to take at face value committee assurances that the new bill would treat our States fairly, but in light of Florida's past treatment, and the fact that Florida transportation will receive no more than 83 cents for every $1 the Florida taxpayer pays into the highway trust fund, I could not support the bill. These decisions are simply too important to be railroaded

through with no ability to analyze and verify the information we were asked to approve. Supposedly, the bill is good for America. We've been down that road before with the now infamous budget agreement, and unfortunately we can all now see what good that did the American people.

Make no mistake, there are some encouraging provisions in this legislation, and perhaps given time and some sleep, the negotiations could have produced a truly good bill. However, the long-term well being of Florida's transportation infrastructure cannot be traded for one-shot buyoffs, but requires a stable, fair funding formula that reflects Florida's position as one of the most populous, fastest-growing States in the country. By voting for this bill, I would have contributed to an effort to lock Florida and other donor States into 6 years of exporting close to $1 billion to pay for transportation projects in other States. This money is desperately needed within our own borders. It has been said that this is a jobs bill, but I fail to see much benefit for Florida in sending Florida dollars to pay for jobs in the District of Columbia, Alaska, and Hawaii over the next 6 years.

Am I frustrated? You better believe it. Once again rational, fairminded legislation was derailed by middle-of-the-night, backroom dealmaking. When I voted against this bill last month, I said Florida seemed to be choosing between getting hit by a Mack truck or a Honda. Well, this morning we got hit by the Mack truck after all, a Mack truck driven by the business-as-usual group in Washington. No wonder the American people are fed up with Congress.

Mr. DE LUGO. I rise to congratulate the distinguished chairman of the House Public Works and Transportation Committee for his efforts in bringing this Transportation conference report on H.R. 2950 to successful passage. As Senator MOYNIHAN said of Chairman ROE during the House-Senate conference proceedings of the last 2 weeks, "This man's energy and dedication are nothing short of a miracle." As a member of the conference I can personally attest to this as well as his extraordinary patience under incredible pressure.

I also want to commend the ranking minority member of the committee, JOHN PAUL HAMMERSCHMIDT, for his extraordinary efforts on this bill, as well as NORM MINETA, the chairman of the Surface Transportation Subcommittee, and its ranking minority member, BUD SHUSTER.

Indeed, this is landmark transportation legislation which will chart a new economic course in this country as it will in my own district, the U.S. Virgin Islands. The entire country owes a tremendous debt of gratitude to these gentlemen for their leadership and vision in enacting this legislation which will benefit the Nation for many years to come.

Finally, the staff of the House Public Works and Transportation Committee deserves special commendation. Their extraordinary skill and talent in working on this most complex bill was trully remarkable. During the final days of the conference on this bill, they performed in an outstanding manner literally around the clock.

Mr. Speaker, it was a privilage to serve as a conferee on this bill and to work with the leadership and staff of the House Public Works and Transportation Committee.

Mr. CONYERS. Mr. Speaker, I strongly support the conferees' deletion from the Intermodal Surface Transportation Infrastructure Act of 1991, H.R. 2950, of the Senate's provision that would have permitted the Attorney General to block any Government agency from issuing regulations if the Attorney General were to decide that the agency does not have adequate procedures for assessing whether its regulations may result in the taking of private property within the meaning of the fifth amendment of the Constitution. This proposal would unwisely give the Attorney General radically new veto powers without any attention given to the processes of openness and accountability that are now required by the Administrative Procedure Act [APA].

This proposal is just the latest saga in the effort by the administration to delay and block health and safety and other critical regulations that Congress has mandated and to do this in secret, behind closed doors, and out of public view contrary to the intent of the APA. In 1981 President Reagan established the Presidential Task Force on Regulatory Relief, which was headed by then-Vice President Bush. In June 1990 President Bush created the Council on Competitiveness to carry on the same functions as the task force and designated Vice President QUAYLE as its chairman.

Vice President QUAYLE has played an active role in orchestrating the current campaign to enact a proposal to permit the Attorney General to delay, perhaps indefinitely, any regulation of any agency. Documents supplied this spring to the Committee on Government Operations by the Council indicate that the Council considered this proposal at least twice. At its September 27, 1990 meeting the Council approved administration support for a "private property amendment." The Council explained that the bill is "an extension of Executive Order 12630—governmental actions and interference with constitutionally protected property rights that was developed by the task force on regulatory relief, chaired by then-Vice President Bush, and signed by President Reagan in 1988." At its December 19 meeting the Council reported that it "is working with the Department of Justice and OMB to develop a legislative initiative to protect constitutional property rights. * * * The Council requested that the legislation be expanded to include all agencies and be codified to define the nature of the individual right of action that would be provided."

Senator SYMMS introduced the Private Property Rights Act, S. 50, incorporating the principles articulated by the Council, and on June 12, 1991 he said that the Vice President had called him that morning and asked him to offer his bill as an amendment to the highway bill. The Senate adopted the bill as title IV of the highway bill.

Title IV affects the regulations of every agency. It would permit the Attorney General to delay indefinitely any regulation of an agency until the Attorney General certifies that the agency has established adequate procedures for assessing the potential of its regulations constituting a taking within the meaning of the fifth amendment.

Under this proposal, the Attorney General could, for example, block a regulation of the Department of Housing and Urban Development [HUD] helping low-income families acquire housing if the Attorney General determined that HUD did not have adequate procedures for deciding whether the loss of revenue to builders was a taking. Or the Attorney General could block Environmental Protection Agency [EPA] regulations dealing with the cleanup of Superfund sites to protect public health because the Attorney General had not approved EPA's procedures for assessing whether the disruption of business was a taking.

The Attorney General would exercise this veto power even if Congress has mandated the regulation. Moreover, the Attorney General would exercise this veto power exempt from the procedures for openness and accountability that Congress has carefully crafted in the APA. No Court would be able to determine whether the Attorney General's decision to block an agency's regulations was based on the public record or on a private telephone call.

Concerned about the sweeping implications of this proposal, the Committee on Government Operations asked the Office of Management and Budget [OMB] for information on the extent to which Government regulations have in fact been held by a court to be a taking within the meaning of the fifth amendment. OMB referred the committee's July 18 request to the Department of Justice [DOJ], which responded on October 11.

The DOJ data show that since January 1, 1988 DOJ has closed 106 cases involving an alleged regulatory taking. In only 27 of these 106 cases—(or 25 percent)—was money paid to the property owner, and the total amount of money awarded over this 3½-year period in these 27 takings cases was only about $28 million, excluding interest, or less than $9 million a year.

Moreover, these 27 cases involved only five Federal agencies: the Department of Agriculture, three cases; the Army, nine cases; the Department of Energy, one case; the General Services Administration, one case; and the Department of the Interior, 13 cases.

The $28 million awarded during the last 3½ years in these 27 regulatory cases is, of course, important to the particular property owners involved in the disputes, and we all want to ensure that regulatory actions pursuant to congressional action minimize encroachments on private property whenever possible.

But the information supplied by the administration makes it clear that there is no basis for believing that there is a significant risk that all regulations of all Federal agencies constitute a taking. It already takes far too long to implement health and safety regulations that Congress has authorized.

Title IV of the Senate highway bill was a radical solution in search of a problem at enormous cost to the protection of the health and safety of Americans, and I strongly support its deletion from the final bill.

Mr. LIGHTFOOT. Mr. Speaker, I rise in support of the conference report.

I am not happy with the circumstances in which we find ourselves tonight. It is frustrating when this body constantly finds itself considering major legislation in the dead of night,

with perhaps one copy available to the Members. How can we be surprised that the public is disenchanted with our performance. And I cannot help but think we would not be in this situation if we had not wasted months trying to raise gas taxes another 5 cents a gallon.

In late July and early August I joined the majority of this body in not supporting efforts to raise gas taxes by another 5 cents a gallon. Tonight we have to be prepared to accept the consequences of our decision. States are not going to get as much highway money as they would like. Nor will our projects receive as much funding as they deserve. But I believe sacrificing some highway dollars is better than the potentially devastating effect raising gas prices would have on our economy.

Having said that, let's look at the conference report.

Unlike some bills before this House in the last few weeks, it is not loaded with accounting gimmicks to raise the deficit. We spend what we have and no more.

The State of Iowa will receive approximately $1.456 billion in highway funds over the life of the bill. Iowa receives funding for projects of major importance to southeastern and southwestern Iowa. The completion of Iowa Highway 2 from Sydney, IA, to Interstate 29, will stimulate economic development and increase safety in southwest Iowa. The Valley View Drive project in Council Bluffs, IA, will allow the community to safely expand in the only viable direction.

Finally, the bill recognizes the Avenue of the Saints as a corridor of national significance. Funding provided in the bill will be a great help toward the completion of this major transportation project for eastern Iowa. I appreciate the leadership of the Public Works Committee for recognizing the importance of the Avenue of the Saints. But I would also like to pay tribute to the entire Iowa delegation. We worked as a team to keep the avenue where it belongs, in Iowa. All Iowa Members, from both sides of the aisle, gave this serious challenge their maximum effort. It just goes to show what we can do as a team.

I am disappointed the House did not recede to Senate language granting States the authority to waive commercial drivers license requirements for agribusiness. There is not one bit of evidence to indicate agribusiness drivers are any more of a safety hazard than the custom harvesters who did receive an exemption in the bill. This is an important issue in rural America and I will not give up the effort for agribusinesses to receive this commonsense waiver.

My friends, I had the honor to serve on the Public Works Committee for 7 years. No doubt in a week or two we will find provisions in this bill that need correction. But America cannot wait any longer for this major infrastructure bill. I know BOB ROE, JOHN PAUL HAMMERSCHMIDT, NORM MINETA, and BUD SHUSTER. They have worked hard and in a truly bipartisan fashion. They are trying to do right for America and this House and deserve our support tonight. I urge my colleagues to support the bill.

Mr. VENTO. Mr. Speaker, I rise in support of the conference report on the Intermodal Surface Transportation Act.

This conference report is a product of months of hard work by the chairman of the Committee on Public Works, Mr. ROE, his ranking member Mr. HAMMERSCHIMDT, the chairman of the Subcommittee on Surface Transportation Mr. MINETA, and his ranking member, Mr. SCHUSTER. I commend them for their leadership and perseverance in bringing his massive and complex piece of legislation to the floor. On the whole I believe the conference report is an important measure which will help repair our Nation's ailing infrastructure, stimulate economic growth and meet our surface transportation needs into the next century. The mass transit provisions and funding of this bill are particularly worthy.

I rise to express my concerns about a provision in this bill which would establish a new National Recreational Trails Trust Fund. I and several other members of the Interior Committee were conferees on this section of the bill since the recreational trail trust fund provision directly deals with matters under the jurisdiction of the Interior Committee. While I strongly support the overall conference report, I was not able to sign the conference report because of the outcome of the conference with regard to this recreational trail provision. This provision was not contained in the House-passed version of the surface transportation bill. The language adopted in the conference report was not even in the Senate-passed bill, and goes beyond the scope of the Senate bill. While well-intentioned, the trails fund as contained in the conference report is not responsive to the majority of trail users in the country, is administratively inefficient, and could have a negative impact on the natural resource values of out Nation's public lands. Alternatives were presented during the conference which would have resulted in greater funding for trails, greater flexibility for States and greater responsiveness to actual trail use and demand than the proposal finally adopted by the conferees.

As chairman of the Subcommittee on National Parks and Public Lands, I have been involved in recreational trail issues for a number of years. The subcommittee has jurisdiction over the National Trails System Act, the National Wilderness Preservation System Act, the Land and Water Conservation Fund Act and a number of other provisions of law dealing with trails and recreation. Our committee has worked for a number of years on expanding all outdoor recreation opportunities, and has taken a particular interest in trails as a form of outdoor recreation. In addition to bring the committee which authorizes all national scenic, historic and recreational trails, our committee has taken a lead role in investigating trail issues and working for increased funding for trail land acquisition, construction and maintenance.

The Subcommittee on National Parks and Public Lands held a joint hearing on recreational trails in America with the Subcommittee on Energy and the Environment on October 31, 1991. This hearing brought in witnesses representing the National Park Service, the Forest Service and the Bureau of Land Management, State recreation officials, State trails coordinators, trail researchers and a number of motorized and nonmotorized trail user groups. Although all of these witnesses were pleased about the prospect of new trails funding, a number of these witnesses expressed concerns about the specific provisions of the National Recreational Trail Trust Fund in the Senate-passed surface transportation bill. Based on the testimony at this hearing and other communications received regarding this provision, I and Chairman KOSTMAYER of the Energy and Environment Subcommittee began drafting an alternative proposal to address the many concerns that had been raised about this bill. This proposal was the basis for the bipartisan Interior Committee proposal discussed by the conferees on the surface transportation bill. This proposal contained several important advantages over the Senate-passed provision, including:

Requiring funds from the National Recreational Trails Trust Fund to go through the existing Land and Water Conservation Fund, thus providing substantial savings on administrative costs, a 50–50 Federal-State match for all trail projects and a process for prioritizing the recreational trail needs of each State through the State comprehensive outdoor recreation planning [SCORP] process. This approach was strongly favored by the National Park Service.

It allocated funds for recreational trails directly to the Federal land management agencies rather than having them go through States as in the Senate bill. This was appropriate since much motorized and nonmotorized recreational trail use occurs on Federal lands, and since there is a tremendous backlog of trail maintenance needs on Federal lands.

Rather than allocating funds along arbitrary percentages which had little to do with actual trail usage, the Interior proposal provided that funds were to be spent for the use and benefit of safer, more enjoyable and more environmentally sound trail opportunities for motorized and nonmotorized users alike. Trail research demonstrates that the vast majority of trail use is by hikers, bicyclists, horseback riders and other nonmotorized users. Data from the public area recreation visitor study [PARVS] suggest that of the 525 million trail uses on public lands which occur each year, 468 million or 89 percent are nonmotorized and 57 million or 11 percent are motorized. Because the Interior proposal left the allocation of trail funds up to the priorities of each State, it was more respective of States rights than the Senate-passed provision which imposed a mandatory percentage for spending funds on motorized and nonmotorized trail projects. I would have preferred language which would have allowed each State to decide its own trail priorities.

The Interior proposal also contained more strict language regarding construction and reconstruction of motorized trails through potential wilderness areas than the Senate proposal. This language was needed to prevent this legislation from prejudicing future congressional decisions about wilderness designation.

For these and a host of other reasons, the bipartisan Interior Committee proposal for a Recreational Trails Trust Fund was preferred over the Senate version by a number of trail and conservation organizations including the American Hiking Society, the Sierra Club, the National Wildlife Federation, the Wilderness Society, the National Parks and Conservation Association, the Rails to Trails Conservancy, the National Recreation and Parks Association

and the National Association of State Outdoor Recreation Liaison Officers.

I would like to express my appreciation to the conferees on the surface transportation bill for their patience in discussing this matter which dealt with a relatively small level of funding in comparison to other programs in the bill. However, in the rush to complete the conference and the confusion which accompanied the vote on this matter in the conference I believe the conferees missed an opportunity to develop a recreational trails program that would have better served the needs of all recreational trails users.

I am particularly concerned that the conferees went beyond the scope of the bill passed by the Senate by designating the Secretary of Transportation to administer the recreational trails program. The Secretary of Interior is the appropriate Secretary to administer a program dealing with recreational trails. The surface transportation bill passed by the Senate designated the Secretary of Interior as the administrator of this program. The conferees recognized the importance of direct involvement of the Secretary of the Interior in this program by requiring the Secretary of Transportation to consult with the Secretary of the Interior. It is the clear intent of the conferees that the Secretary of Interior be consulted on all matters relating to the National Recreational Trails Trust Fund, including the appointments of the National Recreational Trails Advisory Committee, the establishment of the program for allocating money to the States and the review of the utilization of all funds allocated under this program.

Given the fact that funds can be used to construct and maintain trails on Federal public lands under this jurisdiction of the Interior Committee, I intend to exercise vigorous oversight of the program to ensure that Federal laws governing the management of these lands are fully complied with. Furthermore, I will work to ensure that no funds will be allocated under this Act in a manner that will prejudice the prerogative of Congress to designate as wilderness lands administered by the Forest Service, National Park Service or Bureau of Land management. It is my interpretation of the conference report language that funds made available by this report may not be used in a manner that will in any way impair the suitability of lands which are being reviewed for wilderness designation or which have been reviewed for such designation and have not been released for nonwilderness uses by act of Congress.

The Interior Committee will also be conducting close oversight of this program to ensure that the States shall not implement any shared trails use which may create unsafe conditions for any of the intended trail users. Corridor sharing referred to in the conference report may refer to corridor sharing among various types of nonmotorized trail users, and the States shall attempt to provide corridor sharing on fair and equitable fashion which is not prejudicial to the various user communities. Although the new trail trust fund is denominated "recreational" in nature, the conferees recognize that many bicycle and hiking trails serve important commuting objectives, especially in urban and suburban areas. Further, comparable trails in many parks and recreational areas can serve to reduce air pollution and foster similar environmental goals.

Mr. Speaker, as I previously stated the conferees had several alternatives which could have made this recreational trails proposal more environmentally sound and responsive to the diverse trail user needs which exist in this country. Besides this provision, I support the conference report and urge its prompt passage.

Mrs. BYRON. Mr. Speaker, last year, Americans spent more than $600 billion on health care. If we continue at this rate, we will spend $1.5 trillion on health care by the year 2000. I'm not so sure we can go on like this. As it stands, more than 33 million people have no health insurance, while millions more are underinsured. Those with insurance may be tempted to think that the problem doesn't affect us, well, it does. It is reflected not only in higher insurance premiums each year, but higher Medicaid costs—at the expense of other programs we enjoy. Rising infant mortality rates, and real-life problems with access to health services, are key problems.

I began talking about our health care system more than a year ago. During the summer of 1990, I sponsored four health care forums across my district. Frankly, I was surprised to see so little interest in health care. Beyond the 20 to 30 senior citizens at each stop, very few people seemed to care. Now that it's an election year, health care reform is the issue. I'm pleased to see this. We are fortunate enough to live in a country with one of the best health care systems in the world, but there are recognized shortfalls in access and affordability. We can do a better job here, and I am pleased to be able to participate in bringing it about.

As a member of the rural health care coalition, I have strongly supported efforts to improve preventive health care services. Staying healthy is the key to controlling health care costs. For example, I have cosponsored bills to establish a comprehensive, preventive, health program for Medicare beneficiaries, require States to cover breast and cervical screening for poor women, provide incentives for physicians to locate in rural areas, and encourage medical schools to have departments of family medicine.

I feel very strongly about our Nation's commitment to primary care. Beyond these legislative initiatives, this year I was able to resolve a bureaucratic tangle with the Appalachian Regional Commission to bring about the placement of a pediatrician in Washington County. We are very pleased to have Dr. (Maria) Younes in western Maryland and know that she is doing her part to keep our children healthy.

I also serve on the Leadership's AIDS Task Force and the Task Force on Health. We cannot ignore the impact of AIDS on our health care system. Several years ago, I worked very closely with my colleagues in bringing about the adoption of the Ryan White C.A.R.E. bill on AIDS. Education, prevention, research and development are essential in combatting this fatal disease. My efforts in this area will continue as we confront a rising number of AIDS cases in our cities as well as increases in our rural communities.

The health care discussions that are taking place give us a basis for health care reform to come. Before we simply dismantle what we have, however, we need to understand what shape our health care policy should take. What are we willing to pay for? We need to recognize that a government solution directly involves the taxpayers. We are the payers; and finally, we need to make sure that any reform takes into account the special circumstances of those seeking health care in rural areas. I am committed to finding acceptable changes in our health care system that will best meet the needs and budget of our Nation.

Mr. BROWN. Mr. Speaker, this bill's creation of a National Scenic Byways Program is an important step toward recognizing and protecting the scenic and historic values of qualified highways across America. Driving is one of our great national passions. At one time or another, we have all felt the pull of the open road, enjoyed driving along a curving byway under the canopy of vibrantly green trees, with clouds hovering overhead and a stream bubbling off the side of the road. Designation and protection of national scenic byways is environmentally sound policy and will provide economic benefits as well through increased tourism potential.

Equally important here is the conferees' decision that the Highway Beautification Act's provisions be modified to require a ban on new billboard construction along designated scenic roads. It is most appropriate that the public investment in designated scenic roads be protected by prohibiting the construction of large intrusive signs which would detract from scenic views. The billboard ban on interstate and primary scenic roads is a minimum response, of course. Nothing in this bill will limit States from enacting stronger controls on billboards on State designated scenic byways which are not on interstate and primary roads.

Finally, I am pleased that this bill will amend the Highway Beautification Act provisions to require illegal billboards to come down within 90 days of enactment. Some 33,000 of these illegal billboards line the Nation's highways, but have never been removed due to lax enforcement of the law. I would urge the Federal Highway Administration to structure its rulemaking to ensure that this requirement to remove illegal billboards is closely monitored and strongly enforced.

Mr. ALEXANDER. Mr. Speaker, I rise in support of this highway bill.

If America is to be competitive, we must make sure that our transportation system is up to the task.

Without an efficient transportation system, we will lose the race to countries such as Japan and Germany.

This legislation will begin the process of seeing that America does not fall behind.

Projects in my State are certainly badly needed.

In my State, money in this bill will begin construction planning for a bridge at DeValls Bluff, interchanges on the Highway 63 bypass in Jonesboro and it also identifies Highway 412 as a high priority corridor.

The bridge at DeValls Bluff is dangerous and it's replacement will eliminate one of the major traffic bottlenecks in this area.

The Highway 63 bypass program at Jonesboro has saved lives and made travel in that fast growing city much more efficient.

There is currently no four-lane system running east-to-west across the northern part of Arkansas. This inhibits growth in the area.

Improving the highway system in the area will foster economic growth.

Also, Mr. Speaker, in addition to its other benefits, this bill will create jobs—jobs which are badly needed to stimulate economic growth.

Mr. GALLO. Mr. Speaker, I want to voice my support for this 6 year national transportation blueprint.

In particular, I am pleased that the House was successful in protecting its $32 billion funding level for mass transit—$11 billion more than the Senate version of the bill.

We have to take the long-term view and I believe this bill does just that. It paves the way for major improvements in our Nation's mass transit systems and gives States greater flexibility to use these funds for projects of particular importance within each State.

In addition to providing increased mass transit funding, this bill also stimulates our nation economy by creating more than 4 million jobs. At a time when our economy is in need of a jump start, it is reassuring to support a piece of legislation that will help us to revitalize our Nation.

This $151 billion authorization provides about $5.5 billion for New Jersey highway and mass transit projects, including $634 million for the New Jersey urban core project for mass transit.

This bill represents a balanced approach. It identifies future needs and addresses them. But it also recognizes our more immediate priorities and allows for improvements in our current highway system, where they are needed.

I am also very pleased that the final bill contains funding to build new ramps to ease the flow of traffic on I–280 in Parsippany.

Mr. Speaker, today marks an important day for the future of transportation policy in America, and I am pleased to offer my support for the conference committee's bill.

This bill authorizes many programs and initiatives that will provide the flexibility to meet changes that have been occurring within our society. As a nation we have set a number of important priorities in order to clean up the air, to relieve traffic congestion, to promote mass transit, and to develop basic ways of providing for a healthier environment.

Last year, Congress passed the Clean Air Act which put in place new air quality standards that States must begin to meet by 1995. This will not be easy unless the Federal Government provides some type of guidance. It is my belief that H.R. 2950 will do just that.

Specifically, the House surface transportation bill includes $32 billion for mass transit construction and expansion programs—which is $11 billion more than the other body's bill. This increased funding will not only relieve traffic congestion that has become so prevalent in the Northeast corridor it will promote cleaner air by offering alternative modes of transportation.

This bill contains a number of demonstration projects designed to alleviate traffic problems. In my State of New Jersey we must concentrate on mass transit programs, but we must also find ways to relieve traffic bottlenecks. These projects will provide such relief and allow traffic to move easier.

In addition, we must have a bipartisan commitment to improve mass transit in New Jersey. This bill makes a major contribution to that effort.

As the author of H.R. 193, I have been pushing legislation in Congress to provide incentives for commuters to use mass transit, but these incentives must be accompanied by improvements in service, if we are to be successful in getting commuters to leave their cars at home.

A decade ago, New Jersey Transit inherited a fragmented and poorly maintained commuter rail network from Conrail and the goal since that time has been to complete missing links and upgrade current service. The New Jersey urban core project, including the Kearny Connection is the most critical part of those efforts.

Mr. Speaker, I commend Chairman ROE and all of the conferees for their dedication and hard work, and urge my colleagues to support this bill.

Mr. BROWN. Mr. Speaker, I rise in support of the conference report on Intermodal Surface Transportation Infrastructure Act of 1991. I want to congratulate the chairman of the Public Works Committee on his tenacity in processing this difficult piece of legislation which will reinforce our infrastructure and strengthen our economy in the forthcoming years.

I want to thank the chairman of the Public Works Committee for accommodating the Committee on Science, Space, and Technology by incorporating many of the research and development provisions reported by the committee which I believe will become assets to future generations.

I also want to thank the gentleman from North Carolina, chairman of the Subcommittee on Technology and Competitiveness, Mr. TIM VALENTINE, for his work in bringing together a carefully constructed program for near- and long-term R&D in the field of surface transportation.

Mr. Speaker, this bill marks a turning point in transportation technology which will provide future generations with models of travel we never dreamed of.

The bill includes research and development in intelligent vehicle highway systems. The objective of this R&D is to build and test a fully automated prototype of the highway of the future, one that cars would travel on between cities under automated guidance systems that would maintain safe spacing and speed control without driver assistance.

The bill also includes a number of other long-term and short-term research and development objectives, including research and development in the area of high frequency dynamic loadings on bridges. These loadings will result from high-speed rail and magnetically levitated systems. The research will also include the use of new data collection and computation methods. These methods will facilitate the design of structures to accommodate these new modes of transportation.

The bill includes the creation of an advisory board composed of members outside the government to assure that industry and Government can work together in rebuilding U.S. transportation systems.

High-speed rail is one of the most promising technologies to alleviate overcrowding at airports. It is technology that can put the United States back in the business of manufacturing its own rail systems. High-speed rail systems have attained speeds of 300 miles per hour, and a 200-mile-an-hour commercial system is achievable through the R&D program called for in this bill.

The bill also includes magnetically levitated train research and development which we hope will bring this technology to practicality by developing levitation and guidance systems which employ superconducting magnets. These systems will require shielding against electromagnetic forces, and we therefore plan to undertake R&D in this area as well as in aerodynamics to assure the stability of magnetically levitated trains under all wind conditions.

As a potential replacement for diesel buses we have called for a short-haul passenger transportation system to be powered by batteries or fuel cells. It is to be trackless, running on pneumatic tires with the capability of being recharged every few miles.

The R&D is also intended to extend the life of the surface transportation infrastructure. New concepts in radiography are expected to facilitate more thorough examination on bridge and highway structures.

The bill also contains provisions for advancements in research to protect the infrastructure against severe damage from earthquakes, and it calls for transportation research centers where minority students can enter the professions to design and build tomorrow's transportation systems.

Mr. Speaker, the R&D provisions in this act are intended to put U.S. industry back on the road to innovation and quality in transportation.

Mr. BLACKWELL. Mr. Speaker, I rise in strong support of H.R. 2950, the surface transportation bill. This legislation marks a true turning point for the urban centers of America. For the first time in nearly a decade, our Nation's mass transit systems will receive the funding that they so desperately need.

As a Representative from one of America's largest—and oldest—cities, I firmly believe that mass transportation systems are the backbone of our great cities. The problem is our backs are almost broken. Bridges are crumbling. Tracks are rusting. Our choice has never been more clearcut. We can pass this comprehensive bill that will benefit those in both rural and urban areas and secure the future of mass transit for our cities, or we can continue to watch these vital systems rot before our eyes.

I do not need to recite the advantages of mass transportation for you tonight—the environmental benefits, the service it provides for the disabled and for those who cannot afford to own cars, the jobs it provides, and so forth. But I will not remain silent while Congress has this prime opportunity to begin rebuilding our Nation's cities, starting with this most important service. I urge my colleagues to save our cities, and pass H.R. 2950.

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

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

The SPEAKER pro tempore (Mr. HOYER). Without objection, the pre-

vious question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SHUSTER. 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 372, nays 47, not voting 15, as follows:

[Roll No. 440]

YEAS—372

Abercrombie	de la Garza	Hayes (LA)
Ackerman	DeFazio	Hefner
Alexander	DeLauro	Henry
Allen	Dellums	Hoagland
Anderson	Derrick	Hobson
Andrews (ME)	Dicks	Hochbrueckner
Andrews (TX)	Dingell	Holloway
Annunzio	Dixon	Hopkins
Anthony	Donnelly	Horn
Applegate	Dooley	Horton
Aspin	Dorgan (ND)	Houghton
Atkins	Dornan (CA)	Hoyer
AuCoin	Downey	Hubbard
Baker	Duncan	Huckaby
Barnard	Durbin	Hughes
Barrett	Dwyer	Hunter
Barton	Eckart	Hutto
Bateman	Edwards (CA)	Hyde
Bellenson	Edwards (OK)	Inhofe
Bentley	Edwards (TX)	Ireland
Bereuter	Emerson	Jefferson
Berman	Engel	Jenkins
Bevill	English	Johnson (CT)
Bilbray	Erdreich	Johnson (SD)
Bilirakis	Espy	Johnston
Blackwell	Evans	Jones (GA)
Bliley	Ewing	Jones (NC)
Boehlert	Fascell	Jontz
Bonior	Fazio	Kanjorski
Borski	Feighan	Kaptur
Boucher	Fields	Kasich
Boxer	Fish	Kennedy
Brewster	Flake	Kennelly
Brooks	Foglietta	Kildee
Broomfield	Ford (MI)	Kleczka
Browder	Ford (TN)	Klug
Brown	Frank (MA)	Kolbe
Bruce	Frost	Kolter
Bryant	Gallegly	Kopetski
Bunning	Gallo	Kostmayer
Bustamante	Gaydos	LaFalce
Byron	Gejdenson	Lagomarsino
Callahan	Gekas	Lancaster
Camp	Gephardt	Lantos
Campbell (CO)	Geren	LaRocco
Cardin	Gibbons	Laughlin
Carper	Gilchrest	Leach
Carr	Gillmor	Lehman (CA)
Chandler	Gilman	Lent
Chapman	Gingrich	Levin (MI)
Clay	Glickman	Levine (CA)
Clement	Gonzalez	Lewis (CA)
Clinger	Goodling	Lewis (FL)
Coleman (MO)	Gordon	Lewis (GA)
Coleman (TX)	Gradison	Lightfoot
Collins (MI)	Grandy	Lipinski
Combest	Green	Livingston
Conyers	Guarini	Lloyd
Cooper	Gunderson	Lowery (CA)
Costello	Hall (OH)	Lowey (NY)
Coughlin	Hall (TX)	Luken
Cox (IL)	Hamilton	Machtley
Coyne	Hammerschmidt	Manton
Cramer	Harris	Markey
Cunningham	Hastert	Martin
Darden	Hatcher	Martinez
Davis	Hayes (IL)	Matsui
Mavroules	Pelosi	Slaughter
Mazzoli	Perkins	Smith (FL)
McCandless	Peterson (FL)	Smith (IA)
McCloskey	Peterson (MN)	Smith (NJ)
McCollum	Petri	Smith (OR)
McCrery	Pickle	Smith (TX)
McCurdy	Porter	Snowe
McDade	Poshard	Solarz
McDermott	Price	Spence
McEwen	Pursell	Spratt
McGrath	Quillen	Staggers
McHugh	Rahall	Stallings
McMillan (NC)	Ramstad	Stark
McMillen (MD)	Rangel	Stearns
McNulty	Ravenel	Stenholm
Meyers	Reed	Stokes
Mfume	Regula	Studds
Michel	Richardson	Sundquist
Miller (CA)	Ridge	Swett
Miller (OH)	Riggs	Swift
Miller (WA)	Rinaldo	Synar
Mineta	Ritter	Tallon
Mink	Roberts	Tanner
Moakley	Roe	Tauzin
Molinari	Rogers	Taylor (MS)
Mollohan	Rose	Thomas (GA)
Montgomery	Rostenkowski	Thomas (WY)
Moody	Roth	Thornton
Moorhead	Roukema	Torres
Moran	Rowland	Torricelli
Morella	Roybal	Traficant
Morrison	Russo	Unsoeld
Mrazek	Sabo	Upton
Murphy	Sanders	Valentine
Murtha	Sangmeister	Vander Jagt
Myers	Santorum	Vento
Nagle	Sarpalius	Visclosky
Natcher	Savage	Volkmer
Neal (NC)	Sawyer	Vucanovich
Nichols	Saxton	Walsh
Nowak	Scheuer	Waters
Nussle	Schiff	Weber
Oakar	Schroeder	Weiss
Oberstar	Schulze	Weldon
Obey	Schumer	Wheat
Olin	Sensenbrenner	Whitten
Olver	Serrano	Williams
Orton	Sharp	Wilson
Oxley	Shaw	Wise
Packard	Shays	Wolf
Panetta	Shuster	Wolpe
Parker	Sikorski	Wyden
Patterson	Sisisky	Wylie
Paxon	Skaggs	Yatron
Payne (NJ)	Skeen	Young (AK)
Payne (VA)	Skelton	Young (FL)
Pease	Slattery	Zeliff

NAYS—47

Allard	Doolittle	Owens (UT)
Andrews (NJ)	Dreier	Pallone
Archer	Early	Penny
Armey	Fawell	Ray
Bacchus	Franks (CT)	Rhodes
Ballenger	Goss	Roemer
Bennett	Hancock	Rohrabacher
Boehner	Hansen	Ros-Lehtinen
Burton	Hefley	Schaefer
Campbell (CA)	Herger	Solomon
Coble	Jacobs	Stump
Condit	James	Taylor (NC)
Cox (CA)	Johnson (TX)	Walker
Crane	Kyl	Washington
Dannemeyer	Long	Zimmer
DeLay	Neal (MA)	

NOT VOTING—15

Collins (IL)	Marlenee	Thomas (CA)
Dickinson	Ortiz	Towns
Dymally	Owens (NY)	Traxler
Hertel	Pastor	Waxman
Lehman (FL)	Pickett	Yates

□ 0550

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.

PERSONAL EXPLANATION

Mr. PASTOR. Mr. Speaker, During rollcall vote No. 440 conference report to accompany the bill H.R. 2950 I was unavoidably detained, had I been present I would have voted "Yea."

AUTHORIZING CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF CONFERENCE REPORT ON H.R. 2950

Mr. ROE. Mr. Speaker, I ask unanimous consent that the Clerk have the authority to make the necessary technical, clerical, and clarifying changes in the conference report just adopted.

The SPEAKER pro tempore. (Mr. HOYER). Is there objection to the request of the gentleman from New Jersey?

There was no objection.

GENERAL LEAVE

Mr. ROE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the conference report just adopted.

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

There was no objection.

CONFERENCE REPORT ON H.R. 3371, OMNIBUS CRIME CONTROL ACT OF 1991

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 301 and, pursuant to House Resolution 294, I ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 301

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report on the bill (H.R. 3371) to control and prevent crime. All points of order against the conference report and against its consideration are hereby waived. The conference report shall be considered as having been read when called up for consideration.

The SPEAKER pro tempore. The gentleman from South Carolina [Mr. DERRICK] is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, I yield the customary 30 minutes to the gentleman from New York [Mr. SOLOMON]. Pending that, I yield myself such time as I may consume.

Mr. Speaker, during debate on House Resolution 301, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 301 is the rule providing for the consideration of the conference report on H.R. 3371, the Omnibus Crime Control Act. The rule waives all points of order against the conference report and against its consideration. The rule also provides that the conference report will be considered as read. Mr. Speaker, this con-

ference agreement is a comprehensive legislative response to the many facets of criminal activity in our society.

The agreement that the House will consider tonight would expand the Federal death penalty to 53 crimes—including murders in connection with terrorism, assassination of Federal officials, genocide, kidnapping resulting in death, and major drug trafficking offenses.

The conference agreement reforms the habeas corpus procedures by requiring prisoners under death sentences to file habeas corpus petitions within 1 year of their direct appeal; adopts the Seante's 5-day waiting period for handgun purchases; and authorizes $3 billion for hiring law enforcement officials on the Federal, State and local levels.

Mr. Speaker, this conference report is not without controvesy, there are provisions that Members have concerns about. However, I believe this agreement provides a strong Federal commitment to crime control, and I urge my colleagues to adopt this resolution and allow the House to proceed with this vitally important conference report.

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

Mr. Speaker, I rise in strong opposition to this rule and to the conference report on the crime bill it makes in order.

First, at the rules meeting that produced this rule there had not been adequate time for Members to become familiar with the provisions of the conference report.

At the time of the Rules Committee meeting on this conference report, no copy of the text was even available to Members.

This is a major bill and Members should have at least a reasonable opportunity to be aware of what they are going to have to vote on.

At the time of the Rules Committee meeting, I put into the RECORD a letter from the Attorney General, William Barr, which described this conference report as a significant step backwards.

The conference agreement actually overrules several recent Supreme Court decisions favorable to law enforcement.

According to the Attorney General, this conference report does more for those convicted of crime than it does for those victimized by crime.

Mr. Speaker, the current system allows those guilty of the most serious crimes to avoid punishment by filing frivolous habeas corpus petitions that drag on for years. The conference agreement now provides new loopholes by which convicted criminals evade punishment.

The conference agreement would make the current situation worse by overruling certain reasonable limitations recently established by the Supreme Court on successive habeas corpus provisions.

The conference agreement also is a step in the wrong direction on reasonable reform of the exclusionary rule. By rolling back Court decisions which allow for the admissibility of evidence when police have acted on good faith, the conference agreement will handicap police and increase the number of real criminals who avoid punishment because of legal technicalities. The conference agreement rejects the proposal overwhelmingly adopted by the House 247–165.

Mr. Speaker, the conference agreement authorizes $3 billion for law enforcement programs, but the authorization is meaningless without appropriation.

The Congress failed this year to fully fund the President's request for law enforcement.

Congress cut 64 percent of the increases requested by the President. Making promises which are almost certain not to be fulfilled is not the right way to legislate.

Mr. Speaker, backing up the U.S. Attorney General's position, the National District Attorneys Association has also written to oppose this bill. Let me quote briefly from their letter, signed by prominent Democrats and Republicans: "The Nation's prosecutors strongly oppose the so-called "crime control" bill approved in Sunday's conference and urge both House and Senate to reject it."

They say, "This bill does far more to advance the interests of convicted criminals than it does to protect victims and law-abiding citizens."

Who else is opposed to this procriminal bill: Federal judges across this country, including those in the Northern District of New York.

□ 0600

Finally, Mr. Speaker, I have been handed a letter from President Bush stating that he will veto this conference report if it is presented in its current form. I would ask unanimous consent that the President's letter be inserted in the RECORD at this point.

The SPEAKER pro tempore. (Mr. HOYER). It there objection to the request of the gentleman from New York?

There was no objection.

The letter from the President of the United States is as follows:

THE WHITE HOUSE,
Washington, DC, November 25, 1991.

Hon. ROBERT H. MICHEL,
Republican Leader, House of Representatives, Washington, DC.

DEAR BOB: Since March, I have been calling on the Congress to pass a tough crime bill that will remove the handcuffs from law enforcement and end needless delays in the criminal justice system. For too long, the scales of justice have been tipped in favor of criminals instead of law-abiding Americans. The American people want a crime bill that will make the system tougher on criminals than it is on law enforcement and crime victims.

After months of delay, the Congress is now presented with a conference report drafted in the last hours of this session. Once again, just as they did last year, Democrat conferees from the Senate and House have demonstrated that they are willing to overlook the will of their colleagues and the American people. Clearly, the American people deserve better.

The crime bill produced by the Democrat-controlled conference is unacceptable. The bill rejects many of the primary goals the Administration set forth as necessary for an acceptable crime bill. One essential goal of our proposal is to end frivolous post-appeal challenges brought by convicted criminals, particularly death row inmates, through meaningful habeas corpus reform. By overturning critical Supreme Court decisions that have reduced the abuse of habeas corpus, the conference bill actually weakens current law by expanding a criminal's ability to frustrate the system.

Another goal of the Administration's bill is to ensure that criminals do not go free on legal technicalities when a police officer is acting in good faith. This conference report does just the opposite. Again, it retreats from current law by throwing out court decisions that recognize the legitimacy of such a good faith exception to the exclusionary rule.

Finally, although this bill purports to permit imposition of the death penalty for several new Federal offenses, it adopts procedures that virtually ensure the death penalty will never be imposed.

I will not accept any effort by the Congress to turn the clock back on the progress we have made in the courts on criminal justice reform. If this bill is presented to me, I will veto it and insist that Congress pass a crime bill that will strengthen our criminal justice system.

Sincerely,

GEORGE BUSH.

Mr. Speaker, I would like to cite just the opening paragraph of the President's letter:

"I have been calling on the Congress to pass a tough crime bill that will remove the handcuffs from law enforcement and end needless delays in the criminal justice system. For too long, the scales of justice have been tipped in favor of criminals instead of law-abiding Americans."

Mr. Speaker, that is the first paragraph. This letter goes on to cite all of his objections, but let me just read the last paragraph to my colleagues because this is what really gets to me.

"Finally," the President says, 'although this bill purports to permit imposition of the death penalty for several new Federal offenses, it adopts procedures that virtually ensure the death penalty will never be imposed.

"I will not accept any effort by the Congress to turn the clock back on the progress we have made in the courts on criminal justice reform. If this bill is presented to me, I will veto it"* * *

Mr. Speaker, this bill should never reach the President; it ought to be sent back to the committee, and let us do it right.

For all these reasons, Mr. Speaker, I must oppose this rule and the conference report it makes in order.

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

Mr. DREIER of California. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from California.

Mr. DREIER of California. Mr. Speaker, I thank the gentleman from New York [Mr. SOLOMON], my friend, for yielding, and I would simply like to underscore a point that my friend made at the opening of his statement, that being the fact that in the Committee on Rules; now keep in mind we are considering the crime bill under martial law at this point in the House; we got to the point where there was not a single paper that was before us when we were considering this rule, and I was told by members of the conference that they were operating under the exact same circumstance as they were trying to report this conference report to us.

So, it seems to me it is absolutely ludicrous to think we can move ahead with something when we did not even have the papers up in the Committee on Rules to consider it.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, I rise in opposition to the rule, and my colleague paid reference to the National District Attorneys Association. I would like to read the letter, and not only this, but I say to the chairman on the other aisle, "The eyes of Texas are on you." The attorney general from Texas, along with 31 other attorneys general, have signed a letter saying what a bad bill in its present form that this is, and this is, I quote, and I wish these were my words because they are so eloquent, but this is from the National District Attorneys Association:

The American people have been mugged again, this time by the leadership of the leadership of the United States Congress. The Nation's prosecutors strongly oppose this so-called crime control bill approved in Sunday's conference and urge both House and Senate to reject it. This bill does far more to advance the interests of convicted criminals than it does to protect victims and law-abiding citizens. In fact, passage of this bill is tantamount to handing the jail house keys to thousands of convicted State and Federal prisoners. The conference committee has nearly in every incidence chosen the weakest provisions with respect to law enforcement. It rejects the House Limitation on House application of the exclusionary rule. It overturns the Supreme Court Decision Arizona versus Fulminante through the provision that may have far-reaching effects and which was not even the subject of hearings. Finally, the conference chose the weakest provision on death penalty provisions and procedures.

Mr. Speaker, we have tried time and time again to even pass rules on drug testing for this House and Federal employees, and every single attempt has been turned down. Let us pay attention. Let us get tough on criminals. Let us defeat the rule.

Mr. DERRICK. Mr. Speaker, I yield 5 minutes to the distinguished chairman of the Committee on the Judiciary, the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I say to my colleagues that I fully support the rule, and I appreciate the courtesy and the trouble that the leadership and the Committee on Rules has gone to to get this brought to the floor at this time.

Mr. Speaker, as the Members well know, the rule before us provides for the consideration of the conference report on H.R. 3371, the Crime Control Act. This is a matter that has been before this body for weeks now, and the Members should be familiar with its provisions. Just 6 weeks ago, this body spent long hours considering in detail the provisions of the House bill, the abundant majority of which are reflected in the conference agreement before us this morning. The major issues in contention—habeas corpus, the death penalty, the exclusionary rule—have been debated throughout this process, and the Members have had the opportunity to become fully informed about the points of contention.

Mr. Speaker, if we are going to back up our rhetoric about crime with action, we must move H.R. 3371 through the process expeditiously. Everyone in this body feels that the status quo is inadequate for our citizens—that punishment and deterrence must be increased for abhorrent criminal activity. To take no action at this time is to validate the current state of affairs on the streets and on the books. I reject that, as I reject all the dilatory efforts on the other side of the aisle—from blocking the naming of conferees for weeks in the Senate to attempts to derail the conference.

Let us adopt this rule and pass the conference report on this effective and tough piece of anticrime legislation.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New Mexico [Mr. SCHIFF].

Mr. SCHIFF. Mr. Speaker, what I have to say is, "Good morning, America. Wait until you see what the Congress of the United States and the House of Representatives has stayed up all night to bring you today, a bill that will make worse the criminal laws, a bill that will make worse the present criminal laws in the United States of America, and this was all done on Sunday in one conference committee meeting which I attended as a conferee, and I want to tell you it was done with another Hail Mary pass, a Hail Mary pass from the Democrats in the House to the Democrats in the Senate."

Mr. Speaker, the bill before my colleagues is what the Democrats agreed between themselves. We brought it to the House floor, and it is walking into a veto. Why? Because it selects provisions which, not only do not improve current law, they send current law back.

Now I want to say that I have heard on the news the outrageous statements that the President of the United States has threatened to veto this bill because it contains some gun control language. Now the President is a skeptic about the effectiveness of gun control. Who can blame him? New York and Washington, DC have the toughest gun control laws in the Nation, and my colleagues have all seen how much that has done for them. Nevertheless, let me debunk that nonsense right now.

Mr. Speaker, let us amend this bill to change the habeas corpus provisions. Let us amend this bill to change the exclusionary rule provision. Let us amend this bill to amend the confession provisions and see then if the President of the United States will veto the bill. I do not think so. These are the key provisions that have been added, that have been selected for the bill. These are the key provisions that weaken it.

Mr. Speaker, I urge defeat of the rule, defeat of the bill.

Mr. DERRICK. Mr. Speaker, I yield 2 minutes to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Speaker, I do not want the impression to be given that the people in the front line of fighting crime, the police officers of this country, are against this bill. They are not. They are for it. Almost unanimously.

Mr. Speaker, I want to read from some supportive statements by police organizations and people who are responsible for fighting crime in this country in every State of America.

The Fraternal Order of Police:

"We call on the Congress to adopt, and for the President to sign, this bill. It is the toughest anti-crime legislation to emerge from Congress in recent memory and should become law."

The National Association of Police Organizations:

"NAPO believes the version which has been reported out of conference to be tough anti-crime legislation. We urge you to enact this badly needed anti-crime legislation immediately."

The International Brotherhood of Police Officers:

"America needs a crime bill now—in this session, passed by the Congress and signed by the President. IBPO represents rank and file officers on the front lines in the war on crime and drugs and we urge you to adopt the conference report and pass this important legislation."

The International Union of Police Officers:

"We recognized the real need for enactment of the conference committee version of the crime legislation and support it fully."

The same thing with the National Troopers Coalition, the Police Executive Research Forum, the National Association of Black Law Enforcement Executives.

Mr. Speaker, every police organization that is out there on the front lines in the State and local communities of this country say, "Pass this legislation."

I say to my colleagues, "It's tough on crime. Don't be mislead by this red herring of district attorneys appointed by the President or the Justice Department being against this bill. This is one of the most effective anticrime pieces of legislation that has ever passed this Congress. It is time to vote yes on this bill."

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. RIGGS] to speak on this farcical piece of legislation. He is a real policeman who just finished serving as a policeman and now is a Member of this House.

□ 0610

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

I have listened to the last speaker with some amusement.

Granted, those law enforcement fraternal organizations which are for the most part labor organizations that I am very familiar with are looking for any kind of support from the U.S. Congress whatsoever in fighting the crime problem. My colleague, the gentleman from Kansas, knows full well that those ladies and men in uniform who, indeed, are in the front lines in the fight against crime, have no idea whatsoever of what is in this conference report.

Let me bring to the gentleman's attention a letter my office received yesterday from the California District Attorneys' Association, and unlike the sort of barbed or thinly veiled reference to attorneys appointed by the President, these are district attorneys for the counties in California who are the elected officials and who represent the people of the State of California in bringing prosecutions against law violators in the State of California.

This is a letter written to the Speaker and to the gentleman from Illinois [Mr. MICHEL]. It says:

CALIFORNIA DISTRICT
ATTORNEYS ASSOCIATION,
Sacramento, CA, November 26, 1991.

Hon. THOMAS S. FOLEY,
Hon. ROBERT H. MICHEL,
U.S. House of Representatives,
Washington, DC.

GENTLEMEN: The members of our association were appalled to read the latest version of the Omnibus Crime Control Bill approved in Sunday's conference. We urge the House to reject it.

The habeas corpus "reform" package reported out by the conference committee represents a gigantic step backwards. The adoption of this measure, which basically overturns *Teague* v. *Lane*, (1989) 489 U.S. 288, would have disastrous consequences to the interests of public safety and the criminal justice system.

We note with great concern the expansion of retroactivity, the expansion of the time period for the filing of writs for those under the sentence of death, and the expansion of the right to file multiple successive writs alleging technical defects having nothing to do with guilt or innocence. We note also the unbelievable qualification standards for appointed counsel in state capital cases.

Clearly, the present bill now serves only to further the interests of convicted criminals and opponents of the death penalty. We urge you to vote no on the present version of the Omnibus Crime Control Bill.

Very truly yours,
EDWARD R. JAGELS,
President.

Believe me, ladies and gentlemen, it is not the rhetoric of the U.S. Congress that the men and women, again, in uniform on the front lines in the fight against crime are going to listen to. It is this kind of very specific guidance and advice from the local prosecutors in California and in other States across the Union that will guide them in their ultimate determination as to whether or not this is good legisltion.

Mr. DERRICK. Mr. Speaker, I yield 2 minutes, for purposes of debate only, to the gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. Mr. Speaker, I am sure we are going to hear more from the opponents of this bill about the prosecutors being so strongly against the bill. Of course, most prosecutors are against this bill.

In our hearings, we found that in capital cases, 40 percent of the convictions of these prosecutors, the same prosecutors that are against this bill, are overturned in habeas corpus because they are defective. Nobody is released from prison, but their prosecutions are so defective that they have to be remanded or returned to the courts for rehearing, or retrial in some cases.

Of course, do not expect prosecutors to be for this bill, but ask your local bar association, I say to the gentleman from New York [Mr. SOLOMON]; ask your county bar, and I say to the gentleman from New York [Mr. SOLOMON], ask your State bar association.

Ninety percent of the State bar associations of this country are in favor of this bill. Ask the judicial conference of the United States. They have come out four-square against the President's bill and especially against the President's habeas corpus proposal which would eliminate habeas corpus altogether. That is a little bit like eliminating the Magna Carta, to eliminate it altogether. That is what they want to do.

Let us not hear any more about retroactivity. Section 204 of this conference report specifically prohibits retroactivity. Do not keep saying it does. Do not confuse it with a provision that was turned down in the committee. It happened to be the Berman proposal which did allow a certain amount of retroactivity.

So I really wish the opponents of this bill would look at the bill. As I sat here and listened, and I have read the bill. We wrote the bill.

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois [Mr. HYDE], a member of the Committee on the Judiciary, and I would hope that at some time we would be enlightened as to what has happened to the gun provision. We understand that they may have changed since the bill left the Committee on Rules. I hope the gentleman from Texas [Mr. BROOKS] could enlighten us.

Mr. HYDE. Mr. Speaker, I just want to address at this point in the proceedings the policemen's letter.

If you want to know about the law, do not ask the prosecutors. Do not ask lawyers. Ask the policemen.

I do not quite follow that logic. I do know that in the bill there is $3 billion in grants to law enforcement. Now, that is a pot of money, and they want that money, because in this letter from the International Association of Chiefs of Police, that was sent to the distinguished junior Senator from Delaware, they applaud, "Additional funding support for State and local law enforcement." That is an attractive feature. However, they damn the bill by faint praise in the next-to-the-last paragraph. They say, "We recognize it does contain some elements that could be strengthened."

By the way, the Fraternal Order of Police says: "The NFOP certainly would have preferred certain language not presently found in the conference agreement such as the Senate provisions on habeas corpus reform, the police officers' bill of rights, semiautomatic assault weapons as well as the House language on good faith warrantless searches by police." That is some limp endorsement.

The problem is that they think they are going to get $3 billion. They say so.

I would point out that the Attorney General of the United States says: "Finally, in authorizing $3 billion for law enforcement, the bill offers only a mirage. Authorization of this funding when there is no appropriation is essentially meaningless. The irony here is that the Congress failed this year to fully fund the President's budget request for law enforcement, slashing it by $472 million, a 64-percent cut in the increase sought by the President."

So I suggest to the Members that the policemen are misled by the illusory carrot of $3 billion.

It is the lawyers, it is the States' attorneys general, and I might say Mary Sue Terry of the State of Virginia, no raving Republican, has signed the letter that says that this bill is an atrocity.

We will have more of that later. But do not be misled by the policemen's union who think they are going to get $3 billion when they are not.

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

Let me just say this before I yield.

You know, the policemen have been accused of not knowing what they are

writing about and not knowing what the bill is about; let me tell you something: I know that the attorneys general do not either. They came into my office, several of them, and I found out they did not know what they were talking about either. After I talked to them and explained the bill to them, the habeas corpus provisions, they said, well, they thought that was fine, and they had no objections to it, so there are a lot of people who do not know about the bill.

Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Speaker, you know, it seems to be a fashion on the other side tonight, because police organizations do not agree with them, to knock them, to say they do not know what they are doing, et cetera, et cetera.

I think that the gentleman from Illinois correctly quoted the FOP. They said, and I will quote the same thing he did, "The NFOP would certainly have preferred certain language not currently found in the conference agreement." So would we all.

Every one of us, every one of the 435 of us, could look at this large bill that does so many different things and say, "I might change this, and I might change that, and I might change this."

□ 0620

But unlike us, who have the luxury of sitting here safely in this chamber, the police officers of the FOP and NAPO have their lives on the line every day. They do not have the luxury of playing political games. And if they see a bill, admittedly not perfect in anybody's eyes, that will do a heck of a lot of good to make them safer and make our streets safer and make our citizens safer, then they cannot afford to play the political games, and they step up to the plate and they say, "I am voting for this bill."

I would say that their cue is the one we should take in this body. They say it is not perfect. But the perfect is not going to be the enemy of the good, not when bullets are flying, not when people are being mugged, not when we are not doing enough against crime.

So I urge my colleagues, listen to the wisdom of that average cop on the beat, and vote for this rule and this bill.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Pennsylvania [Mr. COUGHLIN].

Mr. COUGHLIN. Mr. Speaker, here we go again denying the American people laws they want to protect public safety and prevent more victims of crime.

The Democrat-run Congress plays this game year after year. We send a crime bill to conference and the Senate sends a crime bill to conference that at least reflects the will of the bodies. What comes back from conference does not reflect the will of the bodies or of the American people.

The conference is not a negotiation between the House and the Senate. It is a negotiation between the ACLU Democrats in the House and the ACLU Democrats in the Senate to get the most pro-criminal bill possible.

Doesn't someone, someone care about public safety or the victims of crime?

It is not a question of providing a death penalty which will never be enforced for a smorgasbord of crimes. It is a question of providing a death penalty which will be enforced for a few crimes.

It is not a question of putting in prison minor first time offenders. It is a question of putting in prison serious and repeat offenders and keeping them there.

It is not a question of handcuffing our police and freeing our criminals. It is a question of freeing our police and handcuffing our criminals.

It is not a question of providing expensive new courts. It is a question of unclogging our existing courts.

Victims of crime are crying out, "Help us." Frightened Americans are crying out, "Help us." Let's send this bill back to conference and respond to those cries.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from Indiana [Mr. JACOBS].

Mr. JACOBS. Mr. Speaker, one of our colleagues whom I like very much made a statement a moment ago that there is $3 billion in this bill for police organizations—that is for law enforcement, actually—and, naturally, the police would be for it because of the $3 billion.

Well, it happens that I am a former police officer also, and I think that what the gentleman is saying in essence is ill-considered. I do not think that it honors our police to suggest that they have sold out.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Chairman, a moment ago, I asked you a question over here in the aisle whether or not this bill had been changed at all since it left the conference. You told me no. I certainly believed you at that point, but we have had a number of rumors around the floor that this has been changed. Particularly, we heard it may have been changed with respect to the firearms provision.

The concern we have is this: Out of the conference came a bill that set up a national registration, not of handguns, but of all firearms. That is a major concern, I think, for all of us who have listened to the rhetoric over the last several weeks and several months that we are only touching assault weapons or only touch handguns, that there was certainly not any intention on behalf of anyone to make this a massive sweep to all firearms.

Yet when we read this bill, when you move from the Brady provisions of the 5-day registration period to the instantaneous check provisions, all of a sudden the language changed. It is no longer handgun language. In the instantaneous check provisions in the bill it goes to all firearms, and throughout that provision it says all firearms.

So the fact is that we moved to a national registration system, a computerized registration system, not of handguns, but of all firearms.

If that is the same provision that left conference, it is at this point then a major change in everything that we had heard was the intent here in the Congress, and I think something which is a serious flaw in the bill.

Mr. DERRICK. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I just want to say, in reply to my distinguished friend on that, that the gun provisions have not changed since it came out of the Committee on Rules. Obviously I like guns, too. Absolutely no change on ban on assault weapons is in this bill. That part of it is just like it came out of the House, out. That is where I wanted it. That is where this House wanted it. That is how you all voted for it.

The NRA and Senator BOB DOLE, a very distinguished friend of mine and yours in this other body, wrote the language on the Brady language that we did retain, that you are familiar with. I do not know whether you like it or not. I did not vote for it in the House, but the House did pass it.

We adopted the Senate language. They insisted on their language. They were cleared with the NRA. They looked at the McCollum amendment that had been put in the 1988 drug bill.

So you do not have to worry about that. That language is going to suit them all and suit me.

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

Mr. BROOKS. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I have great respect for the gentleman. You say no changes were made. We really are concerned about this. We are just trying to get it cleared up. There were no changes made after it left the Committee on Rules. Were there any changes, not only on the guns, but anywhere in the bill after it left the conference on its way to the Committee on Rules and on its way to the floor here?

Mr. BROOKS. Mr. SOLOMON, that is a little bit insulting. I did not change a damn thing, and nobody else did.

Mr. SOLOMON. Well, I just wanted to make sure your staff did not, my friend. We just tried to clear it up.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Oklahoma [Mr. SYNAR].

Mr. SYNAR. Mr. Speaker, with all due respect to both sides of the aisle, both my colleagues in the Democrat Party and the Republican Party, let me just say two things.

First, I do not think it serves our purpose today to try to accuse either side of being weak or strong on crime. I have never met a colleague on the floor of the House, Republican or Democrat, who does not want to provide for the best protection of every citizen in this country. Though we may disagree on how that is accomplished, all of us believe that one of our major responsibilities is to provide safe streets. Second, I do not think it furthers the debate arguing who is for or against this bill. No one outside this Chamber has really read this bill.

That said, let me direct my attention to what you will have an opportunity to support compared to what the President offered in his own crime bill.

If you vote for this crime bill in the next hour, you will have an opportunity to apply the death penalty to 56 crimes, versus only 46 in the President's bill.

If you vote for this bill, in the violent drug area you will establish 10 regional prisons for Federal and State drug criminals. There were no similar provisions in the President's bill.

If you are from a rural area with rural crime and drugs, you will have an opportunity to add rural law enforcement and drug treatment prevention. There were no similar provisions in the President's bill.

With respect to drug emergency areas, you will have opportunity to authorize aid to cities in the hardest hit drug areas. There were no similar provisions in the President's bill.

With respect to drunk driving, you will have an opportunity to boost penalties for drunk driving when a child is in the vehicle, including common carrier vehicles. There were no provisions in the President's bill to do that.

With respect to child abuse, this bill will establish a system for background checks to prevent child abusers from working with children. Again, the President had no provisions to deal with this.

We will create programs and grants to aid in the fight, including safe schools and anticrime, certain punishments for young offenders, community substance abuse, trauma centers, cops on the beat, midnight basketball, the police corps, law enforcement scholarships, and a variety of other things. Not one of those provisions were available in the President's bill.

□ 0630

If you vote for this bill in the next hour, you will have an opportunity to authorize $1.2 billion to aid State and local law enforcement, where 95 percent of the battle is being fought. There were no moneys in the President's bill. And for those who are very concerned about victims, this bill will boost aid to victims of crime and require victim impact statements. None of these provisions were available in the President's bill.

My colleagues, if you truly are committed to providing for safer streets and giving local law enforcement the tools by which to fight this battle, you will have only one opportunity and that is to support this conference report.

It is not only a good deal, it is a better deal than the one offered by the President of the United States. I urge my colleagues to support this conference report.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume. The gentleman who just spoke said there are 56 instances in which the death penalty is imposed by this legislation. The President says, in his letter, and I will repeat it again: "Although this bill purports to permit imposition of the death penalty for several new Federal offenses, it adopts procedures that virtually ensure the death penalty will never be imposed."

I believe the President.

Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, I wish we all had been present at the conference that took place between the Senate members and the House members of the Committee on the Judiciary. It was illuminating. I had my mouth drop open when I saw the fiercest opponents of the death penalty that this Chamber has ever seen sitting with me on the House side, on the Democratic side, and lifelong opponents of the death penalty on the Senate side almost enthusiastically support this death penalty bill, without a murmur, without a contest. They very suspiciously voted for this death penalty bill.

They did so because they knew that it was a meaningless piece of legislation. They were committing legicide. They were killing the bill by voting for a death penalty. And that is an important feature of what this argument is about.

Does this death penalty bill do what the American public really wants to happen to convict someone of murder who has viciously gunned down somebody in the street and then allow this man or woman to file appeal after appeal to avoid the final justice? If we want that kind of scenario, vote for this bill. If we want to try again for a crime bill that works, vote against the rule and the bill.

Mr. DERRICK. Mr. Speaker, for the purpose of debate only, I yield 2 minutes to the gentleman from Oregon [Mr. KOPETSKI].

Mr. KOPETSKI. Mr. Speaker, I rise in support of this compromise piece of legislation. In this bill is an increase of $345 million for Federal law enforcement, an increase in authorization of $1 billion for the Safe Streets Act. There is more moneys authorized for the Cop on the Beat Program. We are going to put police officers back in hometown America. There is certainty of punishment for youthful offenders with alternative kinds of sentencing from boot camp to electronic monitoring to vocational and educational programs.

There is more dollars to train better police officers. There is 21st century tools to fight crime or to establish standards for the use of DNA identification.

There is substance abuse rehabilitation programs for people in prison so that when they get out they will not be robbing and burglarizing to support their drug habits.

Yes, there is reform to the habeas corpus laws of the United States, a compromise that was developed by the American Bar Association, developed and debated in the committee of the House and the Senate.

Essentially what it does, it is very simple. It says, if one is a criminal and has been convicted of a crime, they get one good fair shot under their Federal rights as a citizen in this country, you get one appeal and you only get 1 year.

Mr. EDWARDS of California. Mr. Speaker, will the gentleman yield?

Mr. KOPETSKI. I yield to the gentleman from California.

Mr. EDWARDS of California. Mr. Speaker, the gentleman from Oregon is a valued, able member of the subcommittee, and the gentleman in the well heard the previous speaker talking about multiple petitions. As a matter of fact, the opponents of the bill seem hipped on that idea that there are multiple applications for habeas corpus in this bill.

Let me ask the gentleman this: In the subcommittee we were careful to allow how many petitions?

Mr. KOPETSKI. Mr. Speaker, one.

Mr. EDWARDS of California. One, and the petition has a statute of limitations; is that correct?

Mr. KOPETSKI. Mr. Speaker, that is correct.

Mr. EDWARDS of California. One year?

Mr. KOPETSKI. Mr. Speaker, it is 1 year.

Mr. EDWARDS of California. So no petitions after 1 year?

Mr. KOPETSKI. Mr. Speaker, that is absolutely correct.

Mr. EDWARDS of California. Mr. Speaker, if the gentleman will continue to yield, how many again?

Mr. KOPETSKI. One appeal. There is 1 year to bring this petition. This is a compromise. If we vote against this bill, what we are saying is, "I am willing to continue the rights of unlimited appeals to criminals in this country."

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia [Mr. ALLEN], a new Member of the House.

Mr. ALLEN. Mr. Speaker, I have just become a Member in a few weeks and we have been going all night long into the morning. Here we are at 6:30 in the morning, and I know we are tired. And we have had some tempers flaring and people all across America, or at least in the eastern standard time, are waking up. And I know we are tired, but we need to be awakened to this bill.

This is not a crime bill. This is a criminal bill.

In fact, what this bill ought to be called is the Criminal Relief Act of 1991.

We have heard the evidence. The evidence is that the prosecutors are opposed to it but the defense attorneys are in favor of it. I am not going to repeat all the allegations and so forth about habeas corpus, but there may be a few more cases in this which capital punishment may be imposed. But this conference committee report protects too many criminals and generally works against the law enforcement officials and law-abiding citizens.

I will not repeat all the various cumulative arguments we have heard on habeas corpus, the good faith exclusions, exceptions to the exclusionary rule, and other matters. But the bill does contain the continued gimmickry that would unnecessarily infringe upon the rights of law-abiding citizens to purchase a firearm, to protect themselves or for sport.

Finally, this bill also struck enhanced penalties for repeat rapists and child molesters. If we look at the recidivist rate, the repeat offenders rates are the highest among rapists. And to me that should not have been removed from the bill as it passed the House.

So this bill, Mr. Speaker, does more harm in this Criminal Relief Act of 1991, and certainly the harm outweighs whatever crumbs of good may come from it.

I respectfully request that we reject this rule and reject this bill.

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the gentlewoman from New York [Ms. MOLINARI].

Ms. MOLINARI. Mr. Speaker, I rise today to speak in opposition to the conference report. I urge colleagues to vote against the rule.

This bill, as reported by the House and Senate conferees, is no longer deserving of the title that contains the words "crime control" or "crime prevention." In fact, to at least two segments of our society this bill is criminal. The two groups in our society who have no say in this conference on this crime bill: women and children.

Why am I not surprised by this, Mr. Speaker? Why am I not surprised that this came back from a conference essentially driven by the Committee on the Judiciary of the other Chamber? They will just do not get it.

The conferees have stripped key provisions which would have increased the penalties that could be applied to recidivist sex offenders. The House bill contains provisions which would have doubled the maximum penalty that Federal courts can impose for repeat sex offenders.

The conference report also deletes provisions for HIV testing of sex offenders. The conference report deletes provisions that authorized an increase in the compensation paid to victims of crime. These provisions would have expanded eligibility for compensation to different types of victims and would have covered additional types of expenses that were accrued during the criminal proceeding.

□ 0640

Again, the conference report sides with the accused. Also deleted in conference was an amendment I introduced to the Public Safety Officers Benefit Act that would have extended an entitlement to death and disability benefits to retired public safety officers who died or who were permanently and totally disabled while attempting to rescue or responding to a fire or other police emergency. This is a simple extension of an entitlement designed to provide relief for the families of those brave retirees who did not abandon their instincts or their training when a life-threatening situation presented itself and who unselfishly responded to that situation in the interest of public safety.

Mr. Speaker, I cannot go home and look into the eyes of a widow and tell her that her husband's courageous act will not be recognized by the U.S. Congress. I am not prepared to stand face to face with a victim of a sexual attack and tell her that I would not vote to keep her attacker in jail longer, and that I had a civil obligation not to test the attacker for AIDS.

I will not acknowledge the pain of a survivor of violent crime and say that America will not compensate you for your struggle, for your anguish.

Mr. Speaker, if this bill were to pass I do not believe our streets would be any safer or our children any more secure or our women any more liberated from the fear of sexual assault. I urge my colleagues to defeat this rule and defeat this conference report.

Mr. SOLOMON. Mr. Speaker, that is the best argument I have heard all night, the best reason to defeat this rule.

Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. SENSENBRENNER. Mr. Speaker, I think we ought to analyze just exactly what happened in the conference. In the death penalty the Senate passed the weaker provision and the conference adopted it. In the exclusionary rule the Senate passed the weaker provision and the conference adopted it. In habeas corpus the House passed the weaker provision and the conference adopted it.

Many key provisions that were accepted either in committee or on the floor without objection were stricken in the conference, such as enhanced penalties for recidivist sex offenders stricken by the conference, provisions strengthening the law on public corruption, which the Senate introduced into the bill were stricken in conference, a package of victims' rights provisions which the House put in the bill without debate in the Committee on the Judiciary were stricken in conference, and in each and every instance the conference went to the weaker provision relating to law enforcement and the stronger provision relating to criminals' rights.

It is no surprise that the gentleman from California [Mr. EDWARDS], said, "Talk to your bar associations, your State bars and your county bars and your local bars. They support this bill," and they do. But who comprises the bar association? It is the defense lawyers, whose job it is to keep people out of jail. The prosecutors, the district attorneys, and the attorneys general whose job it is to put the guilty in jail are all against this bill.

The Members should decide who to vote for, Mr. Speaker, the people who want to throw those who have violated the laws, who have mugged our constituents, in jail, or those whose job it is to keep people out of jail. I will cast my vote for the prosecutors, for the attorneys general, for the district attorneys by voting against this rule and by voting against this flawed, fatally flawed conference report.

Mr. DERRICK. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Texas [Mr. BRYANT].

Mr. BRYANT. Mr. Speaker, I think perhaps we need a crime bill, if for no other reason than to address the crime that is being committed on this floor today, and that is the gross misrepresentation of this bill by the other side, for obvious political purposes.

Let me just read a quick list. I want to be quick about this because I would like us to proceed to a vote. You have misrepresented to this House, many of you, what this bill does with regard to the death penalty. I cannot imagine how you can sleep at night, or in the middle of the morning, after having done that. Let me read to you what some of the death penalty offenses that have been added to this bill are, and there are 56 of them: Killings by drug kingpins, that is not now in the law

but it would be if this bill passed; killing law enforcement officials in connection with drug offenses, and that is not in the law now but it would be if this bill passed; murder in Federal jurisdiction, that is not in the law now but it will be if this bill passes; aircraft destruction where a death results; mailing dangerous articles where a death results; bank robbery where a death results. That is not now in the law but it would be if this bill passes.

I can go on and on and on. Murder for hire, murder in aid or racketeering, murder of an American national abroad, genocide, killing a juror or a court officer to obstruct justice, on and on and on, and even some nonhomicide offenses which have never been the subject of the death penalty: Espionage, treason, attempts to kill a President, attempts to kidnap a President, drug kingpins, based on the amount of drugs or money involved.

I submit that those kinds of people ought to face the death penalty. If the Members agree, vote for this bill and stop this demagoguery.

I urge the Members to vote for this rule and vote for this bill, and let us get on with it.

Mr. SOLOMON. Mr. Speaker, I am surprised at the gentleman from Texas [Mr. BRYANT] using the words "political" and "demagoguery." Let me show you a good Democrat from the State of Texas. His name is Dan Morales, attorney general of the State of Texas, and he is opposed to this bill. Here is his signature. Here is your so-called demagoguery.

Mr. Speaker, I yield the balance of my time to the gentleman from Georgia [Mr. GINGRICH].

Mr. GINGRICH. Mr. Speaker, as we try to debate this at 6:45 in the morning, I think the most striking thing that hits me, and it has been just driven deeper and deeper every time I watch the evening news, is that this is an incredibly tragic time for America and for Americans. In virtually every major city the evening news increasingly could be called "Death Watch." We tune in, and all of us have done it, and we watch a 16-year-old killed in a drug gunfight; we watch a 3-year-old who dies in a drive-by killing; we see tragedy after tragedy after tragedy. We see violent criminal after violent criminal, people whose brutality and willingness to prey on other human beings is extraordinary.

Then we come with this bill, which I have to confess, until it came out of conference, I would not have thought possible. This bill manages to, if I may quote from the Department of Justice's analysis of it: "With remarkable consistency the conference committee has rejected the better option and has opted instead for provisions that harm law enforcement and reduce the public security against crime."

Now, what are people talking about? Why do district attorneys who prosecute criminals and the State attorney generals who try the cases and who make sure that the death penalty is applied, why do they matter? Why does the average citizen out here care what a prosecuting attorney says?

Let me give an example, a case that is going to become very famous in 1992. In 1987, a parole board prematurely released Arthur Shaw Cross, who was in prison for sexually molesting and killing two children, ages 8 and 10. This release occurred in spite of his parole officer's warnings against premature release. The parole officer wrote that Shaw Cross is a psychosexual maniac for whom prison walls could not be erected thick enough. Previous reports said he was a homicidal schizoid personality of abnormal character with psychosexual difficulties, including pedophilic fetishes.

The State first moved Shaw Cross secretly to Binghamton, where he was run out of town by outraged citizens. Then they deposited him secretly in Rochester, never alerting the local police. Then during 1988 and 1989, Shaw Cross murdered 11 women in Rochester in a killing spree that terrorized the community.

Now, why are citizens upset? They are upset because in this bill the liberals in this Congress on the House and Senate side gathered together to perpetrate a hoax, the death penalty, written deliberately so it will never be used, written in such a way that every opponent of the death penalty can gleefully vote yes, because they have managed to perpetrate upon the citizenry an absolute hoax.

□ 0650

Who says it is a hoax? Well, let me give you a couple examples. The National District Attorneys Association—by the way, one of our earlier speakers said appointed by the President. Nonsense. I do not know what that person knows about how district attorneys are created, but in most places they are elected, elected by the people, Democrat or Republican.

What do they say? Let me read the text:

DEAR GENTLEMEN: The American people have been mugged again—this time by the leadership of the United States Congress. The nation's prosecutors strongly oppose the so-called "crime control" bill approved in Sunday's conference and urge both House and Senate to reject it. This bill does far more to advance the interests of convicted criminals than it does to protect victims and law-abiding citizens.

Let me repeat that sentence so that no one who votes today has any doubt about what the district attorney says:

This bill does far more to advance the interests of convicted criminals than it does to protect victims and law-abiding citizens. In fact, passage of this bill is tantamount to handing the jail house keys to thousands of convicted state and federal prisoners.

The bill advances the rights of convicted criminals by providing golden opportunities for them to use new case law to overturn old convictions. This is accomplished through the repeal of several Supreme Court precedents in the habeas corpus provision approved by the conference. It also provides unworkable counsel standards in death penalty cases that violate the most basic tenets of federalism.

The conference committee in nearly every instance chose the wealthiest provisions with respect to law enforcement. It rejected the House limitations on application of the exclusionary rule. It overturns the Supreme Court decision in *Arizona v. Fulminante* through a provision that may have far reaching effects and which was not even the subject of hearings. Finally, the conference chose the weaker provisions on death penalty offenses and procedure.

It is a sad day when the will of American people to enact tougher criminal laws is so completely thwarted. We urge you to reject this poor excuse for a crime control bill.

Signed: Thomas J. Charron, District Attorney, President, National District Attorneys Association.

So if you want to vote as seen by the elected district attorneys whose job it is to prosecute the Arthur Shawcrosses of the world, if you want to vote in favor of helping the criminals, of releasing convicted State and Federal prisoners, putting back on the street the kind of people who kill, who rape, who maim, then vote yes; but understand clearly that in the judgment of the district attorneys, Democrat and Republican, you are voting on behalf of the criminals if you vote yes.

Mr. Speaker, I urge you to vote no.

Mr. DERRICK. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. ENGEL].

Mr. ENGEL. Mr. Speaker, I rise today in strong support of the conference report on H.R. 3371, the Omnibus Crime Control Act of 1991. As a Representative from New York, I can attest that the growing scourge of crime in our Nation's cities cannot be tolerated any longer. Too many innocent people have lost their lives in random acts of violence, too many guns are in the hands of dangerous people, and too many criminals, guilty of repeated offenses, walk the streets freely.

According to the U.S. Bureau of Justice, last year 5 percent of the Nation's households, or about 4.5 million households, had at least one family member who was the victim of a violent crime. Almost 6.9 million households, or about 1 in 14, were affected by a rape, robbery, or an assault by a stranger or burglar during 1990.

We have a responsibility to the American people to pass the conference report on the omnibus crime control bill. This conference report will provide over $3 billion for much needed crime control programs. One of the most important parts of this conference report is the additional funding it provides for hiring more law enforcement officers on the Federal, State, and local levels.

The conference report on H.R. 3371 also takes a step in the right direction

by including a 5 day waiting period for the purchase of handguns. This provision will give law enforcement officials the necessary time to run a background check to determine whether or not the prospective buyer holds a criminal record. This provision alone, will go a long way in helping to prevent the senseless murders that occur everyday.

I want to say to my colleagues, that we would be making a terrible mistake if we fail to pass this bill. Admittedly, this bill is not perfect. Many of us feel that there are provisions in the bill with which we are not happy, and others wish the bill contained some provisions which have been excluded in the final version. However, this is a good compromise bill. It moves in the right direction in terms of trying to combat crime, and sends a clear message to our constituents that we are aware of their concerns and are as troubled as they are by the rising crime rate in our country.

Mr. Speaker, in the past 2 years I have personally heard gunshots outside both my residence in my home district and my apartment here in Washington. Both gunshots resulted in murders, one drug-related and the other a street robbery. There's hardly an American who hasn't been affected one way or the other by violent crime. This bill strengthens the statutes in dealing with crime. Let's look at some of the other provisions that this bill offers:

It will provide 10 regional prisons for Federal and State drug criminals.

H.R. 3371 authorizes aid for cities hardest hit by the drug crisis.

It establishes new programs including grants for safe schools and antigang programs, and appropriates funding for prevention programs like additional cops on the beat, trauma centers, and law enforcement scholarships.

The legislation authorizes $1.2 billion in aid to State and local law enforcement agencies.

It boosts aid to victims of crime; requiring victim impact statements.

And finally, H.R. 3371 toughens penalties for gun use during violent crimes.

I urge my colleagues to vote in favor of the conference report on the omnibus crime control bill. The future safety of millions of Americans is riding on its passage.

Mr. DERRICK. Mr. Speaker, let me say before I move the previous question that it was not necessary for me to get a report from the DA's and so forth and so on. I have tried a number of cases in my career as an attorney. I prosecuted and I also defended many cases, capital cases and all other cases.

I have followed this bill very closely. We all know the matter of the death penalty does not really amount to a great deal, because we are talking about a very small part of the criminal case jurisdiction in this country; although it is important, it is not as major as many of our speakers would make it out.

Mr. Speaker, this is a strong crime bill, and if for no other reason, I recommend as a trial attorney this legislation, based on the habeas corpus provisions alone. This is the strongest reform that we have had of habeas corpus in modern times.

What it is going to mean to the American people is these people who run us all up a wall and we wonder why, what is going on in the legal system, when we see people 10 years after a conviction has been rendered in a lower court before the final execution of that conviction is brought about 10 years later.

This is going to be put to an end. There is going to be 1 petition and 1 year.

Mr. Speaker, if for no other reason, this is the reason to vote for this bill.

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

Mr. DERRICK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. HOYER). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SOLOMON. 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 232, nays 160, answered "present" 1, not voting 41, as follows:

[Roll No. 441]

YEAS—232

Abercrombie	Byron	Eckart
Ackerman	Cardin	Edwards (CA)
Alexander	Carper	Edwards (TX)
Anderson	Carr	Engel
Andrews (ME)	Clement	English
Andrews (NJ)	Coleman (TX)	Erdreich
Andrews (TX)	Collins (MI)	Espy
Annunzio	Condit	Evans
Anthony	Conyers	Fascell
Atkins	Cooper	Fazio
AuCoin	Costello	Feighan
Bacchus	Cox (IL)	Flake
Barnard	Coyne	Foglietta
Beilenson	Cramer	Ford (TN)
Bennett	Darden	Frost
Berman	DeFazio	Gejdenson
Bevill	DeLauro	Gephardt
Bilbray	Dellums	Geren
Blackwell	Derrick	Gibbons
Bonior	Dicks	Gilman
Borski	Dingell	Glickman
Boxer	Donnelly	Gonzalez
Brewster	Dooley	Gordon
Brooks	Dorgan (ND)	Green
Browder	Downey	Guarini
Bruce	Durbin	Hall (OH)
Bryant	Dwyer	Hall (TX)
Bustamante	Early	Hamilton
Hatcher	McNulty	Sangmeister
Hayes (IL)	Mfume	Sarpalius
Hayes (LA)	Miller (CA)	Sawyer
Hefner	Mineta	Scheuer
Hoagland	Mink	Schroeder
Hochbrueckner	Moakley	Schumer
Horn	Mollohan	Serrano
Hoyer	Moody	Sharp
Hubbard	Morella	Sikorski
Hughes	Mrazek	Sisisky
Jacobs	Murphy	Skaggs
Jefferson	Murtha	Skelton
Jenkins	Natcher	Slattery
Johnson (SD)	Neal (MA)	Slaughter
Johnston	Neal (NC)	Smith (FL)
Jones (NC)	Nowak	Smith (IA)
Jontz	Oakar	Solarz
Kanjorski	Oberstar	Spratt
Kaptur	Obey	Staggers
Kennedy	Olin	Stallings
Kennelly	Olver	Stenholm
Kildee	Orton	Stokes
Kolter	Owens (UT)	Studds
Kopetski	Pallone	Swett
Kostmayer	Panetta	Swift
LaFalce	Pastor	Synar
Lancaster	Patterson	Tallon
Lantos	Payne (NJ)	Tanner
LaRocco	Payne (VA)	Tauzin
Laughlin	Pease	Taylor (MS)
Lehman (FL)	Pelosi	Thomas (GA)
Levin (MI)	Penny	Thornton
Levine (CA)	Perkins	Torres
Lewis (GA)	Peterson (FL)	Torricelli
Lipinski	Pickle	Traficant
Lloyd	Poshard	Unsoeld
Long	Price	Valentine
Lowey (NY)	Rahall	Vento
Luken	Ramstad	Visclosky
Manton	Rangel	Waters
Markey	Ray	Weiss
Martinez	Reed	Wheat
Mavroules	Richardson	Whitten
Mazzoli	Roemer	Wilson
McCloskey	Rose	Wise
McCurdy	Rostenkowski	Wolpe
McDermott	Rowland	Wyden
McHugh	Roybal	Yatron
McMillan (NC)	Russo	
McMillen (MD)	Sabo	

NAYS—160

Allard	Gallegly	Martin
Allen	Gallo	McCandless
Archer	Gekas	McCollum
Armey	Gilchrest	McCrery
Ballenger	Gillmor	McDade
Barrett	Gingrich	McEwen
Barton	Goss	McGrath
Bateman	Grandy	Meyers
Bentley	Gunderson	Michel
Bereuter	Hammerschmidt	Miller (OH)
Bilirakis	Hancock	Miller (WA)
Bliley	Harris	Molinari
Boehlert	Hastert	Montgomery
Boehner	Hefley	Moorhead
Bunning	Henry	Moran
Burton	Herger	Morrison
Callahan	Hobson	Myers
Camp	Holloway	Nichols
Campbell (CO)	Hopkins	Nussle
Chandler	Horton	Oxley
Clay	Houghton	Packard
Clinger	Huckaby	Parker
Coble	Hunter	Paxon
Coleman (MO)	Hutto	Petri
Combest	Hyde	Porter
Coughlin	Inhofe	Pursell
Cox (CA)	Ireland	Ravenel
Crane	James	Regula
Cunningham	Johnson (CT)	Rhodes
Dannemeyer	Johnson (TX)	Ridge
Davis	Kasich	Riggs
DeLay	Klug	Rinaldo
Doolittle	Kolbe	Ritter
Dornan (CA)	Kyl	Roberts
Dreier	Lagomarsino	Rogers
Duncan	Leach	Rohrabacher
Edwards (OK)	Lent	Ros-Lehtinen
Emerson	Lewis (CA)	Roth
Ewing	Lewis (FL)	Roukema
Fawell	Lightfoot	Sanders
Fields	Livingston	Santorum
Ford (MI)	Lowery (CA)	Savage
Franks (CT)	Machtley	Saxton

Schaefer	Spence	Walsh
Schiff	Stearns	Weber
Schulze	Stump	Weldon
Sensenbrenner	Sundquist	Wolf
Shays	Taylor (NC)	Wylie
Skeen	Thomas (WY)	Young (AK)
Smith (NJ)	Upton	Young (FL)
Smith (OR)	Vander Jagt	Zeliff
Smith (TX)	Volkmer	Zimmer
Snowe	Vucanovich	
Solomon	Walker	

ANSWERED "PRESENT"—1

Goodling

NOT VOTING—41

Applegate	Frank (MA)	Pickett
Aspin	Gaydos	Quillen
Baker	Gradison	Roe
Boucher	Hansen	Shaw
Broomfield	Hertel	Shuster
Brown	Jones (GA)	Stark
Campbell (CA)	Kleczka	Thomas (CA)
Chapman	Lehman (CA)	Towns
Collins (IL)	Marlenee	Traxler
de la Garza	Matsui	Washington
Dickinson	Nagle	Waxman
Dixon	Ortiz	Williams
Dymally	Owens (NY)	Yates
Fish	Peterson (MN)	

□ 0718

Mr. VALENTINE and Mr. SIKORSKI change their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. FLAKE. Mr. Speaker, on rollcall 427, the rule for the supplemental; rollcall 428, the conference report on dire emergency supplemental; and 429, tax extensions, I was unavoidably absent and missed those votes. If I had been present, I would have voted in the affirmative on all three.

CONFERENCE REPORT ON H.R. 3371, OMNIBUS CRIME CONTROL ACT OF 1991

Mr. BROOKS submitted the following conference report and statement on the bill (H.R. 3371) to control and prevent crime:

CONFERENCE REPORT (H. REPT. 102-405)

The Committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3371), to control and prevent crime, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Houses recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Violent Crime Control and Law Enforcement Act of 1991".

SEC. 2. TABLE OF TITLES.

The following is the table of titles for this Act:

TITLE I—DEATH PENALTY
TITLE II—HABEAS CORPUS REFORM
TITLE III—EXCLUSIONARY RULE
TITLE IV—COERCED CONFESSIONS
TITLE V—FIREARMS
TITLE VI—OBSTRUCTION OF JUSTICE
TITLE VII—YOUTH VIOLENCE
TITLE VIII—TERRORISM
TITLE IX—SEXUAL VIOLENCE AND CHILD ABUSE
TITLE X—CRIME VICTIMS
TITLE XI—STATE AND LOCAL LAW ENFORCEMENT
TITLE XII—PROVISIONS RELATING TO POLICE OFFICERS
TITLE XIII—FEDERAL LAW ENFORCEMENT AGENCIES
TITLE XIV—PRISONS
TITLE XV—RURAL CRIME
TITLE XVI—DRUG CONTROL
TITLE XVII—DRUNK DRIVING PROVISIONS
TITLE XVIII—COMMISSIONS
TITLE XIX—BAIL POSTING REPORTING
TITLE XX—MOTOR VEHICLE THEFT PREVENTION
TITLE XXI—PROTECTIONS FOR THE ELDERLY
TITLE XXII—CONSUMER PROTECTION
TITLE XXIII—FINANCIAL INSTITUTION FRAUD PROSECUTIONS
TITLE XXIV—SAVINGS AND LOAN PROSECUTION TASK FORCE
TITLE XXV—SENTENCING PROVISIONS
TITLE XXVI—SENTENCING AND MAGISTRATES AMENDMENT
TITLE XXVII—COMPUTER CRIME
TITLE XXVIII—PARENTAL KIDNAPPING
TITLE XXIX—SAFE SCHOOLS
TITLE XXX—MISCELLANEOUS
TITLE XXXI—TECHNICALS

TITLE I—DEATH PENALTY

SEC. 101. SHORT TITLE.

This title may be cited as the "Federal Death Penalty Act of 1991".

SEC. 102. CONSTITUTIONAL PROCEDURES FOR THE IMPOSITION OF THE SENTENCE OF DEATH.

(a) IN GENERAL.—Part II of title 18 of the United States Code is amended by adding the following new chapter after chapter 227:

"CHAPTER 228—DEATH SENTENCE

"Sec.
"3591. Sentence of death.
"3592. Mitigating and aggravating factors to be considered in determining whether a sentence of death is justified.
"3593. Special hearing to determine whether a sentence of death is justified.
"3594. Imposition of a sentence of death.
"3595. Review of a sentence of death.
"3596. Implementation of a sentence of death.
"3597. Use of State facilities.
"3598. Special provisions for Indian country.

"§3591. Sentence of death

"A defendant who has been found guilty of—

"(1) an offense described in section 794 or section 2381 of this title;

"(2) an offense described in section 1751(c) of this title, if the offense, as determined beyond a reasonable doubt at the hearing under section 3593, constitutes an attempt to kill the President of the United States and results in bodily injury to the President or comes dangerously close to causing the death of the President; or

"(3) any other offense for which a sentence of death is provided, if the defendant, as determined beyond a reasonable doubt at the hearing under section 3593—

"(A) intentionally killed the victim;

"(B) intentionally inflicted serious bodily injury that resulted in the death of the victim;

"(C) intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and the victim died as a direct result of the act; or

"(D) intentionally and specifically engaged in an act, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and the victim died as a direct result of the act,

shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified, except that no person may be sentenced to death who was less than 18 years of age at the time of the offense.

"§3592. Mitigating and aggravating factors to be considered in determining whether a sentence of death is justified

"(a) MITIGATING FACTORS.—In determining whether a sentence of death is to be imposed on a defendant, the finder of fact shall consider any mitigating factor, including the following:

"(1) IMPAIRED CAPACITY.—The defendant's capacity to appreciate the wrongfulness of the defendant's conduct or to conform conduct to the requirements of law was significantly impaired, regardless of whether the capacity was so impaired as to constitute a defense to the charge.

"(2) DURESS.—The defendant was under unusual and substantial duress, regardless of whether the duress was of such a degree as to constitute a defense to the charge.

"(3) MINOR PARTICIPATION.—The defendant is punishable as a principal (as defined in section 2 of title 18 of the United States Code) in the offense, which was committed by another, but the defendant's participation was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.

"(4) FORSEEABILITY.—The defendant could not reasonably have foreseen that the defendant's conduct in the course of the commission of murder, or other offense resulting in death for which the defendant was convicted, would cause, or would create a grave risk of causing, death to any person.

"(5) NO PRIOR CRIMINAL RECORD.—The defendant did not have a significant prior history of other criminal conduct.

"(6) DISTURBANCE.—The defendant committed the offense under severe mental or emotional disturbance.

"(7) VICTIM'S CONSENT.—The victim consented to the criminal conduct that resulted in the victim's death.

"(8) OTHER FACTORS.—Other factors in the defendant's background, record, or character or any other circumstance of the offense that mitigate against imposition of the death sentence.

"(b) AGGRAVATING FACTORS FOR ESPIONAGE AND TREASON.—In determining whether a sentence of death is justified for an offense described in section 3591(1), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors for which notice has been given and determine which, if any, exist:

"(1) PRIOR ESPIONAGE OR TREASON OFFENSE.—The defendant has previously been convicted of another offense involving espionage or treason for which a sentence of either life imprisonment or death was authorized by law.

"(2) GRAVE RISK TO NATIONAL SECURITY.—In the commission of the offense the defendant knowingly created a grave risk of substantial danger to the national security.

"(3) GRAVE RISK OF DEATH.—In the commission of the offense the defendant knowingly created a grave risk of death to another person.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor for which notice has been given exists.

"(c) AGGRAVATING FACTORS FOR HOMICIDE AND FOR ATTEMPTED MURDER OF THE PRESI-

DENT.—In determining whether a sentence of death is justified for an offense described in section 3591 (2) or (6), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors for which notice has been given and determine which, if any, exist:

"(1) DEATH DURING COMMISSION OF ANOTHER CRIME.—The death, or injury resulting in death, occurred during the commission or attempted commission of, or during the immediate flight from the commission of, an offense under section 32 (destruction of aircraft or aircraft facilities), section 33 (destruction of motor vehicles or motor vehicle facilities), section 36 (violence at international airports), section 351 (violence against Members of Congress, Cabinet officers, or Supreme Court Justices), an offense under section 751 (prisoners in custody of institution or officer), section 794 (gathering or delivering defense information to aid foreign government), section 844(d) (transportation of explosives in interstate commerce for certain purposes), section 844(f) (destruction of Government property in interstate commerce by explosives), section 1118 (prisoners serving life term), section 1201 (kidnaping), section 844(i) (destruction of property affecting interstate commerce by explosives), section 1116 (killing or attempted killing of diplomats), section 1203 (hostage taking), section 1992 (wrecking trains), section 2280 (maritime violence), section 2281 (maritime platform violence), section 2332 (terrorist acts abroad against United States nationals), section 2339 (use of weapons of mass destruction), or section 2381 (treason) of this title, or section 902 (i) or (n) of the Federal Aviation Act of 1958 (49 U.S.C. 1472 (i) or (n)) (aircraft piracy).

"(2) INVOLVEMENT OF FIREARM OR PREVIOUS CONVICTION OF VIOLENT FELONY INVOLVING FIREARM.—For any offense, other than an offense for which a sentence of death is sought on the basis of section 924(c) of this title, as amended by this Act, the defendant—

(A) during and in relation to the commission of the offense or in escaping or attempting to escape apprehension used or possessed a firearm as defined in section 921 of this title; or

(B) has previously been convicted of a Federal or State offense punishable by a term of imprisonment of more than one year, involving the use of attempted or threatened use of a firearm, as defined in section 921 of this title, against another person.

"(3) PREVIOUS CONVICTION OF OFFENSE FOR WHICH A SENTENCE OF DEATH OR LIFE IMPRISONMENT WAS AUTHORIZED.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute.

"(4) PREVIOUS CONVICTION OF OTHER SERIOUS OFFENSES.—The defendant has previously been convicted of two or more Federal or State offenses, punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

"(5) GRAVE RISK OF DEATH TO ADDITIONAL PERSONS.—The defendant, in the commission of the offense, or in escaping apprehension for the violation of the offense, knowingly created a grave risk of death to one or more persons in addition to the victim of the offense.

"(6) HEINOUS, CRUEL, OR DEPRAVED MANNER OF COMMITTING OFFENSE.—The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to the victim.

"(7) PROCUREMENT OF OFFENSE BY PAYMENT.—The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"(8) PECUNIARY GAIN.—The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value.

"(9) SUBSTANTIAL PLANNING AND PREMEDITATION.—The defendant committed the offense after substantial planning and premeditation to cause the death of a person or commit an act of terrorism.

"(10) CONVICTION FOR TWO FELONY DRUG OFFENSES.—The defendant has previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the distribution of a controlled substance.

"(11) VULNERABILITY OF VICTIM.—The victim was particularly vulnerable due to old age, youth, or infirmity.

"(12) CONVICTION FOR SERIOUS FEDERAL DRUG OFFENSES.—The defendant had previously been convicted of violating title II or title III of the Controlled Substances Act for which a sentence of 5 or more years may be imposed or had previously been convicted of engaging in a continuing criminal enterprise.

"(13) CONTINUING CRIMINAL ENTERPRISE INVOLVING DRUG SALES TO MINORS.—The defendant committed the offense in the course of engaging in a continuing criminal enterprise in violation of section 408(c) of the Controlled Substances Act and that violation involved the distribution of drugs to persons under the age of 21 in violation of section 418 of such Act.

"(14) HIGH PUBLIC OFFICIALS.—The defendant committed the offense against—

"(A) the President of the United States, the President-elect, the Vice President, the Vice-President-elect, the Vice-President-designate, or, if there is no Vice President, the officer next in order of succession to the office of the President of the United States, or any person who is acting as President under the Constitution and laws of the United States;

"(B) a chief of state, head of government, or the political equivalent, of a foreign nation;

"(C) a foreign official listed in section 1116(b)(3)(A) of this title, if the official is in the United States on official business; or

"(D) a Federal public servant who is a judge, a law enforcement officer, or an employee of a United States penal or correctional institution—

"(i) while he is engaged in the performance of his official duties;

"(ii) because of the performance of his official duties; or

"(iii) because of his status as a public servant. For purposes of this subparagraph, a 'law enforcement officer' is a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, or prosecution or adjudication of an offense, and includes those engaged in corrections, parole, or probation functions.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor for which notice has been given exists.

"§3593. Special hearing to determine whether a sentence of death is justified

"(a) NOTICE BY THE GOVERNMENT.—If, in a case involving an offense described in section 3591, the attorney for the government believes that the circumstances of the offense are such that a sentence of death is justified under this chapter, the attorney shall, a reasonable time before the trial or before acceptance by the court of a plea of guilty, sign and file with the court, and serve on the defendant, a notice—

"(1) stating that the government believes that the circumstances of the offense are such that, if the defendant is convicted, a sentence of death is justified under this chapter and that the government will seek the sentence of death; and

"(2) setting forth the aggravating factor or factors that the government, if the defendant is convicted, proposes to prove as justifying a sentence of death.

The factors for which notice is provided under this subsection may include factors concerning the effect of the offense on the victim and the victim's family, and may include oral testimony, a victim impact statement that identifies the victim of the offense and the extent and scope of the injury and loss suffered by the victim and the victim's family, and any other relevant information. The court may permit the attorney for the government to amend the notice upon a showing of good cause.

"(b) HEARING BEFORE A COURT OR JURY.—If the attorney for the government has filed a notice as required under subsection (a) and the defendant is found guilty of or pleads guilty to an offense described in section 3591, the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. The hearing shall be conducted—

"(1) before the jury that determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury that determined the defendant's guilt was discharged for good cause; or

"(D) after initial imposition of a sentence under this section, reconsideration of the sentence under this section is necessary; or

"(3) before the court alone, upon the motion of the defendant and with the approval of the attorney for the government.

A jury impaneled pursuant to paragraph (2) shall consist of twelve members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

"(c) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—Notwithstanding rule 32(c) of the Federal Rules of Criminal Procedure, when a defendant is found guilty or pleads guilty to an offense under section 3591, no presentence report shall be prepared. At the sentencing hearing, information may be presented as to any matter relevant to the sentence, including any mitigating or aggravating factor permitted or required to be considered under section 3592. Information presented may include the trial transcript and exhibits if the hearing is held before a jury or judge not present during the trial. The defendant may present any information relevant to a mitigating factor. The government may present any information relevant to an aggravating factor. The government and the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in the case of imposing a sentence of death. The government shall open the argument. The defendant shall be permitted to reply. The government shall then be permitted to reply in rebuttal. The burden of establishing the existence of any aggravating factor is on the government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the information.

"(d) RETURN OF SPECIAL FINDINGS.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any aggravating factor or factors set forth in section

3592 found to exist and any other aggravating factor for which notice has been provided under subsection (a) found to exist. A finding with respect to a mitigating factor may be made by one or more members of the jury, and any member of the jury who finds the existence of a mitigating factor may consider such factor established for purposes of this section regardless of the number of jurors who concur that the factor has been established. A finding with respect to any aggravating factor must be unanimous. If no aggravating factor set forth in section 3592 is found to exist, the court shall impose a sentence other than death authorized by law.

"(e) RETURN OF A FINDING CONCERNING A SENTENCE OF DEATH.—If, in the case of—

"(1) an offense described in section 3591(1), an aggravating factor required to be considered under section 3592(b) is found to exist; or

"(2) an offense described in section 3591 (2) or (3), an aggravating factor required to be considered under section 3592(c) is found to exist,

the jury, or if there is no jury, the court, shall consider whether all the aggravating factor or factors found to exist sufficiently outweigh all the mitigating factor or factors found to exist to justify a sentence of death, or, in the absence of a mitigating factor, whether the aggravating factor or factors alone are sufficient to justify a sentence of death. Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court, shall recommend whether a sentence of death shall be imposed rather than a lesser sentence. The jury or the court, if there is no jury, regardless of its findings with respect to aggravating and mitigating factors, is never required to impose a death sentence.

"(f) SPECIAL PRECAUTION TO ENSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, prior to the return of a finding under subsection (e), shall instruct the jury that, in considering whether a sentence of death is justified, it shall not consider the race, color, religious beliefs, national origin, or sex of the defendant or of any victim and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or of any victim may be. The jury, upon return of a finding under subsection (e), shall also return to the court a certificate, signed by each juror, that consideration of the race, color, religious beliefs, national origin, or sex of the defendant or any victim was not involved in reaching his or her individual decision and that the individual juror would have made the same recommendation regarding a sentence for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or any victim may be.

"§3594. Imposition of a sentence of death

"Upon a finding under section 3593(e) that a sentence of death is justified, the court shall sentence the defendant to death. Otherwise, the court shall impose any sentence other than death that is authorized by law. Notwithstanding any other provision of law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without parole.

"§3595. Review of a sentence of death

"(a) APPEAL.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal must be filed within the time specified for the filing of a notice of appeal. An appeal under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

"(b) REVIEW.—The court of appeals shall review the entire record in the case, including—

"(1) the evidence submitted during the trial;

"(2) the information submitted during the sentencing hearing;

"(3) the procedures employed in the sentencing hearing; and

"(4) the special findings returned under section 3593(d).

"(c) DECISION AND DISPOSITION.—

"(1) The court of appeals shall address all substantive and procedural issues raised on the appeal of a sentence of death, and shall consider whether the sentence of death was imposed under the influence of passion, prejudice, or any other arbitrary factor and whether the evidence supports the special finding of the existence of an aggravating factor required to be considered under section 3592.

"(2) Whenever the court of appeals finds that—

"(A) the sentence of death was imposed under the influence of passion, prejudice, or any other arbitrary factor;

"(B) the admissible evidence and information adduced does not support the special finding of the existence of the required aggravating factor; or

"(C) the proceedings involved any other legal error requiring reversal of the sentence that was properly preserved for appeal under the rules of criminal procedure,

the court shall remand the case for reconsideration under section 3593 or imposition of a sentence other than death.

"(3) The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"§3596. Implementation of a sentence of death

"(a) IN GENERAL.—A person who has been sentenced to death pursuant to the provisions of this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of such State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does provide for the implementation of a sentence of death, and the sentence shall be implemented in the latter State in the manner prescribed by such law.

"(b) PREGNANT WOMAN.—A sentence of death shall not be carried out upon a woman while she is pregnant.

"(c) MENTAL CAPACITY.—A sentence of death shall not be carried out upon a person who is mentally retarded. A sentence of death shall not be carried out upon a person who, as a result of mental disability, lacks the mental capacity to understand the death penalty and why it was imposed on that person.

"§3597. Use of State facilities

"(a) IN GENERAL.—A United States marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such an official employs for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.

"(b) EXCUSE OF AN EMPLOYEE ON MORAL OR RELIGIOUS GROUNDS.—No employee of any State department of corrections, the United States Department of Justice, the Federal Bureau of Prisons, or the United States Marshals Service, and no employee providing services to that department, bureau, or service under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any prosecution or execution under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participation in executions' includes personal preparation of the condemned individual and the apparatus used for execution and supervision of the activities of other personnel in carrying out such activities.

"§3598. Special provisions for Indian country.

"Notwithstanding sections 1152 and 1153, no person subject to the criminal jurisdiction of an Indian tribal government shall be subject to a capital sentence under this chapter for any offense the Federal jurisdiction for which is predicated solely on Indian country as defined in section 1151 of this title, and which has occurred within the boundaries of such Indian country, unless the governing body of the tribe has elected that this chapter have effect over land and persons subject to its criminal jurisdiction.".

(b) AMENDMENT OF CHAPTER ANALYSIS.—The chapter analysis of part II of title 18, United States Code, is amended by adding the following new item after the item relating to chapter 227:

"228. Death sentence.....3591".

SEC. 103. SPECIFIC OFFENSES FOR WHICH DEATH PENALTY IS AUTHORIZED.

(a) CONFORMING CHANGES IN TITLE 18.—Title 18, United States Code, is amended as follows:

(1) AIRCRAFTS AND MOTOR VEHICLES.—Section 34 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the section.

(2) ESPIONAGE.—Section 794(a) of title 18, United States Code, is amended by striking the period at the end of the section and inserting ", except that the sentence of death shall not be imposed unless the jury or, if there is no jury, the court, further finds that the offense directly concerned nuclear weaponry, military spacecraft or satellites, early warning systems, or other means of defense or retaliation against large-scale attack; war plans; communications intelligence or cryptographic information; or any other major weapons system or major element of defense strategy.".

(3) EXPLOSIVE MATERIALS.—(A) Section 844(d) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(B) Section 844(f) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(C) Section 844(i) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(6) MURDER.—(A) The second undesignated paragraph of section 1111(b) of title 18, United States Code, is amended to read as follows:

"Whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life;".

(B) Section 1116(a) of title 18, United States Code, is amended by striking "any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life, and".

(7) KIDNAPPING.—Section 1201(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(8) NONMAILABLE INJURIOUS ARTICLES.—The last paragraph of section 1716 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the paragraph.

(9) PRESIDENTIAL ASSASSINATIONS.—Subsection (c) of section 1751 of title 18, United States Code, is amended to read as follows:

"(c) Whoever attempts to kill or kidnap any individual designated in subsection (a) of this

section, if the conduct constitutes an attempt to kill the President of the United States and results in bodily injury to the President or otherwise comes dangerously close to causing the death of the President, shall be punished—

"(1) by imprisonment for any term of years or for life; or

"(2) by death or imprisonment for any term of years or for life.".

(10) WRECKING TRAINS.—The second to the last undesignated paragraph of section 1992 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the section.

(11) BANK ROBBERY.—Section 2113(e) of title 18, United States Code, is amended by striking "or punished by death if the verdict of the jury shall so direct" and inserting "or if death results shall be punished by death or life imprisonment".

(12) HOSTAGE TAKING.—Section 1203(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(13) RACKETEERING.—(A) Section 1958 of title 18, United States Code, is amended by striking "and if death results, shall be subject to imprisonment for any term of years or for life, or shall be fined not more than $50,000, or both" and inserting "and if death results, shall be punished by death or life imprisonment, or shall be fined not more than $250,000, or both".

(B) Section 1959(a)(1) of title 18, United States Code, is amended to read as follows:

"(1) for murder, by death or life imprisonment, or a fine of not more than $250,000, or both; and for kidnapping, by imprisonment for any term of years or for life, or a fine of not more than $250,000, or both;".

(14) GENOCIDE.—Section 1091(b)(1) of title 18, United States Code, is amended by striking "a fine of not more than $1,000,000 or imprisonment for life," and inserting ", where death results, by death or imprisonment for life and a fine of not more than $1,000,000, or both;".

(b) CONFORMING AMENDMENT TO FEDERAL AVIATION ACT OF 1954.—Section 903 of the Federal Aviation Act of 1958 (49 U.S.C. 1473) is amended by striking subsection (c).

SEC. 104. APPLICABILITY TO UNIFORM CODE OF MILITARY JUSTICE.

The provisions of chapter 228 of title 18, United States Code, as added by this title, shall not apply to prosecutions under the Uniform Code of Military Justice (10 U.S.C. 801).

SEC. 105. DEATH PENALTY FOR MURDER BY A FEDERAL PRISONER.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§1118. Murder by a Federal prisoner

"(a) OFFENSE.—Whoever, while confined in a Federal correctional institution under a sentence for a term of life imprisonment, commits the murder of another shall be punished by death or by life imprisonment.

"(b) DEFINITIONS.—For the purposes of this section—

"(1) the term 'Federal correctional institution' means any Federal prison, Federal correctional facility, Federal community program center, or Federal halfway house;

"(2) the term 'term of life imprisonment' means a sentence for the term of natural life, a sentence commuted to natural life, an indeterminate term of a minimum of at least fifteen years and a maximum of life, or an unexecuted sentence of death; and

"(3) the term 'murder' means a first degree or second degree murder as defined by section 1111 of this title.".

(b) AMENDMENT OF CHAPTER ANALYSIS.—The table of sections at the beginnng of chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following:

"1118. Murder by a Federal prisoner.".

SEC. 106. DEATH PENALTY FOR CIVIL RIGHTS MURDERS.

(a) CONSPIRACY AGAINST RIGHTS.—Section 241 of title 18, United States Code, is amended by striking the period at the end of the last sentence and inserting ", or may be sentenced to death.".

(b) DEPRIVATION OF RIGHTS UNDER COLOR OF LAW.—Section 242 of title 18, United States Code, is amended by striking the period at the end of the last sentence and inserting ", or may be sentenced to death.".

(c) FEDERALLY PROTECTED ACTIVITIES.—Section 245(b) of title 18, United States Code, is amended in the matter following paragraph (5) by inserting ", or may be sentenced to death" after "or for life".

(d) DAMAGE TO RELIGIOUS PROPERTY; OBSTRUCTION OF THE FREE EXERCISE OF RELIGIOUS RIGHTS.—Section 247(c)(1) of title 18, United States Code, is amended by inserting ", or may be sentenced to death" after "or both".

SEC. 107. DEATH PENALTY FOR THE MURDER OF FEDERAL LAW ENFORCEMENT OFFICIALS.

Section 1114(a) of title 18, United States Code, is amended by striking "punished as provided under sections 1111 and 1112 of this title," and inserting "punished, in the case of murder, by a sentence of death or life imprisonment as provided under section 1111 of this title, or, in the case of manslaughter, a sentence as provided under section 1112 of this title,".

SEC. 108. DEATH PENALTY FOR DRUG KINGPINS.

(a) SHORT TITLE. This section may be cited as the "Death Penalty for Drug Kingpins Act of 1991".

(b) IN GENERAL.—Title 18, chapter 228, section 3591 of the United States Code (as created by this Act), is further amended by—

(1) striking the "(3)" before the words "any other offense for which" and inserting a "(6)";

(2) inserting after the words "death of the President; or", the following:

"(3) an offense referred to in section 408(c)(1) of the Controlled Substances Act (21 U.S.C. 848(c)(1)), committed as part of a continuing criminal enterprise offense under the conditions described in subsection (b) of that section, which involved not less than twice the quantity of controlled substance described in subsection (b)(2)(A) or twice the gross receipts described in subsection (b)(2)(B).

"(4) an offense referred to in section 408(c)(1) of the Controlled Substances Act (21 U.S.C. 848(c)(1)), committed as part of a continuing criminal enterprise offense under that section, where the defendant is a principal administrator, organizer or leader of such an enterprise, and the defendant, in order to obstruct the investigation or prosecution of the enterprise or an offense involved in the enterprise, attempts to kill or knowingly directs, advises, authorizes, or assists another to attempt to kill any public officer, juror, witness, or member of the family or household of such a person;

"(5) an offense constituting a felony violation of the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.), where the defendant, acting with a state of mind described in subsection (6), engages in such a violation, and the death of another person results in the course of the violation or from the use of the controlled substance involved in the violation; or"; and

(3) at the end of section 3592, title 18, United States Code, add the following:

"(d) AGGRAVATING FACTORS FOR DRUG OFFENSE DEATH PENALTY.—In determining whether a sentence of death is justified for an offense described in section 3591(3)–(6), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors for which notice has been given and determine which, if any, exist—

"(1) PREVIOUS CONVICTION OF OFFENSE FOR WHICH A SENTENCE OF DEATH OR LIFE IMPRISONMENT WAS AUTHORIZED.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or death was authorized by statute.

"(2) PREVIOUS CONVICTION OF OTHER SERIOUS OFFENSES.—The defendant has previously been convicted of two or more Federal or State offenses, each punishable by a term of imprisonment of more than one year, committed on different occasions, involving the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) or the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

"(3) PREVIOUS SERIOUS DRUG FELONY CONVICTION.—The defendant has previously been convicted of another Federal or State offense involving the manufacture, distribution, importation, or possession of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) for which a sentence of five or more years of imprisonment was authorized by statute.

"(4) USE OF FIREARM.—In committing the offense, or in furtherance of a continuing criminal enterprise of which the offense was a part, the defendant used a firearm or knowingly directed, advised, authorized, or assisted another to use a firearm, as defined in section 921 of this title, to threaten, intimidate, assault, or injure a person.

"(5) DISTRIBUTION TO PERSONS UNDER TWENTY-ONE.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 418 of the Controlled Substances Act which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(6) DISTRIBUTION NEAR SCHOOLS.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 419 of the Controlled Substances Act which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(7) USING MINORS IN TRAFFICKING.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 420 of the Controlled Substances Act which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(8) LETHAL ADULTERANT.—The offense involved the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), mixed with a potentially lethal adulterant, and the defendant was aware of the presence of the adulterant. The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.".

SEC. 109. NEW OFFENSE FOR THE INDISCRIMINATE USE OF WEAPONS TO FURTHER DRUG CONSPIRACIES.

(a) SHORT TITLE.—This section may be cited as the "Drive-By Shooting Prevention Act of 1991".

(b) IN GENERAL.—Chapter 2 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 36. Drive-by shooting

"(a) OFFENSE AND PENALTIES.—

"(1) Whoever, in furtherance or to escape detection of a major drug offense listed in sub-

section (b) and, with the intent to intimidate, harass, injure, or maim, fires a weapon into a group of two or more persons and who, in the course of such conduct, causes grave risk to any human life shall be punished by a term of no more than 25 years, or by fine as provided under this title, or both.

"(2) Whoever, in furtherance or to escape detection of a major drug offense listed in subsection (b) and, with the intent to intimidate, harass, injure, or maim, fires a weapon into a group of two or more persons and who, in the course of such conduct, kills any person shall, if the killing—

"(A) is a first degree murder as defined in section 1111(a) of this title, be punished by death or imprisonment for any term of years or for life, fined under this title, or both: or

"(B) is a murder other than a first degree murder as defined in section 1111(a) of this title, be fined under this title, imprisoned for any term of years or for life, or both.

"(b) MAJOR DRUG OFFENSE DEFINED.—A major drug offense within the meaning of subsection (a) is one of the following:

"(1) a continuing criminal enterprise, punishable under section 403(c) of the Controlled Substances Act (21 U.S.C. 848(c));

"(2) a conspiracy to distribute controlled substances punishable under section 406 of the Controlled Substances Act (21 U.S.C. 846) or punishable under section 1013 of the Controlled Substances Import and Export Control Act (21 U.S.C. 963); or

"(3) an offense involving major quantities of drugs and punishable under section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) or section 1010(b)(1) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)).".

(c) TABLE OF SECTIONS.—The table of sections for chapter 2 of title 18, United States Code, is amended by adding at the end thereof the following:

"36. Drive-by shooting.".

SEC. 110. FOREIGN MURDER OF UNITED STATES NATIONALS.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§1118. Foreign murder of United States nationals

"(a) Whoever, being a national of the United States, kills or attempts to kill a national of the United States while such national is outside the United States but within the jurisdiction of another country shall be punished as provided under sections 1111, 1112, and 1113 of this title.

"(b) No prosecution may be instituted against any person under this section except upon the written approval of the Attorney General, the Deputy Attorney General, or an Assistant Attorney General, which function of approving prosecutions may not be delegated. No prosecution shall be approved if prosecution has been previously undertaken by a foreign country for the same act or omission.

"(c) No prosecution shall be approved under this section unless the Attorney General, in consultation with the Secretary of State, determines that the act or omission took place in a country in which the person is no longer present, and the country lacks the ability to lawfully secure the person's return. A determination by the Attorney General under this subsection is not subject to judicial review.

"(d) As used in this section, the term 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).".

(b) CONFORMING AMENDMENT.—Section 1117 of title 18, United States Code, is amended by striking "or 1116" and inserting "1116, or 1118".

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 51 of title 18, United States Code, is amended by adding at the end the following new item:

"1118. Foreign Murder of United States Nationals.".

SEC. 111. DEATH PENALTY FOR RAPE AND CHILD MOLESTATION MURDERS.

(a) OFFENSE.—Chapter 109A of title 18, United States Code, is amended by redesignating section 2245 as section 2246, and by adding the following new section:

"§2245. Sexual abuse resulting in death

"Whoever, in the course of an offense under this chapter, engages in conduct that results in the death of a person, shall be punished by death or imprisoned for any term of years or for life.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 109A of title 18, United States Code, is amended by striking the item for section 2245 and adding the following:

"2245. Sexual abuse resulting in death

"2246. Definitions for chapter.".

SEC. 112. DEATH PENALTY FOR SEXUAL EXPLOITATION OF CHILDREN.

Section 2251(d) of title 18, United States Code, is amended by adding at the end the following: "Whoever, in the course of an offense under this section, engages in conduct that results in the death of a person, shall be punished by death or imprisoned for any term of years or for life.".

SEC. 113. MURDER BY ESCAPED PRISONERS.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, is amended by adding at the end the following:

"§1120. Murder by escaped prisoners

"(a) IN GENERAL.—Whoever, having escaped from a Federal prison where such person was confined under a sentence for a term of life imprisonment, kills another shall be punished as provided in sections 1111 and 1112 of this title.

"(b) DEFINITION.—As used in this section, the terms 'Federal prison' and 'term of life imprisonment' have the meanings given those terms in section 1118 of this title.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 51 of title 18, United States Code, is amended by adding at the end the following:

"1120. Murder by escaped prisoners.".

SEC. 114. DEATH PENALTY FOR GUN MURDERS DURING FEDERAL CRIMES OF VIOLENCE AND DRUG TRAFFICKING CRIMES.

Section 924 of title 18, United States Code, is amended by adding after the subsections added by subtitle B of title V of this Act the following:

"(o) Whoever, in the course of a violation of subsection (c) of this section, causes the death of a person through the use of a firearm, shall—

"(1) if the killing is a murder as defined in section 1111 of this title, be punished by death or by imprisonment for any term of years or for life; and

"(2) if the killing is manslaughter as defined in section 1112 of this title, be punished as provided in that section.".

SEC. 115. HOMICIDES AND ATTEMPTED HOMICIDES INVOLVING FIREARMS IN FEDERAL FACILITIES.

Section 930 of title 18, United States Code, is amended by—

(a) redesignating subsections (c), (d), (e), and (f) as subsections (d), (e), (f), and (g) respectively;

(b) in subsection (a), striking "(c)" and inserting "(d)"; and

(c) inserting after subsection (b) the following:

"(c) Whoever kills or attempts to kill any person in the course of a violation of subsection (a) or (b), or in the course of an attack on a Federal facility involving the use of a firearm or other dangerous weapon, shall—

"(1) in the case of a killing constituting murder as defined in section 1111(a) of this title, be punished by death or imprisoned for any term of years or for life; and

"(2) in the case of any other killing or an attempted killing, be subject to the penalties provided for engaging in such conduct within the special maritime and territorial jurisdiction of the United States under sections 1112 and 1113 of this title.".

TITLE II—HABEAS CORPUS REFORM

SEC. 201. SHORT TITLE.

This title may be cited as the "Habeas Corpus Reform Act of 1991".

SEC. 202. STATUTE OF LIMITATIONS.

Section 2254 of title 28, United States Code, is amended by adding at the end the following:

"(g)(1) In the case of an applicant under sentence of death, any application for habeas corpus relief under this section must be filed in the appropriate district court not later than one year after—

"(A) the date of denial of a writ of certiorari, if a petition for a writ of certiorari to the highest court of the State on direct appeal or unitary review of the conviction and sentence is filed, within the time limits established by law, in the Supreme Court;

"(B) the date of issuance of the mandate of the highest court of the State on direct appeal or unitary review of the conviction and sentence, if a petition for a writ of certiorari is not filed, within the time limits established by law, in the Supreme Court; or

"(C) the date of issuance of the mandate of the Supreme Court, if on a petition for a writ of certiorari the Supreme Court grants the writ, and disposes of the case in a manner that leaves the capital sentence undisturbed.

"(2) The time requirements established by this section shall be tolled—

"(A) during any period in which the State has failed to provide counsel as required in section 2257 of this chapter;

"(B) during the period from the date the applicant files an application for State postconviction relief until final disposition of the application by the State appellate courts, if all filing deadlines are met; and

"(C) during an additional period not to exceed 90 days, if counsel moves for an extension in the district court that would have jurisdiction of a habeas corpus application and makes a showing of good cause.".

SEC. 203. STAYS OF EXECUTION IN CAPITAL CASES.

Section 2251 of title 28, United States Code, is amended—

(1) by inserting "(a)(1)" before the first paragraph;

(2) by inserting "(2)" before the second paragraph; and

(3) by adding at the end the following:

"(b) In the case of an individual under sentence of death, a warrant or order setting an execution shall be stayed upon application to any court that would have jurisdiction over an application for habeas corpus under this chapter. The stay shall be contingent upon reasonable diligence by the individual in pursuing relief with respect to such sentence and shall expire if—

"(1) the individual fails to apply for relief under this chapter within the time requirements established by section 2254(g) of this chapter;

"(2) upon completion of district court and court of appeals review under section 2254 of this chapter, the application is denied and—

"(A) the time for filing a petition for a writ of certiorari expires before a petition is filed;

"(B) a timely petition for a writ of certiorari is filed and the Supreme Court denies the petition; or

"(C) a timely petition for certiorari is filed and, upon consideration of the case, the Supreme Court disposes of it in a manner that leaves the capital sentence undisturbed; or

"(3) before a court of competent jurisdiction, in the presence of counsel qualified under section 2257 of this chapter and after being advised of the consequences of the decision, an individual waives the right to pursue relief under this chapter.".

SEC. 204. LAW APPLICABLE.

(a) IN GENERAL.—Chapter 153 of title 28, United States Code, is amended by adding at the end the following:

"§2256. Law applicable

"In an action filed under this chapter, the court shall not apply a new rule. For purposes of this section, the term 'new rule' means a clear break from precedent, announced by the Supreme Court of the United States, that could not reasonably have been anticipated at the time the claimant's sentence became final in State court.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 153 of title 28, United States Code, is amended by adding at the end the following:

"2256. Law applicable.".

SEC. 205. COUNSEL IN CAPITAL CASES; STATE COURT.

(a) IN GENERAL.—Chapter 153 of title 28, United States Code, is amended by adding at the end the following:

"§2257. Counsel in capital cases; State court

"(a) A State in which capital punishment may be imposed shall provide legal services to—

"(1) indigents charged with offenses for which capital punishment is sought;

"(2) indigents who have been sentenced to death and who seek appellate, collateral, or unitary review in State court; and

"(3) indigents who have been sentenced to death and who seek certiorari review of State court judgments in the United States Supreme Court.

"(b) The State shall establish an appointing authority, which shall be—

"(1) a statewide defender organization;

"(2) a resource center; or

"(3) a committee appointed by the highest State court, comprised of members of the bar with substantial experience in, or commitment to, criminal justice.

"(c) The appointing authority shall—

"(1) publish a roster of attorneys qualified to be appointed in capital cases, procedures by which attorneys are appointed, and standards governing qualifications and performance of counsel, which shall include—

"(A) knowledge and understanding of pertinent legal authorities regarding issues in capital cases;

"(B) skills in the conduct of negotiations and litigation in capital cases, the investigation of capital cases and the psychiatric history and current condition of capital clients, and the preparation and writing of legal papers in capital cases;

"(C) in the case of counsel appointed for the trial or sentencing stages, 5 years of experience as a prosecutor or defense counsel in criminal felony cases; and

"(D) in the case of counsel appointed for the appellate, postconviction, or unitary review stages, 3 years of experience as a prosecutor or defense counsel in criminal felony cases;

"(2) monitor the performance of attorneys appointed and delete from the roster any attorney who fails to meet qualification and performance standards; and

"(3) appoint a defense team, which shall include at least 2 attorneys, to represent a client at the relevant stage of proceedings, promptly upon receiving notice of the need for the appointment from the relevant State court.

"(d) An attorney who is not listed on the roster shall be appointed only on the request of the client concerned and in circumstances in which the attorney requested is able to provide the client with quality legal representation.

"(e) No counsel appointed pursuant to this section to represent a prisoner in State postconviction proceedings shall have previously represented the prisoner at trial or on direct appeal in the case for which the appointment is made, unless the prisoner and counsel expressly request continued representation.

"(f) The ineffectiveness or incompetence of counsel appointed pursuant to this section during State or Federal postconviction proceedings shall not be a ground for relief in a proceeding arising under section 2254 of this title. This limitation shall not preclude the appointment of different counsel at any phase of State or Federal postconviction proceedings.

"(g) Upon receipt of notice from the appointing authority that an individual entitled to the appointment of counsel under this section has declined to accept such an appointment, the court requesting the appointment shall conduct, or cause to be conducted, a hearing, at which the individual and counsel proposed to be appointed under this section shall be present, to determine the individual's competency to decline the appointment, and whether the individual has knowingly and intelligently declined it.

"(h) Attorneys appointed from the private bar shall be compensated on an hourly basis and at a reasonable rate in light of the attorney's qualifications and experience and the local market for legal representation in cases reflecting the complexity and responsibility of capital cases and shall be reimbursed for expenses reasonably incurred in representing the client, including the costs of law clerks, paralegals, investigators, experts, or other support services.

"(i) Support services for staff attorneys of a defender organization or resource center shall be equal to the services listed in subsection (h).

"(j) If a State fails to provide counsel in a proceeding specified in subsection (a), or counsel appointed for such a proceeding fails substantially to meet the qualification standards specified in subsections (c)(1) or (d), or the performance standards established by the appointing authority, the court, in an action under this chapter, shall neither presume findings of fact made in such proceeding to be correct nor decline to consider a claim on the ground that it was not raised in such proceeding at the time or in the manner prescribed by State law.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 153 of title 28, United States Code, is amended by adding at the end the following:

"2257. Counsel in capital cases; State court.".

SEC 206. SUCCESSIVE FEDERAL PETITIONS.

Section 2244(b) of title 28, United States Code, is amended—

(1) by inserting "(1)" after "(b)";

(2) by inserting ", in the case of an applicant not under sentence of death," after "When"; and

(3) by adding at the end the following:

"(2) In the case of an applicant under sentence of death, a claim presented in a second or successive application, that was not presented in a prior application under this chapter, shall be dismissed unless—

"(A) the applicant shows that—

"(i) the basis of the claim could not have been discovered by the exercise of reasonable diligence before the applicant filed the prior application; or

"(ii) the failure to raise the claim in the prior application was due to action by State officials in violation of the Constitution of the United States; and

"(B) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the applicant's guilt of the offense or offenses for which the capital sentence was imposed, or in the validity of that sentence under Federal law.".

SEC. 207. CERTIFICATES OF PROBABLE CAUSE.

The third paragraph of section 2253, title 28, United States Code, is amended to read as follows:

"An appeal may not be taken to the court of appeals from the final order in a habeas corpus proceeding where the detention complained of arises out of process issued by a State court, unless the justice or judge who rendered the order or a circuit justice or judge issues a certificate of probable cause. However, an applicant under sentence of death shall have a right of appeal without a certification of probable cause, except after denial of a second or successive application.".

SEC. 208. FUNDING FOR DEATH PENALTY PROSECUTIONS.

Part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end the following new section:

"SEC. 515. Notwithstanding any other provision of this subpart, the Director shall provide grants to the States, from the funding allocated pursuant to section 511, for the purpose of supporting litigation pertaining to Federal habeas corpus petitions in capital cases. The total funding available for such grants within any fiscal year shall be equal to the funding provided to capital resource centers, pursuant to Federal appropriation, in the same fiscal year.".

TITLE III—EXCLUSIONARY RULE

SEC. 301. SEARCHES AND SEIZURES PURSUANT TO AN INVALID WARRANT.

(a) IN GENERAL.—Chapter 109 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§2237. Evidence obtained by invalid warrant

"Evidence which is obtained as a result of search or seizure shall not be excluded in a proceeding in a court of the United States on the ground that the search or seizure was in violation of the Fourth Amendment to the Constitution of the United States, if the search or seizure was carried out in reasonable reliance on a warrant issued by a detached and neutral magistrate ultimately found to be invalid, unless—

"(1) the judicial officer in issuing the warrant was materially misled by information in an affidavit that the affiant knew was false or would have known was false except for his reckless disregard of the truth;

"(2) the judicial officer provided approval of the warrant without exercising a neutral and detached review of the application for the warrant;

"(3) the warrant was based on an affidavit so lacking in indicia of probable cause as to render official belief in its existence entirely unreasonable; or

"(4) the warrant is so facially deficient that the executing officers could not reasonably presume it to be valid.".

(b) AMENDMENT TO CHAPTER ANALYSIS.—The table of chapters at the beginning of chapter 109 of title 18, United States Code, is amended by adding at the end thereof the following:

"2237. Evidence obtained by invalid warrant."

TITLE IV—COERCED CONFESSIONS

SEC. 401. COERCED CONFESSIONS.

The admission into evidence of a coerced confession shall not be considered harmless error.

For the purposes of this section, a confession is coerced if it is elicited in violation of the fifth or fourteenth articles of amendment to the Constitution of the United States.

TITLE V—FIREARMS

Subtitle A—Brady Handgun Violence Prevention Act

SEC. 501. FEDERAL FIREARMS LICENSEE REQUIRED TO CONDUCT CRIMINAL BACKGROUND CHECK BEFORE TRANSFER OF FIREARM TO NONLICENSEE.

(a) INTERIM PROVISION.—

(1) IN GENERAL.—Section 922 of title 18, United States Code, is amended by adding at the end the following:

"(s)(1) Beginning on the date that is 90 days after the date of enactment of this subsection and ending on the day before the date that the Attorney General certifies under section 512(d)(1) of the Violent Crime Control and Law Enforcement Act of 1991 that the national instant criminal background check system is established (except as provided in paragraphs (2) and (3) of such section), it shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell, deliver, or transfer a handgun to an individual who is not licensed under section 923, unless—

"(A) after the most recent proposal of such transfer by the transferee—

"(i) the transferor has—

"(I) received from the transferee a statement of the transferee containing the information described in paragraph (3);

"(II) verified the identity of the transferee by examining the identification document presented;

"(III) within 1 day after the transferee furnishes the statement, provided notice of the contents of the statement to the chief law enforcement officer of the place of residence of the transferee; and

"(IV) within 1 day after the transferee furnishes the statement, transmitted a copy of the statement to the chief law enforcement officer of the place of residence of the transferee; and

"(ii)(I) 5 business days (as defined by days in which State offices are open) have elapsed from the date the transferor furnished notice of the contents of the statement to the chief law enforcement officer, during which period the transferor has not received information from the chief law enforcement officer that receipt or possession of the handgun by the transferee would be in violation of Federal, State, or local law; or

"(II) the transferor has received notice from the chief law enforcement officer that the officer has no information indicating that receipt or possession of the handgun by the transferee would violate Federal, State, or local law;

"(B) the transferee has presented to the transferor a written statement, issued by the chief law enforcement officer of the place of residence of the transferee during the 10-day period ending on the date of the most recent proposal of such transfer by the transferee, stating that the transferee requires access to a handgun because of a threat to the life of the transferee or of any member of the household of the transferee;

"(C)(i) the transferee has presented to the transferor a permit that—

"(I) allows the transferee to possess a handgun; and

"(II) was issued not more than 5 years earlier by the State in which the transfer is to take place; and

"(ii) the law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law;

"(D) the law of the State requires that, before any licensed importer, licensed manufacturer, or licensed dealer completes the transfer of a handgun to an individual who is not licensed under section 923, an authorized government official verify that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law, except that this subparagraph shall not apply to a State that, on the date of certification pursuant to section 502(d) of the Violent Crime Control and Law Enforcement Act of 1991, is not in compliance with the timetable established pursuant to section 502(c) of such Act;

"(E) the Secretary has approved the transfer under section 5812 of the Internal Revenue Code of 1986; or

"(F) on application of the transferor, the Secretary has certified that compliance with subparagraph (A)(i)(III) is impracticable because—

"(i) the ratio of the number of law enforcement officers of the State in which the transfer is to occur to the number of square miles of land area of the State does not exceed 0.0025;

"(ii) the business premises of the transferor at which the transfer is to occur are extremely remote in relation to the chief law enforcement officer; and

"(iii) there is an absence of telecommunications facilities in the geographical area in which the business premises are located.

"(2) A chief law enforcement officer to whom a transferor has provided notice pursuant to paragraph (1)(A)(i)(III) shall make a reasonable effort to ascertain within 5 business days whether the transferee has a criminal record or whether there is any other legal impediment to the transferee's receiving a handgun, including research in whatever State and local record-keeping systems are available and in a national system designated by the Attorney General.

"(3) The statement referred to in paragraph (1)(A)(i)(I) shall contain only—

"(A) the name, address, and date of birth appearing on a valid identification document (as defined in section 1028(d)(1)) of the transferee containing a photograph of the transferee and a description of the identification used;

"(B) a statement that transferee—

"(i) is not under indictment for, and has not been convicted in any court of, a crime punishable by imprisonment for a term exceeding 1 year;

"(ii) is not a fugitive from justice;

"(iii) is not an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act);

"(iv) has not been adjudicated as a mental defective or been committed to a mental institution;

"(v) is not an alien who is illegally or unlawfully in the United States;

"(vi) has not been discharged from the Armed Forces under dishonorable conditions; and

"(vii) is not a person who, having been a citizen of the United States, has renounced such citizenship;

"(C) the date the statement is made; and

"(D) notice that the transferee intends to obtain a handgun from the transferor.

"(4) Any transferor of a handgun who, after such transfer, receives a report from a chief law enforcement officer containing information that receipt or possession of the handgun by the transferee violates Federal, State, or local law shall immediately communicate all information the transferor has about the transfer and the transferee to—

"(A) the chief law enforcement officer of the place of business of the transferor; and

"(B) the chief law enforcement officer of the place of residence of the transferee.

"(5) Any transferor who receives information, not otherwise available to the public, in a report under this subsection shall not disclose such information except to the transferee, to law enforcement authorities, or pursuant to the direction of a court of law.

"(6)(A) Any transferor who sells, delivers, or otherwise transfers a handgun to a transferee shall retain the copy of the statement of the transferee with respect to the handgun transaction, and shall retain evidence that the transferor has complied with subclauses (III) and (IV) of paragraph (1)(A)(i) with respect to the statement.

"(B) Unless the chief law enforcement officer to whom a statement is transmitted under paragraph (1)(A)(i)(IV) determines that a transaction would violate Federal, State, or local law—

"(i) the officer shall, within 20 business days after the date the transferee made the statement on the basis of which the notice was provided, destroy the statement and any record containing information derived from the statement;

"(ii) the information contained in the statement shall not be conveyed to any person except a person who has a need to know in order to carry out this subsection; and

"(iii) the information contained in the statement shall not be used for any purpose other than to carry out this subsection.

"(7) A chief law enforcement officer or other person responsible for providing criminal history background information pursuant to this subsection shall not be liable in an action at law for damages—

"(A) for failure to prevent the sale or transfer of a handgun to a person whose receipt or possession of the handgun is unlawful under this section; or

"(B) for preventing such a sale or transfer to a person who may lawfully receive or possess a handgun.

"(8) For purposes of this subsection, the term 'chief law enforcement officer' means the chief of police, the sheriff, or an equivalent officer or the designee of any such individual.

"(9) The Secretary shall take necessary actions to ensure that the provisions of this subsection are published and disseminated to licensed dealers, law enforcement officials, and the public.".

(2) HANDGUN DEFINED.—Section 921(a) of such title is amended by adding at the end the following:

"(29) The term 'handgun' means—

"(A) a firearm which has a short stock and is designed to be held and fired by the use of a single hand; and

"(B) any combination of parts from which a firearm described in subparagraph (A) can be assembled.".

(b) PERMANENT PROVISION.—Section 922 of title 18, United States Code, as amended by subsection (a)(1) of this section, is amended by adding at the end the following:

"(t)(1) Beginning on the date that the Attorney General certifies under section 502(d)(1) of the Violent Crime Control and Law Enforcement Act of 1991 that the national instant criminal background check system is established (except as provided in paragraphs (2) and (3) of such section), a licensed importer, licensed manufacturer, or licensed dealer shall not transfer a firearm to any other person who is not such a licensee, unless—

"(A) before the completion of the transfer, the licensee contacts the national instant criminal background check system established under section 503 of such Act;

"(B) the system notifies the licensee that the system has not located any record that demonstrates that the receipt of a firearm by such other person would violate subsection (g) or (n) of this section or any State or local law; and

"(C) the transferor has verified the identity of the transferee by examining a valid identification document (as defined in section 1028(d)(1)

of this title) of the transferee containing a photograph of the transferee.

"(2) Paragraph (1) shall not apply to a firearm transfer between a licensee and another person if—

"(A)(i) such other person has presented to the licensee a permit that—

"(I) allows such other person to possess a firearm; and

"(II) was issued not more than 5 years earlier by the State in which the transfer is to take place; and

"(ii) the law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a firearm by such other person would be in violation of law;

"(B) the Secretary has approved the transfer under section 5812 of the Internal Revenue Code of 1986; or

"(C) on application of the transferor, the Secretary has certified that compliance with paragraph (1)(A) is impracticable because—

"(i) the ratio of the number of law enforcement officers of the State in which the transfer is to occur to the number of square miles of land area of the State does not exceed 0.0025;

"(ii) the business premises of the licensee at which the transfer is to occur are extremely remote in relation to the chief law enforcement officer (as defined in subsection (u)(8)); and

"(iii) there is an absence of telecommunications facilities in the geographical area in which the business premises are located.

"(3) If the national instant criminal background check system notifies the licensee that the information available to the system does not demonstrate that the receipt of a firearm by such other person would violate subsection (g) or (n), and the licensee transfers a firearm to such other person, the licensee shall include in the record of the transfer the unique identification number provided by the system with respect to the transfer.

"(4) In addition to the authority provided under section 923(e), if the licensee knowingly transfers a firearm to such other person and knowingly fails to comply with paragraph (1) of this subsection with respect to the transfer and, at the time such other person most recently proposed the transfer, the national instant criminal background check system was operating and information was available to the system demonstrating that receipt of a firearm by such other person would violate subsection (g) or (n) of this section, the Secretary may, after notice and opportunity for a hearing, suspend for not more than 6 months or revoke any license issued to the licensee under section 923, and may impose on the licensee a civil fine of not more than $5,000.

"(5) Neither a local government nor an employee of the Federal Government or of any State or local government, responsible for providing information to the national instant criminal background check system shall be liable in an action at law for damages—

"(A) for failure to prevent the sale or transfer of a handgun to a person whose receipt or possession of the handgun is unlawful under this section; or

"(B) for preventing such a sale or transfer to a person who may lawfully receive or possess a handgun.".

(c) PENALTY.—Section 924(a) of title 18, United States Code, is amended—

(1) in paragraph (1), by striking "paragraph (2) or (3) of"; and

(2) by adding at the end the following:

"(5) Whoever knowingly violates subsection (s) or (t) of section 922 shall be fined not more than $1,000, imprisoned for not more than 1 year, or both.".

SEC. 502. NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM.

(a) ESTABLISHMENT OF SYSTEM.—The Attorney General of the United States shall establish a national instant criminal background check system that any licensee may contact for information on whether receipt of a firearm by a prospective transferee thereof would violate subsection (g) or (n) of section 922 of title 18, United States Code, or any State or local law.

(b) EXPEDITED ACTION BY THE ATTORNEY GENERAL.—The Attorney General shall expedite—

(1) the upgrading and indexing of State criminal history records in the Federal criminal records system maintained by the Federal Bureau of Investigation;

(2) the development of hardware and software systems to link State criminal history check systems into the national instant criminal background check system established by the Attorney General pursuant to this section; and

(3) the current revitalization initiatives by the Federal Bureau of Investigation for technologically advanced fingerprint and criminal records identification.

(c) PROVISION OF STATE CRIMINAL RECORDS TO THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM.—(1) Not later than 6 months after the date of enactment of this Act, the Attorney General shall—

(A) determine the type of computer hardware and software that will be used to operate the national instant criminal background check system and the means by which State criminal records systems will communicate with the national system;

(B) investigate the criminal records system of each State and determine for each State a timetable by which the State should be able to provide criminal records on an on line capacity basis to the national system;

(C) notify each State of the determinations made pursuant to subparagraphs (A) and (B).

(2) The Attorney General shall require as a part of the State timetable that the State achieve, by the end of 5 years after the date of enactment of this Act, at least 80 percent currency of case dispositions in computerized criminal history files for all cases in which there has been an event of activity within the last 5 years and continue to maintain such a system.

(d) NATIONAL SYSTEM CERTIFICATION.—(1) On the date that is 30 months after the date of enactment of this Act, and at any time thereafter, the Attorney General shall determine whether—

(A) the national system has achieved at least 80 percent currency of case dispositions in computerized criminal history files for all cases in which there has been an event of activity within the last 5 years on a national average basis; and

(B) the States are in compliance with the timetable established pursuant to subsection (c),

and, if so, shall certify that the national system is established.

(2) If, on the date of certification in paragraph (1) of this subsection, a State is not in compliance with the timetable established pursuant to subsection (c) of this section, section 922(s) of title 18, United States Code, shall remain in effect in such State and section 922(t) of such title shall not apply to the State. The Attorney General shall certify if a State subject to the provisions of section 922(s) under the preceding sentence achieves compliance with its timetable after the date of certification in paragraph (1) of this subsection, and section 922(s) of title 18, United States Code, shall not apply to such State and section 922(t) of such title shall apply to the State.

(3) Six years after the date of enactment of this Act, the Attorney General shall certify whether or not a State is in compliance with subsection (c)(2) of this section and if the State is not in compliance, section 922(s) of title 18, United States Code, shall apply to the State and section 922(t) of such title shall not apply to the State. The Attorney General shall certify if a State subject to the provisions of section 922(s) under the preceding sentence achieves compliance with the standards in subsection (c)(2) of this section, and section 922(s) of title 18, United States Code, shall not apply to the State and section 922(t) of such title shall apply to the State.

(e) NOTIFICATION OF LICENSEES.—On establishment of the system under this section, the Attorney General shall notify each licensee and the chief law enforcement officer of each State of the existence and purpose of the system and the means to be used to contact the system.

(f) ADMINISTRATIVE PROVISIONS.—

(1) AUTHORITY TO OBTAIN OFFICIAL INFORMATION.—Notwithstanding any other law, the Attorney General may secure directly from any department or agency of the United States such information on persons for whom receipt of a firearm would violate subsection (g) or (n) of section 922 of title 18, United States Code, or any State or local law, as is necessary to enable the system to operate in accordance with this section. On request of the Attorney General, the head of such department or agency shall furnish such information to the system.

(2) OTHER AUTHORITY.—The Attorney General shall develop such computer software, design and obtain such telecommunications and computer hardware, and employ such personnel, as are necessary to establish and operate the system in accordance with this section.

(g) CORRECTION OF ERRONEOUS SYSTEM INFORMATION.—If the system established under this section informs an individual contacting the system that receipt of a firearm by a prospective transferee would violate subsection (g) or (n) of section 922 of title 18, United States Code, or any State or local law, the prospective transferee may request the Attorney General to provide the prospective transferee with the reasons therefor. Upon receipt of such a request, the Attorney General shall immediately comply with the request. The prospective transferee may submit to the Attorney General information that to correct, clarify, or supplement records of the system with respect to the prospective transferee. After receipt of such information, the Attorney General shall immediately consider the information, investigate the matter further, and correct all erroneous Federal records relating to the prospective transferee and give notice of the error to any Federal department or agency or any State that was the source of such erroneous records.

(h) REGULATIONS.—After 90 days notice to the public and an opportunity for hearing by interested parties, the Attorney General shall prescribe regulations to ensure the privacy and security of the information of the system established under this section.

(i) PROHIBITIONS RELATING TO ESTABLISHMENT OF REGISTRATION SYSTEMS WITH RESPECT TO FIREARMS.—No department, agency, officer, or employee of the United States may—

(1) require that any record or portion thereof maintained by the system established under this section be recorded at or transferred to a facility owned, managed, or controlled by the United States or any State or political subdivision thereof; or

(2) use the system established under this section to establish any system for the registration of firearms, firearm owners, or firearm transactions or dispositions, except with respect to persons prohibited by section 922(g) or (n) of title 18, United States Code, from receiving a firearm.

(j) DEFINITIONS.—As used in this section:

(1) LICENSEE.—The term "licensee" means a licensed importer, licensed manufacturer, or li-

censed dealer under section 923 of title 18, United States Code.

(2) OTHER TERMS.—The terms "firearm", "licensed importer", "licensed manufacturer", and "licensed dealer" have the meanings stated in section 921(a) (3), (9), (10), and (11), respectively, of title 18, United States Code.

SEC. 503. FUNDING FOR IMPROVEMENT OF CRIMINAL RECORDS.

(a) IMPROVEMENTS IN STATE RECORDS.—

(1) USE OF FORMULA GRANTS.—Section 509(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3759(b)) is amended—

(A) in paragraph (2) by striking "and" after the semicolon;

(B) in paragraph (3) by striking the period and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(4) the improvement of State record systems and the sharing with the Attorney General of all of the records described in paragraphs (1), (2), and (3) of this subsection and the records required by the Attorney General under section 502 of the Violent Crime Control and Law Enforcement Act of 1991, for the purpose of implementing such Act.".

(2) ADDITIONAL FUNDING.—

(A) GRANTS FOR THE IMPROVEMENT OF CRIMINAL RECORDS.—The Attorney General, through the Bureau of Justice Statistics, shall, subject to appropriations and with preference to States that as of the date of enactment of this Act have the lowest percent currency of case dispositions in computerized criminal history files, make a grant to each State to be used—

(i) for the creation of a computerized criminal history record system or improvement of an existing system;

(ii) to improve accessibility to the national instant criminal background system; and

(iii) upon establishment of the national system, to assist the State in the transmittal of criminal records to the national system.

(B) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for grants under subparagraph (A) a total of $100,000,000 for fiscal year 1992 and all fiscal years thereafter.

(b) WITHHOLDING STATE FUNDS.—Effective on the date of enactment of this Act the Attorney General may reduce by up to 50 percent the allocation to a State for a fiscal year under title I of the Omnibus Crime Control and Safe Streets Act of 1968 of a State that is not in compliance with the timetable established for such State under section 502(c) of this Act.

(c) WITHHOLDING OF DEPARTMENT OF JUSTICE FUNDS.—If the Attorney General does not certify the national instant criminal background check system pursuant to section 502(d)(1) by—

(1) 30 months after the date of enactment of this Act the general administrative funds appropriated to the Department of Justice for the fiscal year beginning in the calendar year in which the date that is 30 months after the date of enactment of this Act falls shall be reduced by 5 percent on a monthly basis; and

(2) 42 months after the date of enactment of this Act the general administrative funds appropriated to the Department of Justice for the fiscal year beginning in the calendar year in which the date that is 42 months after the date of enactment of this Act falls shall be reduced by 10 percent on a monthly basis.

Subtitle B—Gun Crime Penalties

SEC. 511. ENHANCED PENALTY FOR USE OF A SEMIAUTOMATIC FIREARM DURING A CRIME OF VIOLENCE OR A DRUG TRAFFICKING CRIME.

(a) IN GENERAL.—Section 924(c)(1) of title 18, United States Code, is amended by striking "and if the firearm is a short-barreled rifle, short-barreled shotgun" and inserting "if the firearm is a semiautomatic firearm, a short-barreled rifle, or a short-barreled shotgun,".

(b) SEMIAUTOMATIC FIREARM.—Section 921(a) of such title is amended by adding after the paragraph added by section 501(a)(2) of this Act the following:

"(30) The term 'semiautomatic firearm' means any repeating firearm which utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round, and which requires a separate pull of the trigger to fire each cartridge.".

SEC. 512. INCREASED PENALTY FOR SECOND OFFENSE OF USING AN EXPLOSIVE TO COMMIT A FELONY.

Section 844(h) of title 18, United States Code, is amended by striking "ten" and inserting "twenty".

SEC. 513. SMUGGLING FIREARMS IN AID OF DRUG TRAFFICKING.

Section 924 of title 18, United States Code, is amended by adding at the end the following:

"(i) Whoever, with the intent to engage in or to promote conduct which—

"(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) violates any law of a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802); or

"(3) constitutes a crime of violence (as defined in subsection (c)(3),

smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be imprisoned for not more than ten years, fined under this title, or both.".

SEC. 514. THEFT OF FIREARMS AND EXPLOSIVES.

(a) FIREARMS.—Section 924 of title 18, United States Code, is amended by adding after the subsection added by section 513 of this Act the following:

"(j) Whoever steals any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned for not less than 2 nor more than 10 years, and may be fined under this title, or both.".

(b) EXPLOSIVES.—Section 844 of title 18, United States Code, is amended by adding at the end the following:

"(k) Whoever steals any explosives materials which are moving as, or are a part of, or which have moved in, interstate or foreign commerce shall be imprisoned for not less than 2 or more than 10 years, or fined under this title, or both.".

SEC. 515. CONFORMING AMENDMENT PROVIDING MANDATORY REVOCATION OF SUPERVISED RELEASE FOR POSSESSION OF A FIREARM.

Section 3583 of title 18, United States Code is amended by adding at the end the following:

"(h) MANDATORY REVOCATION FOR POSSESSION OF A FIREARM.—If the court has provided, as a condition of supervised release, that the defendant refrain from possessing a firearm, and if the defendant is in actual possession of a firearm, as that term is defined in section 921 of this title, at any time prior to the expiration or termination of the term of supervised release, the court shall, after a hearing pursuant to the provisions of the Federal Rules of Criminal Procedure that are applicable to probation revocation, revoke the term of supervised release and, subject to the limitations of paragraph (e)(3) of this section, require the defendant to serve in prison all or part of the term of supervised release without credit for time previously served on postrelease supervision.".

SEC. 516. REVOCATION OF PROBATION.

(a) Section 3565(a) of title 18, United States Code, is amended—

(1) in paragraph (2), by striking "impose any other sentence that was available under subchapter A at the time of the initial sentencing" and inserting "resentence the defendant under subchapter A"; and

(2) by striking the last sentence.

(b) Section 3565(b) of title 18, United States Code, is amended to read as follows:

"(b) MANDATORY REVOCATION FOR POSSESSION OF CONTROLLED SUBSTANCE OR FIREARM.—If the defendant—

"(1) possesses a controlled substance in violation of the condition set forth in section 3563(a)(3); or

"(2) possesses a firearm, as such term is defined in section 921 of this title, in violation of Federal law, or otherwise violates a condition of probation prohibiting the defendant from possessing a firearm,

the court shall revoke the sentence of probation and resentence the defendant under subchapter A to a sentence that includes a term of imprisonment.".

SEC. 517. INCREASED PENALTY FOR KNOWINGLY MAKING FALSE, MATERIAL STATEMENT IN CONNECTION WITH THE ACQUISITION OF A FIREARM FROM A LICENSED DEALER.

Section 924(a) of title 18, United States Code, is amended—

(1) in paragraph (a)(1)(B), by striking out "(a)(6),"; and

(2) in subsection (a)(2), by inserting "(a)(6)," after "subsections".

SEC. 518. POSSESSION OF EXPLOSIVES BY FELONS AND OTHERS.

Section 842(i) of title 18, United States Code, is amended by inserting "or possess" after "to receive".

SEC. 519. SUMMARY DESTRUCTION OF EXPLOSIVES SUBJECT TO FORFEITURE.

Section 844(c) of title 18, United States Code, is amended by redesignating subsection (c) as subsection (c)(1) and by adding paragraphs (2) and (3) as follows:

"(2) Notwithstanding the provisions of paragraph (1), in the case of the seizure of any explosive materials for any offense for which the materials would be subject to forfeiture where it is impracticable or unsafe to remove the materials to a place of storage, or where it is unsafe to store them, the seizing officer is authorized to destroy the explosive materials forthwith. Any destruction under this paragraph shall be in the presence of at least one credible witness. The seizing officer shall make a report of the seizure and take samples as the Secretary may by regulation prescribe.

"(3) Within sixty days after any destruction made pursuant to paragraph (2), the owner of, including any person having an interest in, the property so destroyed may make application to the Secretary for reimbursement of the value of the property. If the claimant establishes to the satisfaction of the Secretary that—

"(A) the property has not been used or involved in a violation of law; or

"(B) any unlawful involvement or use of the property was without the claimant's knowledge, consent, or willful blindness,

the Secretary shall make an allowance to the claimant not exceeding the value of the property destroyed.".

SEC. 520. ELIMINATION OF OUTMODED LANGUAGE RELATING TO PAROLE.

(a) Section 924(e)(1) of title 18, United States Code, is amended by striking ", and such person shall not be eligible for parole with respect to the sentence imposed under this subsection".

(b) Section 924(c)(1) of title 18, United States Code, is amended by striking "No person sentenced under this subsection shall be eligible for parole during the term of imprisonment imposed herein.".

SEC. 521. PROHIBITION AGAINST TRANSACTIONS INVOLVING STOLEN FIREARMS WHICH HAVE MOVED IN INTERSTATE OR FOREIGN COMMERCE.

Section 922(j) of title 18, United States Code, is amended to read as follows:

"(j) It shall be unlawful for any person to receive, possess, conceal, store, barter, sell, or dispose of any stolen firearm or stolen ammunition, or pledge or accept as security for a loan any stolen firearm or stolen ammunition, which is moving as, which is a part of, which constitutes, or which has been shipped or transported in, interstate or foreign commerce, either before or after it was stolen, knowing or having reasonable cause to believe that the firearm or ammunition was stolen.".

SEC. 522. USING A FIREARM IN THE COMMISSION OF COUNTERFEITING OR FORGERY.

Section 924(c)(1) of title 18, United States Code, is amended by inserting "or during and in relation to any felony punishable under chapter 25 (relating to counterfeiting and forgery) of this title" after "for which he may be prosecuted in a court of the United States,".

SEC. 523. MANDATORY PENALTIES FOR FIREARMS POSSESSION BY VIOLENT FELONS AND SERIOUS DRUG OFFENDERS.

(a) 1 PRIOR CONVICTION.—Section 924(a)(2) of title 18, United States Code, is amended by inserting ", and if the violation is of section 922(g)(1) by a person who has a previous conviction for a violent felony or a serious drug offense (as defined in subsections (e)(2) (A) and (B) of this section), a sentence imposed under this paragraph shall include a term of imprisonment of not less than five years" before the period.

(b) 2 PRIOR CONVICTIONS.—Section 924 of such title is amended by adding after the subsections added by sections 513 and 514(a) of this Act the following:

"(k)(1) Notwithstanding subsection (a)(2) of this section, any person who violates section 922(g) and has 2 previous convictions by any court referred to in section 922(g)(1) for a violent felony (as defined in subsection (e)(2)(B) of this section) or a serious drug offense (as defined in subsection (e)(2)(A) of this section) committed on occasions different from one another shall be fined as provided in this title, imprisoned not less than 10 years and not more than 20 years, or both.

"(2) Notwithstanding any other provision of law, the court shall not suspend the sentence of, or grant a probationary sentence to, such person with respect to the conviction under section 922(g).".

SEC. 524. RECEIPT OF FIREARMS BY NON-RESIDENT.

Section 922(a) of title 18, United States Code, 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) for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, who does not reside in any State to receive any firearms unless such receipt is for lawful sporting purposes.".

SEC. 525. FIREARMS AND EXPLOSIVES CONSPIRACY.

(a) FIREARMS.—Section 924 of title 18, United States Code, is amended by adding after the subsections added by sections 513, 514(a), and 523(b) of this Act the following:

"(l) Whoever conspires to commit any offense defined in this chapter shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.".

(b) EXPLOSIVES.—Section 844 of title 18, United States Code, is amended by adding after the subsection added by section 514(b) of this Act the following:

"(l) Whoever conspires to commit any offense defined in this chapter shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.".

SEC. 526. STUDY OF INCENDIARY AMMUNITION; REPORT TO CONGRESS.

(a) STUDY.—The Secretary of the Treasury shall conduct a study of the incendiary ammunition offered for sale under the brand name "Dragon's Breath" and also known as the "Three Second Flame Thrower", and all incendiary ammunition of similar function or effect, for the purpose of determining whether there is a reasonable sporting use for such ammunition and whether there is a reasonable use for such ammunition in law enforcement.

(b) REPORT TO THE CONGRESS.—Within 1 year after the date of the enactment of this Act, the Secretary of the Treasury shall submit to the Committee on the Judiciary of the House of Representatives a report containing the results of the study required by subsection (a) and recommendations for such legislative or administrative action, with respect to the ammunition referred to in subsection (a), as the Secretary deems appropriate.

SEC. 527. THEFT OF FIREARMS OR EXPLOSIVES FROM LICENSEE.

(a) FIREARMS.—Section 924 of title 18, United States Code, is amended by adding after the subsections added by sections 513, 514(a), 523(b), and 525(a) of this Act the following:

"(m) Whoever steals any firearm from a licensed importer, licensed manufacturer, licensed dealer or licensed collector shall be fined in accordance with this title, imprisoned not more than ten years, or both.".

(b) EXPLOSIVES.—Section 844 of title 18, United States Code, is amended by adding after the subsections added by sections 514(b) and 525(b) of this Act the following:

"(m) Whoever steals any explosive material from a licensed importer, licensed manufacturer or licensed dealer, or from any permittee shall be fined in accordance with this title, imprisoned not more than ten years, or both.".

SEC. 528. DISPOSING OF EXPLOSIVES TO PROHIBITED PERSONS.

Section 842(d) of title 18, United States Code, is amended by striking "licensee" and inserting "person".

SEC. 529. CLARIFICATION OF "BURGLARY" UNDER THE ARMED CAREER CRIMINAL STATUTE.

Section 924(e)(2) of title 18, United States Code, is amended—

(1) in subparagraph (B)(ii), by striking "and " at the end;

(2) in subparagraph (C), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(D) the term 'burglary' means any crime punishable by a term of imprisonment exceeding one year and consisting of entering or remaining surreptitiously within a building that is the property of another with intent to engage in conduct constituting a Federal or State offense.".

SEC. 530. INCREASED PENALTY FOR INTERSTATE GUN TRAFFICKING.

Section 924 of title 18, United States Code, is amended by adding after the subsections added by sections 513, 514(a), 523(b), 525(a), and 527(a) of this Act the following:

"(n) Whoever, with the intent to engage in conduct which constitutes a violation of section 922(a)(1)(A), travels from any State or foreign country into any other State and acquires, or attempts to acquire, a firearm in such other State in furtherance of such purpose shall be imprisoned for not more than 10 years.".

TITLE VI—OBSTRUCTION OF JUSTICE

SEC. 601. PROTECTION OF COURT OFFICERS AND JURORS.

Section 1503 of title 18, United States Code, is amended—

(1) by designating the current text as subsection (a);

(2) by striking "fined not more than $5,000 or imprisoned not more than five years, or both." and inserting "punished as provided in subsection (b).";

(3) by adding at the end the following:

"(b) The punishment for an offense under this section is—

"(1) in the case of a killing, the punishment provided in sections 1111 and 1112 of this title;

"(2) in the case of an attempted killing, or a case in which the offense was committed against a petit juror and in which a class A or B felony was charged, imprisonment for not more than twenty years; and

"(3) in any other case, imprisonment for not more than ten years."; and

"(4) in subsection (a), as so designated by this section, by striking "commissioner" each place it appears and inserting "magistrate judge".

SEC. 602. PROHIBITION OF RETALIATORY KILLINGS OF WITNESSES, VICTIMS AND INFORMANTS.

Section 1513 of title 18, United States Code, is amended—

(1) by redesignating subsections (a) and (b) as subsections (b) and (c), respectively; and

(2) by inserting after the section heading a new subsection (a) as follows:

"(a)(1) Whoever kills or attempts to kill another person with intent to retaliate against any person for—

"(A) the attendance of a witness or party at an official proceeding, or any testimony given or any record, document, or other object produced by a witness in an official proceeding; or

"(B) any information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, parole or release pending judicial proceedings given by a person to a law enforcement officer; shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under this subsection is—

"(A) in the case of a killing, the punishment provided in sections 1111 and 1112 of this title; and

"(B) in the case of an attempt, imprisonment for not more than twenty years.".

SEC. 603. DEATH PENALTY FOR THE MURDER OF STATE OFFICIALS ASSISTING FEDERAL LAW ENFORCEMENT OFFICIALS.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, as amended by section 205 of this Act, is amended by adding at the end the following:

"§ 1119. Killing persons aiding Federal investigations

"Whoever intentionally kills—

"(1) a State or local official, law enforcement officer, or other officer or employee while working with Federal law enforcement officials in furtherance of a Federal criminal investigation—

"(A) while the victim is engaged in the performance of official duties;

"(B) because of the performance of the victim's official duties; or

"(C) because of the victim's status as a public servant; or

"(2) any person assisting a Federal criminal investigation, while that assistance is being rendered and because of it,

shall be sentenced according to the terms of section 1111 of title 18, United States Code, including by sentence of death or by imprisonment for life.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 51 of title 18, United States Code, is amended by adding at the end the following:

"1119. Killing persons aiding Federal investigations.".

SEC. 604. DEATH PENALTY FOR MURDER OF FEDERAL WITNESSES.

Section 1512(a)(2)(A) of title 18, United States Code, is amended to read as follows:

"(A) in the case of murder as defined in section 1111 of this title, the death penalty or imprisonment for life, and in the case of any other killing, the punishment provided in section 1112 of this title;".

TITLE VII—YOUTH VIOLENCE

SEC. 701. STRENGTHENING FEDERAL PENALTIES FOR EMPLOYING CHILDREN TO DISTRIBUTE DRUGS.

Section 419 of the Controlled Substances Act (21 U.S.C. 860) is amended as follows:

(1) at the end of subsection (b) by adding the following:

"(c) Notwithstanding any other provision of law, any person at least 18 years of age who knowingly and intentionally—

"(1) employs, hires, uses, persuades, induces, entices, or coerces, a person under 18 years of age to violate any provision of this section; or

"(2) employs, hires, uses, persuades, induces, entices, or coerces, a person under 18 years of age to assist in avoiding detection or apprehension for any offense of this section by any Federal, State, or local law enforcement official,

is punishable by a term of imprisonment, or fine, or both, up to triple that authorized by section 841(b) of this title.";

(2) in subsection (c) by—

(A) striking "(c)" and inserting in lieu thereof "(d)";

(B) inserting "or (c)" after "imposed under subsection (b)"; and

(C) inserting "or (c)" after "convicted under subsection (b)";

(3) in subsection (d) by striking "(d)" and inserting in lieu thereof "(e)".

SEC. 702. INCREASED PENALTY FOR TRAVEL ACT VIOLATIONS.

Section 1952(a) of title 18, United States Code, is amended by striking "and thereafter performs or attempts to perform any of the acts specified in subparagraphs (1), (2), and (3), shall be fined not more than $10,000 or imprisoned for not more than 5 years, or both" and inserting "and thereafter performs or attempts to perform (A) any of the acts specified in subparagraphs (1) and (3) shall be fined under this title or imprisoned for not more than 5 years, or both or (B) any of the acts specified in subparagraph (2) shall be fined under this title or imprisoned for not more than 20 years, or both, and if death results shall be imprisoned for any term of years or for life".

SEC. 703. COMMENCEMENT OF JUVENILE PROCEEDING.

Section 5032 of title 18, United States Code, is amended by striking "Any proceedings against a juvenile under this chapter or as an adult shall not be commenced until" and inserting "A juvenile shall not be transferred to adult prosecution nor shall a hearing be held under section 5037 (disposition after a finding of juvenile delinquency) until".

SEC. 704. CRIMINAL STREET GANGS.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 25 the following:

"CHAPTER 26—CRIMINAL STREET GANGS

"Sec.
"521. Criminal street gangs.

"§521. Criminal street gangs

"(a) Whoever, under the circumstances described in subsection (c) of this section, commits an offense described in subsection (b) of this section, shall, in addition to any other sentence authorized by law, be sentenced to a term of imprisonment of not more than 10 years and may also be fined under this title. Such sentence of imprisonment shall run consecutively to any other sentence imposed.

"(b) The offenses referred to in subsection (a) of this section are—

"(1) any Federal felony involving a controlled substance (as defined in section 102 of the Controlled Substances Act) for which the maximum penalty is not less than five years;

"(2) any Federal felony crime of violence;

"(3) a conspiracy to commit any of the offenses described in paragraphs (1) through (3) of this subsection.

"(c) The circumstances referred to in subsection (a) of this section are that the offense described in subsection (b) was committed as a member of, or on behalf of, a criminal street gang and that person has been convicted, within the past 5 years for—

"(1) any offense listed in subsection (b) of this section;

"(2) any State offense—

"(A) involving a controlled substance (as defined in section 102 of the Controlled Substances Act) for which the maximum penalty is not less than one year after imprisonment; or

"(B) that is a crime of violence; for which the maximum penalty is more than 1 year's imprisonment; or

"(3) any Federal or State offense that involves the theft or destruction of property for which the maximum penalty is more than 1 year's imprisonment; or

"(4) a conspiracy to commit any of the offenses described in paragraphs (1) through (3) of this subsection.

"(d) For purposes of this section—

"(1) the term 'criminal street gang' means any group, club, organization, or association of 5 or more persons—

"(A) whose members engage or have engaged within the past 5 years, in a continuing series of violations of any offense treated in subsection (b); and

"(B) whose activities affect interstate or foreign commerce; and

"(2) the term 'conviction' includes a finding, under State or Federal law, that a person has committed an act of juvenile delinquency involving a violent or controlled substances felony.".

(b) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 25 the following:

"26. Criminal street gangs ..... 521".

TITLE VIII—TERRORISM

Subtitle A—Terrorism: Civil Remedy

SEC. 801. SHORT TITLE.

This subtitle may be cited as the "Antiterrorism Act of 1991".

SEC. 802. TERRORISM.

(a) TERRORISM.—Chapter 113A of title 18, United States Code, as amended by subsection (d) of this section, is amended—

(1) in section 2331 by striking subsection (d) and redesignating subsection (e) as subsection (d);

(2) by redesignating section 2331 as 2332, and striking the heading for section 2332 as so redesignated and inserting the following:

"§2332. Criminal penalties";

(3) by inserting before section 2332 as so redesignated the following:

"§2331. Definitions

"As used in this chapter—

"(1) the term 'international terrorism' means activities that—

"(A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State;

"(B) appear to be intended—

"(i) to intimidate or coerce a civilian population;

"(ii) to influence the policy of a government by intimidation or coercion; or

"(iii) to affect the conduct of a government by assassination or kidnapping; and

"(C) occur primarily outside the territorial jurisdiction of the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to intimidate or coerce, or the locale in which their perpetrators operate or seek asylum;

"(2) the term 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act;

"(3) the term 'person' means any individual or entity capable of holding a legal or beneficial interest in property; and

"(4) the term 'act of war' means any act occurring in the course of—

"(A) declared war;

"(B) armed conflict, whether or not war has been declared, between two or more nations; or

"(C) armed conflict between military forces of any origin.";

(4) by adding immediately after section 2332 as redesignated the following new sections:

"§2333. Civil remedies

"(a) ACTION AND JURISDICTION.—Any national of the United States injured in his person, property, or business by reason of an act of international terrorism, or his estate, survivors, or heirs, may sue therefor in any appropriate district court of the United States and shall recover threefold the damages he sustains and the cost of the suit, including attorney's fees.

"(b) ESTOPPED UNDER UNITED STATES LAW.—A final judgment or decree rendered in favor of the United States in any criminal proceeding under section 1116, 1201, 1203, or 2332 of this title or section 1472 (i), (k), (l), (n), or (r) of title 49 App. shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding under this section.

"(c) ESTOPPED UNDER FOREIGN LAW.—A final judgment or decree rendered in favor of any foreign state in any criminal proceeding shall, to the extent that such judgment or decree may be accorded full faith and credit under the law of the United States, estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding under this section.

"§2334. Jurisdiction and venue

"(a) GENERAL VENUE.—Any civil action under section 2333 of this title against any person may be instituted in the district court of the United States for any district where any plaintiff resides or where any defendant resides or is served, or has an agent. Process in such a civil action may be served in any district where the defendant resides, is found, or has an agent.

"(b) SPECIAL MARITIME OR TERRITORIAL JURISDICTION.—If the actions giving rise to the claim occurred within the special maritime and territorial jurisdiction of the United States, as defined in section 7 of this title, then any civil action under section 2333 of this title against any person may be instituted in the district court of the United States for any district in which any plaintiff resides or the defendant resides, is served, or has an agent.

"(c) SERVICE ON WITNESSES.—A witness in a civil action brought under section 2333 of this

title may be served in any other district where the defendant resides, is found, or has an agent.

"(d) CONVENIENCE OF THE FORUM.—The district court shall not dismiss any action brought under section 2333 of this title on the grounds of the inconvenience or inappropriateness of the forum chosen, unless—

"(1) the action may be maintained in a foreign court that has jurisdiction over the subject matter and over all the defendants;

"(2) that foreign court is significantly more convenient and appropriate; and

"(3) that foreign court offers a remedy which is substantially the same as the one available in the courts of the United States.

"§2335. Limitation of actions

"(a) IN GENERAL.—Subject to subsection (b), a suit for recovery of damages under section 2333 of this title shall not be maintained unless commenced within 4 years from the date the cause of action accrued.

"(b) CALCULATION OF PERIOD.—The time of the absence of the defendant from the United States or from any jurisdiction in which the same or a similar action arising from the same facts may be maintained by the plaintiff, or any concealment of his whereabouts, shall not be reckoned within this period of limitation.

"§2336. Other limitations

"No action shall be maintained under section 2333 of this title for injury or loss by reason of an act of war.

"§2337. Suits against Government officials

"No action shall be maintained under section 2333 of this title against—

"(1) the United States, an agency of the United States, or an officer or employee of the United States or any agency thereof acting within his official capacity or under color of legal authority; or

"(2) a foreign state, an agency of a foreign state, or an officer or employee of a foreign state or an agency thereof acting within his official capacity or under color of legal authority.

"§2338. Exclusive Federal jurisdiction

"The district courts of the United States shall have exclusive jurisdiction over an action brought under this chapter."; and

(5) by amending the table of sections at the beginning of the chapter to read as follows:

"CHAPTER 113A—TERRORISM

"Sec.
"2331. Definitions
"2332. Criminal penalties.
"2333. Civil remedies.
"2334. Jurisdiction and venue.
"2335. Limitation of actions.
"2336. Other limitations.
"2337. Suits against government officials.
"2338. Exclusive Federal jurisdiction.".

(b) TABLE OF CONTENTS.—The table of chapters at the beginning of part 1, title 18, United States Code, is amended by striking:

"113A. Extraterritorial jurisdiction over terrorist acts abroad against United States nationals ..... 2331"

and inserting in lieu thereof:

"113A. Terrorism ..... 2331".

(c) EFFECTIVE DATE.—This subtitle and the amendments made by this subtitle shall apply to any pending case or any cause of action arising on or after 4 years before the date of enactment of this Act.

Subtitle B—Maritime Navigation and Fixed Platforms

SEC. 803. OFFENSES OF VIOLENCE AGAINST MARITIME NAVIGATION OR FIXED PLATFORMS.

Chapter 111 of title 18, United States Code, is amended by adding at the end the following:

"§2280. Violence against maritime navigation

"(a) Whoever unlawfully and intentionally—

"(1) seizes or exercises control over a ship by force or threat thereof or any other form of intimidation;

"(2) performs an act of violence against a person on board a ship if that act is likely to endanger the safe navigation of that ship;

"(3) destroys a ship or causes damage to a ship or to its cargo which is likely to endanger the safe navigation of that ship;

"(4) places or causes to be placed on a ship, by any means whatsoever, a device or substance which is likely to destroy that ship, or cause damage to that ship or its cargo which endangers or is likely to endanger the safe navigation of that ship;

"(5) destroys or seriously damages maritime navigational facilities or seriously interferes with their operation, if such act is likely to endanger the safe navigation of a ship;

"(6) communicates information, knowing the information to be false and under circumstances in which such information may reasonably be believed, thereby endangering the safe navigation of a ship;

"(7) injures or kills any person in connection with the commission or the attempted commission of any of the offenses set forth in paragraphs (1) through (6); or

"(8) attempts to do any act prohibited under paragraphs (1) through (7);

shall be fined under this title or imprisoned not more than twenty years, or both; and if the death of any person results, from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) Whoever threatens to do any act prohibited under paragraphs (2), (3) or (5) of subsection (a), with apparent determination and will to carry the threat into execution, if the threatened act is likely to endanger the safe navigation of the ship in question, shall be fined under this title or imprisoned not more than five years, or both.

"(c) There is jurisdiction over the prohibited activity in subsections (a) and (b)—

"(1) in the case of a covered ship, if—

"(A) such activity is committed—

"(i) by a person engaged in terrorism or who acts on behalf of a terrorist group;

"(ii) against or on board a ship flying the flag of the United States at the time the prohibited activity is committed;

"(iii) in the United States and the activity is not prohibited as a crime by the State in which the activity takes place; or

"(iv) the activity takes place on a ship flying the flag of a foreign country or outside the United States, by a national of the United States or by a stateless person whose habitual residence is in the United States;

"(B) during the commission of such activity, a national of the United States is seized, threatened, injured or killed; or

"(C) the offender is later found in the United States after such activity is committed;

"(2) in the case of a ship navigating or scheduled to navigate solely within the territorial sea or internal waters of a country other than the United States, if the offender is later found in the United States after such activity is committed; and

"(3) in the case of any vessel, if such activity is committed in an attempt to compel the United States to do or abstain from doing any act.

"(d) As used in this section, the term—

"(1) the term 'ship' means a vessel of any type whatsoever not permanently attached to the sea-bed, including dynamically supported craft, submersibles or any other floating craft; but such term does not include a warship, a ship owned or operated by a government when being used as a naval auxiliary or for customs or police purposes, or a ship which has been withdrawn from navigation or laid up;

"(2) the term 'covered ship' means a ship that is navigating or is scheduled to navigate into, through or from waters beyond the outer limit of the territorial sea of a single country or a lateral limit of that country's territorial sea with an adjacent country;

"(3) the term 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

"(4) the term 'territorial sea of the United States' means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law; and

"(5) the term 'United States', when used in a geographical sense, includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas Islands and all territories and possessions of the United States.

"§2281. Violence against maritime fixed platforms

"(a) Whoever unlawfully and intentionally—

"(1) seizes or exercises control over a fixed platform by force or threat thereof or any other form of intimidation;

"(2) performs an act of violence against a person on board a fixed platform if that act is likely to endanger its safety;

"(3) destroys a fixed platform or causes damage to it which is likely to endanger its safety;

"(4) places or causes to be placed on a fixed platform, by any means whatsoever, a device or substance which is likely to destroy that fixed platform or likely to endanger its safety;

"(5) injures or kills any person in connection with the commission or the attempted commission of any of the offenses set forth in paragraphs (1) through (4); or

"(6) attempts to do anything prohibited under paragraphs (1) through (5);

shall be fined under this title or imprisoned not more than twenty years, or both; and if death results to any person from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) Whoever threatens to do anything prohibited under paragraphs (2) or (3) of subsection (a), with apparent determination and will to carry the threat into execution, if the threatened act is likely to endanger the safety of the fixed platform, shall be fined under this title or imprisoned not more than five years, or both.

"(c) There is jurisdiction over the prohibited activity in subsections (a) and (b) if—

"(1) such activity is committed against or on board a fixed platform—

"(A) that is located on the continental shelf of the United States, if—

"(i) by a person engaged in terrorism or who acts on behalf of a terrorist group; or

"(ii) if the activity is not prohibited as a crime by the State in which the activity takes place;

"(B) that is located on the continental shelf of another country, by a national of the United States or by a stateless person whose habitual residence is in the United States; or

"(C) in an attempt to compel the United States to do or abstain from doing any act;

"(2) during the commission of such activity against or on board a fixed platform located on a continental shelf, a national of the United States is seized, threatened, injured or killed; or

"(3) such activity is committed against or on board a fixed platform located outside the United States and beyond the continental shelf of the United States and the offender is later found in the United States.

"(d) As used in this section, the term—

"(1) 'continental shelf' means the sea-bed and subsoil of the submarine areas that extend be-

yond a country's territorial sea to the limits provided by customary international law as reflected in Article 76 of the 1982 Convention on the Law of the Sea;

"(2) 'fixed platform' means an artificial island, installation or structure permanently attached to the sea-bed for the purpose of exploration or exploitation of resources or for other economic purposes;

"(3) 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

"(4) 'territorial sea of the United States' means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law; and

"(5) 'United States', when used in a geographical sense, includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas Islands and all territories and possessions of the United States.".

SEC. 804. CLERICAL AMENDMENTS.

The table of sections at the beginning of chapter 111 of title 18, United States Code, is amended by adding at the end thereof the following:

"2280. Violence against maritime navigation.
"2281. Violence against maritime fixed platforms.".

SEC. 805. EFFECTIVE DATES.

This subtitle and the amendments made by this subtitle shall take effect on the later of—

(1) the date of the enactment of this Act; or

(2)(A) in the case of section 2280 of title 18, United States Code, the date the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation has come into force and the United States has become a party to that Convention; and

(B) in the case of section 2281 of title 18, United States Code, the date the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf has come into force and the United States has become a party to that Protocol.

Subtitle C—General Provisions

SEC. 819. WEAPONS OF MASS DESTRUCTION.

(a) FINDINGS.—The Congress finds that the use and threatened use of weapons of mass destruction, as defined in the statute enacted by subsection (b) of this section, gravely harm the national security and foreign relations interests of the United States, seriously affect interstate and foreign commerce, and disturb the domestic tranquility of the United States.

(b) OFFENSE.—Chapter 113A of title 18, United States Code, as added by the preceding section, is amended by inserting after section 2332 the following new section:

"§2332a. Use of weapons of mass destruction

"(a) Whoever uses, or attempts or conspires to use, a weapon of mass destruction—

"(1) against a national of the United States while such national is outside of the United States;

"(2) against any person within the United States; or

"(3) against any property that is owned, leased or used by the United States or by any department or agency of the United States, whether the property is within or outside of the United States;

shall be imprisoned for any term of years or for life, and if death results, shall be punished by death or imprisoned for any term of years or for life.

"(b) For purposes of this section—

"(1) 'national of the United States' has the meaning given in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); and

"(2) 'weapon of mass destruction' means—

"(a) any destructive device as defined in section 921 of this title;

"(b) poison gas;

"(c) any weapon involving a disease organism; or

"(d) any weapon that is designed to release radiation or radioactivity at a level dangerous to human life.".

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 113A of title 18, United States Code, is amended by inserting after the item relating to section 2332 the following:

"2332a. Use of weapons of mass destruction.".

SEC. 820. ENHANCED PENALTIES FOR CERTAIN OFFENSES.

(a) SECTION 1705(b).—Section 206(b) of the International Economic Emergency Powers Act (50 U.S.C. 1705(b)) is amended by striking "$50,000" and inserting "$1,000,000".

(b) SECTION 1705(a).—Section 206(a) of the International Economic Emergency Powers Act (50 U.S.C. 1705(a)) is amended by striking "$10,000" and inserting "$1,000,000".

(c) SECTION 1541.—Section 1541 of title 18, United States Code, is amended—

(1) by striking "$500" and inserting "$250,000"; and

(2) by striking "one year" and inserting "five years".

(d) CHAPTER 75.—Sections 1542, 1543, 1544 and 1546 of title 18, United States Code, are each amended—

(1) by striking "$2,000" each place it appears and inserting "$250,000"; and

(2) by striking "five years" each place it appears and inserting "ten years".

(e) SECTION 1545.—Section 1545 of title 18, United States Code, is amended—

(1) by striking "$2,000" and inserting "$250,000"; and

(2) by striking "three years" and inserting "ten years".

SEC. 821. TERRITORIAL SEA EXTENDING TO TWELVE MILES INCLUDED IN SPECIAL MARITIME AND TERRITORIAL JURISDICTION.

The Congress hereby declares that all the territorial sea of the United States, as defined by Presidential Proclamation 5928 of December 27, 1988, is part of the United States, subject to its sovereignty, and, for purposes of Federal criminal jurisdiction, is within the special maritime and territorial jurisdiction of the United States wherever that term is used in title 18, United States Code.

SEC. 822. ASSIMILATED CRIMES IN EXTENDED TERRITORIAL SEA.

Section 13 of title 18, United States Code (relating to the adoption of State laws for areas within Federal jurisdiction), is amended by—

(1) inserting after "title" in subsection (a) the following: "or on, above, or below any portion of the territorial sea of the United States not within the territory of any State, Territory, Possession, or District"; and

(2) inserting at the end thereof the following new subsection:

"(c) Whenever any waters of the territorial sea of the United States lie outside the territory of any State, Territory, Possession, or District, such waters (including the airspace above and the seabed and subsoil below, and artificial islands and fixed structures erected thereon) shall be deemed for purposes of subsection (a) to lie within the area of that State, Territory, Possession, or District it would lie within if the boundaries of such State, Territory, Possession, or District were extended seaward to the outer limit of the territorial sea of the United States.".

SEC. 823. JURISDICTION OVER CRIMES AGAINST UNITED STATES NATIONALS ON CERTAIN FOREIGN SHIPS.

Section 7 of title 18, United States Code (relating to the special maritime and territorial jurisdiction of the United States), is amended by inserting at the end thereof the following new paragraph:

"(8) To the extent permitted by international law, any foreign vessel during a voyage having a scheduled departure from or arrival in the United States with respect to an offense committed by or against a national of the United States.".

SEC. 824. TORTURE.

(a) IN GENERAL.—Part I of title 18, United States Code, is amended by inserting after chapter 113A the following new chapter:

"CHAPTER 113B—TORTURE

"Sec.
2340. Definitions.
2340A. Torture.
2340B. Exclusive remedies.

"§2340. Definitions

"As used in this chapter—

"(1) 'torture' means an act committed by a person acting under the color of law specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within his custody or physical control.

"(2) 'severe mental pain or suffering' means the prolonged mental harm caused by or resulting from: (a) the intentional infliction or threatened infliction of severe physical pain or suffering; (b) the administration or application, or threatened administration or application, of mind altering substances or other procedures calculated to disrupt profoundly the senses or the personality; (c) the threat of imminent death; or (d) the threat that another person will imminently be subjected to death, severe physical pain or suffering, or the administration or application of mind altering substances or other procedures calculated to disrupt profoundly the senses or personality.

"(3) 'United States' includes all areas under the jurisdiction of the United States including any of the places within the provisions of sections 5 and 7 of this title and section 101(38) of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. 1301(38)).

"§2340A. Torture

"(a) Whoever outside the United States commits or attempts to commit torture shall be fined under this title or imprisoned not more than twenty years, or both; and if death results to any person from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) There is jurisdiction over the prohibited activity in subsection (a) if: (1) the alleged offender is a national of the United States; or (2) the alleged offender is present in the United States, irrespective of the nationality of the victim or the alleged offender.

"§2340B. Exclusive remedies

"Nothing in this chapter shall be construed as precluding the application of State or local laws on the same subject, nor shall anything in this chapter be construed as creating any substantive or procedural right enforceable by law by any party in any civil proceeding.".

(b) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item for chapter 113A the following new item:

"113B. Torture ..... 2340.".

(c) EFFECTIVE DATE.—This section shall take effect on the later of—

(1) the date of enactment of this section; or

(2) the date the United States has become a party to the Convention Against Torture and

Other Cruel, Inhuman or Degrading Treatment or Punishment.

SEC. 825. EXTENSION OF THE STATUTE OF LIMITATIONS FOR CERTAIN TERRORISM OFFENSES.

(a) IN GENERAL.—Chapter 213 of title 18, United States Code, is amended by inserting after section 3285 the following:

"§3286. Extension of statute of limitations for certain terrorism offenses

"Notwithstanding the provisions of section 3282, no person shall be prosecuted, tried, or punished for any offense involving a violation of section 32 (aircraft destruction), section 36 (airport violence), section 112 (assaults upon diplomats), section 351 (crimes against Congressmen or Cabinet officers), section 1116 (crimes against diplomats), section 1203 (hostage taking), section 1361 (willful injury to government property), section 1751 (crimes against the President), section 2280 (maritime violence), section 2281 (maritime platform violence), section 2331 (terrorist acts abroad against United States nationals), section 2339 (use of weapons of mass destruction), or section 2340A (torture) of this title or section 902 (i), (j), (k), (l), or (n) of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. 1572 (i), (j), (k), (l), or (n)), unless the indictment is found or the information is instituted within ten years next after such offense shall have been committed.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 213 is amended by inserting below the item for:

"3285. Criminal contempt."

the following:

"3286. Extension of statute of limitations for certain terrorism offenses.".

SEC. 826. F.B.I. ACCESS TO TELEPHONE SUBSCRIBER INFORMATION.

(a) REQUIRED CERTIFICATION.—Section 2709(b) of title 18, United States Code, is amended to read as follows:

"(b) REQUIRED CERTIFICATION.—The Director of the Federal Bureau of Investigation, or his designee in a position not lower than Deputy Assistant Director, may—

"(1) request the name, address, length of service, and toll billing records of a person or entity if the Director (or his designee in a position not lower than Deputy Assistant Director) certifies in writing to the wire or electronic communication service provider to which the request is made that—

"(A) the name, address, length of service, and toll billing records sought are relevant to an authorized foreign counterintelligence investigation; and

"(B) there are specific and articulable facts giving reason to believe that the person or entity to whom the information sought pertains is a foreign power or an agent of a foreign power as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801); and

"(2) request the name, address, and length of service of a person or entity if the Director (or his designee in a position not lower than Deputy Assistant Director) certifies in writing to the wire or electronic communication service provider to which the request is made that—

"(A) the information sought is relevant to an authorized foreign counterintelligence investigation; and

"(B) there are specific and articulable facts giving reason to believe that communication facilities registered in the name of the person or entity have been used, through the services of such provider, in communication with—

"(i) an individual who is engaging or has engaged in international terrorism as defined in section 101(c) of the Foreign Intelligence Surveillance Act or clandestine intelligence activities that involve or may involve a violation of the criminal statutes of the United States; or

"(ii) a foreign power or an agent of a foreign power under circumstances giving reason to believe that the communication concerned international terrorism as defined in section 101(c) of the Foreign Intelligence Surveillance Act or clandestine intelligence activities that involve or may involve a violation of the criminal statutes of the United States.".

(b) REPORT TO JUDICIARY COMMITTEES.—Section 2709(e) of title 18, United States Code, is amended by adding after "Senate" the following: ", and the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate,".

SEC. 827. VIOLENCE AT AIRPORTS SERVING INTERNATIONAL CIVIL AVIATION.

(a) OFFENSE.—Chapter 2 of title 18, United States Code, is amended by adding at the end thereof the following:

"§36. Violence at international airports

"(a) Whoever unlawfully and intentionally, using any device, substance or weapon—

"(1) performs an act of violence against a person at an airport serving international civil aviation which causes or is likely to cause serious bodily injury or death; or

"(2) destroys or seriously damages the facilities of an airport serving international civil aviation or a civil aircraft not in service located thereon or disrupts the services of the airport;

if such an act endangers or is likely to endanger safety at that airport, or attempts to do such an act, shall be fined under this title or imprisoned not more than twenty years, or both; and if the death of any person results from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) There is jurisdiction over the prohibited activity in subsection (a) if—

"(1) the prohibited activity takes place in the United States and—

"(A) the perpetrator of the prohibited activity engages in terrorism or acts on behalf of a terrorist group;

"(B) the activity violates subsection (a)(1) and the person against whom the violence is directed is engaged in international air travel;

"(C) the activity violates subsection (a)(2) and the facility or aircraft destroyed or damaged is owned by or leased by a foreign flag carrier or the services disrupted are primarily for the benefit of such a carrier; or

"(D) the activity is not prohibited as a crime by the law of the State in which the airport is located; or

"(2) the prohibited activity takes place outside of the United States and the offender is later found in the United States.

"(c) For the purposes of this section, the terms 'terrorism' and 'terrorist group' have, respectively, the meanings given those terms in section 140 of Public Law 100–204 (22 U.S.C. 2656f).".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 2 of title 18, United States Code, is amended by adding at the end the following:

"36. Violence at international airports.".

(c) EFFECTIVE DATE.—This section shall take effect on the later of—

(1) the date of the enactment of this Act; or

(2) the date the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, done at Montreal on 23 September 1971, has come into force and the United States has become a party to the Protocol.

SEC. 828. PREVENTING ACTS OF TERRORISM AGAINST CIVILIAN AVIATION.

(a) IN GENERAL.—Chapter 2 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 37. Violations of Federal aviation security regulations

"Whoever willfully violates a security regulation under part 107 or 108 of title 14, Code of Federal Regulations (relating to airport and airline security) issued pursuant to section 1356 and 1357 of title 49, United States Code, shall be fined under this title or imprisoned for not more than one year, or both.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 2 of title 18, United States Code, is amended by adding at the end thereof the following:

"37. Violation of Federal aviation security regulations.

SEC. 829. COUNTERFEITING UNITED STATES CURRENCY ABROAD.

(a) IN GENERAL.—Chapter 25 of title 18, United States Code, is amended by adding before section 471 the following new section:

"§ 470. Counterfeit acts committed outside the United States

"Whoever, outside the United States, engages in the act of—

"(1) making, dealing, or possessing any counterfeit obligation or other security of the United States; or

"(2) making, dealing, or possessing any plate, stone, or other thing, or any part thereof, used to counterfeit such obligation or security,

if such act would constitute a violation of section 471, 473, or 474 of this title if committed within the United States, shall be fined under this title, imprisoned for not more than 15 years, or both.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 25 of title 18, United States Code, is amended by adding before section 471 the following:

"471. Counterfeit acts committed outside the United States.".

(c) TABLE OF CHAPTERS.—The table of chapters at the beginning of part I of title 18, United States Code, is amended by striking the item for chapter 25 and inserting the following:

"25. Counterfeiting and forgery ..... 470".

SEC. 830. ECONOMIC TERRORISM TASK FORCE.

(a) ESTABLISHMENT AND PURPOSE.—There is established an Economic Terrorism Task Force to—

(1) assess the threat of terrorist actions directed against the United States economy, including actions directed against the United States government and actions against United States business interests;

(2) assess the adequacy of existing policies and procedures designed to prevent terrorist actions directed against the United States economy; and

(3) recommend administrative and legislative actions to prevent terrorist actions directed against the United States economy.

(b) MEMBERSHIP.—The Economic Terrorism Task Force shall be chaired by the Secretary of State, or his designee, and consist of the following members:

(1) the Director of Central Intelligence;

(2) the Director of the Federal Bureau of Investigation;

(3) the Director of the United States Secret Service;

(4) the Administrator of the Federal Aviation Administration;

(5) the Chairman of the Board of Governors of the Federal Reserve;

(6) the Under Secretary of the Treasury for Finance; and

(7) such other members of the Departments of Defense, Justice, State, Treasury, or any other agency of the United States government, as the Secretary of State may designate.

(c) ADMINISTRATIVE PROVISIONS.—The provisions of the Federal Advisory Committee Act

shall not apply with respect to the Economic Terrorism Task Force.

(d) REPORT.—Not later than 180 days after the date of enactment of this Act, the chairman of the Economic Terrorism Task Force shall submit a report to the President and the Congress detailing the findings and recommendations of the task force. If the report of the task force is classified, an unclassified version shall be prepared for public distribution.

SEC. 831. TERRORIST DEATH PENALTY ACT.

Section 2332(a)(1) of title 18 of the United States Code is amended to read as follows:

"(1)(A) if the killing is murder as defined in section 1111(a) of this title, be fined under this title, punished by death or imprisonment for any term of years or for life, or both;".

SEC. 832. SENTENCING GUIDELINES INCREASE FOR TERRORIST CRIMES.

The United States Sentencing Commission is directed to amend its sentencing guidelines to provide an increase of not less than three levels in the base offense level for any felony, whether committed within or outside the United States, that involves or is intended to promote international terrorism, unless such involvement or intent is itself an element of the crime.

SEC. 833. ALIEN WITNESS COOPERATION.

(a) ESTABLISHMENT OF NEW NONIMMIGRANT CLASSIFICATION.—Section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) is amended—

(1) by striking "or" at the end of subparagraph (Q),

(2) by striking the period at the end of subparagraph (R) and inserting "; or", and

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

"(S) subject to section 214(j), an alien—

"(i) who the Attorney General determines (I) is in possession of critical reliable information concerning a criminal organization or enterprise, and (II) is willing to supply such information to Federal or State law enforcement authorities or a Federal or State court of law, and

"(ii) whose presence in the United States the Attorney General determines is essential to the success of an authorized criminal investigation or the successful prosecution of an individual involved in the criminal organization or enterprise,

and the spouse and minor children of the alien if accompanying, or following to join, the alien.".

(b) CONDITIONS OF ENTRY.—

(1) WAIVER OF GROUNDS FOR EXCLUSION.—Section 212(d) of such Act (8 U.S.C. 1182(d)) is amended by inserting at the beginning the following new paragraph:

"(1) The Attorney General may, in his discretion, waive the application of subsection (a) (other than paragraph (3)(E) thereof) in the case of a nonimmigrant described in section 101(a)(15)(S), if the Attorney General deems it in the national interest. Any such waiver shall be deemed a waiver of any comparable ground for deportation under section 241(a)(1)(A).".

(2) NUMERICAL LIMITATIONS; PERIOD OF ADMISSION; ETC..—Section 214 of such Act (8 U.S.C. 1184) is amended by adding at the end the following new subsection:

"(j)(1) The number of aliens who may be provided a visa as nonimmigrants under section 101(a)(15)(S) in any fiscal year may not exceed 100.

"(2) No alien may be admitted into the United States as such a nonimmigrant more than 5 years after the date of the enactment of this subsection.

"(3) The period of admission of an alien as such a nonimmigrant may not exceed 3 years. Such period may not be extended by the Attorney General.

"(4) As a condition for the admission, and continued stay in lawful status, of such a nonimmigrant, the nonimmigrant (A) shall report not less often than quarterly to the Commissioner such information concerning the alien's whereabouts and activities as the Attorney General may require, (B) may not be convicted of any criminal offense in the United States after the date of such admission, and (C) must have executed a form that waives the nonimmigrant's right to contest, other than on the basis of an application for withholding of deportation, any action for deportation of the alien instituted before the alien obtains lawful permanent resident status.

"(5) The Attorney General shall submit a report annually to the Committees on the Judiciary of the House of Representatives and of the Senate concerning (A) the number of such nonimmigrants admitted, (B) the number of successful criminal prosecutions or investigations resulting from cooperation of such aliens, (C) the number of such nonimmigrants whose admission has not resulted in successful criminal prosecution or investigation, and (D) the number of such nonimmigrants who have failed to report quarterly (as required under paragraph (4)) or who have been convicted of crimes in the United States after the date of their admission as such a nonimmigrant.".

(3) PROHIBITION OF CHANGE OF STATUS.—Section 248(1) of such Act (8 U.S.C. 1258(1)) is amended by striking "or (K)" and inserting "(K), or (S)".

(c) ADJUSTMENT TO PERMANENT RESIDENT STATUS.—

(1) IN GENERAL.—Section 245 of such Act (8 U.S.C. 1255), as amended by section 2(c) of the Armed Forces Immigration Adjustment Act of 1991, is amended by adding at the end the following new subsection:

"(h)(1) If, in the opinion of the Attorney General—

"(A) a nonimmigrant admitted into the United States under section 101(a)(15)(S) has supplied information described in clauses (i) and (ii) of such section, and

"(B) the provision of such information has substantially contributed to the success of an authorized criminal investigation or the successful prosecution of an individual described in clause (ii) of such section,

the Attorney General may adjust the status of the alien (and the spouse and child of the alien if admitted under such section) to that of an alien lawfully admitted for permanent residence if the alien is not described in section 212(a)(3)(E).

"(2) Upon the approval of adjustment of status under paragraph (1), the Attorney General shall record the alien's lawful admission for permanent residence as of the date of such approval and the Secretary of State shall reduce by one the number of visas authorized to be issued under section 201(d) and 203(b)(4) for the fiscal year then current.".

(2) EXCLUSIVE MEANS OF ADJUSTMENT.—Section 245(c) of such Act (8 U.S.C. 1255(c)) is amended by striking "or" before "(4)" and by inserting before the period at the end the following: "; or (5) an alien who was admitted as a nonimmigrant described in section 101(a)(15)(S)".

(d) EXTENDING PERIOD OF DEPORTATION FOR CONVICTION OF A CRIME.—Section 241(a)(2)(A)(i)(I) of such Act (8 U.S.C. 1251(a)(2)(A)(i)(I)) is amended by inserting "(or 10 years in the case of an alien provided lawful permanent resident status under section 245(h))" after "five years".

SEC. 834. PROVIDING MATERIAL SUPPORT TO TERRORISTS.

(a) OFFENSE.—Chapter 113A of title 18, United States Code, is amended by adding the following new section:

"§ 2339A. Providing material support to terrorists

"Whoever, within the United States, provides material support or resources or conceals or disguises the nature, location, source, or ownership of material support or resources, knowing or intending that they are to be used in preparation for, or in carrying out, a violation of section 32, 36, 351, 844 (f) or (i), 1114, 1116, 1203, 1361, 1363, 1751, 2280, 2281, 2331, or 2339 of this title, or section 902(i) of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. 1472(i)), or in preparation for or carrying out the concealment of an escape from the commission of any such violation, shall be fined under this title, imprisoned not more than ten years, or both. For purposes of this section, the term 'material support or resources' means currency or other financial securities, financial services, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, but does not include humanitarian assistance to persons not directly involved in such violations.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 113A of title 18, United States Code, is amended by adding the following:

"2339A. Providing material support to terrorists.".

TITLE IX—SEXUAL VIOLENCE AND CHILD ABUSE

Subtitle A—Sexual Abuse

SEC. 901. SEXUAL ABUSE AMENDMENTS.

(a) DEFINITIONS OF SEXUAL ACT AND SEXUAL CONTACT FOR VICTIMS UNDER THE AGE OF 16.—Paragraph (2) of section 2245 of title 18, United States Code, is amended—

(1) in subparagraph (B), by striking "or" after the semicolon;

(2) in subparagraph (C) by striking "; and" and inserting in lieu thereof "; or"; and

(3) by inserting a new subparagraph (D) as follows:

"(D) the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person;".

Subtitle B—CHILD PROTECTION

SEC. 911 SHORT TITLE.

This subtitle may be cited as the "National Child Protection Act of 1991".

SEC. 912. PURPOSES.

The purposes of this subtitle are—

(1) to establish a national system through which child care organizations may obtain the benefit of a nationwide criminal background check to determine if persons who are current or prospective child care providers have committed child abuse crimes or other serious crimes;

(2) to establish minimum criteria for State laws and procedures that permit child care organizations to obtain the benefit of nationwide criminal background checks to determine if persons who are current or prospective child care providers have committed child abuse crimes or other serious crimes;

(3) to provide procedural rights for persons who are subject to nationwide criminal background checks, including procedures to challenge and correct inaccurate background check information;

(4) to establish a national system for the reporting by the States of child abuse crime information; and

(5) to document and study the problem of child abuse by providing statistical and informational data on child abuse and related crimes

to the Department of Justice and other interested parties.

SEC. 913. DEFINITIONS.

For the purposes of this subtitle—

(1) the term "authorized agency" means a division or office of a State designated by a State to report, receive, or disseminate information under this subtitle;

(2) the term "background check crime" means a child abuse crime, murder, manslaughter, aggravated assault, kidnapping, arson, sexual assault, domestic violence, incest, indecent exposure, prostitution, promotion of prostitution, and a felony offense involving the use or distribution of a controlled substance;

(3) the term "child" means a person who is a child for purposes of the criminal child abuse law of a State;

(4) the term "child abuse" means the physical or mental injury, sexual abuse or exploitation, neglectful treatment, negligent treatment, or maltreatment of a child by any person in violation of the criminal child abuse laws of a State, but does not include discipline administered by a parent or legal guardian to his or her child provided it is reasonable in manner and moderate in degree and otherwise does not constitute cruelty;

(5) the term "child abuse crime" means a crime committed under any law of a State that establishes criminal penalties for the commission of child abuse by a parent or other family member of a child or by any other person;

(6) the term "child abuse crime information" means the following facts concerning a person who is under indictment for, or has been convicted of, a child abuse crime: full name, race, sex, date of birth, height, weight, a brief description of the child abuse crime or offenses for which the person has been arrested or is under indictment or has been convicted, the disposition of the charge, and any other information that the Attorney General determines may be useful in identifying persons arrested for, under indictment for, or convicted of, a child abuse crime;

(7) the term "child care" means the provision of care, treatment, education, training, instruction, supervision, or recreation to children;

(8) the term "domestic violence" means a felony or misdemeanor involving the use or threatened use of force by—

(A) a present or former spouse of the victim;

(B) a person with whom the victim shares a child in common;

(C) a person who is cohabiting with or has cohabited with the victim as a spouse; or

(D) any person defined as a spouse of the victim under the domestic or family violence laws of a State;

(9) the term "exploitation" means child pornography and child prostitution;

(10) the term "mental injury" means harm to a child's psychological or intellectual functioning, which may be exhibited by severe anxiety, depression, withdrawal or outward aggressive behavior, or a combination of those behaviors or by a change in behavior, emotional response, or cognition;

(11) the term "national criminal background check system" means the system maintained by the Federal Bureau of Investigation based on fingerprint identification or any other method of positive identification;

(12) the term "negligent treatment" means the failure to provide, for a reason other than poverty, adequate food, clothing, shelter, or medical care so as to seriously endanger the physical health of a child;

(13) the term "physical injury" includes lacerations, fractured bones, burns, internal injuries, severe bruising, and serious bodily harm;

(14) the term "provider" means

(A) a person who—

(i) is employed by or volunteers with a qualified entity;

(ii) who owns or operates a qualified entity; or

(iii) who has or may have unsupervised access to a child to whom the qualified entity provides child care; and

(B) a person who—

(i) seeks to be employed by or volunteer with a qualified entity;

(ii) seeks to own or operate a qualified entity; or

(iii) seeks to have or may have unsupervised access to a child to whom the qualified entity provides child care;

(15) the term "qualified entity" means a business or organization, whether public, private, for-profit, not-for-profit, or voluntary, that provides child care or child care placement services, including a business or organization that licenses or certifies others to provide child care or child care placement services;

(16) the term "sex crime" means an act of sexual abuse that is a criminal act;

(17) the term "sexual abuse" includes the employment, use, persuasion, inducement, enticement, or coercion of a child to engage in, or assist another person to engage in, sexually explicit conduct or the rape, molestation, prostitution, or other form of sexual exploitation of children or incest with children; and

(18) the term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and the Trust Territories of the Pacific.

SEC. 914. REPORTING BY THE STATES.

(a) IN GENERAL.—An authorized criminal justice agency of a State shall report child abuse crime information to, or index child abuse crime information in, the national criminal background check system.

(b) PROVISION OF STATE CHILD ABUSE CRIME RECORDS THROUGH THE NATIONAL CRIMINAL BACKGROUND CHECK SYSTEM.—(1) Not later than 180 days after the date of enactment of this Act, the Attorney General shall—

(A) investigate the criminal records of each State and determine for each State a timetable by which the State should be able to provide child abuse crime records on an on-line capacity basis through the national criminal background check system;

(B) establish guidelines for the reporting or indexing of child abuse crime information, including guidelines relating to the format, content, and accuracy of child abuse crime information and other procedures for carrying out this Act; and

(C) notify each State of the determinations made pursuant to subparagraphs (A) and (B).

(2) The Attorney General shall require as a part of the State timetable that the State—

(A) achieve, by not later than the date that is 3 years after the date of enactment of this Act, at least 80 percent currency of final case dispositions in computerized criminal history files for all identifiable child abuse crime cases in which there has been an event of activity within the last 5 years;

(B) continue to maintain at least 80 percent currency of final case dispositions in all identifiable child abuse crime cases in which there has been an event of activity within the preceding 5 years; and

(C) take steps to achieve full disposition reporting, including data quality audits and periodic notices to criminal justice agencies identifying records that lack final dispositions and requesting those dispositions.

(c) LIAISON.—An authorized agency of a State shall maintain close liaison with the National Center on Child Abuse and Neglect, the National Center for Missing and Exploited Children, and the National Center for the Prosecution of Child Abuse for the exchange of technical assistance in cases of child abuse.

(d) ANNUAL SUMMARY.—(1) The Attorney General shall publish an annual statistical summary of the child abuse crime information reported under this subtitle.

(2) The annual statistical summary described in paragraph (1) shall not contain any information that may reveal the identity of any particular victim or alleged violator.

(e) ANNUAL REPORT.—The Attorney General shall publish an annual summary of each State's progress in reporting child abuse crime information to the national criminal background check system.

(f) STUDY OF CHILD ABUSE OFFENDERS.—(1) Not later than 180 days after the date of enactment of this Act, the Administrator of the Office of Juvenile Justice and Delinquency Prevention shall begin a study based on a statistically significant sample of convicted child abuse offenders and other relevant information to determine—

(A) the percentage of convicted child abuse offenders who have more than 1 conviction for an offense involving child abuse;

(B) the percentage of convicted child abuse offenders who have been convicted of an offense involving child abuse in more than 1 State;

(C) whether there are crimes or classes of crimes, in addition to those defined as background check crimes in section 3, that are indicative of a potential to abuse children; and

(D) the extent to which and the manner in which instances of child abuse form a basis for convictions for crimes other than child abuse crimes.

(2) Not later than 1 year after the date of enactment of this Act, the Administrator shall submit a report to the Chairman of the Committee on the Judiciary of the Senate and the Chairman of the Committee on the Judiciary of the House of Representatives containing a description of and a summary of the results of the study conducted pursuant to paragraph (1).

SEC. 915. BACKGROUND CHECKS.

(a) IN GENERAL.—(1) A State may have in effect procedures (established by or under State statute or regulation) to permit a qualified entity to contact an authorized agency of the State to request a nationwide background check for the purpose of determining whether there is a report that a provider is under indictment for, or has been convicted of, a background check crime.

(2) The authorized agency shall access and review State and Federal records of background check crimes through the national criminal background check system and shall respond promptly to the inquiry.

(b) GUIDELINES.—(1) The Attorney General shall establish guidelines for State background check procedures established under subsection (a), which guidelines shall include the requirements and protections this subtitle.

(2) The guidelines established under paragraph (1) shall require—

(A) that no qualified entity may request a background check of a provider under subsection (a) unless the provider first completes and signs a statement that—

(i) contains the name, address, and date of birth appearing on a valid identification document (as defined by section 1028(d)(1) of title 18, United States Code) of the provider;

(ii) the provider is not under indictment for, and has not been convicted of, a background check crime and, if the provider is under indictment for or has been convicted of a background check crime, contains a description of the crime and the particulars of the indictment or conviction;

(iii) notifies the provider that the entity may request a background check under subsection (a);

(iv) notifies the provider of the provider's rights under subparagraph (B); and

(v) notifies the provider that prior to the receipt of the background check the qualified entity may choose to deny the provider unsupervised access to a child to whom the qualified entity provides child care;

(B) that each State establish procedures under which a provider who is the subject of a background check under subsection (a) is entitled—

(i) to obtain a copy of any background check report and any record that forms the basis for any such report; and

(ii) to challenge the accuracy and completeness of any information contained in any such report or record and obtain a prompt determination from an authorized agency as to the validity of such challenge;

(C) that an authorized agency to which a qualified entity has provided notice pursuant to subsection (a) make reasonable efforts to complete research in whatever State and local recordkeeping systems are available and in the national criminal background check system and respond to the qualified entity within 15 business days;

(D) that the response of an authorized agency to an inquiry pursuant to subsection (a) inform the qualified entity that the background check pursuant to this section—

(i) may not reflect all indictments or convictions for a background check crime; and

(ii) may not be the sole basis for determining the fitness of a provider;

(E) that the response of an authorized agency to an inquiry pursuant to subsection (a) be limited to the conviction or pending indictment information reasonably required to accomplish the purposes of this Act;

(F) that the qualified entity may choose to deny the provider unsupervised access to a child to whom the qualified entity provides child care on the basis of a background check under subsection (a) until the provider has obtained a determination as to the validity of any challenge under subparagraph (B) or waived the right to make such challenge; and

(G) that each State establish procedures to ensure that any background check under subsection (a) and the results thereof shall be requested by and provided only to—

(i) qualified entities identified by States;

(ii) authorized representatives of a qualified entity who have a need to know such information;

(iii) the provider who is the subject of a background check;

(iv) law enforcement authorities; or

(v) pursuant to the direction of a court of law;

(H) that background check information conveyed to a qualified entity pursuant to subsection (a) shall not be conveyed to any person except as provided under subparagraph (G);

(I) that an authorized agency shall not be liable in an action at law for damages for failure to prevent a qualified entity from taking action adverse to a provider on the basis of a background check;

(J) that a State employee or a political subdivision of a State or employee thereof responsible for providing information to the national criminal background check system shall not be liable in an action at law for damages for failure to prevent a qualified entity from taking action adverse to a provider on the basis of a background check; and

(K) that a State or Federal provider of criminal history records, and any employee thereof, shall not be liable in an action at law for damages for failure to prevent a qualified entity from taking action adverse to a provider on the basis of a criminal background check, or due to a criminal history record's being incomplete.

(c) EQUIVALENT PROCEDURES.—(1) Notwithstanding anything to the contrary in this section, the Attorney General may certify that a State licensing or certification procedure that differs from the procedures described in subsections (a) and (b) shall be deemed to be the equivalent of such procedures for purposes of this Act, but the procedures described in subsections (a) and (b) shall continue to apply to those qualified entities, providers, and background check crimes that are not governed by or included within the State licensing or certification procedure.

(2) The Attorney General shall by regulation establish criteria for certifications under this subsection. Such criteria shall include a finding by the Attorney General that the State licensing or certification procedure accomplishes the purposes of this Act and incorporates a nationwide review of State and Federal records of background check offenses through the national criminal background check system.

(d) REGULATIONS.—(1) The Attorney General may by regulation prescribe such other measures as may be required to carry out the purposes of this Act, including measures relating to the security, confidentiality, accuracy, use, misuse, and dissemination of information, and audits and recordkeeping.

(2) The Attorney General shall, to the maximum extent possible, encourage the use of the best technology available in conducting background checks.

SEC. 916. FUNDING FOR IMPROVEMENT OF CHILD ABUSE CRIME INFORMATION.

(a) USE OF FORMULA GRANTS FOR IMPROVEMENTS IN STATE RECORDS AND SYSTEMS.—Section 509(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3759(b)) is amended—

(A) in paragraph (2) by striking "and" after the semicolon;

(B) in paragraph (3) by striking the period and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(4) the improvement of State record systems and the sharing of all of the records described in paragraphs (1), (2), and (3) and the records required by the Attorney General under section 914 of the National Child Protection Act of 1991 with the Attorney General for the purpose of implementing the National Child Protection Act of 1991.".

(b) ADDITIONAL FUNDING GRANTS FOR THE IMPROVEMENT OF CHILD ABUSE CRIME INFORMATION.—(1) The Attorney General shall, subject to appropriations and with preference to States that as of the date of enactment of this Act have the lowest percent currency of case dispositions in computerized criminal history files, make a grant to each State to be used—

(A) for the computerization of criminal history files for the purposes of this subtitle;

(B) for the improvement of existing computerized criminal history files for the purposes of this subtitle;

(C) to improve accessibility to the national criminal background check system for the purposes of this subtitle; and

(D) to assist the State in the transmittal of criminal records to, or the indexing of criminal history record in, the national criminal background check system for the purposes of this subtitle.

(2) There are authorized to be appropriated for grants under paragraph (1) a total of $20,000,000 for fiscal years 1992, 1993, and 1994.

(c) WITHHOLDING STATE FUNDS.—Effective 1 year after the date of enactment of this Act, the Attorney General may reduce by up to 10 percent the allocation to a State for a fiscal year under title I of the Omnibus Crime Control and Safe Streets Act of 1968 of a State that is not in compliance with the timetable established for that State under section 914 of this Act.

Subtitle C—Crimes Against Children

SEC. 921. SHORT TITLE.

This subtitle may be cited as the "Jacob Wetterling Crimes Against Children Registration Act".

SEC. 922. ESTABLISHMENT OF PROGRAM.

(a) IN GENERAL.—

(1) STATE GUIDELINES.—The Attorney General shall establish guidelines for State programs requiring any person who is convicted of a criminal offense against a victim who is a minor to register a current address with a designated State law enforcement agency for 10 years after release from prison, being placed on parole, or being placed on supervised release.

(2) DEFINITION.—For purposes of this subsection, the term "criminal offense against a victim who is a minor" includes—

(A) kidnapping of a minor, except by a noncustodial parent;

(B) false imprisonment of a minor, except by a noncustodial parent;

(C) criminal sexual conduct toward a minor;

(D) solicitation of minors to engage in sexual conduct;

(E) use of minors in a sexual performance; or

(F) solicitation of minors to practice prostitution.

(b) REGISTRATION REQUIREMENT UPON RELEASE, PAROLE, OR SUPERVISED RELEASE.—An approved State registration program established by this section shall contain the following requirements:

(1) NOTIFICATION.—If a person who is required to register under this section is released from prison, paroled, or placed on supervised release, a State prison officer shall—

(A) inform the person of the duty to register;

(B) inform the person that if the person changes residence address, the person shall give the new address to a designated State law enforcement agency in writing within 10 days;

(C) obtain fingerprints and a photograph of the person if these have not already been obtained in connection with the offense that triggers registration; and

(D) require the person to read and sign a form stating that the duty of the person to register under this section has been explained.

(2) TRANSFER OF INFORMATION TO STATE AND THE F.B.I.—The officer shall, within 3 days after receipt of information described in paragraph (1), forward it to a designated State law enforcement agency. The State law enforcement agency shall immediately enter the information into the appropriate State law enforcement record system and notify the appropriate law enforcement agency having jurisdiction where the person expects to reside. The State law enforcement agency shall also immediately transmit the conviction data and fingerprints to the Identification Division of the Federal Bureau of Investigation.

(3) ANNUAL VERIFICATION.—On each anniversary of a person's initial registration date during the period in which the person is required to register under this section, the designated State law enforcement agency shall mail a nonforwardable verification form to the last reported address of the person. The person shall mail the verification form to the officer within 10 days after receipt of the form. The verification form shall be signed by the person, and state that the person still resides at the address last reported to the designated State law enforcement agency. If the person fails to mail the verification form to the designated State law enforcement agency within 10 days after receipt of the form, the person shall be in violation of this section unless the person proves that the person has not changed his or her residence address.

(4) NOTIFICATION OF LOCAL LAW ENFORCEMENT AGENCIES OF CHANGES IN ADDRESS.—Any change of address by a person required to register under this section reported to the designated State law

enforcement agency shall immediately be reported to the appropriate law enforcement agency having jurisdiction where the person is residing.

(c) REGISTRATION FOR 10 YEARS.—A person required to register under this section shall continue to comply with this section until 10 years have elapsed since the person was released from imprisonment, or placed on parole or supervised release.

(d) PENALTY.—A person required to register under a State program established pursuant to this section who knowingly fails to so register and keep such registration current shall be subject to criminal penalties in such State. It is the sense of Congress that such penalties should include at least 6 months imprisonment.

(e) PRIVATE DATA.—The information provided under this section is private data on individuals and may be used for law enforcement purposes and confidential background checks conducted with fingerprints for child care services providers.

SEC. 923. STATE COMPLIANCE.

(a) COMPLIANCE DATE.—Each State shall have 3 years from the date of the enactment of this Act in which to implement the provisions of this subtitle.

(b) INELIGIBILITY FOR FUNDS.—The allocation of funds under section 506 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756) received by a State not complying with this subtitle 3 years after the date of enactment of this Act shall be reduced by 25 percent and the unallocated funds shall be reallocated to the States in compliance with this section.

TITLE X—CRIME VICTIMS

SEC. 1001. SHORT TITLE.

This title may be cited as the "Victims' Rights and Restitution Act of 1991".

SEC. 1002. AVAILABILITY OF FUNDS.

Section 1402 of the Victims of Crime Act of 1984, as amended, is amended—

(a) by striking subsection (c) and redesignating (d), (e), (f) and (g) as subsections (c), (d), (e), and (f), respectively; and

(b) by adding a new subsection (c) to read as follows:

"(c) Availability of funds for expenditure; grant program percentages

"(1) Sums deposited in the Fund shall remain in the Fund and be available for expenditure under this subsection for grants under this chapter without fiscal year limitation.

"(2) The Fund shall be available as follows:

"(A) The first $6,200,000 deposited in the Fund in each of the fiscal years 1992 through 1995 and the first $3,000,000 in each fiscal year thereafter shall be available to the judicial branch for administrative costs to carry out the functions of the judicial branch under sections 3611 and 3612 of title 18, United States Code.

"(B) Of the first $100,000,000 deposited in the Fund in a particular fiscal year—

"(i) 49.5 percent shall be available for grants under section 10602 of this title;

"(ii) 45 percent shall be available for grants under section 10603(a) of this title;

"(iii) 1 percent shall be available for grants under section 10603(c) of this title; and

"(iv) 4.5 percent shall be available for grants as provided in section 10603a of this title.

"(C) The next $5,500,000 deposited in the Fund in a particular fiscal year shall be available for grants as provided in section 10603a of this title.

"(D) The next $4,500,000 deposited in the Fund in a particular fiscal year shall be available for grants under section 10603(a) of this title.

"(E) Any deposits in the Fund in a particular fiscal year that remain after the funds are distributed under subparagraphs (A) through (D) shall be available as follows:

"(i) 47.5 percent shall be available for grants under section 10602 of this title;

"(ii) 47.5 percent shall be available for grants under section 10603(a) of this title; and

"(iii) 5 percent shall be available for grants under section 10603(c)(1)(B) of this title.".

SEC. 1003. RELATIONSHIP OF CRIME VICTIM COMPENSATION TO CERTAIN FEDERAL PROGRAMS.

Section 1403 of the Victims of Crime Act of 1984 (42 U.S.C. 10602) is amended by adding at the end the following:

"(e) Notwithstanding any other provision of law, if the compensation paid by an eligible crime victim compensation program would cover costs that a Federal program, or a federally financed State or local program, would otherwise pay, then—

"(1) such crime victim compensation program shall not pay that compensation; and

"(2) the other program shall make its payments without regard to the existence of the crime victim compensation program.".

SEC. 1004. VICTIM'S RIGHT OF ALLOCUTION IN SENTENCING.

Rule 32 of the Federal Rules of Criminal Procedure is amended by—

(1) striking "and" following the semicolon in subdivision (a)(1)(B);

(2) striking the period at the end of subdivision (a)(1)(C) and inserting in lieu thereof "; and";

(3) inserting after subdivision (a)(1)(C) the following:

"(D) if sentence is to be imposed for a crime of violence or sexual abuse, address the victim personally if the victim is present at the sentencing hearing and determine if the victim wishes to make a statement and to present any information in relation to the sentence.";

(4) in the second to last sentence of subdivision (a)(1), striking "equivalent opportunity" and inserting in lieu thereof "opportunity equivalent to that of the defendant's counsel";

(5) in the last sentence of subdivision (a)(1) inserting "the victim," before "or the attorney for the Government."; and

(6) adding at the end the following:

"(f) DEFINITIONS.—For purposes of this rule—

"(1) 'victim' means any individual against whom an offense for which a sentence is to be imposed has been committed, but the right of allocution under subdivision (a)(1)(D) may be exercised instead by—

"(A) a parent or legal guardian in case the victim is below the age of eighteen years or incompetent; or

"(B) one or more family members or relatives designated by the court in case the victim is deceased or incapacitated;

if such person or persons are present at the sentencing hearing, regardless of whether the victim is present; and

"(2) 'crime of violence or sexual abuse' means a crime that involved the use or attempted or threatened use of physical force against the person or property of another, or a crime under chapter 109A of title 18, United States Code.".

TITLE XI—STATE AND LOCAL LAW ENFORCEMENT

Subtitle A—Safer Streets and Neighborhoods

SEC. 1101. SHORT TITLE.

This subtitle may be cited as the "Safer Streets and Neighborhoods Act of 1991".

SEC. 1102. GRANTS TO STATE AND LOCAL AGENCIES.

Paragraph (5) of section 1001(a) of part J of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended to read as follows:

"(5) There are authorized to be appropriated $1,000,000,000 for fiscal year 1992 and such sums as may be necessary in fiscal years 1993 and 1994 to carry out the programs under parts D and E of this title.".

SEC. 1103. CONTINUATION OF FEDERAL-STATE FUNDING FORMULA.

Section 504(a)(1) of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by section 211 of the Department of Justice Appropriations Act, 1990 (Public Law 101-162) and section 601 of the Crime Control Act of 1990 (Public Law 101-647), is amended by striking "1991" and inserting "1992".

SEC. 1104. GRANTS FOR MULTI-JURISDICTIONAL DRUG TASK FORCES.

Section 504(f) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3754(f)), is amended to delete the first word and insert the following: "Except for grants awarded to State and local governments for the purpose of participating in multi-jurisdictional drug task forces, no".

SEC. 1105. FEDERAL SHARE.

Section 504(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3754(a)) is amended by striking "not—" and all that follows through "per centum;" the last place it appears, and inserting the following: "not for any fiscal year be expended for more than 75 percent".

SEC. 1106. AUTHORIZATION OF APPROPRIATIONS.

Section 1001(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)) is amended by striking paragraph (7) as redesignated by section 1153 of this Act and inserting the following:

"(7) There are authorized to be appropriated such sums as may be necessary for fiscal year 1991 and $200,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out chapter B of subpart 2 of part E of this title.".

SEC. 1107. LIMITATION ON GRANT DISTRIBUTION.

(a) AMENDMENT.—Section 510(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3760(b)) is amended by inserting "non-Federal" after "with".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1991.

Subtitle B—DNA Identification

SEC. 1121. SHORT TITLE.

This subtitle may be cited as the "DNA Identification Act of 1991".

SEC. 1122. FUNDING TO IMPROVE THE QUALITY AND AVAILABILITY OF DNA ANALYSES FOR LAW ENFORCEMENT IDENTIFICATION PURPOSES.

(a) DRUG CONTROL AND SYSTEM IMPROVEMENT GRANT PROGRAM.—Section 501(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751(b)) is amended—

(1) in paragraph (20) by striking "and" at the end,

(2) in paragraph (21) by striking the period at the end and inserting "; and", and

(3) by adding at the end the following:

"(22) developing or improving in a forensic laboratory a capability to analyze deoxyribonucleic acid (hereinafter in this title referred to as 'DNA') for identification purposes.".

(b) STATE APPLICATIONS.—Section 503(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)) is amended by adding at the end thereof the following new paragraph:

"(12) If any part of a grant made under this part is to be used to develop or improve a DNA analysis capability in a forensic laboratory, a certification that—

"(A) DNA analyses performed at such laboratory will satisfy or exceed then current standards for a quality assurance program for DNA analysis, issued by the Director of the Federal Bureau of Investigation under section 1123 of the DNA Identification Act of 1991;

"(B) DNA samples obtained by, and DNA analyses performed at, such laboratory will be accessible only—

"(i) to criminal justice agencies for law enforcement identification purposes;

"(ii) for criminal defense purposes, to a defendant, who shall have access to samples and analyses performed in connection with the case in which such defendant is charged; or

"(iii) if personally identifiable information is removed, for a population statistics database, for identification research and protocol development purposes, or for quality control purposes; and

"(C) such laboratory, and each analyst performing DNA analyses at such laboratory, will undergo, at regular intervals of not to exceed 180 days, external proficiency testing by a DNA proficiency testing program meeting the standards issued under section 1123 of the DNA Identification Act of 1991.".

(c) AUTHORIZATION OF APPROPRIATION.—For each of the fiscal years 1992 through 1996, there are authorized to be appropriated $10 million for grants to the states for DNA analysis.

SEC. 1123. QUALITY ASSURANCE AND PROFICIENCY TESTING STANDARDS.

(a) PUBLICATION OF QUALITY ASSURANCE AND PROFICIENCY TESTING STANDARDS.—(1) Not later than 180 days after the date of the enactment of this Act, the Director of the Federal Bureau of Investigation shall appoint an advisory board on DNA quality assurance methods. The Director shall appoint members of the board from among nominations proposed by the head of the National Academy of Sciences and professional societies of crime laboratory directors. The advisory board shall include as members scientists from state and local forensic laboratories, molecular geneticists and population geneticists not affiliated with a forensic laboratory, and a representative from the National Institute of Standards and Technology. The advisory board shall develop, and if appropriate, periodically revise, recommended standards for quality assurance, including standards for testing the proficiency of forensic laboratories, and forensic analysts, in conducting analyses of DNA.

(2) The Director of the Federal Bureau of Investigation, after taking into consideration such recommended standards, shall issue (and revise from time to time) standards for quality assurance, including standards for testing the proficiency of forensic laboratories, and forensic analysts, in conducting analyses of DNA.

(3) The standards described in paragraphs (1) and (2) shall specify criteria for quality assurance and proficiency tests to be applied to the various types of DNA analyses used by forensic laboratories. The standards shall also include a system for grading proficiency testing performance to determine whether a laboratory is performing acceptably.

(4) Until such time as the advisory board has made recommendations to the Director of the Federal Bureau of Investigation and the Director has acted upon those recommendations, the quality assurance guidelines adopted by the technical working group on DNA analysis methods shall be deemed the Director's standards for purposes of this section.

(b) ADMINISTRATION OF THE ADVISORY BOARD.—For administrative purposes, the advisory board appointed under subsection (a) shall be considered an advisory board to the Director of the Federal Bureau of Investigation. Section 14 of the Federal Advisory Committee Act (5. U.S.C. App.) shall not apply with respect to the advisory board appointed under subsection (a). The board shall cease to exist on the date 5 years after the initial appointments are made to the board, unless the existence of the board is extended by the Director of the Federal Bureau of Investigation.

SEC. 1124. INDEX TO FACILITATE LAW ENFORCEMENT EXCHANGE OF DNA IDENTIFICATION INFORMATION

(a) The Director of the Federal Bureau of Investigation may establish an index of—

(1) DNA identification records of persons convicted of crimes;

(2) analyses of DNA samples recovered from crime scenes; and

(3) analyses of DNA samples recovered from unidentified human remains.

(b) Such index may include only information on DNA identification records and DNA analyses that are—

(1) based on analyses performed in accordance with publicly available standards that satisfy or exceed the guidelines for a quality assurance program for DNA analysis, issued by the Director of the Federal Bureau of Investigation under section 1123 of the DNA Identification Act of 1991;

(2) prepared by laboratories, and DNA analysts, that undergo, at regular intervals of not to exceed 180 days, external proficiency testing by a DNA proficiency testing program meeting the standards issued under section 1123 of the DNA Identification Act of 1991; and

(3) maintained by Federal, State, and local criminal justice agencies pursuant to rules that allow disclosure of stored DNA samples and DNA analyses only—

(A) to criminal justice agencies for law enforcement identification purposes;

(B) for criminal defense purposes, to a defendant, who shall have access to samples and analyses performed in connection with the case in which such defendant is charged; or

(C) if personally identifiable information is removed, for a population statistics database, for identification research and protocol development purposes, or for quality control purposes.

(c) The exchange of records authorized by this section is subject to cancellation if the quality control and privacy requirements described in subsection (b) of this section are not met.

SEC. 1125. FEDERAL BUREAU OF INVESTIGATION

(a) PROFICIENCY TESTING REQUIREMENTS.—

(1) GENERALLY.—Personnel at the Federal Bureau of Investigation who perform DNA analyses shall undergo, at regular intervals of not to exceed 180 days, external proficiency testing by a DNA proficiency testing program meeting the standards issued under section 1123(b). Within one year of the date of enactment of this Act, the Director of the Federal Bureau of Investigation shall arrange for periodic blind external tests to determine the proficiency of DNA analysis performed at the Federal Bureau of Investigation laboratory. As used in this paragraph, the term "blind external test" means a test that is presented to the laboratory through a second agency and appears to the analysts to involve routine evidence.

(2) REPORT.—For five years after the date of enactment of this Act, the Director of the Federal Bureau of Investigation shall submit to the Committees on the Judiciary of the House and Senate an annual report on the results of each of the tests referred to in paragraph (1).

(b) PRIVACY PROTECTION STANDARDS.—

(1) GENERALLY.—Except as provided in paragraph (2), the results of DNA tests performed for a Federal law enforcement agency for law enforcement purposes may be disclosed only—

(A) to criminal justice agencies for law enforcement identification purposes; or

(B) for criminal defense purposes, to a defendant, who shall have access to samples and analyses performed in connection with the case in which such defendant is charged.

(2) EXCEPTION.—If personally identifiable information is removed, test results may be disclosed for a population statistics database, for identification research and protocol development purposes, or for quality control purposes.

(c) CRIMINAL PENALTY.—(1) Whoever—

(A) by virtue of employment or official position, has possession of, or access to, individually identifiable DNA information indexed in a database created or maintained by any Federal law enforcement agency; and

(B) willfully discloses such information in any manner to any person or agency not entitled to receive it;

shall be fined not more than $100,000.

(2) Whoever, without authorization, willfully obtains DNA samples or individually identifiable DNA information indexed in a database created or maintained by any Federal law enforcement agency shall be fined not more than $100,000.

SEC. 1126. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Federal Bureau of Investigation $2,000,000 for each of fiscal years 1992 through 1996 to carry out sections 1123, 1124, and 1125 of this Act.

Subtitle C—Department of Justice Community Substance Abuse Prevention

SEC. 1131. SHORT TITLE.

This section may be cited as the "Department of Justice Community Substance Abuse Prevention Act of 1991".

SEC. 1132. COMMUNITY PARTNERSHIPS.

Part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end thereof the following:

"Subpart 4—Community Coalitions on Substance Abuse

"GRANTS TO COMBAT SUBSTANCE ABUSE

"SEC. 531. (a) DEFINITION.—As used in this section, the term 'eligible coalition' means an association, consisting of at least seven organizations, agencies, and individuals that are concerned about preventing substance abuse, that shall include—

"(1) public and private organizations and agencies that represent law enforcement, schools, health and social service agencies, and community-based organizations; and

"(2) representatives of 3 of the following groups: the clergy, academia, business, parents, youth, the media, civic and fraternal groups, or other nongovernmental interested parties.

"(b) GRANT PROGRAM.—The Attorney General, acting through the Director of the Bureau of Justice Assistance, and the appropriate State agency, shall make grants to eligible coalitions in order to—

"(1) plan and implement comprehensive long-term strategies for substance abuse prevention;

"(2) develop a detailed assessment of existing substance abuse prevention programs and activities to determine community resources and to identify major gaps and barriers in such programs and activities;

"(3) identify and solicit funding sources to enable such programs and activities to become self-sustaining;

"(4) develop a consensus regarding the priorities of a community concerning substance abuse;

"(5) develop a plan to implement such priorities; and

"(6) coordinate substance abuse services and activities, including prevention activities in the schools or communities and substance abuse treatment programs.

"(c) COMMUNITY PARTICIPATION.—In developing and implementing a substance abuse prevention program, a coalition receiving funds under subsection (b) shall—

"(1) emphasize and encourage substantial voluntary participation in the community, especially among individuals involved with youth such as teachers, coaches, parents, and clergy; and

"(2) emphasize and encourage the involvement of businesses, civic groups, and other community organizations and members.

"(d) APPLICATION.—An eligible coalition shall submit an application to the Attorney General and the appropriate State agency in order to receive a grant under this section. Such application shall—

"(1) describe and, to the extent possible, document the nature and extent of the substance abuse problem, emphasizing who is at risk and specifying which groups of individuals should be targeted for prevention and intervention;

"(2) describe the activities needing financial assistance;

"(3) identify participating agencies, organizations, and individuals;

"(4) identify the agency, organization, or individual that has responsibility for leading the coalition, and provide assurances that such agency, organization or individual has previous substance abuse prevention experience;

"(5) describe a mechanism to evaluate the success of the coalition in developing and carrying out the substance abuse prevention plan referred to in subsection (b)(5) and to report on such plan to the Attorney General on an annual basis; and

"(6) contain such additional information and assurances as the Attorney General and the appropriate State agency may prescribe.

"(e) PRIORITY.—In awarding grants under this section, the Attorney General and the appropriate State agency shall give priority to a community that—

"(1) provides evidence of significant substance abuse;

"(2) proposes a comprehensive and multifaceted approach to eliminating substance abuse;

"(3) encourages the involvement of businesses and community leaders in substance abuse prevention activities;

"(4) demonstrates a commitment and a high priority for preventing substance abuse; and

"(5) demonstrates support from the community and State and local agencies for efforts to eliminate substance abuse.

"(f) REVIEW.—Each coalition receiving money pursuant to the provisions of this section shall submit an annual report to the Attorney General, and the appropriate State agency, evaluating the effectiveness of the plan described in subsection (b)(5) and containing such additional information as the Attorney General, or the appropriate State agency, may prescribe. The Attorney General, in conjunction with the Director of the Bureau of Justice Assistance, and the appropriate State agency, shall submit an annual review to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives. Such review shall—

"(1) evaluate the grant program established in this section to determine its effectiveness;

"(2) implement necessary changes to the program that can be done by the Attorney General; and

"(3) recommend any statutory changes that are necessary.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the provisions of this section, $15,000,000 for fiscal year 1992, $20,000,000 for fiscal year 1993, and $25,000,000 for fiscal year 1994.".

(c) AMENDMENT TO TABLE OF SECTIONS.—The table of sections of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end thereof the following:

"SUBPART 4—COMMUNITY COALITION ON SUBSTANCE ABUSE

"Sec. 531. Grants to combat substance abuse.".

Subtitle D—Bindover System for Certain Violent Juveniles

SEC. 1141. BINDOVER SYSTEM.

Section 501(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751), as amended by section 1002, is amended—

(1) in paragraph (21) by striking "and" at the end;

(2) in paragraph (22) by striking the period at the end and inserting "; and"; and

(3) inserting after paragraph (22) the following:

"(23) programs which address the need for effective bindover systems for the prosecution of violent 16- and 17-year olds in courts with jurisdiction over adults for the crimes of—

"(A) murder in the first degree;

"(B) murder in the second degree;

"(C) attempted murder;

"(D) armed robbery when armed with a firearm;

"(E) aggravated battery or assault when armed with a firearm;

"(F) criminal sexual penetration when armed with a firearm; and

"(G) drive-by shootings as described in section 931 of title 18, United States Code." effective April 10, 1991.

Subtitle E—Community Policing; Cop on the Beat

SEC. 1151. SHORT TITLE.

This title may be cited as "The Community Policing; Cop on the Beat Act of 1991".

SEC. 1152. COMMUNITY POLICING; COP ON THE BEAT.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended—

(1) by redesignating part P as part Q;

(2) by redesignating section 1601 as section 1701; and

(3) by inserting after part O the following:

"PART P—COMMUNITY POLICING; COP ON THE BEAT GRANTS

"SEC. 1601. GRANT AUTHORIZATION.

"(a) GRANT PROJECTS.—The Director of the Bureau of Justice Assistance may make grants to units of local government and to community groups to establish or expand cooperative efforts between police and a community for the purposes of increasing police presence in the community, including—

"(1) developing innovative neighborhood-oriented policing programs;

"(2) providing new technologies to reduce the amount of time officers spend processing cases instead of patrolling the community;

"(3) purchasing equipment to improve communications between officers and the community and to improve the collection, analysis, and use of information about crime-related community problems;

"(4) developing policies that reorient police emphasis from reacting to crime to preventing crime;

"(5) creating decentralized police substations throughout the community to encourage interaction and cooperation between the public and law enforcement personnel on a local level;

"(6) providing training and problem solving for community crime problems;

"(7) providing training in cultural differences for law enforcement officials;

"(8) developing community-based crime prevention programs, such as safety programs for senior citizens, community anticrime groups, and other anticrime awareness programs;

"(9) developing crime prevention programs in communities which have experienced a recent increase in gang-related violence; and

"(10) developing projects following the model under subsection (b).

"(b) MODEL PROJECT.—The Director shall develop a written model that informs community members regarding—

"(1) how to identify the existence of a drug or gang house;

"(2) what civil remedies, such as public nuisance violations and civil suits in small claims court, are available; and

"(3) what mediation techniques are available between community members and individuals who have established a drug or gang house in such community.

"SEC. 1602. APPLICATION.

"(a) IN GENERAL.—(1) To be eligible to receive a grant under this part, a chief executive of a unit of local government, a duly authorized representative of a combination of local governments within a geographic region, or a community group shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(2) In such application, one office, or agency (public, private, or nonprofit) shall be designated as responsible for the coordination, implementation, administration, accounting, and evaluation of services described in the application.

"(b) GENERAL CONTENTS.—Each application under subsection (a) shall include—

"(1) a request for funds available under this part for the purposes described in section 1601;

"(2) a description of the areas and populations to be served by the grant; and

"(3) assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part.

"(c) COMPREHENSIVE PLAN.—Each application shall include a comprehensive plan which contains—

"(1) a description of the crime problems within the areas targeted for assistance;

"(2) a description of the projects to be developed;

"(3) a description of the resources available in the community to implement the plan together with a description of the gaps in the plan that cannot be filled with existing resources;

"(4) an explanation of how the requested grant shall be used to fill those gaps;

"(5) a description of the system the applicant shall establish to prevent and reduce crime problems; and

"(6) an evaluation component, including performance standards and quantifiable goals the applicant shall use to determine project progress, and the data the applicant shall collect to measure progress toward meeting project goals.

"SEC. 1603. ALLOCATION OF FUNDS; LIMITATIONS ON GRANTS.

"(a) ALLOCATION.—The Director shall allocate not less than 75 percent of the funds available under this part to units of local government or combinations of such units and not more than 20 percent of the funds available under this part to community groups.

"(b) ADMINISTRATIVE COST LIMITATION.—The Director shall use not more than 5 percent of the funds available under this part for the purposes of administration, technical assistance, and evaluation.

"(c) RENEWAL OF GRANTS.—A grant under this part may be renewed for up to 2 additional years after the first fiscal year during which the recipient receives its initial grant, subject to the availability of funds, if the Director determines that the funds made available to the recipient during the previous year were used in a manner required under the approved application and if the recipient can demonstrate significant progress toward achieving the goals of the plan required under section 1602(c).

"(d) FEDERAL SHARE.—The Federal share of a grant made under this part may not exceed 75

percent of the total costs of the projects described in the application submitted under section 1602 for the fiscal year for which the projects receive assistance under this part.

"SEC. 1604. AWARD OF GRANTS.

"(a) SELECTION OF RECIPIENTS.—The Director shall consider the following factors in awarding grants to units of local government or combinations of such units under this part:

"(1) NEED AND ABILITY.—Demonstrated need and evidence of the ability to provide the services described in the plan required under section 1602(c).

"(2) COMMUNITY-WIDE RESPONSE.—Evidence of the ability to coordinate community-wide response to crime.

"(3) MAINTAIN PROGRAM.—The ability to maintain a program to control and prevent crime after funding under this part is no longer available.

"(b) GEOGRAPHIC DISTRIBUTION.—The Director shall attempt, to the extent practicable, to achieve an equitable geographic distribution of grant awards.

"SEC. 1605. REPORTS.

"(a) REPORT TO DIRECTOR.—Recipients who receive funds under this part shall submit to the Director not later than March 1 of each year a report that describes progress achieved in carrying out the plan required under section 1602(c).

"(b) REPORT TO CONGRESS.—The Director shall submit to the Congress a report by October 1 of each year that shall contain a detailed statement regarding grant awards, activities of grant recipients, and an evaluation of projects established under this part.

"SEC. 1606. DEFINITIONS.

"For the purposes of this part:

"(1) The term 'community group' means a community-based nonprofit organization that has a primary purpose of crime prevention.

"(2) The term 'Director' means the Director of the Bureau of Justice Assistance.".

(b) CONFORMING AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by striking the matter relating to part P and inserting the following:

"PART P—COMMUNITY POLICING; COP ON THE BEAT GRANTS

"Sec. 1601. Grant authorization.
"Sec. 1602. Application.
"Sec. 1603. Allocation of funds; limitation on grants.
"Sec. 1604. Award of grants.
"Sec. 1605. Reports.
"Sec. 1606. Definitions.

"PART Q—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 1701. Continuation of rules, authorities, and proceedings.".

SEC. 1153. AUTHORIZATION OF APPROPRIATIONS.

Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793) is amended—

(1) by redesignating the last 3 paragraphs as paragraphs (7), (8), and (9); and

(2) by adding after paragraph (9) the following:

"(10) There are authorized to be appropriated $150,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the projects under part P.".

Subtitle F—Drug Testing of Arrested Individuals

SEC. 1161. DRUG TESTING UPON ARREST.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1151 of this Act, is amended—

(1) by redesignating part Q as part R;

(2) by redesignating section 1701 as section 1801; and

(3) by inserting after part P the following:

"PART Q—GRANTS FOR DRUG TESTING UPON ARREST

"SEC. 1701. GRANT AUTHORIZATION.

The Director of the Bureau of Justice Assistance is authorized to make grants under this part to States, for the use by States and units of local government in the States, for the purpose of developing, implementing, or continuing a drug testing project when individuals are arrested and during the pretrial period.

"SEC. 1702. STATE APPLICATIONS.

"(a) GENERAL REQUIREMENTS.—To request a grant under this part the chief executive of a State shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(b) MANDATORY ASSURANCES.—To be eligible to receive funds under this part, a State must agree to develop or maintain programs of urinalysis or similar drug testing of individuals upon arrest and on a regular basis pending trial for the purpose of making pretrial detention decisions.

"(c) CENTRAL OFFICE.—The office designated under section 507 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3757)—

"(1) shall prepare the application as required under subsection (a); and

"(2) shall administer grant funds received under this part, including, review of spending, processing, progress, financial reporting, technical assistance, grant adjustments, accounting, auditing, and fund disbursement.

"SEC. 1703. LOCAL APPLICATIONS.

"(a) IN GENERAL.—(1) To request funds under this part from a State, the chief executive of a unit of local government shall submit an application to the office designated under section 1702(c).

"(2) Such application shall be considered approved, in whole or in part, by the State not later than 90 days after such application is first received unless the State informs the applicant in writing of specific reasons for disapproval.

"(3) The State shall not disapprove any application submitted to the State without first affording the applicant reasonable notice and an opportunity for reconsideration.

"(4) If such application is approved, the unit of local government is eligible to receive such funds.

"(b) DISTRIBUTION TO UNITS OF LOCAL GOVERNMENT.—A State that receives funds under section 1701 in a fiscal year shall make such funds available to units of local government with an application that has been submitted and approved by the State within 90 days after the Bureau has approved the application submitted by the State and has made funds available to the State. The Director shall have the authority to waive the 90-day requirement in this section upon a finding that the State is unable to satisfy such requirement under State statutes.

"SEC. 1704. ALLOCATION AND DISTRIBUTION OF FUNDS.

"(a) STATE DISTRIBUTION.—Of the total amount appropriated under this part in any fiscal year—

"(1) 0.4 percent shall be allocated to each of the participating States; and

"(2) of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each of the participating States an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the number of individuals arrested in such State bears to the number of individuals arrested in all the participating States.

"(b) LOCAL DISTRIBUTION.—(1) A State that receives funds under this part in a fiscal year shall distribute to units of local government in such State that portion of such funds which bears the same ratio to the aggregate amount of such funds as the amount of funds expended by all units of local government for criminal justice in the preceding fiscal year bears to the aggregate amount of funds expended by the State and all units of local government in such State for criminal justice in such preceding fiscal year.

"(2) Any funds not distributed to units of local government under paragraph (1) shall be available for expenditure by such State for purposes specified in such State's application.

"(3) If the Director determines, on the basis of information available during any fiscal year, that a portion of the funds allocated to a State for such fiscal year will not be used by such State or that a State is not eligible to receive funds under section 1701, the Director shall award such funds to units of local government in such State giving priority to the units of local government that the Director considers to have the greatest need.

"(c) FEDERAL SHARE.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the projects described in the application submitted under section 1702 for the fiscal year for which the projects receive assistance under this part.

"(d) GEOGRAPHIC DISTRIBUTION.—The Director shall attempt, to the extent practicable, to achieve an equitable geographic distribution of grant awards.

"SEC. 1705. REPORT.

"A State or unit of local government that receives funds under this part shall submit to the Director a report in March of each fiscal year that funds are received under this part regarding the effectiveness of the drug testing project.".

(b) CONFORMING AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1152 of this Act, is amended by striking the matter relating to part Q and inserting the following:

"PART Q—DRUG TESTING FOR INDIVIDUALS ARRESTED

"Sec. 1701. Grant authorization.
"Sec. 1702. State applications.
"Sec. 1703. Local applications.
"Sec. 1704. Allocation and distribution of funds.
"Sec. 1705. Report.

"PART R—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 1801. Continuation of rules, authorities, and proceedings.".

SEC. 1162. AUTHORIZATION OF APPROPRIATIONS.

Section 1001(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793), as amended by section 1153 of this Act, is amended by adding after paragraph (10) the following:

"(11) There are authorized to be appropriated $100,000,000 for the fiscal years 1992, 1993, and 1994 to carry out the projects under part Q.".

Subtitle G—Racial and Ethnic Bias Study Grants

SEC. 1171. STUDY GRANTS

(a) FINDINGS.—The Congress finds that—

(1) equality under law is tested most profoundly by whether a legal system tolerates race playing a role in the criminal justice system; and

(2) States should examine their criminal justice systems in order to ensure that racial and ethnic bias has no part in such criminal justice systems.

(b) AUTHORIZATION OF GRANT PROGRAM.—

(1) IN GENERAL.—The Attorney General, through the Bureau of Justice Assistance, is au-

thorized to make grants to States that have established by State law or by the court of last resort a plan for analyzing the role of race in that State's criminal justice system. Such plan shall include recommendations designed to correct any findings that racial and ethnic bias plays such a role.

(2) CRITERIA FOR GRANTS.—Grants under this subsection shall be awarded based upon criteria established by the Attorney General. In establishing the criteria, the Attorney General shall take into consideration the population of the respective States, the racial and ethnic composition of the population of the States, and the crime rates of the States.

(3) REPORTS BY STATES.—Recipients of grants under this subsection shall report the findings and recommendations of studies funded by grants under this subsection to the Congress within reasonable time limits established by the Attorney General.

(4) REIMBURSEMENT OF STATES.—Grants may be made to reimburse States for work started prior to the date of enactment of this Act.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 for each of the fiscal years 1992, 1993, 1994, 1995, and 1996 to carry out the provisions of this section.

Subtitle H—Midnight Basketball

SEC. 1181. GRANTS FOR MIDNIGHT BASKETBALL LEAGUE ANTICRIME PROGRAMS.

(a) AUTHORITY.—The Attorney General of the United States, in consultation with the Secretary of Housing and Urban Development, shall make grants, to the extent that amounts are approved in appropriations Acts under subsection (m) to—

(1) eligible entities to assist such entities in carrying out midnight basketball league programs meeting the requirements of subsection (d); and

(2) eligible advisory entities to provide technical assistance to eligible entities in establishing and operating such midnight basketball league programs.

(b) ELIGIBLE ENTITIES.—

(1) IN GENERAL.—Subject to paragraph (2), grants under subsection (a)(1) may be made only to the following eligible entities:

(A) Entities eligible under section 520(b) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 11903a(b)) for a grant under section 520(a) of such Act.

(B) Nonprofit organizations providing crime prevention, employment counseling, job training, or other educational services.

(C) Nonprofit organizations providing federally-assisted low-income housing.

(2) PROHIBITION ON SECOND GRANTS.—A grant under subsection (a)(1) may not be made to an eligible entity if the entity has previously received a grant under such subsection, except that the Attorney General may exempt an eligible advisory entity from the prohibition under this paragraph in extraordinary circumstances.

(c) USE OF GRANT AMOUNTS.—Any eligible entity that receives a grant under subsection (a)(1) may use such amounts only—

(1) to establish or carry out a midnight basketball league program under subsection (d);

(2) for salaries for administrators and staff of the program;

(3) for other administrative costs of the program, except that not more than 5 percent of the grant amount may be used for such administrative costs; and

(4) for costs of training and assistance provided under subsection (d)(9).

(d) PROGRAM REQUIREMENTS.—Each eligible entity receiving a grant under subsection (a)(1) shall establish a midnight basketball league program as follows:

(1) The program shall establish a basketball league of not less than 8 teams having 10 players each.

(2) Not less than 50 percent of the players in the basketball league shall be residents of federally assisted low-income housing.

(3) The program shall be designed to serve primarily youths and young adults from a neighborhood or community whose population has not less than 2 of the following characteristics (in comparison with national averages):

(A) A substantial problem regarding use or sale of illegal drugs.

(B) A high incidence of crimes committed by youths or young adults.

(C) A high incidence of persons infected with the human immunodeficiency virus or sexually transmitted diseases.

(D) A high incidence of pregnancy or a high birth rate, among adolescents.

(E) A high unemployment rate for youths and young adults.

(F) A high rate of high school drop-outs.

(4) The program shall require each player in the league to attend employment counseling, job training, and other educational classes provided under the program, which shall be held at or near the site of the games.

(5) The program shall serve only youths and young adults who demonstrate a need for such counseling, training, and education provided by the program, in accordance with criteria for demonstrating need, which shall be established by the Attorney General in consultation with the Secretary of Housing and Urban Development and the Secretary of Labor, and with the Advisory Committee.

(6) Basketball games of the league shall be held between the hours of 10:00 p.m. and 2:00 a.m. at a location in the neighborhood or community served by the program.

(7) The program shall obtain sponsors for each team in the basketball league. Sponsors shall be private individuals or businesses in the neighborhood or community served by the program who make financial contributions to the program and participate in or supplement the employment, job training, and educational services provided to the players under the program with additional training or educational opportunities.

(8) The program shall comply with any criteria established by the Attorney General in consultation with the Secretary of Housing and Urban Development and with the Advisory Committee established under subsection (i).

(9) Administrators or organizers of the program shall receive training and technical assistance provided by eligible advisory entities receiving grants under subsection (h).

(e) GRANT AMOUNT LIMITATIONS.—

(1) PRIVATE CONTRIBUTIONS.—The Attorney General, in consultation with the Secretary of Housing and Urban Development, may not make a grant under subsection (a)(1) to an eligible entity that applies for a grant under subsection (f) unless the applicant entity certifies to the Attorney General and the Secretary that the entity will supplement the grant amounts with amounts of funds from non-Federal sources, as follows:

(A) In each of the first 2 years that amounts from the grant are disbursed (under paragraph (4)), an amount sufficient to provide not less than 35 percent of the cost of carrying out the midnight basketball league program.

(B) In each of the last 3 years that amounts from the grant are disbursed, an amount sufficient to provide not less than 50 percent of the cost of carrying out the midnight basketball league program.

(2) NON-FEDERAL FUNDS.—For purposes of this subsection, the term "funds from non-Federal sources" includes amounts from nonprofit organizations, public housing agencies, States, units of general local government, and Indian housing authorities, private contributions, any salary paid to staff (other than from grant amounts under subsection (a)(1)) to carry out the program of the eligible entity, in-kind contributions to carry out the program (as determined by the Attorney General, in consultation with the Secretary of Housing and Urban Development and with the Advisory Committee), the value of any donated material, equipment, or building, the value of any lease on a building, the value of any utilities provided, and the value of any time and services contributed by volunteers to carry out the program of the eligible entity.

(3) PROHIBITION ON SUBSTITUTION OF FUNDS.—Grant amounts under subsection (a)(1) and amounts provided by States and units of general local government to supplement grant amounts may not be used to replace other public funds previously used, or designated for use, under this section.

(4) MAXIMUM AND MINIMUM GRANT AMOUNTS.—The Attorney General, in consultation with the Secretary of Housing and Urban Development, may not make a grant under subsection (a)(1) to any single eligible entity in an amount less than $50,000 or exceeding $125,000.

(5) DISBURSEMENT.—Amounts provided under a grant under subsection (a)(1) shall be disbursed to the eligible entity receiving the grant over the 5-year period beginning on the date that the entity is selected to receive the grant, as follows:

(A) In each of the first 2 years of such 5-year period, 23 percent of the total grant amount shall be disbursed to the entity.

(B) In each of the last 3 years of such 5-year period, 18 percent of the total grant amount shall be disbursed to the entity.

(f) APPLICATIONS.—To be eligible to receive a grant under subsection (a)(1), an eligible entity shall submit to the Attorney General an application in the form and manner required by the Attorney General (after consultation the Secretary of Housing and Urban Development and with the Advisory Committee), which shall include—

(1) a description of the midnight basketball league program to be carried out by the entity, including a description of the employment counseling, job training, and other educational services to be provided;

(2) letters of agreement from service providers to provide training and counseling services required under subsection (d) and a description of such service providers;

(3) letters of agreement providing for facilities for basketball games and counseling, training, and educational services required under subsection (d) and a description of the facilities;

(4) a list of persons and businesses from the community served by the program who have expressed interest in sponsoring, or have made commitments to sponsor, a team in the midnight basketball league; and

(5) evidence that the neighborhood or community served by the program meets the requirements of subsection (d)(3).

(g) SELECTION.—The Attorney General, in consultation with the Secretary of Housing and Urban Development and with the Advisory Committee, shall select eligible entities that have submitted applications under subsection (f) to receive grants under subsection (a)(1). The Attorney General, in consultation with the Secretary of Housing and Urban Development and with the Advisory Committee, shall establish criteria for selection of applicants to receive such grants. The criteria shall include a preference for selection of eligible entities carrying out midnight basketball league programs in suburban and rural areas.

(h) TECHNICAL ASSISTANCE GRANTS.—Technical assistance grants under subsection (a)(2) shall be made as follows:

(1) ELIGIBLE ADVISORY ENTITIES.—Technical assistance grants may be made only to entities that—

(A) are experienced and have expertise in establishing, operating, or administering successful and effective programs for midnight basketball and employment, job training, and educational services similar to the programs under subsection (d); and

(B) have provided technical assistance to other entities regarding establishment and operation of such programs.

(2) USE.—Amounts received under technical assistance grants shall be used to establish centers for providing technical assistance to entities receiving grants under subsection (a)(1) of this section and section 520(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 11903a(a)) regarding establishment, operation, and administration of effective and successful midnight basketball league programs under this subsection.

(3) NUMBER AND AMOUNT.—To the extent that amounts are provided in appropriations Acts under subsection (m)(2) in each fiscal year, the Attorney General, in consultation with the Secretary of Housing and Urban Development, shall make technical assistance grants under subsection (a)(2). In each fiscal year that such amounts are available the Attorney General, in consultation with the Secretary of Housing and Urban Development, shall make 2 such grants, as follows:

(A) One grant shall be made to an eligible advisory entity for development of midnight basketball league programs in public housing projects.

(B) One grant shall be made to an eligible advisory entity for development of midnight basketball league programs in suburban or rural areas.

Each grant shall be in an amount not exceeding $50,000.

(i) ADVISORY COMMITTEE.—The Attorney General, in consultation with the Secretary of Housing and Urban Development, shall appoint an Advisory Committee to assist in providing grants under this subsection. The Advisory Committee shall be composed of not more than 7 members, as follows:

(1) Not fewer than 2 individuals who are involved in managing or administering midnight basketball programs that the Secretary determines have been successful and effective. Such individuals may not be involved in a program assisted under this subsection or a member or employee of an eligible advisory entity that receives a technical assistance grant under subsection (a)(2).

(2) A representative of the Office for Substance Abuse Prevention of the Public Health Service, Department of Health and Human Services, who is involved in administering the grant program for prevention, treatment, and rehabilitation model projects for high risk youth under section 509A of the Public Health Service Act (42 U.S.C. 290aa–8), who shall be selected by the Secretary of Health and Human Services.

(3) A representative of the Department of Education, who shall be selected by the Secretary of Education.

(4) A representative of the Department of Health and Human Services, who shall be selected by the Secretary of Health and Human Services from among officers and employees of the Department involved in issues relating to high-risk youth.

(5) A representative of the Department of Labor, who shall be selected by the Secretary of Labor.

(j) REPORTS.—The Attorney General, in consultation with the Secretary of Housing and Urban Development, shall require each eligible entity receiving a grant under subsection (a)(1) and each eligible advisory entity receiving a grant under subsection (a)(2) to submit for each year in which grant amounts are received by the entity, a report describing the activities carried out with such amounts.

(k) STUDY.—To the extent amounts are provided under appropriation Acts pursuant to subsection (m)(3), the Attorney General, in consultation with the Secretary of Housing and Urban Development, shall make a grant to one entity qualified to carry out a study under this subsection. The entity shall use such grant amounts to carry out a study of the effectiveness of midnight basketball league programs at reducing crime and increasing employability under subsection (d) of eligible entities receiving grants under subsection (a)(1). The Attorney General, in consultation with the Secretary of Housing and Urban Development, shall require such entity to submit a report describing the study and any conclusions and recommendations resulting from the study to the Congress and the Attorney General and the Secretary not later than the expiration of the 2-year period beginning on the date that the grant under this subsection is made.

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

(1) The term "Advisory Committee" means the Advisory Committee established under subsection (i).

(2) The term "eligible advisory entity" means an entity meeting the requirements under subsection (h)(1).

(3) The term "eligible entity" means an entity described under subsection (b)(1).

(4) The term "federally assisted low-income housing" has the meaning given the term in section 5126 of the Public and Assisted Housing Drug Elimination Act of 1990.

(m) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

(1) for grants under subsection (a)(1), $2,500,000 in each of fiscal years 1992 and 1993;

(2) for technical assistance grants under subsection (a)(2), $100,000 in each of fiscal years 1992 and 1993; and

(3) for a study grant under subsection (k), $250,000 in fiscal year 1992.

SEC. 1191. GRANT PROGRAM.

The Juvenile Justice and Delinquency Prevention Act of 1974 is amended in part B by—

(1) inserting after the heading for such part the following:

"Subpart I—General Grant Programs";

and

(2) adding at the end thereof a new subpart II, as follows:

"Subpart II—Juvenile Drug Trafficking and Gang Prevention Grants

"FORMULA GRANTS

"SEC. 231. (a) The Administrator is authorized to make grants to States and units of general local government or combinations thereof to assist them in planning, establishing, operating, coordinating, and evaluating projects directly or through grants and contracts with public and private agencies for the development of more effective programs including education, prevention, treatment and enforcement programs to reduce—

"(1) the formation or continuation of juvenile gangs; and

"(2) the use and sale of illegal drugs by juveniles.

"(b) The grants made under this section can be used for any of the following specific purposes:

"(1) To reduce the participation of juveniles in drug related crimes (including drug trafficking and drug use), particularly in and around elementary and secondary schools;

"(2) To reduce juvenile involvement in organized crime, drug and gang-related activity, particularly activities that involve the distribution of drugs by or to juveniles;

"(3) To develop within the juvenile justice system, including the juvenile corrections system, new and innovative means to address the problems of juveniles convicted of serious, drug-related and gang-related offenses;

"(4) To reduce juvenile drug and gang-related activity in public housing projects;

"(5) To provide technical assistance and training to personnel and agencies responsible for the adjudicatory and corrections components of the juvenile justice system to identify drug-dependent or gang-involved juvenile offenders and to provide appropriate counseling and treatment to such offenders;

"(6) To promote the involvement of all juveniles in lawful activities, including in-school and after-school programs for academic, athletic or artistic enrichment that also teach that drug and gang involvement are wrong;

"(7) To facilitate Federal and State cooperation with local school officials to develop education, prevention and treatment programs for juveniles who are likely to participate in the drug trafficking, drug use or gang-related activities;

"(8) To prevent juvenile drug and gang involvement in public housing projects through programs establishing youth sports and other activities, including girls and boys clubs, scout troops, and little leagues;

"(9) To provide pre- and post-trial drug abuse treatment to juveniles in the juvenile justice system; with the highest possible priority to providing drug abuse treatment to drug-dependent pregnant juveniles and drug-dependent juvenile mothers; and

"(10) To provide education and treatment programs for youth exposed to severe violence in their homes, schools or neighborhoods.

"(11) To establish sports mentoring and coaching programs in which athletes serve as role models for youth to teach that athletics provide a positive alternative to drug and gang involvement.

"(c) Of the funds made available to each State under this section (Formula Grants) 50 per centum of the funds made available to each State in any fiscal year shall be used for juvenile drug supply reduction programs and 50 per centum shall be used for juvenile drug demand reduction programs.

"SPECIAL EMPHASIS DRUG DEMAND REDUCTION AND ENFORCEMENT GRANTS

"SEC. 232. (a) The purpose of this section is to provide additional Federal assistance and support to identify promising new juvenile drug demand reduction and enforcement programs, to replicate and demonstrate these programs to serve as national, regional or local models that could be used, in whole or in part, by other public and private juvenile justice programs, and to provide technical assistance and training to public or private organizations to implement similar programs. In making grants under this section, the Administrator shall give priority to programs aimed at juvenile involvement in organized gang- and drug-related activities, including supply and demand reduction programs.

"(b) The Administrator is authorized to make grants to, or enter into contracts with, public or private non-profit agencies, institutions, or organizations or individuals to carry out any purpose authorized in section 231. The Administrator shall have final authority over all funds awarded under this subchapter.

"(c) Of the total amount appropriated for this subchapter, 20 per centum shall be reserved and set aside for this section in a special discretionary fund for use by the Administrator to carry out the purposes specified in section 231 as described in section 232(a). Grants made under this section may be made for amounts up to 100 per centum of the costs of the programs or projects.

"SPECIAL INTERNATIONAL PORTS OF ENTRY JUVENILE CRIME AND DRUG DEMAND REDUCTION GRANTS

"SEC. 233. (a) The purpose of this section is—

"(1) to provide additional Federal assistance and support to promising new programs that specifically and effectively address the unique crime and drug and alcohol related challenges faced by juveniles living at or near International Ports of Entry and in other international border communities, including rural localities;

"(2) to replicate and demonstrate these programs to serve as models that could be used, in whole or in part, in other similarly situated communities; and

"(3) to provide technical assistance and training to public or private organizations to implement similar programs.

"(b) The Administrator is authorized to make grants to, or enter into contracts with, public or private non-profit agencies, institutions, or organizations or individuals to carry out any purpose authorized in section 231, if the beneficiaries of the grantee's program are juveniles living at or near International Port of Entry or in other international border communities, including rural localities. The Administrator shall have final authority over all funds awarded under this section.

"(c) Of the total amount appropriated for this subchapter, 5 per centum shall be reserved and set aside for this section in a special discretionary fund for use by the Administrator to carry out the purposes specified in section 231 as described in section 233(a). Grants made under this section may be made for amounts up to 100 per centum of the costs of the programs.

"AUTHORIZATION

"SEC. 234. There is authorized to be appropriated $100,000,000 in fiscal year 1992 and such sums as may be necessary in fiscal year 1993 to carry out the purposes of this subpart.

"ALLOCATION OF FUND

"SEC. 235. Of the total amounts appropriated under this subpart in any fiscal year the amount remaining after setting aside the amounts required to be reserved to carry out section 232 (Discretionary Grants) shall be allocated as follows:

"(1) $400,000 shall be allocated to each of the participating States;

"(2) Of the total funds remaining after the allocation under paragraph (a), there shall be allocated to each of the participating States an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the population of juveniles of such State bears to the population of juveniles of all the participating States.

"APPLICATION

"SEC. 236. (a) Each State applying for grants under section 231 (Formula Grants) and each public or private entity applying for grants under section 232 (Discretionary Grants) shall submit an application to the Administrator in such form and containing such information as the Administrator shall prescribe.

"(b) To the extent practical, the Administrator shall prescribe regulations governing applications for this subpart that are substantially similar to the applications required under part I (general juvenile justice formula grant) and part C (special emphasis prevention and treatment grants), including the procedures relating to competition.

"(c) In addition to the requirements prescribed in subsection (b), each State application submitted under section 231 shall include a detailed description of how the funds made available shall be coordinated with Federal assistance provided in parts B and C of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 and by the Bureau of Justice Assistance under the Drug Control and System Improvement Grant program.

"REVIEW AND APPROVAL OF APPLICATIONS

"SEC. 237. The procedures and time limits imposed on the Federal and State Governments under sections 505 and 508, respectively, of title I of the Omnibus Crime Control and Safe Streets Act of 1968 relating to the review of applications and distribution of Federal funds shall apply to the review of applications and distribution of funds under this subpart.".

Subtitle I—Trauma Centers

SEC. 1195. TRAUMA CENTERS AND CRIME-RELATED VIOLENCE.

Title XII of the Public Health Service Act (42 U.S.C. 300d et seq.), as added by section 3 of Public Law 101–590 (104 Stat. 2915), is amended by adding at the end the following new part:

"PART D—REIMBURSEMENT FOR UNCOMPENSATED TRAUMA CARE

"SEC. 1241. GRANTS FOR CERTAIN TRAUMA CENTERS.

"(a) IN GENERAL.—The Secretary may make grants for the purpose of providing for the operating expenses of trauma centers that have incurred substantial uncompensated costs in providing trauma care in geographic areas with a significant incidence of violence due to crime. Grants under this subsection may be made only to such trauma centers.

"(b) MINIMUM QUALIFICATIONS OF CENTERS.—

"(1) SIGNIFICANT INCIDENCE OF TREATING PENETRATION WOUNDS.—

"(A) The Secretary may not make a grant under subsection (a) to a trauma center unless the trauma center demonstrates a significant incidence of uncompensated care debt as a result of treating a population of patients that has been served by the center for the period specified in subparagraph (B) for trauma, including a significant number of patients who were treated for wounds resulting from the penetration of the skin by knives, bullets, or other weapons.

"(B) The period specified in this subparagraph is the 2-year period preceding the fiscal year for which the trauma center involved is applying to receive a grant under subsection (a).

"(2) PARTICIPATION IN TRAUMA CARE SYSTEM OPERATING UNDER CERTAIN PROFESSIONAL GUIDELINES.—The Secretary may not make a grant under subsection (a) unless the trauma center involved is a participant in a system that—

"(A) provides comprehensive medical care to victims of trauma in the geographic area in which the trauma center involved is located;

"(B) is established by the State or political subdivision in which such center is located; and

"(C) has adopted guidelines for the designation of trauma centers, and for triage, transfer, and transportation policies, equivalent to (or more protective than) the applicable guidelines developed by the American College of Surgeons or utilized in the model plan established under section 1213(c).

"SEC. 1242. PRIORITIES IN MAKING GRANTS.

"In making grants under section 1241(a), the Secretary shall give priority to any application—

"(1) made by a trauma center that, for the purpose specified in such section, will receive financial assistance from the State or political subdivision involved for each fiscal year during which payments are made to the center from the grant, which financial assistance is exclusive of any assistance provided by the State or political subdivision as a non-Federal contribution under any Federal program requiring such a contribution; or

"(2) made by a trauma center that, with respect to the system described in section 1241(b)(2) in which the center is a participant—

"(A) is providing trauma care in a geographic area in which the availability of trauma care has significantly decreased as a result of a trauma center in the area permanently ceasing participation in such system as of a date occurring during the 5-year period specified in section 1241(b)(1)(B); or

"(B) will, in providing trauma care during the 1-year period beginning on the date on which the application for the grant is submitted, incur uncompensated costs in an amount rendering the center unable to continue participation in such system, resulting in a significant decrease in the availability of trauma care in the geographic area.

"SEC. 1243. COMMITMENT REGARDING CONTINUED PARTICIPATION IN TRAUMA CARE SYSTEM.

"The Secretary may not make a grant under subsection (a) of section 1241 unless the trauma center involved agrees that—

"(1) the center will continue participation in the system described in subsection (b) of such section throughout the two fiscal years immediately succeeding the fiscal year for which a grant is received;

"(2) if the agreement made pursuant to paragraph (1) is violated by the center, the center will be liable to the United States for an amount equal to the sum of—

"(A) the amount of assistance provided to the center under subsection (a) of such section; and

"(B) an amount representing interest on the amount specified in subparagraph (A); and

"(3) the center will establish a trauma registry not later than 6 months from the date on which the grant is received that shall include such information as the Secretary shall require.

"SEC. 1244. GENERAL PROVISIONS.

"(a) APPLICATION.—The Secretary may not make a grant under section 1241(a) unless an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

"(b) LIMITATION ON DURATION OF SUPPORT.—The period during which a trauma center receives payments under section 1241(a) may not exceed 3 fiscal years, except that the Secretary may waive such requirement for the center and authorize the center to receive such payments for 1 additional fiscal year.

"(c) LIMITATION ON AMOUNT OF GRANT.—The Secretary may not make a grant to any single trauma center in an amount that exceeds $2,000,000 in any fiscal year.

"(d) CONSULTATION.—Grants shall be awarded under section 1241(a) only after the Secretary has consulted with the state official responsible for emergency medical services, or another appropriate state official, in the State of the prospective grantee.

"SEC. 1245. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of carrying out this part, there are authorized to be appropriated $50,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 and 1994.".

SEC. 1196. CONFORMING AMENDMENTS.

Title XII of the Public Health Service Act (42 U.S.C. 300d et seq.), as added by section 3 of Public Law 101–590 (104 Stat. 2915), is amended—

(1) in the heading for part C, by inserting "REGARDING PARTS A AND B" after "PROVISIONS";

(2) in section 1231, in the matter preceding paragraph (1), by striking "this title" and inserting "this part and parts A and B"; and

(3) in section 1232(a), by striking "this title" and inserting "parts A and B".

Subtitle J—Certainty of Punishment for Young Offenders

SEC. 1198. SHORT TITLE.

This subtitle may be cited as the "Certainty of Punishment for Young Offenders Act of 1991".

SEC. 1199. CERTAINTY OF PUNISHMENT FOR YOUNG OFFENDERS.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1161 of this Act, is amended—

(1) by redesignating part R as part S;

(2) by redesignating section 1801 as section 1901; and

(3) by inserting after part Q the following:

"PART R—ALTERNATIVE PUNISHMENTS FOR YOUNG OFFENDERS

"SEC. 1801. GRANT AUTHORIZATION.

"(a) IN GENERAL.—The Director of the Bureau of Justice Assistance (referred to in this part as the 'Director') may make grants under this part to States, for the use by States and units of local government in the States, for the purpose of developing alternative methods of punishment for young offenders to traditional forms of incarceration and probation.

"(b) ALTERNATIVE METHODS.—The alternative methods of punishment referred to in subsection (a) should ensure certainty of punishment for young offenders and promote reduced recidivism, crime prevention, and assistance to victims, particularly for young offenders who can be punished more effectively in an environment other than a traditional correctional facility, including—

"(1) alternative sanctions that create accountability and certainty of punishment for young offenders;

"(2) boot camp prison programs;

"(3) technical training and support for the implementation and maintenance of State and local restitution programs for young offenders;

"(4) innovative projects;

"(5) correctional options, such as community-based incarceration, weekend incarceration, and electric monitoring of offenders;

"(6) community service programs that provide work service placement for young offenders at nonprofit, private organizations and community organizations;

"(7) demonstration restitution projects that are evaluated for effectiveness; and

"(8) innovative methods that address the problems of young offenders convicted of serious substance abuse, including alcohol abuse, and gang-related offenses, including technical assistance and training to counsel and treat such offenders.

"SEC. 1802. STATE APPLICATIONS.

"(a) IN GENERAL.—(1) To request a grant under this part, the chief executive of a State shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(2) Such application shall include assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part.

"(b) STATE OFFICE.—The office designated under section 507 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3757)—

"(1) shall prepare the application as required under section 1802; and

"(2) shall administer grant funds received under this part, including, review of spending, processing, progress, financial reporting, technical assistance, grant adjustments, accounting, auditing, and fund disbursement.

"SEC. 1803. REVIEW OF STATE APPLICATIONS.

"(a) IN GENERAL.—The Bureau shall make a grant under section 1801(a) to carry out the projects described in the application submitted by such applicant under section 1802 upon determining that—

"(1) the application is consistent with the requirements of this part; and

"(2) before the approval of the application, the Bureau has made an affirmative finding in writing that the proposed project has been reviewed in accordance with this part.

"(b) APPROVAL.—Each application submitted under section 1802 shall be considered approved, in whole or in part, by the Bureau not later than 45 days after first received unless the Bureau informs the applicant of specific reasons for disapproval.

"(c) RESTRICTION.—Grant funds received under this part shall not be used for land acquisition or construction projects, other than alternative facilities described in section 1801(b) for young offenders.

"(d) DISAPPROVAL NOTICE AND RECONSIDERATION.—The Bureau shall not disapprove any application without first affording the applicant reasonable notice and an opportunity for reconsideration.

"SEC. 1804. LOCAL APPLICATIONS.

"(a) IN GENERAL.—(1) To request funds under this part from a State, the chief executive of a unit of local government shall submit an application to the office designated under section 1802(b).

"(2) Such application shall be considered approved, in whole or in part, by the State not later than 45 days after such application is first received unless the State informs the applicant in writing of specific reasons for disapproval.

"(3) The State shall not disapprove any application submitted to the State without first affording the applicant reasonable notice and an opportunity for reconsideration.

"(4) If such application is approved, the unit of local government is eligible to receive such funds.

"(b) DISTRIBUTION TO UNITS OF LOCAL GOVERNMENT.—A State that receives funds under section 1801 in a fiscal year shall make such funds available to units of local government with an application that has been submitted and approved by the State within 45 days after the Bureau has approved the application submitted by the State and has made funds available to the State. The Director shall have the authority to waive the 45-day requirement in this section upon a finding that the State is unable to satisfy such requirement under State statutes.

"SEC. 1805. ALLOCATION AND DISTRIBUTION OF FUNDS.

"(a) STATE DISTRIBUTION.—Of the total amount appropriated under this part in any fiscal year—

"(1) 0.4 percent shall be allocated to each of the participating States; and

"(2) of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each of the participating States an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the number of young offenders of such State bears to the number of young offenders in all the participating States.

"(b) LOCAL DISTRIBUTION.—(1) A State that receives funds under this part in a fiscal year shall distribute to units of local government in such State for the purposes specified under section 1801 that portion of such funds which bears the same ratio to the aggregate amount of such funds as the amount of funds expended by all units of local government for criminal justice in the preceding fiscal year bears to the aggregate amount of funds expended by the State and all units of local government in such State for criminal justice in such preceding fiscal year.

"(2) Any funds not distributed to units of local government under paragraph (1) shall be available for expenditure by such State for purposes specified under section 1801.

"(3) If the Director determines, on the basis of information available during any fiscal year, that a portion of the funds allocated to a State for such fiscal year will not be used by such State or that a State is not eligible to receive funds under section 1801, the Director shall award such funds to units of local government in such State giving priority to the units of local government that the Director considers to have the greatest need.

"(c) FEDERAL SHARE.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the projects described in the application submitted under section 1802(a) for the fiscal year for which the projects receive assistance under this part.

"SEC. 1806. EVALUATION.

"(a) IN GENERAL.—(1) Each State and local unit of government that receives a grant under this part shall submit to the Director an evaluation not later than March 1 of each year in accordance with guidelines issued by the Director and in consultation with the National Institute of Justice.

"(2) The Director may waive the requirement specified in subsection (a) if the Director determines that such evaluation is not warranted in the case of the State or unit of local government involved.

"(b) DISTRIBUTION.—The Director shall make available to the public on a timely basis evaluations received under subsection (a).

"(c) ADMINISTRATIVE COSTS.—A State and local unit of government may use not more than 5 percent of funds it receives under this part to develop an evaluation program under this section.".

(b) CONFORMING AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1162 of this Act, is amended by striking the matter relating to part R and inserting the following:

"PART R—ALTERNATIVE PUNISHMENTS FOR YOUNG OFFENDERS

"Sec. 1801. Grant authorization.
"Sec. 1802. State applications.
"Sec. 1803. Review of State applications.
"Sec. 1804. Local applications.
"Sec. 1805. Allocation and distribution of funds.
"Sec. 1806. Evaluation.

"PART S—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 1901. Continuation of rules, authorities, and proceedings.".

(c) DEFINITION.—Section 901(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(a)), as amended by section 1421 of this Act, is amended by adding after paragraph (24) the following:

"(25) The term 'young offender' means an individual 28 years of age or younger.".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793) is amended by adding after paragraph (11) the following:

"(12) There are authorized to be appropriated $200,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the projects under part R.".

TITLE XII—PROVISIONS RELATING TO POLICE OFFICERS

Subtitle A—Law Enforcement Family Support

SEC. 1201. LAW ENFORCEMENT FAMILY SUPPORT.

Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1199 of this Act is amended—

(1) by redesignating part S as part T;
(2) by redesignating section 1901 as 2001; and
(3) by inserting after part R the following:

"PART S—FAMILY SUPPORT

"SEC. 1901. DUTIES OF DIRECTOR.

"The Director shall—

"(1) establish guidelines and oversee the implementation of family-friendly policies within law enforcement-related offices and divisions in the Department of Justice;

"(2) study the effects of stress on law enforcement personnel and family well-being and disseminate the findings of such studies to Federal, State, and local law enforcement agencies, related organizations, and other interested parties;

"(3) identify and evaluate model programs that provide support services to law enforcement personnel and families;

"(4) provide technical assistance and training programs to develop stress reduction and family support to State and local law enforcement agencies;

"(5) collect and disseminate information regarding family support, stress reduction, and psychological services to Federal, State, and local law enforcement agencies, law enforcement-related organizations, and other interested entities; and

"(6) determine issues to be researched by the Bureau and by grant recipients.

"SEC. 1902. GENERAL AUTHORIZATION.

"The Director is authorized to make grants to States and local law enforcement agencies to provide family support services to law enforcement personnel.

"SEC. 1903. USES OF FUNDS.

"(a) IN GENERAL.—A State or local law enforcement agency that receives a grant under this Act shall use amounts provided under the grant to establish or improve training and support programs for law enforcement personnel.

"(b) REQUIRED ACTIVITIES.—A law enforcement agency that receives funds under this Act shall provide at least one of the following services:

"(1) Counseling for law enforcement family members.

"(2) Child care on a 24-hour basis.

"(3) Marital and adolescent support groups.

"(4) Stress reduction programs.

"(5) Stress education for law enforcement recruits and families.

"(c) OPTIONAL ACTIVITIES.—A law enforcement agency that receives funds under this Act may provide the following services:

"(1) Post-shooting debriefing for officers and their spouses.

"(2) Group therapy.

"(3) Hypertension clinics.

"(4) Critical incident response on a 24-hour basis.

"(5) Law enforcement family crisis telephone services on a 24-hour basis.

"(6) Counseling for law enforcement personnel exposed to the human immunodeficiency virus.

"(7) Counseling for peers.

"(8) Counseling for families of personnel killed in the line of duty.

"(9) Seminars regarding alcohol, drug use, gambling, and overeating.

"SEC. 1904. APPLICATIONS.

"A law enforcement agency desiring to receive a grant under this part shall submit to the Director an application at such time, in such manner, and containing or accompanied by such information as the Director may reasonably require. Such application shall—

"(1) certify that the law enforcement agency shall match all Federal funds with an equal amount of cash or in-kind goods or services from other non-Federal sources;

"(2) include a statement from the highest ranking law enforcement official from the State or locality applying for the grant that attests to the need and intended use of services to be provided with grant funds; and

"(3) assure that the Director or the Comptroller General of the United States shall have access to all records related to the receipt and use of grant funds received under this Act.

"SEC. 1905. AWARD OF GRANTS; LIMITATION.

"(a) GRANT DISTRIBUTION.—In approving grants under this part, the Director shall assure an equitable distribution of assistance among the States, among urban and rural areas of the United States, and among urban and rural areas of a State.

"(b) DURATION.—The Director may award a grant each fiscal year, not to exceed $100,000 to a State or local law enforcement agency for a period not to exceed 5 years. In any application from a State or local law enforcement agency for a grant to continue a program for the second, third, fourth, or fifth fiscal year following the first fiscal year in which a grant was awarded to such agency, the Director shall review the progress made toward meeting the objectives of the program. The Director may refuse to award a grant if the Director finds sufficient progress has not been made toward meeting such objectives, but only after affording the applicant notice and an opportunity for reconsideration.

"(c) LIMITATION.—Not more than 10 percent of grant funds received by a State or a local law enforcement agency may be used for administrative purposes.

"SEC. 1906. DISCRETIONARY RESEARCH GRANTS.

"The Director may reserve 10 percent of funds to award research grants to a State or local law enforcement agency to study issues of importance in the law enforcement field as determined by the Director.

"SEC. 1907. REPORTS.

"(a) REPORT FROM GRANT RECIPIENTS.—A State or local law enforcement agency that receives a grant under this Act shall submit to the Director an annual report that includes—

"(1) program descriptions;

"(2) the number of staff employed to administer programs;

"(3) the number of individuals who participated in programs; and

"(4) an evaluation of the effectiveness of grant programs.

"(b) REPORT FROM DIRECTOR.—(1) The Director shall submit to the Congress a report not later than March 31 of each fiscal year.

"(2) Such report shall contain—

"(A) a description of the types of projects developed or improved through funds received under this Act;

"(B) a description of exemplary projects and activities developed;

"(C) a designation of the family relationship to the law enforcement personnel of individuals served; and

"(D) the number of individuals served in each location and throughout the country.

"SEC. 1908. DEFINITIONS.

"For purposes of this part—

"(1) the term 'family-friendly policy' means a policy to promote or improve the morale and well being of law enforcement personnel and their families; and

"(2) the term 'law enforcement personnel' means individuals employed by Federal, State, and local law enforcement agencies.".

(b) CONFORMING AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1199 of this Act, is amended by striking the matter relating to part V and inserting the following:

"PART S—FAMILY SUPPORT

"Sec. 1901. Duties of director.
"Sec. 1902. General authorization.
"Sec. 1903. Uses of funds.
"Sec. 1904. Applications.
"Sec. 1905. Award of grants; limitation.
"Sec. 1906. Discretionary research grants.
"Sec. 1907. Reports.
"Sec. 1908. Definitions.

"PART T—TRANSITION; EFFECTIVE DATE; REPEALS

"Sec. 2001. Continuation of rules, authorities, and privileges.".

SEC. 1202. AUTHORIZATION OF APPROPRIATIONS.

Section 1001(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1199 of this Act, is amended by adding after paragraph (11) the following:

"(12) There are authorized to be appropriated $5,000,000 for each of the fiscal years 1992, 1993, 1994, 1995, and 1996. Not more than 20 percent of such funds may be used to accomplish the duties of the Director under section 1901 in part S of this Act, including administrative costs, research, and training programs.".

Subtitle B—Police Pattern or Practice

SEC. 1211. PATTERN OR PRACTICE CASES; CAUSE OF ACTION.

Chapter 21 of title 42, United States Code, is amended by adding the following new section:

"SECTION 1998. PATTERN OR PRACTICE CASES.

"(a) UNLAWFUL CONDUCT.—It shall be unlawful for any governmental authority, or any agent thereof, or any person acting on behalf of a governmental authority, to engage in a pattern or practice of conduct by law enforcement officers that deprives persons of rights, privileges, or immunities, secured or protected by the Constitution or laws of the United States.

"(b) CIVIL ACTION BY ATTORNEY GENERAL.—Whenever the Attorney General has reasonable cause to believe that a violation of paragraph (1) has occurred, the Attorney General, for or in the name of the United States, may in a civil action obtain appropriate equitable and declaratory relief to eliminate the pattern or practice.".

SEC. 1212. DATA ON USE OF EXCESSIVE FORCE.

(a) ATTORNEY GENERAL TO COLLECT.—The Attorney General shall, through the victimization surveys conducted by the Bureau of Justice Statistics, acquire data about the use of excessive force by law enforcement officers.

(b) LIMITATION ON USE OF DATA.—Data acquired under this section shall be used only for research or statistical purposes and may not contain any information that may reveal the identity of the victim or any law enforcement officer.

(c) ANNUAL SUMMARY.—The Attorney general shall publish an annual summary of the data acquired under this section.

Subtitle C—Police Corps and Law Enforcement Officers Training and Education

SEC. 1221. SHORT TITLE.

This title may be cited as the "Police Corps and Law Enforcement Training and Education Act".

SEC. 1222. PURPOSES.

The purposes of this title are to—

(1) address violent crime by increasing the number of police with advanced education and training on community patrol;

(2) provide educational assistance to law enforcement personnel and to students who possess a sincere interest in public service in the form of law enforcement; and

(3) assist State and local law enforcement efforts to enhance the educational status of law enforcement personnel both through increasing the educational level of existing officers and by recruiting more highly educated officers.

SEC. 1223. ESTABLISHMENT OF OFFICE OF THE POLICE CORPS AND LAW ENFORCEMENT EDUCATION.

(a) ESTABLISHMENT.—There is established in the Department of Justice, under the general

authority of the Attorney General, an Office of the Police Corps and Law Enforcement Education.

(b) APPOINTMENT OF DIRECTOR.—The Office of the Police Corps and Law Enforcement Education shall be headed by a Director (referred to in this title as the "Director") who shall be appointed by the President, by and with the advice and consent of the Senate.

(c) RESPONSIBILITIES OF DIRECTOR.—The Director shall be responsible for the administration of the Police Corps program established in subtitle A and the Law Enforcement Scholarship program established in subtitle B and shall have authority to promulgate regulations to implement this title.

SEC. 1224. DESIGNATION OF LEAD AGENCY AND SUBMISSION OF STATE PLAN.

(a) LEAD AGENCY.—A State that desires to participate in the Police Corps program under subtitle A or the Law Enforcement Scholarship program under subtitle B shall designate a lead agency that will be responsible for—

(1) submitting to the Director a State plan described in subsection (b); and

(2) administering the program in the State.

(b) STATE PLANS.—A State plan shall—

(1) contain assurances that the lead agency shall work in cooperation with the local law enforcement liaisons, representatives of police labor organizations and police management organizations, and other appropriate State and local agencies to develop and implement interagency agreements designed to carry out the program;

(2) contain assurances that the State shall advertise the assistance available under this title;

(3) contain assurances that the State shall screen and select law enforcement personnel for participation in the program;

(4) if the State desires to participate in the Police Corps program under subtitle A, meet the requirements of section 1236; and

(5) if the State desires to participate in the Law Enforcement Scholarship program under subtitle B, meet the requirements of section 826.

CHAPTER 1—POLICE CORPS PROGRAM

SEC. 1231. DEFINITIONS.

For the purposes of this subtitle—

(1) the term "academic year" means a traditional academic year beginning in August or September and ending in the following May or June;

(2) the term "dependent child" means a natural or adopted child or stepchild of a law enforcement officer who at the time of the officer's death—

(A) was no more than 21 years old; or

(B) if older than 21 years, was in fact dependent on the child's parents for at least one-half of the child's support (excluding educational expenses), as determined by the Director;

(3) the term "educational expenses" means expenses that are directly attributable to—

(A) a course of education leading to the award of the baccalaureate degree; or

(B) a course of graduate study following award of a baccalaureate degree,

including the cost of tuition, fees, books, supplies, transportation, room and board and miscellaneous expenses;

(4) the term "participant" means a participant in the Police Corps program selected pursuant to section 1233;

(5) the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands; and

(6) the term "State Police Corps program" means a State police corps program approved under section 1236.

SEC. 1232. SCHOLARSHIP ASSISTANCE.

(a) SCHOLARSHIPS AUTHORIZED.—(1) The Director is authorized to award scholarships to participants who agree to work in a State or local police force in accordance with agreements entered into pursuant to subsection (d).

(2)(A) Except as provided in subparagraph (B) each scholarship payment made under this section for each academic year shall not exceed—

(i) $7,500; or

(ii) the cost of the educational expenses related to attending an institution of higher education.

(B) In the case of a participant who is pursuing a course of educational study during substantially an entire calendar year, the amount of scholarship payments made during such year shall not exceed $10,000.

(C) The total amount of scholarship assistance received by any one student under this section shall not exceed $30,000.

(4) Recipients of scholarship assistance under this section shall continue to receive such scholarship payments only during such periods as the Director finds that the recipient is maintaining satisfactory progress as determined by the institution of higher education the recipient is attending.

(5)(A) The Director shall make scholarship payments under this section directly to the institution of higher education that the student is attending.

(B) Each institution of higher education receiving a payment on behalf of a participant pursuant to subparagraph (A) shall remit to such student any funds in excess of the costs of tuition, fees, and room and board payable to the institution.

(b) REIMBURSEMENT AUTHORIZED.—(1) The Director is authorized to make payments to a participant to reimburse such participant for the costs of educational expenses if such student agrees to work in a State or local police force in accordance with the agreement entered into pursuant to subsection (d).

(2)(A) Each payment made pursuant to paragraph (1) for each academic year of study shall not exceed—

(i) $7,500; or

(ii) the cost of educational expenses related to attending an institution of higher education.

(B) In the case of a participant who is pursuing a course of educational study during substantially an entire calendar year, the amount of scholarship payments made during such year shall not exceed $10,000.

(C) The total amount of payments made pursuant to subparagraph (A) to any one student shall not exceed $30,000.

(c) USE OF SCHOLARSHIP.—Scholarships awarded under this subsection shall only be used to attend a 4-year institution of higher education, except that—

(1) scholarships may be used for graduate and professional study, and

(2) where a participant has enrolled in the program upon or after transfer to a four-year institution of higher education, the Director may reimburse the participant for the participant's prior educational expenses.

(d) AGREEMENT.—(1) Each participant receiving a scholarship or a payment under this section shall enter into an agreement with the Director. Each such agreement shall contain assurances that the participant shall—

(A) after successful completion of a baccalaureate program and training as prescribed in section 1234, work for 4 years in a State or local police force without there having arisen sufficient cause for the participant's dismissal under the rules applicable to members of the police force of which the participant is a member;

(B) complete satisfactorily—

(i) an educational course of study and receipt of a baccalaureate degree (in the case of undergraduate study) or the reward of credit to the participant for having completed one or more graduate courses (in the case of graduate study);

(ii) Police Corps training and certification by the Director that the participant has met such performance standards as may be established pursuant to section 1234; and

(C) repay all of the scholarship or payment received plus interest at the rate of 10 percent in the event that the conditions of subparagraphs (A) and (B) are not complied with.

(2)(A) A recipient of a scholarship or payment under this section shall not be considered in violation of the agreement entered into pursuant to paragraph (1) if the recipient—

(i) dies; or

(ii) becomes permanently and totally disabled as established by the sworn affidavit of a qualified physician.

(B) In the event that a scholarship recipient is unable to comply with the repayment provision set forth in subparagraph (B) of paragraph (1) because of a physical or emotional disability or for good cause as determined by the Director, the Director may substitute community service in a form prescribed by the Director for the required repayment.

(C) The Director shall expeditiously seek repayment from participants who violate the agreement described in paragraph (1).

(e) DEPENDENT CHILD.—A dependent child of a law enforcement officer—

(1) who is a member of a State or local police force or is a Federal criminal investigator or uniformed police officer,

(2) who is not a participant in the Police Corps program, but

(3) who serves in a State for which the Director has approved a Police Corps plan, and

(4) who is killed in the course of performing police duties,

shall be entitled to the scholarship assistance authorized in this section for any course of study in any accredited institution of higher education. Such dependent child shall not incur any repayment obligation in exchange for the scholarship assistance provided in this section.

(f) APPLICATION.—Each participant desiring a scholarship or payment under this section shall submit an application as prescribed by the Director in such manner and accompanied by such information as the Director may reasonably require.

(g) DEFINITION.—For the purposes of this section the term "institution of higher education" has the meaning given that term in the first sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

SEC. 1233. SELECTION OF PARTICIPANTS.

(a) IN GENERAL.—Participants in State Police Corps programs shall be selected on a competitive basis by each State under regulations prescribed by the Director.

(b) SELECTION CRITERIA AND QUALIFICATIONS.—(1) In order to participate in a State Police Corps program, a participant must—

(A) be a citizen of the United States or an alien lawfully admitted for permanent residence in the United States;

(B) meet the requirements for admission as a trainee of the State or local police force to which the participant will be assigned pursuant to section 1235(c)(5), including achievement of satisfactory scores on any applicable examination, except that failure to meet the age requirement for a trainee of the State or local police shall not disqualify the applicant if the applicant will be of sufficient age upon completing an undergraduate course of study;

(C) possess the necessary mental and physical capabilities and emotional characteristics to discharge effectively the duties of a law enforcement officer;

(D) be of good character and demonstrate sincere motivation and dedication to law enforcement and public service;

(E) in the case of an undergraduate, agree in writing that the participant will complete an educational course of study leading to the award of a baccalaureate degree and will then accept an appointment and complete 4 years of service as an officer in the State police or in a local police department within the State;

(F) in the case of a participant desiring to undertake or continue graduate study, agree in writing that the participant will accept an appointment and complete 4 years of service as an officer in the State police or in a local police department within the State before undertaking or continuing graduate study;

(G) contract, with the consent of the participant's parent or guardian if the participant is a minor, to serve for 4 years as an officer in the State police or in a local police department, if an appointment is offered; and

(H) except as provided in paragraph (2), be without previous law enforcement experience.

(2)(A) Until the date that is 5 years after the date of enactment of this title, up to 10 percent of the applicants accepted into the Police Corps program may be persons who—

(i) have had some law enforcement experience; and

(ii) have demonstrated special leadership potential and dedication to law enforcement.

(B)(i) The prior period of law enforcement of a participant selected pursuant to subparagraph (A) shall not be counted toward satisfaction of the participant's 4-year service obligation under section 1235, and such a participant shall be subject to the same benefits and obligations under this subtitle as other participants, including those stated in section (b)(1) (E) and (F).

(ii) Clause (i) shall not be construed to preclude counting a participant's previous period of law enforcement experience for purposes other than satisfaction of the requirements of section 1235, such as for purposes of determining such a participant's pay and other benefits, rank, and tenure.

(3) It is the intent of this Act that there shall be no more than 20,000 participants in each graduating class. The Director shall approve State plans providing in the aggregate for such enrollment of applicants as shall assure, as nearly as possible, annual graduating classes of 20,000. In a year in which applications are received in a number greater than that which will produce, in the judgment of the Director, a graduating class of more than 20,000, the Director shall, in deciding which applications to grant, give preference to those who will be participating in State plans that provide law enforcement personnel to areas of greatest need.

(c) RECRUITMENT OF MINORITIES.—Each State participating in the Police Corps program shall make special efforts to seek and recruit applicants from among members of all racial, ethnic or gender groups. This subsection does not authorize an exception from the competitive standards for admission established pursuant to subsections (a) and (b).

(d) ENROLLMENT OF APPLICANT.—(1) An applicant shall be accepted into a State Police Corps program on the condition that the applicant will be matriculated in, or accepted for admission at, a 4-year institution of higher education (as described in the first sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)))—

(A) as a full-time student in an undergraduate program; or

(B) for purposes of taking a graduate course.

(2) If the applicant is not matriculated or accepted as set forth in paragraph (1), the applicant's acceptance in the program shall be revoked.

(e) LEAVE OF ABSENCE.—(1) A participant in a State Police Corps program who requests a leave of absence from educational study, training or service for a period not to exceed 1 year (or 18 months in the aggregate in the event of multiple requests) due to temporary physical or emotional disability shall be granted such leave of absence by the State.

(2) A participant who requests a leave of absence from educational study, training or service for a period not to exceed 1 year (or 18 months in the aggregate in the event of multiple requests) for any reason other than those listed in paragraph (1) may be granted such leave of absence by the State.

(3) A participant who requests a leave of absence from educational study or training for a period not to exceed 30 months to serve on an official church mission may be granted such leave of absence.

(f) ADMISSION OF APPLICANTS.—An applicant may be admitted into a State Police Corps program either before commencement of or during the applicant's course of educational study.

SEC. 1234. POLICE CORPS TRAINING.

(a) IN GENERAL.—(1) The Director shall establish programs of training for Police Corps participants. Such programs may be carried out at up to 3 training centers established for this purpose and administered by the Director, or by contracting with existing State training facilities. The Director shall contract with a State training facility upon request of such facility if the Director determines that such facility offers a course of training substantially equivalent to the Police Corps training program described in this subtitle.

(2) The Director is authorized to enter into contracts with individuals, institutions of learning, and government agencies (including State and local police forces), to obtain the services of persons qualified to participate in and contribute to the training process.

(3) The Director is authorized to enter into agreements with agencies of the Federal Government to utilize on a reimbursable basis space in Federal buildings and other resources.

(4) The Director may authorize such expenditures as are necessary for the effective maintenance of the training centers, including purchases of supplies, uniforms, and educational materials, and the provision of subsistence, quarters, and medical care to participants.

(b) TRAINING SESSIONS.—A participant in a State Police Corps program shall attend two 8-week training sessions at a training center, one during the summer following completion of sophomore year and one during the summer following completion of junior year. If a participant enters the program after sophomore year, the participant shall complete 16 weeks of training at times determined by the Director.

(c) FURTHER TRAINING.—The 16 weeks of Police Corps training authorized in this section is intended to serve as basic law enforcement training but not to exclude further training of participants by the State and local authorities to which they will be assigned. Each State plan approved by the Director under section 1236 shall include assurances that following completion of a participant's course of education each participant shall receive appropriate additional training by the State or local authority to which the participant is assigned. The time spent by a participant in such additional training, but not the time spent in Police Corps training, shall be counted toward fulfillment of the participant's 4-year service obligation.

(d) COURSE OF TRAINING.—The training sessions at training centers established under this section shall be designed to provide basic law enforcement training, including vigorous physical and mental training to teach participants self-discipline and organizational loyalty and to impart knowledge and understanding of legal processes and law enforcement.

(e) EVALUATION OF PARTICIPANTS.—A participant shall be evaluated during training for mental, physical, and emotional fitness, and shall be required to meet performance standards prescribed by the Director at the conclusion of each training session in order to remain in the Police Corps program.

(f) STIPEND.—The Director shall pay participants in training sessions a stipend of $250 a week during training.

SEC. 1235. SERVICE OBLIGATION.

(a) SWEARING IN.—Upon satisfactory completion of the participant's course of education and training program established in section 1234 and meeting the requirements of the police force to which the participant is assigned, a participant shall be sworn in as a member of the police force to which the participant is assigned pursuant to the State Police Corps plan, and shall serve for 4 years as a member of that police force.

(b) RIGHTS AND RESPONSIBILITIES.—A participant shall have all of the rights and responsibilities of and shall be subject to all rules and regulations applicable to other members of the police force of which the participant is a member, including those contained in applicable agreements with labor organizations and those provided by State and local law.

(c) DISCIPLINE.—If the police force of which the participant is a member subjects the participant to discipline such as would preclude the participant's completing 4 years of service, and result in denial of educational assistance under section 1232, the Director may, upon a showing of good cause, permit the participant to complete the service obligation in an equivalent alternative law enforcement service and, if such service is satisfactorily completed, section 1232(d)(1)(C) shall not apply.

(d) LAY-OFFS.—If the police force of which the participant is a member lays off the participant such as would preclude the participant's completing 4 years of service, and result in denial of educational assistance under section 1232, the Director may permit the participant to complete the service obligation in an equivalent alternative law enforcement service and, if such service is satisfactorily completed, section 1232(d)(1)(C) shall not apply.

SEC. 1236. STATE PLAN REQUIREMENTS.

A State Police Corps plan shall—

(1) provide for the screening and selection of participants in accordance with the criteria set out in section 1233;

(2) state procedures governing the assignment of participants in the Police Corps program to State and local police forces (no more than 10 percent of all the participants assigned in each year by each State to be assigned to a statewide police force or forces);

(3) provide that participants shall be assigned to those geographic areas in which—

(A) there is the greatest need for additional law enforcement personnel; and

(B) the participants will be used most effectively;

(4) provide that to the extent consistent with paragraph (3), a participant shall be assigned to an area near the participant's home or such other place as the participant may request;

(5) provide that to the extent feasible, a participant's assignment shall be made at the time the participant is accepted into the program, subject to change—

(A) prior to commencement of a participant's fourth year of undergraduate study, under such circumstances as the plan may specify; and

(B) from commencement of a participant's fourth year of undergraduate study until completion of 4 years of police service by participant, only for compelling reasons or to meet the needs of the State Police Corps program and only with the consent of the participant;

(6) provide that no participant shall be assigned to serve with a local police force—

(A) whose size has declined by more than 5 percent since June 21, 1989; or

(B) which has members who have been laid off but not retired;

(7) provide that participants shall be placed and to the extent feasible kept on community and preventive patrol;

(8) assure that participants will receive effective training and leadership;

(9) provide that the State may decline to offer a participant an appointment following completion of Federal training, or may remove a participant from the Police Corps program at any time, only for good cause (including failure to make satisfactory progress in a course of educational study) and after following reasonable review procedures stated in the plan; and

(10) provide that a participant shall, while serving as a member of a police force, be compensated at the same rate of pay and benefits and enjoy the same rights under applicable agreements with labor organizations and under State and local law as other police officers of the same rank and tenure in the police force of which the participant is a member.

SEC. 1237. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle $100,000,000 for each of fiscal years 1992 and 1993, and $200,000,000 for each of fiscal years 1994, 1995, and 1996.

CHAPTER 2—LAW ENFORCEMENT SCHOLARSHIP PROGRAM

SEC. 1241. SHORT TITLE.

This subtitle may be cited as the "Law Enforcement Scholarships and Recruitment Act".

SEC. 1242. DEFINITIONS.

As used in this subtitle—

(1) the term "Director" means the Director of the Bureau of Justice Assistance;

(2) the term "educational expenses" means expenses that are directly attributable to—

(A) a course of education leading to the award of an associate degree;

(B) a course of education leading to the award of a baccalaureate degree; or

(C) a course of graduate study following award of a baccalaureate degree;

including the cost of tuition, fees, books, supplies, and related expenses;

(3) the term "institution of higher education" has the same meaning given such term in section 1201(a) of the Higher Education Act of 1965;

(4) the term "law enforcement position" means employment as an officer in a State or local police force, or correctional institution; and

(5) the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

SEC. 1243. ALLOTMENT.

From amounts appropriated pursuant to the authority of section 11, the Director shall allot—

(1) 80 percent of such funds to States on the basis of the number of law enforcement officers in each State compared to the number of law enforcement officers in all States; and

(2) 20 percent of such funds to States on the basis of the shortage of law enforcement personnel and the need for assistance under this subtitle in the State compared to the shortage of law enforcement personnel and the need for assistance under this subtitle in all States.

SEC. 1244. PROGRAM ESTABLISHED.

(a) USE OF ALLOTMENT.—

(1) IN GENERAL.—Each State receiving an allotment pursuant to section 823 shall use such allotment to pay the Federal share of the costs of—

(A) awarding scholarships to in-service law enforcement personnel to enable such personnel to seek further education; and

(B) providing—

(i) full-time employment in summer; or

(ii) part-time (not to exceed 20 hours per week) employment during a period not to exceed one year.

(2) EMPLOYMENT.—The employment described in subparagraph (B) of paragraph (1) shall be provided by State and local law enforcement agencies for students who are juniors or seniors in high school or are enrolled in an accredited institution of higher education and who demonstrate an interest in undertaking a career in law enforcement. Such employment shall not be in a law enforcement position. Such employment shall consist of performing meaningful tasks that inform such students of the nature of the tasks performed by law enforcement agencies.

(b) PAYMENTS; FEDERAL SHARE; NON-FEDERAL SHARE.—

(1) PAYMENTS.—The Secretary shall pay to each State receiving an allotment under section 823 the Federal share of the cost of the activities described in the application submitted pursuant to section 827.

(2) FEDERAL SHARE.—The Federal share shall not exceed 60 percent.

(3) NON-FEDERAL SHARE.—The non-Federal share of the cost of scholarships and student employment provided under this subtitle shall be supplied from sources other than the Federal Government.

(c) LEAD AGENCY.—Each State receiving an allotment under section 823 shall designate an appropriate State agency to serve as the lead agency to conduct a scholarship program, a student employment program, or both in the State in accordance with this subtitle.

(d) RESPONSIBILITIES OF DIRECTOR.—The Director shall be responsible for the administration of the programs conducted pursuant to this subtitle and shall, in consultation with the Assistant Secretary for Postsecondary Education, issue rules to implement this subtitle.

(e) ADMINISTRATIVE EXPENSES.—Each State receiving an allotment under section 823 may reserve not more than 8 percent of such allotment for administrative expenses.

(f) SPECIAL RULE.—Each State receiving an allotment under section 823 shall ensure that each scholarship recipient under this subtitle be compensated at the same rate of pay and benefits and enjoy the same rights under applicable agreements with labor organizations and under State and local law as other law enforcement personnel of the same rank and tenure in the office of which the scholarship recipient is a member.

(g) SUPPLEMENTATION OF FUNDING.—Funds received under this subtitle shall only be used to supplement, and not to supplant, Federal, State, or local efforts for recruitment and education of law enforcement personnel.

SEC. 1245. SCHOLARSHIPS.

(a) PERIOD OF AWARD.—Scholarships awarded under this subtitle shall be for a period of one academic year.

(b) USE OF SCHOLARSHIPS.—Each individual awarded a scholarship under this subtitle may use such scholarship for educational expenses at any accredited institution of higher education.

SEC. 1246. ELIGIBILITY.

(a) SCHOLARSHIPS.—An individual shall be eligible to receive a scholarship under this subtitle if such individual has been employed in law enforcement for the 2-year period immediately preceding the date on which assistance is sought.

(b) INELIGIBILITY FOR STUDENT EMPLOYMENT.—An individual who has been employed as a law enforcement officer is ineligible to participate in a student employment program carried out under this subtitle.

SEC. 1247. STATE APPLICATION.

Each State desiring an allotment under section 823 shall submit an application to the Director at such time, in such manner, and accompanied by such information as the Director may reasonably require. Each such application shall—

(1) describe the scholarship program and the student employment program for which assistance under this subtitle is sought;

(2) contain assurances that the lead agency will work in cooperation with the local law enforcement liaisons, representatives of police labor organizations and police management organizations, and other appropriate State and local agencies to develop and implement interagency agreements designed to carry out this subtitle;

(3) contain assurances that the State will advertise the scholarship assistance and student employment it will provide under this subtitle and that the State will use such programs to enhance recruitment efforts;

(4) contain assurances that the State will screen and select law enforcement personnel for participation in the scholarship program under this subtitle;

(5) contain assurances that under such student employment program the State will screen and select, for participation in such program, students who have an interest in undertaking a career in law enforcement;

(6) contain assurances that under such scholarship program the State will make scholarship payments to institutions of higher education on behalf of individuals receiving scholarships under this subtitle;

(7) with respect to such student employment program, identify—

(A) the employment tasks students will be assigned to perform;

(B) the compensation students will be paid to perform such tasks; and

(C) the training students will receive as part of their participation in such program;

(8) identify model curriculum and existing programs designed to meet the educational and professional needs of law enforcement personnel; and

(9) contain assurances that the State will promote cooperative agreements with educational and law enforcement agencies to enhance law enforcement personnel recruitment efforts in institutions of higher education.

SEC. 1248. LOCAL APPLICATION.

(a) IN GENERAL.—Each individual who desires a scholarship or employment under this subtitle shall submit an application to the State at such time, in such manner, and accompanied by such information as the State may reasonably require. Each such application shall describe the academic courses for which a scholarship is sought, or the location and duration of employment sought, as appropriate.

(b) PRIORITY.—In awarding scholarships and providing student employment under this subtitle, each State shall give priority to applications from individuals who are—

(1) members of racial, ethnic, or gender groups whose representation in the law enforcement agencies within the State is substantially less than in the population eligible for employment in law enforcement in the State;

(2) pursuing an undergraduate degree; and

(3) not receiving financial assistance under the Higher Education Act of 1965.

SEC. 1249. SCHOLARSHIP AGREEMENT.

(a) IN GENERAL.—Each individual who receives a scholarship under this subtitle shall enter into an agreement with the Director.

(b) CONTENTS.—Each agreement described in subsection (a) shall—

(1) provide assurances that the individual will work in a law enforcement position in the State which awarded such individual the scholarship in accordance with the service obligation described in subsection (c) after completion of such individual's academic courses leading to an associate, bachelor, or graduate degree;

(2) provide assurances that the individual will repay the entire scholarship awarded under this subtitle in accordance with such terms and conditions as the Director shall prescribe, in the event that the requirements of such agreement are not complied with unless the individual—

(A) dies;

(B) becomes physically or emotionally disabled, as established by the sworn affidavit of a qualified physician; or

(C) has been discharged in bankruptcy; and

(3) set forth the terms and conditions under which an individual receiving a scholarship under this subtitle may seek employment in the field of law enforcement in a State other than the State which awarded such individual the scholarship under this subtitle.

(c) SERVICE OBLIGATION.—

(1) IN GENERAL.— Except as provided in paragraph (2), each individual awarded a scholarship under this subtitle shall work in a law enforcement position in the State which awarded such individual the scholarship for a period of one month for each credit hour for which funds are received under such scholarship.

(2) SPECIAL RULE.—For purposes of satisfying the requirement specified in paragraph (1), each individual awarded a scholarship under this subtitle shall work in a law enforcement position in the State which awarded such individual the scholarship for not less than 6 months nor more than 2 years.

SEC. 1250. AUTHORIZATION OF APPROPRIATIONS.

(a) GENERAL AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $30,000,000 for each of the fiscal years 1992, 1993, 1994, 1995, and 1996 to carry out this subtitle.

(b) USES OF FUNDS.—Of the funds appropriated under subsection (a) for any fiscal year—

(1) 75 percent shall be available to provide scholarships described in section 824(a)(1)(A); and

(2) 25 percent shall be available to provide employment described in sections 1244(a)(1)(B) and 1244(a)(2).

CHAPTER 3—REPORTS

SEC. 1261. REPORTS TO CONGRESS.

(a) ANNUAL REPORTS.—No later than April 1 of each fiscal year, the Director shall submit a report to the Attorney General, the President, the Speaker of the House of Representatives, and the President of the Senate. Such report shall—

(1) state the number of current and past participants in the Police Corps program authorized by subtitle A, broken down according to the levels of educational study in which they are engaged and years of service they have served on police forces (including service following completion of the 4-year service obligation);

(2) describe the geographic, racial, and gender dispersion of participants in the Police Corps program;

(3) state the number of present and past scholarship recipients under subtitle B, categorized according to the levels of educational study in which such recipients are engaged and the years of service such recipients have served in law enforcement;

(4) describe the geographic, racial, and gender dispersion of scholarship recipients under subtitle B; and

(5) describe the progress of the programs authorized by this title and make recommendations for changes in the programs.

(b) SPECIAL REPORT.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall submit a report to Congress containing a plan to expand the assistance provided under subtitle B to Federal law enforcement officers. Such plan shall contain information of the number and type of Federal law enforcement officers eligible for such assistance.

Subtitle D—Study Rights of Police Officers

SEC. 1271. STUDY ON OFFICERS' RIGHTS.

The Attorney General, through the National Institute of Justice, shall conduct a study of the procedures followed in internal, noncriminal investigations of State and local law enforcement officers to determine if such investigations are conducted fairly and effectively. The study shall examine the adequacy of the rights available to law enforcement officers and members of the public in cases involving the performance of a law enforcement officer, including—

(1) notice;

(2) conduct of questioning;

(3) counsel;

(4) hearings;

(5) appeal; and

(6) sanctions.

Not later than one year after the date of enactment of this Act, the Attorney General shall submit to the Congress a report on the results of the study, along with findings and recommendations on strategies to guarantee fair and effective internal affairs investigations.

TITLE XIII—FEDERAL LAW ENFORCEMENT AGENCIES

SEC. 1301. SHORT TITLE.

This title may be cited as the "Federal Law Enforcement Act of 1991".

SEC. 1302. AUTHORIZATION FOR FEDERAL LAW ENFORCEMENT AGENCIES.

There is authorized to be appropriated for fiscal year 1992, $345,500,000 (which shall be in addition to any other appropriations) to be allocated as follows:

(1) For the Drug Enforcement Administration, $100,500,000, which shall include:

(A) not to exceed $45,000,000 to hire, equip and train not less than 350 agents and necessary support personnel to expand DEA investigations and operations against drug trafficking organizations in rural areas;

(B) not to exceed $25,000,000 to expand DEA State and Local Task Forces, including payment of state and local overtime, equipment and personnel costs; and

(C) not to exceed $5,000,000 to hire, equip and train not less than 50 special agents and necessary support personnel to investigate violations of the Controlled Substances Act relating to anabolic steroids.

(2) For the Federal Bureau of Investigation, $98,000,000, for the hiring of additional agents and support personnel to be dedicated to the investigation of drug trafficking organizations;

(3) For the Immigration and Naturalization Service, $45,000,000, to be further allocated as follows:

(A) $25,000,000 to hire, train and equip no fewer than 500 full-time equivalent Border Patrol officer positions;

(B) $20,000,000, to hire, train and equip no fewer than 400 full-time equivalent INS criminal investigators dedicated to drug trafficking by illegal aliens and to deportations of criminal aliens.

(4) For the United States attorneys, $45,000,000 to hire and train not less than 350 additional prosecutors and support personnel dedicated to the prosecution of drug trafficking and related offenses;

(5) For the United States Marshals Service, $10,000,000;

(6) For the Bureau of Alcohol, Tobacco, and Firearms, $15,000,000 to hire, equip and train not less than 100 special agents and support personnel to investigate firearms violations committed by drug trafficking organizations, particularly violent gangs;

(7) For the United States courts, $20,000,000 for additional magistrates, probation officers, other personnel and equipment to address the case-load generated by the additional investigative and prosecutorial resources provided in this title; and

(8) For Federal defender services, $12,000,000 for the defense of persons prosecuted for drug trafficking and related crimes.

SEC. 1303. AUTHORIZATION OF FUNDS FOR CONSTRUCTION OF A UNITED STATES ATTORNEYS' OFFICE IN PHILADELPHIA, PENNSYLVANIA.

There is hereby authorized to be appropriated $35,000,000 to remain available until expended, to plan, acquire a site, design, construct, buildout, equip, and prepare for use an office building to house the United States Attorneys Office in Philadelphia, Pennsylvania, notwithstanding any other provision of law: Provided, That the site is at or in close physical proximity to the site selected for the construction of the Philadelphia Metropolitan Detention Center: Provided further, That the site selected for the Philadelphia United States Attorneys Office shall be approved by the Attorney General and notification submitted to the Congress as required by law.

TITLE XIV—PRISONS

Subtitle A—Federal Prisons

SEC. 1401. PRISONER'S PLACE OF IMPRISONMENT.

Paragraph (b) of section 3621 of title 18, United States Code, is amended by inserting after subsection (5) the following: "However, the bureau may not consider the social or economic status of the prisoner in designating the place of the prisoner's imprisonment.".

SEC. 1402. PRISON IMPACT ASSESSMENTS.

(a) IN GENERAL.—Chapter 303 of title 18, United States Code, is amended by adding at the end the following new section:

"§4047. Prison impact assessments

"(a) Any submission of legislation by the Judicial or Executive branch which could increase or decrease the number of persons incarcerated or in Federal penal institutions shall be accompanied by a prison impact statement, as defined in subsection (b) of this section.

"(b) The Attorney General shall, in consultation with the Sentencing Commission and the Administrative Office of the United States Courts, prepare and furnish prison impact assessments under subsection (c) of this section, and in response to requests from Congress for information relating to a pending measure or matter that might affect the number of defendants processed through the Federal criminal justice system. A prison impact assessment on pending legislation must be supplied within 7 days of any request. A prison impact assessment shall include—

"(1) projections of the impact on prison, probation, and post prison supervision populations;

"(2) an estimate of the fiscal impact of such population changes on Federal expenditures, including those for construction and operation of correctional facilities for the current fiscal year and 5 succeeding fiscal years;

"(3) an analysis of any other significant factor affecting the cost of the measure and its impact on the operations of components of the criminal justice system; and

"(4) a statement of the methodologies and assumptions utilized in preparing the assessment.

"(c) The Attorney General shall prepare and transmit to the Congress, by March 1 of each year, a prison impact assessment reflecting the cumulative effect of all relevant changes in the law taking effect during the preceding calendar year.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 303 is amended by adding at the end the following new item:

"4047. Prison impact assessments.".

SEC. 1403. FEDERAL PRISONER DRUG TESTING.

(a) SHORT TITLE.—This title may be cited as the "Federal Prisoner Drug Testing Act of 1991".

(b) DRUG TESTING PROGRAM.—(1) Chapter 229 of title 18, United States Code, is amended by adding at the end the following new section:

"§3608. Drug testing of Federal offenders on post-conviction release

"The Director of the Administrative Office of the United States Courts, in consultation with the Attorney General and the Secretary of Health and Human Services, shall establish a program of drug testing of Federal offenders on post-conviction release. The program shall include such standards and guidelines as the Director may determine necessary to ensure the reliability and accuracy of the drug testing programs. In each judicial district the chief probation officer shall arrange for the drug testing of defendants on post-conviction release pursuant to a conviction for a felony or other offense described in section 3563(a)(4) of this title.".

(2) The table of sections at the beginning of chapter 229 of title 18, United States Code, is amended by adding at the end the following:

"3608. Drug testing of Federal offenders on post-conviction release.".

(c) CONDITIONS OF PROBATION.—Section 3563(a) of title 18, United States Code, is amended—

(1) in paragraph (2) by striking "and" after the semicolon;

(2) in paragraph (3) by striking the period and inserting "; and";

(3) by adding at the end the following new paragraph:

"(4) for a felony, a misdemeanor, or an infraction, that the defendant refrain from any unlawful use of a controlled substance and submit to one drug test within 15 days of release on probation and at least 2 periodic drug tests thereafter (as determined by the court) for use of a controlled substance, but the condition stated in this paragraph may be ameliorated or suspended by the court for any individual defendant if the defendant's presentence report or other reliable sentencing information indicates a low risk of future substance abuse by the defendant."; and

(4) by adding at the end the following: "The results of a drug test administered in accordance with paragraph (4) shall be subject to confirmation only if the results are positive, the defendant is subject to possible imprisonment for such failure, and either the defendant denies the accuracy of such test or there is some other reason to question the results of the test. A defendant who tests positive may be detained pending verification of a positive drug test result. A drug test confirmation shall be a urine drug test confirmed using gas chromatography/mass spectrometry techniques or such test as the Director of the Administrative Office of the United States Courts after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy. The court shall consider the availability of appropriate substance abuse treatment programs when considering any action against a defendant who fails a drug test administered in accordance with paragraph (4).".

(d) CONDITIONS ON SUPERVISED RELEASE.—Section 3583(d) of title 18, United States Code, is amended by inserting after the first sentence the following: "The court shall also order, as an explicit condition of supervised release, that the defendant refrain from any unlawful use of a controlled substance and submit to a drug test within 15 days of release on supervised release and at least 2 periodic drug tests thereafter (as determined by the court) for use of a controlled substance. The condition stated in the preceding sentence may be ameliorated or suspended by the court as provided in section 3563(a)(4). The results of a drug test administered in accordance with the preceding subsection shall be subject to confirmation only if the results are positive, the defendant is subject to possible imprisonment for such failure, and either the defendant denies the accuracy of such test or there is some other reason to question the results of the test. A drug test confirmation shall be a urine drug test confirmed using gas chromatography/mass spectrometry techniques or such test as the Director of the Administrative Office of the United States Courts after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy. The court shall consider the availability of appropriate substance abuse treatment programs when considering any action against a defendant who fails a drug test.".

(e) CONDITIONS OF PAROLE.—Section 4209(a) of title 18, United States Code, is amended by inserting after the first sentence the following: "In every case, the Commission shall also impose as a condition of parole that the parolee pass a drug test prior to release and refrain from any unlawful use of a controlled substance and submit to at least 2 periodic drug tests (as determined by the Commission) for use of a controlled substance. The condition stated in the preceding sentence may be ameliorated or suspended by the Commission for any individual parolee if it determines that there is good cause for doing so. The results of a drug test administered in accordance with the provisions of the preceding sentence shall be subject to confirmation only if the results are positive, the defendant is subject to possible imprisonment for such failure, and either the defendant denies the accuracy of such test or there is some other reason to question the results of the test. A drug test confirmation shall be a urine drug test confirmed using gas chromatography/mass spectrometry techniques or such test as the Director of the Administrative Office of the United States Courts after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy. The Commission shall consider the availability of appropriate substance abuse treatment programs when considering any action against a defendant who fails a drug test.".

SEC. 1404. DRUG TREATMENT IN FEDERAL PRISONS.

(a) SHORT TITLE.—This section may be cited as the "Drug Treatment in Federal Prisons Act of 1991".

(b) DEFINITIONS.—

As used in this section—

(1) the term "residential substance abuse treatment" means a course of individual and group activities, lasting between 9 and 12 months, in residential treatment facilities set apart from the general prison population—

(A) directed at the substance abuse problems of the prisoner; and

(B) intended to develop the prisoner's cognitive, behavioral, social, vocational, and other skills so as to solve the prisoner's substance abuse and related problems; and

(2) the term "eligible prisoner" means a prisoner who is—

(A) determined by the Bureau of Prisons to have a substance abuse problem; and

(B) willing to participate in a residential substance abuse treatment program.

(c) IMPLEMENTATION OF SUBSTANCE ABUSE TREATMENT REQUIREMENT.—

(1) In order to carry out the requirement of the last sentence of section 3621(b) of title 18, United States Code, that every prisoner with a substance abuse problem have the opportunity to participate in appropriate substance abuse treatment, the Bureau of Prisons shall provide residential substance abuse treatment—

(A) for not less than 50 percent of eligible prisoners by the end of fiscal year 1993;

(B) for not less than 75 percent of eligible prisoners by the end of fiscal year 1994; and

(C) for all eligible prisoners by the end of fiscal year 1995 and thereafter.

(2) Section 3621 of title 18, United States Code, is amended by adding at the end the following:

"(d) INCENTIVE FOR PRISONERS' SUCCESSFUL COMPLETION OF TREATMENT PROGRAM.—

"(1) GENERALLY.—Any prisoner who, in the judgment of the Director of the Bureau of Prisons, has successfully completed a program of residential substance abuse treatment provided under subsection (b) of this section, shall remain in the custody of the Bureau for such time (as limited by paragraph (2) of this subsection) and under such conditions, as the Bureau deems appropriate. If the conditions of confinement are different from those the prisoner would have experienced absent the successful completion of the treatment, the Bureau shall periodically test the prisoner for drug abuse and discontinue such conditions on determining that drug abuse has recurred.

"(2) PERIOD OF CUSTODY.—The period the prisoner remains in custody after successfully completing a treatment program shall not exceed the prison term the law would otherwise require such prisoner to serve, but may not be less than such term minus one year.".

(d) REPORT.—The Bureau of Prisons shall transmit to the Congress on January 1, 1993, and on January 1 of each year thereafter, a report. Such report shall contain—

(1) a detailed quantitative and qualitative description of each substance abuse treatment program, residential or not, operated by the Bureau;

(2) a full explanation of how eligibility for such programs is determined, with complete information on what proportion of prisoners with substance abuse problems are eligible; and

(3) a complete statement of to what extent the Bureau has achieved compliance with the requirements of this title.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 1991 and each fiscal year thereafter such sums as may be necessary to carry out this title.

SEC. 1405. PRISON FOR VIOLENT DRUG OFFENDERS.

(a) FINDINGS.—The Congress makes the following findings:

(1) The total population of Federal, State, and local prisons and jails increased by 84 percent between 1980 and 1988 and currently numbers more than 900,000 people.

(2) More than 60 percent of all prisoners have a history of drug abuse or are regularly using drugs while in prison, but only 11 percent of State prison inmates and 7 percent of Federal prisoners are enrolled in drug treatment programs. Hundreds of thousands of prisoners are not receiving needed drug treatment while incarcerated, and the number of such persons is increasing rapidly.

(3) Drug-abusing prisoners are highly likely to return to crime upon release, but the recidivism rate is much lower for those who successfully complete treatment programs. Providing drug treatment to prisoners during incarceration therefore provides an opportunity to break the cycle of recidivism, reducing the crime rate and future prison overcrowding.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the fiscal year ending September 30, 1992, the following amounts:

(1) $600,000,000 for the construction of 10 regional prisons; and

(2) $100,000,000 for the operation of such regional prisons for one year.

Such amounts shall be in addition to any other amounts authorized to be appropriated to the Bureau of Prisons.

(c) LOCATION AND POPULATION.—The regional prisons authorized by this section shall be located in places chosen by the Director of the Bureau of Prisons, after consulting with the Director of National Drug Control Policy, not less than 6 months after the effective date of this section. Each such facility shall be used to accommodate a population consisting of State and Federal prisoners in proportions of 20 percent Federal and 80 percent State.

(d) ELIGIBILITY OF PRISONERS.—The regional prisons authorized by this section shall be used to incarcerate State and Federal prisoners who have release dates of not more than 2 years from the date of assignment to the prison and who have been found to have substance abuse problems requiring long-term treatment.

(e) STATE RESPONSIBILITIES.—(1) The States shall select prisoners for assignment to the regional prisons who, in addition to satisfying eligibility criteria otherwise specified in this section, have long-term drug abuse problems and serious criminal histories. Selection of such persons is necessary for the regional prison program to have the maximum impact on the crime rate and future prison overcrowding, since such persons are the ones most likely to commit new crimes following release. Prisoners selected for assignment to a regional prison must agree to the assignment.

(2) Any State seeking to refer a State prisoner to a regional prison shall submit to the Director of the Bureau of Prisons (referred to as the "Director") an aftercare plan setting forth the provisions that the State will make for the continued treatment of the prisoner in a therapeutic community following release. The aftercare plan shall also contain provisions for vocational job training where appropriate.

(3) The State referring the prisoner to the regional prison (referred to as the "sending State") shall reimburse the Bureau of Prisons for the full cost of the incarceration and treatment of the prisoner, except that if the prisoner successfully completes the treatment program, the Director shall return to the sending State 25 percent of the amount paid for that prisoner. The total amount returned to each State under this paragraph in each fiscal year shall be used by that State to provide the aftercare treatment required by paragraph (2).

(f) POWERS OF THE DIRECTOR.—(1) The Director shall have the exclusive right to determine whether or not a State or Federal prisoner satisfies the eligibility requirements of this section, and whether the prisoner is to be accepted into the regional prison program. The Director shall have the right to make this determination after the staff of the regional prison has had an opportunity to interview the prisoner in person.

(2) The Director shall have the exclusive right to determine if a prisoner in the regional treatment program is complying with all of the conditions and requirements of the program. The Director shall have the authority to return any prisoner not complying with the conditions and requirements of the program to the sending State at any time. The Director shall notify the sending State whenever such prisoner is returned that the prisoner has not successfully completed the treatment program.

SEC. 1406. BOOT CAMPS.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Attorney General shall establish within the Bureau of Prisons 10 military-style boot camp prisons (referred to in this section as "boot camps"). The boot camps will be located on closed military installations on sites to be chosen by the Director of the Bureau of Prisons, after consultation with the Director of National Drug Control Policy, and will provide a highly regimented schedule of strict discipline, physical training, work, drill, and ceremony characteristic of military basic training as well as remedial education and treatment for substance abuse.

(b) CAPACITY.—Each boot camp shall be designed to accommodate between 200 and 300 inmates for periods of not less than 90 days and not greater than 120 days. Not more than 20 percent of the inmates shall be Federal prisoners. The remaining inmates shall be State prisoners who are accepted for participation in the boot camp program pursuant to subsection (d).

(c) FEDERAL PRISONERS.—Section 3582 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(e) BOOT CAMP PRISON AS A SENTENCING ALTERNATIVE.—(1) The court, in imposing sentence in the circumstances described in paragraph (2), may designate the defendant as eligible for placement in a boot camp prison. The Bureau of Prisons shall determine whether a defendant so designated will be assigned to a boot camp prison.

"(2) A defendant may be designated as eligible for placement in boot camp prison if—

"(A) the defendant—

"(i) is under 25 years of age;

"(ii) has no prior conviction for which he or she has served more than 10 days incarceration; and

"(iii) has been convicted of an offense involving a controlled substance punishable under the Controlled Substances Act or the Controlled Substances Export and Import Act, or any other offense if the defendant, at the time of arrest or at any time thereafter, tested positive for the presence of a controlled substance in his or her blood or urine; and

"(B) the sentencing court finds that the defendant's total offense level under the Federal sentencing guidelines is level 15 or less.

"(3) If the Director of the Bureau of Prisons finds that an inmate placed in a boot camp prison pursuant to this subsection has willfully refused to comply with the conditions of confinement in the boot camp, the Director may transfer the inmate to any other correctional facility in the Federal prison system.

"(4) Successful completion of assignment to a boot camp shall constitute satisfaction of any period of active incarceration, but shall not affect any aspect of a sentence relating to a fine, restitution, or supervised release.".

(d) STATE PRISONERS.—(1) The head of a State corrections department or the head's designee may apply for boot camp placement for any person who has been convicted of a criminal offense in that State, or who anticipates entering a plea of guilty of such offense, but who has not yet been sentenced. Such application shall be made to the Bureau of Prisons and shall be in the form designated by the Director of the Bureau of Prisons and shall contain a statement certified by the head of the State corrections department or the head's designee that at the time of sentencing the applicant is likely to be eligible for assignment to a boot camp pursuant to paragraph (2). The Bureau of Prisons shall respond to such applications within 30 days so that the sentencing court is aware of the result of the application at the time of sentencing. In responding to such applications, the Bureau of Prisons shall determine, on the basis of the availability of space, whether a defendant who becomes eligible for assignment to a boot camp prison at the time of sentencing will be so assigned.

(2) A person convicted of a State criminal offense shall be eligible for assignment to a boot camp if he or she—

(A) is under 25 years of age;

(B) has no prior conviction for which he or she has served more than 10 days incarceration;

(C) has been sentenced to a term of imprisonment that will be satisfied under the law of the sentencing State if the defendant successfully completes a term of not less than 90 days nor more than 120 days in a boot camp;

(D) has been designated by the sentencing court as eligible for assignment to a boot camp; and

(E) has been convicted of an offense involving a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), or any other offense if the defendant is eligible for assignment to a boot camp under State law.

(3) If the Director of the Bureau of Prisons finds that an inmate placed in a boot camp prison pursuant to this subsection has willfully refused to comply with the conditions of confinement in the boot camp, the Director may transfer the inmate back to the jurisdiction of the State sentencing court.

(4) Any State referring a prisoner to a boot camp shall reimburse the Bureau of Prisons for the full cost of the incarceration of the prisoner, except that if the prisoner successfully completes the boot camp program, the Bureau of Prisons shall return to the State 20 percent of the amount paid for that prisoner. The total amount returned to each State under this paragraph in each fiscal year shall be used by that State to provide the aftercare supervision and services required by paragraph (e).

(e) POST-RELEASE SUPERVISION.—(1) Any State seeking to refer a State prisoner to a boot camp prison shall submit to the Director of the Bureau of Prisons an aftercare plan setting forth the provisions that the State will make for the continued supervision of the prisoner following release. The aftercare plan shall also contain provisions for educational and vocational training and drug or other counseling and treatment where appropriate.

(2) The Bureau of Prisons shall develop an aftercare plan setting forth the privisions that will be made for the continued supervision of Federal prisoners following release. The aftercare plan shall also contain provisions for educational and vocational training and drug or other counseling and treatment where appropriate.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $150,000,000 for fiscal year 1992, available until expended, of which not more than $12,500,000 shall be used to convert each closed military base to a boot camp prison and not more than $2,500,000 shall be used to operate each boot camp for one fiscal year. Such amounts shall be in addition to any other amounts authorized to be appropriated to the Bureau of Prisons.

Subtitle B—State Prisons

SEC. 1421. RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR PRISONERS.

This section may be cited as the "Substance Abuse Treatment in State Prisons Act of 1991".

(a) RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR PRISONERS.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1201 of this Act, is amended—

(1) by redesignating part T as part U;

(2) by redesignating section 2001 as section 2101; and

(3) by inserting after part S the following:

"PART U—RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR PRISONERS

"SEC. 2001. GRANT AUTHORIZATION.

"The Director of the Bureau of Justice Assistance (referred to in this part as the 'Director') may make grants under this part to States, for the use by States for the purpose of developing and implementing residential substance abuse treatment programs within State correctional facilities.

"SEC. 2002. STATE APPLICATIONS.

"(a) IN GENERAL.—(1) To request a grant under this part the chief executive of a State

shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(2) Such application shall include assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part.

"(3) Such application shall coordinate the design and implementation of treatment programs between State correctional representatives and the State Alcohol and Drug Abuse agency.

"(b) DRUG TESTING REQUIREMENT.—To be eligible to receive funds under this part, a State must agree to implement or continue to require urinalysis or similar testing of individuals in correctional residential substance abuse treatment programs. Such testing shall include individuals released from residential substance abuse treatment programs who remain in the custody of the State.

"(c) ELIGIBILITY FOR PREFERENCE WITH AFTER CARE COMPONENT.—

"(1) To be eligible for a preference under this part, a State must ensure that individuals who participate in the drug treatment program established or implemented with assistance provided under this part will be provided with aftercare services.

"(2) State aftercare services must involve the coordination of the prison treatment program with other human service and rehabilitation programs, such as educational and job training programs, parole supervision programs, halfway house programs, and participation in self-help and peer group programs, that may aid in the rehabilitation of individuals in the drug treatment program.

"(3) To qualify as an aftercare program, the head of the drug treatment program, in conjunction with State and local authorities and organizations involved in drug treatment, shall assist in placement of drug treatment program participants with appropriate community drug treatment facilities when such individuals leave prison at the end of a sentence or on parole.

"(d) STATE OFFICE.—The office designated under section 507 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3757)—

"(1) shall prepare the application as required under section 1902; and

"(2) shall administer grant funds received under this part, including, review of spending, processing, progress, financial reporting, technical assistance, grant adjustments, accounting, auditing, and fund disbursement.

"SEC. 2003. REVIEW OF STATE APPLICATIONS.

"(a) IN GENERAL.—The Bureau shall make a grant under section 1901 to carry out the projects described in the application submitted under section 1902 upon determining that—

"(1) the application is consistent with the requirements of this part; and

"(2) before the approval of the application the Bureau has made an affirmative finding in writing that the proposed project has been reviewed in accordance with this part.

"(b) APPROVAL.—Each application submitted under section 1902 shall be considered approved, in whole or in part, by the Bureau not later than 45 days after first received unless the Bureau informs the applicant of specific reasons for disapproval.

"(c) RESTRICTION.—Grant funds received under this part shall not be used for land acquisition or construction projects.

"(d) DISAPPROVAL NOTICE AND RECONSIDERATION.—The Bureau shall not disapprove any application without first affording the applicant reasonable notice and an opportunity for reconsideration.

"SEC. 2004. ALLOCATION AND DISTRIBUTION OF FUNDS.

"(a) ALLOCATION.—Of the total amount appropriated under this part in any fiscal year—

"(1) 0.4 percent shall be allocated to each of the participating States; and

"(2) of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each of the participating States an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the State prison population of such State bears to the total prison population of all the participating States.

"(b) FEDERAL SHARE.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the projects described in the application submitted under section 1902 for the fiscal year for which the projects receive assistance under this part.

"SEC. 2005. EVALUATION.

"Each State that receives a grant under this part shall submit to the Director an evaluation not later than March 1 of each year in such form and containing such information as the Director may reasonably require.".

(b) CONFORMING AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1201 of this Act, is amended by striking the matter relating to part T and inserting the following:

"PART T—RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR PRISONERS

"Sec. 2001. Grant authorization.
"Sec. 2002. State applications.
"Sec. 2003. Review of State applications.
"Sec. 2004. Allocation and distribution of funds.
"Sec. 2005. Evaluation.

"PART U—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 2101. Continuation of rules, authorities, and proceedings.".

(c) DEFINITIONS.—Section 901(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(a)) is amended by adding after paragraph (25) the following:

"(26) The term 'residential substance abuse treatment program' means a course of individual and group activities, lasting between 9 and 12 months, in residential treatment facilities set apart from the general prison population—

"(A) directed at the substance abuse problems of the prisoner; and

"(B) intended to develop the prisoner's cognitive, behavioral, social, vocational, and other skills so as to solve the prisoner's substance abuse and related problems.".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793), as amended by section 1202 of this Act, is amended by adding after paragraph (10) the following:

"(14) There are authorized to be appropriated $100,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the projects under part T.".

SEC. 1422. MANDATORY LITERACY PROGRAM.

(a) ESTABLISHMENT.—The chief correctional officer of each State correctional system may establish a demonstration, or statewide functional literacy program.

(b) PROGRAM REQUIREMENTS.—(1) To qualify for funding under subsection (d), each functional literacy program shall—

(A) to the extent possible, make use of advanced technologies; and

(B) include—

(i) a requirement that each person incarcerated in the system, jail, or detention center who is not functionally literate, except a person described in paragraph (2), shall participate in the program until the person—

(I) achieves functional literacy or in the case of an individual with a disability, achieves functional literacy commensurate with his or her ability;

(II) is granted parole;

(III) completes his or her sentence; or

(IV) is released pursuant to court order;

(ii) a prohibition on granting parole to any person described in clause (i) who refuses to participate in the program, unless the State parole board determines that the prohibition should be waived in a particular case; and

(iii) adequate opportunities for appropriate education services and the screening and testing of all inmates for functional literacy and disabilities affecting functional literacy, including learning disabilities, upon arrival in the system or at the jail or detention center.

(2) The requirement of paragraph (1)(B) shall not apply to a person who—

(A) is serving a life sentence without possibility of parole;

(B) is terminally ill; or

(C) is under a sentence of death.

(c) ANNUAL REPORT.—(1) Within 90 days after the close of the first calendar year in which a literacy program authorized by subsection (a) is placed in operation, and annually for each of the 4 years thereafter, the chief correction officer of each State correctional system shall submit a report to the Attorney General with respect to its literacy program.

(2) A report under paragraph (1) shall disclose—

(A) the number of persons who were tested for eligibility during the preceding year;

(B) the number of persons who were eligible for the literacy program during the preceding year;

(C) the number of persons who participated in the literacy program during the preceding year;

(D) the names and types of tests that were used to determine functional literacy and the names and types of tests that were used to determine disabilities affecting functional literacy;

(E) the average number of hours of instruction that were provided per week and the average number per student during the preceding year;

(F) sample data on achievement of participants in the program, including the number of participants who achieved functional literacy;

(G) data on all direct and indirect costs of the program; and

(H) a plan for implementing a systemwide mandatory functional literacy program, as required by subsection (b), and if appropriate, information on progress toward such a program.

(d) COMPLIANCE GRANTS.—(1) The Attorney General shall make grants to State correctional agencies who elect to establish a program described in subsection (a) for the purpose of assisting in carrying out the programs, developing the plans, and submitting the reports required by this section.

(2) A State corrections agency is eligible to receive a grant under this subsection if the agency agrees to provide to the Attorney General—

(A) such data as the Attorney General may request concerning the cost and feasibility of operating the mandatory functional literacy programs required by subsections (a) and (b); and

(B) a detailed plan outlining the methods by which the requirements of subsections (a) and (b) will be met, including specific goals and timetables.

(3) There are authorized to be appropriated for purposes of carrying out this section $10,000,000 for fiscal year 1992, $15,000,000 for fiscal year 1993, $20,000,000 for fiscal year 1994, and $25,000,000 for fiscal year 1995.

(e) DEFINITION.—For the purposes of this section, the term "functional literacy" means at least an eighth grade equivalence in reading on a nationally recognized standardized test.

(f) LIFE SKILLS TRAINING GRANTS.—(1) The Attorney General is authorized to make grants

to State and local correctional agencies to assist them in establishing and operating programs designed to reduce recidivism through the development and improvement of life skills necessary for reintegration into society.

(2) To be eligible to receive a grant under this subsection, a State or local correctional agency shall—

(A) submit an application to the Attorney General or his designee at such time, in such manner, and containing such information as the Attorney General shall require; and

(B) agree to report annually to the Attorney General on the participation rate, cost, and effectiveness of the program and any other aspect of the program upon which the Attorney General may request information.

(3) In awarding grants under this section, the Attorney General shall give priority to programs that have the greatest potential for innovation, effectiveness, and replication in other systems, jails, and detention centers.

(4) Grants awarded under this subsection shall be for a period not to exceed 3 years, except that the Attorney General may establish a procedure for renewal of the grants under paragraph (1).

(5) For the purposes of this section, the term "life skills" shall include, but not be limited to, self-development, communication skills, job and financial skills development, education, interpersonal and family relationships, and stress and anger management.

SEC. 1423. NATIONAL INSTITUTE OF JUSTICE STUDY.

(a) FEASIBILITY STUDY.—The National Institute of Justice shall study the feasibility of establishing a clearinghouse to provide information to interested persons to facilitate the transfer of prisoners in State correctional institutions to other such correctional institutions, pursuant to the Interstate Corrections Compact or other applicable interstate compact, for the purpose of allowing prisoners to serve their prison sentences at correctional institutions in close proximity to their families.

(b) REPORT TO CONGRESS.—The National Institute of Justice shall, not later than 1 year after the date of the enactment of this Act, submit to the Committees on the Judiciary of the House of Representatives and the Senate a report containing the results of the study conducted under subsection (a), together with any recommendations the Institute may have on establishing a clearinghouse described in such subsection.

(c) DEFINITION.—For purposes of this section, the term "State" includes the District of Columbia and any territory or possession of the United States.

SEC. 1424. STUDY AND ASSESSMENT OF ALCOHOL USE AND TREATMENT.

The Director of the National Institute of Justice shall—

(1) conduct a study to compare the recidivism rates of individuals under the influence of alcohol or alcohol in combination with other drugs at the time of their offense—

(A) who participated in a residential treatment program while in the custody of the State; and

(B) who did not participate in a residential treatment program while in the custody of the State.

(2) conduct a nationwide assessment regarding the use of alcohol and alcohol in combination with other drugs as a factor in violent, domestic, and general criminal activity.

SEC. 1425. NOTIFICATION OF RELEASE OF PRISONERS.

Section 4042 of title 18, United States Code, is amended—

(1) by striking "The Bureau" and inserting "(a) IN GENERAL.—The Bureau";

(2) by striking "This section" and inserting "(c) Application of Section.—This section";

(3) in paragraph (4) of subsection (a), as designated by paragraph (1) of this subsection—

(A) by striking "Provide" and inserting "provide"; and

(B) by striking the period at the end and inserting "; and";

(4) by inserting after paragraph (4) of subsection (a), as designated by paragraph (1) of this subsection, the following new paragraph:

"(5) provide notice of release of prisoners in accordance with subsection (b)."; and

(5) by inserting after subsection (a), as designated by paragraph (1) of this subsection, the following new subsection:

"(b) NOTICE OF RELEASE OF PRISONERS.—(1) Except in the case of a prisoner being protected under chapter 224, the Bureau of Prisons shall, at least 5 days prior to the date on which a prisoner described in paragraph (3) is to be released on supervised release, or, in the case of a prisoner on supervised release, at least 5 days prior to the date on which the prisoner changes residence to a new jurisdiction, cause written notice of the release or change of residence to be made to the chief law enforcement officer of the State and of the local jurisdiction in which the prisoner will reside.

"(2) A notice under paragraph (1) shall disclose—

"(A) the prisoner's name;

"(B) the prisoner's criminal history, including a description of the offense of which the prisoner was convicted; and

"(C) any restrictions on conduct or other conditions to the release of the prisoner that are imposed by law, the sentencing court, or the Bureau of Prisons or any other Federal agency.

"(3) A prisoner is described in this paragraph if the prisoner was convicted of—

"(A) a drug trafficking crime, as that term is defined in section 924(c)(2); or

"(B) a crime of violence, as that term is defined in section 924(c)(3).

"(4) The notice provided under this section shall be used solely for law enforcement purposes.".

SEC. 1426. APPLICATION TO PRISONERS TO WHICH PRIOR LAW APPLIES.

In the case of a prisoner convicted of an offense committed prior to November 1, 1987, the reference to supervised release in section 4042(b) of title 18, United States Code, shall be deemed to be a reference to probation or parole.

TITLE XV—RURAL CRIME

Subtitle A—Fighting Drug Trafficking in Rural Areas

SEC. 1501. AUTHORIZATIONS FOR RURAL LAW ENFORCEMENT AGENCIES.

(a) AUTHORIZATION OF APPROPRIATIONS.—The second paragraph (7) of section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) by striking "(7)" and inserting "(8)"; and

(2) by striking "and such" and all that follows through "part O" and inserting "$50,000,000 for fiscal year 1992, and such sums as may be necessary for fiscal years 1993 and 1994 to carry out part O of this title".

(b) AMENDMENT TO BASE ALLOCATION.—Section 1501(a)(2)(A) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking "$100,000" and inserting "$250,000".

SEC. 1502. RURAL DRUG ENFORCEMENT TASK FORCES.

(a) ESTABLISHMENT.—Not later than 1 year after the date of enactment of this Act, the Attorney General, in consultation with the Governors, mayors, and chief executive officers of State and local law enforcement agencies, shall establish a Rural Drug Enforcement Task Force in each of the Federal judicial districts which encompass significant rural lands.

(b) TASK FORCE MEMBERSHIP.—The task forces established under subsection (a) shall be chaired by the United States Attorney for the respective Federal judicial district. The task forces shall include representatives from—

(1) State and local law enforcement agencies;

(2) the Drug Enforcement Administration;

(3) the Federal Bureau of Investigation;

(4) the Immigration and Naturalization Service; and

(5) law enforcement officers from the United States Park Police, United States Forest Service and Bureau of Land Management, and such other Federal law enforcement agencies as the Attorney General may direct.

SEC. 1503. CROSS-DESIGNATION OF FEDERAL OFFICERS.

The Attorney General may cross-designate up to 100 law enforcement officers from each of the agencies specified under section 1502(b)(5) with jurisdiction to enforce the provisions of the Controlled Substances Act on non-Federal lands to the extent necessary to effect the purposes of this title.

SEC. 1504. RURAL DRUG ENFORCEMENT TRAINING.

(a) SPECIALIZED TRAINING FOR RURAL OFFICERS.—The Director of the Federal Law Enforcement Training Center shall develop a specialized course of instruction devoted to training law enforcement officers from rural agencies in the investigation of drug trafficking and related crimes.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $1,000,000 for each of the fiscal years 1992, 1993 and 1994 to carry out the purposes of subsection (a) of this section.

Subtitle B—Rural Drug Prevention and Treatment

SEC. 1511. RURAL SUBSTANCE ABUSE TREATMENT AND EDUCATION GRANTS.

Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) is amended by adding at the end the following new section:

"SEC. 509H. RURAL SUBSTANCE ABUSE TREATMENT.

"(a) IN GENERAL.—The Director of the Office for Treatment Improvement (hereafter referred to in this section as the 'Director') shall establish a program to provide grants to hospitals, community health centers, migrant health centers, health entities of Indian tribes and tribal organizations (as defined in section 1913(b)(5)), and other appropriate entities that serve nonmetropolitan areas to assist such entities in developing and implementing projects that provide, or expand the availability of, substance abuse treatment services.

"(b) REQUIREMENTS.—To receive a grant under this section a hospital, community health center, or treatment facility shall—

"(1) serve a nonmetropolitan area or have a substance abuse treatment program that is designed to serve a nonmetropolitan area;

"(2) operate, or have a plan to operate, an approved substance abuse treatment program;

"(3) agree to coordinate the project assisted under this section with substance abuse treatment activities within the State and local agencies responsible for substance abuse treatment; and

"(4) prepare and submit an application in accordance with subsection (c).

"(c) APPLICATION.—

"(1) IN GENERAL.—To be eligible to receive a grant under this section an entity shall submit an application to the Director at such time, in such manner, and containing such information as the Director shall require.

"(2) COORDINATED APPLICATIONS.—State agencies that are responsible for substance abuse treatment may submit coordinated grant applications on behalf of entities that are eligible for grants pursuant to subsection (b).

"(d) PREVENTION PROGRAMS.—

"(1) IN GENERAL.—Each entity receiving a grant under this section may use a portion of such grant funds to further community-based substance abuse prevention activities.

"(2) REGULATIONS.—The Director, in consultation with the Director of the Office of Substance Abuse Prevention, shall promulgate regulations regarding the activities described in paragraph (1).

"(e) SPECIAL CONSIDERATION.—In awarding grants under this section the Director shall give priority to—

"(1) projects sponsored by rural hospitals that are qualified to receive rural health care transition grants as provided for in section 4005(e) of the Omnibus Budget Reconciliation Act of 1987;

"(2) projects serving nonmetropolitan areas that establish links and coordinate activities between hospitals, community health centers, community mental health centers, and substance abuse treatment centers; and

"(3) projects that are designed to serve areas that have no available existing treatment facilities.

"(f) DURATION.—Grants awarded under subsection (a) shall be for a period not to exceed 3 years, except that the Director may establish a procedure for renewal of grants under subsection (a).

"(g) GEOGRAPHIC DISTRIBUTION.—To the extent practicable, the Director shall provide grants to fund at least one project in each State.

"(h) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section there are authorized to be appropriated $25,000,000 for each of the fiscal years 1992 and 1993.".

SEC. 1512. CLEARINGHOUSE PROGRAM.

Section 509 of the Public Health Service Act (42 U.S.C. 290aa–7) is amended—

(1) in paragraph (3), by striking "and" at the end thereof;

(2) in paragraph (4), by striking the period and inserting a semicolon; and

(3) by adding at the end thereof the following new paragraphs—

"(5) to gather information pertaining to rural drug abuse treatment and education projects funded by the Alcohol, Drug Abuse, and Mental Health Administration, as well as other such projects operating throughout the United States; and

"(6) to disseminate such information to rural hospitals, community health centers, community mental health centers, treatment facilities, community organizations, and other interested individuals.".

Subtitle C—Drug Free Truck Stops and Safety Rest Areas

SEC. 1521. DRUG FREE TRUCK STOPS AND SAFETY REST AREAS.

(a) SHORT TITLE.—This section may be cited as the "Drug Free Truck Stop Act".

(b) AMENDMENT TO CONTROLLED SUBSTANCES ACT.—

(1) IN GENERAL.—Part D of the Controlled Substances Act (21 U.S.C. 801 et seq.) is amended by inserting after section 408 the following new section:

"TRANSPORTATION SAFETY OFFENSES

"SEC. 409. (a) Any person who violates section 401(a)(1) or section 416 by distributing or possessing with intent to distribute a controlled substance in or on, or within 1,000 feet of, a truck stop or safety rest area is (except as provided in subsection (b)) subject to—

"(1) twice the maximum punishment authorized by section 401(b); and

"(2) at least twice any term of supervised release authorized by section 401(b) for a first offense.

Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than one year. The mandatory minimum sentencing provisions of this paragraph shall not apply to offenses involving 5 grams or less of marihuana.

"(b) Any person who violates section 401(a)(1) or section 416 by distributing or possessing with intent to distribute a controlled substance in or on, or within 1,000 feet of, a truck stop or a safety rest area after a prior conviction or convictions under subsection (a) have become final is punishable—

"(1) by the greater of (A) a term of imprisonment of not less than 3 years and not more than life imprisonment or (B) 3 times the maximum punishment authorized by section 401(b); and

"(2) by at least 3 times any term of supervised release authorized by section 401(b) for a first offense.

"(c) In the case of any sentence imposed under subsection (b), imposition or execution of such sentence shall not be suspended and probation shall not be granted. An individual convicted under subsection (b) shall not be eligible for parole under chapter 311 of title 18 of the United States Code until the individual has served the minimum sentence required by such subsection.

"(d) For purposes of this section—

"(1) the term 'safety rest area' means a roadside facility with parking facilities for the rest or other needs of motorists; and

"(2) the term 'truck stop' means any facility (including any parking lot appurtenant thereto) that has the capacity to provide fuel or service, or both, to any commercial motor vehicle as defined under section 12019(6) of the Commercial Motor Vehicle Safety Act of 1986, operating in commerce as defined in section 12019(3) of such Act and that is located within 2,500 feet of the National System of Interstate and Defense Highways or the Federal-Aid Primary System.".

(2) CONFORMING AMENDMENTS.—

(A) CROSS REFERENCE.—Section 401(b) of such Act (21 U.S.C. 841(b)) is amended by inserting "409," immediately before "418," each place it appears.

(B) TABLE OF CONTENTS.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by striking the item relating to section 409, the following new item:

"Sec. 409. Transportation safety offenses.".

(c) SENTENCING GUIDELINES.—

(1) PROMULGATION OF GUIDELINES.—Pursuant to its authority under section 994 of title 28, United States Code, and section 21 of the Sentencing Act of 1987 (28 U.S.C. 994 note), the United States Sentencing Commission shall promulgate guidelines, or shall amend existing guidelines, to provide that a defendant convicted of violating section 409 of the Controlled Substances Act, as added by subsection (c), shall be assigned an offense level under chapter 2 of the sentencing guidelines that is—

(A) two levels greater than the level that would have been assigned for the underlying controlled substance offense; and

(B) in no event less than level 26.

(2) IMPLEMENTATION BY SENTENCING COMMISSION.—If the sentencing guidelines are amended after the date of enactment of this Act, the Sentencing Commission shall implement the instruction set forth in paragraph (1) so as to achieve a comparable result.

(3) LIMITATION.—The guidelines described in paragraph (1), as promulgated or amended under this subsection, shall provide that an offense that could be subject to multiple enhancements pursuant to this subsection is subject to not more than one such enhancement.

TITLE XVI—DRUG CONTROL

Subtitle A—Drug Emergency Areas

SEC. 1601. DRUG EMERGENCY AREAS.

Section 1005 of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1504) is amended by adding at the end the following:

"(e) DECLARATION OF DRUG EMERGENCY AREAS.—

"(1) PRESIDENTIAL DECLARATION.—(A) In the event that a major drug-related emergency exists throughout a State or a part of a State or where the threat of a drug-related emergency exists to part of a State bordering part of a foreign country where a drug-related emergency is known to exist, the President may, in consultation with the Director and other appropriate officials, declare such State or part of a State to be a drug emergency area and may take any and all necessary actions authorized by this subsection or otherwise authorized by law.

"(B) For the purposes of this subsection, the term 'major drug-related emergency' means any occasion or instance in which drug smuggling, drug trafficking, drug abuse, or drug-related violence reaches such levels, as determined by the President, that Federal assistance is needed to supplement State and local efforts and capabilities to save lives, and to protect property and public health and safety.

"(2) PROCEDURE FOR DECLARATION.—(A) All requests for a declaration by the President designating an area to be a drug emergency area shall be made, in writing, by the Governor or chief executive officer of any affected State or local government, respectively, and shall be forwarded to the President through the Director in such form as the Director may by regulation require. One or more cities, counties, or States may submit a joint request for designation as a drug emergency area under this subsection.

"(B) Any request made under subparagraph (A) of this paragraph shall be based on a written finding that the major drug-related emergency is of such severity and magnitude, that Federal assistance is necessary to assure an effective response to save lives, and to protect property and public health and safety.

"(C) The President shall not limit declarations made under this subsection to highly-populated centers of drug trafficking, drug smuggling, drug use or drug-related violence, but shall also consider applications from governments of less populated areas where the magnitude and severity of such activities is beyond the capability of the State or local government to respond.

"(D) As part of a request for a declaration by the President under this subsection, and as a prerequisite to Federal drug emergency assistance under this subsection, the Governor(s) or chief executive officer(s) shall—

"(i) take appropriate action under State or local law and furnish such information on the nature and amount of State and local resources which have been or will be committed to alleviating the major drug-related emergency;

"(ii) certify that State and local government obligations and expenditures will comply with all applicable cost-sharing requirements of this subsection; and

"(iii) submit a detailed plan outlining that government's short- and long-term plans to respond to the major drug-related emergency, specifying the types and levels of Federal assistance requested, and including explicit goals (where possible quantitative goals) and timetables and shall specify how Federal assistance provided under this subsection is intended to achieve such goals.

"(E) The Director shall review any request submitted pursuant to this subsection and forward the application, along with a recommendation to the President on whether to approve or disapprove the application, within 30 days after receiving such application. Based on

the application and the recommendation of the Director, the President may declare an area to be a drug emergency area under this subsection.

"(3) FEDERAL MONETARY ASSISTANCE.—(A) The President is authorized to make grants to State or local governments of up to, in the aggregate for any single major drug-related emergency, $50,000,000.

"(B) The Federal share of assistance under this section shall not be greater than 75 percent of the costs necessary to implement the short- and long-term plan outlined in paragraph (2)(D)(iii).

"(C) Federal assistance under this subsection shall not be provided to a drug disaster area for more than 1 year. In any case where Federal assistance is provided under this Act, the Governor(s) or chief executive officer(s) may apply to the President, through the Director, for an extension of assistance beyond 1 year. The President, based on the recommendation of the Director, may extend the provision of Federal assistance for not more than an additional 180 days.

"(D) Any State or local government receiving Federal assistance under this subsection shall balance the allocation of such assistance evenly between drug supply reduction and drug demand reduction efforts, unless State or local conditions dictate otherwise.

"(4) NONMONETARY ASSISTANCE.—In addition to the assistance provided under paragraph (3), the President may—

"(A) direct any Federal agency, with or without reimbursement, to utilize its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State and local assistance efforts; and

"(B) provide technical and advisory assistance, including communications support and law enforcement-related intelligence information.

"(5) ISSUANCE OF IMPLEMENTING REGULATIONS.—Not later than 90 days after the date of the enactment of this subsection, the Director shall issue regulations to implement this subsection, including such regulations as may be necessary relating to applications for Federal assistance and the provision of Federal monetary and nonmonetary assistance.

"(6) AUDIT BY COMPTROLLER GENERAL.—Assistance under this subsection shall be subject to annual audit by the Comptroller General.

"(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 1992, 1993, and 1994, $300,000,000 to carry out this subsection.".

Subtitle B—Precursor Chemicals

SEC. 1611. SHORT TITLE.

This subtitle may be cited as "The Chemical Control and Environmental Responsibility Act of 1991".

SEC. 1612. DEFINITION AMENDMENTS.

(a) Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

(1) in paragraph (33) by striking "any listed precursor chemical or listed essential chemical" and by inserting in lieu thereof "any list I chemical or any list II chemical";

(2) in paragraph (34) by striking "listed precursor chemical" and by inserting in lieu thereof "list I chemical" and by striking "critical to the creation" and by inserting in lieu thereof "important to the manufacture";

(3) in paragraph (35) by striking "listed essential chemical" and inserting in lieu thereof "list II chemical" and by striking "that is used as a solvent, reagent, or catalyst" and by inserting in lieu thereof ", which is not a list I chemical, that is used";

(4) in paragraph (40) by striking "listed precursor chemical or a listed essential chemical" and by inserting in lieu thereof "list I chemical or a list II chemical" in both places it appears.

(b) Section 310 of the Controlled Substances Act (21 U.S.C. 830) is amended—

(1) in subsection (a)(1)(A) by striking "precursor chemical" and inserting in lieu thereof "list I chemical";

(2) in subsection (a)(1)(B) by striking "an essential chemical" and inserting in lieu thereof "a list II chemical";

(3) in subsection (c)(2)(D) by striking "precursor chemical" and inserting in lieu thereof "chemical control".

(c) Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

(1) in paragraph (34) by inserting ", its esters," before "and" in subparagraphs (A), (F), and (H);

(2) in paragraph (38) by striking the period and inserting in lieu thereof "or who acts as a broker or trader for an international transaction involving a listed chemical, a tableting machine, or an encapsulating machine.";

(3) in paragraph (39)(A) by striking "or exportation" and inserting in lieu thereof ", exportation or any international transaction which does not involve the importation or exportation of a listed chemical into or out of the United States if a broker or trader located in the United States participates in the transaction,";

(4) in paragraph (39)(A)(iii) by inserting "or any category of transaction for a specific listed chemical or chemicals" after "transaction";

(5) in paragraph (39)(A)(iv) by striking the semi-colon and inserting in lieu thereof "unless the listed chemical is ephedrine as defined in paragraph (34)(C) of this section or any other listed chemical which the Attorney General may be regulation designate as not subject to this exemption after finding that such action would serve the regulatory purposes of this chapter in order to prevent diversion and the total quantity of the ephedrine or other listed chemical designated pursuant to this paragraph included in the transaction equals or exceeds the threshold established for that chemical by the Attorney General;";

(6) in paragraph (39)(A)(v) by striking the semi-colon and inserting in lieu thereof "which the Attorney General has by regulation designated as exempt from the application of this chapter based on a finding that the mixture is formulated in such a way that it cannot be easily used in the illicit production of a controlled substance and that the listed chemical or chemicals contained in the mixture cannot be readily recovered;"; and

(7) by adding a new paragraph as follows:

"(42) the terms 'broker' or 'trader' mean a person who assists in arranging an international transaction in a listed chemical by negotiating contracts, serving as an agent or intermediary, or bringing a buyer, seller and/or transporter together.".

SEC. 1613. REGISTRATION REQUIREMENT.

(a) Section 301 of the Controlled Substances Act (21 U.S.C. 821) is amended by striking the period and inserting in lieu thereof "and to the registration and control of regulated persons and of regulated transactions.".

(b) Section 302 of the Controlled Substances Act (21 U.S.C. 822) is amended—

(1) in subsection (a)(1) by inserting "or list I chemical" after "controlled substance" in each place it appears;

(2) in subsection (b) by inserting "or list I chemicals" after "controlled substances" and by inserting "or chemicals" after "such substances";

(3) in subsection (c) by inserting "or list I chemical" after "controlled substance" each place it appears; and

(4) in subsection (e) by inserting "or list I chemicals" after "controlled substances".

(c) Section 303 of the Controlled Substances Act (21 U.S.C. 823) is amended by adding at the end the following new subsection:

"(h) The Attorney General shall register an applicant to distribute a list I chemical unless he determines that the issuance of such registration is inconsistent with the public interest. In determining the public interest, the following factors shall be considered:

"(1) maintenance of effective controls against diversion of listed chemicals into other than legitimate channels;

"(2) compliance with applicable Federal, State and local law;

"(3) prior conviction record of applicant under Federal or State laws relating to controlled substances or to chemicals controlled under Federal or State law;

"(4) past experience in the manufacture and distribution of chemicals; and

"(5) such other factors as may be relevant to and consistent with the public health and safety.".

(d) Section 304 of the Controlled Substances Act (21 U.S.C. 824) is amended—

(1) in subsection (a) by inserting "or a list I chemical" after "controlled substance" in each place it appears and by inserting "or list I chemicals" after "controlled substances";

(2) in subsection (b) by inserting "or list I chemical" after "controlled substance";

(3) in subsection (f) by inserting "or list I chemicals" after "controlled substances" each place it appears; and

(4) in subsection (g) by inserting "or list I chemicals" after "controlled substances" each place it appears and by inserting "or list I chemical" after "controlled substance" each place it appears.

(e) Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958) is amended—

(1) by redesignating subsection (c) as subsection (c)(1);

(2) by adding at the end the following:

"(2) The Attorney General shall register an applicant to import or export a list I chemical unless he determines that the issuance of such registration is inconsistent with the public interest. In determining the public interest, the factors enumerated in paragraphs (1) through (5) of section 303(h) shall be considered.";

(3) in subsection (d)(3) by inserting "or list I chemical or chemicals," after "substances,";

(4) in subsection (d)(6) by inserting "or list I chemicals" after "controlled substances" each place it appears;

(5) in subsection (e) by striking "and 307" and inserting "307, and 310"; and

(6) in subsections (f), (g) and (h) by inserting "or list I chemicals" after "controlled substances" each place it appears.

(f) Section 403(a) of the Controlled Substances Act (21 U.S.C. 843(a)) is amended—

(1) by striking "or" at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting in lieu thereof "; or"; and

(3) by adding at the end the following:

"(9) who is a regulated person to distribute, import or export a list I chemical without the registration required by this title.".

SEC. 1614. REPORTING OF LISTED CHEMICAL MANUFACTURING.

Section 310(b) of the Controlled Substances Act (21 U.S.C. 830(b)) is amended—

(1) by striking "(b) Each" and inserting "(b)(1) Each";

(2) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively;

(3) by striking "paragraph (1)" each place it appears and inserting "subparagraph (A)";

(4) by striking "paragraph (2)" each place it appears and inserting "subparagraph (B)";

(5) by striking "paragraph (3)" each place it appears and inserting "subparagraph (C)"; and

(6) by adding at the end the following:

"(2) Each regulated person who manufactures a listed chemical shall report annually to the Attorney General, in such form and manner and containing such specific data as the Attorney General shall prescribe by regulation, information concerning listed chemicals manufactured by him.".

SEC. 1615. REPORTS BY BROKERS AND TRADERS; CRIMINAL PENALTIES.

(a) Section 1018 of the Controlled Substances Import and Export Act (21 U.S.C. 971) is amended by adding the follow new subsection:

"(e) Any person located in the United States who is a broker or trader for an international transaction in a listed chemical which is a regulated transaction solely because of that person's involvement as a broker or trader shall, with respect to that transaction, be subject to all of the notification, reporting, record keeping, and other requirements placed upon exporters of listed chemicals by this title and title II.".

(b) Section 1010(d) of the Controlled Substances Import and Export Act (21 U.S.C. 960(d)) is amended to read as follows:

"(d) Any person who knowingly or intentionally—

"(1) imports or exports listed chemical with intent to manufacture a controlled substance in violation of this chapter;

"(2) exports a listed chemical, or serves as a broker or trader for an international transaction involving a listed chemical, in violation of the laws of the country to which the chemical is exported;

"(3) imports or exports a listed chemical knowing, or having reasonable cause to believe, that the chemical will be used to manufacture a controlled substance in violation of this chapter;

"(4) exports a listed chemical, or serves as a broker or trader for an international transaction involving a listed chemical, knowing, or having reasonable cause to believe, that the chemical will be used to manufacture a controlled substance in violation of the laws of the country to which the chemical is exported;

shall be fined in accordance wth title 18, United States Code, or imprisoned not more than 10 years, or both.".

SEC. 1616. EXEMPTION AUTHORITY; ADDITIONAL PENALTIES.

(a) Section 1018 of the Controlled Substances Import and Export Act (21 U.S.C. 971) is amended by adding the following new subsection:

"(f)(1) The Attorney General may by regulation require that the 15 day advance notice requirement of subsection (a) of this section apply to all exports of specific listed chemicals to specified nations, regardless of the status of certain customers in such country as "regular customers" if he finds that such action is necessary to support effective diversion control programs or is required by treaty or other international agreement to which the United States is a party;

"(2) The Attorney General may by regulation waive the 15 day advance notice requirement for exports of specific listed chemicals to specified countries if he determines that such advance notice is not required for effective chemical control. If such advance notice requirement is waived, exporters of such listed chemicals shall be required to either submit reports of individual exportations or to submit periodic reports of the exportation of such listed chemicals to the Attorney General at such time or times and containing such information as the Attorney General shall establish by regulation.

"(3) The Attorney General may by regulation waive the 15 day advance notice requirement for the importation of specific listed chemicals if he determines that such requirement is not necessary for effective chemical control. If such advance notice requirement is waived, importers of such listed chemicals shall be required to either submit reports of individual importations or to submit periodic reports of the importation of such listed chemicals to the Attorney General at such time or times and containing such information as the Attorney General shall establish by regulation.".

(b) Section 1010(d) of the Controlled Substances Import and Export Act (21 U.S.C. 960(d)) (as amended by section 1615(b)) is amended by—

(1) inserting "or" after the semicolon at the end of paragraph (4); and

(2) adding a new paragraph (5) as follows:

"(5) imports or exports a listed chemical, with the intent to evade the reporting or recordkeeping requirements of section 1018 of this title applicable to such importation or exportation by falsely representing to the Attorney General that the importation or exportation qualifies for a waiver of the advance notice requirement granted pursuant to section 1018(d)(1) or (2) of this title by misrepresenting the actual country of final destination of the listed chemical or the actual listed chemical being imported or exported;".

SEC. 1617. AMENDMENTS TO LIST I.

Section 102(34) of the Controlled Substances Act (21 U.S.C. 802(34)) is amended:

(1) by striking subparagraphs (O), (U), and (W);

(2) by redesignating subparagraphs (P) through (T) as (O) through (S), subparagraph (V) as (T), and subparagraph (X) as (U), respectively;

(3) by inserting after subparagraph (U), as so redesignated by paragraph (2), the following:

"(V) benzaldehyde.

"(W) nitroethane.";

(4) by redesignating subparagraph (Y) as (X); and

(5) by striking "(M) through (X)" in redesignated subparagraph (X) and inserting in lieu thereof "(M) through (U)".

SEC. 1618. ELIMINATION OF REGULAR SUPPLIER STATUS AND CREATION OF REGULAR IMPORTER STATUS.

(a) Section 102(37) of the Controlled Substances Act (21 U.S.C. 802(37)) is amended to read as follows:

"(37) The term 'regular importer' means, with respect to a specific listed chemical, a person who has an established record as an importer of that listed chemical that is reported to the Attorney General.".

(b) Section 1018 of the Controlled Substances Import and Export Act (21 U.S.C. 971) is amended—

(1) in subsection (b)(1) by striking "regular supplier of the regulated person." and inserting in lieu thereof "to an importation by a regular importer.";

(2) in subsection (b)(2) by striking "a customer or supplier of a regulated person" and inserting in lieu thereof "a customer of a regulated person or to an importer" and by striking "regular supplier" and inserting in lieu thereof "the importer as a regular importer"; and

(3) in subsection (c)(1) by striking "regular supplier" and inserting in lieu thereof "regular importer".

SEC. 1619. ADMINISTRATIVE INSPECTIONS AND AUTHORITY.

Section 510(a)(2) of the Controlled Substances Act (21 U.S.C. 880(a)(2)) is amended to read as follows:

"(2) places, including factories, warehouses, or other establishments, and conveyances, where persons registered under section 303 of this title (or exempt from such registration under section 302(d) of this title or by regulation of the Attorney General), or a regulated person may lawfully hold, manufacture, distribute, dispense, administer, or otherwise dispose of controlled substances or listed chemicals or where records relating to such activity are maintained.".

SEC. 1620. THRESHOLD AMOUNTS.

Section 102(39)(A) of the Controlled Substances Act (21 U.S.C. 802(39)(A)) is amended by inserting "a listed chemical, or if the Attorney General establishes a threshold amount for a specific listed chemical," before "a threshold amount, including a cumulative threshold amount of multiple transactions".

SEC. 1621. MANAGEMENT OF LISTED CHEMICALS.

(a) Part C of the Controlled Substances Act (21 U.S.C. 801 et seq.) is amended by inserting after section 310 the following new section:

"MANAGEMENT OF LISTED CHEMICALS

"SEC. 311. (a) It is unlawful for a person who possesses a listed chemical with the intent that it be used in the illegal manufacture of a controlled substance to manage the listed chemical or waste from the manufacture of a controlled substance otherwise than as required by regulations issued under sections 3001 through 3005 of the Solid Waste Disposal Act (42 U.S.C. 6921–6925).

"(b)(1) In addition to a penalty that may be imposed for the illegal manufacture, possession, or distribution of a listed chemical or toxic residue of a clandestine laboratory, a person who violates subsection (a) shall be assessed the costs described in paragraph (2) and shall be imprisoned as described in paragraph (3).

"(2) Pursuant to paragraph (1), a defendant shall be assessed the following costs to the United States, a State, or other authority or person that undertakes to correct the results of the improper management of a listed chemical:

"(A) The cost of initial cleanup and disposal of the listed chemical and contaminated property; and

"(B) The cost of restoring property that is damaged by exposure to a listed chemical for rehabilitation under Federal, State, and local standards.

"(3)(A) A violation of subsection (a) shall be punished as a Class D felony, or in the case of a willful violation, as a Class C felony.

"(B) It is the sense of the Congress that guidelines issued by the Sentencing Commission regarding sentencing under this paragraph should recommend that the term of imprisonment for the violation of subsection (a) should not be less than 5 years, nor less than 10 years in the case of a willful violation.

"(4) The Court may order that all or a portion of the earnings from work performed by a defendant in prison be withheld for payment of costs assessed under paragraph (2).

"(c) The Attorney General may direct that assets forfeited under section 511 in connection with a prosecution under this section be shared with State agencies that participated in the seizure or cleaning up of a contaminated site.".

(b) Section 523(a) of title 11, United States Code, is amended—

(1) by striking "or" at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting "; or"; and

(3) by adding the following new paragraph at the end thereof:

"(11) for costs assessed under section 311(b) of the Controlled Substances Act.".

Subtitle C—General Provisions

SEC. 1631. CRIMINAL PENALTY FOR FAILURE TO OBEY ORDER TO LAND.

(a) IN GENERAL.—Chapter 109 of title 18, United States Code, is amended by adding at the end the following new section:

"§2237. Order to land

"(a)(1) A pilot or operator of an aircraft that has crossed the border of the United States, or

an aircraft subject to the jurisdiction of the United States operating outside the United States, who intentionally fails to obey an order to land issued by an authorized Federal law enforcement officer who has observed conduct or is otherwise in possession of information establishing reasonable suspicion that the aircraft is being used unlawfully in violation of the laws of the United States relating to controlled substances, as that term is defined in section 102(6) of the Controlled Substances Act, or section 1956 or 1957 of this title (relating to money laundering), shall be fined under this title, or imprisoned not more than two years, or both.

"(2) The Secretary of the Treasury and the Secretary of Transportation, in consultation with the Attorney General, shall make rules governing the means by which a Federal law enforcement officer may communicate an order to land to a pilot or operator of an aircraft.

"(3) This section does not limit the authority of a customs officer under section 581 of the Tariff Act of 1930 or another law the Customs Service enforces or administers, or the authority of a Federal law enforcement officer under a law of the United States to order an aircraft to land.

"(b) A foreign nation may consent or waive objection to the United States enforcing the laws of the United States by radio, telephone, or similar oral or electronic means. Consent or waiver may be proven by certification of the Secretary of State or the Secretary's designee.

"(c) For purposes of this section—

"(1) the term 'aircraft subject to the jurisdiction of the United States' includes—

"(A) an aircraft located over the United States or the customs waters of the United States;

"(B) an aircraft located in the airspace of a foreign nation, when that nation consents to United States enforcement of United States law; and

"(C) over the high seas, an aircraft without nationality, an aircraft of the United States registry, or an aircraft registered in a foreign nation that has consented or waived objection to the United States enforcement of United States law; and

"(2) the term 'Federal law enforcement officer' has the same meaning that term has in section 115 of this title.

"(d) An aircraft that is used in violation of this section is liable in rem for a fine imposed under this section.

"(e) An aircraft that is used in violation of this section may be seized and forfeited. The laws relating to seizure and forfeiture for violation of the customs laws, including available defenses such as innocent owner provisions, apply to aircraft seized or forfeited under this section.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 109 of title 18, United States Code, is amended by adding at the end the following new item:

"2237. Order to land.".

SEC. 1632. AMENDMENT TO THE MANSFIELD AMENDMENT TO PERMIT MARITIME LAW ENFORCEMENT OPERATIONS IN ARCHIPELAGIC WATERS.

Section 481(c)(4) of Public Law 87-195 (22 U.S.C. 2291)(c)(4)) is amended by inserting ", and archipelagic waters" after "territorial sea".

SEC. 1633. ENHANCEMENT OF PENALTIES FOR DRUG TRAFFICKING IN PRISONS.

Section 1791 of title 18, United States Code, is amended—

(1) in subsection (c), by inserting before "Any" the following new sentence: "Any punishment imposed under subsection (b) for a violation of this section involving a controlled substance shall be consecutive to any other sentence imposed by any court for an offense involving such a controlled substance.";

(2) in subsection (d)(1)(A), by inserting after "a firearm or destructive device" the following: "or a controlled substance in schedule I or II, other than marijuana or a controlled substance referred to in subparagraph (C) of this subsection";

(3) in subsection (d)(1)(B), by inserting before "ammunition," the following: "marijuana or a controlled substance in schedule III, other than a controlled substance referred to in subparagraph (C) of this subsection,";

(4) in subsection (d)(1)(C), by inserting "methamphetamine, its salts, isomers, and salts of its isomers," after "a narcotic drug,";

(5) in subsection (d)(1)(D), by inserting "(A), (B), or" before "(C)"; and

(6) in subsection (b), by striking "(c)" each place it appears and inserting in lieu thereof "(d)".

SEC. 1634. CLOSE LOOPHOLE FOR ILLEGAL IMPORTATION OF SMALL DRUG QUANTITIES.

Section 497(a)(2)(A) of the Tariff Act of 1930 (19 U.S.C. 1497(a)(2)(A)) is amended by adding "or $500, whichever is greater" after "value of the article".

SEC. 1635. CLARIFICATION OF NARCOTIC OR OTHER DANGEROUS DRUGS UNDER THE RICO STATUTE.

Section 1961(1) of title 18, United States Code, is amended by striking "narcotic or other dangerous drugs" each place it appears and inserting in lieu thereof "a controlled substance or listed chemical, as defined in section 102 of the Controlled Substances Act".

SEC. 1636. CONFORMING AMENDMENTS TO RECIDIVIST PENALTY PROVISIONS OF THE CONTROLLED SUBSTANCES ACT AND THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.

(1) Sections 401(b)(1) (B), (C), and (D) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(B), (C), and (D)) and sections 1010(b) (1), (2), and (3) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b) (1), (2), and (3)) are each amended in the sentence or sentences beginning "If any person commits" by striking "one or more prior convictions" through "have become final" and inserting in lieu thereof "a prior conviction for a felony drug offense has become final";

(2) Section 1012(b) of the Controlled Substances Import and Export Act (21 U.S.C. 962(b)) is amended by striking "one or more prior convictions of him for a felony under any provision of this title or title II or other law of a State, the United States, or a foreign country relating to narcotic drugs, marihuana, or depressant or stimulant drugs, have become final" and inserting in lieu thereof "one or more prior convictions of such person for a felony for a felony drug offense have become final".

(3) Section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) is amended by striking the sentence beginning "For purposes of this subparagraph, the term 'felony drug offense' means";

(4) Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended by adding at the end the following new paragraph:

"(43) The term 'felony drug offense' means an offense that is punishable by imprisonment for more than one year under any law of the United States or of a State or foreign country that prohibits or restricts conduct relating to narcotic drugs, marihuana, or depressant or stimulant substances.".

SEC. 1637. PENALTIES FOR DRUG DEALING IN PUBLIC HOUSING AUTHORITY FACILITIES.

Section 419 of the Controlled Substances Act (21 U.S.C. 860) is amended—

(1) in subsection (a) by striking "playground, or within" and inserting "playground, or housing facility owned by a public housing authority, or within"; and

(2) in subsection (b) by striking "playground, or within" and inserting "playground, or housing facility owned by a public housing authority, or within".

SEC. 1638. ANABOLIC STEROIDS PENALTIES.

Section 404 of the Controlled Substances Act (21 U.S.C. 844) is amended by inserting after subsection (a) the following:

"(b)(1) Whoever, being a physical trainer or adviser to an individual, endeavors to persuade or induce that individual to possess or use anabolic steroids in violation of subsection (a), shall be fined under title 18, United States Code, or imprisoned not more than 2 years, or both. If such individual has not attained the age of 18 years, the maximum imprisonment shall be 5 years.

"(2) As used in this subsection, the term 'physical trainer or adviser' means any professional or amateur coach, manager, trainer, instructor, or other such person, who provides any athletic or physical instruction, training, advice, assistance, or other such service to any person.".

SEC. 1639. PROGRAM TO PROVIDE PUBLIC AWARENESS OF THE PROVISION OF PUBLIC LAW 101–516 WHICH CONDITIONS PORTIONS OF A STATE'S FEDERAL HIGHWAY FUNDING ON THAT STATE'S ENACTMENT OF LEGISLATION REQUIRING THE REVOCATION OF THE DRIVER'S LICENSES OF CONVICTED DRUG ABUSERS.

The Attorney General, in consultation with the Secretary of Transportation, shall implement a program of national awareness of Public Law 101–516, section 333. This program shall notify the Governors and State Representatives of the requirements of Public Law 101–516, section 333.

SEC. 1640. ADVERTISING.

Section 403 of the Controlled Substances Act (21 U.S.C. 843) is amended—

(1) by inserting after subsection (b) the following:

"(c) It shall be unlawful for any person to print, publish, place, or otherwise cause to appear in any newspaper, magazine, handbill, or other publications, any written advertisement knowing that it has the purpose of seeking or offering illegally to receive, buy, or distribute a Schedule I controlled substance. As used in this section the term 'advertisement' includes, in addition to its ordinary meaning, such advertisements as those for a catalog of Schedule I controlled substances and any similar written advertisement that has the purpose of seeking or offering illegally to receive, buy, or distribute a Schedule I controlled substance. The term 'advertisement' does not include material which merely advocates the use of a similar material, which advocates a position or practice, and does not attempt to propose or facilitate an actual transaction in a Schedule I controlled substance."; and

(2) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively.

SEC. 1641. INCREASED PENALTIES FOR DRUG-DEALING IN "DRUG-FREE" ZONES.

Section 419 of the Controlled Substances Act (21 U.S.C. 860) is amended—

(1) in subsection (a), by striking "one year" and inserting "3 years"; and

(2) in subsection (b), by striking "three years" each place it appears and inserting "5 years".

SEC. 1642. NATIONAL DRUG CONTROL STRATEGY.

(a) IN GENERAL.—Section 1005(a) of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1504(a)) is amended by adding at the end the following:

"(5) Beginning with the first submission of a National Drug Control Strategy to Congress after the date of the enactment of the Violent Crime Control and Law Enforcement Act of

1991, the goals, objectives, and priorities of such Strategy shall include a goal for expanding the availability of treatment for drug addiction.".

(b) SENSE OF CONGRESS.—It is the sense of Congress that among the long-term goals of the National Drug Control Strategy should be the availability of drug treatment to all who are in need of such treatment.

SEC. 1643. NOTIFICATION OF LAW ENFORCEMENT OFFICERS OF DISCOVERIES OF CONTROLLED SUBSTANCES OR LARGE SUMS OF CASH IN EXCESS OF $10,000 IN WEAPON SCREENING.

Section 315 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1356) is amended by redesignating subsection (c) as subsection (d) and by adding after subsection (b) the following new subsection:

"(c) DISCOVERIES OF CONTROLLED SUBSTANCES OR CASH IN EXCESS OF $10,000.—Not later than 90 days after the date of the enactment of this section, the Administrator shall issue regulations requiring employees and agents referred to in subsection (a) to report to appropriate Federal and State law enforcement officers any incident in which the employee or agent, in the course of conducting screening procedures pursuant to subsection (a), discovers a controlled substance the possession of which may be a violation of Federal or State law, or any sizable sums of cash in excess of $10,000 the possession of which may be a violation of Federal or State law.

SEC. 1644. MANDATORY PENALTIES FOR ILLEGAL DRUG USE IN FEDERAL PRISONS.

(a) DECLARATION OF POLICY.—It is the policy of the Federal Government that the use or distribution of illegal drugs in the Nation's Federal prisons will not be tolerated and that such crimes shall be prosecuted to the fullest extent of the law.

(b) AMENDMENT.—Section 401(b) of the Controlled Substances Act (21 U.S.C. 841(b)) is amended by adding the following new paragraph at the end thereof:

"(7)(A) In a case under section 404 involving simple possession of a controlled substance within a Federal prison or other Federal detention facility, such person shall be sentenced to a term of imprisonment of not less than 1 year without release, to be served consecutively to any other sentence imposed for the simple possession itself.

"(B) In a case under this section involving the smuggling of a controlled substance into a Federal prison or other Federal detention facility or the distribution or intended distribution of a controlled substance within a Federal prison or other Federal detention facility, such person shall be sentenced to a term of imprisonment of not less than 10 years without release, to be served consecutively to any other sentence imposed for the possession with intent to distribute or the distribution itself.

"(C) Notwithstanding any other law, the court shall not place on probation or suspend the sentence of a person sentenced under this paragraph. No person sentenced under this paragraph shall be eligible for parole during the term of imprisonment imposed under this paragraph.".

TITLE XVII—DRUNK DRIVING PROVISIONS

SEC. 1701. SHORT TITLE.

This title may be cited as the "Drunk Driving Child Protection Act of 1991".

SEC. 1702. STATE LAWS APPLIED IN AREAS OF FEDERAL JURISDICTION.

Section 13(b) of title 18, United States Code, is amended by—

(1) striking "For purposes" and inserting "(1) Subject to paragraph (2) and for purposes"; and

(2) adding at the end thereof the following new paragraph:

"(2)(A) In addition to any term of imprisonment provided for operating a motor vehicle under the influence of a drug or alcohol imposed under the law of a State, territory, possession, or district, the punishment for such an offense under this section shall include an additional term of imprisonment of not more than 1 year, or if serious bodily injury of a minor is caused, 5 years, or if death of a minor is caused, 10 years, and an additional fine of not more than $1,000, or both, if—

"(i) a minor (other than the offender) was present in the motor vehicle when the offense was committed; and

"(ii) the law of the State, territory, possession, or district in which the offense occurred does not provide an additional term of imprisonment under the circumstances described in clause (i).

"(B) For the purposes of subparagraph (A), the term 'minor' means a person less than 18 years of age.".

SEC. 1703. SENSE OF CONGRESS CONCERNING CHILD CUSTODY AND VISITATION RIGHTS.

It is the sense of the Congress that in determining child custody and visitation rights, the courts should take into consideration the history of drunk driving that any person involved in the determination may have.

TITLE XVIII—COMMISSIONS

Subtitle A—Commission on Crime and Violence

SEC. 1801. ESTABLISHMENT OF COMMISSION ON CRIME AND VIOLENCE.

There is established a commission to be known as the "National Commission on Crime and Violence in America". The Commission shall be composed of 22 members, appointed as follows:

(1) 6 persons by the President;

(2) 8 persons by the Speaker of the House of Representatives, two of whom shall be appointed on the recommendation of the minority leader; and

(3) 8 persons by the President pro tempore of the Senate, six of whom shall be appointed on the recommendation of the majority leader of the Senate and two of whom shall be appointed on the recommendation of the minority leader of the Senate.

SEC. 1802. PURPOSE.

The purposes of the Commission are as follows:

(1) To develop a comprehensive and effective crime control plan which will serve as a "blueprint" for action in the 1990's. The report shall include an estimated cost for implementing any recommendations made by the Commission.

(2) To bring attention to successful models and programs in crime prevention and crime control.

(3) To reach out beyond the traditional criminal justice community for ideas when developing the comprehensive crime control plan.

(4) To recommend improvements in the coordination of local, State, Federal, and international border crime control efforts.

(5) To make a comprehensive study of the economic and social factors lending to or contributing to crime and specific proposals for legislative and administrative actions to reduce crime and the elements that contribute to it.

(6) To recommend means of targeting finite correctional facility space and resources to the most serious and violent offenders, with the goal of achieving the most cost-effective possible crime control and protection of the community and public safety, with particular emphasis on examining the issue of possible disproportionate incarceration rates among black males and any other minority group disproportionately represented in State and Federal correctional populations, and to consider increased use of alternatives to incarceration which offer a reasonable prospect of equal or better crime control at equal or less cost.

SEC. 1802. RESPONSIBILITIES OF THE COMMISSION.

The commission shall be responsible for the following:

(1) Reviewing the effectiveness of traditional criminal justice approaches in preventing and controlling crime and violence.

(2) Examining the impact that changes to state and Federal law have had in controlling crime and violence.

(3) Examining the impact of changes in Federal immigration laws and policies and increased development and growth along United States international borders on crime and violence in the United States, particularly among our Nation's youth.

(4) Examining the problem of youth gangs and provide recommendations as to how to reduce youth involvement in violent crime.

(5) Examining the extent to which assault weapons and high power firearms have contributed to violence and murder in America.

(6) Convening field hearings in various regions of the country to receive testimony from a cross section of criminal justice professionals, business leaders, elected officials, medical doctors, and other citizens that wish to participate.

(7) Review all segments of our criminal justice system, including the law enforcement, prosecution, defense, judicial, corrections components in developing the crime control plan.

Subtitle B—National Commission to Study the Causes of the Demand for Drugs in the United States

SEC. 1821. SHORT TITLE.

This subtitle may be cited as the "National Commission to Study the Causes of the Demand for Drugs in the United States".

SEC. 1822. ESTABLISHMENT.

There is established a National Commission to Study the Causes of the Demand for Drugs in the United States (hereinafter in this Act referred to as the "Commission").

SEC. 1823. DUTIES.

(a) IN GENERAL.—The Commission shall—

(1) examine the root causes of illicit drug use and abuse in the United States, including by compiling existing research regarding those root causes;

(2) evaluate the efforts being made to prevent drug abuse;

(3) identify the existing gaps in drug abuse policy that result from the lack of attention to the root causes of drug abuse;

(4) assess the needs of Government at all levels for resources and policies for reducing the overall desire of individuals to experiment with and abuse illicit drugs; and

(5) make recommendations regarding necessary improvements in policies for reducing the use of illicit drugs in the United States.

(b) EXAMINATION.—Matters examined by the Commission under this section shall include the following:

(1) CHARACTERISTICS.—The characteristics of potential illicit drug users and abusers or drug traffickers, including age and social, economic, and educational backgrounds.

(2) ENVIRONMENT.—Environmental factors that contribute to illicit drug use and abuse, including the correlation between unemployment, poverty, and homelessness on drug experimentation and abuse.

(3) ASSOCIATIONS AND SOCIAL RELATIONSHIPS.—The effects of substance use and abuse by a relative or friend in contributing to the likelihood and desire of an individual to experiment with illicit drugs.

(4) CULTURE.—Aspects of, and changes in, philosophical or religious beliefs, cultural values, attitudes toward authority, status of basic social units (such as families), and traditions that contribute to illicit drug use and abuse.

(5) PHYSIOLOGICAL AND PSYCHOLOGICAL FACTORS.—The physiological and psychological factors that contribute to the desire for illicit drugs.

(6) EFFORTS OF GOVERNMENTS.—The current status of Federal, State, and local efforts regarding the causes of illicit drug use and abuse, including a review of drug strategies being promoted by Federal, State, and local authorities to address the causes of illicit drug use and abuse.

SEC. 1824. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—

(1) IN GENERAL.—The Commission shall consist of 13 members, as follows:

(A) PRESIDENT.—Three individuals appointed by the President.

(B) SENATE.—Five individuals appointed jointly by the majority and minority leaders of the Senate. Not more than 3 members appointed under this paragraph may be of the same political party. At least 1 member appointed under this paragraph shall be a recovering drug user.

(C) HOUSE OF REPRESENTATIVES.—Five individuals appointed jointly by the Speaker, majority leader, and minority leader of the House of Representatives. Not more than 3 members appointed under this paragraph may be of the same political party. At least 1 member appointed under this paragraph shall be a recovering drug abuser.

(2) GOALS IN MAKING APPOINTMENTS.—In appointing individuals as members of the Commission, the President and the majority and minority leaders of the House of Representatives and the Senate shall seek to ensure that—

(A) the membership of the Commission reflects the racial, ethnic, and gender diversity of the United States; and

(B) members are specially qualified to serve on the Commission by reason of their education, training, expertise, or experience in—

(i) sociology,

(ii) psychology,

(iii) law,

(iv) bio-medicine,

(v) addiction, and

(vi) ethnography and urban poverty, including health care, housing, education, and employment.

(b) PROHIBITION AGAINST OFFICER OR EMPLOYEE.—Each individual appointed under subsection (a) shall not be an officer or employee of any government and shall be qualified to serve the Commission by virtue of education, training, or experience.

(c) DEADLINE FOR APPOINTMENT.—Members of the Commission shall be appointed within 60 days after the date of the enactment of this Act for the life of the Commission.

(d) MEETINGS.—The Commission shall have its headquarters in the District of Columbia, and shall meet at least once each month for a business session that shall be conducted by the Chairperson.

(e) QUORUM.—Seven members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(f) CHAIRPERSON AND VICE CHAIRPERSON.—No later than 15 days after the members of the Commission are appointed, such members shall designate a Chairperson and Vice Chairperson of the Commission.

(g) CONTINUATION OF MEMBERSHIP.—If a member of the Commission later becomes an officer or employee of any government, the individual may continue as a member until a successor is appointed.

(h) VACANCIES.—A vacancy in the Commission shall be filled not later than 30 days after the Commission is informed of the vacancy in the manner in which the original appointment was made.

(i) COMPENSATION.—

(1) NO PAY, ALLOWANCE, OR BENEFIT.—Members of the Commission shall receive no additional pay, allowances, or benefits by reason of their service on the Commission.

(2) TRAVEL EXPENSES.—Each member of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

SEC. 1825. STAFF AND SUPPORT SERVICES.

(a) DIRECTOR.—The Chairperson shall appoint a director after consultation with the members of the Commission, who shall be paid the rate of basic pay for level V of the Executive Schedule.

(b) STAFF.—With the approval of the Commission, the director may appoint personnel as the director considers appropriate.

(c) APPLICABILITY OF CIVIL SERVICE LAWS.—The staff of the Commission shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates.

(d) EXPERTS AND CONSULTANTS.—With the approval of the Commission, the director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(e) STAFF OF FEDERAL AGENCIES.—Upon the request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of that agency to the Commission to assist in carrying out its duties under this Act.

(f) OTHER RESOURCES.—The Commission shall have reasonable access to materials, resources, statistical data, and other information from the Library of Congress, as well as agencies and elected representatives of the executive and legislative branches of government. The Chairperson of the Commission shall make requests in writing where necessary.

(g) PHYSICAL FACILITIES.—The General Services Administration shall find suitable office space for the operation of the Commission. The facilities shall serve as the headquarters of the Commission and shall include all necessary equipment and incidentals required for proper functioning.

SEC. 1826. POWERS OF COMMISSION.

(a) HEARINGS.—The Commission may conduct public hearings or forums at its discretion, at any time and place it is able to secure facilities and witnesses, for the purpose of carrying out its duties.

(b) DELEGATION OF AUTHORITY.—Any member or agent of the Commission may, if authorized by the Commission, take any action the Commission is authorized to take by this section.

(c) INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out this Act. Upon request of the Chairperson or Vice Chairperson of the Commission, the head of a Federal agency shall furnish the information to the Commission to the extent permitted by law.

(d) GIFTS, BEQUESTS, AND DEVISES.—The Commission may accept, use, and dispose of gifts, bequests, or devices of services or property, both real and personal, for the purpose of aiding or facilitating the work of the Commission. Gifts, bequests, or devises of money and proceeds from sales of other property received as gifts, bequests, or devices shall be deposited in the Treasury and shall be available for disbursement upon order of the Commission.

(e) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

SEC. 1827. REPORTS.

(a) MONTHLY REPORTS.—The Commission shall submit monthly activity reports to the President and the Congress.

(b) REPORTS.—

(1) INTERIM REPORT.—The Commission shall submit an interim report to the President and the Congress not later than 1 year before the termination of the Commission. The interim report shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for legislative and administrative action based on the Commission's activities to date. A strategy for disseminating the report to Federal, State, and local authorities shall be formulated and submitted with the formal presentation of the report to the President and the Congress.

(2) FINAL REPORT.—Not later than the date of the termination of the Commission, the Commission shall submit to the Congress and the President a final report with a detailed statement of final findings, conclusions, and recommendations, including an assessment of the extent to which recommendations of the Commission included in the interim report under paragraph (1) have been implemented.

(c) PRINTING AND PUBLIC DISTRIBUTION.—Upon receipt of each report of the Commission under this section, the President shall—

(1) order the report to be printed; and

(2) make the report available to the public upon request.

SEC. 1828. TERMINATION.

The Commission shall terminate on the date which is 2 years after the Members of the Commission have met and designated a Chairperson and Vice Chairperson.

Subtitle C—National Commission to Support Law Enforcement

SECTION 1831. SHORT TITLE.

This subtitle may be cited as the "National Commission to Support Law Enforcement Act".

SEC. 1832. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) law enforcement officers risk their lives daily to protect citizens, for modest rewards and too little recognition;

(2) a significant shift has occurred in the problems that law enforcement officers face without a corresponding change in the support from the Federal Government;

(3) law enforcement officers are on the front line in the war against drugs and crime;

(4) the rate of violent crime continues to increase along with the increase in drug use;

(5) a large percentage of individuals arrested test positive for drug usage;

(6) the Presidential Commission on Law Enforcement and the Administration of Justice of 1965 focused attention on many issues affecting law enforcement, and a review twenty-five years later would help to evaluate current problems, including drug-related crime, violence, racial conflict, and decreased funding; and

(7) a comprehensive study of law enforcement issues, including the role of the Federal Government in supporting law enforcement officers, working conditions, and responsibility for crime control would assist in redefining the relationships between the Federal Government, the public, and law enforcement officials.

SEC. 1833. ESTABLISHMENT.

There is established a national commission to be known as the "National Commission to Support Law Enforcement" (referred to in this title as the "Commission").

SEC. 1834. DUTIES.

(a) IN GENERAL. —The Commission shall study and recommend changes regarding law enforcement agencies and law enforcement issues on the Federal, State, and local levels, including the following:

(1) FUNDING.—The sufficiency of funding, including a review of grant programs at the Federal level.

(2) EMPLOYMENT.—The conditions of law enforcement employment.

(3) INFORMATION.—The effectiveness of information-sharing systems, intelligence, infrastructure, and procedures among law enforcement agencies of Federal, State, and local governments.

(4) RESEARCH AND TRAINING.—The status of law enforcement research and education and training.

(5) EQUIPMENT AND RESOURCES.—The adequacy of equipment, physical resources, and human resources.

(6) COOPERATION.—The cooperation among Federal, State, and local law enforcement agencies.

(7) RESPONSIBILITY.—The responsibility of governments and law enforcement agencies in solving the crime problem.

(8) IMPACT.—The impact of the criminal justice system, including court schedules and prison overcrowding, on law enforcement.

(b) CONSULTATION.—The Commission shall conduct surveys and consult with focus groups of law enforcement officers, local officials, and community leaders across the Nation to obtain information and seek advice on important law enforcement issues.

SEC. 1835. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 23 members as follows:

(1) Seven individuals from national law enforcement organizations representing law enforcement officers, of whom—

(A) Two shall be appointed by the Speaker of the House of Representatives;

(B) Two shall be appointed by the majority leader of the Senate;

(C) One shall be appointed by the minority leader of the House of Representatives;

(D) One shall be appointed by the minority leader of the Senate; and

(E) One shall be appointed by the President.

(2) Seven individuals from national law enforcement organizations representing law enforcement management, of whom—

(A) Two shall be appointed by the Speaker of the House of Representatives;

(B) Two shall be appointed by the majority leader of the Senate;

(C) One shall be appointed by the minority leader of the House of Representatives;

(D) One shall be appointed by the minority leader of the Senate; and

(E) One shall be appointed by the President.

(3) Two individuals with academic expertise regarding law enforcement issues, of whom—

(A) One shall be appointed by the Speaker of the House of Representatives and the majority leader of the Senate.

(B) One shall be appointed by the minority leader of the Senate and the minority leader of the House of Representatives.

(4) Two Members of the House of Representatives, appointed by the Speaker and the minority leader of the House of Representatives.

(5) Two Members of the Senate, appointed by the majority leader and the minority leader of the Senate.

(6) One individual involved in Federal law enforcement from the Department of the Treasury, appointed by the President.

(7) One individual from the Department of Justice, appointed by the President.

(8) One individual representing a State or local governmental entity, such as a Governor, mayor, or State Attorney General, to be appointed by the Majority Leader of the Senate.

(9) One individual representing a State or local governmental entity, such as a Governor, mayor, or State Attorney General, to be appointed by the Speaker of the House of Representatives.

(10) One individual representing a State or local governmental entity, such as a governor, mayor, or State attorney general, to be appointed by the President.

(b) COMPTROLLER GENERAL.—The Comptroller General shall serve in an advisory capacity and shall oversee the methodology and approach of the Commission's study.

(c) CHAIRPERSON.—Upon their appointment the members of the Commission shall select one of their number to act as chairperson.

(d) COMPENSATION.—

(1) IN GENERAL.—Members of the Commission shall receive no additional pay, allowance, or benefit by reason of service on the Commission.

(2) TRAVEL EXPENSES.—Each member of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(e) APPOINTMENT DATES.—Members of the Commission shall be appointed no later than 90 days after the enactment of this title.

SEC. 1836. EXPERTS AND CONSULTANTS.

(a) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(b) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of that agency to the Commission to assist the Commission in carrying out its duties under this title.

(c) ADMINISTRATIVE SUPPORT.—The Administrator of General Services shall provide to the Commission, on a reimbursable basis, administrative support services as the Commission may request.

SEC. 1837. POWERS OF COMMISSION.

(a) HEARINGS.—The Commission may, for purposes of this title, hold hearings, sit and act at the times and places, take testimony, and receive evidence, as the Commission considers appropriate.

(b) DELEGATION OF AUTHORITY.—Any member or agent of the Commission may, if authorized by the Commission, take any action the Commission is authorized to take by this section.

(c) INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out this title. Upon request of the chairperson of the Commission, the head of an agency shall furnish the information to the Commission to the extent permitted by law.

(d) GIFTS AND DONATIONS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(e) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

SEC. 1838. REPORT.

Not later than the expiration of the eighteen-month period beginning on the date of the appointment of the members of the Commission, a report containing the findings of the Commission and specific proposals for legislation and administrative actions that the Commission has determined to be appropriate shall be submitted to Congress.

SEC. 1839. TERMINATION.

The Commission shall cease to exist upon the expiration of the sixty-day period beginning on the date on which the Commission submits its report under section 1838.

SEC. 1840. REPEALS.

Title XXXIV of the Crime Control Act of 1990 (Public Law 101-647; 104 Stat. 4918) and title II, section 211 B of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1991 (Public Law 101-515; 104 Stat. 2122) are repealed.

TITLE XIX—BAIL POSTING REPORTING

SEC. 1901. SHORT TITLE.

This title may be cited as the "Illegal Drug Profits Act of 1991".

SEC. 1902. REQUIRED REPORTING BY CRIMINAL COURT CLERKS.

(a) IN GENERAL.—Each clerk of a Federal or State criminal court shall report to the Internal Revenue Service, in a form and manner as prescribed by the Secretary of the Treasury, the name and taxpayer identification number of—

(1) any individual charged with any criminal offense who posts cash bail, or on whose behalf cash bail is posted, in an amount exceeding $10,000, and

(2) any individual or entity (other than a licensed bail bonding individual or entity) posting such cash bail for or on behalf of such individual.

(b) CRIMINAL OFFENSES.—For purposes of subsection (a), the term "criminal offense" means—

(1) any Federal criminal offense involving a controlled substance,

(2) racketeering (as defined in section 1951, 1952, or 1955 of title 18, United States Code),

(3) money laundering (as defined in section 1956 or 1957 of title 18, United States Code), or

(4) any violation of State criminal law involving offenses substantially similar to the offenses described in the preceding paragraphs.

(c) COPY TO PROSECUTORS.—Each clerk shall submit a copy of each report of cash bail described in subsection (a) to—

(1) the office of the United States Attorney, and

(2) the office of the local prosecuting attorney, for the jurisdiction in which the defendant resides (and the jurisdiction in which the criminal offense occurred, if different).

(d) REGULATIONS.—The Secretary of the Treasury shall promulgate such regulations as are necessary within 90 days of the enactment of this title.

(e) EFFECTIVE DATE.—This section shall become effective 60 days after the date of the promulgation of regulations under subsection (c).

TITLE XX—MOTOR VEHICLE THEFT PREVENTION

SEC. 2001. SHORT TITLE.

This title may be cited as the "Motor Vehicle Theft Prevention Act".

SEC. 2002. MOTOR VEHICLE THEFT PREVENTION PROGRAM.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Attorney General shall develop, in cooperation with the States, a national voluntary motor vehicle theft prevention program (in this section referred to as the "program") under which—

(1) the owner of a motor vehicle may voluntarily sign a consent form with a participating State or locality in which the motor vehicle owner—

(A) states that the vehicle is not normally operated under certain specified conditions; and

(B) agrees to—

(i) display program decals or devices on the owner's vehicle; and

(ii) permit law enforcement officials in any State to stop the motor vehicle and take reasonable steps to determine whether the vehicle is being operated by or with the permission of the owner, if the vehicle is being operated under the specified conditions; and

(2) participating States and localities authorize law enforcement officials in the State or locality to stop motor vehicles displaying program decals or devices under specified conditions and take reasonable steps to determine whether the vehicle is being operated by or with the permission of the owner.

(b) UNIFORM DECAL OR DEVICE DESIGNS.—

(1) IN GENERAL.—The motor vehicle theft prevention program developed pursuant to this section shall include a uniform design or designs for decals or other devices to be displayed by motor vehicles participating in the program.

(2) TYPE OF DESIGN.—The uniform design shall—

(A) be highly visible; and

(B) explicitly state that the motor vehicle to which it is affixed may be stopped under the specified conditions without additional grounds for establishing a reasonable suspicion that the vehicle is being operated unlawfully.

(c) VOLUNTARY CONSENT FORM.—The voluntary consent form used to enroll in the program shall—

(1) clearly state that participation in the program is voluntary;

(2) clearly explain that participation in the program means that, if the participating vehicle is being operated under the specified conditions, law enforcement officials may stop the vehicle and take reasonable steps to determine whether it is being operated by or with the consent of the owner, even if the law enforcement officials have no other basis for believing that the vehicle is being operated unlawfully;

(3) include an express statement that the vehicle is not normally operated under the specified conditions and that the operation of the vehicle under those conditions would provide sufficient grounds for a prudent law enforcement officer to reasonably believe that the vehicle was not being operated by or with the consent of the owner; and

(4) include any additional information that the Attorney General may reasonably require.

(d) SPECIFIED CONDITIONS UNDER WHICH STOPS MAY BE AUTHORIZED.—

(1) IN GENERAL.—The Attorney General shall promulgate rules establishing the conditions under which participating motor vehicles may be authorized to be stopped under this section. These conditions may not be based on race, creed, color, national origin, gender, or age. These conditions may include—

(A) the operation of the vehicle during certain hours of the day; or

(B) the operation of the vehicle under other circumstances that would provide a sufficient basis for establishing a reasonable suspicion that the vehicle was not being operated by the owner, or with the consent of the owner.

(2) MORE THAN ONE SET OF CONDITIONS.—The Attorney General may establish more than one set of conditions under which participating motor vehicles may be stopped. If more than one set of conditions is established, a separate consent form and a separate design for program decals or devices shall be established for each set of conditions. The Attorney General may choose to satisfy the requirement of a separate design for program decals or devices under this paragraph by the use of a design color that is clearly distinguishable from other design colors.

(3) NO NEW CONDITIONS WITHOUT CONSENT.—After the program has begun, the conditions under which a vehicle may be stopped if affixed with a certain decal or device design may not be expanded without the consent of the owner.

(4) LIMITED PARTICIPATION BY STATES AND LOCALITIES.—A State or locality need not authorize the stopping of motor vehicles under all sets of conditions specified under the program in order to participate in the program.

(e) MOTOR VEHICLES FOR HIRE.—

(1) NOTIFICATION TO LESSEES.—Any person who is in the business of renting or leasing motor vehicles and who rents or leases a motor vehicle on which a program decal or device is affixed shall, prior to transferring possession of the vehicle, notify the person to whom the motor vehicle is rented or leased about the program.

(2) TYPE OF NOTICE.—The notice required by this subsection shall—

(A) be in writing;

(B) be in a prominent format to be determined by the Attorney General; and

(C) explain the possibility that if the motor vehicle is operated under the specified conditions, the vehicle may be stopped by law enforcement officials even if the officials have no other basis for believing that the vehicle is being operated unlawfully.

(3) FINE FOR FAILURE TO PROVIDE NOTICE.—Failure to provide proper notice under this subsection shall be punishable by a fine not to exceed $5,000.

(f) NOTIFICATION OF POLICE.—As a condition of participating in the program, a State or locality must agree to take reasonable steps to ensure that law enforcement officials throughout the State or locality are familiar with the program, and with the conditions under which motor vehicles may be stopped under the program.

(g) REGULATIONS.—The Attorney General shall promulgate regulations to implement this section.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized such sums as are necessary to carry out this section.

SEC. 2002. ALTERING OR REMOVING MOTOR VEHICLE IDENTIFICATION NUMBERS.

(a) BASIC OFFENSE.—Subsection (a) of section 511 of title 18, United States Code, is amended to read as follows:

"(a) Whoever, with intent to further the theft of a vehicle, knowingly removes, obliterates, tampers with, or alters an identification number for a motor vehicle, or motor vehicle part, or a decal or device affixed to a motor vehicle pursuant to the Motor Vehicle Theft Prevention Act, shall be fined under this title or imprisoned not more than five years, or both.".

(b) EXCEPTED PERSONS.—Paragraph (2) of section 511(b) of title 18, United States Code, is amended by—

(1) striking "and" after the semicolon in subparagraph (B);

(2) striking the period at the end of subparagraph (C) and inserting "; and"; and

(3) adding at the end thereof the following:

"(D) a person who removes, obliterates, tampers with, or alters a decal or device affixed to a motor vehicle pursuant to the Motor Vehicle Theft Prevention Act, if that person is the owner of the motor vehicle, or is authorized to remove, obliterate, tamper with or alter the decal or device by—

"(i) the owner or his authorized agent;

"(ii) applicable State or local law; or

"(iii) regulations promulgated by the Attorney General to implement the Motor Vehicle Theft Prevention Act.".

(c) DEFINITION.—Section 511 of title 18, United States Code, is amended by adding at the end thereof the following:

"(d) For purposes of subsection (a) of this section, the term 'tampers with' includes covering a program decal or device affixed to a motor vehicle pursuant to the Motor Vehicle Theft Prevention Act for the purpose of obstructing its visibility.".

(d) UNAUTHORIZED APPLICATION OF A DECAL OR DEVICE.—

(1) IN GENERAL.—Chapter 25 of title 18, United States Code, is amended by adding after section 511 the following new section:

"§511A. Unauthorized application of theft prevention decal or device

"(a) Whoever affixes to a motor vehicle a theft prevention decal or other device, or a replica thereof, unless authorized to do so pursuant to the Motor Vehicle Theft Prevention Act, shall be punished by a fine not to exceed $1,000.

"(b) For purposes of this section, the term 'theft prevention decal or device' means a decal or other device designed in accordance with a uniform design for such devices developed pursuant to the Motor Vehicle Theft Prevention Act.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 25 of title 18, United States Code, is amended by adding immediately after the item for section 511 the following:

"511A. Unauthorized application of theft prevention decal or device.".

TITLE XXI—PROTECTIONS FOR THE ELDERLY

SEC. 2101. MISSING ALZHEIMER'S DISEASE PATIENT ALERT PROGRAM.

(a) GRANT.—The Attorney General shall award a grant to an eligible organization to assist the organization in paying for the costs of planning, designing, establishing, and operating a Missing Alzheimer's Disease Patient Alert Program, which shall be a locally based, proactive program to protect and locate missing patients with Alzheimer's disease and related dementias.

(b) APPLICATION.—To be eligible to receive a grant under subsection (a), an organization shall submit an application to the Attorney General at such time, in such manner, and containing such information as the Attorney General may require, including, at a minimum, an assurance that the organization will obtain and use assistance from private nonprofit organizations to support the program.

(c) ELIGIBLE ORGANIZATION.—The Attorney General shall award the grant described in subsection (a) to a national voluntary organization that has a direct link to patients, and families of patients, with Alzheimer's disease and related dementias.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $1,000,000 for each of fiscal years 1992, 1993, and 1994.

SEC. 2102. CRIMES AGAINST THE ELDERLY.

(a) IN GENERAL.—Pursuant to its authority under the Sentencing Reform Act of 1984 and section 21 of the Sentencing Act of 1987 (including its authority to amend the sentencing guidelines and policy statements) and its authority to make such amendments on an emergency basis, the United States Sentencing Commission shall ensure that the applicable guideline range for a defendant convicted of a crime of violence against an elderly victim is sufficiently stringent to deter such a crime, to protect the public from additional crimes of such a defendant, and to adequately reflect the heinous nature of such an offense.

((b) CRITERIA.—In carrying out subsection (a), the United States Sentencing Commission shall ensure that—

(1) the guidelines provide for increasingly severe punishment for a defendant commensurate with the degree of physical harm caused to the elderly victim;

(2) the guidelines take appropriate account of the vulnerability of the victim; and

(3) the guidelines provide enhanced punishment for a defendant convicted of a crime of violence against an elderly victim who has previously been convicted of a crime of violence against an elderly victim, regardless of whether the conviction occurred in Federal or State court.

(c) DEFINITIONS.—As used in this section—

(1) the term "crime of violence" means an offense under section 113, 114, 1111, 1112, 1113, 1117, 2241, 2242, or 2244 of title 18, United States Code; and

(2) the term "elderly victim" means a victim who is 65 years of age or older at the time of an offense.

TITLE XXII—CONSUMER PROTECTION

SEC. 2201. CRIMES BY OR AFFECTING PERSONS ENGAGED IN THE BUSINESS OF INSURANCE WHOSE ACTIVITIES AFFECT INTERSTATE COMMERCE.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end thereof the following new sections:

"§1033. Crimes by or affecting persons engaged in the business of insurance whose activities affect interstate commerce

"(a)(1) Whoever is engaged in the business of insurance whose activities affect interstate com-

merce and, with the intent to deceive, knowingly makes any false material statement or report or willfully and materially overvalues any land, property or security—

"(A) in connection with any financial reports or documents presented to any insurance regulatory official or agency or an agent or examiner appointed by such official or agency to examine the affairs of such person, and

"(B) for the purpose of influencing the actions of such official or agency or such an appointed agent or examiner,

shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under paragraph (1) is a fine as established under this title or imprisonment for not more than 10 years, or both, except that the term of imprisonment shall be not more than 15 years if the statement or report or overvaluing of land, property, or security jeopardizes the safety and soundness of an insurer.

"(b)(1) Whoever—

"(A) acting as, or being an officer, director, agent, or employee of, any person engaged in the business of insurance whose activities affect interstate commerce, or

"(B) is engaged in the business of insurance whose activities affect interstate commerce or is involved (other than as an insured or beneficiary under a policy of insurance) in a transaction relating to the conduct of affairs of such a business,

willfully embezzles, abstracts, purloins, or misappropriates any of the moneys, funds, premiums, credits, or other property of such person so engaged shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under paragraph (1) is a fine as provided under this title or imprisonment for not more than 10 years, or both, except that if such embezzlement, abstraction, purloining, or misappropriation described in paragraph (1) jeopardizes the safety and soundness of an insurer, such imprisonment shall be not more than 15 years. If the amount or value so embezzled, abstracted, purloined, or misappropriated does not exceed $5,000, whoever violates paragraph (1) shall be fined as provided in this title or imprisoned not more than one year, or both.

"(c)(1) Whoever is engaged in the business of insurance and whose activities affect interstate commerce or is involved (other than as an insured or beneficiary under a policy of insurance) in a transaction relating to the conduct of affairs of such a business, knowingly makes any false entry of material fact in any book, report, or statement of such person engaged in the business of insurance with intent to—

"(A) deceive any person about the financial condition or solvency of such business, or

"(B) deceive any officer, employee, or agent of such person engaged in the business of insurance, any insurance regulatory official or agency, or any agent or examiner appointed by such official or agency to examine the affairs of such person about the financial condition or solvency of such business,

shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under paragraph (1) is a fine as provided under this title or imprisonment for not more than 10 years, or both, except that if the false entry in any book, report, or statement of such person jeopardizes the safety and soundness of an insurer, such imprisonment shall be not more than 15 years.

"(d) Whoever, by threats or force or by any threatening letter or communication, corruptly influences, obstructs, or impedes or endeavors corruptly to influence, obstruct, or impede the due and proper administration of the law under which any proceeding involving the business of insurance whose activities affect interstate commerce is pending before any insurance regulatory official or agency or any agent or examiner appointed by such official or agency to examine the affairs of a person engaged in the business of insurance whose activities affect interstate commerce, shall be fined as provided in this title or imprisoned not more than 10 years, or both.

"(e)(1)(A) Any individual who has been convicted of any criminal felony involving dishonesty or a breach of trust, or who has been convicted of an offense under this section, and who willfully engages in the business of insurance whose activities affect interstate commerce or participates in such business, shall be fined as provided in this title or imprisoned not more than 5 years, or both.

"(B) Any individual who is engaged in the business of insurance whose activities affect interstate commerce and who willfully permits the participation described in subparagraph (A) shall be fined as provided in this title or imprisoned not more than 5 years, or both.

"(2) A person described in paragraph (1)(A) may engage in the business of insurance or participate in such business if such person has the written consent of any insurance regulatory official authorized to regulate the insurer, which consent specifically refers to this subsection.

"(f) As used in this section—

"(1) the term 'business of insurance' means—

"(A) the writing of insurance, or

"(B) the reinsuring of risks,

by an insurer, including all acts necessary or incidental to such writing or reinsuring and the activities of persons who act as, or are, officers, directors, agents, or employees of insurers or who are other persons authorized to act on behalf of such persons;

"(2) the term 'insurer' means any entity the business activity of which is the writing of insurance or the reinsuring of risks or any receiver or similar official or any liquidating agent for such an entity, in his or her capacity as such, and includes any person who acts as, or is, an officer, director, agent, or employee of that business;

"(3) the term 'interstate commerce' means—

"(A) commerce within the District of Columbia, or any territory or possession of the United States;

"(B) all commerce between any point in the State, territory, possession, or the District of Columbia and any point outside thereof;

"(C) all commerce between points within the same State through any place outside such State; or

"(D) all other commerce over which the United States has jurisdiction; and

"(4) the term 'State' includes any State, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

"§1034. Civil penalties and injunctions for violations of section 1033

"(a) The Attorney General may bring a civil action in the appropriate United States district court against any person who engages in conduct constituting an offense under section 1033 and, upon proof of such conduct by a preponderance of the evidence, such person shall be subject to a civil penalty of not more than $50,000 for each violation or the amount of compensation which the person received or offered for the prohibited conduct, whichever amount is greater. If the offense has contributed to the decision of a court of appropriate jurisdiction to issue an order directing the conservation, rehabilitation, or liquidation of an insurer, such penalty shall be remitted to the regulatory official for the benefit of the policyholders, claimants, and creditors of such insurer. The imposition of a civil penalty under this subsection does not preclude any other criminal or civil statutory, common law, or administrative remedy, which is available by law to the United States or any other person.

"(b) If the Attorney General has reason to believe that a person is engaged in conduct constituting an offense under section 1033, the Attorney General may petition an appropriate United States district court for an order prohibiting that person from engaging in such conduct. The court may issue an order prohibiting that person from engaging in such conduct if the court finds that the conduct constitutes such an offense. The filing of a petition under this section does not preclude any other remedy which is available by law to the United States or any other person.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 47 of such title is amended by adding at the end the following new item:

"1033. Crimes by or affecting persons engaged in the business of insurance whose activities affect interstate commerce.

"1034. Civil penalties and injunctions for violations of section 1033.".

(c) MISCELLANEOUS AMENDMENTS TO TITLE 18, UNITED STATES CODE.—(1) TAMPERING WITH INSURANCE REGULATORY PROCEEDINGS.—Section 1515(a)(1) of title 18, United States Code, is amended—

(A) by striking "or" at the end of subparagraph (B);

(B) by inserting "or" at the end of subparagraph (C); and

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

"(D) a proceeding involving the business of insurance whose activities affect interstate commerce before any insurance regulatory official or agency or any agent or examiner appointed by such official or agency to examine the affairs of any person engaged in the business of insurance whose activities affect interstate commerce;".

(2) LIMITATIONS.—Section 3293 of such title is amended by inserting "1033," after "1014,".

(3) OBSTRUCTION OF CRIMINAL INVESTIGATIONS.—Section 1510 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(d)(1) Whoever—

"(A) acting as, or being, an officer, director, agent or employee of a person engaged in the business of insurance whose activities affect interstate commerce, or

"(B) is engaged in the business of insurance whose activities affect interstate commerce or is involved (other than as an insured or beneficiary under a policy of insurance) in a transaction relating to the conduct of affairs of such a business,

with intent to obstruct a judicial proceeding, directly or indirectly notifies any other person about the existence or contents of a subpoena for records of that person engaged in such business or information that has been furnished to a Federal grand jury in response to that subpoena, shall be fined as provided by this title or imprisoned not more than 5 years, or both.

"(2) As used in paragraph (1), the term 'subpoena for records' means a Federal grand jury subpoena for records that has been served relating to a violation of, or a conspiracy to violate, section 1033 of this title.".

SEC. 2202. CONSUMER PROTECTION AGAINST CREDIT CARD FRAUD ACT OF 1991.

(a) SHORT TITLE.—This section may be cited as the "Consumer Protection Against Credit Card Fraud Act of 1991".

(b) FRAUD AND RELATED ACTIVITY IN CONNECTION WITH ACCESS DEVICES.—Section 1029 of title 18, United States Code, is amended—

(1) in subsection (a) by inserting after paragraph (4) the following new paragraphs:

"(5) knowingly and with intent to defraud effects transactions, with one or more access devices issued to another person or persons, to receive payment or any other thing of value during any one-year period the aggregate value of which is equal to or greater than $1,000;

"(6) without the authorization of the issuer of the access device, knowingly and with intent to defraud solicits a person for the purpose of—

"(A) offering an access device; or

"(B) selling information regarding or an application to obtain an access device; or

"(7) without the authorization of the credit card system member or its agent, knowingly and with intent to defraud causes or arranges for another person to present to the member or its agent, for payment, one or more evidences or records of transactions made by an access device;".

(c) TECHNICAL AMENDMENTS.—Section 1029 of title 18, United States Code, as amended by subsection (b), is amended—

(1) in subsection (a) by striking "or" at the end of paragraph (3);

(2) in subsection (c)(1) by striking "(a)(2) or (a)(3)" and inserting "(a) (2), (3), (5), (6), or (7)"; and

(3) in subsection (e) by—

(A) striking "and" at the end of paragraph (5);

(B) adding "and" at the end of paragraph (6); and

(C) adding at the end thereof the following new paragraph:

"(7) the term 'credit card system member' means a financial institution or other entity that is a member of a credit card system, including an entity, whether it is affiliated with or identical to the credit card issuer, that is the sole member of a credit card system.".

SEC. 2203. MAIL FRAUD.

Section 1341 of title 18, United States Code, is amended—

(1) by inserting "or deposits or causes to be deposited any matter or thing whatever to be sent or delivered by any private or commercial interstate carrier," after "Postal Service,"; and

(2) by inserting "or such carrier" after "causes to be delivered by mail".

TITLE XXIII—FINANCIAL INSTITUTION FRAUD PROSECUTIONS

SEC. 2301. SHORT TITLE.

This title may be cited as the "Financial Institutions Fraud Prosecution Act of 1991".

SEC. 2302. FEDERAL DEPOSIT INSURANCE ACT AMENDMENT.

Section 19(a) of the Federal Deposit Insurance Act (12 U.S.C. 1829(a)) is amended in paragraph (2)(A)(i)(I)—

(1) by striking "or 1956"; and

(2) by inserting "1517, 1956, or 1957".

SEC. 2303. FEDERAL CREDIT UNION ACT AMENDMENTS.

Section 205(d) of the Federal Credit Union Act (12 U.S.C. 1785(d)) is amended to read as follows:

"(d) PROHIBITION.—

"(1) IN GENERAL.—Except with prior written consent of the Board—

"(A) any person who has been convicted of any criminal offense involving dishonesty or a breach of trust, or has agreed to enter into a pretrial diversion or similar program in connection with a prosecution for such offense, may not—

"(i) become, or continue as, an institution-affiliated party with respect to any insured credit union; or

"(ii) otherwise participate, directly or indirectly, in the conduct of the affairs of any insured credit union; and

"(B) any insured credit union may not permit any person referred to in subparagraph (A) to engage in any conduct or continue any relationship prohibited under such subparagraph.

"(2) MINIMUM 10-YEAR PROHIBITION PERIOD FOR CERTAIN OFFENSES.—

"(A) IN GENERAL.—If the offense referred to in paragraph (1)(A) in connection with any person referred to in such paragraph is—

"(i) an offense under—

"(I) section 215, 656, 657, 1005, 1006, 1007, 1008, 1014, 1032, 1344, 1517, 1956, or 1957 of title 18, United States Code; or

"(II) section 1341 or 1343 of such title which affects any financial institution (as defined in section 20 of such title); or

"(ii) the offense of conspiring to commit any such offense,

the Board may not consent to any exception to the application of paragraph (1) to such person during the 10-year period beginning on the date the conviction or the agreement of the person becomes final.

"(B) EXCEPTION BY ORDER OF SENTENCING COURT.—

"(i) IN GENERAL.—On motion of the Board, the court in which the conviction or the agreement of a person referred to in subparagraph (A) has been entered may grant an exception to the application of paragraph (1) to such person if granting the exception is in the interest of justice.

"(ii) PERIOD FOR FILING.—A motion may be filed under clause (i) at any time during the 10-year period described in subparagraph (A) with regard to the person on whose behalf such motion is made.

"(3) PENALTY.—Whoever knowingly violates paragraph (1) or (2) shall be fined not more than $1,000,000 for each day such prohibition is violated or imprisoned for not more than 5 years, or both.".

SEC. 2304. CRIME CONTROL ACT AMENDMENT.

Section 2546 of the Crime Control Act of 1990 (Public Law 101-647, 104 Stat. 4885) is amended by adding at the end the following:

"(c) FRAUD TASK FORCES REPORT.—In addition to the reports required under subsection (a), the Attorney General is encouraged to submit a report to the Congress containing the findings of the financial institutions fraud task forces established under section 2539 as they relate to the collapse of private deposit insurance corporations, together with recommendations for any regulatory or legislative changes necessary to prevent such collapses in the future.".

TITLE XXIV—SAVINGS AND LOAN PROSECUTION TASK FORCE

SEC. 2401. SAVINGS AND LOAN PROSECUTION TASK FORCE.

The Attorney General shall establish within the Justice Department a savings and loan criminal fraud task force to prosecute in an aggressive manner those criminal cases involving savings and loan institutions.

TITLE XXV—SENTENCING PROVISIONS

SEC. 2501. IMPOSITION OF SENTENCE.

Section 3553(a)(4) of title 18, United States Code, is amended to read as follows:

"(4) the kinds of sentence and the sentencing range established for—

"(A) the applicable category of offense committed by the applicable category of defendant as set forth in the guidelines issued by the Sentencing Commission pursuant to section 994(a)(1) of title 28, United States Code, and that are in effect on the date the defendant is sentenced; or

"(B) in the case of a violation of probation or supervised release, the applicable guidelines or policy statements issued by the Sentencing Commission pursuant to section 994(a)(3) of title 28, United States Code;".

SEC. 2502. TECHNICAL AMENDMENT TO MANDATORY CONDITIONS OF PROBATION.

Section 3563(a)(3) of title 18, United States Code, is amended by striking "possess illegal controlled substances" and inserting "unlawfully possess a controlled substance".

SEC. 2503. REVOCATION OF PROBATION.

(a) IN GENERAL.—Section 3565(a) of title 18, United States Code, is amended—

(1) in paragraph (2) by striking "impose any other sentence that was available under subchapter A at the time of the initial sentencing" and inserting "resentence the defendant under subchapter A"; and

(2) by striking the last sentence.

(b) MANDATORY REVOCATION.—Section 3565(b) of title 18, United States Code, is amended to read as follows:

"(b) MANDATORY REVOCATION FOR POSSESSION OF CONTROLLED SUBSTANCE OR FIREARM OR REFUSAL TO COOPERATE IN DRUG TESTING.—If the defendant—

"(1) possesses a controlled substance in violation of the condition set forth in section 3563(a)(3);

"(2) possesses a firearm, as such term is defined in section 921 of this title, in violation of Federal law, or otherwise violates a condition of probation prohibiting the defendant from possessing a firearm; or

"(3) refuses to cooperate in drug testing, thereby violating the condition imposed by section 3563(a)(4),

the court shall revoke the sentence of probation and resentence the defendant under subchapter A to a sentence that includes a term of imprisonment.".

SEC. 2504. SUPERVISED RELEASE AFTER IMPRISONMENT.

Section 3583 of title 18, United States Code, is amended—

(1) in subsection (d), by striking "possess illegal controlled substances" and inserting "unlawfully possess a controlled substance";

(2) in subsection (e)—

(A) by striking "person" each place such term appears in such subsection and inserting "defendant"; and

(B) by amending paragraph (3) to read as follows:

"(3) revoke a term of supervised release, and require the defendant to serve in prison all or part of the term of supervised release authorized by statute for the offense that resulted in such term of supervised release without credit for time previously served on postrelease supervision, if the court, pursuant to the Federal Rules of Criminal Procedure applicable to revocation of probation or supervised release, finds by a preponderance of the evidence that the defendant violated a condition of supervised release, except that a defendant whose term is revoked under this paragraph may not be required to serve more than 5 years in prison if the offense that resulted in the term of supervised release is a class A felony, more than 3 years in prison if such offense is a class B felony, more than 2 years in prison if such offense is a class C or D felony, or more than one year in any other case; or"; and

(3) by striking subsection (g) and inserting the following:

"(g) MANDATORY REVOCATION FOR POSSESSION OF CONTROLLED SUBSTANCE OR FIREARM OR FOR REFUSAL TO COOPERATE WITH DRUG TESTING.—If the defendant—

"(1) possesses a controlled substance in violation of the condition set forth in subsection (d);

"(2) possesses a firearm, as such term is defined in section 921 of this title, in violation of Federal law, or otherwise violates a condition of supervised release prohibiting the defendant from possessing a firearm; or

"(3) refuses to cooperate in drug testing imposed as a condition of supervised release;

the court shall revoke the term of supervised release and require the defendant to serve a term of imprisonment not to exceed the maximum term of imprisonment authorized under subsection (e)(3).

"(h) SUPERVISED RELEASE FOLLOWING REVOCATION.—When a term of supervised release is revoked and the defendant is required to serve a term of imprisonment that is less than the maximum term of imprisonment authorized under subsection (e)(3), the court may include a requirement that the defendant be placed on a term of supervised release after imprisonment. The length of such a term of supervised release shall not exceed the term of supervised release authorized by statute for the offense that resulted in the original term of supervised release, less any term of imprisonment that was imposed upon revocation of supervised release.

"(i) DELAYED REVOCATION.—The power of the court to revoke a term of supervised release for violation of a condition of supervised release, and to order the defendant to serve a term of imprisonment and, subject to the limitations in subsection (h), a further term of supervised release, extends beyond the expiration of the term of supervised release for any period reasonably necessary for the adjudication of matters arising before its expiration if, before its expiration, a warrant or summons has been issued on the basis of an allegation of such a violation.".

TITLE XXVI—SENTENCING AND MAGISTRATES AMENDMENTS

SEC. 2601. AUTHORIZATION OF PROBATION FOR PETTY OFFENSES IN CERTAIN CASES.

Section 3561(a)(3) of title 18, United States Code, is amended by adding at the end: "However, this paragraph does not preclude the imposition of a sentence to a term of probation for a petty offense if the defendant has been sentenced to a term of imprisonment at the same time for another such offense.".

SEC. 2602. TRIAL BY A MAGISTRATE IN PETTY OFFENSE CASES.

Section 3401 of title 18, United States Code, is amended—

(1) in subsection (b) by adding "other than a petty offense" after "misdemeanor"; and

(2) in subsection (g) by amending the first sentence to read as follows: "The magistrate judge may, in a petty offense case involving a juvenile, exercise all powers granted to the district court under chapter 403 of this title.".

SEC. 2603. CONFORMING AUTHORITY FOR MAGISTRATES TO REVOKE SUPERVISED RELEASE IN ADDITION TO PROBATION IN MISDEMEANOR CASES IN WHICH THE MAGISTRATE IMPOSED SENTENCE.

Section 3401(d) of title 18, United States Code, is amended by adding at the end the following: "A magistrate judge who has sentenced a person to a term of supervised release shall also have power to revoke or modify the term or conditions of such supervised release.".

TITLE XXVII—COMPUTER CRIME

SEC. 2701. COMPUTER ABUSE AMENDMENTS ACT OF 1991.

(a) SHORT TITLE.—This title may be cited as the "Computer Abuse Amendments Act of 1991".

(b) PROHIBITION.—Section 1030(a)(5) of title 18, United States Code, is amended to read as follows:

"(5)(A) through means of a computer used in interstate commerce or communications, knowingly causes the transmission of a program, information, code, or command to a computer or computer system if—

"(i) the person causing the transmission intends that such transmission will—

"(I) damage, or cause damage to, a computer, computer system, network, information, data, or program; or

"(II) withhold or deny, or cause the withholding or denial, of the use of a computer, computer services, system or network, information, data or program; and

"(ii) the transmission of the harmful component of the program, information, code, or command—

"(I) occurred without the knowledge and authorization of the persons or entities who own or are responsible for the computer system receiving the program, information, code, or command; and

"(II)(aa) causes loss or damage to one or more other persons of value aggregating $1,000 or more during any 1-year period; or

"(bb) modifies or impairs, or potentially modifies or impairs, the medical examination, medical diagnosis, medical treatment, or medical care of one or more individuals; or

"(B) through means of a computer used in interstate commerce or communication, knowingly causes the transmission of a program, information, code, or command to a computer or computer system—

"(i) with reckless disregard of a substantial and unjustifiable risk that the transmission will—

"(I) damage, or cause damage to, a computer, computer system, network, information, data or program; or

"(II) withhold or deny or cause the withholding or denial of the use of a computer, computer services, system, network, information, data or program; and

"(ii) if the transmission of the harmful component of the program, information, code, or command—

"(I) occurred without the knowledge and authorization of the persons or entities who own or are responsible for the computer system receiving the program, information, code, or command; and

"(II)(aa) causes loss or damage to one or more other persons of a value aggregating $1,000 or more during any 1-year period; or

"(bb) modifies or impairs, or potentially modifies or impairs, the medical examination, medical diagnosis, medical treatment, or medical care of one or more individuals;".

(c) PENALTY.—Section 1030(c) of title 18, United States Code is amended—

(1) in paragraph (2)(B) by striking "and" after the semicolon;

(2) in paragraph (3)(A) by inserting "(A)" after "(a)(5)"; and

(3) in paragraph (3)(B) by striking the period at the end thereof and inserting "; and"; and

(4) by adding at the end thereof the following:

"(4) a fine under this title or imprisonment for not more than 1 year, or both, in the case of an offense under subsection (a)(5)(B).".

(d) CIVIL ACTION.—Section 1030 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) Any person who suffers damage or loss by reason of a violation of the section, other than a violation of subsection (a)(5)(B), may maintain a civil action against the violator to obtain compensatory damages and injunctive relief or other equitable relief. Damages for violations of any subsection other than subsection (a)(5)(A)(ii)(II)(bb) or (a)(5)(B)(ii)(II)(bb) are limited to economic damages. No action may be brought under this subsection unless such action is begun within 2 years of the date of the act complained of or the date of the discovery of the damage.".

(e) REPORTING REQUIREMENTS.—Section 1030 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) The Attorney General and the Secretary of the Treasury shall report to the Congress annually, during the first 3 years following the date of the enactment of this subsection, concerning investigations and prosecutions under section 1030(a)(5) of title 18, United States Code.".

(f) PROHIBITION.—Section 1030(a)(3) of title 18, United States Code, is amended by inserting "adversely" before "affects the use of the Government's operation of such computer".

TITLE XXVIII—PARENTAL KIDNAPPING

SEC. 2801. SHORT TITLE.

This subtitle may be cited as the "International Parental Kidnapping Crime Act of 1991".

SEC. 2802. TITLE 18 AMENDMENT.

(a) IN GENERAL.—Chapter 55 (relating to kidnapping) of title 18, United States Code, is amended by adding at the end the following:

"§1204. International parental kidnapping

"(a) Whoever removes a child from the United States or retains a child (who has been in the United States) outside the United States with intent to obstruct the lawful exercise of parental rights shall be fined under this title or imprisoned not more than 3 years, or both.

"(b) As used in this section—

"(1) the term 'child' means a person who has not attained the age of 16 years; and

"(2) the term 'parental rights', with respect to a child, means the right to physical custody of the child—

"(A) whether joint or sole (and includes visiting rights); and

"(B) whether arising by operation of law, court order, or legally binding agreement of the parties.

"(c) It shall be an affirmative defense under this section that—

"(1) the defendant acted within the provisions of a valid court order granting the defendant legal custody or visitation rights and that order was obtained pursuant to the Uniform Child Custody Jurisdiction Act and was in effect at the time of the offense;

"(2) the defendant was fleeing an incidence or pattern of domestic violence;

"(3) the defendant had physical custody of the child pursuant to a court order granting legal custody or visitation rights and failed to return the child as a result of circumstances beyond the defendant's control, and the defendant notified or made reasonable attempts to notify the other parent or lawful custodian of the child of such circumstances within 24 hours after the visitation period had expired and returned the child as soon as possible.

"(d) This section does not detract from The Hague Convention on the Civil Aspects of International Parental Child Abduction, done at The Hague on October 25, 1980.".

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that, inasmuch as use of the procedures under the Hague Convention on the Civil Aspects of International Parental Child Abduction has resulted in the return of many children, those procedures, in circumstances in which they are applicable, should be the option of first choice for a parent who seeks the return of a child who has been removed from the parent.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 55 of title 18, United States Code, is amended by adding at the end the following:

"1204. International parental kidnapping.".

SEC. 2803. STATE COURT PROGRAMS REGARDING INTERSTATE AND INTERNATIONAL PARENTAL CHILD ABDUCTION.

There is authorized to be appropriated $250,000 to carry out under the State Justice Institute Act of 1984 (42 U.S.C. 10701–10713) national, regional, and in-State training and educational programs dealing with criminal and civil aspects of interstate and international parental child abduction.

TITLE XXIX—SAFE SCHOOLS

Subtitle A—Safe Schools

SEC. 2901. SHORT TITLE.

This title may be cited as the "Safe Schools Act of 1991".

SEC. 2902. SAFE SCHOOLS.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1421 of this Act, is amended—

(1) by redesignating part U as part Y;

(2) by redesignating section 2101 as section 2201; and

(3) by inserting after part T the following:

"PART U—SAFE SCHOOLS ASSISTANCE

"SEC. 2101. GRANT AUTHORIZATION.

"(a) IN GENERAL.—The Director of the Bureau of Justice Assistance, in consultation with the Secretary of Education, may make grants to local educational agencies for the purpose of providing assistance to such agencies most directly affected by crime and violence.

"(b) MODEL PROJECT.—The Director, in consultation with the Secretary of Education, shall develop a written safe schools model in English and in Spanish in a timely fashion and make such model available to any local educational agency that requests such information.

"SEC. 2102. USE OF FUNDS.

"Grants made by the Director under this part shall be used—

"(1) to fund anticrime and safety measures and to develop education and training programs for the prevention of crime, violence, and illegal drugs and alcohol;

"(2) for counseling programs for victims of crime within schools;

"(3) for crime prevention equipment, including metal detectors and video-surveillance devices; and

"(4) for the prevention and reduction of the participation of young individuals in organized crime and drug and gang-related activities in schools.

"SEC. 2103. APPLICATIONS.

"(a) IN GENERAL.—In order to be eligible to receive a grant under this part for any fiscal year, a local educational agency shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(b) REQUIREMENTS.—Each application under subsection (a) shall include—

"(1) a request for funds for the purposes described in section 2002;

"(2) a description of the schools and communities to be served by the grant, including the nature of the crime and violence problems within such schools;

"(3) assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part; and

"(4) statistical information in such form and containing such information that the Director may require regarding crime within schools served by such local educational agency.

"(c) COMPREHENSIVE PLAN.—Each application shall include a comprehensive plan that shall contain—

"(1) a description of the crime problems within the schools targeted for assistance;

"(2) a description of the projects to be developed;

"(3) a description of the resources available in the community to implement the plan together with a description of the gaps in the plan that cannot be filed with existing resources;

"(4) an explanation of how the requested grant will be used to fill gaps;

"(5) a description of the system the applicant will establish to prevent and reduce crime problems; and

"(6) a description of educational materials to be developed in Spanish.

"SEC. 2104. ALLOCATION OF FUNDS; LIMITATIONS ON GRANTS.

"(a) ADMINISTRATIVE COST LIMITATION.—The Director shall use not more than 5 percent of the funds available under this part for the purposes of administration and technical assistance.

"(b) RENEWAL OF GRANTS.—A grant under this part may be renewed for up to 2 additional years after the first fiscal year during which the recipient receives its initial grant under this part, subject to the availability of funds, if—

"(1) the Director determines that the funds made available to the recipient during the previous year were used in a manner required under the approved application; and

"(2) the Director determines that an additional grant is necessary to implement the crime prevention program described in the comprehensive plan as required by section 2003(c).

"SEC. 2105. AWARD OF GRANTS.

"(a) SELECTION OF RECIPIENTS.—The Director, in consultation with the Secretary of Education, shall consider the following factors in awarding grants to local educational agencies:

"(1) CRIME PROBLEM.—The nature and scope of the crime problem in the targeted schools.

"(2) NEED AND ABILITY.—Demonstrated need and evidence of the ability to provide the services described in the plan required under section 2003(c).

"(3) POPULATION.—The number of students to be served by the plan required under section 2003(c).

"(b) GEOGRAPHIC DISTRIBUTION.—The Director shall attempt, to the extent practicable, to achieve an equitable geographic distribution of grant awards.

"SEC. 2106. REPORTS.

"(a) REPORT TO DIRECTOR.—Local educational agencies that receive funds under this part shall submit to the Director a report not later than March 1 of each year that describes progress achieved in carrying out the plan required under section 2003(c).

"(b) REPORT TO CONGRESS.—The Director shall submit to the Committee on Education and Labor and the Committee on the Judiciary a report by October 1 of each year in which grants are made available under this part which shall contain a detailed statement regarding grant awards, activities of grant recipients, a compilation of statistical information submitted by applicants under 2003(b)(4), and an evaluation of programs established under this part.

"SEC. 2107. DEFINITIONS.

"For the purpose of this part:

"(1) The term 'Director' means the Director of the Bureau of Justice Assistance.

"(2) The term 'local educational agency' means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary and secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts of counties as are recognized in a State as an administrative agency for its public elementary and secondary schools. Such term includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.".

(b) CONFORMING AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1421 of this Act, is amended by striking the matter relating to part U and inserting the following:

"PART U—SAFE SCHOOLS ASSISTANCE

"Sec. 2101. Grant authorization.
"Sec. 2102. Use of funds.
"Sec. 2103. Applications.
"Sec. 2104. Allocation of funds; limitations on grants.
"Sec. 2105. Award of grants.
"Sec. 2106. Reports.
"Sec. 2107. Definitions.

"PART U—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 2201. Continuation of rules, authorities, and proceedings.".

SEC. 2903. AUTHORIZATION OF APPROPRIATIONS.

Section 1001(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793), as amended by section 1421 of this Act, is amended by adding after paragraph (14) the following:

"(15) There are authorized to be appropriated $100,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the projects under part U.".

Subtitle B—Miscellaneous Provisions

SEC. 2912. RECORDS.

Section 438(a)(4)(B)(ii) of the General Education Provisions Act (20 U.S.C. 1232g(a)(4)(B)(ii)) is amended to read as follows:

"(ii) records maintained by a law enforcement unit of the education agency or institution that were created by that law enforcement unit for the purpose of law enforcement.".

SEC. 2913. DRUG ABUSE RESISTANCE EDUCATION PROGRAMS.

Subsection (c) of section 5122 of the Drug-Free Schools and Communities Act of 1986, as amended by section 1504(3) of Public Law 101-647, is amended by inserting "or local governments with the concurrence of local educational agencies" after "for grants to local educational agencies".

TITLE XXX—MISCELLANEOUS

Subtitle A—Increases in Penalties

SEC. 3001. INCREASE IN MAXIMUM PENALTY FOR ASSAULT.

(a) CERTAIN OFFICERS AND EMPLOYEES.—Section 111 of title 18, United States Code, is amended—

(1) in subsection (a) by inserting ", where the acts in violation of this section constitute only simple assault, be fined under this title or imprisoned not more than one year, or both, and in all other cases," after "shall";

(2) in subsection (b) by inserting "or inflicts bodily injury" after "weapon".

(b) FOREIGN OFFICIALS, OFFICIAL GUESTS, AND INTERNATIONALLY PROTECTED PERSONS.—Section 112(a) of title 18, United States Code, is amended—

(1) by striking "not more than $5,000" and inserting "under this title";

(2) by inserting ", or inflicts bodily injury," after "weapon"; and

(3) by striking "not more than $10,000" and inserting "under this title".

(c) MARITIME AND TERRITORIAL JURISDICTION.—Section 113 of title 18, United States Code, is amended—

(1) in subsection (c)—

(A) by striking "of not more than $1,000" and inserting "under this title"; and

(B) by striking "five" and inserting "ten"; and

(2) in subsection (e)—

(A) by striking "of not more than $300" and inserting "under this title"; and

(B) by striking "three" and inserting "six".

(d) CONGRESS, CABINET, OR SUPREME COURT.—Section 351(e) of title 18, United States Code, is amended—

(1) by striking "not more than $5,000," and inserting "under this title,";

(2) by inserting "the assault involved in the use of a dangerous weapon, or" after "if";

(3) by striking "not more than $10,000" and inserting "under this title"; and

(4) by striking "for".

(e) PRESIDENT AND PRESIDENT'S STAFF.—Section 1751(e) of title 18, United States Code, is amended—

(1) by striking "not more than $10,000," both places it appears and inserting "under this title,";

(2) by striking "not more than $5,000," and inserting "under this title,"; and

(3) by inserting "the assault involved the use of a dangerous weapon, or" after "if".

SEC. 3002. INCREASED MAXIMUM PENALTY FOR MANSLAUGHTER.

Section 1112 of title 18, United States Code, is amended—

(1) in subsection (b)—

(A) by inserting "fined under this title or" after "shall be" in the second undesignated paragraph; and

(B) by inserting ", or both" after "years";

(2) by striking "not more than $1,000" and inserting "under this title"; and

(3) by striking "three" and inserting "six".

SEC. 3003. INCREASED MAXIMUM PENALTIES FOR CIVIL RIGHTS VIOLATIONS.

(a) CONSPIRACY AGAINST RIGHTS.—Section 241 of title 18, United States Code, is amended—

(1) by striking "not more than $10,000" and inserting "under this title";

(2) by inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill" after "results";

(3) by striking "subject to imprisonment" and inserting "fined under this title or imprisoned"; and

(4) by inserting ", or both" after "life".

(b) DEPRIVATION OF RIGHTS.—Section 242 of title 18, United States Code, is amended—

(1) by striking "more more than $1,000" an inserting "under this title";

(2) by inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire," after "bodily injury results";

(3) by inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse, or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under this title, or" after "death results";

(4) by striking "shall be subject to imprisonment" and inserting "imprisoned"; and

(5) by inserting ", or both" after "life".

(c) FEDERALLY PROTECTED ACTIVITIES.—Section 245(b) of title 18, United States Code, is amended in the matter following paragraph (5)—

(1) by striking "not more than $1,000" and inserting "under this title";

(2) by inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire" after "bodily injury results;

(3) by striking "not more than $10,000" and inserting "under this title";

(4) by inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill," after "death results";

(5) by striking "subject to imprisonment" and inserting "fined under this title or imprisoned"; and

(6) by inserting ", or both" after "life".

(d) DAMAGE TO RELIGIOUS PROPERTY.—Section 247 of title 18, United States Code, is amended—

(1) in subsection (c)(1) by inserting "from acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill" after "death results";

(2) in subsection (c)(2)—

(A) by striking "serious"; and

(B) by inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire" after "bodily injury results"; and

(3) by amending subsection (e) to read as follows:

"(e) As used in this section, the term 'religious property' means any church, synagogue, mosque, religious cemetery, or other religious property.".

(e) FAIR HOUSING ACT.—Section 901 of the Fair Housing Act (42 U.S.C. 3631) is amended—

(1) in the caption by striking "bodily injury; death;";

(2) by striking "not more than $1,000," and inserting "under this title";

(3) by inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire" after "bodily injury results";

(4) by striking "not more than $10,000," and inserting "under this title";

(5) by inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill," after "death results";

(6) by striking "subject to imprisonment" and inserting "fined under this title or imprisoned"; and

(7) by inserting ", or both" after "life".

Subtitle B—Extension of Protection of Civil Rights Statutes

SEC. 3011. EXTENSION OF PROTECTION OF CIVIL RIGHTS STATUTES.

(a) CONSPIRACY AGAINST RIGHTS.—Section 241 of title 18, United States Code, is amended by striking "inhabitant of" and inserting "person in".

(b) DEPRIVATION OF RIGHTS UNDER COLOR OF LAW.—Section 242 of title 18, United States Code, is amended—

(1) by striking "inhabitant of" and inserting "person in"; and

(2) by striking "such inhabitant" and inserting "such person".

Subtitle C—Audit and Report

SEC. 3021. AUDIT REQUIREMENT FOR STATE AND LOCAL LAW ENFORCEMENT AGENCIES RECEIVING FEDERAL ASSET FORFEITURE FUNDS.

(a) STATE REQUIREMENT.—Section 524(c)(7) of title 28, United States Code, is amended to read as follows:

"(7)(A) The Fund shall be subject to annual audit by the Comptroller General.

"(B) The Attorney General shall require that any State or local law enforcement agency receiving funds conduct an annual audit detailing the uses and expenses to which the funds were dedicated and the amount used for each use or expense and report the results of the audit to the Attorney General.".

(b) INCLUSION IN ATTORNEY GENERAL'S REPORT.—Section 524(c)(6)(C) of title 28, United States Code, is amended by adding at the end the following flush sentence: "The report should also contain all annual audit reports from State and local law enforcement agencies required to be reported to the Attorney General under subparagraph (B) of paragraph (7).".

SEC. 3022. REPORT TO CONGRESS ON ADMINISTRATIVE AND CONTRACTING EXPENSES.

Section 524(c)(6) of title 28, United States Code, is amended—

(1) by striking "and" at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting "; and"; and

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

"(D) a report for such fiscal year containing a description of the administrative and contracting expenses paid from the Fund under paragraph (1)(A).".

Subtitle D—Counterfeit Goods Traffic

SEC. 3031. INCREASED PENALTIES FOR TRAFFICKING IN COUNTERFEIT GOODS AND SERVICES.

(a) IN GENERAL.—Section 2320(a) of title 18, United States Code, is amended—

(1) in the first sentence by striking "imprisoned not more than five years" and inserting "imprisoned not more than 10 years"; and

(2) in the second sentence by striking "imprisoned not more than fifteen years" and inserting "imprisoned not more than 20 years".

(b) LAUNDERING MONETARY INSTRUMENTS.—Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking "or section 2319 (relating to copyright infringement)," and inserting "section 2319 (relating to copyright infringement), or section 2320 (relating to trafficking in counterfeit goods and services),".

Subtitle E—Gambling

SEC. 3041. PROFESSIONAL AND AMATEUR SPORTS PROTECTION.

(a) IN GENERAL.—Part VI of title 28, United States Code, is amended by adding at the end the following:

"CHAPTER 178—PROFESSIONAL AND AMATEUR SPORTS PROTECTION

"Sec.
"3701. Definitions.
"3702. Unlawful sports gambling.
"3703. Injunctions.
"3704. Applicability.

"§3701. Definitions

"For purposes of this chapter—

"(1) the term 'amateur sports organization' means—

"(A) a person or governmental entity that sponsors, organizes, schedules, or conducts a competitive game in which one or more amateur athletes participate, or

"(B) a league or association of persons or governmental entities described in subparagraph (A),

"(2) the term 'governmental entity' means a State, a political subdivision of a State, or an entity or organization (including an entity or organization described in section 4(5) of the Indian Gaming Regulatory Act (25 U.S.C. 2703(5))) that has governmental authority within the territorial boundaries of the United States (including on lands described in section 4(4) of such Act (25 U.S.C. 2703(4))),

"(3) the term 'professional sports organization' means—

"(A) a person or governmental entity that sponsors, organizes, schedules, or conducts a competitive game in which one or more professional athletes participate, or

"(B) a league or association of persons or governmental entities described in subparagraph (A),

"(4) the term 'person' has the meaning given such term in section 1 of title 1, and

"(5) the term 'State' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Palau, or any territory or possession of the United States.

"§3702. Unlawful sports gambling

"It shall be unlawful for—

"(1) a governmental entity to sponsor, operate, advertise, promote, license, or authorize by law or compact, or

"(2) a person to sponsor, operate, advertise, or promote, pursuant to the law or compact of a governmental entity,

a lottery, sweepstakes, or other betting, gambling, or wagering scheme based, directly or indirectly (through the use of geographic references or otherwise), on one or more competitive games in which amateur or professional athletes participate, or are intended to participate, or on one or more performances of such athletes in such games.

"§3703. Injunctions

"A civil action to enjoin a violation of section 3702 may be commenced in an appropriate district court of the United States by the Attorney General of the United States, or by a professional sports organization or amateur sports organization whose competitive game is alleged to be the basis of such violation.

"§3704. Applicability

"(a) Section 3702 shall not apply to—

"(1) a lottery in operation in a State or subdivision of a State, to the extent that such a lottery actually was conducted by that State or subdivision at any time during the period beginning January 1, 1976 and ending August 31, 1990;

"(2) a betting, gambling, or wagering scheme in operation in a State or subdivision of a State, other than a lottery described in paragraph (1), where both—

"(A) such scheme was authorized by a statute as in effect on August 31, 1990; and

"(B) any scheme described in section 3702 (other than one based on parimutuel animal racing or jai-alai games) actually was conducted in that State or subdivision at any time during the period beginning September 1, 1989, and ending August 31, 1990, pursuant to the law of that State or subdivision;

"(3) a betting, gambling, or wagering scheme, other than a lottery described in paragraph (1), conducted exclusively in casinos located in a municipality, but only to the extent that—

"(A) such scheme or a similar scheme was in operation in that municipality not later than one year after the effective date of this chapter; and

"(B) any commercial casino gaming scheme was in operation in such municipality throughout the 10-year period ending on such effective date pursuant to a comprehensive system of State regulation authorized by that State's constitution and applicable solely to such municipality; or

"(4) parimutuel animal racing or jai-alai games.

"(b) Except as provided in subsection (a), section 3702 shall apply on lands described in section 4(4) of the Indian Gaming Regulatory Act (25 U.S.C. 2703(4)).".

(b) CLERICAL AMENDMENTS.—The table of chapters for part VI of title 28, United States Code, is amended—

(1) by amending the item relating to chapter 176 to read as follows:

"176. Federal Debt Collection Procedure ..... 3001";

and

(2) by adding at the end the following:

"178. Professional and Amateur Sports Protection ..... 3701".

SEC. 3042. CRIMINAL HISTORY RECORD INFORMATION FOR THE ENFORCEMENT OF LAWS RELATING TO GAMING.

A State gaming enforcement office located within a State Attorney General's office may obtain from the Interstate Identification Index of the FBI criminal history record information for licensing purposes through an authorized criminal justice agency.

SEC. 3043. CLARIFYING AMENDMENTS REGARDING SCOPE OF PROHIBITION AGAINST GAMBLING ON SHIPS IN INTERNATIONAL WATERS.

(a) DEFINITION OF GAMBLING SHIP IN TITLE 18.—The first paragraph of section 1081 of title 18, United States Code, is amended by adding at the end the following: "Such term does not include a vessel with respect to gambling aboard such vessel beyond the territorial waters of the United States during a covered voyage (as defined in section 4472 of the Internal Revenue Code of 1986).".

(b) CLARIFICATIONS OF, AND LIMITATIONS ON, GAMBLING DEVICES PROHIBITIONS.—

(1) TRANSPORT TO A PLACE IN A STATE, ETC.—Section 2 of the Act of January 2, 1951 (15 U.S.C. 1172; commonly referred to as the "Johnson Act"), is amended—

(A) by inserting before the first paragraph the following: "(a) GENERAL RULE.—";

(B) in subsection (a) (as so designated) by striking ", District of Columbia,";

(C) by inserting before the second paragraph the following: "(b) AUTHORITY OF FEDERAL TRADE COMMISSION.—"; and

(D) by adding at the end the following:

"(c) EXCEPTION.—This section does not prohibit the transport of a gambling device to a place in a State or a possession of the United States on a vessel on a voyage, if—

"(1) use of the gambling device on a portion of that voyage is, by reason of subsection (b) of section 5, not a violation of that section; and

"(2) the gambling device remains on board that vessel while in that State.".

(2) REPAIR, OTHER TRANSPORT, ETC.—Section 5 of that Act (15 U.S.C. 1175) is amended—

(A) by inserting before "It shall be unlawful" the following: "(a) GENERAL RULE.—";

(B) by inserting before the period at the end the following: ", including on a vessel documented under chapter 121 of title 46, United States Code, or documented under the laws of a foreign country"; and

(C) by adding at the end the following:

"(b) EXCEPTION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), this section does not prohibit—

"(A) the repair, transport, possession, or use of a gambling device on a vessel that is on waters that are not within the boundaries of any State or possession of the United States; or

"(B) the transport or possession, on a voyage, of a gambling device on a vessel in waters that are within the boundaries of any State or possession of the United States, if—

"(i) use of the gambling device on a portion of that voyage is, by reason of subparagraph (A), not a violation of this section; and

"(ii) the gambling device remains on board that vessel while within the boundaries of that State or possession.

"(2) APPLICATION TO CERTAIN VOYAGES.—

"(A) GENERAL RULE.—Paragraph (1)(A) does not apply to the repair or use of a gambling device on a vessel that is on a voyage or segment of a voyage described in subparagraph (B) of this paragraph if the State or possession of the United States in which the voyage or segment begins and ends has enacted a statute the terms of which prohibit that repair or use on that voyage or segment.

"(B) VOYAGE AND SEGMENT DESCRIBED.—A voyage or segment of a voyage referred to in subparagraph (A) is a voyage or segment, respectively—

"(i) that begins and ends in the same State or possession of the United States, and

"(ii) during which the vessel does not make an intervening stop in another State or possession of the United States or a foreign country.".

(3) BOUNDARIES DEFINED.—The first section of that Act (15 U.S.C. 1171) is amended by adding at the end the following:

"(f) The term 'boundaries' has the same meaning given that term in section 2 of the Submerged Lands Act (43 U.S.C. 1301).".

Subtitle F—White Collar Crime Amendments

SEC. 3051. RECEIVING THE PROCEEDS OF EXTORTION OR KIDNAPPING.

(a) PROCEEDS OF EXTORTION.—Chapter 41 of title 18, United States Code, is amended—

(1) by adding at the end the following new section:

"§ 880. Receiving the proceeds of extortion

"Whoever receives, possesses, conceals, or disposes of any money or other property which was obtained from the commission of any offense under this chapter that is punishable by imprisonment for more than one year, knowing the same to have been unlawfully obtained, shall be imprisoned not more than three years, fined under this title, or both."; and

(2) in the table of sections, by adding at the end the following new item:

"880. Receiving the proceeds of extortion.".

(b) RANSOM MONEY.—Section 1202 of title 18, United States Code, is amended—

(1) by designating the existing matter as subsection "(a)"; and

(2) by adding the following new subsections:

"(b) Whoever transports, transmits, or transfers in interstate or foreign commerce any proceeds of a kidnapping punishable under State law by imprisonment for more than one year, or receives, possesses, conceals, or disposes of any such proceeds after they have crossed a State or United States boundary, knowing the proceeds to have been unlawfully obtained, shall be imprisoned not more than ten years, fined under this title, or both.

"(c) For purposes of this section, the term 'State' has the meaning set forth in section 245(d) of this title.".

SEC. 3052. RECEIVING THE PROCEEDS OF A POSTAL ROBBERY.

Section 2114 of title 18, United States Code, is amended—

(1) by designating the existing matter as subsection (a); and

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

"(b) Whoever receives, possesses, conceals, or disposes of any money or other property which has been obtained in violation of this section, knowing the same to have been unlawfully obtained, shall be imprisoned not more than ten years, fined under this title, or both.".

SEC. 3053. CONFORMING ADDITION TO OBSTRUCTION OF CIVIL INVESTIGATIVE DEMAND STATUTE.

Section 1505 of title 18, United States Code, is amended by inserting "section 1968 of this title, section 3733 of title 31, United States Code or" before "the Antitrust Civil Process Act".

SEC. 3054. CONFORMING ADDITION OF PREDICATE OFFENSES TO FINANCIAL INSTITUTIONS REWARDS STATUTE.

Section 3059A of title 18, United States Code, is amended—

(1) by inserting "225," after "215";

(2) by striking "or" before "1344"; and

(3) by inserting ", or 1517" after "1344".

SEC. 3055. DEFINITION OF SAVINGS AND LOAN ASSOCIATION IN BANK ROBBERY STATUTE.

Section 2113 of title 18, United States Code, is amended by adding at the end the following:

"(h) As used in this section, the term 'savings and loan association' means (1) any Federal saving association or State savings association (as defined in section 3(b) of the Federal Deposit Insurance Act, 12 U.S.C. 1813(b)) having accounts insured by the Federal Deposit Insur-

ance Corporation, and (2) any corporation described in section 3(b)(1)(C) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b)(1)(C)) which is operating under the laws of the United States.".

SEC. 3056. CONFORMING DEFINITION OF "1 YEAR PERIOD" IN 18 U.S.C. 1516.

Section 1516(b) of title 18, United States Code, is amended—

(1) by inserting "(i)" before "the term"; and

(2) by inserting before the period the following: ", and (ii) the term 'in any 1 year period' has the meaning given to the term 'in any one-year period' in section 666 of this title.".

Subtitle G—Other Provisions

SEC. 3061. INCREASED PENALTY FOR CONSPIRACY TO COMMIT MURDER FOR HIRE.

Section 1958(a) of title 18, United States Code, is amended by inserting "or who conspires to do so" before "shall be fined" the first place it appears.

SEC. 3062. OPTIONAL VENUE FOR ESPIONAGE AND RELATED OFFENSES.

(a) IN GENERAL.—Chapter 211 of title 18, United States Code, is amended by inserting after section 3238 the following new section:

"§ 3239. Optional venue for espionage and related offenses

"The trial for any offense involving a violation, begun or committed upon the high seas or elsewhere out of the jurisdiction of any particular State or district, of—

"(1) section 793, 794, 798, or section 1030(a)(1) of this title;

"(2) section 601 of the National Security Act of 1947 (50 U.S.C. 421); or

"(3) section 4(b) or (4)(c) of the Subversive Activities Control Act of 1950 (50 U.S.C. 783 (b) or (c));

may be in the District of Columbia or in any other district authorized by law.".

(b) TECHNICAL AMENDMENT.—The item relating to section 3239 in the table of sections of chapter 211 of title 18, United States Code, is amended to read as follows:

"3239. Optional venue for espionage and related offense.".

SEC. 3063. UNDERCOVER OPERATIONS.

(a) IN GENERAL.—Chapter 1 of title 18, United States Code, is amended by adding at the end the following new section:

"§21. Stolen or counterfeit nature of property for certain crimes defined

"(a) Wherever in this title it is an element of an offense that—

"(1) any property was embezzled, robbed, stolen, converted, taken, altered, counterfeited, falsely made, forged, or obliterated; and

"(2) the defendant knew that the property was of such character;

such element may be established by proof that the defendant, after or as a result of an official representation as to the nature of the property, believed the property to be embezzled, robbed, stolen, converted, taken, altered, counterfeited, falsely made, forged, or obliterated.

"(b) For purposes of this section, the term 'official representation' means any representation made by a Federal law enforcement officer (as defined in section 115) or by another person at the direction or with the approval of such an officer.".

(b) TECHNICAL AMENDMENT.—The table of sections of chapter 1 of title 18, United States Code, is amended by adding at the end the following new item:

"21. Stolen or counterfeit nature of property for certain crimes defined.".

SEC. 3064. UNDERCOVER OPERATIONS—CHURNING.

Section 7601(c)(3) of the Anti-Drug Abuse Act of 1988 (relating to effective date) is amended to read as follows:

"(3) EFFECTIVE DATE—The amendments made by this subsection shall take effect on the date of the enactment of this Act and shall cease to apply after December 31, 1994.".

SEC. 3065. REPORT ON BATTERED WOMEN'S SYNDROME.

(a) REPORT.—Not less than 1 year after the date of enactment of this Act, the Attorney General and the Secretary of Health and Human Services shall transmit to the Congress a report on the medical and psychological basis of "battered women's syndrome" and on the extent to which evidence of the syndrome has been held to be admissible as evidence of guilt or as a defense in a criminal trial.

(b) COMPONENTS OF THE REPORT.—The report described in subsection (a) shall include—

(1) medical and psychological testimony on the validity of battered women's syndrome as a psychological condition;

(2) a compilation of State and Federal court cases that have admitted evidence of battered women's syndrome as evidence of guilt as a defense in criminal trials; and

(3) an assessment by State and Federal judges, prosecutors, and defense attorneys on the effects that evidence of battered women's syndrome may have in criminal trials.

SEC. 3066. WIRETAPS.

Section 2511(1) of title 18, United States Code, is amended—

(1) by striking "or" at the end of paragraph (c);

(2) by inserting "or" at the end of paragraph (d); and

(3) by adding after paragraph (d) the following new paragraph:

"(e)(i) intentionally discloses, or endeavors to disclose, to any other person the contents of any wire, oral, or electronic communication, intercepted by means authorized by sections 2511(2)(A)(ii), 2511(b)–(c), 2511(e), 2516, and 2518 of this subchapter, (ii) knowing or having reason to know that the information was obtained through the interception of such a communication in connection with a criminal investigation, (iii) having obtained or received the information in connection with a criminal investigation, (iv) with intent to improperly obstruct, impede, or interfere with a duly authorized criminal investigation,".

SEC. 3067. THEFTS OF MAJOR ART WORKS.

(a) OFFENSE.—Chapter 31 of title 18, United States Code, is amended by adding at the end thereof the following:

"§668. Theft of a major art work

"(a) Whoever steals or obtains by fraud any object of cultural heritage held in a museum, or knowing the same to have been stolen, converted, or taken by fraud receives, conceals, stores, sells, exhibits, or disposes of such goods, shall be fined under this title, imprisoned for not more than the maximum term of imprisonment for a class C felony, or both.

"(b) Notwithstanding section 3282 of this title, the statute of limitations for an offense under this section shall be 20 years.

"(c) The property of a person convicted of an offense under this section shall be subject to criminal forfeiture under section 982 of this title.

"(d) For purposes of this section—

"(1) The term 'museum' means an organized and permanent institution, situated in the United States, essentially educational or aesthetic in purpose with professional staff, which owns and utilizes tangible objects, cares for them, and exhibits them to the public on some regularly scheduled period.

"(2) The term 'stolen object of cultural heritage' means an object stolen from a museum after the effective date of this title reported to law enforcement authorities as stolen and registered with the International Foundation for Art Research, or any equivalent registry.".

(b) CHAPTER ANALYSIS.—The chapter analysis for chapter 31 of title 18, United States Code, is amended by adding at the end thereof the following:

"668. Theft of a major art work.".

SEC. 3068. BALANCE IN THE CRIMINAL JUSTICE SYSTEM.

(a) FINDINGS.—The Congress finds that—

(1) an adequately supported Federal judiciary is essential to the enforcement of law and order in the United States, and

(2) section 331 of title 28 provides in pertinent part that the Chief Justice shall submit to Congress an annual report of the proceedings of the Judicial Conference and its recommendations for legislation, and

(3) in 1990, in response to the recommendations of the Judicial Conference for additional judgeships, Congress enacted legislation creating 85 additional judgeships with an effective date of December 1, 1990, and

(4) only one of these vacancies has been filled, and

(5) during the current administration, it has taken an average of 502 days from the time a judgeship becomes vacant until such vacancy is filled, and

(6) the enactment of legislation providing additional funding for the invesigation and prosecution facets of the criminal justice system has a direct and positive impact on the needs and workload of the Judiciary, which is already severely overloaded with criminal cases, and

(7) recommendations by the Judicial Conference for the filling of judicial vacancies are currently made on the basis of historical data alone, and

(8) the General Accounting Office, pursuant to the 1988 Anti-Drug Abuse Act, has developed a computer model that measures the potential effect of fiscal increases on one or more parts of the criminal justice system on the Judiciary, and

(9) the General Accounting Office has established that an increase in the resources allocated to the investigative and prosecutorial parts of the criminal justice system, brings about an increase in the number of criminal cases filed, which in turn adds to the need for additional judgeships, and

(10) the allocation of resources to portions of the Federal criminal justice system other than the Judiciary contributes to the need for additional judgeships that cannot be anticipated by the use of historical data alone, and

(11) the use of historical data alone, because of its inability to project the need for additional judgeships attributable to the increase in criminal caseload adds to the delay in meeting the needs of the Judiciary.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Judicial Conference should be encouraged to make its recommendations to Congress for additional judgeships utilizing historical data and a workload estimate model designed to anticipate an increase in criminal filings resulting from increased funding in one or more components of the Federal criminal justice system, and to take into account the time expended in the appointive and confirmation process.

SEC. 3069. AWARD OF ATTORNEY'S FEES.

Section 519 of title 28, United States Code, is amended—

(1) by inserting "(a) IN GENERAL.—" before "Except"; and

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

"(b) AWARD OF FEES.—

"(1) CURRENT EMPLOYEES.—Upon the application of any current employee of the Department of Justice or of any Federal public defender's office who was the subject of a criminal or disciplinary investigation instituted on or after the

date of enactment of this Act by the Department of Justice, which investigation related to such employee's discharge of his or her official duties, and which investigation resulted in neither disciplinary action nor criminal indictment against such employee, the Attorney General shall award reimbursement for reasonable attorney's fees incurred by that employee as a result of such investigation.

"(2) FORMER EMPLOYEES.—Upon the application of any former employee of the Department of Justice or of any Federal public defender's office who was the subject of a criminal or disciplinary investigation instituted on or after the date of enactment of this Act by the Department of Justice, which investigation related to such employee's discharge of his or her official duties, and which investigation resulted in neither disciplinary action nor criminal indictment against such employee, the Attorney General shall award reimbursement for those reasonable attorney's fees incurred by that former employee as a result of such investigation.

"(3) EVALUATION OF AWARD.—The Attorney General may make an inquiry into the reasonableness of the sum requested. In making such inquiry the Attorney General shall consider:

"(A) the sufficiency of the documentation accompanying the request;

"(B) the need or justification for the underlying item;

"(C) the reasonableness of the sum requested in light of the nature of the investigation; and

"(D) current rates for legal services in the community in which the investigation took place.".

SEC. 3070. PROTECTION OF JURORS AND WITNESSES IN CAPITAL CASES.

Section 3432 of title 18, United States Code, is amended by inserting before the period the following: ", except that such list of the veniremen and witnesses need not be furnished if the court finds by a preponderance of the evidence that providing the list may jeopardize the life or safety of any person".

SEC. 3071. MISUSE OF INITIALS "DEA".

(a) AMENDMENT.—Section 709 of title 18, United States Code, is amended—

(1) in the thirteenth unnumbered paragraph by striking "words—" and inserting "words; or"; and

(2) by inserting after the thirteenth unnumbered paragraph the following new paragraph:

"Whoever, except with the written permission of the Administrator of the Drug Enforcement Administration, knowingly uses the words 'Drug Enforcement Administration' or the initials 'DEA' or any colorable imitation of such words or initials, in connection with any advertisement, circular, book, pamphlet, software or other publication, play, motion picture, broadcast, telecast, or other production, in a manner reasonably calculated to convey the impression that such advertisement, circular, book, pamphlet, software or other publication, play, motion picture, broadcast, telecast, or other production is approved, endorsed, or authorized by the Drug Enforcement Administration;".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on the date that is 90 days after the date of enactment of this Act.

SEC. 3072. ADDITION OF ATTEMPTED ROBBERY, KIDNAPPING, SMUGGLING, AND PROPERTY DAMAGE OFFENSES TO ELIMINATE INCONSISTENCIES AND GAPS IN COVERAGE.

(a) ROBBERY AND BURGLARY.—(1) Section 2111 of title 18, United States Code, is amended by inserting "or attempts to take" after "takes".

(2) Section 2112 of title 18, United States Code, is amended by inserting "or attempts to rob" after "robs".

(3) Section 2114 of title 18, United States Code, is amended by inserting "or attempts to rob" after "robs".

(b) KIDNAPPING.—Section 1201(d) of title 18, United States Code, is amended by striking "Whoever attempts to violate subsection (a)(4) or (a)(5)" and inserting "Whoever attempts to violate subsection (a)".

(c) SMUGGLING.—Section 545 of title 18, United States Code, is amended by inserting "or attempts to smuggle or clandestinely introduce" after "smuggles, or clandestinely introduces".

(d) MALICIOUS MISCHIEF.—(1) Section 1361 of title 18, United States Code, is amended—

(A) by inserting "or attempts to commit any of the foregoing offenses" before "shall be punished", and

(B) by inserting "or attempted damage" after "damage" each place it appears.

(2) Section 1362 of title 18, United States Code, is amended by inserting "or attempts willfully or maliciously to injure or destroy" after "willfully or maliciously injures or destroys".

(3) Section 1366 of title 18, United States Code, is amended—

(A) by inserting "or attempts to damage" after "damages" each place it appears;

(B) by inserting "or attempts to cause" after "causes"; and

(C) by inserting "or would if the attempted offense had been completed have exceeded" after "exceeds" each place it appears.

SEC. 3073. DEFINITION OF LIVESTOCK.

Section 2311 of title 18, United States Code, is amended by inserting after the second paragraph relating to the definition of "cattle" the following:

"'Livestock' means any domestic animals raised for home use, consumption, or profit, such as horses, pigs, goats, fowl, sheep, and cattle, or the carcasses thereof;".

TITLE XXXI—TECHNICAL CORRECTIONS

SEC. 3101. AMENDMENTS RELATING TO FEDERAL FINANCIAL ASSISTANCE FOR LAW ENFORCEMENT.

(a) CROSS REFERENCE CORRECTIONS.—(1) Section 506 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756) is amended—

(1) in subsection (a) by striking "Of" and inserting "Subject to subsection (f), of",

(2) in subsection (c) by striking "subsections (b) and (c)" and inserting "subsection (b)",

(3) in subsection (e) by striking "or (e)" and inserting "or (f)",

(4) in subsection (f)(1)—

(A) in subparagraph (A)—

(i) by striking ", taking into consideration subsection (e) but", and

(ii) by striking "this subsection," and inserting "this subsection", and

(B) in subparagraph (B) by striking "amount" and inserting "funds".

(b) CORRECTIONAL OPTIONS GRANTS.—(1) Section 515(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(A) by striking "subsection (a)(1) and (2)" and inserting "paragraphs (1) and (2) of subsection (a)", and

(B) in paragraph (2) by striking "States" and inserting "public agencies".

(2) Section 516 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(A) in subsection (a) by striking "for section" each place it appears and inserting "shall be used to make grants under section", and

(B) in subsection (b) by striking "section 515(a)(1) or (a)(3)" and inserting "paragraph (1) or (3) of section 515(a)".

(3) Section 1001(a)(5) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(5)) is amended by inserting "(other than chapter B of subpart 2)" after "and E".

(c) DENIAL OR TERMINATION OF GRANT.—Section 802(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3783(b)) is amended by striking "M,," and inserting "M,".

(d) DEFINITIONS.—Section 901(a)(21) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(21)) is amended by adding a semicolon at the end.

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)) is amended in paragraph (3) by striking "and N" and inserting "N, O, P, Q, R, S, T, U, V, and W".

(f) PUBLIC SAFETY OFFICERS DISABILITY BENEFITS.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796) is amended—

(1) in section 1201—

(A) in subsection (a) by striking "subsection (g)" and inserting "subsection (h),", and

(B) in subsection (b)—

(i) by striking "subsection (g)" and inserting "subsection (h)",

(ii) by striking "personal", and

(iii) in the first proviso by striking "section" and inserting "subsection", and

(2) in section 1204(3) by striking "who was responding to a fire, rescue or police emergency".

(g) HEADINGS.—(1) The heading for part M of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797) is amended to read as follows:

"PART M—REGIONAL INFORMATION SHARING SYSTEMS".

(2) The heading for part O of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797) is amended to read as follows:

"PART O—RURAL DRUG ENFORCEMENT".

(h) TABLE OF CONTENTS.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) in the item relating to section 501 by striking "Drug Control and System Improvement Grant" and inserting "drug control and system improvement grant",

(2) in the item relating to section 1403 by striking "Application" and inserting "Applications", and

(3) in the items relating to part O by redesignating sections 1401 and 1402 as sections 1501 and 1502, respectively.

(i) OTHER TECHNICAL AMENDMENTS.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) in section 202(c)(2)(E) by striking "crime,," and inserting "crime,",

(2) in section 302(c)(19) by striking a period at the end and inserting a semicolon,

(3) in section 602(a)(1) by striking "chapter 315" and inserting "chapter 319",

(4) in section 603(a)(6) by striking "605" and inserting "606",

(5) in section 605 by striking "this section" and inserting "this part",

(6) in section 606(b) by striking "and Statistics" and inserting "Statistics",

(7) in section 801(b)—

(A) by striking "parts D," and inserting "parts",

(B) by striking "part D" each place it appears and inserting "subpart 1 of part E",

(C) by striking "403(a)" and inserting "501", and

(D) by striking "403" and inserting "503",

(8) in the first sentence of section 802(b) by striking "part D," and inserting "subpart 1 of part E or under part",

(9) in the second sentence of section 804(b) by striking "Prevention or" and inserting "Prevention, or",

(10) in section 808 by striking "408, 1308," and inserting "507",

(11) in section 809(c)(2)(H) by striking "805" and inserting "804",

(12) in section 811(e) by striking "Law Enforcement Assistance Administration" and inserting "Bureau of Justice Assistance",

(13) in section 901(a)(3) by striking "and," and inserting ", and",

(14) in section 1001(c) by striking "parts" and inserting "part".

(j) CONFORMING AMENDMENT TO OTHER LAW.—Section 4351(b) of title 18, United States Code, is amended by striking "Administrator of the Law Enforcement Assistance Administration" and inserting "Director of the Bureau of Justice Assistance".

SEC. 3102. GENERAL TITLE 18 CORRECTIONS.

(a) SECTION 1031.—Section 1031(g)(2) of title 18, United States Code, is amended by striking "a government" and inserting "a Government".

(b) SECTION 208.—Section 208(c)(1) of title 18, United States Code, is amended by striking "Banks" and inserting "banks".

(c) SECTION 1007.—The heading for section 1007 of title 18, United States Code, is amended by striking "Transactions" and inserting "transactions" in lieu thereof.

(d) SECTION 1014.—Section 1014 of title 18, United States Code, is amended by striking the comma which follows a comma.

(e) ELIMINATION OF OBSOLETE CROSS REFERENCE.—Section 3293 of title 18, United States Code, is amended by striking "1008,".

(f) ELIMINATION OF DUPLICATE SUBSECTION DESIGNATION.—Section 1031 of title 18, United States Code, is amended by redesignating the second subsection (g) as subsection (h).

(g) CLERICAL AMENDMENT TO PART I TABLE OF CHAPTERS.—The item relating to chapter 33 in the table of chapters for part I of title 18, United States Code, is amended by striking "701" and inserting "700".

(h) AMENDMENT TO SECTION 924(a)(1)(b).—Section 924(a)(1)(B) of title 18, United States Code, is amended by striking "(q)" and inserting "(r)".

(i) AMENDMENT TO SECTION 3143.—The last sentence of section 3143(b) of title 18, United States Code, is amended by striking "(b)(2)(D)" and inserting "(1)(B)(iv)".

(j) AMENDMENT TO TABLE OF CHAPTERS.—The table of chapters at the beginning of part I of title 18, United States Code, is amended by striking the item relating to the chapter 113A added by section 132 of Public Law 102–27, but subsequently repealed.

(k) PUNCTUATION CORRECTION.—Section 207(c)(2)(A)(ii) of title 18, United States Code, is amended by striking the semicolon at the end and inserting a comma.

(l) TABLE OF CONTENTS CORRECTION.—The table of contents for chapter 223 of title 18, United States Code, is amended by adding at the end the following:

"3509. Child Victims' and child witnesses' rights.".

(m) ELIMINATION OF SUPERFLUOUS COMMA.—Section 3742(b) of title 18, United States Code, is amended by striking "Government," and inserting "Government".

SEC. 3103. CORRECTIONS OF ERRONEOUS CROSS REFERENCES AND MISDESIGNATIONS.

(a) SECTION 1791 OF TITLE 18.—Section 1791(b) of title 18, United States Code, is amended by striking "(c)" each place it appears and inserting "(d)".

(b) SECTION 1956 OF TITLE 18.—Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking "section 1822 of the Mail Order Drug Paraphernalia Control Act (100 Stat. 3207–51; 21 U.S.C. 857)" and inserting "section 422 of the Controlled Substances Act (21 U.S.C. 863)".

(c) SECTION 2703 OF TITLE 18.—Section 2703(d) of title 18, United States Code, is amended by striking "section 3126(2)(A)" and inserting "section 3127(2)(A)".

(d) SECTION 666 OF TITLE 18.—Section 666(d) of title 18, United States Code, is amended—

(1) by redesignating the second paragraph (4) as paragraph (5);

(2) by striking "and" at the end of paragraph (3); and

(3) by striking the period at the end of paragraph (4) and inserting "; and".

(e) SECTION 4247 OF TITLE 18.—Section 4247(h) of title 18, United States Code, is amended by striking "subsection (e) of section 4241, 4243, 4244, 4245, or 4246," and inserting "subsection (e) of section 4241, 4244, 4245, or 4246, or subsection (f) of section 4243,".

(f) SECTION 408 OF THE CONTROLLED SUBSTANCE.—Section 408(b)(2)(A) of the Controlled Substances Act (21 U.S.C. 848(b)(2)(A)) is amended by striking "subsection (d)(1)" and inserting "subsection (c)(1)".

(g) MARITIME DRUG LAW ENFORCEMENT ACT.—(1) Section 994(h) of title 28, United States Code, is amended by striking "section 1 of the Act of September 15, 1980 (21 U.S.C. 955a)" each place it appears and inserting "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)".

(2) Section 924(e) of title 18, United States Code, is amended by striking "the first section or section 3 of Public Law 96–350 (21 U.S.C. 955a et seq.)" and inserting "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)".

(h) SECTION 2596 OF THE CRIME CONTROL ACT OF 1990.—Section 2596(d) of the Crime Control Act of 1990 is amended, effective retroactively to the date of enactment of such Act, by striking "951(c)(1)" and inserting "951(c)(2)".

(i) SECTION 3143 OF TITLE 18.—The last sentence of section 3143(b)(1) of title 18, United States Code, is amended by striking "(b)(2)(D)" and inserting "(1)(B)(iv)".

SEC. 3104. REPEAL OF OBSOLETE PROVISIONS IN TITLE 18.

Title 18, United States Code, is amended—

(1) in section 212, by striking "or of any National Agricultural Credit Corporation," and by striking "or National Agricultural Credit Corporations,";

(2) in section 213, by striking "or examiner of National Agricultural Credit Corporations";

(3) in section 709, by striking the seventh and thirteenth paragraphs;

(4) in section 711, by striking the second paragraph;

(5) by striking section 754, and amending the table of sections for chapter 35 by striking the item relating to section 754;

(6) in sections 657 and 1006, by striking "Reconstruction Finance Corporation,", and by striking "Farmers' Home Corporation,";

(7) in section 658, by striking "Farmers' Home Corporation,";

(8) in section 1013, by striking ", or by any National Agricultural Credit Corporation";

(9) in section 1160, by striking "white person" and inserting "non-Indian";

(10) in section 1698, by striking the second paragraph;

(11) by striking sections 1904 and 1908, and amending the table of sections for chapter 93 by striking the items relating to such sections;

(12) in section 1909, by inserting "or" before "farm credit examiner" and by striking "or an examiner of National Agricultural Credit Corporations,";

(13) by striking sections 2157 and 2391, and amending the table of sections for chapters 105 and 115, respectively, by striking the items relating to such sections;

(14) in section 2257 by striking the subsections (f) and (g) that were enacted by Public Law 100–690;

(15) in section 3113, by striking the third paragraph;

(16) in section 3281, by striking "except for offenses barred by the provisions of law existing on August 4, 1939";

(17) in section 443, by striking "or (3) five years after 12 o'clock noon of December 31, 1946,"; and

(18) in sections 542, 544, and 545, by striking "the Philippine Islands,".

SEC. 3105. CORRECTION OF DRAFTING ERROR IN THE FOREIGN CORRUPT PRACTICES ACT.

Section 104 of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd–2) is amended, in subsection (a)(3), by striking "issuer" and inserting in lieu thereof "domestic concern".

SEC. 3106. ELIMINATION OF REDUNDANT PENALTY PROVISION IN 18 U.S.C. 1116.

Section 1116(a) of title 18, United States Code, is amended by striking ", and any such person who is found guilty of attempted murder shall be imprisoned for not more than twenty years".

SEC. 3107. ELIMINATION OF REDUNDANT PENALTY.

Section 1864(c) of title 18, United States Code, is amended by striking "(b) (3), (4), or (5)" and inserting in lieu thereof "(b)(5)".

SEC. 3108. CORRECTIONS OF MISSPELLINGS AND GRAMMATICAL ERRORS.

Title 18, United States Code, is amended—

(1) in section 513(c)(4), by striking "association or persons" and inserting in lieu thereof "association of persons";

(2) in section 1956(e), by striking "Evironmental" and inserting in lieu thereof "Environmental";

(3) in section 3125, by striking the quotation marks in paragraph (a)(2), and by striking "provider for" and inserting in lieu thereof "provider of" in subsection (d);

(4) in section 3731, by striking "order of a district courts" and inserting in lieu thereof "order of a district court" in the second undesignated paragraph; and

(5) in section 151, by striking "mean" and inserting "means".

(6) in section 208(b), by inserting "if" after "(4)";

(7) in section 209(d), by striking "under the terms of the chapter 41" and inserting "under the terms of chapter 41";

(8) in section 1014, by inserting a comma after "National Credit Union Administration Board"; and

(9) in section 3291, by striking "the afore-mentioned" and inserting "such".

SEC. 3109. OTHER TECHNICAL AMENDMENTS.

(a) SECTION 419 OF CONTROLLED SUBSTANCES ACT.—Section 419(b) of the Controlled Substances Act (21 U.S.C. 860(b)) is amended by striking "years Penalties" and inserting "years. Penalties".

(b) SECTION 667.—Section 667 of title 18, United States Code, is amended by adding at the end the following: "The term 'livestock' has the meaning set forth in section 2311 of this title.".

(c) SECTION 1114.—Section 1114 of title 18, United States Code, is amended by striking "or any other officer, agency, or employee of the United States" and inserting "or any other officer or employee of the United States or any agency thereof".

(d) SECTION 408 OF CONTROLLED SUBSTANCES ACT.—Section 408(q)(8) of the Controlled Substances Act (21 U.S.C. 848(q)(8)) is amended by striking "applications, for writ" and inserting "applications for writ".

SEC. 3110. CORRECTIONS OF ERRORS FOUND DURING CODIFICATION

Title 18, United States Code, is amended—

(1) in section 212, by striking "218" and inserting "213";

(2) in section 1917—

(A) by striking "Civil Service Commission" and inserting "Office of Personnel Management"; and

(B) by striking "the Commission" in paragraph (1) and inserting "such Office";

(3) by transferring the table of sections for each subchapter of each of chapters 227 and 229 to follow the heading of that subchapter;

(4) so that the heading of section 1170 reads as follows:

"§ 1170. Illegal trafficking in Native American human remains and cultural items";

(5) so that the item relating to section 1170 in the table of sections at the beginning of chapter 53 reads as follows:

"1170. Illegal trafficking in Native American human remains and cultural items.";

(6) in section 3509(a), by striking paragraph (11) and redesignating paragraphs (12) and (13) as paragraphs (11) and (12), respectively;

(7) in section 3509—

(A) by striking out "subdivision" each place it appears and inserting "subsection"; and

(B) by striking out "government" each place it appears and inserting "Government";

(8) in section 2252(a)(3)(B), by striking "materails" and inserting " materials";

(9) in section 14, by striking "45," and "608, 611, 612,";

(10) in section 3059A—

(A) in subsection (b), by striking "this subsection" and inserting "subsection"; and

(B) in subsection (c), by striking "this subsection" and inserting "subsection";

(11) in section 1761(c)—

(A) by striking "and" at the end of paragraph (1);

(B) by inserting "and" at the end of paragraph (3); and

(C) by striking the period at the end of paragraph (2)(B) and inserting a semicolon;

(12) in the table of sections at the beginning of chapter 11—

(A) in the item relating to section 203, by inserting a comma after "officers" and by striking the comma after "others"; and

(B) in the item relating to section 204, by inserting "the" before "United States Court of Appeals for the Federal Circuit";

(13) in the table of sections at the beginning of chapter 23, in the item relating to section 437, by striking the period immediately following "Indians";

(14) in the table of sections at the beginning of chapter 25, in the item relating to section 491, by striking the period immediately following "paper used as money";

(15) in section 207(a)(3), by striking "Clarification of Restrictions" and inserting "Clarification of restrictions";

(16) in section 176, by striking "the government" and inserting "the Government";

(17) in section 3059A(e)(2)(iii), by striking "backpay" and inserting "back pay"; and

(18) by adding a period at the end of the item relating to section 3059A in the table of sections at the beginning of chapter 203.

SEC. 3111. PROBLEMS RELATED TO EXECUTION OF PRIOR AMENDMENTS.

(a) INCORRECT REFERENCE AND PUNCTUATION CORRECTION.—(1) Section 2587(b) of the Crime Control Act of 1990 is repealed, effective on the date such section took effect.

(2) Section 2587(b) of Public Law 101–647 is amended, effective the date such section took effect, by striking "The chapter heading for" and inserting "The table of sections at the beginning of".

(3) The item relating to section 3059A in the table of sections at the beginning of chapter 203 of title 18, United States Code, is amended by adding a period at the end.

(b) LACK OF PUNCTUATION IN STRICKEN LANGUAGE.—Section 46(b) of Public Law 99–646 is amended, effective on the date such section took effect, so that—

(A) in paragraph (1), the matter proposed to be stricken from the beginning of section 201(b) of title 18, United States Code, reads "(b) Whoever, directly"; and

(B) in paragraph (2), a comma, rather than a semicolon, appears after "his lawful duty" in the matter to be stricken from paragraph (3) of section 201(b) of such title.

(c) BIOLOGICAL WEAPONS.—(1) Section 3 of the Biological Weapons Anti-Terrorism Act of 1989 is amended, effective on the date such section took effect in subsection (b), by striking "2516(c)" and inserting "2516(1)(c)".

(2) The item in the table of chapters for part I of title 18, United States Code, that relates to chapter 10 is amended by striking "Weapons" and inserting "weapons".

(d) PLACEMENT OF NEW SECTION.—Section 404(a) of Public Law 101–630 is amended, effective on the date such section took effect, by striking "adding at the end thereof" each place it appears and inserting "inserting after section 1169".

(e) ELIMINATION OF ERRONEOUS CHARACTERIZATION OF MATTER INSERTED.—Section 225(a) of Public Law 101–674 is amended, effective on the date such section took effect, by striking "new rule".

(f) CLARIFICATION OF PLACEMENT OF AMENDMENT.—Section 1205(c) of Public Law 101–647 is amended, effective the date such section took effect, by inserting "at the end" after "adding".

(g) ELIMINATION OF DUPLICATE AMENDMENT.—Section 1606 of Public Law 101–647 (amending section 1114 of title 18, United States Code) is repealed effective the date of the enactment of such section.

(h) ERROR IN AMENDMENT PHRASING.—Section 3502 of Public Law 101–647 is amended, effective the date such section took effect, by striking "10" and inserting "ten".

(i) CLARIFICATION THAT AMENDMENTS WERE TO TITLE 18.—Sections 3524, 3525, and 3528 of Public Law 101–647 are each amended, effective the date such sections took effect, by inserting "of title 18, United States Code" before "is amended".

(j) CORRECTION OF PARAGRAPH REFERENCE.—Section 3527 of Public Law 101–647 is amended, effective the date such section took effect, by striking "4th" and inserting "5th".

(k) REPEAL OF OBSOLETE TECHNICAL CORRECTION TO SECTION 1345.—Section 3542 of Public Law 101–647 is repealed, effective the date of enactment of such Public Law.

(l) REPEAL OF OBSOLETE TECHNICAL CORRECTION TO SECTION 1956.—Section 3557(2)(E) of Public Law 101–647 is repealed, effective the date of enactment of such Public Law.

(m) CLARIFICATION OF PLACEMENT OF AMENDMENTS.—Public Law 101–647 is amended, effective the date of the enactment of such Public Law—

(1) in section 3564(1), by inserting "each place it appears" after the quotation mark following "2251" the first place it appears; and

(2) in section 3565(3)(A), by inserting "each place it appears" after the quotation mark following "subchapter".

(n) CORRECTION OF WORD QUOTED IN AMENDMENT.—Section 3586(1) of Public Law 101–647 is amended, effective the date such section took effect, by striking "fines" and inserting "fine".

(o) ELIMINATION OF OBSOLETE TECHNICAL AMENDMENT TO SECTION 4013.—Section 3599 of Public Law 101–647 is repealed, effective the date of the enactment of such Public Law.

(p) CORRECTION OF DIRECTORY LANGUAGE.—Section 3550 of Public Law 101–647 is amended, effective the date such section took effect, by striking "not more than".

(q) REPEAL OF DUPLICATE PROVISIONS.—(1) Section 3568 of Public Law 101–647 is repealed, effective the date such section took effect.

(2) Section 1213 of Public Law 101–647 is repealed, effective the date such section took effect.

(r) CORRECTION OF WORDS QUOTED IN AMENDMENT.—Section 2531(3) of Public Law 101–647 is amended, effective the date such section took effect, by striking "1679(c)(2)" and inserting "1679a(c)(2)".

(s) FORFEITURE.—(1) Section 1401 of Public Law 101–647 is amended, effective the date such section took effect—

(A) by inserting a comma after ", 5316"; and

(B) by inserting "the first place it appears" after the quotation mark following "5313(a)".

(2) Section 2525(a)(2) of Public Law 101–647 is amended, effective the date such section took effect, by striking "108(3)" and inserting "2508(3)".

SEC. 3115. AMENDMENTS TO SECTION 1956 OF TITLE 18 TO ELIMINATE DUPLICATE PREDICATE CRIMES.

Section 1956 of title 18, United States Code, is amended—

(1) in subsection (c)(7)(D), by striking "section 1341 (relating to mail fraud) or section 1343 (relating to wire fraud) affecting a financial institution, section 1344 (relating to bank fraud),";

(2) in subsection (a)(2) and in subsection (b), by striking "transportation" each place it appears and inserting "transportation, transmission, or transfer";

(3) in subsection (a)(3), by striking "represented by a law enforcement officer" and inserting "represented"; and

(4) in subsection (c)(7)(E), by striking the period that follows a period.

SEC. 3116. AMENDMENTS TO PART V OF TITLE 18.

Part V of title 18, United States Code, is amended—

(1) by inserting after the heading for such part the following:

"CHAPTER 601—IMMUNITY OF WITNESSES";

(2) in section 6001(1)—

(A) by striking "Atomic Energy Commission" and inserting "Nuclear Regulatory Commission"; and

(B) by striking "the Subversive Activities Control Board,"

(3) by striking "part" the first place it appears and inserting "chapter"; and

(4) by striking "part" each other place it appears and inserting "title"..

And the Senate agree to the same.

From the Committee on the Judiciary, for consideration of the entire House bill, and the entire Senate amendment (except secs. 812(f), 1227, 1230, 1231, and 4917), and modifications committed to conference:

JACK BROOKS,
DON EDWARDS,
JOHN CONYERS,
CHARLES SCHUMER,
WILLIAM J. HUGHES,
HARLEY O. STAGGERS, Jr.,

Provided that Mr. Kopetski and Mr. Schiff are appointed as additional conferees for consideration of secs. 701 through 709 of the Senate amendment, and that Mr. Feighan and Mr. Schiff are appointed as additional conferees for consideration of title XXIV of the House Bill:

MIKE KOPETSKI,
EDWARD F. FEIGHAN,

From the Committee on Ways and Means, for consideration of sec. 1719 of the House bill, and secs. 812(f), 1227, 1230, 1231, 2801, 2802, 4401, 4402, 4406, 4407, 4653, 4654, and 4917 of the Senate amendment, and modifications committed to conference:

DAN ROSTENKOWSKI,
SAM GIBBONS,
CHARLES B. RANGEL,

Mr. Rostenkowski and Mr. Archer are appointed as additional conferees for consideration of sec. 702 of the Senate amendment:

DAN ROSTENKOWSKI,

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of secs. 1502 and 1831 of the House bill, and secs. 3310 and 3701 through 3704 of the Senate amendment, and modifications committed to conference:

HENRY GONZALEZ,
FRANK ANNUNZIO,
STEVE NEAL,

As additional conferees from the Committee on Education and Labor, for consideration of secs. 401 through 403, 1231 through 1233, 1271, 1714, 1727, 1807, and 1831 of the House bill, and title VIII (except sec. 812(f)) and secs. 1511, 1512, 3601 through 3606, and 4301 of the Senate amendment, and modifications committed to conference:

WILLIAM D. FORD,
DALE E. KILDEE,
MATTHEW G. MARTINEZ,

As additional conferees from the Committee on Energy and Commerce, for consideration of secs. 1501, 1502(a), 1505 through 1507, 1509 through 1512, 1705, 1824, 2205, and 2321 of the House bill, and secs. 1501, 1611, 1612, 1621, 1622, 1641, 2101, 2402, 2506, 2508, 2509, 3101 through 3114, 4656, 4658, 4661 through 4663, 4902, 4903, 4904, and 4906 of the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
HENRY A. WAXMAN,
J. ROY ROWLAND,

As additional conferees from the Committee on Energy and Commerce, for consideration of secs. 3301 through 3309 and 3311 through 3314 of the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
AL SWIFT,
DENNIS E. ECKART,

As additional conferees from the Committee on Government Operations, for consideration of secs. 801, 802, 1509, and 1751 through 1758 of the House bill, and secs. 1701 and 1702 of the Senate amendment, and modifications committed to conference:

JOHN CONYERS, Jr.,
BOB WISE,
EDOLPHUS TOWNS,
FRANK HORTON,

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of secs. 1716, 1719, and 1722(b) of the House bill, and secs. 517, 4401, 4402, 4404, 4405, and 4411 through 4414 of the Senate amendment, and modifications committed to conference:

WALTER B. JONES,
GERRY E. STUDDS,
BILLY TAUZIN,

As additional conferees from the Committee on Public Works and Transportation for consideration of secs. 1508, 1719, 1731, 1732, 2320, and 2328 of the House bill, and secs. 502, 2901, and 4401-4403 of the Senate amendment, and modifications committed to conference:

ROBERT A. ROE,
GLENN M. ANDERSON,
JAMES L. OBERSTAR,

Managers on the Part of the House.

JOSEPH R. BIDEN, Jr.,
TED KENNEDY,
HOWARD M. METZENBAUM,
PATRICK LEAHY,
DENNIS DECONCINI,

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. 3371), to control and prevent crime, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE I—DEATH PENALTY

Procedures: The House recedes to Title II of the Senate amendment with the following modifications: (1) minimum age (18) adopted from the House bill; (2) victim impact statement language adopted from the House bill; and (3) technical language on catch-all mitigation factor adopted from the House bill.

Offenses: The Senate recedes to the House on including the following death-eligible offenses: (1) murder by an escaped prisoner (House only); (2) rape and child molestation murders (House only); (3) death resulting from the sexual exploitation of children (House only); (4) death penalty for gun murders during federal crimes of violence and drug trafficking crimes based on the amount of drugs or gross receipts (similar provisions in House bill and Senate amendment although House bill requires twice the amount of drugs or twice the gross receipts); and (5) murder of U.S. nationals abroad (similar provisions in House bill and Senate amendment).

TITLE II—HABEAS CORPUS

The Senate recedes to Title XI of the House bill, which, with one minor modification, is identical to the provision reported by the House Judiciary Committee.

TITLE III—EXCLUSIONARY RULE

The House recedes to section 2301 of the Senate amendment, which codifies the United States Supreme Court's decision in United States v. Leon.

TITLE IV—COERCED CONFESSIONS

The Senate recedes to section 901 of the House bill, which reverses the United States Supreme Court's decision in Arizona v. Fulminante, by declaring that the admission of a coerced confession into evidence in a criminal trial shall never be considered harmless error.

TITLE V—FIREARMS

SUBTITLE A—THE BRADY HANDGUN VIOLENCE PREVENTION ACT

The House recedes to sections 2701-2703 of the Senate amendment, with modifications. In section 2701(a) of the Senate amendment, the provision relating to the triggering of the waiting period is modified to provide that the period will begin when the 'transferor' furnishes notice of the contents of the statement to the chief law enforcement officer, rather than when the 'transferee' furnishes such notice. The provision in section 2701(a) that would have created a new section 922(a)(1)(B) of Title 18, United States Code, is replaced by the House version of its comparable section. The provision allowing an exemption based upon remote location and absence of telecommunications facilities is modified to also require a ratio of less than 2.5 law enforcement officers to 1,000 square miles of land area. The Senate provision requiring law enforcement to issue an exemption from the waiting period to a prospective handgun purchaser demonstrating a threat to his or her life is replaced by the comparable House provision. The Section authorizing grants for the improvement of criminal records is modified to be administered through the Bureau of Justice statistics. Several other technical and conforming modifications were adopted.

SUBTITLE B—GUN CRIME PENALTIES

The Conference substitute includes the following provisions:

Section 511—Enhanced Penalty for Use of a Semiautomatic Firearm During a Crime of Violence or a Drug Trafficking Crime: The Senate recedes to section 2001 of the House bill.

Section 512—Increased Penalty for second Offense of Using an Explosive to Commit a Felony: The Senate recedes to section 2002 of the House bill.

Section 513—Smuggling Firearms in Aid of Drug Trafficking: The House recedes to section 1223 of the Senate amendment.

Section 514—Theft of Firearms and Explosives: The House recedes to section 1224 of the Senate amendment.

Section 513—Possession of Explosives by Felons and Others: The House recedes to section 1228 of the Senate amendment.

Section 521—Prohibition Against transactions Involving Stolen Firearms Which Have Moved in Interstate Commerce: The Senate recedes to section 2015 of the House bill.

Section 522—Using a Firearm in the Commission of Counterfeiting or Forgery: The House recedes to section 1234 of the Senate amendment.

Section 523—Mandatory Penalties for Firearms Possession by Violent Felons and Serious Drug Offenders: the Senate recedes to section 2009 of the House bill.

Section 525—Firearms and Explosives conspiracy: The House recedes to section 1238 of the Senate amendment.

Section 526—Study of Incendiary Ammunition; Report to Congress: The Senate recedes to section 2016 of the House amendment.

Section 527—Theft of Firearms or Explosives from Licensee: The House recedes to section 1239 of the Senate amendment.

In addition, the Conference substitute includes the following provisions, which are identical in the House bill and the Senate amendment:

Section 515—Conforming Amendment Providing Mandatory Revocation of Supervised Release for Possession of a Firearm.

Section 516—Revocation of Probation.

Section 517—Increased Penalty for Knowingly Making False, Material Statement in Connection with the Acquisition of a Firearm from a Licensed Dealer.

Section 519—Summary Destruction of Explosives Subject to Forfeiture.

Section 520—Elimination of Outmoded Language Relating to Parole.

Section 524—Receipt of Firearm by Nonresident.

Section 528—Disposing of Explosives to Prohibited Persons.

Section 529—Clarification of 'Burglary' Under the Armed Career Criminal Statute.

Section 530—Increased Penalty for Interstate Gun Trafficking.

TITLE VI—OBSTRUCTION OF JUSTICE

The House recedes to sections 302, 2601, and 2602 of the Senate amendment, and the Senate recedes to section 2334 of the House bill.

TITLE VII—YOUTH VIOLENCE

Section 701—Strengthening Federal Penalties for Employing Children to Distribute

Drugs: The House recedes to section 1501 of the Senate amendment.

Section 702—Increased Penalty for Travel Act Violations: The Conference substitute includes this provision, which is identical in the House bill and the Senate amendment.

Section 703—Commencement of Juvenile Proceeding: The Conference substitute includes this provision, which is identical in the House bill and the Senate amendment.

Section 704—Criminal Street Gangs: The Senate recedes to section 1703 of the House bill with an amendment.

TITLE VIII—TERRORISM

SUBTITLE A—TERRORISM

Civil Remedy: The Senate recedes to sections 1734 and 1735 of the House bill, which create a civil cause of action for terrorism-related injuries.

SUBTITLE B—MARITIME NAVIGATION AND FIXED PLATFORMS

The Senate recedes to section 2329 of the House bill, as modified.

SUBTITLE C—GENERAL PROVISIONS

Section 819—Weapons of Mass Destruction: The Senate recedes to section 2331 of the House bill.

Section 820—Enhanced Penalties for Certain Offenses: The Senate recedes to section 1951 of the House bill.

Section 821—Territorial Sea Extending to Twelve Miles Included in Special Maritime and Territorial Jurisdiction: This provision is identical in the House bill and the Senate amendment.

Section 822—Assimilated Crimes in Extended Territorial Sea: This provision is identical in the House bill and the Senate amendment.

Section 823—Jurisdiction over Crimes Against United States Nationals on Certain Foreign Ships: The Senate recedes to section 1718 of the House bill.

Section 824—Torture: The Senate recedes to section 2333 of the House bill.

Section 825—Extension of the Statute of Limitations for Certain Terrorism Offenses: This provision is identical in the House bill and the Senate amendment.

Section 826—F.B.I. Access to Telephone Subscriber Information: The Senate recedes to section 1706 of the House bill.

Section 827—Violence at Airports Serving International Civil Aviation: The Senate recedes to section 2341 of the House bill, as modified to clarify that it is inapplicable to lawful picketing or demonstrations.

Section 828—Preventing Acts of Terrorism Against Civilian Aviation: This provision is identical in the House bill and the Senate amendment.

Section 829—Counterfeiting United States Currency Abroad: The House recedes to section 551 of the Senate amendment.

Section 830—Economic Terrorism Task Force: The House recedes to section 552 of the Senate amendment.

Section 831—Terrorist Death Penalty Act: This provision is identical in the House bill and the Senate amendment.

Section 832—Sentencing Guidelines Increase for Terrorist Crimes: This provision is identical in the House bill and the Senate amendment.

Section 833—Alien Witness Cooperation: The House recedes to sections 541–543 of the Senate amendment with a modification which provides that alien visas will be issued within the structure of the Immigration and Nationality Act.

Section 834—Providing Material Support to Terrorists: The Senate recedes to section 531 of the House bill.

TITLE IX—SEXUAL VIOLENCE AND CHILD ABUSE

SUBTITLE A—SEXUAL ABUSE

The Senate recedes to Section 1431 of the House bill.

SUBTITLE B—CHILD PROTECTION

The House bill and the Senate amendment include provisions relating to the reporting of crimes against children. The Conference substitute includes features of both provisions.

SUBTITLE C—CRIMES AGAINST CHILDREN

The Senate recedes to sections 1401–03 of the House bill.

TITLE X—CRIME VICTIMS

The House recedes to Title XX of the Senate amendment, with the exception of section 2003 of the Senate amendment and as modified by the addition of section 504 of the House bill.

The Senate recedes to section 1954 of the House bill, relating to victims' rights of allocution at sentencing.

TITLE XI—STATE AND LOCAL LAW ENFORCEMENT GRANTS

SUBTITLE A—SAFER STREETS AND NEIGHBORHOODS

The House recedes to sections 101–104 of the Senate amendment, relating to unallocated grants to state and local agencies, the continuation of the Federal-State funding formula, and grants for multi-jurisdictional drug task forces. The Senate recedes to sections 1802, 1804, and 1806 of the House bill, relating to authorization of appropriations, limitation on grant distribution, and the federal share of programs funded by federal grants.

SUBTITLE B—DNA IDENTIFICATION

The Senate recedes to sections 1001–1006 of the House bill.

SUBTITLE C—DEPARTMENT OF JUSTICE COMMUNITY SUBSTANCE ABUSE PREVENTION

The House recedes to section 4921 of the Senate amendment.

SUBTITLE D—BINDOVER SYSTEM FOR CERTAIN VIOLENT JUVENILES

The Senate recedes to section 1723 of the House bill.

SUBTITLE E—COMMUNITY POLICING; COP ON THE BEAT

The Senate recedes to sections 101–103 of the House bill.

SUBTITLE F—DRUG TESTING OF ARRESTED INDIVIDUALS

The Senate recedes to sections 1701 and 1702 of the House bill.

SUBTITLE G—RACIAL AND ETHNIC BIAS STUDY GRANTS

The House recedes to section 4916 of the Senate amendment.

SUBTITLE H—MIDNIGHT BASKETBALL

The Senate recedes to section 1831 of the House bill, with minor modifications. This Subtitle also includes section 1511 of the Senate amendment relating to antigang grants, to which the House recedes as modified to allocate funds among participating States.

SUBTITLE I—TRAUMA CENTERS

The Senate recedes to the House provision with a modification.

SUBTITLE J—CERTAINTY OF PUNISHMENT FOR YOUNG OFFENDERS

The Senate recedes to sections 601–604 of the House bill.

TITLE XII—PROVISIONS RELATING TO POLICE OFFICERS

SUBTITLE A—LAW ENFORCEMENT FAMILY SUPPORT

The Senate recedes to sections 1241–1242 of the House bill.

SUBTITLE B—POLICE PATTERN OR PRACTICE

The Senate recedes to section 1202 and 1203 of the House bill with a modification deleting the provision on private cause of action.

SUBTITLE C—POLICE CORPS AND LAW ENFORCEMENT OFFICERS TRAINING AND EDUCATION

The House recedes to Title VIII of the Senate amendment, as modified.

SUBTITLE D—STUDY ON POLICE OFFICER'S BILL OF RIGHTS

The Senate recedes to section 1221 of the House bill.

TITLE XIII—FEDERAL LAW ENFORCEMENT AGENCIES

The House recedes to section 1002 of the Senate amendment, relating to additional funding for the Drug Enforcement Administration, the Immigration and Naturalization Service, the Federal Bureau of Investigation, the United States Attorneys, the Bureau of Alcohol, Tobacco, and Firearms, the United States Marshalls Service, the United States Courts, and the Federal Public Defenders.

TITLE XIV—PRISONS

SUBTITLE A—FEDERAL PRISONS

Section 1401—Prisoner's Place of Imprisonment: The House recedes to section 4920 of the Senate amendment.

Section 1402—Prison Impact Statements: The Senate recedes to section 1956 of the House bill.

Section 1403—Federal Prisoner Drug Testing: The House recedes to section 2401 of the Senate amendment, as modified to provide that drug testing requirements may be ameliorated or suspended by courts or parole commissions.

Section 1404—Drug Treatment in Federal Prisons: The Senate recedes to sections 201–205 of the House bill.

Section 1405—Prison for Violent Drug Offenders: The House recedes to section 1301 of the Senate amendment.

Section 1406—Boot Camps: The House recedes to section 1401 of the Senate amendment.

SUBTITLE B—STATE PRISONS

Section 1421—Residential Substance Abuse Treatment for Prisoners: The Senate recedes to sections 301–304 of the House bill.

Section 1422—Mandatory Literacy Program: The House recedes to Title XLIII of the Senate amendment.

Section 1423—National Institute of Justice Study: The Senate recedes to section 1958 of the House bill.

Section 1424—Study and Assessment of Alcohol Use and Treatment: This provision is identical in the House bill and the Senate amendment.

Section 1425—Notification of Release of Prisoners: This section is identical in the House bill and the Senate amendment.

Section 1426—Application to Prisoners to Which Prior Law Applies: This provision is identical in the House bill and the Senate amendment.

TITLE XV—RURAL CRIME

SUBTITLES A AND B—FIGHTING DRUG TRAFFICKING IN RURAL AREAS; RURAL DRUG PREVENTION AND TREATMENT

The House recedes to Title XVI of the Senate amendment, as modified to make cross-designation of federal agents permissive and to eliminate rural land recovery provisions.

SUBTITLE C—DRUG FREE TRUCK STOPS AND SAFETY REST AREAS

The House recedes to section 1641 of the Senate amendment.

TITLE XVI—DRUG CONTROL

SUBTITLE A—DRUG EMERGENCY AREAS

The Senate recedes to sections 1801–1802 of the House bill.

SUBTITLE B—PRECURSOR CHEMICALS

The House recedes to sections 3101–3112 of the Senate amendment, as modified.

SUBTITLE C—GENERAL PROVISIONS

Section 1631—Criminal Penalty for Failure to Obey Order to Land: The Senate recedes to section 1719 of the House bill, as modified to provide that the penalty applies only to orders to land based on a reasonable suspicion of illegal activity.

Section 1632—Amendment to the Mansfield Amendment to Permit Maritime Law Enforcement Operations in Archipelagic Waters: This provision is identical in the House bill and Senate amendment.

Section 1633—Enhancement of Penalties for Drug Trafficking in Prisons: The House recedes to section 4652 of the Senate amendment.

Section 1634—Close Loophole for Illegal Importation of Small Drug Quantities: This provision is identical in the House bill and the Senate amendment.

Section 1635—Clarification of Narcotic or Other Dangerous Drugs Under the RICO Statute: This provision is identical in the House bill and the Senate amendment.

Section 1636—Conforming Amendments to Recidivist Penalty Provisions of the Controlled Substances Act and the Controlled Substances Import and Export Act: This provision is identical in the House bill and the Senate amendment.

Section 1637—Penalties for Drug Dealing in Public Housing Authority Facilities: The House recedes to section 4902 of the Senate amendment.

Section 1638—Anabolic Steroids Penalties: This section is identical in the House bill and the Senate amendment.

Section 1639—Program to Provide Public Awareness of the Provision of Public Law 101–516 Which Conditions Portions of a State's Federal Highway Funding on That State's Enactment of Legislation Requiring the Revocation of the Driver's Licenses of Convicted Drug Abusers: This Provision is identical in the House bill and the Senate amendment.

Section 1640—Advertising: The Senate recedes to section 1512 of the House bill.

Section 1641—Increased Penalties for Drug-Dealing in 'Drug-Free Zones: The Senate recedes to section 1705 of the House bill.

Section 1642—National Drug Control Strategy: The Senate recedes to section 1509 of the House bill.

Section 1644—Mandatory Penalties for Illegal Drug Use in Federal Prisons: The House recedes to section 2402 of the Senate amendment.

TITLE XVII—DRUNK DRIVING PROVISIONS

The House recedes to sections 1801–04 of the Senate amendment.

TITLE XVIII—COMMISSIONS

SUBTITLE A—COMMISSION ON CRIME AND VIOLENCE

The Senate recedes to sections 1741 and 1742 of the House bill, as modified to adopt the Senate provisions relating to the responsibilities of the Commission.

SUBTITLE B—NATIONAL COMMISSION TO STUDY THE CAUSES OF THE DEMAND FOR DRUGS IN THE UNITED STATES

The Senate recedes to sections 1751–1758 of the House bill.

SUBTITLE C—NATIONAL COMMISSION TO SUPPORT LAW ENFORCEMENT

The House recedes to Title XXII of the Senate amendment, as modified to allow the Commission members to select a chairperson.

TITLE XIX—BAIL POSTING REPORTING

The House recedes to sections 2801–2802 of the Senate amendment.

TITLE XX—MOTOR VEHICLE THEFT PREVENTION

The House recedes to Title XXIX of the Senate amendment, as modified to provide that race, creed, color, and national origin may not be used in developing stop procedures and to provide that the punishment for altering decals is applicable only when theft is intended.

TITLE XXI—PROTECTIONS FOR THE ELDERLY

Section 2101—Missing Alzheimer's Disease Patient Alert Program: The House recedes to Title XXX of the Senate amendment.

Section 2102—Violent Crimes Against the Elderly: The House recedes to Title XL of the Senate amendment, as modified to provide for enhanced guideline penalties.

TITLE XXII—CONSUMER PROTECTION

Section 2201—Crimes By or Affecting Persons Engaged in the Business of Insurance Whose Activities Affect Interstate Commerce: The Senate recedes to section 1303 of the House bill, as modified.

Section 2202—Consumer Protection Against Credit Card Fraud Act of 1991: The House recedes to section 4912 of the Senate amendment.

Section 2203—Mail Fraud: The Senate recedes to section 1301 of the House bill.

TITLE XXIII—FINANCIAL INSTITUTIONS FRAUD

The House recedes to Title XXXVII of the Senate amendment.

TITLE XXIV—SAVINGS AND LOAN PROSECUTION TASK FORCE

The Senate recedes to section 1728 of the House bill.

TITLE XXV—SENTENCING PROVISIONS

The Senate recedes to sections 1901–04 of the House bill.

TITLE XXVI—SENTENCING AND MAGISTRATES AMENDMENTS

The House recedes to sections 4612–14 of the Senate amendment.

TITLE XXVII—COMPUTER CRIME

The House recedes to section 4909 of the Senate amendment with modifications.

TITLE XXVIII—PARENTAL KIDNAPPING

The Senate recedes to sections 1421–1423 of the House bill with modifications that adopted the affirmative defense and the Sense of the Congress resolution from the Senate amendment.

TITLE XXIX—SAFE SCHOOLS

SUBTITLE A—SAFE SCHOOLS

The Senate recedes to sections 401–03 of the House bill regarding grants for reducing crime, drugs, and violence in schools.

SUBTITLE B—MISCELLANEOUS PROVISIONS

Section 2912—Records: the Senate recedes to section 1727 of the House bill.

Section 2913—Drug Abuse Resistance Education Programs: The Senate recedes to section 1807 of the House bill.

TITLE XXX—MISCELLANEOUS

SUBTITLE A—INCREASES IN PENALTIES

The House recedes to sections 2501–03 of the Senate amendment.

SUBTITLE B—EXTENSION OF PROTECTION OF CIVIL RIGHTS STATUTES

The House recedes to section 4646 of the Senate amendment.

SUBTITLE C—AUDIT AND RECORDS

Section 3021—Audit Requirement for State and Local Law Enforcement Agencies Receiving Federal Asset Forfeiture Funds:

The House recedes to section 4924 of the Senate amendment.

Section 3022—Report to Congress on Administrative and Contracting Expenses: The Senate recedes to section 1808 of the House bill.

SUBTITLE D—COUNTERFEIT GOODS TRAFFIC

The House recedes to section 2507 of the Senate amendment, modified to delete all references to criminal fines.

SUBTITLE E—GAMBLING

Section 3041 of the Conference Substitute adds a new chapter 178 to title 28, United States Code, which makes unlawful and subjects to suits for injunctive relief any wagering or gambling scheme based on an amateur or professional sporting event. Exceptions are provided for parimutuel animal racing and jai-alai, as well as for sports wagering activities in the State of Nevada and the sports lotteries which have been conducted in recent years in the States of Oregon and Delaware; the State of New Jersey is given one year, if it so chooses, to have in operation sports wagering in its Atlantic City casinos.

Section 3043 of the Conference Substitute clarifies the prohibitions in existing law regarding gambling activities on foreign-flag vessels in international waters, and conforms the prohibitions regarding such activities on United States-flag ships. The term "segment of a voyage" is used in the new subsection (b)(2) of 15 U.S.C. 1175, as amended, to refer to an interval between two stops which is part of a longer overall voyage. Subsection (b)(2) works in conjunction with the other provisions of section 1175 to prohibit use or repair of a gambling device on voyages or segments of a voyage that begin and end in the same State (for example, between two islands of the State of Hawaii) if the State enacts a statute prohibiting such use or repair. A detailed explanation of the bill on which section 3043(b) is based appears in the report of the House of Representatives to accompany H.R. 3282 (H. Rept. 102–357).

SUBTITLE F—WHITE COLLAR CRIME AMENDMENTS

The House recedes to sections 4621–26 of the Senate amendment.

SUBTITLE G—OTHER PROVISIONS

Section 3061—Increased Penalty for Conspiracy to Commit Murder for Hire: The House recedes to section 2505 of the Senate amendment.

Section 3062—Optional Venue for Espionage and Related Offenses: The House recedes to section 4631 of the Senate amendment.

Section 3063—Undercover Operations: The Senate recedes to section 1704 of the House bill.

Section 3064—Undercover Operations—Churning: The House recedes to section 4655 of the Senate amendment.

Section 3065—Report on Battered Women's Syndrome: The House recedes to section 4903 of the Senate amendment.

Section 3066—Wiretaps: The House recedes to section 4913(a) of the Senate amendment, and the Senate recedes by dropping section 4913(b) of the Senate amendment.

Section 3067—Thefts of Major Art Works: The House recedes to section 4914 of the Senate amendment, with modifications that strengthen the knowledge requirement.

Section 3068—Balance in the Criminal Justice System: The House recedes to section 4915 of the Senate amendment.

Section 3069—Award of Attorney's Fees: The House recedes to section 4918 of the Senate amendment, with a modification that employees of a Federal public defender office are eligible.

Section 3070—Protection of Jurors and Witnesses in Capital Cases: The Senate recedes to section 2338 of the House bill.

Section 3071—Misuse of Initials 'DEA': The Senate recedes to section 1709 of the House bill, with a 90-day delay in the effective date.

Section 3072—Addition of Attempted Robbery, Kidnapping, Smuggling, and Property Damage Offenses to Eliminate Inconsistencies and Gaps in Coverage: The Senate recedes to section 1721 of the House bill.

Section 3073—Definition of Livestock: The House recedes to section 4632 of the Senate amendment.

TITLE XXXI—TECHNICAL CORRECTIONS

The Conference substitute includes minor technical amendments from the House bill and the Senate amendment.

The House conferees recognize the importance of funding drug treatment programs, and the Ways and Means Conferees pledge to move in a prompt and expeditious manner to hold hearings on the substance of section 4917 of the Senate amendment and to explore the merits of funding such programs out of the Customs Forfeiture Fund.

From the Committee on the Judiciary, for consideration of the entire House bill, and the entire Senate amendment (except secs. 812(f), 1227, 1230, 1231, and 4917), and modifications committed to conference:

JACK BROOKS,
DON EDWARDS,
JOHN CONYERS,
CHARLES SCHUMER,
WILLIAM J. HUGHES,
HARLEY O. STAGGERS, Jr.,

Provided that Mr. Kopetski and Mr. Schiff are appointed as additional conferees for consideration of secs. 701 through 709 of the Senate amendment, and that Mr. Feighan and Mr. Schiff are appointed as additional conferees for consideration of title XXIV of the House bill:

MIKE KOPETSKI,
EDWARD F. FEIGHAN,

From the Committee on Ways and Means, for consideration of sec. 1719 of the House bill, and secs. 812(f), 1227, 1230, 1231, 2801, 2802, 4401, 4402, 4406, 4407, 4653, 4654, and 4917 of the Senate amendment, and modifications committed to conference:

DAN ROSTENKOWSKI,
SAM GIBBONS,
CHARLES B. RANGEL,

Mr. Rostenkowski and Mr. Archer are appointed as additional conferees for consideration of sec. 702 of the Senate amendment:

DAN ROSTENKOWSKI,

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of secs. 1502 and 1831 of the House bill, and secs. 3310 and 3701 through 3704 of the Senate amendment, and modifications committed to conference:

HENRY GONZALEZ,
FRANK ANNUNZIO,
STEVE NEAL,

As additional conferees from the Committee on Education and Labor, for consideration of secs. 401 through 403, 1231 through 1233, 1271, 1714, 1727, 1807, and 1831 of the House bill, and title VIII (except sec. 812(f)) and secs. 1511, 1512, 3601 through 3606, and 4301 of the Senate amendment, and modifications committed to conference:

WILLIAM D. FORD
DALE E. KILDEE,
MATTHEW G. MARTINEZ,

As additional conferees from the Committee on Energy and Commerce, for consideration of secs. 1501, 1502(a), 1505 through 1507, 1509 through 1512, 1705, 1824, 2205, and 2321 of the House bill, and secs. 1501, 1611, 1612, 1621, 1622, 1641, 2101, 2402, 2506, 2508, 2509, 3101 through 3114, 4656, 4658, 4661 through 4663, 4902, 4903, 4904, and 4906 of the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
HENRY A. WAXMAN,
J. ROY ROWLAND,

As additional conferees from the Committee on Energy and Commerce for consideration of secs. 3301 through 3309 and 3311 through 3314 of the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
AL SWIFT,
DENNIS E. ECKART,

As additional conferees from the Committee on Government Operations, for consideration of secs. 801, 802, 1509, and 1751 through 1758 of the House bill, and secs. 1701 and 1702 of the Senate amendment, and modifications committed to conference:

JOHN CONYERS, Jr.,
BOB WISE,
EDOLPHUS TOWNS,
FRANK HORTON,

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of secs. 1716, 1719, and 1722(b) of the House bill, and secs. 517, 4401, 4402, 4404, 4405, and 4411 through 4414 of the Senate amendment, and modifications committed to conference:

WALTER B. JONES,
GERRY E. STUDDS,
BILLY TAUZIN,

As additional conferees from the Committee on Public Works and Transportation for consideration of secs. 1508, 1719, 1731, 1732, 2320, and 2328 of the House bill, and secs. 502, 2901, and 4401-4403 of the Senate amendment, and modifications committed to conference:

ROBERT A. ROE,
GLENN M. ANDERSON,
JAMES L. OBERSTAR,
Managers on the Part of the House.

JOSEPH R. BIDEN, Jr.,
TED KENNEDY,
HOWARD M. METZENBAUM,
PATRICK LEAHY,
DENNIS DECONCINI,
Managers on the Part of the Senate.

Mr. BROOKS. Mr. Speaker, pursuant to House Resolution 301, I call up the conference report on the bill (H.R. 3371) to control and prevent crime.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 301, the conference report is considered as having been read.

The gentleman from Texas [Mr. BROOKS] will be recognized for 30 minutes, and the gentleman from Illinois [Mr. HYDE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

□ 0720

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

Mr. Speaker, the time has finally come for each of us to take responsibility as citizen-legislators and fight crime with actions, not slogans. It may be hard—very hard—for some to finally let go of what they perceive to be an election year issue, but our streets are flowing with blood and our constituents don't want any more words that fly ever so lightly into the atmosphere, signifying nothing. They are tired of promises; they are tired of politicians vying with each other to prove just who is tougher on crime; they are especially tired of purists who want 100 percent of one thing or nothing at all. Yes, crime is a wonderful issue for politicians. But crime is perhaps the most compelling social reality that threatens our daily lives. It is time to shed the issue and take on the problem.

Sunday, after 3 weeks of unconscionable political delay in the other body, the House and Senate conferees on the crime bill reached a final agreement that is historic in scope and approach. Without question, it is the toughest, most stringent crime control bill since the Federal Government was forced to take drastic steps to fight social anarchy in the 1920's and 1930's.

The bill creates 56 Federal capital punishment offenses, including the killing of law enforcement officials, death resulting from hijacking, terrorists, and drug kingpin activity, drive-by shootings, hostage taking resulting in death, child and sexual abuse resulting in death, and attempts to assassinate the President of the United States, to name just a few. These are heinous crimes, and must be dealt with appropriately. But, I ask my colleagues: Does it not serve our constituents to focus as well on preventing crime, rather than just ratcheting up the punishment after it occurs?

If we are going to take concrete steps to prevent crime, to cut down on recidivism, to support putting our police back on the streets where they belong and safeguarding our schools as learning environments, then we need programs to address these problems. And, we have them in H.R. 3371.

We have a program that puts the cop back on the beat, because there is no substitute for a direct enforcement presence. In another area, we require mandatory drug testing for all prisoners with a drug abuse history, in order to reduce repeat offender behavior.

Finally, we create a host of programs to further the use of DNA analysis and crime solving, to provide law enforcement scholarships to better train our police, to create antigang programs to combat this developing trend, and to set up boot camps for youthful offenders to learn the value of the straight and narrow before they become hardened career criminals.

Yet, in setting out harsh new penalties, and creating needed new prevention programs, we have been mindful that the very same constitution that guaranteed domestic tranquility for its citizens, also created a bill of rights for every American. This House has twice

upheld this balance between individual rights and efficient law enforcement in its effort to restructure and streamline the doctrine of habeas corpus without gutting it completely. A strict statutory time period is set within which death row petitioners must file petitions, and there is a virtual prohibition of all successive habeas corpus applications aimed at delay, delay, delay. In addition, while we want all properly obtained evidence admitted into any criminal trial, that does not include the rack and the thumbscrew; and coerced confessions have no place in our system of justice. That is made clear in H.R. 3371. This is not a dictatorship.

In the howl of the crime bill debate, a few facts tend to become lost. Let us remember as we proceed that 95 percent of all serious crime cases in this country are the province of State and local officials. In other words, this bill, which deals with Federal offenses, involves not more than one-twentieth of the criminal activity out there in America. Let us be very precise in our statements before proclaiming any crime initiative—as meritorious as this one surely is—as a panacea for the end of crime.

Let us remember one last thing. Less than 6 weeks ago, on October 16, the House of Representatives voted 305 to 118 to adopt a crime bill; the Senate also passed a crime bill; and the two have now been reconciled. Compromise is an essential element of that process, and that means not everybody will be perfectly pleased with the product. But does that mean we keep to the status quo? The substantial majority of this body, as well as the other body, wants a crime bill now. We are not willing to continue quibbling for months and months more. We want to discharge our duties to the American public and we will do so today.

I ask you to support H.R. 3371.

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

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

Mr. Speaker, this is a disastrous time to discuss a very complicated but nonetheless critical piece of legislation, and so I beg of you to try and stay awake, as I am, because what we do here is significant, not only to our own legislative records but to our communities back home.

Back about 380 B.C. a man named Hippocrates gave some advice to physicians. He said, "First, do no harm." That is good advice for Congressmen, too: Do no harm.

I suggest to you that this bill, which is the product of an absurdity called a conference committee—and you should have been there, because they could do a miniseries about the way that railroad ran—and that conference committee report is not an anticrime bill but rather it is a step back from present law.

I will try to demonstrate that to you, and I stipulate that nobody is procrime, nobody is pro-criminal, nobody, but out of ignorance, which we could call euphemistically a failure to understand, out of ideology, which is certainly present in this Chamber on both sides of the aisle, some people instinctively want to protect the accused rather than the victim or, simply out of being misled by people in whom you misplace your trust, but I know well meaning people are going to support this bill.

I suggest to you it is a terrible mistake. Crime is nonpartisan. It is not Democrat. It is not Republican.

One of the letters that we rely on is from the attorneys general of the States, 31 of them, 15 of them are Democrats, and 16 of them are Republicans, so we are talking about a professional view about crime.

Our cities are turning into Beiruts. Walking through a city used to be an exercise in life and liberty and the pursuit of happiness. Now it is an exercise in fear and in terror, and the pursuit of survival.

So we come here today in a spasm of spurious macho to prove to our constituents, as we beat our chests, that we are tough on crime.

If you want to be tougher on crime than this conference report, go back to your office and do not vote, because when you vote for this, you are retrenching. You are stepping back. You are retreating.

Because of its critical importance, let us examine the pretense this bill puts forward. Now, this is complicated. It is complicated for me, and I have been a lawyer since 1950.

But just to show you how misled you are, those who are within hearing of my voice, you have heard two things. You have heard there is no retroactivity, do not even use the word, said my friend from California. He said you are going to hear it. It is demagoguery. Then you heard from the member of the Committee on Rules, authority that only one petition for appeal is permissible under this conference report.

□ 0730

I submit to you both of these comments are way off the wall, much off the mark.

Let us talk about retroactivity, because that is one of the major flaws with the habeas corpus that emerges from this conference. Now, section 2256 discusses the retroactivity aspect. There is a case, Teague versus Lane, that holds that the law that was in effect at the time of the crime is the law that will control in all of these appeals, whether a direct appeal in the State courts, or a collateral appeal in the State courts, and then to the Federal court where you make another collateral appeal pursuant to habeas corpus laws.

The current law is that in all of these proceedings there shall be no retroactivity. The law that was in effect at the time is the law that controls.

Well, here is what they say, artfully, cleverly, to nullify that. Section 2256: "In an action filed under this chapter, the Court shall not apply a new rule."

Gee, that sounds great. Then they define "new rule" to make it almost impossible of attainment. What they give with one hand they take away with the other.

The description of a "new rule" now says, "For the purposes of this section, the term 'new rule' means a clear break from precedent announced by the Supreme Court of the United States that could not reasonably have been anticipated at the time the claimant's sentence became final in State court."

So under this definition, they issue a new rule, because most new rules are simply adjustments to the law and not a clear break from precedent announced by the Supreme Court of the United States that could not have been reasonably anticipated.

There is all kinds of retroactivity. Do not believe me, believe all the prosecutors in the country. Believe the 31 attorneys general, half of them Democrat, half of them Republican, the professionals. Yes, its true, they are not policemen, they are lawyers. They are prosecutors.

Now, as to successive Federal petitions, look at section 206.

If you get section 206 and you read it, you will find that you can have repeated petitions. Repeated petitions.

It says that a second or successive application that was not presented in a prior application shall be dismissed unless—unless, and that is the big word—unless the applicant shows the basis of the claim could not have been discovered by the exercise of reasonable diligence before the applicant filed the prior application or the failure to raise the claim in the prior application was due to action by the State officials, violation of the Constitution, and, get this, the facts underlying the claim would be sufficient if proven to undermine the court's confidence in the applicant's guilt of the offense or offenses for which the capital sentence was imposed, or in the validity of that sentence under Federal law. Again and again and again, reasons for additional petitions.

The attorney general of New Jersey, Robert J. Del Tufo, in a letter signed also by the attorney general of Pennsylvania, says, "This conference report is not a strong anti-crime bill. The proposals favor the convicted murderer, revictimizes the survivors of a murder victim, and penalizes the States. We urge you to reject it."

On and on and on. The prosecutors say that this conference report mugs the American people. It is a sad day when the will of the American people

to enact tougher criminal laws is so completely thwarted.

That, my friends, is something you ought to consider.

The habeas procedures adopted by this conference are worse than current law. They overturn at least 14 U.S. Supreme Court decisions that are favorable to law enforcement. They create major new obstacles to the use of the State death penalty laws.

You see, that is the unfunny joke. They add to a list of death penalty circumstances, but then they adjust their procedures so you cannot really use them. They simply enlarge the opportunities for prolonging litigation and for overturning criminal judgments.

Now, I have told you that they overruled the Supreme Court decision in *Teague* v. *Lane*. The report limits the definition of new rule to those that are announced by the Supreme Court and involve a clear break from precedent.

This is a novel standard. Almost all later decisions would be retroactively applicable to overturn earlier convictions and sentences that were imposed in conformity with existing law.

There is a famous case out in California, Robert Alton Harris, who brutally murdered two teenage boys in 1978. He has filed eight State habeas petitions and three Federal habeas petitions to get additional rounds of Federal litigation based on rules that would not be applied under current law and were not even in existence at the time he originally litigated his case.

Fourteen years that man has been appealing and appealing and appealing. What we want, My colleagues, is finality. Finality. That is what the victims of crime want, the victims of crime and the families. They are torn and torn reliving those tragic events until they see justice done.

Now, in addition, the habeas provisions before us allow delays of up to a full year to file a Federal habeas petition, rather than 6 months, which is the recommendation of the Powell committee. It rejects the Powell committee recommendations, which limited second and successive petitions to claims addressing guilt or innocence. Instead, it allows successeive petitions to attack the validity of the sentence.

In addition, and here is something you have not heard, standards for the appointed counsel, you have to have competent counsel appointed to defend an indigent criminal defendant. But they are unworkably high in this bill.

Mandatory Federal standards for State capital trial appeals and collateral review are established that are very difficult to attain. Each defendant has to have two—two—attorneys, with years of criminal felony experience, to represent him at every stage of the process.

Now, incredibly, these attorneys are not appointed by the court, by a judge. Who appoints them? The defense bar. And if there are not enough lawyers to go around, the statute is tolled and you wait and you wait and you wait.

So if you have been sentenced to death and you cannot get two competent attorneys who have had over 5 years of criminal felony experience, and the defense bar does not want to appoint them, nothing happens. Nothing happens. A committee of criminal lawyers appoints the defense counsel, not the court.

Now, there are 50 additional offenses for the imposition of the death penalty, but the procedures are constitutionally questionable.

Let me tell you one thing: We could go on and on and take time, but you are exhausted and so am I at this hour.

There is a case, Arizona versus Fulminante. What it holds is very simple. In that case if a law enforcement official coerces a confession out of the defendant, an involuntary confession, that confession, of course, cannot be admitted at the trial.

This case holds, and it is a Supreme Court case, that if there is other evidence sufficient to convict, you may proceed with the other evidence to convict.

Not this bill. Not this tough-on-crime bill. This reverses the Supreme Court Arizona versus Fulminante case and says if there is a coerced confession, the whole case goes out. It is not harmless error.

So that is this tough-on-crime bill. You have got a murderer and you have got plenty of evidence to convict a murderer, but because some stupid or overzealous law enforcement official coerced a confession out of him, he walks. That is the tough bill that they are asking you to support.

The exclusionary rule. The courts have finally come around to understanding that a motion to suppress the evidence because the search and seizure may have been illegal should not result in the criminal walking free, the accused walking free.

That does not accomplish anything. The policeman who made the illegal search is not punished. The only people punished are society by having the evidence of guilt suppressed.

So we have developed a good faith exception. The courts are finally coming around to recognizing a good faith exception to the exclusionary rule.

□ 0740

What we wanted to do was to extend that to warrantless searches and seizures, if they were made in good faith. Not only has the conference report reversed that or taken that out, but now one must prove that the magistrate who issued the warrant was neutral and detached. The focus in this tough anticrime bill is on the mental attitude and status of the magistrate, not the conduct of the policeman. Is that crazy? Of course it is.

That is what they have given us. They have rolled back the exclusionary rule.

Look, explain this, my friends. When we go home and we mention tough issues, we talk about health care. We talk about education. We talk about the economy. We are going to talk about crime. I would love to hear the explanation, especially from my friend back there who is paying such rapt attention and nodding his head. I want to hear him explain why the conference stripped out provisions in the House bill providing enhanced penalties for drug distribution to pregnant women. Why did they strip out increased penalties for recidivist sex offenders? Why, explain why you stripped out HIV testing for sex offenders? You took out government payment for HIV testing for rape victims. You removed the retired public safety officer death benefit program. Explain how we are so tough on crime that we took out all of those provisions.

If you can explain that, I think that is great.

This is a victory for the ACLU, not law enforcement. I suggest we would do well to listen to the professionals, the prosecutors in a bipartisan, nonpartisan way if we pretend to care and want to do something effective about crime.

Mrs. SCHROEDER. Mr. Speaker, will the gentleman yield?

Mr. HYDE. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Speaker, the only thing I wanted to point out is, the gentleman is talking about this bill versus where he would like to be. I think we also have to look at this bill versus where we are. I think there is absolutely no question this bill tightens up habeas versus where it is today.

Mr. HYDE. Mr. Speaker, recapturing my time, I radically disagree with the gentlewoman.

Mr. BROOKS. Mr. Speaker, I yield 3 minutes and 30 seconds to the gentleman from New Jersey [Mr. HUGHES], a distinguished chairman of one of our subcommittees.

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

One of the most disappointing aspects of this session of Congress is that politics began about 2 months ago. Usually we have a few months, and already we are in an acrimonious debate. You would not recognize the legislation that we are debating because of the extreme rhetoric on both sides.

I was a member of the National District Attorneys Association for about 10 years. I loved it; good organization. I do not know what has happened to it. They seem to have left the reservation. They have left the reservation. I cannot imagine, with the attitude that is prevalent today, this association ever passing a bill of rights. I cannot imagine, with some of their views.

It is an old adage that a right without a remedy is nothing. And that is what habeas corpus provides.

Look, it is not about the capital offenses in here, and it is not about the provisions dealing with sex offenders, and it really is not about the exclusionary rule, as much as it is about habeas corpus. That is what we are debating. That is what it is all about.

The gentleman from Illinois [Mr. HYDE] indicated that the conference left a lot to be desired. I must say, I agree with that. But why? Why?

First of all, two Republican Senators had the crime legislation held up for 3 weeks. One of them had it held up because of the ratio, going to conference, Democrats and Republicans. And the other had it hung up over the gun legislation that was in there.

And the President had to bring them into the White House to unglue it so that we could begin to debate it. It was released on Friday, and we stayed here the weekend to try to resolve the differences.

There were a number of provisions that were dropped that I would have preferred to have held onto, which I felt would have strengthened the bill more. But unfortunately we had to drop a lot of provisions because we could not reach accommodation.

During that conference, as my colleagues on this side of the aisle know, there was a filibuster in process. And it was very difficult for us to resolve this conference. It is no way to legislate.

So I agree with my colleague from Illinois that it was not the best process, but it is the one that we were left with because on the one hand the President is demanding a crime bill and on the other hand the Republicans in the Senate are stonewalling.

Let us get right to the heart of habeas corpus. There are so many misstatements about what habeas corpus does.

First of all, the suggestion that the 1 year is unreasonable. That came from the National District Attorneys Association. That was their submission. I have their letter, their resolution. The 1 year came from them.

Second, insofar as successive petitions that my colleague from Illinois got into, read the legislation. In the first place, successive petitions, the difference between the Republicans and the President's plan and the Democratic plan is that in the Republican plan, a judge in a habeas corpus process could not reach an illegal sentence. If an individual had perjured himself in a bifurcated trial during the sentencing process and the 1 year had run, that prisoner would be executed because under habeas corpus the process had run. And they would not be able to reach him.

Insofar as retroactivity, the gentleman does a dance around that. There is no question but we redefine new rules, and I grant the gentleman that, but it is a reasonable manner in which to modify that retroactivity provision because it deals with a clear break from precedent announced by the Supreme Court.

Finally, the President's plan would have us have two systems for defendants in this country, the opt-in provision. If in fact a person was to take advantage of habeas reforms, we provide competent counsel. If a person did not want to provide competent counsel, they do not opt in. So we have a system for the rich and a system for the poor.

It is a good bill. It is a strong bill, and I urge my colleagues to support it.

Mr. HYDE. Mr. Speaker, I yield such time as he may consume to the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Speaker, I rise in opposition to the bill.

Mr. Speaker, we've done it once again. Once again we have turned a crime bill into a criminals' bill. The bill is supposed to impose new Federal death penalties for heinous crimes—but with the habeas corpus provisions in this bill, these hardened criminals can't be executed—at least not without multiple appeals in both State and Federal courts. If we are going to have a death penalty for heinous crimes—and the will of the American people is demanding a death penalty—then let's have a death penalty and not a "we'll-execute-you-if-you-don't-die-of-old-age-first" penalty. Too many innocent people like Patricia Lexie are dying from senseless violence and the Congress is making it easier for criminals to get off the hook. This isn't the modestly reasonable bill on which the House worked its will. This is a compromise bill by liberals with liberals in conference. This certainly is not a bill manifesting concern for victims of crime.

We're making it easier for criminals to exclude evidence of their crimes from their trials, too. No matter if a police officer acting in good faith catches a criminal red-handed with kilos of cocaine; if the officer didn't have a warrant, those kilos of cocaine can't be used as evidence in a trial.

This bill also contains the "Brady Bill"—it requires an onerous process and waiting period for the purchase of a gun, and it requires local law enforcement to do a background check on every purchaser. Not only are we making life easier for criminals, we're making life more difficult for law-abiding citizens, who bear the real burden of these gun control provisions.

And if that's not enough, we're mandating official bilingualism in a crime bill. This bill requires the Bureau of Justice Assistance to develop models for the Safe School Antidrug Program in Spanish as well as in English. Moreover, each and every school that applies for an antidrug grant under this program must describe the Spanish-language materials it will use before it may even be considered for a grant. This applies to every school, whether or not the school even has any Spanish-speaking students.

The gentleman who authored this Spanish-language amendment will tell you that it only applies "where appropriate." That may well have been the gentleman's intent, but quite frankly, that is not what the bill itself does. Read it yourself. This legislation itself says that each school shall include these materials in its application—it makes no mention of "when appropriate" or "when a significant number of students speak Spanish."

I strongly support doing everything we can to reach all students with our antidrug message. But this language does absolutely nothing to reach Chinese-speaking students, Vietnamese-speaking students, German-speaking students, or anyone else who speaks any other of the 150 languages spoken in this country. This language only mandates that the Federal Government operate in two languages—Spanish and English. Let's not make the same mistake. I urge you to vote against this procrime bill.

Mr. HYDE. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. SENSENBRENNER. Mr. Speaker, the gentleman from New Jersey [Mr. HUGHES] has a very short attention span on who has been stalling the crime package. We may recall that on March 6th the President of the United States stood in this Chamber and challenged the Congress to pass a crime package within 100 days. The Committee on the Judiciary did not even hold a legislative hearing on any of the crime package during that 100 days. It took until September for the committee to mark up a bill and send it to the floor.

When it came to the floor, the rule that was requested by the gentleman from Texas [Mr. BROOKS] did not set up a conference immediately, which is the case usually when the other body passes a bill, so that we can get on with it. And the delay in setting up the conference was caused only in part by two Senators over on the other side. But in a far greater part by not asking to set up that conference at the time the House passed the bill in October.

On the merits of this proposal, this bill contains $3.1 billion of authorizations for various kinds of law enforcement assistant programs, including safe schools and cop-on-the-beat, but not one penny of appropriations. We all know here that under the budget agreement that any increase to fund new programs in domestic discretionary spending has got to be matched with either a tax increase or a dollar-for-dollar reduction in other domestic discretionary spending programs.

Quite frankly, that is not going to happen. This year the Congress reduced the President's request for law enforcement by $470 million. If we add $3.1 billion on top of that, we are simply not going to find the money. It is putting an illusion in front of the local officials and the sheriffs and the local police departments all around the country that there is going to be Federal money available when every one of us here knows that that is not going to be the case.

□ 0750

That is a fraud, Mr. Speaker. It is a fraud on a lot of people who think the Congress is acting in good faith when we know that very little of that $3.1 billion will be appropriated come appropriations bill time next year.

The second issue which I would like to bring to the attention of the Members, Mr. Speaker, is the firearms provision that is contained at the end of the Brady bill. As the Members may recall, when the House passed the Brady bill we rejected the Staggers instant check system by a rather substantial margin. A revised instant check system appeared in the conference committee version of the bill which emanated from the other body, and it says that once the instant check system in on line, the Brady bill, which applies to handgun sunsets, but the instant check system applies to all firearms purchases, not just handguns.

I have attempted to maintain an objective viewpoint on gun legislation, with my strong support of the Brady bill, but also my opposition to the semi-automatic weapons bill, which I did not think did the trick. The House agreed with my position on both of them. What I am here to tell the House this morning is that the permanent provisions relating to handguns are much broader than the Staggers provisions. It makes a provision that the gentleman from Florida, Mr. MCCOLLUM, put in, the drug bill of 1988, permanent and it triggers it as of the sunset of the Brady bill.

This is back door gun registration, there is no way of getting around it, and it expands the instant check provision to all firearms, not just the handguns and perhaps the semiautomatic weapons that are causing the problem, but the hunting rifles, the hunting shotguns, and every other firearm that is transferred through a licensed gun dealer.

This is a blank check, and when someone asks, come campaign time about this, do not say "I did not know about it when it passed," because I am telling the Members about it now.

Mr. BROOKS. Mr. Speaker, would the gentleman from Wisconsin [Mr. SENSENBRENNER] give me his attention just a moment? I want to commend the gentleman, because he has studied this bill very carefully and I am delighted that he came back from Bermuda, though he missed the conference. He has shown great intelligence in reading the bill and in paying attention to it this day or two that we have had to evaluate it. I am very grateful for his attention.

Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. DINGELL], who is familiar with the gun allocations.

Mr. DINGELL. Mr. Speaker, as my colleagues know I have long been diligent in protecting the rights of firearms owners' enforcement from wrongful pieces of legislation. While I will observe that this legislation in that particular is not all that I would have liked it to have been, I will observe that it has been significantly improved by the distinguished gentleman from Texas in conference. I commend him for it.

I recognize that the other portions of the bill are good. I intend to vote for this legislation. I urge my colleagues to do likewise. The firearms provisions, which on many occasions were oppressive at different times during the career of this legislation as it went through the process, has been much improved and much cleaned up, and I believe it is a piece of legislation this body can support and I should support.

I commend the conferees and I commend my dear friend, the gentleman from Texas, for having presented this legislation to us today.

Mr. BROOKS. Mr. Speaker, I yield 3 minutes and 30 seconds to the gentleman from California [Mr. EDWARDS], the distinguished chairman of the subcommittee.

Mr. EDWARDS of California. Mr. Speaker, this is an interesting debate and I will not take a long time. I think it is curious that the Members who are opposed to the bill have neglected completely the hard-hitting provisions in the bill to fight crime, one after another. I have not heard from this side of the aisle those mentioned once, and yet our chairman, the distinguished gentleman from Texas [Mr. BROOKS] has itemized them in his opening statement. Was no one listening?

This is a crime fighting bill, and people who vote against this vote against it at their peril. The Members will not get those provisions again easily.

Now, the ranking Republican on the subcommittee that I am honored to chair of course is the distinguished gentleman from Illinois [Mr. HYDE] and I was very interested in what he said about the exclusionary rule. He made a strong pitch for it.

Let us be very clear about what we mean by the exclusionary rule. It is to allow the police to use illegal evidence in criminal trials, illegal evidence, evidence illegally, against the law, gathered.

Now, in the House we approve it, I regret to say, but why was it excluded in the bill? Why was not the present law codified in the bill? Because Senator RUDMAN, the distinguished Senator from New Hampshire, a former prosecutor and a hard-line prosecutor, as he is always proud to say, said "Under no circumstance will the Senate of the United States legalize illegal evidence." That is why that provision is in the bill, illegal evidence, licensing the police of this country to use evidence in criminal trials illegally gathered. Does it not shock the Members even to think of it?

Now, last, habeas corpus. Let us just for a moment look at history. William French Smith was the Attorney General under Ronald Reagan. He made the statement in one of his opening speeches that they were determined to get rid of habeas corpus, they really wanted 50 different criminal laws throughout the country, because if we get rid of habeas corpus that is what we are going to have. We are going to have 50 different codes of criminal law, because there will be no appeals, no appeals, and some of the laws will never be able to be brought in line with the Bill of Rights to the Constitution.

I need to say once more I really do understand why the prosecutors are against the bill, not that any of them have read it, it is obvious. And as I say over and over again about all we have heard in the last couple of hours is our friends who are against the bill who just get up and read something from some prosecutor.

Of course, some prosecutor. Why would they not be against the habeas provisions? Because 40 percent of their convictions are overturned. They do not like to be reviewed and then have to remand back to the trial court or new hearings. Forty percent of them, those are the statistics. We had that evidence in the hearings.

Lastly, there is an emergency committee out there to save habeas corpus. Let me remind Members that four distinguished former Attorneys General of the United States are the chairmen, the co-chairmen, two Republicans and two Democrats; the two Democrats, Ben Civiletti, and Nick Katzenbach, and of course the Republicans, Ed Levy, and Elliot Richardson, all very distinguished, all good prosecutors.

Mr. BROOKS. Mr. Speaker, I yield 1 minute to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, I thank my chairman for yielding. I want to build on this a bit, and that is, first of all, we have eight different groups of police officers pushing for this bill. Those are the people I feel sorry for. They are the ones on the frontlines. I do not know, there may be more than eight groups in America, but here are eight of them that back it.

Second, I want everybody to deal with the facts and not fiction. We have heard a lot of fiction here. Please get this fact sheet where it shows what is

in the Bush proposal and what is in the proposal we are talking about. If the Members want to prevent crime, this is the bill to vote for. None of these preventive measures is in the Bush proposal.

No. 1, all these different ideas that have come in, starting with $1.2 billion to go to State and local agencies to fight crime, that is where 95 percent of the crime is.

□ 0800

Every State and locality is under tremendous crunches. I think that is why the police really appreciate this bill because they see some help finally coming, rather than more and more lectures about this; plus we have put in some very creative programs.

I also want to point out there are some other things in here that if we do not pass, we will not have them. That is like the registry for people who have been guilty of child abuse and many other such things; very positive things. Deal with the facts. Do not deal with fiction and vote for this crime bill.

Mr. HYDE. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Speaker, I rise in strong opposition to this legislation.

I believe that we here in this Congress, many of us feel we must represent our sportsmen and hunters.

This legislation is bad for our sportsmen and hunters.

The Brady bill as contained in this legislation is worse than the Brady bill that was passed by this House. I cannot understand why anybody who is concerned about their sportsmen and their hunters would like to have that man who walks in and buys a shotgun, as the gentleman from Wisconsin has said, goes in and buys a shotgun and has to have a background check, nor do I think a person who goes in and buys just a hunting rifle, a 22, single shot 22 has to have a background check.

Those of you who are serious about protecting the rights of hunters and sportsmen, I say to you, vote against this legislation.

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

Mr. VOLKMER. I am glad to yield to the gentleman from Texas.

Mr. BRYANT. Mr. Speaker, if it is as the gentleman says, I say to the gentleman from Missouri [Mr. VOLKMER], why has the NRA not come out against this conference report?

The SPEAKER. The time of the gentleman from Missouri has expired.

Mr. BROOKS. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. RAMSTAD].

Mr. RAMSTAD. Mr. Speaker, I rise in support of the conference committee report on the Omnibus Crime Control Act of 1991, H.R. 3371. Although the conference committee report includes several diluted provisions, it represents a compromise and a truly comprehensive anticrime package.

It is time for Congress to put public safety ahead of politics. As the president of the National Fraternal Order of Police said yesterday, "I don't think we can sit back and let partisan politics tear away at a piece of legislation we in law enforcement need right now."

In these final hours of this session of Congress, the choice is this anticrime package or no anticrime package. With violent crimes in America up 10 percent from last year, and new record numbers of murders and rapes, I believe Congress must address the rising and very serious crime problem now.

This conference committee report does contain significantly tougher penalties for criminals. It imposes the death penalty for some 50 Federal crimes, including drug kingpins. It triples the penalty for drug dealers who use minors and significantly increases sentences for violent crimes involving firearms. Further, the conference committee report provides tougher penalties for selling drugs in public housing and in other drug-free zones.

This conference committee report also includes a provision that is important to all Minnesotans, the Jacob Wetterling Crimes Against Children Registration Act. This legislation will require convicted child molesters to register with local law enforcement for 10 years after their release from prison. Given the extremely high recidivism rate for sex offenders against children, law enforcement needs this national registration law for child abduction cases.

Mr. Speaker, there are other positive provisions in this package, including $3 billion in fiscal year 1992 for hiring more law enforcement at the Federal, State, and local levels, and for local law enforcement to put more police on street patrols. As the president of the International Association of Chiefs of Police said, "We need that type of help because we're in such straits right now."

There is substantial aid for residential drug treatment and drug testing for prisoners. The bill also provides more resources for prosecutors and creates a police corps which would offer scholarships to college students who agree to serve as police officers after graduation.

Furthermore, the conference committee report restricts the appeals which State prisoners can file in Federal court. This habeas corpus reform sets a 1-year deadline on filing petitions and bars successive petitions unless new evidence emerges or a prisoner could not have reasonably included a claim in the first petition. While I share the President's concern about this diluted habeas corpus reform, I also know this provision has very little to do with removing violent criminals from our streets. Habeas corpus affects those criminals already convicted and behind bars.

In addition, the bill allows introduction of improperly seized evidence in Federal court cases if police acted in good faith while executing a search warrant. The conference committee rejected a broader House passed version, supported by the President, that would have allowed improperly seized evidence even if police had no warrant, as long as they acted in good faith.

Mr. Speaker, this conference committee report is far from perfect, and as a member of the Judiciary Subcommittee on crime, my support comes with several reservations. But given the tragic national crime and drug epidemic that is sweeping our Nation and tearing away at our social fabric, we must choose between an imperfect crime bill or no crime bill at all. In making that choice, I conclude that this compromise conference committee report deserves enactment.

Mr. BROOKS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Kentucky [Mr. MAZZOLI], the chairman of the Subcommittee on International Law, Immigration and Refugees of the Committee on the Judiciary.

Mr. MAZZOLI. Mr. Speaker, I appreciate my friend yielding this time to me.

Mr. Speaker, I think what we are looking for at this late hour or really this early hour, is balance. I think on balance this is a good bill, not a great bill, but a good bill. It has some very important anticrime measures in it, preventive measures, which are not on the books today which I think are very worth supporting.

But most importantly, Mr. Speaker, the two elements I would like to speak about briefly, one is that we do finally have Brady type waiting language in this bill that has taken us years and years to achieve. I would think it would be terrible if we left this moment without adopting this legislation.

Lastly, there is made permanent in here a 75 percent Federal, 25 percent local share of anticrime money, and in a time when local law enforcement efforts have got to be ratcheted up to prevent crime and at a time when the revenues locally are ratcheting lower because of problems they have in revenues, this is a very valid concern. We are now responding to local concerns.

Mr. Speaker, on the whole this is a good bill. Please support this bill.

Mr. HYDE. Mr. Speaker, I am pleased to yield 2 minutes to the distinguished gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Speaker, sadly the bill before us is worse than present law in two out of the three major provisions that the President asked for in his initial crime package.

We do see enhanced death penalty provisions. There is no doubt about

that, but in the area of habeas corpus, we beat a retreat because we do not provide the kind of relief that it is supposed to do. That was supposed to end the endless appeals from death row and others.

Instead, what we have done in this bill that came out of conference is to complicate matters so that the appeals time will be lengthened, and that is why this Member objects so strenuously in part to this bill.

The other thing that we do, or we were supposed to do in this bill and we do not do and we retreat from present law about it, we were supposed to allow more evidence in with respect to those cases like drug cases. We were supposed to make it easier by adopting the good faith exception to the exclusionary rule of evidence by expanding the Supreme Court decision and in principle and exception to this rule in those cases where a police officer reasonably and objectively believes that his search is legal in cases with search warrants to those cases where there are no search warrants, but he also reasonably believes that it is legal, as two circuit courts of appeal have done in this country; but instead of adopting that in the conference, which by the way we adopted on the floor of the House, this expanded exception, by a vote of 247 to 165 on the 17th of October, instead of doing that, not only do we not do that, we adopted a provision that narrows the existing Supreme Court exception and will make it more difficult to get evidence in cases where there are search warrants. That is what we have done with this situation.

We have reduced the scope of what you can get into evidence. We will have fewer convictions if you pass this bill as a result of this.

Is it any wonder prosecutors oppose this and any thinking American should oppose it, because we have beaten a retreat by lengthening the appeals time that you have from death row cases and by instead of allowing more evidence in, we have changed the rules of the Supreme Court so in search warrant cases you will have less evidence allowed.

Mr. Speaker, let us vote no on this bill. It is not a criminal justice bill.

Mr. BROOKS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Texas [Mr. CHAPMAN], a member of the Committee on Appropriations.

Mr. CHAPMAN. Mr. Speaker, I could not disagree more with what the previous speaker said.

I say that from 8 years experience as a district attorney with hundreds of felony trials and experience as a capital murder case prosecutor.

I do not know how any Member of this body can in good faith say the habeas corpus provisions in this bill lengthen appeals in criminal cases. That is not true and every Member of this body knows it.

As a prosecutor, when you restrict the number of petitions of habeas corpus to one and impose a time limit of one year, when today there are no restrictions and no time limits, how you can say that is not a restriction of the right to habeas corpus is beyond me.

And as to successive petitions, to my friend, the gentleman from Illinois, yes, there are exceptions. There can be successive petitions, but instead of talking legal mumbo jumbo, let us talk about the real world of criminal prosecutions.

What are the exceptions? The exceptions apply when someone else confesses. Would you deny a man on death row his freedom when after his 1-year statute of limitations for habeas petition has expired, someone else confesses?

□ 0810

You would. If the State hides exculpatory evidence and does not reveal it at the trial, the defendant has no way of knowing it or getting it and you would deny him his freedom. Your position would.

When chemical or ballistic analysis years later, not available to the defendant at the trial, shows he was not guilty, would you deny him his freedom? You would. That is not reasonable.

As to the mandatory experience—and this is a prosecutor with hundreds of experiences—I cannot believe my friend from Illinois would find unreasonable that if the Government wants to take a life, that 5 years' experience by the defense attorney is unreasonable to represent him in that case. And to represent him on appeal, that 3 years of experience is unreasonable.

I have prosecuted a capital murder case. I know the onus when you as a Government lawyer want to take the life of someone. And it blows my mind that you should suggest that that should be done by defense counsel with no experience.

I think that is wrong.

Yes, there are parts of this bill that I would change, there are things that we could do better. But this is a crime bill. It limits habeas; it will prevent crime. It ought to be passed by this body.

I urge my colleagues to support it.

The SPEAKER pro tempore. (Mr. PANETTA). The gentleman from Texas [Mr. BROOKS] has 7 minutes remaining, and the gentleman from Illinois [Mr. HYDE] has 7½ minutes remaining.

Mr. HYDE. Mr. Speaker, I yield such time as he may consume to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Speaker, I rise in opposition to the bill.

Mr. Speaker, here we go again.

We need an effective crime bill, and I'm ready to vote for a real crime bill. But we can't seem to shake the notion that, by controlling the access of law-abiding citizens to gun purchases, somehow we'll reduce crime.

The Brady bill language in this crime bill isn't going to keep people from selling guns out of the trunks of cars; it isn't going to stop thefts of guns from law-abiding gunowners; and it sure isn't going to stop people from using guns for illegal acts, no matter where they got them!

If the Congress was really serious about fighting crime, the conferees would have chosen the tougher provisions from each bill and brought them to us. Instead, they adopted the weaker option in several instances, and kept the antigun language that punishes law-abiding citizens—not criminals.

Mr. Speaker, we need crime control, not gun control. This conference report just doesn't cut it on either.

Mr. HYDE. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Alabama [Mr. HARRIS].

Mr. HARRIS. Mr. Speaker, I rise in opposition to the conference committee report. This is not an anticrime bill. This is not a law enforcement bill. This is not a victims' rights bill, it is the opposite of all those things.

If this is an anticrime bill, then why does the Department of Justice oppose it? If this is a law enforcement bill, then why does the National Association of District Attorneys oppose it? If this is an anticrime or law enforcement bill, then why have more than 30 State attorneys general signed a letter urging the President to veto this bill? If this is a victims' rights bill, then why are victims' groups unalterably opposed to it?

We hear much talk today about finality of judgment and about ending the intolerable delay in carrying out sentences, including capital sentences. This bill will not make things better. Instead, it will destroy what little finality of judgment we have, and it will multiply delay many fold. The most important action the Supreme Court has taken to ensure finality of judgment is its 1989 decision in Teague versus Lane, which limits the retroactive effect of new decisions on old cases. The Teague decision helps ensure that when State courts comply with existing constitutional law their judgments will not be upset years later because of changes in the law that could not be anticipated. This bill repeals the Teague decision with a vengence. In fact, this bill is written in such a way that the law on retroactivity will be even worse for law enforcement than it was before the Teague decision. If you want endless delay and never-ending relitigation of every criminal conviction, then you want this bill. However, if you believe, as I do, that we do not need more delay and more relitigation in our legal system, then you should join me in voting against this bill.

It is no answer to say that this bill contains a one-year statute of limitations for filing habeas corpus petitions. That requirement is so riddled with exceptions that it is worthless.

We also hear much talk today about the need for better counsel in the trial

of capital cases, and I am all for ensuring competent counsel. However, the draconian counsel provisions of this bill are designed to obstruct, delay, and prevent the imposition of capital punishment. I cannot support that. This bill would also turn over to private groups, such as capital resource centers, the authority for appointing counsel and evaluating their performance. I cannot support that.

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

Mr. HARRIS. I yield to the gentleman from Illinois.

Mr. HYDE. I thank the gentleman for yielding.

Mr. Speaker, the gentleman is aware that the attorney general of Texas disagrees with the gentleman from Texas [Mr. CHAPMAN] and the gentleman from Texas [Mr. BROOKS], the gentleman is aware of that?

Mr. HARRIS. I am.

Mr. Speaker, this bill seeks to effectively overrule the Supreme Court's Strickland versus Washington decision in capital cases. I cannot support that.

We also hear much talk today about women's rights and interests, and I am certainly for that. In fact, I welcome this vote, because it is an important test vote for our commitment in the area of women's rights. We sent the conference committee a bill requiring HIV testing of rapists, and a bill that would fund HIV testing for rape victims. The conference committee deleted those provisions. We sent the conference committee a bill that mandated enhanced punishment for repeat sexual offenders. The conference committee deleted that provision. How can anyone who believes in women's rights and in protecting women victims of violent sexual attack justify what the conference committee has done to our bill? How can anyone vote to approve such utter contempt for the rights and interests of women and of the victims of violent sexual attack?

The Association of National District Attorneys is right. The attorneys general of more than 30 States are right. The victims groups are right. This bill is not an anticrime bill. It will hurt, not help law enforcement. It will hurt, not help victims and survivors of crime. I urge a no bill.

Mr. BROOKS. Mr. Speaker, I yield 15 seconds to the gentleman from Texas, [Mr. BRYANT].

Mr. BRYANT. Mr. Speaker, I think one of the many things that Mr. HYDE, failed to investigate before coming to the floor today and speaking about is the nature of the Texas attorney general's office.

I say the gentleman from Illinois, Mr. HYDE, he would be interested to learn that the Texas attorney general is a civil official who has no power to prosecute criminal cases whatsoever.

Mr. HYDE. Mr. Speaker, I knew Mr. Maddox real well, his predecessor.

Mr. BROOKS. Mr. Speaker, I yield 1 minute to the gentleman from Ohio, [Mr. FEIGHAN].

Mr. FEIGHAN. I thank the gentleman for yielding.

Mr. Speaker, I want to start by expressing my gratitude to you, to Mr. SCHUMER, and to each of your hardworking staffs. This crime bill would not have been possible without your leadership, dedication, and endurance.

Although I fear that we are laboring in the shadow of a senseless veto, the bill before us is a good crime bill. It is a bill that members can be proud to vote for.

We can be proud because action on crime is something our constituents have demanded for two decades, ever since a wave of violent crime began to seriously erode the American way of life.

As a result, our children are growing up in a more frightening world, not just in our cities but in our suburbs, our small towns, and now in rural America where the largest increases in crimes of violence are taking place.

The time for a crime bill is long past overdue and now we have one. Let's pass it and get it to George Bush's desk.

Mr. Chairman, I don't claim that this is a perfect crime bill. The fact is that we don't pass much legislation that is perfect.

We can try for several more months to achieve a bill that would come closer to perfection but that would be pitting the ideal against the good. That would accomplish nothing but delay. Delay while the senseless slaughter on our streets continues.

The President has threatened to veto this bill. This would be a serious mistake. Quite literally a deadly mistake.

Because the Brady bill provisions of this legislation alone would save thousands of lives. We know that because handgun waiting periods in the various States that have already enacted them have stopped tens of thousands of illegal handgun purchases.

Criminals, the mentally incompetent, and drug addicts have not been able to complete their gun purchases because a waiting period, and the background check allowed by that waiting period, showed that they just shouldn't be armed with a handgun.

And they have been denied a handgun. And because of those denials, there are people walking the streets today who are alive and well because some criminal or addict just wasn't able to buy a handgun the way he could buy a tube of toothpaste.

But there is another side to that coin. It is the thought of all the men, women, and children who will not be with us this Thanksgiving because there was no law in place to stop some felon from buying a gun and ending their lives. Men, women, children. All races, all colors, all creeds.

People who should be with their families but are, instead, wept over as victims. Victims of handgun violence and victims of a system that refuses to do anything about it. At long last, let's do something. Let's pass this bill.

There are other good reasons to support this legislation. It includes the Anti-Terrorism Act of 1991, which will finally provide the families of victims of terrorism with a civil cause of action to seize the assets of terrorist organizations.

It also includes the Law Enforcement Scholarship Act which, by providing scholarships for career police officers, will help improve police effectiveness and reduce the number of citizen complaints against officers.

In conclusion, there are numerous reasons to support this crime bill and there is not one good reason to oppose it. House passage of this rule and this bill will represent a rare victory in the war against crime. A defeat here today or a veto by the President will represent nothing less than a surrender to forces that threaten to destroy us.

Mr. HYDE. Mr. Speaker, I yield 1½ minutes to the learned gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. I thank the gentleman for yielding.

Mr. Speaker, Members of the House, the reason that we oppose this bill, we who are proponents of the death penalty, of the exclusionary rule, of reform in habeas corpus, the basic reason we oppose this bill is the careless provisions and the flawed provisions contained therein.

For instance, how many will remember the drive-by shooting debate we had in the House for the last two sessions? This bill maintains that a drive-by killer can only be convicted and be subjected to the possibility of the death penalty if there would be an intentional killing.

All the drive-by shooter has to do, under the version presently before us, the drive-by shooter simply has to show that he did not intend to kill, because the verbiage talks about an intentional killing.

That is not what the House proposed before, that is not what the House agreed upon.

We know and the general society knows that a drive-by killer, which is a scourge on our streets, who has to be driven from our streets when he acts with reckless disregard for the lives of people who are in the streets, that individual should face the possibility of the death penalty, a big flaw in this bill.

Mr. BROOKS. Mr. Speaker, what is the time remaining?

The SPEAKER pro tempore. The gentleman from Texas [Mr. BROOKS] has 5¾ minutes remaining, and the gentleman from Illinois [Mr. HYDE] has 3 minutes remaining.

Mr. BROOKS. Mr. Speaker, I yield 1 minute to the distinguished former

member of the Committee on the Judiciary, now with the Committee on Appropriations, the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. I thank the gentleman for yielding, and I commend the Committee on the Judiciary.

Mr. Speaker, this is a test of will. This is not just an anticrime bill, of epic proportions for us, this is a test of will. Is the will of the collective American people in this country going to win or are the Republicans going to win? Are they going to say that this is a procrime bill and get away with it? Or are we going to deny them the chance to deny the American people the relief they have been asking us for for years?

This is a test of will. Will we pass this, send it to the Republican President and have him veto it, so that the American people will know once and for all who stands with them and who wants to play only a game, in name only, because they just want to win for show so that they can be perceived as being against crime? They have handled white-collar crime the most miserably of any administration in the history of this country.

We are not anticrime, according to them.

□ 0820

According to them we are pro-crime, but according to their record they are pro-crime. I say, You vote for this bill, you're going to tell the American people exactly where the Democrats stand, with them in the fight against crime.

Mr. HYDE. Mr. Speaker, I yield 2 minutes to the distinguished former sheriff the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I supported the bill in its original form. I oppose the bill now.

I say this to the Members of Congress as a former sheriff: We should attach a tax credit provision to this bill so every American citizen could go out and buy a flak jacket because this bill declares open season.

Mr. Speaker, I cannot believe that conference threw out the assault weapons, the ban on assault weapons. My colleagues, with all the death sentences we are talking about, we will be sentencing more Americans to the death penalty on the streets of America than we will criminals in court.

Now I am not going to take a lot of time, and I am not here to impress everybody or to maybe make a lot of friends. Congress is not going to deal with crime on the streets until they take a look at guns, and, if the NRA is going to write the gun laws of America and Congress is going to wimp out, we will never deal with the issue.

Now the NRA and the police should not be apart. They are both honorable groups. We have got to bring it together. We had an instrument. The President wants a death penalty. We backed off in Congress, and we declared open season on the American people.

How can I justify, as a former sheriff, having policemen on the streets when these bums have more firepower than they do?

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

Mr. TRAFICANT. I yield to the distinguished gentleman from New Jersey.

Mr. HUGHES. Mr. Speaker, as the gentleman from Ohio [Mr. TRAFICANT] knows, the President opposed the assault weapon bill.

Mr. TRAFICANT. I am not dealing with the President opposing it, and, if the gentleman from Texas [Mr. BROOKS] would yield me some time, I would explain my position.

Democrats and Republicans should be sitting down with the NRA. The NRA and policemen should be friends. We all stand for the same things, but, my God, you cannot have drive-by, drive-through, drive-in, drive-by murders.

Mr. Speaker, I would wish that we would consider that issue if this bill gets vetoed and we do not have the votes to override it.

I thank the gentleman from Illinois [Mr. HYDE] for yielding this time to me.

Mr. BROOKS. Mr. Speaker, I yield 2½ minutes to the gentleman from New York [Mr. SCHUMER], the distinguished chairman of the Subcommittee on Crime and Criminal Justice.

Mr. SCHUMER. Mr. Speaker, we have before us the toughest crime bill that has been before this body in 20 years, and we have a choice. Our choice is a simple one. Are we going to say, because the bill does not have this, or this, or this, I am going to oppose? Or are we going to vote for a bill that contains tough provision after tough provision?

I ask my colleagues, Do you want to go home and explain your vote against a bill that calls for the death penalty for drug kingpins? For child sex abuse? For terrorism? For killing cops? You going to explain that to your constituents? Do you want to go home and explain to your constituents and explain to yourself that you voted against increased penalties for using a gun on the street? Five years mandatory for the first penalty, 10 years mandatory for the second, 15 for the third? A provision written by the gentleman from New Mexico [Mr. SCHIFF] on that side of the aisle? Do you want to go home and explain to your constituents why you voted to allow those on death row to have 8, or 9 or 10 appeals rather than the one in this bill? Do you want to go home and explain to your constituents why you voted against more prisons so that the prisoners, the criminals, wouldn't be out on the streets? Do you want to go home and explain to your constituents why you voted against money for cops on the beat when in so many areas of this country we do not see a police man anymore? Do you want to go home and explain to your constituents why you voted against mandatory minimums for terrorists? Who frightened so many and killed some of us?

Mr. Speaker, I say to my colleagues, If you want to do all that, my colleagues, pick a little reason that you're opposed to this bill and vote no. But I would argue to you that you're doing the wrong thing substantively because you're preventing the American people from getting good anti-crime protection, and you're also doing the wrong thing politically because I can make a much better 15-second spot pinning on you why you voted against all these tough provisions than you can explaining the Teague decision to me.

Mr. HYDE. Mr. Speaker, I yield 1 minute to the gentleman from New Mexico [Mr. SCHIFF], the former state's attorney and a member of the ill-starred conference committee.

Mr. SCHIFF. Mr. Speaker, I thank the gentleman from Illinois [Mr. HYDE] for yielding this time to me.

Mr. Speaker, I was a prosecutor for 14 years, and, as a member of the Subcommittee on Crime and Criminal Justice, I want to say there are some provisions, including provisions written by the gentleman from New York [Mr. SCHUMER] with which I approve. But this bill went wrong. This bill went wrong in conference when there was a Hail Mary pass from House Committee on the Judiciary Democrats to Senate Judiciary Democrats which selected the weakest possible position right down the line on priority issues, and my colleagues know that to be the case because that is why the National District Attorneys and the National Attorneys General opposed this bill.

In addition to that situation, there are provisions in this bill that Members of the House have never voted to approve. For example, this bill says that anyone who wants to buy a hunting rifle will have to go through a police background check, and the House, for all of its accepting the Brady bill, never accepted that. The point is that we do not have to choose between this bill and no bill.

Mr. Speaker, we will offer a motion to recommit to conference to cure the evils that we have described so that we can pass a crime control bill, not a crime encouragement bill.

Mr. HYDE. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. GOSS].

Mr. GOSS. Mr. Speaker, 1 month ago, I voted for H.R. 3371, not because I supported every provision of the bill, but because I felt that several important amendments added backbone to a bill introduced with weaknesses in major areas. It took 3 days, but this body was able to put teeth in this bill, extending the good faith exemption and turning back a crimi-

nal protection measure mistakenly described as a fairness in Death Sentencing Act. The Brady bill was included as well, demonstrating to me that the legislation, although still lacking strength in such important areas as habeas corpus reform, nonetheless was headed in the right direction.

I was optimistic that the conferees would continue in this vein, bringing us a truly tough on crime bill. It was not to be. These chosen few conferees set about dismantling much of the progress we had made, disarming some of the most significant portions of the bill. When faced with a choice, they repeatedly and deliberately chose the weaker provisions. The legislation we are left with today is nothing but a shadow. It's a big step backward and I cannot support it.

Mr. Speaker, this country is crying out for help. Our streets are unsafe, and an increasing number of juveniles have found that crime pays. Obviously we're failing in our efforts to deter violent crime. What astounds me is that the House and the other body did adopt strong stances on provisions to empower our police forces, streamline our judicial process, and protect victims with the same vigor that we use to protect criminals. So why then, with the tools available to them, and good legislation on the table, did the conferees gloss over other major provisions that would have made a difference to the American people? I am willing to compromise, but this is more like full surrender—I urge my colleagues, don't settle for next to nothing—vote "no" on the conference report.

Mr. BROOKS. Mr. Speaker, I yield myself 2¼ minutes.

Mr. Speaker, I would like to close with a few words of friendly advice for my fellow Texan down on Pennsylvania Avenue. My advice is simple: Mr. President, you don't need another civil rights bill fiasco right now. You don't need to be proclaiming your belief in a principle at one moment and then to be shown trying to undermine that principle that next moment. That only produces embarrassment—not just for the President but for our system of Government.

This President has expended tremendous energy over the past 3 years proclaiming how tough he want to be on crime. He has a chance to put those words into action by working with us here in the Congress to enact this bill. If the President really wants a crime bill, instead of just talking about crime, he can pick up the phone and ask his troops here and in the other body to get with the program. And then, he can pick up his pen and sign this tough and comprehensive anticrime measure.

If the President fails to do this, the burden is on him to tell the American people why he is against putting cops back on the beat, why he's against steering youthful offenders away from a life of crime, why he is against the death penalty for drug kingpins who kill, for torturers, rapists, and terrorists who kill. The President has quite enough to explain these days. He may not wish to explain why voting against a crime-fighting bill will somehow be in the best interest of the American people. I urge the Members to support this conference report.

□ 0830

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

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

Mr. WALSH. Mr. Speaker, I rise in opposition to this bill.

Mr. MCMILLEN of Maryland. Mr. Sepaker, no question exists that the rampage of crime continues in this country and that we must seek ways in which to stem this violence. The House Judiciary Committee has spoken wisely on a number of improvements to the U.S. Criminal Code, and I support the legislation we consider today. However, in our zeal to fight crime in the streets of America we must not lose sight of the fact that any changes made to the United States Code must be done with full respect for the U.S. Constitution.

My votes on H.R. 3371, the Omnibus Crime Control Act of 1991, have reflected my belief in the essential integrity of the Constitution. I believe that its directives are unassailable and that this body should not radically alter its direction.

I opposed the McCollum amendment which would expand the exclusionary rule to allow the admissibility of evidence into a criminal proceeding which is obtained illegally. The committee legislation allows certain "good faith" exceptions when evidence is obtained by a law enforcement officer with a warrant. The McCollum amendment extends the admissibility of such evidence to instances where no warrant is involved. I find this an abridgement of the rights of unfair search and seizure, as guaranteed under the fourth amendment of the U.S. Bill of Rights.

My votes on habeas corpus reform further demonstrated my belief in fundamental consitutional rights. A strong case is made that the extreme workload which inundates our Federal court system demands action. We need to take steps to curb excessive and unnecessary petitions and appeals; however, that does not mean we need to sacrifice the writ of habeas corpus for reasons of expediency. The committee legislation included significant reforms without destroying the fundamental right for a Federal review of a State court decision. For these reasons, I opposed the Hyde amendments on habeas corpus.

A particularly difficult vote for me was to support the Volkmer amendment on semiautomatic firearms. While I strongly agree with the need to address the issue of urban crime and spreading violence, I felt that in our efforts to break this downward cycle of violence, we must be careful to not inadvertently ignore the rights of law abiding citizens who seek to own guns for legitimate reasons.

All of my gun control votes have been consistent in one regard; they are based on the premise that we must make it as difficult as possible for criminals and the deranged to obtain illegal and dangerous firearms, while at the same time being respectful of the right of the responsible citizen to have unfettered access to a firearm. Unfortunately, the ban proposed in the original legislation was imprecise in its construction; it denied legitimate uses of certain guns, and it would unfairly and negatively impact domestic manufacturers.

If we really want to address the issue of criminal use of semiautomatic weapons and to limit violence, we should not try to simply ban certain categories of rifles, but, rather, look into other alternatives as cooling-off or waiting periods between the sale of a firearm and its transfer. This is a way in which we need not infringe upon legitimate gun owners' rights, while achieving the aim of controlling crime. Previously, I have supported a waiting period for handguns, and see potential in extending this to other areas. The effectiveness of this approach has been demonstrated by various States, including my home State of Maryland.

The Congress cannot ignore the plague of violence rippling through our society. Men, women, and children of all ages and of all races face the streets in fear of their own lives and property. This legislation we consider today is a positive step to addressing the problem of crime in America. By giving law enforcement officers and prosecuting attorneys more tools to catch and convict criminals, we are taking steps toward ridding our society of crime and returning the streets to the people.

Mr. ROSTENKOWSKI. Mr. Speaker, I rise in support of the conference report on H.R. 3371, the crime bill. I want to commend Chairman BROOKS for his leadership in bringing back to the House floor a conference report which fundamentally addresses the many complex and controversial issues which divided the two Houses.

I am particularly pleased that all of the revenue measures in the Senate amendment have been deleted from the conference report. It has been our consistent position that, in order to preserve the constitutional prerogatives of the House of Representatives, that revenue measures added by the Senate to a nonrevenue bill are not acceptable.

There is one such Senate provision, however, that I believe deserves further study. Section 4917 of the Senate amendment would authorize up to $30 million of unobligated funds to be transferred out of the Customs forfeiture fund to the Department of Health and Human Services to be expended for drug treatment for individuals under criminal justice supervision. I strongly believe that there is a great need to increase funding for drug treatment programs, and I have committed to holding a public hearing on this matter in the Committee on Ways and Means early next year to explore the merits of funding such programs out of the Customs forfeiture fund.

Mr. Speaker, this is an important matter and I want to assure my colleagues that it will receive the serious attention of the Committee on Ways and Means.

Mr. KOPETSKI. Mr. Speaker, I rise today in support of the conference report. Before I continue, I want to commend Chairman BROOKS for his diligent efforts and those of the Judiciary Committee staff in putting this conference report together in such a short period of time. I also want to recognize the efforts of Congressman CHUCK SCHUMER and Congressman DON EDWARDS for their efforts in this process.

This is my first crime bill as a Member of this body. I've heard a great deal of talk from

Members on both sides of the aisle that we need to be tough on crime. Well, I contend that this bill is tough on crime. This is a comprehensive crime prevention package—31 titles and over 900 pages. This is a package that Members can take home and of which to be proud.

Much attention has been given to the "big ticket" items such as the exclusionary rule, habeas corpus reform, a ban on assault weapons, and coerced confessions.

These are important but are only parts of the whole. Important parts of this bill are not being discussed. I meet on a regular basis with the law enforcement community in my district. Their primary concern is Federal assistance to the communities and strong prevention programs. Mr. Speaker, the bottom line is that this legislation goes a long way toward this end.

In this context, H.R. 3371 demonstrates clearly that this Congress is serious about waging the war on crime by engaging in a partnership with our States and local governments. Mr. Speaker, we need to dedicate ourselves to the war on crime in the same manner in which we mobilized for Operation Desert Storm. H.R. 3371 does this.

Mr. Speaker, the fact remains fighting crime costs money. Enhanced penalties, minimum sentencing, and the addition of new crimes to Federal jurisdictions requires additional judges, court personnel, court rooms, and personnel costs including an increase in the monies for indigent defense costs. If we increase the burden on the criminal justice system, let's make sure at the same time we increase the resources for the system to handle that burden. This bill does this by increasing the authorization for the Federal law enforcement agencies to $345.5 million and providing a $1 billion authorization for the Safer Streets and Neighborhoods Act.

Beyond this authorization, H.R. 3371 establishes a series of new grant programs that will promote the prevention of crime and will help end recidivism in the criminal justice system. I want to take this opportunity to highlight a few of these programs.

On the prevention end, H.R. 3371 establishes the Community Policing: Cop on the Beat Program; title XI, subtitle E. This program will put police officers back into the community through Federal-State-local cooperative grants. These grants will help State and local police departments and local community groups develop innovative, neighborhood-oriented policing programs.

H.R. 3371 also establishes an authorization to expand the successful Midnight Basketball Program, title XI, subtitle H, on a nationwide basis. This program keeps young people off the streets and away from drugs, alcohol, and crime during the hours of 10 p.m. and 2 a.m. It provides 80 young people in a given community with safe haven from the streets. The Midnight Basketball Program also requires that players attend employment counseling, job training, and education classes. This is a crime prevention measure that will have immediate impact on our communities.

Mr. Speaker, this bill also provides $200 million for grants to States and local governments to ensure certainty of punishment and promote reduced recidivism among young offenders. The Certainty of Punishment of Young Offenders title, title XI, subtitle J, encourages States and local governments to develop alternative methods of correctional and rehabilitation options including boot-camp prisons, community-based incarceration, weekend incarceration, intensive probation, electronic monitoring, home confinement, vocational and educational options, and restitution programs. I offered an amendment to this title on the floor that made sure that treatment and counseling of substance abuse include alcohol abuse, a serious problem to law enforcement officers in my district and I understand, across the country. This program will be an effective tool in turning young people away from a life of crime.

To facilitate the apprehension of criminals, H.R. 3371 works on two levels. First, H.R. 3371 provides $30 million for law enforcement scholarships to send rank and file members of our law enforcement agencies back to school for further professional development. This will help police officers better use the developing technologies of the 21st century in fighting crime.

Second, H.R. 3371 sets up a uniform program to deal with the latest technological breakthrough in fighting crime, DNA identification [title XI, subtitle B.] This program seeks to improve the quality and availability of DNA analyses for law enforcement identification purposes by setting uniform standards and establish a national index of DNA profiles of convicted offenders. H.R. 3371 will help State and local law enforcement agencies to use effectively this valuable technology.

To end recidivism, H.R. 3371 attacks the problem of drug abuse among individuals in the criminal justice system. I was appalled to learn that there are waiting lines in the Federal penal system for inmates attempting to obtain substance abuse treatment and counseling. Recent statistics show that 60 percent of all prisoners suffer from drug or alcohol abuse. Section 1404 of H.R. 3371 requires that Federal prisons provide residential substance abuse programs for all prisoners who seek such treatment by fiscal year 1995. Studies show that prisoners who undergo such treatment are much less likely to reenter the criminal justice system after release. H.R. 3371 also provides technical and financial assistance to States to establish a similar program for State corrections facilities.

These are but a few of the programs that will make a real difference in the war on crime. H.R. 3371 also offers tough sentences. For those who believe that death penalty is a deterrent, H.R. 3371 has 50 new death penalty offenses. This bill also strengthens sentences for crimes involving firearms, child abuse, sexual violence, and terrorism. These are tough provisions.

Lastly, Mr. Speaker, I want my colleagues to know that while being tough on crime, we must be responsible. Responsible to our Federal Constitution. H.R. 3371 provides a "good faith" exception to the exclusionary rule for seizures conducted under invalid warrants.

H.R. 3371 also streamlines the Federal habeas corpus process by establishing a 1-year statute of limitations for death penalty habeas corpus cases. Mr. Speaker, this habeas corpus reform is supported by Federal and State judges, attorneys general, the American Bar Association and over 370 law school professors.

Why is habeas corpus so important? The American Bar Association has found that in 40 percent of death penalty cases reviewed by the Federal courts, the State court conviction or sentence was based on serious violations of constitutional rights. This is not to say that 40 percent of these convictions were thrown out; it simply meant that the defendant was entitled to a new trial or new sentencing. After retrial or resentencing, some of these people were fairly retried, others were resentenced to life terms, others were acquitted of all charges, and yes, still others faced their original sentence.

Mr. Speaker, our founding fathers fought for the right of habeas corpus to ensure that the State will not wrongfully punish citizens. In this year of the bicentennial of the Bill of Rights, we are affirming the importance of habeas corpus.

Mr. Speaker, this bill represents a compromise. There are parts of this bill that I do not support including the waiting period on the purchase of handguns and the drastic increase in the number of death penalty offenses. I am supporting this legislation because the people of this country want this Congress to enact a comprehensive crime fighting package now. There is much good in it. Mr. Speaker, this is such a package. I urge my colleagues to support this conference report.

Mr. MORAN. Mr. Speaker, it is with great regret that I rise today in opposition to the conference report on H.R. 3371, the Violent Crime Prevention Act of 1991.

Our constituents are afraid. They are seeing their cities and their children being destroyed by senseless gun violence. They are seeing their schools and their communities pervaded by crack and other highly addictive drugs. They feel that their local police and courts have become powerless as more drug dealers and criminals are set free because our prison systems is too overcrowded. They are enraged that justice is not swift and that the same appeals system established by this Nation's Founding Fathers to protect individual liberties is now being used to tie up our courts and to escape punishment.

Our constituents, our police officers, our judges, and public attorneys turned to Congress asking for the tools to fight the war on crime. We have let them down.

Our constituents asked us to bring an end to the proliferation of high-powered assault weapons, fueling the ever rising homicide count. We let our constituents down. The conference committee failed to enact a ban on the domestic manufacture and sale of assault weapons.

Our court officials asked us to limit the numbers of habeas appeals choking our judicial system and preventing victimized families from resolving their pain. We let our constituents down. The conference committee failed to substantially reform the system of habeas corpus appeals.

Our constituents in the South and in urban enclaves across this country asked us to ensure that the death penalty was being administered fairly. We let them down. The conference committee struck the Fairness in

Death Sentencing Act which passed the House of Representatives.

In point after point as we go through this legislation, we see that this bill does little to protect our constituents. In page after page, as we go through this bill, we see that this legislation does not fight crime and will not make our streets any safer, our courts any more efficient, or our families and children any more secure.

It is thus, with regret that I am voting against this version of the Violent Crime Prevention Act of 1991. I hope that the Congress can readdress this issue next year and ensure that we develop a package that does protect our constituents and regains the offensive in our war on crime.

Mr. BLACKWELL. Mr. Speaker, we can't give life and we certainly don't have the God given right to take a life. This bill establishes 50 different reasons to take a life. But it does not and can not legislate a way to correct a mistake. No appeals can bring anyone back from the dead. Death makes all mistakes final.

I will never forget the case, many many years ago, of Corine Sykes, a black woman who was convicted and executed before her innocence was discovered. She died after being judged by a justice system that is not completely color blind, a justice system that is too often blinded by skin color and economic status. Repeated evidence continues to prove that the death penalty is applied in a racially biased manner. I point to the last year's General Accounting office study. It found that 82 percent of those convicted of murdering nonminority victims were more likely to be sentenced to death than those convicted of murdering minority victims.

For the life of me, I simply can not understand how we can consider, on one hand, the death penalty, and reject, on the other hand, legislation that will regulate the sale of assault type weapons. Are we saying that it is all right to sell a weapon that can only be used to kill people. But now, in fine print, we are saying if you kill, we will kill you? Today, we are debating a bill that calls for death sentencing for 50 crimes; 50 crimes. What's next, 100 crimes or 200 crimes?

I firmly believe that those convicted of committing the most heinous crimes should be incarcerated for as long as our penal system permits. But does this Congress or anyone have the right to decide when someone should live and when someone should die? No.

Does our justice system have the ability to fairly decide who should die? No.

Mr. Speaker, until we can answer yes to both of these questions with a clear conscience, I will continue to vote "no," on this and any future bills which call for the use of the death penalty.

Mr. VENTO. Mr. Speaker, I rise in opposition to the conference report to H.R. 3371.

I want to acknowledge the conferees for their work in attempting to develop an acceptable conference report. While I applaud the conferees action in including a compromise 5-day waiting period for handgun purchases and an associated background check by local law enforcement officials, nevertheless, I oppose the adoption of the conference report.

I remain concerned by the so-called habeas corpus reform provisions previously adopted in the House which purport to streamline the implementation of the death penalty on State prisoners. Of all the circumstances where the Government should be concerned with guaranteeing the highest standards of due process of law, certainly a prisoner facing the ultimate penalty in our society, the loss of their life, deserves the most thorough and searching scrutiny of the facts in his or her case. But the conference report before us today does not meet that strict standard. Instead, it unmistakably compromises the constitutional right of habeas corpus by adopting a totally arbitrary timetable which insists that in most instances the only legally or factually relevant issues in a capital case must be asserted by a defendant within 1 year after direct appeals have been exhausted. For the unfortunate defendant who discovers exculpatory facts after this 1-year period has run, it may simply be too late to correct an injustice if a judge makes a subjective finding that the facts could have been discovered through "due diligence" by the defendant earlier.

In summary, the provision on habeas corpus reform, despite the best intentions of its proponents, tampers with the Constitution. The writ of habeas corpus was considered so important to the founders of our country that it predated the Bill of Rights and was included in article 1, section 9 of the Constitution itself.

In the Civil War, when a civilian was sentenced to death by a court martial, even though the local grand jury had refused to indict him, his life was spared when the Supreme Court granted a writ of habeas corpus in the case of Ex Parte Milligan. When Americans of Japanese descent were confined against their will in internment camps during World War II, again it was the writ of habeas corpus that finally won their release in the case of Ex Parte Endo.

Today, some of the proponents of habeas corpus reform insist that too many habeas corpus petitions are frivolous and bog down the courts in seemingly endless paperwork. However, according to the American Bar Association, petitions for habeas corpus are granted in 40 percent of all capital cases. Surely, the constitutional right of habeas corpus is important enough to avoid shortcuts in the name of some vague notion claiming judicial efficiency or because it may be politically popular today.

Mr. Speaker, I also oppose the significant expansion of the list of Federal offenses where the death penalty may be imposed to some 50 crimes. No one would suggest that these offenses are not heinous crimes. In most instances of sentencing for serious crimes, judges and juries have considerable latitude in determining a proper sentence, many of which may be severe, such as life imprisonment without possibility of parole. However, there are still wide variations among different jurisdictions about those circumstances where a judge or jury may elect to impose the death penalty. I am concerned that the conference report will increase rather than minimize such arbitrary disparities based on race, socio-economic status, and the proficiency of a defendant's legal counsel. Indeed, when the House considered the Judiciary Committee's bill, H.R. 3371, a provision designed to protect against racial discrimination in capital sentencing was dropped from the bill altogether. There may be many aggravating factors which a judge or jury should weigh in assessing a criminal sentence, but the defendant's race should never be one of those factors. Regrettably, this conference report does not make that unequivocal statement.

Finally, I am concerned that the conference agreement codifies into law a judicially crafted good-faith exception to the exclusionary rule relating to illegally seized evidence or illegal police conduct. Under this 1984 Supreme Court ruling, evidence will not be excluded if it was obtained in good faith reliance on a warrant, even if the warrant is ultimately determined to be invalid. The reality of most criminal cases in Federal and State courts today is that convictions are won or lost on the weight of numerous exhibits of evidence rather than only one smoking gun.

A good faith exception to the warrant requirements of the fourth amendment invites police, prosecutors, judges, and juries to engage in a game of subjective speculation about what was in the minds of police when they occasionally may not act in accord with the full rights of the defendant being observed. At the same time, the so-called good faith exception will erode the prevailing standards for the overwhelming majority of police officials who have learned over the past quarter century since Mapp versus Ohio to comply with constitutional requirements. The most certain route to obtaining criminal convictions against guilty defendants is still good solid police work combined with strict adherence to the guarantees of the Bill of Rights.

For these reasons, Mr. Speaker, I oppose the adoption of this conference report.

The SPEAKER pro tempore (Mr. PANETTA). Without objection, the previous question is ordered on the conference report.

There was no objection.

MOTION TO RECOMMIT

Mr. HYDE. Mr. Speaker, I offer a motion to recommit with instructions.

The SPEAKER pro tempore. Is the gentleman opposed to the conference report?

Mr. HYDE. Most definitely, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. HYDE moves to recommit the Conference Report on H.R. 3371 to the Committee of Conference on the disagreeing votes between two Houses with the following instructions to the Managers on the part of the House to insist on the following provisions in the House bill:

Title V, Subtitle B, Restitution of Crime Victims;

Title V, Subtitle C, HIV Testing of Sex Offenders;

Title XII, Subtitle B, Retired Public Safety Officer Death Benefit;

Title XV, Section 1505, Drug Distribution to Pregnant Women;

Title XVI, Equal Justice Act;

Title XVII, Section 1714, National Baseline Study on Campus Sexual Assault;

Title XVII, Section 1720, Exclusionary Rule;

Title XVII, Section 1724, Increased Penalties for Recidivist Sex Offenders;

Title XXIII, Death Penalty Procedures;
Title XXIV, Death Penalty;
And to insist on the following provisions in the Senate bill:
Title V, Subtitle A, Aviation Terrorism;
Title V, Section 514, Offenses of violence against maritime navigation or fixed platform;
Title XLVIII, Public Corruption;
Title XI, Subtitle B, Death Penalty Litigation Procedures for Habeas Corpus proceedings, except for 2259(b);
And to disagree to the following House provision:
Title IX, Coerced Confessions.
And to insist that the text of H.R. 7, the "Brady Bill", as it passed the House, be included in H.R. 3371.

The SPEAKER pro tempore. The Chair would advise the Members that this motion is not debatable.

Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. 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. HYDE. 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 174, nays 237, answered "present," 1, not voting 22, as follows:

[Roll No. 442]

YEAS—174

Allard	English	Lagomarsino
Allen	Erdreich	Leach
Applegate	Ewing	Lehman (FL)
Archer	Fawell	Lent
Armey	Fields	Lewis (CA)
Baker	Franks (CT)	Lewis (FL)
Ballenger	Gallegly	Lightfoot
Barrett	Gallo	Livingston
Bateman	Gekas	Lowery (CA)
Bentley	Gilchrest	Machtley
Bereuter	Gillmor	Martin
Bilirakis	Gilman	McCandless
Bliley	Gingrich	McCollum
Boehlert	Goss	McCrery
Boehner	Gradison	McDade
Browder	Grandy	McEwen
Bunning	Gunderson	McGrath
Burton	Hall (TX)	McMillan (NC)
Byron	Hammerschmidt	Meyers
Callahan	Hancock	Michel
Camp	Harris	Miller (OH)
Chandler	Hastert	Miller (WA)
Clinger	Hefley	Molinari
Coble	Herger	Moorhead
Coleman (MO)	Hobson	Moran
Combest	Holloway	Morrison
Condit	Hopkins	Myers
Coughlin	Houghton	Nichols
Cox (CA)	Huckaby	Nussle
Cramer	Hunter	Orton
Crane	Hutto	Oxley
Cunningham	Hyde	Packard
Dannemeyer	Inhofe	Pallone
Davis	Ireland	Parker
DeLay	James	Paxon
Doolittle	Johnson (CT)	Petri
Dornan (CA)	Johnson (TX)	Porter
Dreier	Kasich	Pursell
Duncan	Klug	Quillen
Edwards (OK)	Kolbe	Ramstad
Emerson	Kyl	Ravenel
Regula	Sensenbrenner	Thomas (CA)
Rhodes	Shays	Thomas (WY)
Ridge	Skeen	Upton
Riggs	Skelton	Vander Jagt
Rinaldo	Smith (NJ)	Volkmer
Ritter	Smith (OR)	Vucanovich
Roberts	Smith (TX)	Walker
Rogers	Snowe	Walsh
Rohrabacher	Solomon	Weber
Ros-Lehtinen	Spence	Weldon
Roth	Stearns	Williams
Roukema	Stenholm	Wolf
Santorum	Stump	Wylie
Saxton	Sundquist	Young (AK)
Schaefer	Tauzin	Young (FL)
Schiff	Taylor (MS)	Zeliff
Schulze	Taylor (NC)	Zimmer

NAYS—237

Abercrombie	Gibbons	Natcher
Ackerman	Glickman	Neal (MA)
Alexander	Gonzalez	Neal (NC)
Anderson	Gordon	Nowak
Andrews (ME)	Green	Oakar
Andrews (NJ)	Guarini	Oberstar
Andrews (TX)	Hall (OH)	Obey
Annunzio	Hamilton	Olin
Anthony	Hatcher	Olver
Atkins	Hayes (IL)	Owens (UT)
AuCoin	Hayes (LA)	Panetta
Bacchus	Hefner	Pastor
Barnard	Henry	Patterson
Beilenson	Hertel	Payne (NJ)
Bennett	Hoagland	Payne (VA)
Berman	Hochbrueckner	Pease
Bilbray	Horn	Pelosi
Blackwell	Horton	Penny
Bonior	Hoyer	Perkins
Borski	Hubbard	Peterson (FL)
Boucher	Hughes	Pickle
Boxer	Jacobs	Poshard
Brewster	Jefferson	Price
Brooks	Jenkins	Rahall
Bruce	Johnson (SD)	Rangel
Bryant	Johnston	Ray
Bustamante	Jones (GA)	Reed
Campbell (CO)	Jones (NC)	Richardson
Cardin	Jontz	Roemer
Carper	Kanjorski	Rose
Carr	Kaptur	Rostenkowski
Chapman	Kennedy	Rowland
Clay	Kennelly	Roybal
Clement	Kildee	Russo
Coleman (TX)	Kleczka	Sabo
Collins (MI)	Kolter	Sanders
Conyers	Kopetski	Sangmeister
Cooper	Kostmayer	Sarpalius
Costello	LaFalce	Savage
Cox (IL)	Lancaster	Sawyer
Coyne	Lantos	Scheuer
Darden	LaRocco	Schroeder
DeFazio	Laughlin	Schumer
DeLauro	Lehman (CA)	Serrano
Dellums	Levin (MI)	Sharp
Derrick	Levine (CA)	Sikorski
Dicks	Lewis (GA)	Sisisky
Dingell	Lipinski	Skaggs
Dixon	Lloyd	Slattery
Donnelly	Long	Slaughter
Dooley	Lowey (NY)	Smith (FL)
Dorgan (ND)	Luken	Smith (IA)
Downey	Manton	Solarz
Durbin	Markey	Spratt
Dwyer	Martinez	Staggers
Dymally	Matsui	Stallings
Early	Mavroules	Stark
Eckart	Mazzoli	Stokes
Edwards (CA)	McCloskey	Studds
Edwards (TX)	McCurdy	Swett
Engel	McDermott	Swift
Espy	McHugh	Synar
Evans	McMillen (MD)	Tallon
Fascell	McNulty	Tanner
Fazio	Mfume	Thomas (GA)
Feighan	Miller (CA)	Thornton
Flake	Mineta	Torres
Foglietta	Mink	Torricelli
Ford (MI)	Moakley	Towns
Ford (TN)	Mollohan	Traficant
Frank (MA)	Moody	Unsoeld
Frost	Morella	Valentine
Gaydos	Mrazek	Vento
Gejdenson	Murphy	Visclosky
Gephardt	Murtha	Washington
Geren	Nagle	Waters
Weiss	Wilson	Wyden
Wheat	Wise	Yates
Whitten	Wolpe	Yatron

ANSWERED "PRESENT"—1

Goodling

NOT VOTING—22

Aspin	Dickinson	Pickett
Barton	Fish	Roe
Bevill	Hansen	Shaw
Broomfield	Marlenee	Shuster
Brown	Montgomery	Traxler
Campbell (CA)	Ortiz	Waxman
Collins (IL)	Owens (NY)	
de la Garza	Peterson (MN)	

□ 0856

Messrs. DREIER of California, ALLARD, LEACH, GINGRICH, CRAMER, PALLONE, and EDWARDS of Oklahoma changed their vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. LEHMAN of Florida. Mr. Speaker, I rushed in at the last minute. I thought I was voting on final passage. Instead I voted "yes" on the motion to recommit, and I should have changed the vote to "nay."

LEGISLATIVE PROGRAM

(By unanimous consent, Mr. MICHEL was allowed to proceed out of order.)

Mr. MICHEL. Mr. Speaker, I yield to the distinguished majority leader for the purpose of determining how much more we have to do and how soon we get out of here and so forth.

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman for yielding and I wish him good morning. I never said where the sun was going to come up.

We are moving now to the vote on the crime conference. We will then move to the banking bill. There will be a rule and then that matter under conference.

We will then move to a rule on RTC, and that bill, and we have one other matter that is a must to try to get done and has to do with the Medicaid legislation that affects many of the States.

That matter is now in conference and should be ready shortly.

□ 0900

It is impossible for me to give Members a definite, absolute firm time. Each of these matters could be done in 2 hours, could be done in less than that, and obviously we are going to press to move these matters as quickly as we possibly can so that Members can make their planes.

Mr. MICHEL. Might I inquire of the majority leader then, if everything falls into place as he has outlined, would it then be in order for us to pass an adjournment resolution that takes us to January 3, with the usual caveat that the leaders, in agreement, could

within a 2-day notice call reconvene the Congress?

Mr. GEPHARDT. I believe the undertaking is to try to pass a resolution that calls for an adjournment to a date certain of January 3, with the ability of the leadership to call Members back if that needs to be done for any reason, and from the 3d then to the 23d of January, with the same caveat, and the ability of the leadership to call Members back.

Mr. MICHEL. The gentleman anticipated my next question, because I wondered whether or not we would do that adjournment resolution now? That is perfectly all right, and I guess there has to be a kind of a recess to the 3d to get the other leg of that accomplished.

Mr. GEPHARDT. If the gentleman will yield back to me, it would be a concurrent resolution, and we can go right to the banking bill and we will do that, and take up the adjournment resolution a little bit later in the schedule.

Mr. MICHEL. I thank the gentleman.

The SPEAKER pro tempore (Mr. HOYER). The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. HYDE. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 205, noes 203, answered "present' 1, not voting 26, as follows:

[Roll No. 443]

AYES—205

Abercrombie	DeLauro	Hayes (IL)
Ackerman	Derrick	Hefner
Alexander	Dicks	Henry
Anderson	Dingell	Hertel
Andrews (NJ)	Donnelly	Hoagland
Annunzio	Dooley	Hochbrueckner
Anthony	Dorgan (ND)	Horn
Applegate	Downey	Horton
Atkins	Durbin	Hoyer
AuCoin	Early	Hubbard
Bacchus	Eckart	Hughes
Barnard	Edwards (CA)	Jacobs
Bellenson	Edwards (TX)	Jefferson
Bennett	Engel	Jenkins
Berman	Espy	Johnson (SD)
Bilbray	Evans	Johnston
Bonior	Fascell	Jones (GA)
Borski	Fazio	Jones (NC)
Boucher	Feighan	Jontz
Boxer	Foglietta	Kanjorski
Brewster	Foley	Kaptur
Brooks	Ford (MI)	Kennedy
Bruce	Ford (TN)	Kennelly
Bryant	Frank (MA)	Kleczka
Bustamante	Frost	Kopetski
Cardin	Gejdenson	Kostmayer
Carper	Gephardt	LaFalce
Carr	Geren	Lancaster
Chapman	Gibbons	Lantos
Clement	Gilman	Laughlin
Coleman (TX)	Glickman	Lehman (CA)
Collins (MI)	Gonzalez	Lehman (FL)
Conyers	Gordon	Levin (MI)
Cooper	Green	Levine (CA)
Costello	Guarini	Lewis (GA)
Cox (IL)	Hall (OH)	Lipinski
Coyne	Hall (TX)	Lloyd
Darden	Hamilton	Long
DeFazio	Hatcher	Lowey (NY)
Luken	Olver	Skaggs
Manton	Owens (UT)	Slattery
Markey	Pallone	Slaughter
Martinez	Panetta	Smith (FL)
Matsui	Pastor	Smith (IA)
Mavroules	Patterson	Solarz
Mazzoli	Payne (VA)	Spratt
McCloskey	Pelosi	Stark
McCurdy	Penny	Stenholm
McDermott	Peterson (FL)	Studds
McHugh	Pickle	Swett
McMillen (MD)	Poshard	Swift
McNulty	Price	Synar
Miller (CA)	Rahall	Tanner
Mineta	Ramstad	Thomas (GA)
Mink	Ray	Thornton
Moakley	Reed	Torres
Mollohan	Richardson	Torricelli
Moody	Rose	Traxler
Morella	Rostenkowski	Unsoeld
Mrazek	Rowland	Valentine
Murphy	Russo	Visclosky
Murtha	Sangmeister	Wheat
Natcher	Sawyer	Whitten
Neal (MA)	Scheuer	Wilson
Neal (NC)	Schroeder	Wise
Nowak	Schumer	Wolpe
Oakar	Sharp	Wyden
Obey	Sikorski	
Olin	Sisisky	

NOES—203

Allard	Gradison	Oxley
Allen	Grandy	Packard
Andrews (ME)	Gunderson	Parker
Andrews (TX)	Hammerschmidt	Paxon
Archer	Hancock	Payne (NJ)
Armey	Harris	Pease
Baker	Hastert	Perkins
Ballenger	Hayes (LA)	Petri
Barrett	Hefley	Porter
Bateman	Herger	Pursell
Bentley	Hobson	Rangel
Bereuter	Holloway	Ravenel
Bilirakis	Hopkins	Regula
Blackwell	Houghton	Rhodes
Bliley	Huckaby	Ridge
Boehlert	Hunter	Riggs
Boehner	Hutto	Rinaldo
Browder	Hyde	Ritter
Bunning	Inhofe	Roberts
Burton	Ireland	Roemer
Byron	James	Rogers
Callahan	Johnson (CT)	Rohrabacher
Camp	Johnson (TX)	Ros-Lehtinen
Campbell (CO)	Kasich	Roth
Chandler	Kildee	Roukema
Clay	Klug	Sanders
Clinger	Kolbe	Santorum
Coble	Kolter	Sarpalius
Coleman (MO)	Kyl	Savage
Combest	Lagomarsino	Saxton
Condit	LaRocco	Schaefer
Coughlin	Leach	Schiff
Cox (CA)	Lent	Schulze
Cramer	Lewis (CA)	Sensenbrenner
Crane	Lewis (FL)	Serrano
Cunningham	Lightfoot	Shays
Dannemeyer	Livingston	Skeen
Davis	Lowery (CA)	Skelton
DeLay	Machtley	Smith (NJ)
Dellums	Martin	Smith (OR)
Dixon	McCandless	Smith (TX)
Doolittle	McCollum	Snowe
Dornan (CA)	McCrery	Solomon
Dreier	McDade	Spence
Duncan	McEwen	Stallings
Dymally	McGrath	Stearns
Edwards (OK)	McMillan (NC)	Stokes
Emerson	Meyers	Stump
English	Mfume	Sundquist
Erdreich	Michel	Tallon
Ewing	Miller (OH)	Tauzin
Fawell	Miller (WA)	Taylor (MS)
Fields	Molinari	Taylor (NC)
Flake	Moorhead	Thomas (CA)
Franks (CT)	Moran	Thomas (WY)
Gallegly	Morrison	Towns
Gallo	Myers	Traficant
Gaydos	Nagle	Upton
Gekas	Nichols	Vander Jagt
Gilchrest	Nussle	Vento
Gillmor	Oberstar	Volkmer
Gingrich	Orton	Vucanovich
Goss	Owens (NY)	Walker
Walsh	Williams	Young (AK)
Waters	Wolf	Young (FL)
Weber	Wylie	Zeliff
Weiss	Yates	Zimmer
Weldon	Yatron	

ANSWERED "PRESENT"—1

Goodling

NOT VOTING—26

Aspin	Dwyer	Roe
Barton	Fish	Roybal
Bevill	Hansen	Sabo
Broomfield	Marlenee	Shaw
Brown	Montgomery	Shuster
Campbell (CA)	Ortiz	Staggers
Collins (IL)	Peterson (MN)	Washington
de la Garza	Pickett	Waxman
Dickinson	Quillen	

□ 0919

The Clerk announced the following pairs:

On this vote:

Mr. Ortiz for, with Mrs. Collins of Illinois against.

Mr. Waxman for, with Mr. Marlenee against.

Mr. Brown of California for, with Mr. Shaw against.

Mr. JAMES changed his vote from "aye" to "no."

Mr. FORD of Michigan changed his vote from "no" to "aye."

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. HOYER). All time has expired.

On this vote, the yeas are 205, the nays are 202.

The Chair will announce there was a change. There was an additional "no" vote by card that was not indicated on the slip that was handed to the Chair. The Chair's announcement made a mistake.

The Clerk. Mr. MORAN. Mr. MORAN votes no.

The SPEAKER pro tempore. When the slip was handed to the Chair, the tally clerk had not registered the vote, so that when the Chair took the slip, the Chair read a slip that did not register a vote that was on the front desk here.

Mr. GINGRICH. From our side, Mr. Speaker, let us calm that down. It has been a long, long night. A few minor errors can occur.

We thank the Chair for trying to make sure that every Member is protected in a difficult time when we are all a little tired.

The SPEAKER pro tempore. There were 205 votes in the affirmative, 203 in the negative.

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.

PERSONAL EXPLANATION

Mr. BALLENGER. Mr. Speaker, unfortunately, I missed three rollcall votes. Had I

been present, I would have voted "nay" on rollcall 437, House Resolution 309, passage of the rule on the fiscal 1992 supplemental appropriation conference report; "yea" on rollcall 438, passage of House Joint Resolution 157, the fiscal 1992 supplemental appropriation conference report; and "nay" on rollcall 444, on passage of House Resolution 320, the rule providing for consideration of H.R. 3435, a bill to provide funding for the Resolution Trust Corporation.

PERSONAL EXPLANATION

Mr. PICKETT. Mr. Speaker, I was unavoidably absent from the House of Representatives due to official business. I wish to have the RECORD indicate that had I been present and voting, I would have voted in the following manner:

On rollcall vote No. 437, "yes"; on rollcall No. 438, "yes"; on rollcall No. 439, "yes"; on rollcall vote No, 440, "yes"; on rollcall vote No. 441, "yes"; on rollcall vote No. 442, "no"; on rollcall vote No. 443, "yes"; and on rollcall vote No. 444, "yes."

PERSONAL EXPLANATION

Mr. ROE. Mr. Speaker, due to a meeting away from the Capitol, I was unable to be present during rollcall vote 442, motion to commit with instructions H.R. 3371 and No. 443, final passage of H.R. 3371, Omnibus Crime Control Act. Had I been present I would have recorded my strong support of this legislation by voting "nay" on rollcall No. 442, the motion to recommit and by voting "yea" on rollcall No. 443 final passage.

□ 0920

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have the rest of this session in order to revise and extend their remarks on the conference report just adopted.

The SPEAKER pro tempore (Mr. HOYER). Is there objection to the request of the gentleman from Texas?

There was no objection.

DEFENSE PRODUCTION ACT OF 1950 EXTENSION

Mr. CARPER. Mr. Speaker, I ask unanimous consent that the Committee on Banking, Finance and Urban Affairs be discharged from further consideration of the bill (H.R. 3919) to temporarily extend the Defense Production Act of 1950, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

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

Mr. RIDGE. Mr. Speaker, reserving the right to object, I do so in order to yield to my friend and colleague from Delaware [Mr. CARPER] for purposes of an explanation.

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

Mr. RIDGE. I yield to the gentleman from Delaware.

Mr. CARPER. I thank the gentleman for yielding.

Mr. Speaker, the Defense Production Act has expired as of September 30 of this year. The purpose of this extension—and I will be asking for an amendment to this unanimous consent request in just a moment—what we really want to do is extend the Defense Production Act during our recess to March 1, 1992. During the next 2 months we will work out a conference report and bring it to the full House.

Mr. RIDGE. Is it my understanding that the gentleman has been in consultation with our colleagues in the other body and they have agreed to the extension of this period of time and they have also agreed and believe that we can finally come to a conclusion by March 1 of next year on the Defense Production Act, which we have been working on for well over a year now?

Mr. CARPER. If the gentleman will continue to yield, I think we have reached a meeting of the minds. One element that sort of kept us apart, fair trade and financial services, I think we are fairly close to an agreement on and we hope to reach that by March 1 and put this one to bed.

Mr. RIDGE. Mr. Speaker, I appreciate the gentleman's explanation, and I withdraw my reservation of objection.

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

There was no objection.

The Clerk read the bill, as follows:

H.R. 3919

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

SECTION 1. TEMPORARY EXTENSION OF THE DEFENSE PRODUCTION ACT OF 1950.

The first sentence of section 717(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2166(a)) is amended by striking "September 30, 1991" and inserting "March 1, 1992".

SEC. 2. EFFECTIVE DATE.

This Act shall take effect on September 30, 1991.

AMENDMENT OFFERED BY MR. CARPER

Mr. CARPER. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CARPER: Page 1, line 7, strike out "March 30" and insert "March 1".

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Delaware [Mr. CARPER].

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time; was read the third time, and passed, and a motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will be pleased to recognize those Members who may want to address the House for 1 minute pending the arrival of additional business.

THE PRESIDENT WAFFLES ON HIS ECONOMIC PACKAGE

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

Mr. GEJDENSON. Mr. Speaker, as we enter these final hours of this session, I think that we can be proud of this Congress in achieving significant goals, significant goals on crime that just passed, on banking reform, a number of areas.

But one of the things that troubles us is a President who cannot seem to get it straight. First, he wants an economic package brought to the Congress, then he does not; then he does, again, then he does not.

It seems to me if we are serious about resolving this economy, we need more than presidential press conferences or presidential photo ops, Mr. Speaker.

We need a President who comes up here and engages the real issues of the economy. From Connecticut to California, we have an economy where workers are losing their jobs, they are losing their homes, and they can no longer afford to send their children to school.

Mr. President, stop taking photo ops; Mr. Speaker, bring the President here to work with us to try to heal this economy.

FUTURE HEARINGS SET FOR ECONOMIC GROWTH DEBATE

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

Mr. DORGAN of North Dakota. Mr. Speaker, the Congress is going to embark on some hearings in the month of December on the subject of economic growth. We will have had by then a sufficient dose of partisanship and bickering back and forth across the political aisles, and I think the important thing for all of us to understand is that this country's economy is in serious trouble, probably more serious trouble than most of us understand.

I think what the American people who watch this process want most from us is to try to get from each side of the political aisle the best of whatever one has to offer, not the least of each of us. We need some mechanism whereby the President and the Congress, conservatives and liberals, Republicans and Democrats, will try to join together to try to put this country back on track.

Mr. Speaker, we face tough international competition. This country is losing its edge. I know there are some who say the problem is in the engine room of the ship of state. I do not believe that. I think the engine is fine. I think the problem is we have loaded this ship down with too much cargo and too much debt. I do not think the answer is sexy or fancy or anything like that. I think we need to get back to the basic virtues, the old ideas, paying your bills, putting America back on track.

I hope we see that kind of bipartisan spirit between the White House and the Congress because this country desperately needs it.

□ 0930

NO ONE REALLY LIKES A COMPROMISE

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

Mr. BILBRAY. Mr. Speaker, just a few minutes ago the people of the country saw a historic vote on a crime bill that was worked on very hard by Members of this Congress to bring forth a new crime bill that will help curtail the crime problems of this country.

Mr. Speaker, my colleagues heard a lot of arguments. They heard people on the far right who were against the bill because it did not go far enough, and, if my colleagues look at the Democrats who voted against it, they will find many Democrats from the far left who went against it because it went too far.

Mr. Speaker, it was a difficult bill. It was one that was crafted with compromise in mind, trying to find a bill that could pass this House. It was very difficult, and I commend the leadership of the Democrat Party, the majority party, for crafting that particular bill and working with the other body to get it done.

The people have to understand that many of us that supported the bill had other things that we would have liked in the bill, but, having practiced law for many years and having dealt with people on both sides of an issue, sometimes we had a compromise worked out that no one really liked, but it was a compromise that had to be done.

Mr. Speaker, we have to move forward to try to help the people of this country.

COUNTERANALYSIS OF THE VOTE ON THE CRIME BILL

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

Mr. DORNAN of California. Mr. Speaker, having grabbed about 3 hours of sleep last night sitting up while the six couches were grabbed out of 166 Republicans, let me say that I appreciate the analysis of the crime bill we just voted on by the gentleman from Nevada [Mr. BILBRAY], my friend. Let me give a little counteranalysis.

Here is the readout: 205 to 203, 26 Members not here, some of them I saw a few hours ago, they must be asleep in their offices. Sorry they did not get over here for this vote. However our distinguished Speaker voted about 4 minutes before the end of the vote. I can appreciate that he did not want to have to come right up and break a tie, but, if we take his vote out, it is 204 to 203. That means every single vote was the margin of victory, and in our Republican Party the DMV, the Democratic margin of victory, was given to them by six Republicans. Each one of them was singularly the margin of victory.

Mr. Speaker, this is an easy veto for the President. He is obviously veto-proof. It will be sustained when he has got 203 people to draw from and there is only 145 needed.

Let me say that the most compelling thing was the letter the gentleman from Illinois [Mr. HYDE] read from the National Association of District Attorneys. They said this was a vote for criminals.

Did I hear cheering on death rows all across America? I am afraid so.

Mr. Speaker, I hope the President will veto this bill. It is an easy slam-dunk sustaining of the President's veto.

WHERE IS THE BILL TO ELEVATE THE EPA TO CABINET-LEVEL STATUS?

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

Mr. BOEHLERT. Mr. Speaker, we have been in session for almost 24 hours, but that is what we are paid for, to do the people's business. Right now we are in a dead period, dead time between conference reports coming to this House so we can exercise the people's will, and during this time people like me can get up and say whatever we want for 60 seconds, speak to anybody about any subject.

Mr. Speaker, I want to speak to my colleagues on the Democrat side of the aisle. I want to ask them where the bill is to elevate the Environmental Protection Agency to cabinet-level status. I want to remind them that it was a Democrat in the Senate in cooperation with a Republican, Senator JOHN GLENN and Senator BILL ROTH, who passed that bill that now lays on the Speaker's desk ready to come up here by unanimous consent.

Mr. Speaker, the majority of Members in this House want it. Every single environmental group in America wants it. The President has said he will sign it. He has encouraged us to act on it, and yet it lays on the Speaker's desk.

Why? Because one person, the chairman of the Committee on Government Operations, refuses to act.

Mr. Speaker, the American people deserve better. They deserve someone who will act and not turn his back on a piece of legislation that the American people demand.

THINGS LIBERALS VOTE FOR BESIDES A WEAK CRIME BILL

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

Mr. CUNNINGHAM. Mr. Speaker, as a freshman on this body, first time I was upset on this House is the same week that we came aboard, and that is when the Desert Storm vote came out, and many Members of this House turned their backs on the men and women, and I think that today, next to the civil rights bill, was the hardest for me to stomach.

Mr. Speaker, in every case the conferees took the weakest position of either the Senate or the House and put it into the crime bill. I ask, "Why can't we put the strongest position in and fight crime?"

Mr. Speaker, I would like to tie in the votes of the liberals with some of the other things, the same people that voted against Desert Storm, the same people that supported the Sandinistas, that voted to burn the flag, that voted for Mapplethorpe and obscene art, to destroy the family unit, to not take drug tests, not to be tough on crime. I think, if we compile these votes, we would find the same liberal votes.

PROUD TO SAY, I VOTED FOR THE CRIME BILL

(Ms. OAKAR asked and was given permission to address the House for 1 minute.)

Ms. OAKAR. Mr. Speaker, I could not help hearing the last speaker attack people who voted for a crime bill.

Mr. Speaker, I am proud to say that I voted for the crime bill, and I say to the gentleman, "Of course in any bill you don't feel strongly about every provision, but the fact is overall it's a very fine bill."

One of the things that I think is an important aspect of that bill is that it finally gives assistance to the cities of this country by giving funds to the police department. We are seeing cities having less resources because we do not have an urban policy in this country, and one of the things that is on the minds and hearts of the American people is crime in the streets.

So, Mr. Speaker, I am delighted to see that there is a safe street program in this crime bill and that we funded

the police departments across the country to give them the tools to work with to assist in their combating and arresting crime, which I think is among the top issues that affect the American people.

Mr. Speaker, people do not like to see their cars stolen. They do not like to see drug peddling. They do not like to see alcoholic drivers on the roads, and so on, and the police department cannot do it alone, and the cities and rural areas cannot do it alone.

So, I am proud of this bill, and I congratulate those who worked so hard on it.

CALLING ON OUR HEMISPHERE

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

Mr. RANGEL. Mr. Speaker, as the House moves to complete its legislative business, I hope that we do not forget that there are thousands of people cast asea from Haiti without homes, without hope, and the President of the United States is only being restrained from sending these people back to Haiti by a Federal court judge in Miami. Some people may ask, "Well, what do we do with all these people? We can't absorb them in Miami; we can't absorb them in New York."

Well, God forbid that a country of our great wealth should even anticipate absorbing 5,000 Haitians, but it seems to me that we can use our Presidential and national influence to pick up the phone, as the President did so well in the Persian Gulf, and convince the neighboring countries that we would give them assistance, to call upon some of the industrial countries to pitch in.

Mr. Speaker, this is not just a question of poor black folks in Haiti. This is a question as to whether democracy can survive in the world, and specifically in our hemisphere.

So, while one may believe that we have asked certain portions of our country to assume too much of this moral responsibility which has a heavy fiscal burden with it, it seems to me that we have not done all that we can in reaching out to the United Nations, the Organization of American States, the Caribbean countries and say, "For God's sake, that can be your country. Pitch in and do something."

RECESS

The SPEAKER pro tempore. (Mr. HOYER). The Chair declares a recess for approximately one-half hour.

Accordingly (at 9 o'clock and 40 minutes a.m.), the House stood in recess for a period in excess of 30 minutes.

□ 1030

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore at 10 o'clock and 31 minutes a.m.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment bills, a joint resolution and concurrent resolution of the House of the following titles:

H.R. 829. An act to amend title 28, United States Code, to make changes in the composition of the Eastern and Western Districts of Virginia.

H.R. 990. An act to authorize additional appropriations for land acquisition at Monocacy National Battlefield, Maryland;

H.R. 1099. An act to amend the Wild and Scenic Rivers Act by designating segments of the Lamprey River in the State of New Hampshire for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes;

H.R. 2105. An act to designate an area as the "Myrtle Foester Whitmire Division of the Aransas National Wildlife Refuge";

H.R. 3012. An act to amend the Wild and Scenic Rivers Act by designating the White Clay Creek in Delaware and Pennsylvania for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes;

H.R. 3387. An act to amend the Pennsylvania Avenue Development Corporation Act of 1972 to authorize appropriations for implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House, and for other purposes;

H.R. 3604. An act to direct acquisitions within the Eleven Point Wild and Scenic River, to establish the Greer Spring Special Management Area in Missouri and for other purposes;

H.R. 3881. An act to expand the boundaries of Stones River National Battlefield, Tennessee, and for other purposes;

H.R. 3909. An act to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes;

H.R. 3932. An act to improve the operational efficiency of the James Madison Memorial Fellowship Foundation, and for other purposes;

H.J. Res. 191. Joint resolution designating January 5, 1992 through January 11, 1992 as "National Law Enforcement Training Week"; and

H. Con. Res. 249. Concurrent resolution correcting a technical error in the enrollment of the bill H.R. 1724.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 3595. An act to delay until September 30, 1992, the issuance of any regulations by the Secretary of Health and Human Services changing the treatment of voluntary contributions and provider-specific taxes by States as a source of a State's expenditures for which Federal financial participation is available under the medicaid program and to maintain the treatment of intergovernmental transfers as such a source.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 3595) "An Act to delay until September 30, 1992, the issuance of any regulations by the Secretary of Health and Human Services changing the treatment of voluntary contributions and provider-specific taxes by States as a source of a State's expenditures for which Federal financial participation is available under the medicaid program and to maintain the treatment of intergovernmental transfers as such a source" disagreed to by the House and agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BENTSEN, Mr. RIEGLE, Mr. ROCKEFELLER, Mr. PACKWOOD, and Mr. DURENBERGER, to be the conferees on the part of the Senate.

The message also announced that the Senate recedes from its amendment to the bill (H.R. 690) "An Act to authorize the National Park Service to acquire and manage the Mary McLeod Bethune Council House National Historic Site, and for other purposes."

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate to the bill (H.R. 3029) "An Act to make technical corrections to agriculture laws."

REPORT ON RESOLUTION WAIVING ALL POINTS OF ORDER AGAINST CONFERENCE REPORT ON S. 543, COMPREHENSIVE DEPOSIT INSURANCE REFORM AND TAXPAYER PROTECTION ACT OF 1991, AND AGAINST CONSIDERATION OF SUCH CONFERENCE REPORT

Mr. MOAKLEY, from the Committee on Rules, submitted a privilege report (Rept. No. 102–406) on the resolution (H. Res. 318) waiving all points of order against the conference report on the bill (S. 543) to reform Federal deposit insurance, protect the deposit insurance funds, recapitalize the bank insurance fund, improve supervision and regulations of insured depository institutions, and against consideration of such conference report which was referred to the House calendar and ordered to be printed.

WAIVING ALL POINTS OF ORDER AGAINST CONFERENCE REPORT ON S. 543, COMPREHENSIVE DEPOSIT INSURANCE REFORM AND TAXPAYER PROTECTION ACT OF 1991.

Mr. FROST. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 318 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. REPT. 318

Resolved, That upon adoption of this resolution it shall be in order to consider the

conference report on the bill (S. 543) to reform Federal deposit insurance, protect the deposit insurance funds, recapitalize the bank insurance fund, improve supervision and regulation of insured depository institutions. All points of order against the conference report and against its consideration are hereby waived. The conference report shall be considered as having been read when called up for consideration.

The SPEAKER pro tempore. The gentleman from Texas [Mr. FROST] is recognized for 1 hour.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from California [Mr. DREIER], pending which I yield myself such time as I may consume.

Mr. Speaker, all time yielded during debate on this House resolution is yielded for the purpose of debate only.

Mr. FROST. Mr. Speaker, House Resolution 318 is the rule providing for the consideration of the conference report on S. 543, the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991. The rule waives all points of order against the conference report and against its consideration. The rule also provides that the conference report will be considered as having been read.

Mr. Speaker, this legislation will provide important borrowing authority for the FDIC. It includes a variety of provisions which would revise the Federal Deposit Insurance Program and strengthen the supervisory and regulatory processes to ensure against future crises.

The House has fully debated banking reform issues over the past few weeks. It is time to move forward and pass this legislation so that we can restore public confidence in banking system. I urge adoption of the rule and the conference report.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in reluctant support of this rule. My reluctance is not the result of what is in the rule but rather what is not in the conference report itself.

Mr. Speaker, I originally voted for H.R. 3768 in an effort to keep the process moving forward. I am concerned that while the process did move forward, the significance of this legislation headed in the opposite direction. I am referring to the fact that this banking bill does not include any of the President's structural reform proposals. Those proposals would help to restore the banking industry to profitability, and this would help to strengthen the bank insurance fund.

However, the fact remains, Mr. Speaker, that as many as 239 banks may fail next year, and the insurance fund needs billions of dollars in borrowing authority to guarantee the funds of nearly 110 million bank depositors. Once again I want to emphasize that this is not a taxpayer bill, and I underscore not a taxpayer bailout.

Mr. Speaker, in the Rules Committee, on Saturday, the chairman and ranking member of the Banking Committee provided assurances that in the next session of Congress, the Banking Committee will begin looking anew at the comprehensive legislation which we considered several weeks ago in the House. It is necessary that we overhaul the Nation's banking system.

Mr. Speaker, I want to commend the gentleman from Texas, the chairman of the committee [Mr. GONZALEZ], and the gentleman from Ohio [Mr. WYLIE], the ranking member, for their diligence in working on this bill. I hope very much that their committee will move forward so as to make sure that this will not become a taxpayer bailout.

I urge my colleagues to support the rule.

Mr. Speaker, I yield 5 minutes to the gentleman from Ohio [Mr. WYLIE], the ranking member of the Committee on Banking, Finance and Urban Affairs.

Mr. WYLIE. I thank the gentleman from California, a former important member of the Banking Committee. I certainly will not use the 5 minutes. I just want to rise in the strongest possible way to support the rule and the conference report which it makes in order.

As will be mentioned a little later on, we worked until 5 this morning on a banking bill. It is absolutely essential that we recapitalize the bank insurance fund, and that was the crux and the basis for our bill.

We do provide for $30 billion in new lending authority, which allows us to refund the recapitalization of the bank insurance fund to the tune of $25 billion. We do have a provision in here for early intervention, too-big-to-fail ends on January 1, 1995, a limit on broker deposits, and so forth. Essentially, the conference report we have before us includes the parameters of the House bill. I think our House conferees did an excellent job. I want to commend the gentleman from Texas, Mr. GONZALEZ, chairman of the House Committee on Banking, Finance and Urban Affairs, for the hard work and diligence he put into this. I will do that in his presence later on.

Mr. Speaker, I urge adoption of the rule.

Mr. DREIER of California. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I urge support of the rule.

Mr. FROST. Mr. Speaker, I have no further requests for 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.

CONFERENCE REPORT ON S. 543, COMPREHENSIVE DEPOSIT INSURANCE REFORM AND TAXPAYER PROTECTION ACT OF 1991

Mr. NEAL of North Carolina submitted the following conference report and statement on the Senate bill (S. 543) to reform Federal deposit insurance, protect the deposit insurance funds, recapitalize the bank insurance fund, improve supervision and regulation of insured depository institutions, and for other purposes:

CONFERENCE REPORT (H. REPT. 102-407)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 543), to reform Federal deposit insurance, protect the deposit insurance funds, and improve supervision and regulation of and disclosure relating to federally insured depository institutions, 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.

This Act may be cited as the "Federal Deposit Insurance Corporation Improvement Act of 1991".

TITLE I—SAFETY AND SOUNDNESS

Subtitle A—Deposit Insurance Funds

SEC. 101. FUNDING FOR THE FEDERAL DEPOSIT INSURANCE FUNDS.

Section 14(a) of the Federal Deposit Insurance Act (12 U.S.C. 1824(a)) is amended by striking "$5,000,000,000" and inserting "$30,000,000,000".

SEC. 102. LIMITATION ON OUTSTANDING BORROWING.

(a) IN GENERAL.—Section 15(c) of the Federal Deposit Insurance Act (12 U.S.C. 1825(c)) is amended by striking paragraphs (5) and (6) and inserting the following new paragraphs:

"(5) MAXIMUM AMOUNT LIMITATION ON OUTSTANDING OBLIGATIONS.—Notwithstanding any other provisions of this Act, the Corporation may not issue or incur any obligation, if, after issuing or incurring the obligation, the aggregate amount of obligations of the Bank Insurance Fund or Savings Association Insurance Fund, respectively, outstanding would exceed the sum of—

"(A) the amount of cash or the equivalent of cash held by the Bank Insurance Fund or Savings Association Insurance Fund, respectively;

"(B) the amount which is equal to 90 percent of the Corporation's estimate of the fair market value of assets held by the Bank Insurance Fund or the Savings Association Insurance Fund, respectively, other than assets described in subparagraph (A); and

"(C) the total of the amounts authorized to be borrowed from the Secretary of the Treasury pursuant to section 14(a).

"(6) OBLIGATION DEFINED.—

"(A) IN GENERAL.—For purposes of paragraph (5), the term 'obligation' includes—

"(i) any guarantee issued by the Corporation, other than deposit guarantees;

"(ii) any amount borrowed pursuant to section 14; and

"(iii) any other obligation for which the Corporation has a direct or contingent liability to pay any amount.

"(B) VALUATION OF CONTINGENT LIABILITIES.—The Corporation shall value any contin-

gent liability at its expected cost to the Corporation.".

(b) GAO REPORTS.—

(1) QUARTERLY REPORTING.—The Comptroller General of the United States shall submit a report each calendar quarter on the Federal Deposit Insurance Corporation's compliance with section 15(c)(5) of the Federal Deposit Insurance Act for the preceding quarter to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(2) ANALYSES TO BE INCLUDED.—Each report submitted under paragraph (1) shall include—

(A) an analysis of the performance of the Federal Deposit Insurance Corporation in meeting any repayment schedule under section 14(c) of the Federal Deposit Insurance Act (as added by section 103 of this Act); and

(B) an analysis of the actual recovery on asset sales compared to the estimated fair market value of the assets as determined for the purposes of section 15(c)(5)(B) of such Act.

(c) TECHNICAL AND CONFORMING AMENDMENT.—Section 15(c) of the Federal Deposit Insurance Act (12 U.S.C. 1825(c)) is amended by striking paragraph (7).

SEC. 103. REPAYMENT SCHEDULE.

(a) IN GENERAL.—Section 14 of the Federal Deposit Insurance Act (12 U.S.C. 1824) is amended by adding at the end the following new subsection:

"(c) REPAYMENT SCHEDULES REQUIRED FOR ANY BORROWING.—

"(1) IN GENERAL.—No amount may be provided by the Secretary of the Treasury to the Corporation under subsection (a) unless an agreement is in effect between the Secretary and the Corporation which—

"(A) provides a schedule for the repayment of the outstanding amount of any borrowing under such subsection; and

"(B) demonstrates that income to the Corporation from assessments under this Act will be sufficient to amortize the outstanding balance within the period established in the repayment schedule and pay the interest accruing on such balance.

"(2) CONSULTATION WITH AND REPORT TO CONGRESS.—The Secretary of the Treasury and the Corporation shall—

"(A) consult with the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the terms of any repayment schedule agreement described in paragraph (1) relating to repayment, including terms relating to any emergency special assessment under section 7(b)(7); and

"(B) submit a copy of each repayment schedule agreement entered into under paragraph (1) to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate before the end of the 30-day period beginning on the date any amount is provided by the Secretary of the Treasury to the Corporation under subsection (a).".

(b) EMERGENCY SPECIAL ASSESSMENTS.—Section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)) is amended—

(1) by redesignating paragraphs (7), (8), and (9) as paragraphs (8), (9), and (10), respectively; and

(2) by inserting after paragraph (6) the following new paragraph:

"(7) EMERGENCY SPECIAL ASSESSMENTS.—In addition to the other assessments imposed on insured depository institutions under this subsection, the Corporation may impose 1 or more special assessments on insured depository institutions in an amount determined by the Corporation if the amount of any such assessment—

"(A) is necessary—

"(i) to provide sufficient assessment income to repay amounts borrowed from the Secretary of the Treasury under section 14(a) in accordance with the repayment schedule in effect under section 14(c) during the period with respect to which such assessment is imposed;

"(ii) to provide sufficient assessment income to repay obligations issued to and other amounts borrowed from Bank Insurance Fund members under section 14(d); or

"(iii) for any other purpose the Corporation may deem necessary; and

"(B) is allocated between Bank Insurance Fund members and Savings Association Insurance Fund members in amounts which reflect the degree to which the proceeds of the amounts borrowed are to be used for the benefit of the respective insurance funds.".

SEC. 104. RECAPITALIZING THE BANK INSURANCE FUND.

(a) IN GENERAL.—Section 7(b)(1)(C) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(1)(C)) is amended to read as follows:

"(C) ASSESSMENT RATES FOR BANK INSURANCE FUND MEMBERS.—

"(i) IN GENERAL.—If the reserve ratio of the Bank Insurance Fund equals or exceeds the fund's designated reserve ratio under subparagraph (B), the Board of Directors shall set semiannual assessment rates for members of that fund as appropriate to maintain the reserve ratio at the designated reserve ratio.

"(ii) SPECIAL RULES FOR RECAPITALIZING UNDERCAPITALIZED FUND.—If the reserve ratio of the Bank Insurance Fund is less than the designated reserve ratio under subparagraph (B), the Board of Directors shall set semiannual assessment rates for members of that fund—

"(I) that are sufficient to increase the reserve ratio for that fund to the designated reserve ratio not later than 1 year after such rates are set; or

"(II) in accordance with a schedule promulgated by the Corporation under clause (iii).

"(iii) RECAPITALIZATION SCHEDULES.—For purposes of clause (ii)(II), the Corporation shall, by regulation, promulgate a schedule that specifies, at semiannual intervals, target reserve ratios for the Bank Insurance Fund, culminating in a reserve ratio that is equal to the designated reserve ratio no later than 15 years after the date on which the schedule becomes effective.

"(iv) AMENDING SCHEDULE.—The Corporation may, by regulation, amend a schedule promulgated under clause (iii), but such an amendment may not extend the date for achieving the designated reserve ratio.".

(b) ASSESSMENT RATE CHANGES.—Section 7(b)(1)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(1)(A)) is amended by striking clause (iii) and inserting the following:

"(iii) RATE CHANGES.—The Corporation shall notify each insured depository institution of that institution's semiannual assessment. The Corporation may establish and, from time to time, adjust the assessment rates for such institutions.".

SEC. 105. BORROWING FOR BIF FROM BIF MEMBERS.

Section 14 of the Federal Deposit Insurance Act (12 U.S.C. 1824) is amended by inserting after subsection (c) (as added by section 103 of this subtitle) the following new subsection:

"(d) BORROWING FOR BIF FROM BIF MEMBERS.—

"(1) BORROWING AUTHORITY.—The Corporation may issue obligations to Bank Insurance Fund members, and may borrow from Bank Insurance Fund members and give security for any amount borrowed, and may pay interest on (and any redemption premium with respect to) any such obligation or amount to the extent—

"(A) the proceeds of any such obligation or amount are used by the Corporation solely for purposes of carrying out the Corporation's functions with respect to the Bank Insurance Fund; and

"(B) the terms of the obligation or instrument limit the liability of the Corporation or the Bank Insurance Fund for the payment of interest and the repayment of principal to the amount which is equal to the amount of assessment income received by the Fund from assessments under section 7.

"(2) LIMITATIONS ON BORROWING.—

"(A) APPLICABILITY OF PUBLIC DEBT LIMIT.—For purposes of the public debt limit established in section 3101(b) of title 31, United States Code, any obligation issued, or amount borrowed, by the Corporation under paragraph (1) shall be considered to be an obligation to which such limit applies.

"(B) APPLICABILITY OF FDIC BORROWING LIMIT.—For purposes of the dollar amount limitation established in section 14(a) of the Federal Deposit Insurance Act (12 U.S.C. 1824(a)), any obligation issued, or amount borrowed, by the Corporation under paragraph (1) shall be considered to be an amount borrowed from the Treasury under such section.

"(C) INTEREST RATE LIMIT.—The rate of interest payable in connection with any obligation issued, or amount borrowed, by the Corporation under paragraph (1) shall not exceed an amount determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities.

"(D) OBLIGATIONS TO BE HELD ONLY BY BIF MEMBERS.—The terms of any obligation issued by the Corporation under paragraph (1) shall provide that the obligation will be valid only if held by a Bank Insurance Fund Member.

"(3) LIABILITY OF BIF.—Any obligation issued or amount borrowed under paragraph (1) shall be a liability of the Bank Insurance Fund.

"(4) TERMS AND CONDITIONS.—Subject to paragraphs (1) and (2), the Corporation shall establish the terms and conditions for obligations issued or amounts borrowed under paragraph (1), including interest rates and terms to maturity.

"(5) INVESTMENT BY BIF MEMBERS.—

"(A) AUTHORITY TO INVEST.—Subject to subparagraph (B) and notwithstanding any other provision of Federal law or the law of any State, any Bank Insurance Fund member may purchase and hold for investment any obligation issued by the Corporation under paragraph (1) without limitation, other than any limitation the appropriate Federal banking agency may impose specifically with respect to such obligations.

"(B) INVESTMENT ONLY FROM CAPITAL AND RETAINED EARNINGS.—Any Bank Insurance Fund member may purchase obligations or make loans to the Corporation under paragraph (1) only to the extent the purchase money or the money loaned is derived from the member's capital or retained earnings.

"(6) ACCOUNTING TREATMENT.—In accounting for any investment in an obligation purchased from, or any loan made to, the Corporation for purposes of determining compliance with any capital standard and preparing any report required pursuant to section 7(a), the amount of such investment or loan shall be treated as an asset.".

Subtitle B—Supervisory Reforms

SEC. 111. IMPROVED EXAMINATIONS.

(a) IN GENERAL.—Section 10 of the Federal Deposit Insurance Act (12 U.S.C. 1820) is amended by inserting after subsection (c) the following new subsection:

"(d) ANNUAL ON-SITE EXAMINATIONS OF ALL INSURED DEPOSITORY INSTITUTIONS REQUIRED.—

"(1) IN GENERAL.—The appropriate Federal banking agency shall, not less than once during

each 12-month period, conduct a full-scope, on-site examination of each insured depository institution.

"(2) EXAMINATIONS BY CORPORATION.—Paragraph (1) shall not apply during any 12-month period in which the Corporation has conducted a full-scope, on-site examination of the insured depository institution.

"(3) STATE EXAMINATIONS ACCEPTABLE.—The examinations required by paragraph (1) may be conducted in alternate 12-month periods, as appropriate, if the appropriate Federal banking agency determines that an examination of the insured depository institution conducted by the State during the intervening 12-month period carries out the purpose of this subsection.

"(4) 18-MONTH RULE FOR CERTAIN SMALL INSTITUTIONS.—Paragraphs (1), (2), and (3) shall apply with '18-month' substituted for '12-month' if—

"(A) the insured depository institution has total assets of less than $100,000,000;

"(B) the institution is well capitalized, as defined in section 38;

"(C) when the institution was most recently examined, it was found to be well managed, and its composite condition was found to be outstanding; and

"(D) no person acquired control of the institution during the 12-month period in which a full-scope, on-site examination would be required but for this paragraph.

"(5) CERTAIN GOVERNMENT-CONTROLLED INSTITUTIONS EXEMPTED.—Paragraph (1) does not apply to—

"(A) any institution for which the Corporation is conservator; or

"(B) any bridge bank none of the voting securities of which are owned by a person or agency other than the Corporation.

"(6) CONSUMER COMPLIANCE EXAMINATIONS EXCLUDED.—For purposes of this subsection, the term 'full-scope, on-site examination' does not include a consumer compliance examination, as defined in section 41(b).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective 1 year after the date of enactment of this Act.

(c) TRANSITION RULE.—Notwithstanding section 10(d) of the Federal Deposit Insurance Act (as added by subsection (a)), during the period beginning on the date of enactment of this Act and ending on December 31, 1993, a full-scope, on-site examination of an insured depository institution is not required more often than once during every 18-month period, unless—

(1) the institution, when most recently examined, was found to be in a less than satisfactory condition; or

(2) 1 or more persons acquired control of the institution.

(d) EXAMINATION IMPROVEMENT PROGRAM.—

(1) IN GENERAL.—The appropriate Federal banking agencies, acting through the Federal Financial Institutions Examination Council, shall each establish a comparable examination improvement program that meets the requirements of paragraph (2).

(2) REQUIREMENTS.—An examination improvement program meets the requirements of this paragraph if, under the program, the agency is required—

(A) to periodically review the organization and training of the staff of the agency who are responsible for conducting examinations of insured depository institutions and to make such improvements as the agency determines to be appropriate to ensure frequent, objective, and thorough examinations of such institutions; and

(B) to increase the number of examiners, supervisors, and other individuals employed by the agency in connection with conducting or supervising examinations of insured depository institutions to the extent necessary to ensure frequent, objective, and thorough examinations of such institutions.

(e) TECHNICAL AND CONFORMING AMENDMENT.—Section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) is amended to read as follows:

"(s) DEFINITIONS RELATING TO FOREIGN BANKS AND BRANCHES.—

"(1) FOREIGN BANK.—The term 'foreign bank' has the meaning given to such term by section 1(b)(7) of the International Banking Act of 1978.

"(2) FEDERAL BRANCH.—The term 'Federal branch' has the meaning given to such term by section 1(b)(6) of the International Banking Act of 1978.

"(3) INSURED BRANCH.—The term 'insured branch' means any branch (as defined in section 1(b)(3) of the International Banking Act of 1978) of a foreign bank any deposits in which are insured pursuant to this Act.".

SEC. 112. INDEPENDENT ANNUAL AUDITS OF INSURED DEPOSITORY INSTITUTIONS.

(a) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following new section:

"SEC. 36. EARLY IDENTIFICATION OF NEEDED IMPROVEMENTS IN FINANCIAL MANAGEMENT.

"(a) ANNUAL REPORT ON FINANCIAL CONDITION AND MANAGEMENT.—

"(1) REPORT REQUIRED.—Each insured depository institution shall submit an annual report to the Corporation, the appropriate Federal banking agency, and any appropriate State bank supervisor (including any State bank supervisor of a host State).

"(2) CONTENTS OF REPORT.—Any annual report required under paragraph (1) shall contain—

"(A) the information required to be provided by—

"(i) the institution's management under subsection (b); and

"(ii) an independent public accountant under subsections (c) and (d); and

"(B) such other information as the Corporation and the appropriate Federal banking agency may determine to be necessary to assess the financial condition and management of the institution.

"(3) PUBLIC AVAILABILITY.—Any annual report required under paragraph (1) shall be available for public inspection.

"(b) MANAGEMENT RESPONSIBILITY FOR FINANCIAL STATEMENTS AND INTERNAL CONTROLS.—Each insured depository institution shall prepare—

"(1) annual financial statements in accordance with generally accepted accounting principles and such other disclosure requirements as the Corporation and the appropriate Federal banking agency may prescribe; and

"(2) a report signed by the chief executive officer and the chief accounting or financial officer of the institution which contains—

"(A) a statement of the management's responsibilities for—

"(i) preparing financial statements;

"(ii) establishing and maintaining an adequate internal control structure and procedures for financial reporting; and

"(iii) complying with the laws and regulations relating to safety and soundness which are designated by the Corporation or the appropriate Federal banking agency; and

"(B) an assessment, as of the end of the institution's most recent fiscal year, of—

"(i) the effectiveness of such internal control structure and procedures; and

"(ii) the institution's compliance with the laws and regulations relating to safety and soundness which are designated by the Corporation and the appropriate Federal banking agency.

"(c) INTERNAL CONTROL EVALUATION AND REPORTING REQUIREMENTS FOR INDEPENDENT PUBLIC ACCOUNTANTS.—

"(1) IN GENERAL.—With respect to any internal control report required by subsection (b)(2) of any institution, the institution's independent public accountant shall attest to, and report separately on, the assertions of the institution's management contained in such report.

"(2) ATTESTATION REQUIREMENTS.—Any attestation pursuant to paragraph (1) shall be made in accordance with generally accepted standards for attestation engagements.

"(d) ANNUAL INDEPENDENT AUDITS OF FINANCIAL STATEMENTS.—

"(1) AUDITS REQUIRED.—The Corporation, in consultation with the appropriate Federal banking agencies, shall prescribe regulations requiring that each insured depository institution shall have an annual independent audit made of the institution's financial statements by an independent public accountant in accordance with generally accepted auditing standards and section 37.

"(2) SCOPE OF AUDIT.—In connection with any audit under this subsection, the independent public accountant shall determine and report whether the financial statements of the institution—

"(A) are presented fairly in accordance with generally accepted accounting principles; and

"(B) comply with such other disclosure requirements as the Corporation and the appropriate Federal banking agency may prescribe.

"(3) REQUIREMENTS FOR INSURED SUBSIDIARIES OF HOLDING COMPANIES.—The requirements for an independent audit under this subsection may be satisfied for insured depository institutions that are subsidiaries of a holding company by an independent audit of the holding company.

"(e) DETECTING AND REPORTING VIOLATIONS OF LAWS AND REGULATIONS.—

"(1) IN GENERAL.—An independent public accountant shall apply procedures agreed upon by the Corporation to objectively determine the extent of the compliance of any insured depository institution or depository institution holding company with laws and regulations designated by the Corporation, in consultation with the appropriate Federal banking agencies.

"(2) ATTESTATION REQUIREMENTS.—Any attestation pursuant to paragraph (1) shall be made in accordance with generally accepted standards for attestation engagements.

"(f) FORM AND CONTENT OF REPORTS AND AUDITING STANDARDS.—

"(1) IN GENERAL.—The scope of each report by an independent public accountant pursuant to this section, and the procedures followed in preparing such report, shall meet or exceed the scope and procedures required by generally accepted auditing standards and other applicable standards recognized by the Corporation.

"(2) CONSULTATION.—The Corporation shall consult with the other appropriate Federal banking agencies in implementing this subsection.

"(g) IMPROVED ACCOUNTABILITY.—

"(1) INDEPENDENT AUDIT COMMITTEE.—

"(A) ESTABLISHMENT.—Each insured depository institution (to which this section applies) shall have an independent audit committee entirely made up of outside directors who are independent of management of the institution, and who satisfy any specific requirements the Corporation may establish.

"(B) DUTIES.—An independent audit committee's duties shall include reviewing with management and the independent public accountant the basis for the reports issued under subsections (b)(2), (c), and (d).

"(C) CRITERIA APPLICABLE TO COMMITTEES OF LARGE INSURED DEPOSITORY INSTITUTIONS.—In the case of each insured depository institution

which the Corporation determines to be a large institution, the audit committee required by subparagraph (A) shall—

"(i) include members with banking or related financial management expertise;

"(ii) have access to the committee's own outside counsel; and

"(iii) not include any large customers of the institution.

"(2) REVIEW OF QUARTERLY REPORTS OF LARGE INSURED DEPOSITORY INSTITUTIONS.—

"(A) IN GENERAL.—In the case of any insured depository institution which the Corporation has determined to be a large institution, the Corporation may require the independent public accountant retained by such institution to perform reviews of the institution's quarterly financial reports in accordance with procedures agreed upon by the Corporation.

"(B) REPORT TO AUDIT COMMITTEE.—The independent public accountant referred to in subparagraph (A) shall provide the audit committee of the insured depository institution with reports on the reviews under such subparagraph and the audit committee shall provide such reports to the Corporation, any appropriate Federal banking agency, and any appropriate State bank supervisor.

"(C) LIMITATION ON NOTICE.—Reports provided under subparagraph (B) shall be only for the information and use of the insured depository institution, the Corporation, any appropriate Federal banking agency, and any State bank supervisor that received the report.

"(3) QUALIFICATIONS OF INDEPENDENT PUBLIC ACCOUNTANTS.—

"(A) IN GENERAL.—All audit services required by this section shall be performed only by an independent public accountant who—

"(i) has agreed to provide related working papers, policies, and procedures to the Corporation, an appropriate Federal banking agency, and any State bank supervisor, if requested; and

"(ii) has received a peer review that meets guidelines acceptable to the Corporation.

"(B) REPORTS ON PEER REVIEWS.—Reports on peer reviews shall be filed with the Corporation and made available for public inspection.

"(4) ENFORCEMENT ACTIONS.—

"(A) IN GENERAL.—In addition to any authority contained in section 8, the Corporation or an appropriate Federal banking agency may remove, suspend, or bar an independent public accountant, upon a showing of good cause, from performing audit services required by this section.

"(B) JOINT RULEMAKING.—The appropriate Federal banking agencies shall jointly issue rules of practice to implement this paragraph.

"(5) NOTICE BY ACCOUNTANT OF TERMINATION OF SERVICES.—Any independent public accountant performing an audit under this section who subsequently ceases to be the accountant for the institution shall promptly notify the Corporation pursuant to such rules as the Corporation shall prescribe.

"(h) EXCHANGE OF REPORTS AND INFORMATION.—

"(1) REPORT TO THE INDEPENDENT AUDITOR.—

"(A) IN GENERAL.—Each insured depository institution which has engaged the services of an independent auditor to audit such institution shall transmit to the auditor a copy of the most recent report of condition made by the institution (pursuant to this Act or any other provision of law) and a copy of the most recent report of examination received by the institution.

"(B) ADDITIONAL INFORMATION.—In addition to the copies of the reports required to be provided under subparagraph (A), each insured depository institution shall provide the auditor with—

"(i) a copy of any supervisory memorandum of understanding with such institution and any written agreement between such institution and any appropriate Federal banking agency or any appropriate State bank supervisor which is in effect during the period covered by the audit; and

"(ii) a report of—

"(I) any action initiated or taken by the appropriate Federal banking agency or the Corporation during such period under subsection (a), (b), (c), (e), (g), (i), (s), or (t) of section 8;

"(II) any action taken by any appropriate State bank supervisor under State law which is similar to any action referred to in subclause (I); or

"(III) any assessment of any civil money penalty under any other provision of law with respect to the institution or any institution-affiliated party.

"(2) REPORTS TO BANKING AGENCIES.—

"(A) INDEPENDENT AUDITOR REPORTS.—Each insured depository institution shall provide to the Corporation, any appropriate Federal banking agency, and any appropriate State bank supervisor, a copy of each audit report and any qualification to such report, any management letter, and any other report within 15 days of receipt of any such report, qualification, or letter from the institution's independent auditors.

"(B) NOTICE OF CHANGE OF AUDITOR.—Each insured depository institution shall provide written notification to the Corporation, the appropriate Federal banking agency, and any appropriate State bank supervisor of the resignation or dismissal of the institution's independent auditor or the engagement of a new independent auditor by the institution, including a statement of the reasons for such change within 15 calendar days of the occurrence of the event.

"(i) REQUIREMENTS FOR INSURED SUBSIDIARIES OF HOLDING COMPANIES.—Except with respect to any audit requirements established under or pursuant to subsection (d), the requirements of this section may be satisfied for insured depository institutions that are subsidiaries of a holding company, if—

"(1) services and functions comparable to those required under this section are provided at the holding company level; and

"(2) either—

"(A) the institution has total assets, as of the beginning of such fiscal year, of less than $5,000,000,000; or

"(B) the institution—

"(i) has total assets, as of the beginning of such fiscal year, of more than $5,000,000,000 and less than $9,000,000,000; and

"(ii) has a CAMEL composite rating of 1 or 2 under the Uniform Financial Institutions Rating System (or an equivalent rating by any such agency under a comparable rating system) as of the most recent examination of such institution by the Corporation or the appropriate Federal banking agency.

"(j) EXEMPTION FOR SMALL DEPOSITORY INSTITUTIONS.—This section shall not apply with respect to any fiscal year of any insured depository institution the total assets of which, as of the beginning of such fiscal year, are less than the greater of—

"(1) $150,000,000; or

"(2) such amount (in excess of $150,000,000) as the Corporation may prescribe by regulation.".

(b) EFFECTIVE DATE.—The requirements established by the amendment made by subsection (a) shall apply with respect to fiscal years of insured depository institutions which begin after December 31, 1992.

SEC. 113. ASSESSMENTS REQUIRED TO COVER COSTS OF EXAMINATIONS.

(a) IN GENERAL.—Section 10 of the Federal Deposit Insurance Act (12 U.S.C. 1820) is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) (as added by section 111(a)(1) of this subtitle) the following new subsection:

"(e) EXAMINATION FEES.—

"(1) REGULAR AND SPECIAL EXAMINATIONS OF DEPOSITORY INSTITUTIONS.—The cost of conducting any regular examination or special examination of any depository institution under subsection (b)(2), (b)(3), or (d) may be assessed by the Corporation against the institution to meet the Corporation's expenses in carrying out such examinations.

"(2) EXAMINATION OF AFFILIATES.—The cost of conducting any examination of any affiliate of any insured depository institution under subsection (b)(4) may be assessed by the Corporation against each affiliate which is examined to meet the Corporation's expenses in carrying out such examination.

"(3) ASSESSMENT AGAINST DEPOSITORY INSTITUTION IN CASE OF AFFILIATE'S REFUSAL TO PAY.—

"(A) IN GENERAL.—Subject to subparagraph (B), if any affiliate of any insured depository institution—

"(i) refuses to pay any assessment under paragraph (2); or

"(ii) fails to pay any such assessment before the end of the 60-day period beginning on the date the affiliate receives notice of the assessment,

the Corporation may assess such cost against, and collect such cost from, the depository institution.

"(B) AFFILIATE OF MORE THAN 1 DEPOSITORY INSTITUTION.—If any affiliate referred to in subparagraph (A) is an affiliate of more than 1 insured depository institution, the assessment under subparagraph (A) may be assessed against the depository institutions in such proportions as the Corporation determines to be appropriate.

"(4) CIVIL MONEY PENALTY FOR AFFILIATE'S REFUSAL TO COOPERATE.—

"(A) PENALTY IMPOSED.—If any affiliate of any insured depository institution—

"(i) refuses to permit an examiner appointed by the Board of Directors under subsection (b)(1) to conduct an examination; or

"(ii) refuses to provide any information required to be disclosed in the course of any examination,

the depository institution shall forfeit and pay a penalty of not more than $5,000 for each day that any such refusal continues.

"(B) ASSESSMENT AND COLLECTION.—Any penalty imposed under subparagraph (A) shall be assessed and collected by the Corporation in the manner provided in section 8(i)(2).

"(5) DEPOSITS OF EXAMINATION ASSESSMENT.—Amounts received by the Corporation under this subsection (other than paragraph (4)) may be deposited in the manner provided in section 13.".

(b) EXAMINATIONS OF APPLICANTS FOR DEPOSIT INSURANCE.—Section 10(b)(2)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1820(b)(2)(B)) is amended to read as follows:

"(B) any depository institution which files an application with the Corporation to become an insured depository institution;".

(c) TECHNICAL AND CONFORMING AMENDMENT.—

(1) Section 7(b)(10) of the Federal Deposit Insurance Act (as so redesignated by section 103(b) of this Act) is amended by inserting "or section 10(e)" after "under this section".

(2) Section 10(b)(4)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1820(b)(4)(A)) is amended by striking "insured" each place such term appears.

SEC. 114. EXAMINATION AND SUPERVISION FEES FOR NATIONAL BANKS AND SAVINGS ASSOCIATIONS.

(a) IN GENERAL.—Section 5240 of the Revised Statutes (12 U.S.C. 482) is amended—

(1) by striking the 4th undesignated paragraph and inserting the following:

"The Comptroller of the Currency may impose and collect assessments, fees, or other charges as necessary or appropriate to carry out the responsibilities of the duties of the Comptroller. Such assessments, fees, and other charges shall be set to meet the Comptroller's expenses in carrying out authorized activities.";

(2) by striking "In addition to the expense of examination" and all that follows through "to cover the expense thereof.".

(b) TECHNICAL AMENDMENT.—Section 5240 of the Revised Statutes is amended in the 2d undesignated paragraph (12 U.S.C. 481)—

(1) by striking the 2d sentence;

(2) by striking the 3d sentence and inserting "If any affiliate of a national bank refuses to pay any assessments, fees, or other charges imposed by the Comptroller of the Currency pursuant to this section or fails to make such payment not later than 60 days after the date on which they are imposed, the Comptroller of the Currency may impose such assessments, fees, or charges against the affiliated national bank, and such assessments, fees, or charges shall be paid by such national bank. If the affiliation is with 2 or more national banks, such assessments, fees, or charges may be imposed on, and collected from, any or all of such national banks in such proportions as the Comptroller of the Currency may prescribe.";

(3) in the 4th sentence, by inserting "or from other fees or charges imposed pursuant to this section" after "assessments on banks or affiliates thereof"; and

(4) in the 5th sentence—

(A) by inserting ", fees, or charges" before "may be deposited"; and

(B) by inserting "or of other fees or charges imposed pursuant to this section" before the period.

(c) ASSESSMENT AUTHORITY OF THE OFFICE OF THRIFT SUPERVISION.—Section 9 of the Home Owners' Loan Act (12 U.S.C. 1467) is amended—

(1) by striking subsections (a) and (b) and inserting the following:

"(a) EXAMINATION OF SAVINGS ASSOCIATIONS.—The cost of conducting examinations of savings associations pursuant to section 5(d) shall be assessed by the Director against each such savings association as the Director deems necessary or appropriate.

"(b) EXAMINATION OF AFFILIATES.—The cost of conducting examinations of affiliates of savings associations pursuant to this Act may be assessed by the Director against each affiliate that is examined as the Director deems necessary or appropriate.";

(2) by amending subsection (k) to read as follows:

"(k) FEES FOR EXAMINATIONS AND SUPERVISORY ACTIVITIES.—The Director may assess against institutions for which the Director is the appropriate Federal banking agency, as defined in section 3 of the Federal Deposit Insurance Act, fees to fund the direct and indirect expenses of the Office as the Director deems necessary or appropriate. The fees may be imposed more frequently than annually at the discretion of the Director.".

SEC. 115. APPLICATION TO FDIC REQUIRED FOR INSURANCE.

(a) IN GENERAL.—Section 5 of the Federal Deposit Insurance Act (12 U.S.C. 1815(a)) is amended by striking all that precedes subsection (b) and inserting the following:

"SEC. 5. DEPOSIT INSURANCE.

"(a) APPLICATION TO CORPORATION REQUIRED.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), any depository institution which is engaged in the business of receiving deposits other than trust funds (as defined in section 3(p)), upon application to and examination by the Corporation and approval by the Board of Directors, may become an insured depository institution.

"(2) INTERIM DEPOSITORY INSTITUTIONS.—In the case of any interim Federal depository institution that is chartered by the appropriate Federal banking agency and will not open for business, the depository institution shall be an insured depository institution upon the issuance of the institution's charter by the agency.

"(3) APPLICATION AND APPROVAL NOT REQUIRED IN CASES OF CONTINUED INSURANCE.—Paragraph (1) shall not apply in the case of any depository institution whose insured status is continued pursuant to section 4.

"(4) REVIEW REQUIREMENTS.—In reviewing any application under this subsection, the Board of Directors shall consider the factors described in section 6 in determining whether to approve the application for insurance.

"(5) NOTICE OF DENIAL OF APPLICATION FOR INSURANCE.—If the Board of Directors votes to deny any application for insurance by any depository institution, the Board of Directors shall promptly notify the appropriate Federal banking agency and, in the case of any State depository institution, the appropriate State banking supervisor of the denial of such application, giving specific reasons in writing for the Board of Directors' determination with reference to the factors described in section 6.

"(6) NONDELEGATION REQUIREMENT.—The authority of the Board of Directors to make any determination to deny any application under this subsection may not be delegated by the Board of Directors.".

(b) CONTINUATION OF INSURANCE UPON BECOMING A MEMBER BANK.—4(b) of the Federal Deposit Insurance Act (12 U.S.C. 1814(b)) is amended to read as follows:

"(b) CONTINUATION OF INSURANCE UPON BECOMING A MEMBER BANK.—In the case of an insured bank which is admitted to membership in the Federal Reserve System or an insured State bank which is converted into a national member bank, the bank shall continue as an insured bank.".

Subtitle C—Accounting Reforms

SEC. 121. ACCOUNTING OBJECTIVES, STANDARDS, AND REQUIREMENTS.

(a) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 36 (as added by section 112 of this title) the following new section:

"SEC. 37. ACCOUNTING OBJECTIVES, STANDARDS, AND REQUIREMENTS.

"(a) IN GENERAL.—

"(1) OBJECTIVES.—Accounting principles applicable to reports or statements required to be filed with Federal banking agencies by insured depository institutions should—

"(A) result in financial statements and reports of condition that accurately reflect the capital of such institutions;

"(B) facilitate effective supervision of the institutions; and

"(C) facilitate prompt corrective action to resolve the institutions at the least cost to the insurance funds.

"(2) STANDARDS.—

"(A) UNIFORM ACCOUNTING PRINCIPLES CONSISTENT WITH GAAP.—Subject to the requirements of this Act and any other provision of Federal law, the accounting principles applicable to reports or statements required to be filed with Federal banking agencies by all insured depository institutions shall be uniform and consistent with generally accepted accounting principles.

"(B) STRINGENCY.—If the appropriate Federal banking agency or the Corporation determines that the application of any generally accepted accounting principle to any insured depository institution is inconsistent with the objectives described in paragraph (1), the agency or the Corporation may, with respect to reports or statements required to be filed with such agency or Corporation, prescribe an accounting principle which is applicable to such institutions which is no less stringent than generally accepted accounting principles.

"(3) REVIEW AND IMPLEMENTATION OF ACCOUNTING PRINCIPLES REQUIRED.—Before the end of the 1-year period beginning on the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, each appropriate Federal banking agency shall take the following actions:

"(A) REVIEW OF ACCOUNTING PRINCIPLES.—Review—

"(i) all accounting principles used by depository institutions with respect to reports or statements required to be filed with a Federal banking agency;

"(ii) all requirements established by the agency with respect to such accounting procedures; and

"(iii) the procedures and format for reports to the agency, including reports of condition.

"(B) MODIFICATION OF NONCOMPLYING MEASURES.—Modify or eliminate any accounting principle or reporting requirement of such Federal agency which the agency determines fails to comply with the objectives and standards established under paragraphs (1) and (2).

"(C) INCLUSION OF 'OFF BALANCE SHEET' ITEMS.—Develop and prescribe regulations which require that all assets and liabilities, including contingent assets and liabilities, of insured depository institutions be reported in, or otherwise taken into account in the preparation of any balance sheet, financial statement, report of condition, or other report of such institution, required to be filed with a Federal banking agency.

"(D) MARKET VALUE DISCLOSURE.—Develop jointly with the other appropriate Federal banking agencies a method for insured depository institutions to provide supplemental disclosure of the estimated fair market value of assets and liabilities, to the extent feasible and practicable, in any balance sheet, financial statement, report of condition, or other report of any insured depository institution required to be filed with a Federal banking agency.

"(b) UNIFORM ACCOUNTING OF CAPITAL STANDARDS.—

"(1) IN GENERAL.—Each appropriate Federal banking agency shall maintain uniform accounting standards to be used for determining compliance with statutory or regulatory requirements of depository institutions.

"(2) TRANSITION PROVISION.—Any standards in effect on the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991 under section 1215 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 shall continue in effect after such date of enactment until amended by the appropriate Federal banking agency under paragraph (1).

"(c) REPORTS TO BANKING COMMITTEES.—

"(1) ANNUAL REPORTS REQUIRED.—Each appropriate Federal banking agency shall annually submit a report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate containing a description of any difference between any accounting or capital standard used by such agency and any accounting or capital standard used by any other agency.

"(2) EXPLANATION OF REASONS FOR DISCREPANCY.—Each report submitted under paragraph (1) shall contain an explanation of the reasons for any discrepancy between any accounting or capital standard used by such agency and any accounting or capital standard used by any other agency.

"(3) PUBLICATION.—Each report under this subsection shall be published in the Federal Register.".

(b) REPEAL OF PROVISION SUPERSEDED BY SUBSECTION (a) AMENDMENTS.—Section 1215 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833d) is hereby repealed.

SEC. 122. SMALL BUSINESS AND SMALL FARM LOAN INFORMATION

(a) IN GENERAL.—Before the end of the 180-day period beginning on the date of the enactment of this Act, the appropriate Federal banking agency shall prescribe regulations requiring insured depository institutions to annually submit information on small businesses and small farm lending in their reports of condition.

(b) CREDIT AVAILABILITY.—The regulations prescribed under subsection (a) shall require insured depository institutions to submit such information as the agency may need to assess the availability of credit to small businesses and small farms.

(d) CONTENTS.—The information required under subsection (a) may include information regarding the following:

(1) The total number and aggregate dollar amount of commercial loans and commercial mortgage loans to small businesses.

(2) Charge-offs, interest, and interest fee income on commercial loans and commercial mortgage loans to small businesses.

(3) Agricultural loans to small farms.

SEC. 123. FDIC PROPERTY DISPOSITION STANDARDS.

(a) IN GENERAL.—Section 11(d)(13) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(13)) is amended by adding at the end the following new subparagraph:

"(E) DISPOSITION OF ASSETS.—In exercising any right, power, privilege, or authority as conservator or receiver in connection with any sale or disposition of assets of any insured depository institution for which the Corporation has been appointed conservator or receiver, including any sale or disposition of assets acquired by the Corporation under section 13(d)(1), the Corporation shall conduct its operations in a manner which—

"(i) maximizes the net present value return from the sale or disposition of such assets;

"(ii) minimizes the amount of any loss realized in the resolution of cases;

"(iii) ensures adequate competition and fair and consistent treatment of offerors;

"(iv) prohibits discrimination on the basis of race, sex, or ethnic groups in the solicitation and consideration of offers; and

"(v) maximizes the preservation of the availability and affordability of residential real property for low- and moderate-income individuals.".

(b) CORPORATE CAPACITY.—Section 13(d)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1823(d)(3)) is amended by adding at the end the following new subparagraph:

"(D) DISPOSITION OF ASSETS.—In exercising any right, power, privilege, or authority described in subparagraph (A) regarding the sale or disposition of assets sold to the Corporation pursuant to paragraph (1), the Corporation shall conduct its operations in a manner which—

"(i) maximizes the net present value return from the sale or disposition of such assets;

"(ii) minimizes the amount of any loss realized in the resolution of cases;

"(iii) ensures adequate competition and fair and consistent treatment of offerors;

"(iv) prohibits discrimination on the basis of race, sex, or ethnic groups in the solicitation and consideration of offers; and

"(v) maximizes the preservation of the availability and affordability of residential real property for low- and moderate-income individuals.".

Subtitle D—Prompt Regulatory Action

SEC. 131. PROMPT REGULATORY ACTION.

(a) ESTABLISHING SYSTEM OF PROMPT CORRECTIVE ACTION.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding after section 37 (as added by section 121 of this Act) the following new section:

"SEC. 38. PROMPT CORRECTIVE ACTION.

"(a) RESOLVING PROBLEMS TO PROTECT DEPOSIT INSURANCE FUNDS.—

"(1) PURPOSE.—The purpose of this section is to resolve the problems of insured depository institutions at the least possible long-term loss to the deposit insurance fund.

"(2) PROMPT CORRECTIVE ACTION REQUIRED.—Each appropriate Federal banking agency and the Corporation (acting in the Corporation's capacity as the insurer of depository institutions under this Act) shall carry out the purpose of this section by taking prompt corrective action to resolve the problems of insured depository institutions.

"(b) DEFINITIONS.—For purposes of this section:

"(1) CAPITAL CATEGORIES.—

"(A) WELL CAPITALIZED.—An insured depository institution is 'well capitalized' if it significantly exceeds the required minimum level for each relevant capital measure.

"(B) ADEQUATELY CAPITALIZED.—An insured depository institution is 'adequately capitalized' if it meets the required minimum level for each relevant capital measure.

"(C) UNDERCAPITALIZED.—An insured depository institution is 'undercapitalized' if it fails to meet the required minimum level for any relevant capital measure.

"(D) SIGNIFICANTLY UNDERCAPITALIZED.—An insured depository institution is 'significantly undercapitalized' if it is significantly below the required minimum level for any relevant capital measure.

"(E) CRITICALLY UNDERCAPITALIZED.—An insured depository institution is 'critically undercapitalized' if it fails to meet any level specified under subsection (c)(3)(A).

"(2) OTHER DEFINITIONS.—

"(A) AVERAGE.—

"(i) IN GENERAL.—The 'average' of an accounting item (such as total assets or tangible equity) during a given period means the sum of that item at the close of business on each business day during that period divided by the total number of business days in that period.

"(ii) AGENCY MAY PERMIT WEEKLY AVERAGING FOR CERTAIN INSTITUTIONS.—In the case of insured depository institutions that have total assets of less than $300,000,000 and normally file reports of condition reflecting weekly (rather than daily) averages of accounting items, the appropriate Federal banking agency may provide that the 'average' of an accounting item during a given period means the sum of that item at the close of business on the relevant business day each week during that period divided by the total number of weeks in that period.

"(B) CAPITAL DISTRIBUTION.—The term 'capital distribution' means—

"(i) a distribution of cash or other property by any insured depository institution or company to its owners made on account of that ownership, but not including—

"(I) any dividend consisting only of shares of the institution or company or rights to purchase such shares; or

"(II) any amount paid on the deposits of a mutual or cooperative institution that the appropriate Federal banking agency determines is not a distribution for purposes of this section;

"(ii) a payment by an insured depository institution or company to repurchase, redeem, retire, or otherwise acquire any of its shares or other ownership interests, including any extension of credit to finance an affiliated company's acquisition of those shares or interests; or

"(iii) a transaction that the appropriate Federal banking agency or the Corporation determines, by order or regulation, to be in substance a distribution of capital to the owners of the insured depository institution or company.

"(C) CAPITAL RESTORATION PLAN.—The term 'capital restoration plan' means a plan submitted under subsection (e)(2).

"(D) COMPANY.—The term 'company' has the same meaning as in section 2 of the Bank Holding Company Act of 1956.

"(E) COMPENSATION.—The term 'compensation' includes any payment of money or provision of any other thing of value in consideration of employment.

"(F) RELEVANT CAPITAL MEASURE.—The term 'relevant capital measure' means the measures described in subsection (c).

"(G) REQUIRED MINIMUM LEVEL.—The term 'required minimum level' means, with respect to each relevant capital measure, the minimum acceptable capital level specified by the appropriate Federal banking agency by regulation.

"(H) SENIOR EXECUTIVE OFFICER.—The term 'senior executive officer' has the same meaning as the term 'executive officer' in section 22(h) of the Federal Reserve Act.

"(I) SUBORDINATED DEBT.—The term 'subordinated debt' means debt subordinated to the claims of general creditors.

"(c) CAPITAL STANDARDS.—

"(1) RELEVANT CAPITAL MEASURES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B)(ii), the capital standards prescribed by each appropriate Federal banking agency shall include—

"(i) a leverage limit; and

"(ii) a risk-based capital requirement.

"(B) OTHER CAPITAL MEASURES.—An appropriate Federal banking agency may, by regulation—

"(i) establish any additional relevant capital measures to carry out the purpose of this section; or

"(ii) rescind any relevant capital measure required under subparagraph (A) upon determining (with the concurrence of the other Federal banking agencies) that the measure is no longer an appropriate means for carrying out the purpose of this section.

"(2) CAPITAL CATEGORIES GENERALLY.—Each appropriate Federal banking agency shall, by regulation, specify for each relevant capital measure the levels at which an insured depository institution is well capitalized, adequately capitalized, undercapitalized, and significantly undercapitalized.

"(3) CRITICAL CAPITAL.—

"(A) AGENCY TO SPECIFY LEVEL.—

"(i) LEVERAGE LIMIT.—Each appropriate Federal banking agency shall, by regulation, in consultation with the Corporation, specify the ratio of tangible equity to total assets at which an insured depository institution is critically undercapitalized.

"(ii) OTHER RELEVANT CAPITAL MEASURES.—The agency may, by regulation, specify for 1 or more other relevant capital measures, the level at which an insured depository institution is critically undercapitalized.

"(B) LEVERAGE LIMIT RANGE.—The level specified under subparagraph (A)(i) shall require tangible equity in an amount—

"(i) not less than 2 percent of total assets; and

"(ii) except as provided in clause (i), not more than 65 percent of the required minimum level of capital under the leverage limit.

"(C) FDIC'S CONCURRENCE REQUIRED.—The appropriate Federal banking agency shall not, without the concurrence of the Corporation,

specify a level under subparagraph (A)(i) lower than that specified by the Corporation for State nonmember insured banks.

"(d) PROVISIONS APPLICABLE TO ALL INSTITUTIONS.—

"(1) CAPITAL DISTRIBUTIONS RESTRICTED.—

"(A) IN GENERAL.—An insured depository institution shall make no capital distribution if, after making the distribution, the institution would be undercapitalized.

"(B) EXCEPTION.—Notwithstanding subparagraph (A), the appropriate Federal banking agency may permit, after consultation with the Corporation, an insured depository institution to repurchase, redeem, retire, or otherwise acquire shares or ownership interests if the repurchase, redemption, retirement, or other acquisition—

"(i) is made in connection with the issuance of additional shares or obligations of the institution in at least an equivalent amount; and

"(ii) will reduce the institution's financial obligations or otherwise improve the institution's financial condition.

"(2) MANAGEMENT FEES RESTRICTED.—An insured depository institution shall pay no management fee to any person having control of that institution if, after making the payment, the institution would be undercapitalized.

"(e) PROVISIONS APPLICABLE TO UNDERCAPITALIZED INSTITUTIONS.—

"(1) MONITORING REQUIRED.—Each appropriate Federal banking agency shall—

"(A) closely monitor the condition of any undercapitalized insured depository institution;

"(B) closely monitor compliance with capital restoration plans, restrictions, and requirements imposed under this section; and

"(C) periodically review the plan, restrictions, and requirements applicable to any undercapitalized insured depository institution to determine whether the plan, restrictions, and requirements are achieving the purpose of this section.

"(2) CAPITAL RESTORATION PLAN REQUIRED.—

"(A) IN GENERAL.—Any undercapitalized insured depository institution shall submit an acceptable capital restoration plan to the appropriate Federal banking agency within the time allowed by the agency under subparagraph (D).

"(B) CONTENTS OF PLAN.—The capital restoration plan shall—

"(i) specify—

"(I) the steps the insured depository institution will take to become adequately capitalized;

"(II) the levels of capital to be attained during each year in which the plan will be in effect;

"(III) how the institution will comply with the restrictions or requirements then in effect under this section; and

"(IV) the types and levels of activities in which the institution will engage; and

"(ii) contain such other information as the appropriate Federal banking agency may require.

"(C) CRITERIA FOR ACCEPTING PLAN.—The appropriate Federal banking agency shall not accept a capital restoration plan unless the agency determines that—

"(i) the plan—

"(I) complies with subparagraph (B);

"(II) is based on realistic assumptions, and is likely to succeed in restoring the institution's capital; and

"(III) would not appreciably increase the risk (including credit risk, interest-rate risk, and other types of risk) to which the institution is exposed; and

"(ii) if the insured depository institution is undercapitalized, each company having control of the institution has—

"(I) guaranteed that the institution will comply with the plan until the institution has been adequately capitalized on average during each of 4 consecutive calendar quarters; and

"(II) provided appropriate assurances of performance.

"(D) DEADLINES FOR SUBMISSION AND REVIEW OF PLANS.—The appropriate Federal banking agency shall by regulation establish deadlines that—

"(i) provide insured depository institutions with reasonable time to submit capital restoration plans, and generally require an institution to submit a plan not later than 45 days after the institution becomes undercapitalized; and

"(ii) require the agency to act on capital restoration plans expeditiously, and generally not later than 60 days after the plan is submitted; and

"(iii) require the agency to submit a copy of any plan approved by the agency to the Corporation before the end of the 45-day period beginning on the date such approval is granted.

"(E) GUARANTEE LIABILITY LIMITED.—

"(i) IN GENERAL.—The aggregate liability under subparagraph (C)(ii) of all companies having control of an insured depository institution shall be the lesser of—

"(I) an amount equal to 5 percent of the institution's total assets at the time the institution became undercapitalized; or

"(II) the amount which is necessary (or would have been necessary) to bring the institution into compliance with all capital standards applicable with respect to such institution as of the time the institution fails to comply with a plan under this subsection.

"(ii) CERTAIN AFFILIATES NOT AFFECTED.—This paragraph may not be construed as—

"(I) requiring any company not having control of an undercapitalized insured depository institution to guarantee, or otherwise be liable on, a capital restoration plan;

"(II) requiring any person other than an insured depository institution to submit a capital restoration plan; or

"(III) affecting compliance by brokers, dealers, government securities brokers, and government securities dealers with the financial responsibility requirements of the Securities Exchange Act of 1934 and regulations and orders thereunder.

"(3) ASSET GROWTH RESTRICTED.—An undercapitalized insured depository institution shall not permit its average total assets during any calendar quarter to exceed its average total assets during the preceding calendar quarter unless—

"(A) the appropriate Federal banking agency has accepted the institution's capital restoration plan;

"(B) any increase in total assets is consistent with the plan; and

"(C) the institution's ratio of tangible equity to assets increases during the calendar quarter at a rate sufficient to enable the institution to become adequately capitalized within a reasonable time.

"(4) PRIOR APPROVAL REQUIRED FOR ACQUISITIONS, BRANCHING, AND NEW LINES OF BUSINESS.—An undercapitalized insured depository institution shall not, directly or indirectly, acquire any interest in any company or insured depository institution, establish or acquire any additional branch office, or engage in any new line of business unless—

"(A) the appropriate Federal banking agency has accepted the insured depository institution's capital restoration plan, the institution is implementing the plan, and the agency determines that the proposed action is consistent with and will further the achievement of the plan; or

"(B) the Board of Directors determines that the proposed action will further the purpose of this section.

"(5) DISCRETIONARY SAFEGUARDS.—The appropriate Federal banking agency may, with respect to any undercapitalized insured depository institution, take actions described in any subparagraph of subsection (f)(2) if the agency determines that those actions are necessary to carry out the purpose of this section.

"(f) PROVISIONS APPLICABLE TO SIGNIFICANTLY UNDERCAPITALIZED INSTITUTIONS AND UNDERCAPITALIZED INSTITUTIONS THAT FAIL TO SUBMIT AND IMPLEMENT CAPITAL RESTORATION PLANS.—

"(1) IN GENERAL.—This subsection shall apply with respect to any insured depository institution that—

"(A) is significantly undercapitalized; or

"(B) is undercapitalized and—

"(i) fails to submit an acceptable capital restoration plan within the time allowed by the appropriate Federal banking agency under subsection (e)(2)(D); or

"(ii) fails in any material respect to implement a plan accepted by the agency.

"(2) SPECIFIC ACTIONS AUTHORIZED.—The appropriate Federal banking agency shall carry out this section by taking 1 or more of the following actions:

"(A) REQUIRING RECAPITALIZATION.—Doing 1 or more of the following:

"(i) Requiring the institution to sell enough shares or obligations of the institution so that the institution will be adequately capitalized after the sale.

"(ii) Further requiring that instruments sold under clause (i) be voting shares.

"(iii) Requiring the institution to be acquired by a depository institution holding company, or to combine with another insured depository institution, if 1 or more grounds exist for appointing a conservator or receiver for the institution.

"(B) RESTRICTING TRANSACTIONS WITH AFFILIATES.—

"(i) Requiring the institution to comply with section 23A of the Federal Reserve Act as if subsection (d)(1) of that section (exempting transactions with certain affiliated institutions) did not apply.

"(ii) Further restricting the institution's transactions with affiliates.

"(C) RESTRICTING INTEREST RATES PAID.—

"(i) IN GENERAL.—Restricting the interest rates that the institution pays on deposits to the prevailing rates of interest on deposits of comparable amounts and maturities in the region where the institution is located, as determined by the agency.

"(ii) RETROACTIVE RESTRICTIONS PROHIBITED.—This subparagraph does not authorize the agency to restrict interest rates paid on time deposits made before (and not renewed or renegotiated after) the agency acted under this subparagraph.

"(D) RESTRICTING ASSET GROWTH.—Restricting the institution's asset growth more stringently than subsection (e)(3), or requiring the institution to reduce its total assets.

"(E) RESTRICTING ACTIVITIES.—Requiring the institution or any of its subsidiaries to alter, reduce, or terminate any activity that the agency determines poses excessive risk to the institution.

"(F) IMPROVING MANAGEMENT.—Doing 1 or more of the following:

"(i) NEW ELECTION OF DIRECTORS.—Ordering a new election for the institution's board of directors.

"(ii) DISMISSING DIRECTORS OR SENIOR EXECUTIVE OFFICERS.—Requiring the institution to dismiss from office any director or senior executive officer who had held office for more than 180 days immediately before the institution became undercapitalized. Dismissal under this clause shall not be construed to be a removal under section 8.

"(iii) EMPLOYING QUALIFIED SENIOR EXECUTIVE OFFICERS.—Requiring the institution to em-

ploy qualified senior executive officers (who, if the agency so specifies, shall be subject to approval by the agency).

"(G) PROHIBITING DEPOSITS FROM CORRESPONDENT BANKS.—Prohibiting the acceptance by the institution of deposits from correspondent depository institutions, including renewals and rollovers of prior deposits.

"(H) REQUIRING PRIOR APPROVAL FOR CAPITAL DISTRIBUTIONS BY BANK HOLDING COMPANY.—Prohibiting any bank holding company having control of the insured depository institution from making any capital distribution without the prior approval of the Board of Governors of the Federal Reserve System.

"(I) REQUIRING DIVESTITURE.—Doing one or more of the following:

"(i) DIVESTITURE BY THE INSTITUTION.—Requiring the institution to divest itself of or liquidate any subsidiary if the agency determines that the subsidiary is in danger of becoming insolvent and poses a significant risk to the institution, or is likely to cause a significant dissipation of the institution's assets or earnings.

"(ii) DIVESTITURE BY PARENT COMPANY OF NONDEPOSITORY AFFILIATE.—Requiring any company having control of the institution to divest itself of or liquidate any affiliate other than an insured depository institution if the appropriate Federal banking agency for that company determines that the affiliate is in danger of becoming insolvent and poses a significant risk to the institution, or is likely to cause a significant dissipation of the institution's assets or earnings.

"(iii) DIVESTITURE OF INSTITUTION.—Requiring any company having control of the institution to divest itself of the institution if the appropriate Federal banking agency for that company determines that divestiture would improve the institution's financial condition and future prospects.

"(J) REQUIRING OTHER ACTION.—Requiring the institution to take any other action that the agency determines will better carry out the purpose of this section than any of the actions described in this paragraph.

"(3) PRESUMPTION IN FAVOR OF CERTAIN ACTIONS.—In complying with paragraph (2), the agency shall take the following actions, unless the agency determines that the actions would not further the purpose of this section:

"(A) The action described in clause (i) or (iii) of paragraph (2)(A) (relating to requiring the sale of shares or obligations, or requiring the institution to be acquired by or combine with another institution).

"(B) The action described in paragraph (2)(B)(i) (relating to restricting transactions with affiliates).

"(C) The action described in paragraph (2)(C) (relating to restricting interest rates).

"(4) SENIOR EXECUTIVE OFFICERS' COMPENSATION RESTRICTED.—

"(A) IN GENERAL.—The insured depository institution shall not do any of the following without the prior written approval of the appropriate Federal banking agency:

"(i) Pay any bonus to any senior executive officer.

"(ii) Provide compensation to any senior executive officer at a rate exceeding that officer's average rate of compensation (excluding bonuses, stock options, and profit-sharing) during the 12 calendar months preceding the calendar month in which the institution became undercapitalized.

"(B) FAILING TO SUBMIT PLAN.—The appropriate Federal banking agency shall not grant any approval under subparagraph (A) with respect to an institution that has failed to submit an acceptable capital restoration plan.

"(5) DISCRETION TO IMPOSE CERTAIN ADDITIONAL RESTRICTIONS.—The agency may impose 1 or more of the restrictions prescribed by regulation under subsection (i) if the agency determines that those restrictions are necessary to carry out the purpose of this section.

"(6) CONSULTATION WITH FUNCTIONAL REGULATORS.—Before the agency or Corporation makes a determination under paragraph (2)(I) with respect to an affiliate that is a broker, dealer, government securities broker, government securities dealer, investment company, or investment adviser, the agency or Corporation shall consult with the Securities and Exchange Commisssion and, in the case of any other affiliate which is subject to any financial responsibility or capital requirement, any other functional regulator (as defined in section 2(s) of the Bank Holding Company Act of 1956) of such affiliate with respect to the proposed determination of the agency or the Corporation and actions pursuant to such determination.

"(g) MORE STRINGENT TREATMENT BASED ON OTHER SUPERVISORY CRITERIA.—

"(1) IN GENERAL.—If the appropriate Federal banking agency determines (after notice and an opportunity for hearing) that an insured depository institution is in an unsafe or unsound condition or, pursuant to section 8(b)(8), deems the institution to be engaging in an unsafe or unsound practice, the agency may—

"(A) if the institution is well capitalized, reclassify the institution as adequately capitalized;

"(B) if the institution is adequately capitalized, require the institution to comply with 1 or more provisions of subsections (d) and (e), as if the institution were undercapitalized; or

"(C) if the institution is undercapitalized, take any 1 or more actions authorized under subsection (f)(2) as if the institution were significantly undercapitalized.

"(2) CONTENTS OF PLAN.—Any plan required under paragraph (1) shall specify the steps that the insured depository institution will take to correct the unsafe or unsound condition or practice. Capital restoration plans shall not be required under paragraph (1)(B).

"(h) PROVISIONS APPLICABLE TO CRITICALLY UNDERCAPITALIZED INSTITUTIONS.—

"(1) ACTIVITIES RESTRICTED.—Any critically undercapitalized insured depository institution shall comply with restrictions prescribed by the Corporation under subsection (i).

"(2) PAYMENTS ON SUBORDINATED DEBT PROHIBITED.—

"(A) IN GENERAL.—A critically undercapitalized insured depository institution shall not, beginning 60 days after becoming critically undercapitalized, make any payment of principal or interest on the institution's subordinated debt.

"(B) EXCEPTIONS.—The Corporation may make exceptions to subparagraph (A) if—

"(i) the appropriate Federal banking agency has taken action with respect to the insured depository institution under paragraph (3)(A)(ii); and

"(ii) the Corporation determines that the exception would further the purpose of this section.

"(C) LIMITED EXEMPTION FOR CERTAIN SUBORDINATED DEBT.—Until July 15, 1996, subparagraph (A) shall not apply with respect to any subordinated debt outstanding on July 15, 1991, and not extended or otherwise renegotiated after July 15, 1991.

"(D) ACCRUAL OF INTEREST.—Subparagraph (A) does not prevent unpaid interest from accruing on subordinated debt under the terms of that debt, to the extent otherwise permitted by law.

"(3) CONSERVATORSHIP, RECEIVERSHIP, OR OTHER ACTION REQUIRED.—

"(A) IN GENERAL.—The appropriate Federal banking agency shall, not later than 90 days after an insured depository institution becomes critically undercapitalized—

"(i) appoint a receiver (or, with the concurrence of the Corporation, a conservator) for the institution; or

"(ii) take such other action as the agency determines, with the concurrence of the Corporation, would better achieve the purpose of this section, after documenting why the action would better achieve that purpose.

"(B) PERIODIC REDETERMINATIONS REQUIRED.—Any determination by an appropriate Federal banking agency under subparagraph (A)(ii) to take any action with respect to an insured depository institution in lieu of appointing a conservator or receiver shall cease to be effective not later than the end of the 90-day period beginning on the date that the determination is made and a conservator or receiver shall be appointed for that institution under subparagraph (A)(i) unless the agency makes a new determination under subparagraph (A)(ii) at the end of the effective period of the prior determination.

"(C) APPOINTMENT OF RECEIVER REQUIRED IF OTHER ACTION FAILS TO RESTORE CAPITAL.—

"(i) IN GENERAL.—Notwithstanding subparagraphs (A) and (B), the appropriate Federal banking agency shall appoint a receiver for the insured depository institution if the institution is critically undercapitalized on average during the calendar quarter beginning 270 days after the date on which the institution became critically undercapitalized.

"(ii) EXCEPTION.—Notwithstanding clause (i), the appropriate Federal banking agency may continue to take such other action as the agency determines to be appropriate in lieu of such appointment if—

"(I) the agency determines, with the concurrence of the Corporation, that (aa) the insured depository institution has positive net worth, (bb) the insured depository institution has been in substantial compliance with an approved capital restoration plan which requires consistent improvement in the institution's capital since the date of the approval of the plan, (cc) the insured depository institution is profitable or has an upward trend in earnings the agency projects as sustainable, and (dd) the insured depository institution is reducing the ratio of nonperforming loans to total loans; and

"(II) the head of the appropriate Federal banking agency and the Chairperson of the Board of Directors both certify that the institution is viable and not expected to fail.

"(i) RESTRICTING ACTIVITIES OF CRITICALLY UNDERCAPITALIZED INSTITUTIONS.—To carry out the purpose of this section, the Corporation shall, by regulation or order—

"(1) restrict the activities of any critically undercapitalized insured depository institution; and

"(2) at a minimum, prohibit any such institution from doing any of the following without the Corporation's prior written approval:

"(A) Entering into any material transaction other than in the usual course of business, including any investment, expansion, acquisition, sale of assets, or other similar action with respect to which the depository institution is required to provide notice to the appropriate Federal banking agency.

"(B) Extending credit for any highly leveraged transaction.

"(C) Amending the institution's charter or bylaws, except to the extent necessary to carry out any other requirement of any law, regulation, or order.

"(D) Making any material change in accounting methods.

"(E) Engaging in any covered transaction (as defined in section 23A(b) of the Federal Reserve Act).

"(F) Paying excessive compensation or bonuses.

"(G) Paying interest on new or renewed liabilities at a rate that would increase the institution's weighted average cost of funds to a level significantly exceeding the prevailing rates of interest on insured deposits in the institution's normal market areas.

"(j) CERTAIN GOVERNMENT-CONTROLLED INSTITUTIONS EXEMPTED.—Subsections (e) through (i) (other than paragraph (3) of subsection (e)) shall not apply—

"(1) to an insured depository institution for which the Corporation or the Resolution Trust Corporation is conservator; or

"(2) to a bridge bank, none of the voting securities of which are owned by a person or agency other than the Corporation or the Resolution Trust Corporation.

"(k) REVIEW REQUIRED WHEN DEPOSIT INSURANCE FUND INCURS MATERIAL LOSS.—

"(1) IN GENERAL.—If a deposit insurance fund incurs a material loss with respect to an insured depository institution on or after July 1, 1993, the inspector general of the appropriate Federal banking agency shall—

"(A) make a written report to that agency reviewing the agency's supervision of the institution (including the agency's implementation of this section), which shall—

"(i) ascertain why the institution's problems resulted in a material loss to the deposit insurance fund; and

"(ii) make recommendations for preventing any such loss in the future; and

"(B) provide a copy of the report to—

"(i) the Comptroller General of the United States;

"(ii) the Corporation (if the agency is not the Corporation);

"(iii) in the case of a State depository institution, the appropriate State banking supervisor; and

"(iv) upon request by any Member of Congress, to that Member.

"(2) MATERIAL LOSS INCURRED.—For purposes of this subsection:

"(A) LOSS INCURRED.—A deposit insurance fund incurs a loss with respect to an insured depository institution—

"(i) if the Corporation provides any assistance under section 13(c) with respect to that institution; and—

"(I) it is not substantially certain that the assistance will be fully repaid not later than 24 months after the date on which the Corporation initiated the assistance; or

"(II) the institution ceases to repay the assistance in accordance with its terms; or

"(ii) if the Corporation is appointed receiver of the institution, and it is or becomes apparent that the present value of the deposit insurance fund's outlays with respect to that institution will exceed the present value of receivership dividends or other payments on the claims held by the Corporation.

"(B) MATERIAL LOSS.—A loss is material if it exceeds the greater of—

"(i) $25,000,000; or

"(ii) 2 percent of the institution's total assets at the time the Corporation initiated assistance under section 13(c) or was appointed receiver.

"(3) DEADLINE FOR REPORT.—The inspector general of the appropriate Federal banking agency shall comply with paragraph (1) expeditiously, and in any event (except with respect to paragraph (1)(B)(iv)) as follows:

"(A) If the institution is described in paragraph (2)(A)(i), during the 6-month period beginning on the earlier of—

"(i) the date on which the institution ceases to repay assistance under section 13(c) in accordance with its terms, or

"(ii) the date on which it becomes apparent that the assistance will not be fully repaid during the 24-month period described in paragraph (2)(A)(i).

"(B) If the institution is described in paragraph (2)(A)(ii), during the 6-month period beginning on the date on which it becomes apparent that the present value of the deposit insurance fund's outlays with respect to that institution will exceed the present value of receivership dividends or other payments on the claims held by the Corporation.

"(4) PUBLIC DISCLOSURE REQUIRED.—

"(A) IN GENERAL.—The appropriate Federal banking agency shall disclose the report upon request under section 552 of title 5, United States Code, without excising—

"(i) any portion under section 552(b)(5) of that title; or

"(ii) any information about the insured depository institution under paragraph (4) (other than trade secrets) or paragraph (8) of section 552(b) of that title.

"(B) EXCEPTION.—Subparagraph (A) does not require the agency to disclose the name of any customer of the insured depository institution (other than an institution-affiliated party), or information from which such a person's identity could reasonably be ascertained.

"(5) GAO REVIEW.—The General Accounting Office shall annually—

"(A) review reports made under paragraph (1) and recommend improvements in the supervision of insured depository institutions (including the implementation of this section); and

"(B) verify the accuracy of 1 or more of those reports.

"(6) TRANSITION RULE.—During the period beginning on July 1, 1993, and ending on June 30, 1997, a loss incurred by the Corporation with respect to an insured depository institution—

"(A) with respect to which the Corporation initiates assistance under section 13(c) during the period in question, or

"(B) for which the Corporation was appointed receiver during the period in question,

is material for purposes of this subsection only if that loss exceeds the greater of $25,000,000 or the applicable percentage of the institution's total assets at that time, set forth in the following table:

"For the following period:	The applicable percentage is:
July 1, 1993–June 30, 1994	7 percent
July 1, 1994–June 30, 1995	5 percent
July 1, 1995–June 30, 1996	4 percent
July 1, 1996–June 30, 1997	3 percent.

"(l) IMPLEMENTATION.—

"(1) REGULATIONS AND OTHER ACTIONS.—Each appropriate Federal banking agency shall prescribe such regulations (in consultation with the other Federal banking agencies), issue such orders, and take such other actions as are necessary to carry out this section.

"(2) WRITTEN DETERMINATION AND CONCURRENCE REQUIRED.—Any determination or concurrence by an appropriate Federal banking agency or the Corporation required under this section shall be written.

"(m) OTHER AUTHORITY NOT AFFECTED.—This section does not limit any authority of an appropriate Federal banking agency, the Corporation, or a State to take action in addition to (but not in derogation of) that required under this section.

"(n) ADMINISTRATIVE REVIEW OF DISMISSAL ORDERS.—

"(1) TIMELY PETITION REQUIRED.—A director or senior executive officer dismissed pursuant to an order under subsection (f)(2)(F)(ii) may obtain review of that order by filing a written petition for reinstatement with the appropriate Federal banking agency not later than 10 days after receiving notice of the dismissal.

"(2) PROCEDURE.—

"(A) HEARING REQUIRED.—The agency shall give the petitioner an opportunity to—

"(i) submit written materials in support of the petition; and

"(ii) appear, personally or through counsel, before 1 or more members of the agency or designated employees of the agency.

"(B) DEADLINE FOR HEARING.—The agency shall—

"(i) schedule the hearing referred to in subparagraph (A)(ii) promptly after the petition is filed; and

"(ii) hold the hearing not later than 30 days after the petition is filed, unless the petitioner requests that the hearing be held at a later time.

"(C) DEADLINE FOR DECISION.—Not later than 60 days after the date of the hearing, the agency shall—

"(i) by order, grant or deny the petition;

"(ii) if the order is adverse to the petitioner, set forth the basis for the order; and

"(iii) notify the petitioner of the order.

"(3) STANDARD FOR REVIEW OF DISMISSAL ORDERS.—The petitioner shall bear the burden of proving that the petitioner's continued employment would materially strengthen the insured depository institution's ability—

"(A) to become adequately capitalized, to the extent that the order is based on the institution's capital level or failure to submit or implement a capital restoration plan; and

"(B) to correct the unsafe or unsound condition or unsafe or unsound practice, to the extent that the order is based on subsection (g)(1).

"(o) TRANSITION RULES FOR SAVINGS ASSOCIATIONS.—

"(1) RTC'S ROLE DOES NOT DIMINISH CARE REQUIRED OF OTS.—

"(A) IN GENERAL.—In implementing this section, the appropriate Federal banking agency (and, to the extent applicable, the Corporation) shall exercise the same care as if the Savings Association Insurance Fund (rather than the Resolution Trust Corporation) bore the cost of resolving the problems of insured savings associations described in clauses (i) and (ii)(II) of section 21A(b)(3)(A) of the Federal Home Loan Bank Act.

"(B) REPORTS.—Subparagraph (A) does not require reports under subsection (k).

"(2) ADDITIONAL FLEXIBILITY FOR CERTAIN SAVINGS ASSOCIATIONS.—Subsections (e)(2), (f), and (h) shall not apply before July 1, 1994, to any insured savings association if—

"(A) before the date of enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991—

"(i) the savings association had submitted a plan meeting the requirements of section 5(t)(6)(A)(ii) of the Home Owners' Loan Act; and

"(ii) the Director of the Office of Thrift Supervision had accepted the plan;

"(B) the plan remains in effect; and

"(C) the savings association remains in compliance with the plan or is operating under a written agreement with the appropriate Federal banking agency.".

(b) DEADLINE FOR REGULATIONS.—Each appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)) (and the Corporation, acting in the Corporation's capacity as insurer of depository institutions under that Act) shall, after notice and opportunity for comment, promulgate final regulations under section 38 of the Federal Deposit Insurance Act (as added by subsection (a)) not later than 9 months after the date of enactment of this Act, and those regulations shall become effective not later than 1 year after that date of enactment.

(c) OTHER AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT.—

(1) ENFORCEMENT ACTION BASED ON UNSATISFACTORY ASSET QUALITY, MANAGEMENT, EARNINGS, OR LIQUIDITY.—Section 8(b) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)) is amended by redesignating paragraph (8) as paragraph (9) and inserting after paragraph (7) the following:

"(8) UNSATISFACTORY ASSET QUALITY, MANAGEMENT, EARNINGS, OR LIQUIDITY AS UNSAFE OR UNSOUND PRACTICE.—If an insured depository institution receives, in its most recent report of examination, a less-than-satisfactory rating for asset quality, management, earnings, or liquidity, the appropriate Federal banking agency may (if the deficiency is not corrected) deem the institution to be engaging in an unsafe or unsound practice for purposes of this subsection.".

(2) CONFORMING AMENDMENTS RELATING TO FEDERAL BANKING AGENCIES' ENFORCEMENT AUTHORITY.—Section 8(i) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i)) is amended—

(A) in the first sentence of paragraph (1), by inserting "or under section 38" after "section"; and

(B) in paragraph (2)(A)(ii), by inserting ", or final order under section 38" after "section".

(3) DEFINITION.—Section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) is amended by adding at the end the following:

"(y) The term 'deposit insurance fund' means the Bank Insurance Fund or the Savings Association Insurance Fund, as appropriate.".

(d) CONFORMING AMENDMENT TO SECTION 5(t)(7) OF THE HOME OWNERS' LOAN ACT.—Section 5(t)(7) of the Home Owners' Loan Act (12 U.S.C. 1464(t)(7)) is amended—

(1) in subsection (A), by inserting "under this Act" before the period; and

(2) in subsection (B), by inserting "under this Act" after "imposed by the Director".

(e) TRANSITION RULE REGARDING CURRENT DIRECTORS AND SENIOR EXECUTIVE OFFICERS.—

(1) DISMISSAL FROM OFFICE.—Section 38(f)(2)(F)(ii) of the Federal Deposit Insurance Act (as added by subsection (a)) shall not apply with respect to—

(A) any director whose current term as a director commenced on or before the date of enactment of this Act and has not been extended—

(i) after that date of enactment, or

(ii) to evade section 38(f)(2)(F)(ii); or

(B) any senior executive officer who accepted employment in his or her current position on or before the date of enactment of this Act and whose contract of employment has not been renewed or renegotiated—

(i) after that date of enactment, or

(ii) to evade section 38(f)(2)(F)(ii).

(2) RESTRICTING COMPENSATION.—Section 38(f)(4) of the Federal Deposit Insurance Act (as added by subsection (a)) shall not apply with respect to any senior executive officer who accepted employment in his or her current position on or before the date of enactment of this Act and whose contract of employment has not been renewed or renegotiated—

(A) after that date of enactment, or

(B) to evade section 38(f)(4).

(f) EFFECTIVE DATE.—The amendments made by this section shall become effective 1 year after the date of enactment of this Act.

SEC. 132. STANDARDS FOR SAFETY AND SOUNDNESS.

(a) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding after section 38 (as added by section 131 of this Act) the following new section:

"SEC. 39. STANDARDS FOR SAFETY AND SOUNDNESS.

"(a) OPERATIONAL AND MANAGERIAL STANDARDS.—Each appropriate Federal banking agency shall, for all insured depository institutions and depository institution holding companies, prescribe—

"(1) standards relating to—

"(A) internal controls, information systems, and internal audit systems, in accordance with section 36;

"(B) loan documentation;

"(C) credit underwriting;

"(D) interest rate exposure;

"(E) asset growth; and

"(F) compensation, fees, and benefits, in accordance with subsection (c); and

"(2) such other operational and managerial standards as the agency determines to be appropriate.

"(b) ASSET QUALITY, EARNINGS, AND STOCK VALUATION STANDARDS.—Each appropriate Federal banking agency shall, for all insured depository institutions and depository institution holding companies, prescribe—

"(1) standards specifying—

"(A) a maximum ratio of classified assets to capital;

"(B) minimum earnings sufficient to absorb losses without impairing capital; and

"(C) to the extent feasible, a minimum ratio of market value to book value for publicly traded shares of the institution or company; and

"(2) such other standards relating to asset quality, earnings, and valuation as the agency determines to be appropriate.

"(c) COMPENSATION STANDARDS.—Each appropriate Federal banking agency shall, for all insured depository institutions, prescribe—

"(1) standards prohibiting as an unsafe and unsound practice any employment contract, compensation or benefit agreement, fee arrangement, perquisite, stock option plan, postemployment benefit, or other compensatory arrangement that—

"(A) would provide any executive officer, employee, director, or principal shareholder of the institution with excessive compensation, fees or benefits; or

"(B) could lead to material financial loss to the institution;

"(2) standards specifying when compensation, fees, or benefits referred to in paragraph (1) are excessive, which shall require the agency to determine whether the amounts are unreasonable or disproportionate to the services actually performed by the individual by considering—

"(A) the combined value of all cash and noncash benefits provided to the individual;

"(B) the compensation history of the individual and other individuals with comparable expertise at the institution;

"(C) the financial condition of the institution;

"(D) comparable compensation practices at comparable institutions, based upon such factors as asset size, geographic location, and the complexity of the loan portfolio or other assets;

"(E) for postemployment benefits, the projected total cost and benefit to the institution;

"(F) any connection between the individual and any fraudulent act or omission, breach of trust or fiduciary duty, or insider abuse with regard to the institution; and

"(G) other factors that the agency determines to be relevant; and

"(3) such other standards relating to compensation, fees, and benefits as the agency determines to be appropriate.

"(d) STANDARDS TO BE PRESCRIBED BY REGULATION.—Standards under subsections (a), (b), and (c) shall be prescribed by regulation.

"(e) FAILURE TO MEET STANDARDS.—

"(1) PLAN REQUIRED.—

"(A) IN GENERAL.—If the appropriate Federal banking agency determines that an insured depository institution or depository institution holding company fails to meet any standard prescribed under subsection (a), (b), or (c) the agency shall require the institution or company to submit an acceptable plan to the agency within the time allowed by the agency under subparagraph (C).

"(B) CONTENTS OF PLAN.—Any plan required under subparagraph (A) shall specify the steps that the institution or company will take to correct the deficiency. If the institution is undercapitalized, the plan may be part of a capital restoration plan.

"(C) DEADLINES FOR SUBMISSION AND REVIEW OF PLANS.—The appropriate Federal banking agency shall by regulation establish deadlines that—

"(i) provide institutions and companies with reasonable time to submit plans required under subparagraph (A), and generally require the institution or company to submit a plan not later than 30 days after the agency determines that the institution or company fails to meet any standard prescribed under subsection (a), (b), or (c); and

"(ii) require the agency to act on plans expeditiously, and generally not later than 30 days after the plan is submitted.

"(2) ORDER REQUIRED IF INSTITUTION OR COMPANY FAILS TO SUBMIT OR IMPLEMENT PLAN.—If an insured depository institution or depository institution holding company fails to submit an acceptable plan within the time allowed under paragraph (1)(C), or fails in any material respect to implement a plan accepted by the appropriate Federal banking agency, the agency, by order—

"(A) shall require the institution or company to correct the deficiency; and

"(B) may do 1 or more of the following until the deficiency has been corrected:

"(i) Prohibit the institution or company from permitting its average total assets during any calendar quarter to exceed its average total assets during the preceding calendar quarter, or restrict the rate at which the average total assets of the institution or company may increase from one calendar quarter to another.

"(ii) Require the institution or company to increase its ratio of tangible equity to assets.

"(iii) Take the action described in section 38(f)(2)(C).

"(iv) Require the institution or company to take any other action that the agency determines will better carry out the purpose of section 38 than any of the actions described in this subparagraph.

"(3) RESTRICTIONS MANDATORY FOR CERTAIN INSTITUTIONS.—In complying with paragraph (2), the appropriate Federal banking agency shall take 1 or more of the actions described in clauses (i) through (iii) of paragraph (2)(B) if—

"(A) the agency determines that the insured depository institution fails to meet any standard prescribed under subsection (a)(1) or (b)(1);

"(B) the institution has not corrected the deficiency; and

"(C) either—

"(i) during the 24-month period before the date on which the institution first failed to meet the standard—

"(I) the institution commenced operations; or

"(II) 1 or more persons acquired control of the institution; or

"(ii) during the 18-month period before the date on which the institution first failed to meet the standard, the institution underwent extraordinary growth, as defined by the agency.

"(f) DEFINITIONS.—For purposes of this section, the terms 'average' and 'capital restoration plan' have the same meanings as in section 38.

"(g) OTHER AUTHORITY NOT AFFECTED.—The authority granted by this section is in addition to any other authority of the Federal banking agencies.".

(b) REGULATIONS REQUIRED.—Each appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act) shall promulgate final regulations under section 39 of the Federal Deposit Insurance Act (as added by subsection (a)) not later than August 1, 1993.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on the earlier of—

(1) the date on which final regulations promulgated in accordance with subsection (b) become effective; or

(2) December 1, 1993.

SEC. 133. CONSERVATORSHIP AND RECEIVERSHIP AMENDMENTS TO FACILITATE PROMPT REGULATORY ACTION.

(a) ADDITIONAL GROUNDS FOR APPOINTING CONSERVATOR OR RECEIVER; CONSISTENT STANDARDS FOR NATIONAL, STATE MEMBER, AND STATE NONMEMBER BANKS.—Section 11(c)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)(5)) is amended to read as follows:

"(5) GROUNDS FOR APPOINTING CONSERVATOR OR RECEIVER.—The grounds for appointing a conservator or receiver (which may be the Corporation) for any insured depository institution are as follows:

"(A) ASSETS INSUFFICIENT FOR OBLIGATIONS.—The institution's assets are less than the institution's obligations to its creditors and others, including members of the institution.

"(B) SUBSTANTIAL DISSIPATION.—Substantial dissipation of assets or earnings due to—

"(i) any violation of any statute or regulation; or

"(ii) any unsafe or unsound practice.

"(C) UNSAFE OR UNSOUND CONDITION.—An unsafe or unsound condition to transact business.

"(D) CEASE AND DESIST ORDERS.—Any willful violation of a cease-and-desist order which has become final.

"(E) CONCEALMENT.—Any concealment of the institution's books, papers, records, or assets, or any refusal to submit the institution's books, papers, records, or affairs for inspection to any examiner or to any lawful agent of the appropriate Federal banking agency or State bank or savings association supervisor.

"(F) INABILITY TO MEET OBLIGATIONS.—The institution is likely to be unable to pay its obligations or meet its depositors' demands in the normal course of business.

"(G) LOSSES.—The institution has incurred or is likely to incur losses that will deplete all or substantially all of its capital, and there is no reasonable prospect for the institution to become adequately capitalized (as defined in section 38(b)) without Federal assistance.

"(H) VIOLATIONS OF LAW.—Any violation of any law or regulation, or any unsafe or unsound practice or condition that is likely to—

"(i) cause insolvency or substantial dissipation of assets or earnings;

"(ii) weaken the institution's condition; or

"(iii) otherwise seriously prejudice the interests of the institution's depositors or the deposit insurance fund.

"(I) CONSENT.—The institution, by resolution of its board of directors or its shareholders or members, consents to the appointment.

"(J) CESSATION OF INSURED STATUS.—The institution ceases to be an insured institution.

"(K) UNDERCAPITALIZATION.—The institution is undercapitalized (as defined in section 38(b)), and—

"(i) has no reasonable prospect of becoming adequately capitalized (as defined in that section);

"(ii) fails to become adequately capitalized when required to do so under section 38(f)(2)(A);

"(iii) fails to submit a capital restoration plan acceptable to that agency within the time prescribed under section 38(e)(2)(D); or

"(iv) materially fails to implement a capital restoration plan submitted and accepted under section 38(e)(2).

"(L) The institution—

"(i) is critically undercapitalized, as defined in section 38(b); or

"(ii) otherwise has substantially insufficient capital.".

(b) CONFORMING AMENDMENT TO AUTHORITY TO APPOINT RECEIVER FOR NATIONAL BANK.—Section 1 of the Act of June 30, 1876 (12 U.S.C. 191) is amended to read as follows:

"SECTION 1. The Comptroller of the Currency may, without prior notice or hearings, appoint the Federal Deposit Insurance Corporation as receiver for any national banking association if the Comptroller determines, in the Comptroller's discretion, that—

"(1) 1 or more of the grounds specified in section 11(c)(5) of the Federal Deposit Insurance Act exist; or

"(2) the association's board of directors consists of fewer than 5 members.".

(c) CONFORMING AMENDMENT TO THE BANK CONSERVATION ACT.—Section 203(a) of the Bank Conservation Act (12 U.S.C. 203(a)) is amended to read as follows:

"(a) APPOINTMENT.—The Comptroller of the Currency may, without prior notice or hearings, appoint a conservator (which may be the Federal Deposit Insurance Corporation) to the possession and control of a bank whenever the Comptroller of the Currency determines that 1 or more of the grounds specified in section 11(c)(5) of the Federal Deposit Insurance Act exist.".

(d) CONFORMING AMENDMENTS TO THE HOME OWNERS' LOAN ACT.—Section 5(d)(2) of the Home Owners' Loan Act (12 U.S.C. 1464(d)(2)) is amended—

(1) by striking subparagraphs (A) through (D) and inserting the following:

"(A) GROUNDS FOR APPOINTING CONSERVATOR OR RECEIVER FOR INSURED SAVINGS ASSOCIATION.—The Director of the Office of Thrift Supervision may appoint a conservator or receiver for any insured savings association if the Director determines, in the Director's discretion, that 1 or more of the grounds specified in section 11(c)(5) of the Federal Deposit Insurance Act exists"; and

(2) by redesignating subparagraphs (E) through (I) as subparagraphs (B) through (F), respectively.

(e) ADDITIONAL PROVISIONS RELATING TO APPOINTMENT OF CONSERVATOR OR RECEIVER.—Section 11(c)(9) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)(9)) is amended to read as follows:

"(9) APPROPRIATE FEDERAL BANKING AGENCY MAY APPOINT CORPORATION AS CONSERVATOR OR RECEIVER FOR INSURED STATE DEPOSITORY INSTITUTION TO CARRY OUT SECTION 38.—

"(A) IN GENERAL.—The appropriate Federal banking agency may appoint the Corporation as sole receiver (or, subject to paragraph (11), sole conservator) of any insured State depository institution, after consultation with the appropriate State supervisor, if the appropriate Federal banking agency determines that—

"(i) 1 or more of the grounds specified in subparagraphs (K) and (L) of paragraph (5) exist with respect to that institution; and

"(ii) the appointment is necessary to carry out the purpose of section 38.

"(B) NONDELEGATION.—The appropriate Federal banking agency shall not delegate any action under subparagraph (A).

"(10) CORPORATION MAY APPOINT ITSELF AS CONSERVATOR OR RECEIVER FOR INSURED DEPOSITORY INSTITUTION TO PREVENT LOSS TO DEPOSIT INSURANCE FUND.—The Board of Directors may appoint the Corporation as sole conservator or receiver of an insured depository institution, after consultation with the appropriate Federal banking agency and the appropriate State supervisor (if any), if the Board of Directors determines that—

"(A) 1 or more of the grounds specified in any subparagraph of paragraph (5) exist with respect to the institution; and

"(B) the appointment is necessary to reduce—

"(i) the risk that the deposit insurance fund would incur a loss with respect to the insured depository institution, or

"(ii) any loss that the deposit insurance fund is expected to incur with respect to that institution.

"(11) APPROPRIATE FEDERAL BANKING AGENCY SHALL NOT APPOINT CONSERVATOR UNDER CERTAIN PROVISIONS WITHOUT GIVING CORPORATION OPPORTUNITY TO APPOINT RECEIVER.—The appropriate Federal banking agency shall not appoint a conservator for an insured depository institution under subparagraph (K) or (L) of paragraph (5) without the Corporation's consent unless the agency has given the Corporation 48 hours notice of the agency's intention to appoint the conservator and the grounds for the appointment.

"(12) DIRECTORS NOT LIABLE FOR ACQUIESCING IN APPOINTMENT OF CONSERVATOR OR RECEIVER.—The members of the board of directors of an insured depository institution shall not be liable to the institution's shareholders or creditors for acquiescing in or consenting in good faith to—

"(A) the appointment of the Corporation or the Resolution Trust Corporation as conservator or receiver for that institution; or

"(B) an acquisition or combination under section 38(f)(2)(A)(iii).

"(13) ADDITIONAL POWERS.—In any case in which the Corporation is appointed conservator or receiver under paragraph (4), (6), (9), or (10) for any insured State depository institution—

"(A) subject to subparagraph (B), this section shall apply to the Corporation as conservator or receiver in the same manner and to the same extent as if that institution were a Federal depository institution for which the Corporation had been appointed conservator or receiver;

"(B) the Corporation shall apply the law of the State in which the institution is chartered insofar as that law gives the claims of depositors priority over those of other creditors or claimants; and

"(C) the Corporation as receiver of the institution may—

"(i) liquidate the institution in an orderly manner; and

"(ii) make any other disposition of any matter concerning the institution, as the Corporation determines is in the best interests of the institution, the depositors of the institution, and the Corporation.".

(f) CONFORMING AMENDMENT TO THE FEDERAL RESERVE ACT.—Section 11 of the Federal Reserve Act (12 U.S.C. 248) is amended by adding at the end the following new subsection:

"(p) AUTHORITY TO APPOINT CONSERVATOR OR RECEIVER.—The Board may appoint the Federal Deposit Insurance Corporation as conservator or receiver for a State member bank under section 11(c)(9) of the Federal Deposit Insurance Act.".

(g) EFFECTIVE DATE.—The amendments made by this section shall become effective 1 year after the date of enactment of this Act.

Subtitle E—Least-Cost Resolution

SEC. 141. LEAST-COST RESOLUTION.

(a) LEAST-COST RESOLUTIONS REQUIRED.—

(1) IN GENERAL.—Section 13(c) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)) is amended—

(A) by redesignating paragraphs (5), (6), (7), (8), and (9) as paragraphs (6), (7), (8), (9) and (10), respectively;

(B) by redesignating subparagraph (B) of paragraph (4) as paragraph (5); and

(C) by amending paragraph (4) (as amended by subparagraph (B) of this paragraph) to read as follows:

"(4) LEAST-COST RESOLUTION REQUIRED.—

"(A) IN GENERAL.—Notwithstanding any other provision of this Act, the Corporation may not exercise any authority under this subsection or subsection (d), (f), (h), (i), or (k) with respect to any insured depository institution unless—

"(i) the Corporation determines that the exercise of such authority is necessary to meet the obligation of the Corporation to provide insurance coverage for the insured deposits in such institution; and

"(ii) the total amount of the expenditures by the Corporation and obligations incurred by the Corporation (including any immediate and long-term obligation of the Corporation and any direct or contingent liability for future payment by the Corporation) in connection with the exercise of any such authority with respect to such institution is the least costly to the deposit insurance fund of all possible methods for meeting the Corporation's obligation under this section.

"(B) DETERMINING LEAST COSTLY APPROACH.—In determining how to satisfy the Corporation's obligations to an institution's insured depositors at the least possible cost to the deposit insurance fund, the Corporation shall comply with the following provisions:

"(i) PRESENT-VALUE ANALYSIS; DOCUMENTATION REQUIRED.—The Corporation shall—

"(I) evaluate alternatives on a present-value basis, using a realistic discount rate;

"(II) document that evaluation and the assumptions on which the evaluation is based, including any assumptions with regard to interest rates, asset recovery rates, asset holding costs, and payment of contingent liabilities; and

"(III) retain the documentation for not less than 5 years.

"(ii) FOREGONE TAX REVENUES.—Federal tax revenues that the Government would forego as the result of a proposed transaction, to the extent reasonably ascertainable, shall be treated as if they were revenues foregone by the deposit insurance fund.

"(C) TIME OF DETERMINATION.—

"(i) GENERAL RULE.—For purposes of this subsection, the determination of the costs of providing any assistance under paragraph (1) or (2) or any other provision of this section with respect to any depository institution shall be made as of the date on which the Corporation makes the determination to provide such assistance to the institution under this section.

"(ii) RULE FOR LIQUIDATIONS.—For purposes of this subsection, the determination of the costs of liquidation of any depository institution shall be made as of the earliest of—

"(I) the date on which a conservator is appointed for such institution;

"(II) the date on which a receiver is appointed for such institution; or

"(III) the date on which the Corporation makes any determination to provide any assistance under this section with respect to such institution.

"(D) LIQUIDATION COSTS.—In determining the cost of liquidating any depository institution for the purpose of comparing the costs under subparagraph (A) (with respect to such institution), the amount of such cost may not exceed the amount which is equal to the sum of the insured deposits of such institution as of the earliest of the dates described in subparagraph (C), minus the present value of the total net amount the Corporation reasonably expects to receive from the disposition of the assets of such institution in connection with such liquidation.

"(E) DEPOSIT INSURANCE FUNDS AVAILABLE FOR INTENDED PURPOSE ONLY.—

"(i) IN GENERAL.—After December 31, 1994, or at such earlier time as the Corporation determines to be appropriate, the Corporation may not take any action, directly or indirectly, with respect to any insured depository institution that would have the effect of increasing losses to any insurance fund by protecting—

"(I) depositors for more than the insured portion of deposits (determined without regard to whether such institution is liquidated); or

"(II) creditors other than depositors.

"(ii) DEADLINE FOR REGULATIONS.—The Corporation shall prescribe regulations to implement clause (i) not later than January 1, 1994, and the regulations shall take effect not later than January 1, 1995.

"(iii) PURCHASE AND ASSUMPTION TRANSACTIONS.—No provision of this subparagraph shall be construed as prohibiting the Corporation from allowing any person who acquires any assets or assumes any liabilities of any insured depository institution for which the Corporation has been appointed conservator or receiver to acquire uninsured deposit liabilities of such institution so long as the insurance fund does not incur any loss with respect to such deposit liabilities in an amount greater than the loss which would have been incurred with respect to such liabilities if the institution had been liquidated.

"(F) DISCRETIONARY DETERMINATIONS.—Any determination which the Corporation may make under this paragraph shall be made in the sole discretion of the Corporation.

"(G) SYSTEMIC RISK.—

"(i) EMERGENCY DETERMINATION BY SECRETARY OF THE TREASURY.—Notwithstanding subparagraphs (A) and (E), if, upon the written recommendation of the Board of Directors (upon a vote of not less than two-thirds of the members of the Board of Directors) and the Board of Governors of the Federal Reserve System (upon a vote of not less than two-thirds of the members of such Board), the Secretary of the Treasury (in consultation with the President) determines that—

"(I) the Corporation's compliance with subparagraphs (A) and (E) with respect to an insured depository institution would have serious adverse effects on economic conditions or financial stability; and

"(II) any action or assistance under this subparagraph would avoid or mitigate such adverse effects,

the Corporation may take other action or provide assistance under this section as necessary to avoid or mitigate such effects.

"(ii) REPAYMENT OF LOSS.—The Corporation shall recover the loss to the appropriate insurance fund arising from any action taken or assistance provided with respect to an insured depository institution under clause (i) expeditiously from 1 or more emergency special assessments on the members of the insurance fund (of which such institution is a member) equal to the product of—

"(I) an assessment rate established by the Corporation; and

"(II) the amount of each member's average total assets during the semiannual period, minus the sum of the amount of the member's average total tangible equity and the amount of the member's average total subordinated debt.

"(iii) DOCUMENTATION REQUIRED.—The Secretary of the Treasury shall—

"(I) document any determination under clause (i); and

"(II) retain the documentation for review under clause (iv).

"(iv) GAO REVIEW.—The Comptroller General of the United States shall review and report to the Congress on any determination under clause (i), including—

"(I) the basis for the determination;

"(II) the purpose for which any action was taken pursuant to such clause; and

"(III) the likely effect of the determination and such action on the incentives and conduct of insured depository institutions and uninsured depositors.

"(v) NOTICE.—

"(I) IN GENERAL.—The Secretary of the Treasury shall provide written notice of any determination under clause (i) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives.

"(II) DESCRIPTION OF BASIS OF DETERMINATION.—The notice under subclause (I) shall include a description of the basis for any determination under clause (i).

"(H) RULE OF CONSTRUCTION.—No provision of law shall be construed as permitting the Corporation to take any action prohibited by paragraph (4) unless such provision expressly provides, by direct reference to this paragraph, that this paragraph shall not apply with respect to such action.".

(2) ANNUAL GAO COMPLIANCE AUDIT.—The Comptroller General of the United States shall annually audit the Federal Deposit Insurance Corporation and the Resolution Trust Corporation to determine the extent to which such corporations are complying with section 13(c)(4) of the Federal Deposit Insurance Act.

(3) CLARIFICATION OF MANNER OF APPLICATION TO THE RTC.—Section 21A(b)(4) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(4)) is amended—

(A) by striking "POWERS.—Except as" and inserting "POWERS.—

"(A) IN GENERAL.—Except as"; and

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

"(B) MANNER OF APPLICATION OF LEAST-COST RESOLUTION.—For purposes of applying section 13(c)(4) of the Federal Deposit Insurance Act to the Corporation under subparagraph (A), the Corporation shall be treated as the affected deposit insurance fund.".

(b) SECURED CLAIMS IN EXCESS OF VALUE OF COLLATERAL.—Section 11(d)(5)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(5)(D)) is amended to read as follows:

"(D) AUTHORITY TO DISALLOW CLAIMS.—

"(i) IN GENERAL.—The receiver may disallow any portion of any claim by a creditor or claim of security, preference, or priority which is not proved to the satisfaction of the receiver.

"(ii) PAYMENTS TO LESS THAN FULLY SECURED CREDITORS.—In the case of a claim of a creditor against an insured depository institution which is secured by any property or other asset of such institution, any receiver appointed for any insured depository institution—

"(I) may treat the portion of such claim which exceeds an amount equal to the fair market value of such property or other asset as an unsecured claim against the institution; and

"(II) may not make any payment with respect to such unsecured portion of the claim other than in connection with the disposition of all claims of unsecured creditors of the institution.

"(iii) EXCEPTIONS.—No provision of this paragraph shall apply with respect to—

"(I) any extension of credit from any Federal home loan bank or Federal Reserve bank to any institution described in paragraph (3)(A); or

"(II) any security interest in the assets of the institution securing any such extension of credit.".

(c) DATA COLLECTIONS.—Section 7(a)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(8)) is amended to read as follows:

"(8) DATA COLLECTIONS.—In addition to or in connection with any other report required under this subsection, the Corporation shall take such action as may be necessary to ensure that—

"(A) each insured depository institution maintains; and

"(B) the Corporation receives on a regular basis from such institution,

information on the total amount of all insured deposits, preferred deposits, and uninsured deposits at the institution.".

(d) INDUSTRY IMPACT ANALYSIS REQUIRED.—

(1) IN GENERAL.—Section 11(h) of the Federal Deposit Insurance Act (12 U.S.C. 1821(h)) is

amended by adding at the end the following new paragraph:

"(4) FINANCIAL SERVICES INDUSTRY IMPACT ANALYSIS.—After the appointment of the Corporation as conservator or receiver for any insured depository institution and before taking any action under this section or section 13 in connection with the resolution of such institution, the Corporation shall—

"(A) evaluate the likely impact of the means of resolution, and any action which the Corporation may take in connection with such resolution, on the viability of other insured depository institutions in the same community; and

"(B) take such evaluation into account in determining the means for resolving the institution and establishing the terms and conditions for any such action.".

(2) CLERICAL AMENDMENT.—The heading for section 11(h) of the Federal Deposit Insurance Act (12 U.S.C. 1821(h)) is amended by striking "LIQUIDATION" and inserting "RESOLUTION".

(e) ASSISTANCE BEFORE APPOINTMENT OF CONSERVATOR OR RECEIVER.—Section 13(c) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)) is amended by redesignating paragraphs (8), (9), and (10) (as so redesignated by subsection (a)(1)(A) of this section), as paragraphs (9), (10), and (11), respectively, and by inserting after paragraph (7) the following new paragraph:

"(8) ASSISTANCE BEFORE APPOINTMENT OF CONSERVATOR OR RECEIVER.—

"(A) IN GENERAL.—Subject to the least-cost provisions of paragraph (4), the Corporation shall consider providing direct financial assistance under this section for depository institutions before the appointment of a conservator or receiver for such institution only under the following circumstances:

"(i) TROUBLED CONDITION CRITERIA.—The Corporation determines—

"(I) grounds for the appointment of a conservator or receiver exist or likely will exist in the future unless the depository institution's capital levels are increased; and

"(II) it is unlikely that the institution can meet all currently applicable capital standards without assistance.

"(ii) OTHER CRITERIA.—The depository institution meets the following criteria:

"(I) The appropriate Federal banking agency and the Corporation have determined that, during such period of time preceding the date of such determination as the agency or the Corporation considers to be relevant, the institution's management has been competent and has complied with applicable laws, rules, and supervisory directives and orders.

"(II) The institution's management did not engage in any insider dealing, speculative practice, or other abusive activity.

"(B) PUBLIC DISCLOSURE.—Any determination under this paragraph to provide assistance under this section shall be made in writing and published in the Federal Register.".

(f) DEFINITIONS.—Section 3(m) of the Federal Deposit Insurance Act (12 U.S.C. 1813(m)) is amended by adding at the end the following new paragraphs:

"(3) UNINSURED DEPOSITS.—The term 'uninsured deposit' means the amount of any deposit of any depositor at any insured depository institution in excess of the amount of the insured deposits of such depositor (if any) at such depository institution.

"(4) PREFERRED DEPOSITS.—The term 'preferred deposits' means deposits of any public unit (as defined in paragraph (1)) at any insured depository institution which are secured or collateralized as required under State law.".

SEC. 142. FEDERAL RESERVE DISCOUNT WINDOW ADVANCES.

(a) REDESIGNATING SECTIONS 10(a) AND 10(b) OF THE FEDERAL RESERVE ACT.—The Federal Reserve Act (12 U.S.C. 221 et seq.) is amended—

(1) by redesignating section 10(a) (12 U.S.C. 347a) as section 10A; and

(2) by redesignating section 10(b) (12 U.S.C. 347b) as section 10B.

(b) LIMITATIONS ON LIQUIDITY LENDING FOR DEPOSIT INSURANCE PURPOSES.—Section 10B of the Federal Reserve Act (as redesignated by subsection (a)) is amended—

(1) by striking "Any Federal Reserve bank" and inserting "(a) IN GENERAL.—Any Federal Reserve bank"; and

(2) by adding at the end the following:

"(b) LIMITATIONS ON ADVANCES.—

"(1) LIMITATION ON EXTENDED PERIODS.—Except as provided in paragraph (2), no advances to any undercapitalized depository institution by any Federal Reserve bank under this section may be outstanding for more than 60 days in any 120-day period.

"(2) VIABILITY EXCEPTION.—

"(A) IN GENERAL.—If—

"(i) the head of the appropriate Federal banking agency certifies in advance in writing to the Federal Reserve bank that any depository institution is viable; or

"(ii) the Board conducts an examination of any depository institution and the Chairman of the Board certifies in writing to the Federal Reserve bank that the institution is viable,

the limitation contained in paragraph (1) shall not apply during the 60-day period beginning on the date such certification is received.

"(B) EXTENSIONS OF PERIOD.—The 60-day period may be extended for additional 60-day periods upon receipt by the Federal Reserve bank of additional written certifications under subparagraph (A) with respect to each such additional period.

"(C) AUTHORITY TO ISSUE A CERTIFICATE OF VIABILITY MAY NOT BE DELEGATED.—The authority of the head of any agency to issue a written certification of viability under this paragraph may not be delegated to any other person.

"(D) EXTENDED ADVANCES SUBJECT TO PARAGRAPH (3).—Notwithstanding paragraph (1), an undercapitalized depository institution which does not have a certificate of viability in effect under this paragraph may have advances outstanding for more than 60 days in any 120-day period if the Board elects to treat—

"(i) such institution as critically undercapitalized under paragraph (3); and

"(ii) any such advance as an advance described in subparagraph (A)(i) of paragraph (3).

"(3) ADVANCES TO CRITICALLY UNDERCAPITALIZED DEPOSITORY INSTITUTIONS.—

"(A) LIABILITY FOR INCREASED LOSS.—Notwithstanding any other provision of this section, if—

"(i) in the case of any critically undercapitalized depository institution—

"(I) any advance under this section to such institution is outstanding without payment having been demanded as of the end of the 5-day period beginning on the date the institution becomes a critically undercapitalized depository institution; or

"(II) any new advance is made to such institution under this section after the end of such period; and

"(ii) after the end of that 5-day period, any deposit insurance fund in the Federal Deposit Insurance Corporation incurs a loss exceeding the loss that the Corporation would have incurred if it had liquidated that institution as of the end of that period,

the Board shall, subject to the limitations in subparagraph (B), be liable to the Federal Deposit Insurance Corporation for the excess loss, without regard to the terms of the advance or any collateral pledged to secure the advance.

"(B) LIMITATION ON EXCESS LOSS.—The liability of the Board under subparagraph (A) shall not exceed the lesser of the following:

"(i) The amount of the loss the Board or any Federal Reserve bank would have incurred on the increases in the amount of advances made after the 5-day period referred to in subparagraph (A) if those increased advances had been unsecured.

"(ii) The interest received on the increases in the amount of advances made after the 5-day period referred to in subparagraph (A).

"(C) FEDERAL RESERVE TO PAY OBLIGATION.—The Board shall pay the Federal Deposit Insurance Corporation the amount of any liability of the Board under subparagraph (A).

"(D) REPORT.—The Board shall report to the Congress on any excess loss liability it incurs under subparagraph (A), as limited by subparagraph (B)(i), and the reasons therefore, not later than 6 months after incurring the liability.

"(4) NO OBLIGATION TO MAKE ADVANCES.—A Federal Reserve bank shall have no obligation to make, increase, renew, or extend any advance or discount under this Act to any depository institution.

"(5) DEFINITIONS.—

"(A) APPROPRIATE FEDERAL BANKING AGENCY.—The term 'appropriate Federal banking agency' has the same meaning as in section 3 of the Federal Deposit Insurance Act.

"(B) CRITICALLY UNDERCAPITALIZED.—The term 'critically undercapitalized' has the same meaning as in section 38 of the Federal Deposit Insurance Act.

"(C) DEPOSITORY INSTITUTION.—The term 'depository institution' has the same meaning as in section 3 of the Federal Deposit Insurance Act.

"(D) UNDERCAPITALIZED DEPOSITORY INSTITUTION.—The term 'undercapitalized depository institution' means any depository institution which—

"(i) is undercapitalized, as defined in section 38 of the Federal Deposit Insurance Act; or

"(ii) has a composite CAMEL rating of 5 under the Uniform Financial Institutions Rating System (or an equivalent rating by any such agency under a comparable rating system) as of the most recent examination of such institution.

"(E) VIABLE.—A depository institution is 'viable' if the Board or the appropriate Federal banking agency determines, giving due regard to the economic conditions and circumstances in the market in which the institution operates, that the institution—

"(i) is not critically undercapitalized;

"(ii) is not expected to become critically undercapitalized; and

"(iii) is not expected to be placed in conservatorship or receivership.".

(c) BOARD'S AUTHORITY TO EXAMINE DEPOSITORY INSTITUTIONS AND AFFILIATES.—Section 11 of the Federal Reserve Act is amended by adding at the end the following:

"(n) To examine, at the Board's discretion, any depository institution, and any affiliate of such depository institution, in connection with any advance to, any discount of any instrument for, or any request for any such advance or discount by, such depository institution under this Act.".

(d) EFFECTIVE DATE.—The amendment made by subsection (b) shall take effect at the end of the 2-year period beginning on the date of enactment of this Act.

(e) CONFORMING AMENDMENTS REDESIGNATING SECTIONS 13a, 25(a), AND 25(b) OF THE FEDERAL RESERVE ACT.—The Federal Reserve Act (12 U.S.C. 221 et seq.) is amended—

(1) by redesignating section 13a as section 13A;

(2) by redesignating section 25(a) as section 25A; and

(3) by redesignating section 25(b) as section 25B.

SEC. 143. EARLY RESOLUTION.

(a) IN GENERAL.—It is the sense of the Congress that the Federal banking agencies should

facilitate early resolution of troubled insured depository institutions whenever feasible if early resolution would have the least possible long-term cost to the deposit insurance fund, consistent with the least-cost and prompt corrective action provisions of the Federal Deposit Insurance Act.

(b) GENERAL PRINCIPLES.—In encouraging the Federal banking agencies to pursue early resolution strategies, the Congress contemplates that any resolution transaction under section 13(c) of that Act would observe the following general principles:

(1) COMPETITIVE NEGOTIATION.—The transaction should be negotiated competitively, taking into account the value of expediting the process.

(2) RESULTING INSTITUTION ADEQUATELY CAPITALIZED.—Any insured depository institution created or assisted in the transaction (hereafter the "resulting institution") and any institution acquiring the troubled institution should meet all applicable minimum capital standards.

(3) SUBSTANTIAL PRIVATE INVESTMENT.—The transaction should involve substantial private investment.

(4) CONCESSIONS.—Preexisting owners and debtholders of any troubled institution or its holding company should make substantial concessions.

(5) QUALIFIED MANAGEMENT.—Directors and senior management of the resulting institution should be qualified to perform their duties, and should not include individuals substantially responsible for the troubled institution's problems.

(6) FDIC'S PARTICIPATION.—The transaction should give the Federal Deposit Insurance Corporation an opportunity to participate in the success of the resulting institution.

(7) STRUCTURE OF TRANSACTION.—The transaction should, insofar as practical, be structured so that—

(A) the Federal Deposit Insurance Corporation—

(i) does not acquire a significant proportion of the troubled institution's problem assets;

(ii) succeeds to the interests of the troubled institution's preexisting owners and debtholders in proportion to the assistance the Corporation provides; and

(iii) limits the Corporation's assistance in term and amount; and

(B) new investors share risk with the Corporation.

(c) REPORT.—Two years after the date of enactment of this Act, the Federal Deposit Insurance Corporation shall submit a report to Congress analyzing the effect of early resolution on the deposit insurance funds.

Subtitle F—Federal Insurance for State Chartered Depository Institutions

SEC. 151. DEPOSITORY INSTITUTIONS LACKING FEDERAL DEPOSIT INSURANCE.

(a) ANNUAL INDEPENDENT AUDIT OF PRIVATE DEPOSIT INSURER; DISCLOSURE BY INSTITUTIONS LACKING FEDERAL DEPOSIT INSURANCE.—

(1) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new section:

"SEC. 40. DEPOSITORY INSTITUTIONS LACKING FEDERAL DEPOSIT INSURANCE.

"(a) ANNUAL INDEPENDENT AUDIT OF PRIVATE DEPOSIT INSURERS.—

"(1) AUDIT REQUIRED.—Any private deposit insurer shall obtain an annual audit from an independent auditor using generally accepted auditing standards. The audit shall include a determination of whether the private deposit insurer follows generally accepted accounting principles and has set aside sufficient reserves for losses.

"(2) PROVIDING COPIES OF AUDIT REPORT.—

"(A) PRIVATE DEPOSIT INSURER.—The private deposit insurer shall provide a copy of the audit report—

"(i) to each depository institution the deposits of which are insured by the private deposit insurer, not later than 14 days after the audit is completed; and

"(ii) to the appropriate supervisory agency of each State in which such an institution receives deposits, not later than 7 days after the audit is completed.

"(B) DEPOSITORY INSTITUTION.—Any depository institution the deposits of which are insured by the private deposit insurer shall provide a copy of the audit report, upon request, to any current or prospective customer of the institution.

"(b) DISCLOSURE REQUIRED.—Any depository institution lacking Federal deposit insurance shall, within the United States, do the following:

"(1) PERIODIC STATEMENTS; ACCOUNT RECORDS.—Include conspicuously in all periodic statements of account, on each signature card, and on each passbook, certificate of deposit, or similar instrument evidencing a deposit a notice that the institution is not federally insured, and that if the institution fails, the Federal Government does not guarantee that depositors will get back their money.

"(2) ADVERTISING; PREMISES.—Include conspicuously in all advertising and at each place where deposits are normally received a notice that the institution is not federally insured.

"(3) ACKNOWLEDGMENT OF RISK.—Receive deposits only for the account of persons who have signed a written acknowledgment that the institution is not federally insured, and that if the institution fails, the Federal Government does not guarantee that they will get back their money.

"(c) MANNER AND CONTENT OF DISCLOSURE.—To ensure that current and prospective customers understand the risks involved in foregoing Federal deposit insurance, the Federal Trade Commission, by regulation or order, shall prescribe the manner and content of disclosure required under this section.

"(d) EXCEPTIONS FOR INSTITUTIONS NOT RECEIVING RETAIL DEPOSITS.—The Federal Trade Commission may, by regulation or order, make exceptions to subsection (b) for any depository institution that, within the United States, does not receive initial deposits of less than $100,000 from individuals who are citizens or residents of the United States, other than money received in connection with any draft or similar instrument issued to transmit money.

"(e) ELIGIBILITY FOR FEDERAL DEPOSIT INSURANCE.—

"(1) IN GENERAL.—Except as permitted by the Federal Trade Commission, in consultation with the Federal Deposit Insurance Corporation, no depository institution (other than a bank, including an unincorporated bank) lacking Federal deposit insurance may use the mails or any instrumentality of interstate commerce to receive or facilitate receiving deposits, unless the appropriate supervisor of the State in which the institution is chartered has determined that the institution meets all eligibility requirements for Federal deposit insurance, including—

"(A) in the case of an institution described in section 19(b)(1)(A)(iv) of the Federal Reserve Act, all eligibility requirements set forth in the Federal Credit Union Act and regulations of the National Credit Union Administration; and

"(B) in the case of any other institution, all eligibility requirements set forth in this Act and regulations of the Corporation.

"(2) AUTHORITY OF FDIC AND NCUA NOT AFFECTED.—No determination under paragraph (1) shall bind, or otherwise affect the authority of, the National Credit Union Administration or the Corporation.

"(f) DEFINITIONS.—For purposes of this section:

"(1) APPROPRIATE SUPERVISOR.—The 'appropriate supervisor' of a depository institution means the agency primarily responsible for supervising the institution.

"(2) DEPOSITORY INSTITUTION.—The term 'depository institution' includes—

"(A) any entity described in section 19(b)(1)(A)(iv) of the Federal Reserve Act; and

"(B) any entity that, as determined by the Federal Trade Commission—

"(i) is engaged in the business of receiving deposits; and

"(ii) could reasonably be mistaken for a depository institution by the entity's current or prospective customers.

"(3) LACKING FEDERAL DEPOSIT INSURANCE.—A depository institution lacks Federal deposit insurance if the institution is not either—

"(A) an insured depository institution; or

"(B) an insured credit union, as defined in section 101 of the Federal Credit Union Act.

"(4) PRIVATE DEPOSIT INSURER.—The term 'private deposit insurer' means any entity insuring the deposits of any depository institution lacking Federal deposit insurance.

"(g) ENFORCEMENT.—Compliance with the requirements of this section, and any regulation prescribed or order issued under this section, shall be enforced under the Federal Trade Commission Act by the Federal Trade Commission.".

(2) EFFECTIVE DATES.—Section 40 of the Federal Deposit Insurance Act (as added by paragraph (1)) shall become effective on the date of enactment of this Act, except that—

(A) paragraphs (1) and (2) of subsection (b) shall become effective 1 year after the date of enactment of this Act;

(B) during the period beginning 1 year after that date of enactment of this Act and ending 30 months after that date of enactment, subsection (b)(1) shall apply with ", and that if the institution fails, the Federal Government does not guarantee that depositors will get back their money" omitted;

(C) subsection (e) shall become effective 2 years after that date of enactment; and

(D) subsection (b)(3) shall become effective 30 months after that date of enactment.

(3) CONFORMING AMENDMENT TO FEDERAL DEPOSIT INSURANCE ACT.—Effective 1 year after the date of enactment of this Act, section 28 of the Federal Deposit Insurance Act (12 U.S.C. 1831e) is amended—

(A) by striking subsection (h); and

(B) by redesignating subsection (i) as subsection (h).

(b) VIABILITY OF PRIVATE DEPOSIT INSURERS.—

(1) DEADLINE FOR INITIAL INDEPENDENT AUDIT.—The initial annual audit under section 40 (a)(1) of the Federal Deposit Insurance Act (as added by subsection (a)) shall be completed not later than 120 days after the date of enactment of this Act.

(2) BUSINESS PLAN REQUIRED.—Not later than 240 days after the date of enactment of this Act, any private deposit insurer shall provide a business plan to each appropriate supervisor of each State in which deposits are received by any depository institution lacking Federal deposit insurance the deposits of which are insured by a private deposit insurer. The business plan shall explain in detail why the private deposit insurer is viable, and shall, at a minimum—

(A) describe the insurer's—

(i) underwriting standards;

(ii) resources, including trends in and forecasts of assets, income, and expenses;

(iii) risk-management program, including examination and supervision, problem case resolution, and remedies; and

(B) include, for the preceding 5 years, copies of annual audits, annual reports, and annual meeting agendas and minutes.

(3) DEFINITIONS.—For purposes of this subsection, the terms "appropriate supervisor", "deposit", "depository institution", and "lacking Federal deposit insurance" have the same meaning as in section 40(f) of the Federal Deposit Insurance Act (as added by subsection (a)).

Subtitle G—Technical Corrections

SEC. 161. TECHNICAL CORRECTIONS AND CLARIFICATIONS.

(a) SECTION 11 OF THE FEDERAL DEPOSIT INSURANCE ACT.—Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended—

(1) in subsection (d)(3)(A), by striking "(4)(A)" and inserting "(4)";

(2) in subsection (d)(11)(B), by striking "(14)(C)" and inserting "(15)(B)";

(3) in subsection (e)(3)(C)(ii), by striking "subsection (k)" and inserting "subsection (i)";

(4) in subsection (e)(4)(B)(iii), by striking "subsection (k)" and inserting "subsection (i)";

(5) in subparagraphs (A) and (E) of subsection (e)(8), by striking "subsections (d)(9) and (i)(4)(I)" and inserting "subsection (d)(9)";

(6) in subsection (n)(9), by striking "(13)" and inserting "(12)"; and

(7) in subsection (n)(11)(D), by striking "(8)" and inserting "(9)".

(b) CLARIFICATION OF FDIC POWERS IN FSLIC RESOLUTION FUND CONSERVATORSHIPS AND RECEIVERSHIPS.—Section 11A(a) of the Federal Deposit Insurance Act (12 U.S.C. 1821a(a)) is amended by adding at the end the following new paragraphs:

"(4) RIGHTS, POWERS, AND DUTIES.—Effective August 10, 1989, the Corporation shall have all rights, powers, and duties to carry out the Corporation's duties with respect to the assets and liabilities of the FSLIC Resolution Fund that the Corporation otherwise has under this Act.

"(5) CORPORATION AS CONSERVATOR OR RECEIVER.—

"(A) IN GENERAL.—Effective August 10, 1989, the Corporation shall succeed the Federal Savings and Loan Insurance Corporation as conservator or receiver with respect to any depository institution—

"(i) the accounts of which were insured before August 10, 1989 by the Federal Savings and Loan Insurance Corporation; and

"(ii) for which a conservator or receiver was appointed before January 1, 1989.

"(B) RIGHTS, POWERS, AND DUTIES.—When acting as conservator or receiver with respect to any depository institution described in subparagraph (A), the Corporation shall have all rights, powers, and duties that the Corporation otherwise has as conservator or receiver under this Act.".

(c) CLERICAL AMENDMENT TO SUBSECTION HEADING.—The heading for section 3(w) of the Federal Deposit Insurance Act (12 U.S.C. 1813(w)) is amended by striking "HOLDING COMPANIES" and inserting "AFFILIATES OF DEPOSITORY INSTITUTIONS".

(d) FDIC REMOVAL PERIOD MADE CONSISTENT WITH RTC PERIOD.—Section 9(b)(2)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1819(b)(2)(B)) is amended by inserting "before the end of the 90-day period beginning on the date the action, suit, or proceeding is filed against the Corporation or the Corporation is substituted as a party" before the period.

(e) CLARIFICATION OF FDIC AUTHORITY TO PAY DE MINIMUS CLAIMS.—The 2d sentence of section 11(i)(3)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(i)(3)(A)) is amended by striking "The" and inserting "Notwithstanding any other provision of Federal or State law, or the constitution of any State, the".

(f) CLERICAL AMENDMENT TO SECTION HEADING.—

(1) The heading for section 219 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 is amended by striking "**FROM TAXATION**".

(2) The table of contents for the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 is amended by striking "from taxation" in the item relating to section 219.

TITLE II—REGULATORY IMPROVEMENT

Subtitle A—Regulation of Foreign Banks

SEC. 201. SHORT TITLE.

This subtitle may be cited as the "Foreign Bank Supervision Enhancement Act of 1991".

SEC. 202. REGULATION OF FOREIGN BANK OPERATIONS.

(a) ESTABLISHMENT AND TERMINATION OF FOREIGN BANK OFFICES IN THE UNITED STATES.—Section 7 of the International Banking Act of 1978 (12 U.S.C. 3105) is amended by striking subsection (d) and inserting the following new subsections:

"(d) ESTABLISHMENT OF FOREIGN BANK OFFICES IN THE UNITED STATES.—

"(1) PRIOR APPROVAL REQUIRED.—No foreign bank may establish a branch or an agency, or acquire ownership or control of a commercial lending company, without the prior approval of the Board.

"(2) REQUIRED STANDARDS FOR APPROVAL.—The Board may not approve an application under paragraph (1) unless it determines that—

"(A) the foreign bank engages directly in the business of banking outside of the United States and is subject to comprehensive supervision or regulation on a consolidated basis by the appropriate authorities in its home country; and

"(B) the foreign bank has furnished to the Board the information it needs to adequately assess the application.

"(3) STANDARDS FOR APPROVAL.—In acting on any application under paragraph (1), the Board may take into account—

"(A) whether the appropriate authorities in the home country of the foreign bank have consented to the proposed establishment of a branch, agency or commercial lending company in the United States by the foreign bank;

"(B) the financial and managerial resources of the foreign bank, including the bank's experience and capacity to engage in international banking;

"(C) whether the foreign bank has provided the Board with adequate assurances that the bank will make available to the Board such information on the operations or activities of the foreign bank and any affiliate of the bank that the Board deems necessary to determine and enforce compliance with this Act, the Bank Holding Company Act of 1956, and other applicable Federal law; and

"(D) whether the foreign bank and the United States affiliates of the bank are in compliance with applicable United States law.

"(4) FACTOR.—In acting on an application under paragraph (1), the Board shall not make the size of the foreign bank the sole determinant factor, and may take into account the needs of the community as well as the length of operation of the foreign bank and its relative size in its home country. Nothing in this paragraph shall affect the ability of the Board to order a State branch, agency, or commercial lending company subsidiary to terminate its activities in the United States pursuant to any standard set forth in this Act.

"(5) ESTABLISHMENT OF CONDITIONS.—Consistent with the standards for approval in paragraph (2), the Board may impose such conditions on its approval under this subsection as it deems necessary.

"(e) TERMINATION OF FOREIGN BANK OFFICES IN THE UNITED STATES.—

"(1) STANDARDS FOR TERMINATION.—The Board, after notice and opportunity for hearing and notice to any appropriate State bank supervisor, may order a foreign bank that operates a State branch or agency or commercial lending company subsidiary in the United States to terminate the activities of such branch, agency, or subsidiary if the Board finds that—

"(A) the foreign bank is not subject to comprehensive supervision or regulation on a consolidated basis by the appropriate authorities in its home country; or

"(B)(i) there is reasonable cause to believe that such foreign bank, or any affiliate of such foreign bank, has committed a violation of law or engaged in an unsafe or unsound banking practice in the United States; and

"(ii) as a result of such violation or practice, the continued operation of the foreign bank's branch, agency or commercial lending company subsidiary in the United States would not be consistent with the public interest or with the purposes of this Act, the Bank Holding Company Act of 1956, or the Federal Deposit Insurance Act.

However, in making findings under this paragraph, the Board shall not make size the sole determinant factor, and may take into account the needs of the community as well as the length of operation of the foreign bank and its relative size in its home country. Nothing in this paragraph shall affect the ability of the Board to order a State branch, agency, or commercial lending company subsidiary to terminate its activities in the United States pursuant to any standard set forth in this Act.

"(2) DISCRETION TO DENY HEARING.—The Board may issue an order under paragraph (1) without providing for an opportunity for a hearing if the Board determines that expeditious action is necessary in order to protect the public interest.

"(3) EFFECTIVE DATE OF TERMINATION ORDER.—An order issued under paragraph (1) shall take effect before the end of the 120-day period beginning on the date such order is issued unless the Board extends such period.

"(4) COMPLIANCE WITH STATE AND FEDERAL LAW.—Any foreign bank required to terminate activities conducted at offices or subsidiaries in the United States pursuant to this subsection shall comply with the requirements of applicable Federal and State law with respect to procedures for the closure or dissolution of such offices or subsidiaries.

"(5) RECOMMENDATION TO AGENCY FOR TERMINATION OF A FEDERAL BRANCH OR AGENCY.—The Board may transmit to the Comptroller of the Currency a recommendation that the license of any Federal branch or Federal agency of a foreign bank be terminated in accordance with section 4(i) if the Board has reasonable cause to believe that such foreign bank or any affiliate of such foreign bank has engaged in conduct for which the activities of any State branch or agency may be terminated under paragraph (1).

"(6) ENFORCEMENT OF ORDERS.—

"(A) IN GENERAL.—In the case of contumacy of any office or subsidiary of the foreign bank against which the Board or, in the case of an order issued under section 4(i), the Comptroller of the Currency has issued an order under paragraph (1) or a refusal by such office or subsidiary to comply with such order, the Board or the Comptroller of the Currency may invoke the aid of the district court of the United States within the jurisdiction of which the office or subsidiary is located.

"(B) COURT ORDER.—Any court referred to in subparagraph (A) may issue an order requiring compliance with an order issued under paragraph (1).

"(7) CRITERIA RELATING TO FOREIGN SUPERVISION.—Not later than 1 year after the date of enactment of this subsection, the Board, in consultation with the Secretary of the Treasury, shall develop and publish criteria to be used in

evaluating the operation of any foreign bank in the United States that the Board has determined is not subject to comprehensive supervision or regulation on a consolidated basis. In developing such criteria, the Board shall allow reasonable opportunity for public review and comment.

"(f) JUDICIAL REVIEW.—

"(1) JURISDICTION OF UNITED STATES COURTS OF APPEALS.—Any foreign bank—

"(A) whose application under subsection (d) or section 10(a) has been disapproved by the Board;

"(B) against which the Board has issued an order under subsection (e) or section 10(b); or

"(C) against which the Comptroller of the Currency has issued an order under section 4(i) of this Act,

may obtain a review of such order in the United States court of appeals for any circuit in which such foreign bank operates a branch, agency, or commercial lending company that has been required by such order to terminate its activities, or in the United States Court of Appeals for the District of Columbia Circuit, by filing a petition for review in the court before the end of the 30-day period beginning on the date the order was issued.

"(2) SCOPE OF JUDICIAL REVIEW.—Section 706 of title 5, United States Code, (other than paragraph (2)(F) of such section) shall apply with respect to any review under paragraph (1).

"(g) CONSULTATION WITH STATE BANK SUPERVISOR.—The Board shall request and consider any views of the appropriate State bank supervisor with respect to any application or action under subsection (d) or (e).

(h) LIMITATIONS ON POWERS OF STATE BRANCHES AND AGENCIES.—

"(1) IN GENERAL.—After the end of the 1-year period beginning on the date of enactment of the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991, a State branch or State agency may not engage in any type of activity that is not permissible for a Federal branch unless—

"(A) the Board has determined that such activity is consistent with sound banking practice; and

"(B) in the case of an insured branch, the Federal Deposit Insurance Corporation has determined that the activity would pose no significant risk to the deposit insurance fund.

"(2) SINGLE BORROWER LENDING LIMIT.—A State branch or State agency shall be subject to the same limitations with respect to loans made to a single borrower as are applicable to a Federal branch or Federal agency under section 4(b).

"(3) OTHER AUTHORITY NOT AFFECTED.—This section does not limit the authority of the Board or any State supervisory authority to impose more stringent restrictions.".

(b) STANDARDS FOR APPROVAL OF FEDERAL BRANCHES AND AGENCIES.—Section 4(a) of the International Banking Act of 1978 (12 U.S.C. 3102(a)) is amended—

(1) by striking "(a) Except as provided in section 5," and inserting "(a) ESTABLISHMENT AND OPERATION OF FEDERAL BRANCHES AND AGENCIES.—

"(1) INITIAL FEDERAL BRANCH OR AGENCY.—Except as provided in section 5,"; and

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

"(2) BOARD CONDITIONS REQUIRED TO BE INCLUDED.—In considering any application for approval under this subsection, the Comptroller of the Currency shall include any condition imposed by the Board under section 7(d)(5) as a condition for the approval of such application by the agency.".

(c) STANDARDS FOR APPROVAL OF ADDITIONAL FEDERAL BRANCHES AND AGENCIES.—Section 4(h) of the International Banking Act of 1978 (12 U.S.C. 3102(h)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by striking "(h) A foreign bank" and inserting "(h) ADDITIONAL BRANCHES OR AGENCIES.—

"(1) APPROVAL OF AGENCY REQUIRED.—A foreign bank"; and

(3) by adding at the end the following new paragraph:

"(2) NOTICE TO AND COMMENT BY BOARD.—The Comptroller of the Currency shall provide the Board with notice and an opportunity for comment on any application to establish an additional Federal branch or Federal agency under this subsection.".

(d) DISAPPROVAL FOR FAILURE TO AGREE TO PROVIDE NECESSARY INFORMATION.—Section 3(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(c)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by striking "(c) The Board shall" and inserting "(c) FACTORS FOR CONSIDERATION BY BOARD.—

"(1) COMPETITIVE FACTORS.—The Board shall";

(3) by striking "In every case" and inserting "(2) BANKING AND COMMUNITY FACTORS.—In every case";

(4) by striking "community to be served. Notwithstanding any other provision of law" and inserting "community to be served.

"(4) TREATMENT OF CERTAIN BANK STOCK LOANS.— Notwithstanding any other provision of law"; and

(5) by inserting after paragraph (2) (as so designated by paragraph (3) of this subsection) the following new paragraph:

"(3) SUPERVISORY FACTORS.—The Board shall disapprove any application under this section by any company if—

"(A) the company fails to provide the Board with adequate assurances that the company will make available to the Board such information on the operations or activities of the company, and any affiliate of the company, as the Board determines to be appropriate to determine and enforce compliance with this Act; or

"(B) in the case of an application involving a foreign bank, the foreign bank is not subject to comprehensive supervision or regulation on a consolidated basis by the appropriate authorities in the bank's home country.".

(e) CONFORMING AMENDMENTS.—

(1) AFFILIATE DEFINED.—Section 1(b)(13) of the International Banking Act of 1978 (12 U.S.C. 3101(13)) is amended by inserting " 'affiliate,' " after "the terms" the 1st place such term appears.

(2) DEFINITIONS.—Section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101(b)) is amended—

(A) by striking "and" at the end of paragraph (13);

(B) by striking the period at the end of paragraph (14) and inserting a semicolon; and

(C) by adding at the end the following new paragraphs:

"(15) the term 'representative office' means any office of a foreign bank which is located in any State and is not a Federal branch, Federal agency, State branch, State agency, or subsidiary of a foreign bank;

"(16) the term 'office' means any branch, agency, or representative office; and

"(17) the term 'State bank supervisor' has the meaning given to such term in section 3 of the Federal Deposit Insurance Act.".

SEC. 203. CONDUCT AND COORDINATION OF EXAMINATIONS.

(a) AUTHORITY OF BOARD TO CONDUCT AND COORDINATE EXAMINATIONS.—Section 7(c) of the International Banking Act of 1978 (12 U.S.C. 3105(b)) is amended—

(1) by striking paragraph (1) and inserting the following new paragraph:

"(1) EXAMINATION OF BRANCHES, AGENCIES, AND AFFILIATES.—

"(A) IN GENERAL.—The Board may examine each branch or agency of a foreign bank, each commercial lending company or bank controlled by 1 or more foreign banks or 1 or more foreign companies that control a foreign bank, and other office or affiliate of a foreign bank conducting business in any State.

"(B) COORDINATION OF EXAMINATIONS.—

"(i) IN GENERAL.—The Board shall coordinate examinations under this paragraph with the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and appropriate State bank supervisors to the extent such coordination is possible.

"(ii) SIMULTANEOUS EXAMINATIONS.—The Board may request simultaneous examinations of each office of a foreign bank and each affiliate of such bank operating in the United States.

"(C) ANNUAL ON-SITE EXAMINATION.—Each branch or agency of a foreign bank shall be examined at least once during each 12-month period (beginning on the date the most recent examination of such branch or agency ended) in an on-site examination.

"(D) COST OF EXAMINATIONS.—The cost of any examination under subparagraph (A) shall be assessed against and collected from the foreign bank or the foreign company that controls the foreign bank, as the case may be."; and

(2) in paragraph (2), by inserting "REPORTING REQUIREMENTS.—" before "Each branch".

(b) COORDINATION OF EXAMINATIONS.—Section 4(b) of the International Banking Act of 1978 (12 U.S.C. 3102(b)) is amended by adding at the end thereof the following new sentence: "The Comptroller of the Currency shall coordinate examinations of Federal branches and agencies of foreign banks with examinations conducted by the Board under section 7(c)(1) and, to the extent possible, shall participate in any simultaneous examinations of the United States operations of a foreign bank requested by the Board under such section.".

(c) PARTICIPATION IN COORDINATED EXAMINATIONS.—

(1) IN GENERAL.—Section 10(b) of the Federal Deposit Insurance Act (12 U.S.C. 1820(b)) is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and by inserting after paragraph (4) the following new paragraph:

"(5) EXAMINATION OF INSURED STATE BRANCHES.—The Board of Directors shall—

"(A) coordinate examinations of insured State branches of foreign banks with examinations conducted by the Board of Governors of the Federal Reserve System under section 7(c)(1) of the International Banking Act of 1978; and

"(B) to the extent possible, participate in any simultaneous examination of the United States operations of a foreign bank requested by the Board under such section.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—Paragraph (6) of section 10(b) of the Federal Deposit Insurance Act (12 U.S.C. 1820(b)) (as so redesignated under paragraph (1) of this subsection) by striking "or (4)" and inserting "(4), or (5)".

SEC. 204. SUPERVISION OF THE REPRESENTATIVE OFFICES OF FOREIGN BANKS.

Section 10 of the International Banking Act of 1978 (12 U.S.C. 3107) is amended to read as follows:

"SEC. 10. REPRESENTATIVE OFFICES.

"(a) PRIOR APPROVAL TO ESTABLISH REPRESENTATIVE OFFICES.—

"(1) IN GENERAL.—No foreign bank may establish a representative office without the prior approval of the Board.

"(2) STANDARDS FOR APPROVAL.—In acting on any application under this paragraph to estab-

lish a representative office, the Board shall take into account the standards contained in section 7(d)(2) and may impose any additional requirements that the Board determines to be necessary to carry out the purposes of this Act.

"(b) TERMINATION OF REPRESENTATIVE OFFICES.—The Board may order the termination of the activities of a representative office of a foreign bank on the basis of the standards, procedures, and requirements applicable under paragraphs (1), (2), and (3) of section 7(d) with respect to branches and agencies.

"(c) EXAMINATIONS.—The Board may make examinations of each representative office of a foreign bank, the cost of which shall be assessed against and paid by such foreign bank.

"(d) COMPLIANCE WITH STATE LAW.—This Act does not authorize the establishment of a representative office in any State in contravention of State law.".

SEC. 205. REPORTING OF STOCK LOANS.

Section 7(j)(9) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)(9)) is amended to read as follows:

"(9) REPORTING OF STOCK LOANS.—

"(A) REPORT REQUIRED.—Any financial institution and any affiliate of any financial institution that has credit outstanding to any person or group of persons which is secured, directly or indirectly, by shares of an insured depository institution shall file a consolidated report with the appropriate Federal banking agency for such insured depository institution if the extensions of credit by the financial institution and such institution's affiliates, in the aggregate, are secured, directly or indirectly, by 25 percent or more of any class of shares of the same insured depository institution.

"(B) DEFINITIONS.—For purposes of this paragraph—

"(i) FINANCIAL INSTITUTION.—The term 'financial institution' means any insured depository institution and any foreign bank that is subject to the provisions of the Bank Holding Company Act of 1956 by virtue of section 8(a) of the International Banking Act of 1978.

"(ii) CREDIT OUTSTANDING.—The term 'credit outstanding' includes—

"(I) any loan or extension of credit,

"(II) the issuance of a guarantee, acceptance, or letter of credit, including an endorsement or standby letter of credit, and

"(III) any other type of transaction that extends credit or financing to the person or group of persons.

"(iii) GROUP OF PERSONS.—The term 'group of persons' includes any number of persons that the financial institution reasonably believes—

"(I) are acting together, in concert, or with one another to acquire or control shares of the same insured depository institution, including an acquisition of shares of the same insured depository institution at approximately the same time under substantially the same terms; or

"(II) have made, or propose to make, a joint filing under section 13 of the Securities Exchange Act of 1934 regarding ownership of the shares of the same insured depository institution.

"(C) INCLUSION OF SHARES HELD BY THE FINANCIAL INSTITUTION.—Any shares of the insured depository institution held by the financial institution or any of its affiliates as principal shall be included in the calculation of the number of shares in which the financial institution or its affiliates has a security interest for purposes of subparagraph (A).

"(D) REPORT REQUIREMENTS.—

"(i) TIMING OF REPORT.—The report required under this paragraph shall be a consolidated report on behalf of the financial institution and all affiliates of the institution, and shall be filed in writing within 30 days of the date on which the financial institution or any such affiliate first believes that the security for any outstanding credit consists of 25 percent or more of any class of shares of an insured depository institution.

"(ii) CONTENT OF REPORT.—The report under this paragraph shall indicate the number and percentage of shares securing each applicable extension of credit, the identity of the borrower, and the number of shares held as principal by the financial institution and any affiliate of such institution.

"(iii) COPY TO OTHER AGENCIES.—A copy of any report under this paragraph shall be filed with the appropriate Federal banking agency for the financial institution (if other than the agency receiving the report under this paragraph).

"(iv) OTHER INFORMATION.—Each appropriate Federal banking agency may require any additional information necessary to carry out the agency's supervisory responsibilities.

"(E) EXCEPTIONS.—

"(i) EXCEPTION WHERE INFORMATION PROVIDED BY BORROWER.—Notwithstanding subparagraph (A), a financial institution and the affiliates of such institution shall not be required to report a transaction under this paragraph if the person or group of persons referred to in such subparagraph has disclosed the amount borrowed from such institution or affiliate and the security interest of the institution or affiliate to the appropriate Federal banking agency for the insured depository institution in connection with a notice filed under this subsection, an application filed under the Bank Holding Company Act of 1956, section 10 of the Home Owners' Loan Act, or any other application filed with the appropriate Federal banking agency for the insured depository institution as a substitute for a notice under this subsection, such as an application for deposit insurance, membership in the Federal Reserve System, or a national bank charter.

"(ii) EXCEPTION FOR SHARES OWNED FOR MORE THAN 1 YEAR.—Notwithstanding subparagraph (A), a financial institution and any affiliate of such institution shall not be required to report a transaction involving—

"(I) a person or group of persons that has been the owner or owners of record of the stock for a period of 1 year or more; or

"(II) stock issued by a newly chartered bank before the bank's opening.".

SEC. 206. COOPERATION WITH FOREIGN SUPERVISORS.

The International Banking Act of 1978 (12 U.S.C. 3101 et seq.) is amended by adding at the end the following new section:

"SEC. 15. COOPERATION WITH FOREIGN SUPERVISORS.

"(a) DISCLOSURE OF SUPERVISORY INFORMATION TO FOREIGN SUPERVISORS.—Notwithstanding any other provision of law, the Board, Comptroller of the Currency, Federal Deposit Insurance Corporation, and Director of the Office of Thrift Supervision may disclose information obtained in the course of exercising supervisory or examination authority to any foreign bank regulatory or supervisory authority if the Board, Comptroller, Corporation, or Director determines that such disclosure is appropriate and will not prejudice the interests of the United States.

"(b) REQUIREMENT OF CONFIDENTIALITY.—Before making any disclosure of any information to a foreign authority, the Board, Comptroller of the Currency, Federal Deposit Insurance Corporation, and Director of the Office of Thrift Supervision shall obtain, to the extent necessary, the agreement of such foreign authority to maintain the confidentiality of such information to the extent possible under applicable law.".

SEC. 207. APPROVAL REQUIRED FOR ACQUISITION BY FOREIGN BANKS OF SHARES OF UNITED STATES BANKS.

Section 8(a) of the International Banking Act of 1978 (12 U.S.C. 3106(a)) is amended by striking "thereto" and all that follows through the period and inserting "to such provisions.".

SEC. 208. PENALTIES.

The International Banking Act of 1978 (12 U.S.C. 3101 et seq.) is amended by inserting after section 15 (as added by section 206 of this subtitle) the following new section:

"SEC. 16. PENALTIES.

"(a) CIVIL MONEY PENALTY.—

"(1) IN GENERAL.—Any foreign bank, and any office or subsidiary of a foreign bank, that violates, and any individual who participates in a violation of, any provision of this Act, or any regulation prescribed or order issued under this Act, shall forfeit and pay a civil penalty of not more than $25,000 for each day during which such violation continues.

"(2) ASSESSMENT PROCEDURES.—Any penalty imposed under paragraph (1) may be assessed and collected by the Board or the Comptroller of the Currency in the manner provided in subparagraphs (E), (F), (G), (H), and (I) of section 8(i)(2) of the Federal Deposit Insurance Act for penalties imposed (under such section), and any such assessments shall be subject to the provisions of such section.

"(3) HEARING PROCEDURE.—Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding under this section.

"(4) DISBURSEMENT.—All penalties collected under authority of this section shall be deposited into the Treasury.

"(5) VIOLATE DEFINED.—For purposes of this section, the term 'violate' includes taking any action (alone or with others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(6) REGULATIONS.—The Board and the Comptroller of the Currency shall each prescribe regulations establishing such procedures as may be necessary to carry out this section.

"(b) NOTICE UNDER THIS SECTION AFTER SEPARATION FROM SERVICE.—The resignation, termination of employment or participation, or separation of an institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to a foreign bank, or any office or subsidiary of a foreign bank (including a separation caused by the termination of a location in the United States), shall not affect the jurisdiction or authority of the Board or the Comptroller of the Currency to issue any notice or to proceed under this section against any such party, if such notice is served before the end of the 6-year period beginning on the date such party ceased to be an institution-affiliated party with respect to such foreign bank or such office or subsidiary of a foreign bank (whether such date occurs on, before, or after the date of the enactment of the Foreign Bank Supervision Enhancement Act of 1991).

"(c) PENALTY FOR FAILURE TO MAKE REPORTS.—

"(1) FIRST TIER.—Any foreign bank, or any office or subsidiary of a foreign bank, that—

"(A) maintains procedures reasonably adapted to avoid any inadvertent error and, unintentionally and as a result of such error—

"(i) fails to make, submit, or publish such reports or information as may be required under this Act or under regulations prescribed by the Board or the Comptroller of the Currency under this Act, within the period of time specified by the agency; or

"(ii) submits or publishes any false or misleading report or information; or

"(B) inadvertently transmits or publishes any report that is minimally late,

shall be subject to a penalty of not more than $2,000 for each day during which such failure

continues or such false or misleading information is not corrected. The foreign bank, or the office or subsidiary of a foreign bank, shall have the burden of proving that an error was inadvertent and that a report was inadvertently transmitted or published late.

"(2) SECOND TIER.—Any foreign bank, or any office or subsidiary of a foreign bank, that—

"(A) fails to make, submit, or publish such reports or information as may be required under this Act or under regulations prescribed by the Board or the Comptroller of the Currency pursuant to this Act, within the time period specified by such agency; or

"(B) submits or publishes any false or misleading report or information,

in a manner not described in paragraph (1) shall be subject to a penalty of not more than $20,000 for each day during which such failure continues or such false or misleading information is not corrected.

"(3) THIRD TIER.—Notwithstanding paragraph (2), if any company knowingly or with reckless disregard for the accuracy of any information or report described in paragraph (2) submits or publishes any false or misleading report or information, the Board or the Comptroller of the Currency may, in the Board's or Comptroller's discretion, assess a penalty of not more than $1,000,000 or 1 percent of total assets of such foreign bank, or such office or subsidiary of a foreign bank, whichever is less, per day for each day during which such failure continues or such false or misleading information is not corrected.

"(4) ASSESSMENT OF PENALTIES.—Any penalty imposed under paragraph (1), (2), or (3) shall be assessed and collected by the Board or the Comptroller of the Currency in the manner provided in subsection (a)(2) (for penalties imposed under such subsection) and any such assessment (including the determination of the amount of the penalty) shall be subject to the provisions of such subsection.

"(5) HEARING PROCEDURE.—Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding under this subsection.".

SEC. 209. POWERS OF AGENCIES RESPECTING APPLICATIONS, EXAMINATIONS, AND OTHER PROCEEDINGS.

Section 13(b) of the International Banking Act of 1978 (12 U.S.C. 3108(b)) is amended—

(1) by striking "(b) In addition to" and inserting "(b) ENFORCEMENT.—

"(1) IN GENERAL.—In addition to";

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

"(2) AUTHORITY TO ADMINISTER OATHS; SUBPOENA POWER.—In the course of, or in connection with, an application, examination, investigation, or other proceeding under this Act, the Board, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation, as the case may be, any member of the Board or of the Board of Directors of the Corporation, and any designated representative of the Board, Comptroller, or Corporation (including any person designated to conduct any hearing under this Act) may—

"(A) administer oaths and affirmations and take or cause to be taken depositions; and

"(B) issue, revoke, quash, or modify any subpoena, including any subpoena requiring the attendance and testimony of a witness or any subpoenas duces tecum.

"(3) ADMINISTRATIVE ASPECTS OF SUBPOENAS.—

"(A) ATTENDANCE AND PRODUCTION AT DESIGNATED SITE.—The attendance of any witness and the production of any document pursuant to a subpoena under paragraph (2) may be required at the place designated in the subpoena from any place in any State (as defined in section 3(a)(3) of the Federal Deposit Insurance Act) or other place subject to the jurisdiction of the United States.

"(B) SERVICE OF SUBPOENA.—Service of a subpoena issued under this subsection may be made by registered mail, or in such other manner reasonably calculated to give actual notice as the Board, Comptroller of the Currency, or Federal Deposit Insurance Corporation may by regulation or otherwise provide.

"(C) FEES AND TRAVEL EXPENSES.—Witnesses subpoenaed under this subsection shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States.

"(4) CONTUMACY OR REFUSAL.—

"(A) IN GENERAL.—In the case of contumacy of any person issued a subpoena under this subsection or a refusal by such person to comply with such subpoena, the Board, Comptroller of the Currency, or Federal Deposit Insurance Corporation, or any other party to proceedings in connection with which subpoena was issued may invoke the aid of—

"(i) the United States District Court for the District of Columbia, or

"(ii) any district court of the United States within the jurisdiction of which the proceeding is being conducted or the witness resides or carries on business.

"(B) COURT ORDER.—Any court referred to in subparagraph (A) may issue an order requiring compliance with a subpoena issued under this subsection.

"(5) EXPENSES AND FEES.—Any court having jurisdiction of any proceeding instituted under this subsection may allow any party to such proceeding such reasonable expenses and attorneys' fees as the court deems just and proper.

"(6) CRIMINAL PENALTY.—Any person who willfully fails or refuses to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, contracts, agreements, or other records in accordance with any subpoena under this subsection shall be fined under title 18, United States Code, imprisoned not more than 1 year, or both. Each day during which any such failure or refusal continues shall be treated as a separate offense.".

SEC. 210. CLARIFICATION OF MANAGERIAL STANDARDS IN BANK HOLDING COMPANY ACT OF 1956.

Section 3(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(c)) (as amended by section 202(d) of this subtitle) is amended by adding at the end the following new paragraph:

"(5) MANAGERIAL RESOURCES.—Consideration of the managerial resources of a company or bank under paragraph (2) shall include consideration of the competence, experience, and integrity of the officers, directors, and principal shareholders of the company or bank.".

SEC. 211. STANDARDS AND FACTORS IN THE HOME OWNERS' LOAN ACT.

Section 10(e) of the Home Owners' Loan Act (12 U.S.C. 1467a(e)) is amended—

(1) in paragraph (1), by inserting after subparagraph (B) the following:

"Consideration of the managerial resources of a company or savings association under subparagraph (B) shall include consideration of the competence, experience, and integrity of the officers, directors, and principal shareholders of the company or association.";

(2) in paragraph (2)—

(A) by inserting after the second sentence "Consideration of the managerial resources of a company or savings association shall include consideration of the competence, experience, and integrity of the officers, directors, and principal shareholders of the company or association.";

(B) by striking "or" at the end of subparagraph (A);

(C) by striking the period at the end of subparagraph (B) and inserting a comma; and

(D) by inserting after subparagraph (B) the following new subparagraphs:

"(C) if the company fails to provide adequate assurances to the Director that the company will make available to the Director such information on the operations or activities of the company, and any affiliate of the company, as the Director determines to be appropriate to determine and enforce compliance with this Act, or

"(D) in the case of an application involving a foreign bank, if the foreign bank is not subject to comprehensive supervision or regulation on a consolidated basis by the appropriate authorities in the bank's home country.".

SEC. 212. AUTHORITY OF FEDERAL BANKING AGENCIES TO ENFORCE CONSUMER STATUTES.

(a) AMENDMENTS TO THE HOME MORTGAGE DISCLOSURE ACT.—

(1) MAINTENANCE OF RECORDS AND PUBLIC DISCLOSURE.—Section 304(h) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2803(h)) is amended—

(A) by striking paragraph (1) and inserting the following new paragraph:

"(1) the Office of the Comptroller of the Currency for national banks and Federal branches and Federal agencies of foreign banks;"; and

(B) by striking paragraph (3) and inserting the following new paragraph:

"(3) the Federal Deposit Insurance Corporation for banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), mutual savings banks, insured State branches of foreign banks, and any other depository institution described in section 303(2)(A) which is not otherwise referred to in this paragraph;".

(2) ENFORCEMENT.—Section 305(b) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2804(b)) is amended—

(A) by striking paragraph (1) and inserting the following new paragraph:

"(1) section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act, by the Board; and

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), mutual savings banks as defined in section 3(f) of the Federal Deposit Insurance Act (12 U.S.C. 1813(f)), insured State branches of foreign banks, and any other depository institution not referred to in this paragraph or paragraph (2) or (3) of this subsection, by the Board of Directors of the Federal Deposit Insurance Corporation;"; and

(B) by adding at the end the following:

"The terms used in paragraph (1) that are not defined in this title or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).".

(b) AMENDMENT TO THE TRUTH IN LENDING ACT.—Section 108(a) of the Truth in Lending Act (15 U.S.C. 1607(a)) is amended—

(1) by striking paragraph (1) and inserting the following new paragraph:

"(1) section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act, by the Board; and

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation."; and

(2) by adding at the end the following:

"The terms used in paragraph (1) that are not defined in this title or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).".

(c) AMENDMENT TO THE FAIR CREDIT REPORTING ACT.—Section 621(b) of the Fair Credit Reporting Act (15 U.S.C. 1681s(b)) is amended—

(1) by striking paragraph (1) and inserting the following new paragraph:

"(1) section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act, by the Board of Governors of the Federal Reserve System; and

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation."; and

(2) by adding at the end the following:

"The terms used in paragraph (1) that are not defined in this title or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).".

(d) AMENDMENT TO THE EQUAL CREDIT OPPORTUNITY ACT.—Section 704(a) of the Equal Credit Opportunity Act (15 U.S.C. 1691c(a)) is amended—

(1) by striking paragraph (1) and inserting the following new paragraph:

"(1) section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act, by the Board; and

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation."; and

(2) by adding at the end the following:

"The terms used in paragraph (1) that are not defined in this title or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).".

(e) AMENDMENT TO THE FAIR DEBT COLLECTION PRACTICES ACT.—Section 814(b) of the Fair Debt Collection Practices Act (15 U.S.C. 1692l(b)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act, by the Board of Governors of the Federal Reserve System; and

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation."; and

(2) by adding at the end the following:

"The terms used in paragraph (1) that are not defined in this title or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).".

(f) AMENDMENT TO THE ELECTRONIC FUND TRANSFER ACT.—Section 917(a) of the Electronic Fund Transfer Act (15 U.S.C. 1693o(a)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act, by the Board; and

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;"; and

(2) by adding at the end the following:

"The terms used in paragraph (1) that are not defined in this title or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).".

(g) AMENDMENT TO THE FEDERAL TRADE COMMISSION ACT.—

(1) DEFINITIONS.—Section 4 of the Federal Trade Commission Act (15 U.S.C. 44) is amended by adding at the end the following new paragraph:

"'Banks' means the types of banks and other financial institutions referred to in section 18(f)(2).".

(2) ENFORCEMENT.—Section 18(f) of the Federal Trade Commission Act (15 U.S.C. 57a(f)) is amended—

(A) by striking paragraph (2) and inserting the following:

"(2) ENFORCEMENT.—Compliance with regulations prescribed under this subsection shall be enforced under section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks, banks operating under the code of law for the District of Columbia, and Federal branches and Federal agencies of foreign banks, by the divisions of consumer affairs established by the Office of the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks and banks operating under the code of law for the District of Columbia), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act, by the division of consumer affairs established by the Board of Governors of the Federal Reserve System; and

"(C) banks insured by the Federal Deposit Insurance Corporation (other banks referred to in subparagraph (A) or (B)) and insured State branches of foreign banks, by the division of consumer affairs established by the Board of Directors of the Federal Deposit Insurance Corporation."; and

(B) by adding at the end the following:

"The terms used in this paragraph that are not defined in the Federal Trade Commission Act or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).".

(h) AMENDMENT TO THE EXPEDITED FUNDS AVAILABILITY ACT.—Section 610(a) of the Expedited Funds Availability Act (12 U.S.C. 4009(a)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) section 8 of the Federal Deposit Insurance Act in the case of—

"(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks), and offices, branches, and agencies of foreign banks located in the United States (other than Federal branches, Federal agencies, and insured State branches of foreign banks), by the Board of Governors of the Federal Reserve System; and

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;"; and

(2) by adding at the end the following:

"The terms used in paragraph (1) that are not defined in this title or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).".

SEC. 213. CRIMINAL PENALTY FOR VIOLATING THE INTERNATIONAL BANKING ACT OF 1978.

The International Banking Act of 1978 (12 U.S.C. 3101 et seq.) is amended by inserting after section 16 (as added by section 208 of this subtitle) the following new section:

"SEC. 17. CRIMINAL PENALTY.

"Whoever, with the intent to deceive, to gain financially, or to cause financial gain or loss to any person, knowingly violates any provision of this Act or any regulation or order issued by the appropriate Federal banking agency under this Act shall be imprisoned not more than 5 years or fined not more than $1,000,000 for each day during which a violation continues, or both.".

SEC. 214. MISCELLANEOUS AMENDMENTS TO THE INTERNATIONAL BANKING ACT OF 1978.

(a) SECTION 6.—Section 6 of the International Banking Act of 1978 (12 U.S.C. 3104) is amended—

(1) by redesignating subsection (b) as subsection (b)(1);

(2) by designating the last undesignated paragraph as paragraph (2); and

(3) by adding at the end the following new subsection:

"(c) RETAIL DEPOSIT-TAKING BY FOREIGN BANKS.—

"(1) IN GENERAL.—After the date of enactment of this subsection, notwithstanding any other provision of this Act or any provision of the Federal Deposit Insurance Act, in order to accept or maintain deposit accounts having balances of less than $100,000, a foreign bank shall—

"(A) establish 1 or more banking subsidies in the United States for that purpose; and

"(B) obtain Federal deposit insurance for any such subsidiary in accordance with the Federal Deposit Insurance Act.

"(2) EXCEPTION.—Deposit accounts with balances of less than $100,000 may be accepted or maintained in a branch of a foreign bank only if such branch was an insured branch on the date of the enactment of this subsection.".

(b) SECTION 7.—Section 7 of the International Banking Act of 1978 (12 U.S.C. 3105) is amended by adding at the end the following new subsection:

"(j) STUDY ON EQUIVALENCE OF FOREIGN BANK CAPITAL.—Not later than 180 days after enactment of this subsection, the Board and the Secretary of the Treasury shall jointly submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report—

"(1) analyzing the capital standards contained in the framework for measurement of capital adequacy established by the Supervisory committee of the Bank for International Settlements, foreign regulatory capital standards that apply to foreign banks conducting banking operations in the United States, and the relationship of the Basle and foreign standards to risk-based capital and leverage requirements for United States banks; and

"(2) establishing guidelines for the adjustments to be used by the Board in converting data on the capital of such foreign banks to the equivalent risk-based capital and leverage requirements for United States banks for purposes of determining whether a foreign bank's capital level is equivalent to that imposed on United States banks for purposes of determinations under section 7 of the International Banking Act of 1978 and sections 3 and 4 of the Bank Holding Company Act of 1956.

An update shall be prepared annually explaining any changes in the analysis under paragraph (1) and resulting changes in the guidelines pursuant to paragraph (2).

SEC. 215. STUDY AND REPORT ON SUBSIDIARY REQUIREMENTS FOR FOREIGN BANKS.

(a) IN GENERAL.—The Secretary of the Treasury (hereafter referred to as the "Secretary"), jointly with the Board of Governors of the Federal Reserve System and in consultation with the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Attorney General, shall conduct a study of whether foreign banks should be required to conduct banking operations in the United States through subsidiaries rather than branches. In conducting the study, the Secretary shall take into account—

(1) differences in accounting and regulatory practices abroad and the difficulty of assuring that the foreign bank meets United States capital and management standards and is adequately supervised;

(2) implications for the deposit insurance system;

(3) competitive equity considerations;

(4) national treatment of foreign financial institutions;

(5) the need to prohibit money laundering and illegal payments;

(6) safety and soundness considerations;

(7) implications for international negotiations for liberalized trade in financial services;

(8) the tax liability of foreign banks;

(9) whether the establishment of subsidiaries by foreign banks to operate in the United States should be required only if United States Banks are authorized to engage in securities activities and interstate banking and branching; and

(10) differences in treatment of United States creditors under the bankruptcy and receivership laws.

(b) REPORT REQUIRED.—Not later than 1 year after the date of enactment of this Act, the Secretary shall transmit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report on the results of the study under subsection (a). Any additional or dissenting views of participating agencies shall be included in the report.

Subtitle B—Customer and Consumer Provisions

SEC. 221. STUDY ON REGULATORY BURDEN.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Federal Financial Institutions Examination Council, in consultation with individuals representing insured depository institutions, consumers, community groups, and other interested parties, shall—

(1) review the policies and procedures, and recordkeeping and documentation requirements used to monitor and enforce compliance with—

(A) all laws under the jurisdiction of the Federal banking agencies; and

(B) all laws affecting insured depository institutions under the jurisdiction of the Secretary of the Treasury;

(2) determine whether such policies, procedures, and requirements impose unnecessary burdens on insured depository institutions; and

(3) identify any revisions of such policies, procedures, and requirements that could reduce unnecessary burdens on insured depository institutions without in any respect—

(A) diminishing either compliance with or enforcement of consumer laws in any respect; or

(B) endangering the safety and soundness of insured depository institutions.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Federal Financial Institutions Examination Council shall submit to the Congress a report describing the revisions identified under subsection (a)(3).

(c) DEFINITIONS.—For purposes of this section, the terms "insured depository institution" and "Federal banking agency" have the same meanings as in section 3 of the Federal Deposit Insurance Act.

SEC. 222. DISCUSSION OF LENDING DATA.

(a) PUBLIC SECTIONS OF COMMUNITY REINVESTMENT ACT REPORTS.—Section 807(b)(1)(B) of the Community Reinvestment Act of 1977 (12 U.S.C. 2906(b)(1)(B)) is amended by inserting "and data" after "facts".

(b) OTHER COMMUNITY REINVESTMENT ACT AMENDMENTS.—Section 807 of the Community Reinvestment Act of 1977 (12 U.S.C. 2906) is amended—

(1) in subsection (a)(1), by striking "depository institutions regulatory agency" and inserting "financial supervisory agency";

(2) in subsection (b)(1)(A)—

(A) by striking "depository institutions regulatory agency's" and inserting "financial supervisory agency's"; and

(B) by striking "depository institutions regulatory agencies" and inserting "financial supervisory agencies"; and

(3) in subsection (c), by striking "depository institutions regulatory agency" each place such term appears and inserting "financial supervisory agency".

SEC. 223. ENFORCEMENT OF EQUAL CREDIT OPPORTUNITY ACT.

(a) PATTERN OR PRACTICE.—Section 706(g) of the Equal Credit Opportunity Act (15 U.S.C. 1691e(g)) is amended by adding at the end the following new sentence: "Each agency referred to in paragraphs (1), (2), and (3) of section 704(a) shall refer the matter to the Attorney General whenever the agency has reason to believe that 1 or more creditors has engaged in a pattern or practice of discouraging or denying applications for credit in violation of section 701(a). Each such agency may refer the matter to the Attorney General whenever the agency has reason to believe that 1 or more creditors has violated section 701(a).".

(b) DAMAGES.—Section 706(h) of the Equal Credit Opportunity Act (15 U.S.C. 1691e(h)) is amended by inserting "actual and punitive damages and" after "including".

(c) NOTICE TO HUD.—Section 706 of the Equal Credit Opportunity Act (15 U.S.C. 1691e) is amended by adding at the end the following new subsection:

"(k) NOTICE TO HUD OF VIOLATIONS.—Whenever an agency referred to in paragraph (1), (2), or (3) of section 704(a)—

"(1) has reason to believe, as a result of receiving a consumer complaint, conducting a consumer compliance examination, or otherwise, that a violation of this title has occurred;

"(2) has reason to believe that the alleged violation would be a violation of the Fair Housing Act; and

"(3) does not refer the matter to the Attorney General pursuant to subsection (g),

the agency shall notify the Secretary of Housing and Urban Development of the violation, and shall notify the applicant that the Secretary of Housing and Urban Development has been notified of the alleged violation and that remedies for the violation may be available under the Fair Housing Act.".

(d) APPRAISALS.—Section 701 of the Equal Credit Opportunity Act (15 U.S.C. 1691) is amended by adding at the end the following:

"(e) Each creditor shall promptly furnish an applicant, upon written request by the applicant made within a reasonable period of time of the application, a copy of the appraisal report used in connection with the applicant's application for a loan that is or would have been secured by a lien on residential real property. The creditor may require the applicant to reimburse the creditor for the cost of the appraisal.".

SEC. 224. HOME MORTGAGE DISCLOSURE ACT.

(a) IN GENERAL.—Section 309 of the Home Mortgage Disclosure Act (12 U.S.C. 2808) is amended—

(1) by striking "depository" before "institution";

(2) by inserting "specified in section 303(2)(A)" after "institution"; and

(3) by adding at the end the following: "The Board, in consultation with the Secretary, may exempt institutions described in section 303(2)(B) that are comparable within their respective industries to institutions that are exempt under the preceding sentence.".

(b) EFFECTIVE DATE.—This section shall become effective on January 1, 1992.

SEC. 225. NOTICE OF SAFEGUARD EXCEPTION.

Section 604 of the Expedited Funds Availability Act (12 U.S.C. 4003) is amended—

(1) in subsection (b), by inserting "(a)(2)," after "subsection";

(2) in subsection (c)(1), by striking "(F)" after "subsections (a)(2)";

(3) in subsection (d), by inserting "(a)(2)," after "subsections";

(4) in subsection (f)(1)(A)(i), by striking "day" and inserting "time period within which"; and

(5) in subsection (f), by adding at the end of paragraph (2) the following:

"(D) In the case of a deposit to which subsection (b)(1) or (b)(2) applies, the depository institution may, for nonconsumer accounts and other classes of accounts, as defined by the Board, that generally have a large number of such deposits, provide notice at or before the time it first determines that the subsection applies.

"(E) In the case of a deposit to which subsection (b)(3) applies, the depository institution may, subject to regulations of the Board, provide notice at the beginning of each time period it determines that the subsection applies. In addition to the requirements contained in paragraph (1)(A), the notice shall specify the time period for which the exception will apply.".

SEC. 226. DELEGATED PROCESSING.

18(f Section 328(a) of the Cranston-Gonzalez National Affordable Housing Act (12 U.S.C. 1713 note) is amended in the first sentence by inserting before the period "or other individuals and entities expressly approved by the Department of Housing and Urban Development".

SEC. 227. DEPOSITS AT NONPROPRIETARY AUTOMATED TELLER MACHINES.

(a) IN GENERAL.—Section 603(e) of the Expedited Funds Availability Act (12 U.S.C. 4002(e)) is amended by striking paragraphs (1)(C) and (2).

(b) CONFORMING AMENDMENTS.—The Expedited Funds Availability Act (12 U.S.C. 4001 et seq.) is amended—

(1) in section 603(e) (12 U.S.C. 4002(e))—

(A) by striking the heading for paragraph (1) and inserting the following:

"(1) NONPROPRIETARY ATM.—"; and

(B) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively; and

(2) in section 604(a)(2) (12 U.S.C. 4003(a)(2)) by striking "and (2)".

SEC. 228. NOTICE OF BRANCH CLOSURE.

The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding after section 38 (as added by section 131 of this Act) the following new section:

"SEC. 39. NOTICE OF BRANCH CLOSURE.

"(a) NOTICE TO APPROPRIATE FEDERAL BANKING AGENCY.—

"(1) IN GENERAL.—An insured depository institution which proposes to close any branch shall submit a notice of the proposed closing to the appropriate Federal banking agency not later than the first day of the 90-day period ending on the date proposed for the closing.

"(2) CONTENTS OF NOTICE.—A notice under paragraph (1) shall include—

"(A) a detailed statement of the reasons for the decision to close the branch; and

"(B) statistical or other information in support of such reasons.

"(b) NOTICE TO CUSTOMERS.—

"(1) IN GENERAL.—An insured depository institution which proposes to close a branch shall provide notice of the proposed closing to its customers.

"(2) CONTENTS OF NOTICE.—Notice under paragraph (1) shall consist of—

"(A) posting of a notice in a conspicuous manner on the premises of the branch proposed to be closed during not less than the 30-day period ending on the date proposed for that closing; and

"(B) inclusion of a notice in—

"(i) at least one of any regular account statements mailed to customers of the branch proposed to be closed, or

"(ii) in a separate mailing,

by not later than the beginning of the 90-day period ending on the date proposed for that closing.

"(c) ADOPTION OF POLICIES.—Each insured depository institution shall adopt policies for closings of branches of the institution.".

Subtitle C—Bank Enterprise Act

SEC. 231. SHORT TITLE.

This subtitle may be cited as the "Bank Enterprise Act of 1991".

SEC. 232. REDUCED ASSESSMENT RATE FOR DEPOSITS ATTRIBUTABLE TO LIFELINE ACCOUNTS.

(a) QUALIFICATION OF LIFELINE ACCOUNTS BY FEDERAL RESERVE BOARD.—

(1) IN GENERAL.—The Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation shall establish minimum requirements for accounts providing basic transaction services for consumers at insured depository institutions in order for such accounts to qualify as lifeline accounts for purposes of this section and section 7(b)(10) of the Federal Deposit Insurance Act.

(2) FACTORS TO BE CONSIDERED.—In determining the minimum requirements under paragraph (1) for lifeline accounts at insured depository institutions, the Board and the Corporation shall consider the following factors:

(A) Whether the account is available to provide basic transaction services for individuals who maintain a balance of less than $1,000 or such other amount which the Board may determine to be appropriate.

(B) Whether any service charges or fees to which the account is subject, if any, for routine transactions do not exceed a minimal amount.

(C) Whether any minimum balance or minimum opening requirement to which the account is subject, if any, is not more than a minimal amount.

(D) Whether checks, negotiable orders of withdrawal, or similar instruments for making payments or other transfers to third parties may be drawn on the account.

(E) Whether the depositor is permitted to make more than a minimal number of withdrawals from the account each month by any means described in subparagraph (D) or any other means.

(F) Whether a monthly statement itemizing all transactions for the monthly reporting period is made available to the depositor with respect to such account or a passbook is provided in which all transactions with respect to such account are recorded.

(G) Whether depositors are permitted access to tellers at the institution for conducting transactions with respect to such account.

(H) Whether other account relationships with the institution are required in order to open any such account.

(I) Whether individuals are required to meet any prerequisite which discriminates against low-income individuals in order to open such account.

(J) Such other factors as the Board may determine to be appropriate.

(3) DEFINITIONS.—For purposes of this subsection—

(A) BOARD.—The term "Board" means the Board of Governors of the Federal Reserve System.

(B) INSURED DEPOSITORY INSTITUTION.—The term "insured depository institution" has the meaning given to such term in section 3(c)(2) of the Federal Deposit Insurance Act.

(C) LIFELINE ACCOUNT.—The term "lifeline account" means any transaction account (as defined in section 19(b)(1)(C) of the Federal Reserve Act) which meets the minimum requirements established by the Board under this subsection.

(b) REDUCED ASSESSMENT RATES FOR LIFELINE ACCOUNT DEPOSITS.—

(1) REPORTING LIFELINE ACCOUNT DEPOSITS.—Section 7(a) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)) (as amended by sections 122, 123, and 141 of this Act) is amended by redesignating paragraphs (6), (7), (8), (9), and (10) as paragraphs (7), (8), (9), (10), and (11), respectively, and by inserting after paragraph (5) the following new paragraph:

"(6) LIFELINE ACCOUNT DEPOSITS.—In the reports of condition required to be reported under this subsection, the deposits in lifeline accounts (as defined in section 232(a)(3)(C) of the Bank Enterprise Act of 1991) shall be reported separately.".

(2) ASSESSMENT RATES APPLICABLE TO LIFELINE DEPOSITS.—Section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)) is amended by redesignating paragraph (10) (as so redesignated by section 103(b) of this Act) as paragraph (11) and by inserting after paragraph (9) the following new paragraph:

"(10) ASSESSMENT RATE FOR LIFELINE ACCOUNT DEPOSITS.—Notwithstanding any other provision of this subsection, that portion of the average assessment base of any insured depository institution which is attributable to deposits in lifeline accounts (as reported in the institution's reports of condition pursuant to subsection (a)(6)) shall be subject to assessment at the assessment rate of ½ the maximum rate.".

(3) ASSESSMENT PROCEDURE.—Section 7(b)(2)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)(A)) is amended—

(A) by striking subclause (II) of clause (i) and inserting the following new subclause:

"(II) such Bank Insurance Fund member's average assessment base for the immediately preceding semiannual period (minus any amount taken into account under clause (iii) with respect to lifeline account deposits); and"; and

(B) by striking subclause (II) of clause (ii) and inserting the following new subclause:

"(II) such Savings Association Insurance Fund member's average assessment base for the immediately preceding semiannual period (minus any amount taken into account under clause (iii) with respect to lifeline account deposits); and"; and

(C) by adding at the end the following new clause:

"(iii) the semiannual assessment due from any Bank Insurance Fund member or Savings Association Insurance Fund member with respect to lifeline account deposits for any semiannual assessment period shall be the product of—

"(I) ½ the assessment rate applicable with respect to such deposits pursuant to paragraph (10) during that semiannual assessment period; and

"(II) the portion of such member's average assessment base for the immediately preceding semiannual period which is attributable to deposits in lifeline accounts (as reported in the institution's reports of condition pursuant to subsection (a)(6)).".

(c) AVAILABILITY OF FUNDS.—The provisions of this section shall not take effect until appropriations are specifically provided in advance. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

SEC. 233. ASSESSMENT CREDITS FOR QUALIFYING ACTIVITIES RELATING TO DISTRESSED COMMUNITIES.

(a) DETERMINATION OF CREDITS FOR INCREASES IN COMMUNITY ENTERPRISE ACTIVITIES.—

(1) IN GENERAL.—The Community Enterprise Assessment Credit Board established under sub-

section (d) shall issue guidelines for insured depository institutions eligible under this subsection for any community enterprise assessment credit with respect to any semiannual period. Such guidelines shall—

(A) designate the eligibility requirements for any institution meeting applicable capital standards to receive an assessment credit under section 7(d)(4) of the Federal Deposit Insurance Act; and

(B) determine the community enterprise assessment credit available to any eligible institution under paragraph (3).

(2) QUALIFYING ACTIVITIES.—An insured depository institution shall be eligible for any community enterprise assessment credit for any semiannual period for—

(A) any increase during such period in the amount of new originations of qualified loans and other financial assistance provided for low- and moderate-income persons in distressed communities, or enterprises integrally involved with such neighborhoods, which the Board determines are qualified to be taken into account for purposes of this subsection; and

(B) any increase during such period in the amount of deposits accepted from persons domiciled in the distressed community, at any office of the institution (including any branch) located in any qualified distressed community, and any increase during such period in the amount of new originations of loans and other financial assistance made within that community, except that in no case shall the credit for increased deposits at any institution or branch exceed the credit for increased loan and other financial assistance by the bank or branch in the distressed community.

(3) AMOUNT OF ASSESSMENT CREDIT.—The amount of any community enterprise assessment credit available under section 7(d)(4) for any insured depository institution, or a qualified portion thereof, for any semiannual period shall be the amount which is equal to 5 percent, in the case of an institution which does not meet the community development organization requirements under section 235, and 15 percent, in the case of an institution, or a qualified portion thereof, which meets such requirements, (or any percentage designated under paragraph (5)) of the sum of—

(A) the amounts of assets described in paragraph (2)(A); and

(B) the amounts of deposits, loans, and other extensions of credit described in paragraph (2)(B).

(4) DETERMINATION OF QUALIFIED LOANS AND OTHER FINANCIAL ASSISTANCE.—Except as provided in paragraph (6), the types of loans and other financial assistance which the Board may determine to be qualified to be taken into account under paragraph (2)(A) for purposes of the community enterprise assessment credit, may include the following:

(A) Loans insured or guaranteed by the Secretary of Housing and Urban Development, the Secretary of the Department of Veterans Affairs, the Administrator of the Small Business Administration, and the Secretary of Agriculture.

(B) Loans or financing provided in connection with activities assisted by the Administrator of the Small Business Administration or any small business investment company and investments in small business investment companies.

(C) Loans or financing provided in connection with any neighborhood housing service program assisted under the Neighborhood Reinvestment Corporation Act.

(D) Loans or financing provided in connection with any activities assisted under the community development block grant program under title I of the Housing and Community Development Act of 1974.

(E) Loans or financing provided in connection with activities assisted under title II of the Cranston-Gonzalez National Affordable Housing Act.

(F) Loans or financing provided in connection with a homeownership program assisted under title III of the United States Housing Act of 1937 or subtitle B or C of title IV of the Cranston-Gonzalez National Affordable Housing Act.

(G) Financial assistance provided through community development corporations.

(H) Federal and State programs providing interest rate assistance for homeowners.

(I) Extensions of credit to nonprofit developers or purchasers of low-income housing and small business developments.

(J) In the case of members of any Federal home loan bank, participation in the community investment fund program established by the Federal home loan banks.

(K) Conventional mortgages targeted to low- or moderate-income persons.

(5) ADJUSTMENT OF PERCENTAGE.—The Board may increase or decrease the percentage referred to in paragraph (3) for determining the amount of any community enterprise assessment credit pursuant to such paragraph, except that the percentage established for insured depository institutions which meet the community development organization requirements under section 235 shall not be less than 3 times the amount of the percentage applicable for insured depository institutions which do not meet such requirements.

(6) CERTAIN INVESTMENTS NOT ELIGIBLE TO BE TAKEN INTO ACCOUNT.—Investments by any insured depository institution in loans and securities that are not the result of originations by the institution shall not be taken into account for purposes of determining the amount of any credit pursuant to this subsection.

(b) QUALIFIED DISTRESSED COMMUNITY DEFINED.—

(1) IN GENERAL.—For purposes of this section, the term "qualified distressed community" means any neighborhood or community which—

(A) meets the minimum area requirements under paragraph (3) and the eligibility requirements of paragraph (4); and

(B) is designated as a distressed community by any insured depository institution in accordance with paragraph (2) and such designation is not disapproved under such paragraph.

(2) DESIGNATION REQUIREMENTS.—

(A) NOTICE OF DESIGNATION.—

(i) NOTICE TO AGENCY.—Upon designating an area as a qualified distressed community, an insured depository institution shall notify the appropriate Federal banking agency of the designation.

(ii) PUBLIC NOTICE.—Upon the effective date of any designation of an area as a qualified distressed community, an insured depository institution shall publish a notice of such designation in major newspapers and other community publications which serve such area.

(B) AGENCY DUTIES RELATING TO DESIGNATIONS.—

(i) PROVIDING INFORMATION.—At the request of any insured depository institution, the appropriate Federal banking agency shall provide to the institution appropriate information to assist the institution to identify and designate a qualified distressed community.

(ii) PERIOD FOR DISAPPROVAL.—Any notice received by the appropriate Federal banking agency from any insured depository institution under subparagraph (A)(i) shall take effect at the end of the 90-day period beginning on the date such notice is received unless written notice of the approval or disapproval of the application by the agency is provided to the institution before the end of such period.

(3) MINIMUM AREA REQUIREMENTS.—For purposes of this subsection, an area meets the requirements of this paragraph if—

(A) the area is within the jurisdiction of 1 unit of general local government;

(B) the boundary of the area is contiguous; and

(C) the area—

(i) has a population, as determined by the most recent census data available, of not less than—

(I) 4,000, if any portion of such area is located within a metropolitan statistical area (as designated by the Director of the Office of Management and Budget) with a population of 50,000 or more; or

(II) 1,000, in any other case; or

(ii) is entirely within an Indian reservation (as determined by the Secretary of the Interior).

(4) ELIGIBILITY REQUIREMENTS.—For purposes of this subsection, an area meets the requirements of this paragraph if at least 2 of the following criteria are met:

(A) INCOME.—At least 70 percent of the families and unrelated individuals residing in the area have incomes of less than 80 percent of the median income of the area.

(B) POVERTY.—At least 20 percent of the residents residing in the area have incomes which are less than the national poverty level (as determined pursuant to criteria established by the Director of the Office of Management and Budget).

(C) UNEMPLOYMENT.—The unemployment rate for the area is one and one-half times greater than the national average (as determined by the Bureau of Labor Statistic's most recent figures).

(c) ASSESSMENT CREDIT PROVIDED.—

(1) IN GENERAL.—Section 7(d) of the Federal Deposit Insurance Act (12 U.S.C. 1817(d)) amended—

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

(B) by inserting after paragraph (3) the following new paragraphs:

"(4) COMMUNITY ENTERPRISE ASSESSMENT CREDITS.—Notwithstanding paragraphs (2)(A) and (3)(A) and in addition to any assessment credit authorized under paragraph (2)(B) or (3)(B), the Corporation shall allow an assessment credit for any semiannual assessment period to any Bank Insurance Fund member or Savings Association Insurance Fund member satisfying the requirements of the Community Enterprise Assessment Credit Board under section 233(a)(1) of the Bank Enterprise Act of 1991 in the amount determined by such Board through regulation for such period pursuant to such section.

"(5) MAXIMUM AMOUNT OF CREDIT.—The total amount of assessment credits allowed under this subsection (including community enterprise assessment credits pursuant to paragraph (4)) for any insured depository institution for any semiannual period shall not exceed the amount which is equal to 20 percent, in the case of an institution which does not meet the community development organization requirements under section 235 of the Bank Enterprise Act of 1991, and 50 percent, in the case of an institution which meets such requirements, of the assessment imposed on such institution for the semiannual period.".

(2) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) Subparagraph (A) of section 7(d)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(d)(1)) is amended by inserting "(other than credits allowed pursuant to paragraph (4))" after "amount to be credited".

(B) Subparagraph (B) of section 7(d)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(d)(1)) is amended by inserting "(taking into account any assessment credit allowed pursuant to paragraph (4))" after "should be reduced".

(d) COMMUNITY ENTERPRISE ASSESSMENT CREDIT BOARD.—

(1) ESTABLISHMENT.—There is hereby established the "Community Enterprise Assessment Credit Board".

(2) NUMBER AND APPOINTMENT.—The Board shall be composed of 5 members as follows:

(A) The Secretary of the Treasury or a designee of the Secretary.

(B) The Secretary of Housing and Urban Development or a designee of the Secretary.

(C) The Chairperson of the Federal Deposit Insurance Corporation or a designee of the Chairperson.

(D) 2 individuals appointed by the President from among individuals who represent community organizations.

(3) TERMS.—

(A) APPOINTED MEMBERS.—Each appointed member shall be appointed for a term of 5 years.

(B) INTERIM APPOINTMENT.—Any member appointed to fill a vacancy occurring before the expiration of the term to which such member's predecessor was appointed shall be appointed only for the remainder of such term.

(C) CONTINUATION OF SERVICE.—Each appointed member may continue to serve after the expiration of the period to which such member was appointed until a successor has been appointed.

(4) CHAIRPERSON.—The Secretary of the Treasury shall serve as the Chairperson of the Board.

(5) NO PAY.—No members of the Commission may receive any pay for service on the Board.

(6) TRAVEL EXPENSES.—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(7) MEETINGS.—The Board shall meet at the call of the Chairperson or a majority of the Board's members.

(e) DUTIES OF THE BOARD.—

(1) PROCEDURE FOR DETERMINING COMMUNITY ENTERPRISE ASSESSMENT CREDITS.—The Board shall establish procedures for accepting and considering applications by insured depository institutions under subsection (a)(1) for community enterprise assessment credits and making determinations with respect to such applications.

(2) NOTICE TO FDIC.—The Board shall notify the applicant and the Federal Deposit Insurance Corporation of any determination of the Board with respect to any application referred to in paragraph (1) in sufficient time for the Corporation to include the amount of such credit in the computation made for purposes of the notification required under paragraph section 7(d)(1)(B).

(f) AVAILABILITY OF FUNDS.—The provisions of this section shall not take effect until appropriations are specifically provided in advance. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

(g) DEFINITIONS.—For purposes of this section—

(1) APPROPRIATE FEDERAL BANKING AGENCY.—The term "appropriate Federal banking agency" has the meaning given to such term in section 3(q) of the Federal Deposit Insurance Act.

(2) BOARD.—The term "Board" means the Community Enterprise Assessment Credit Board established under the amendment made by subsection (d).

(3) INSURED DEPOSITORY INSTITUTION.—The term "insured depository institution" has the meaning given to such term in section 3(c)(2) of the Federal Deposit Insurance Act.

SEC. 234. COMMUNITY DEVELOPMENT ORGANIZATIONS.

(a) COMMUNITY DEVELOPMENT ORGANIZATIONS DESCRIBED.—For purposes of this subtitle, any insured depository institution, or a qualified portion thereof, shall be treated as meeting the community development organization requirements of this section if—

(1) the institution—

(A) is a community development bank, or controls any community development bank, which meets the requirements of subsection (b);

(B) controls any community development corporation, or maintains any community development unit within the institution, which meets the requirements of subsection (c);

(C) invests in accounts in any community development credit union designated as a low-income credit union, subject to restrictions established for such credit unions by the National Credit Union Administration Board; or

(D) invests in a community development organization jointly controlled by two or more institutions;

(2) except in the case of an institution which is a community development bank, the amount of the capital invested, in the form of debt or equity, by the institution in the community development organization referred to in paragraph (1) (or, in the case of any community development unit, the amount which the institution irrevocably makes available to such unit for the purposes described in paragraph (3)) is not less than the greater of—

(A) ½ of 1 percent of the capital, as defined by generally accepted accounting principles, of the institution; or

(B) the sum of the amounts invested in such community development organization; and

(3) the community development organization provides loans for residential mortgages, home improvement, and community development and other financial services, other than financing for the purchase of automobiles or extension of credit under any open-end credit plan (as defined in section 103(i) of the Truth in Lending Act), to low- and moderate-income persons, nonprofit organizations, and small businesses located in qualified distressed communities in a manner consistent with the intent of this subtitle.

(b) COMMUNITY DEVELOPMENT BANK REQUIREMENTS.—A community development bank meets the requirements of this subsection if—

(1) the community development bank has a 15-member advisory board designated as the "Community Investment Board" and consisting entirely of community leaders who—

(A) shall be appointed initially by the board of directors of the community development bank and thereafter by the Community Investment Board from nominations received from the community; and

(B) are appointed for a single term of 2 years, except that, of the initial members appointed to the Community Investment Board, ⅓ shall be appointed for a term of 8 months, ⅓ shall be appointed for a term of 16 months, and ⅓ shall be appointed for a term of 24 months, as designated by the board of directors of the community development bank at the time of the appointment;

(2) ⅓ of the members of the community development bank's board of directors are appointed from among individuals nominated by the Community Investment Board; and

(3) the bylaws of the community development bank require that the board of directors of the bank meet with the Community Investment Board at least once every 3 months.

(c) COMMUNITY DEVELOPMENT CORPORATION REQUIREMENTS.—Any community development corporation, or community development unit within any insured depository institution meets the requirements of this subsection if the corporation or unit provides the same or greater, as determined by the appropriate Federal banking agency, community participation in the activities of such corporation or unit as would be provided by a Community Investment Board under subsection (b) if such corporation or unit were a community development bank.

(d) ADEQUATE DISPERSAL REQUIREMENT.—The appropriate Federal banking agency may approve the establishment of a community development organization under this subtitle only upon finding that the distressed community is not adequately served by an existing community development organization.

(e) DEFINITIONS.—For purposes of this section—

(1) COMMUNITY DEVELOPMENT BANK.—The term "community development bank" means any depository institution (as defined in section 3(c)(1) of the Federal Deposit Insurance Act).

(2) COMMUNITY DEVELOPMENT ORGANIZATION.—The term "community development organization" means any community development bank, community development corporation, community development unit within any insured depository institution, or community development credit union.

(3) LOW- AND MODERATE-INCOME PERSONS.—The term "low- and moderate-income persons" has the meaning given such term in section 102(a)(20) of the Housing and Community Development Act of 1974.

(4) NONPROFIT ORGANIZATION; SMALL BUSINESS.—The terms "nonprofit organization" and "small business" have the meanings given to such terms by regulations which the appropriate Federal banking agency shall prescribe for purposes of this section.

(5) QUALIFIED DISTRESSED COMMUNITY.—The term "qualified distressed community" has the meaning given to such term in section 233(b).

Subtitle D—FDIC Property Disposition

SEC. 241. FDIC AFFORDABLE HOUSING PROGRAM.

(a) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding after section 39 (as added by section 228 of this title) the following new section:

"SEC. 40. FDIC AFFORDABLE HOUSING PROGRAM.

"(a) PURPOSE.—The purpose of this section is to provide homeownership and rental housing opportunities for very low-income, low-income, and moderate-income families.

"(b) FUNDING AND LIMITATIONS OF PROGRAM.—

"(1) DURATION OF PROGRAM.—The provisions of this section shall be effective, subject to the provisions of paragraph (2), only during the 3-year period beginning upon the commencement of the first fiscal year for which amounts are provided pursuant to paragraph (2)(A).

"(2) ANNUAL FISCAL LIMITATIONS.—

"(A) IN GENERAL.—In each fiscal year during the 3-year period referred to in paragraph (1), the provisions of this section shall apply only—

"(i) to such extent or in such amounts as are provided in appropriations Acts for any losses resulting during the fiscal year from the sale of properties under this section, except that such amounts for losses may not exceed $30,000,000 in any fiscal year; and

"(ii) to the extent that amounts are provided in appropriations Acts pursuant to subparagraph (C) for any other costs relating to the program under this section.

"(B) DEFINITION OF LOSSES.—For purposes of this paragraph, the amount of losses resulting from the sale of properties under this section during any fiscal year shall be the amount equal to the sum of any affordable housing discounts reasonably anticipated to accrue during the fiscal year.

"(C) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, for each fiscal year during the 3-year period referred to in paragraph (1), such sums as may be necessary for any costs of the program under this section other than losses resulting from the sale of properties under this section.

"(D) OTHER DEFINITIONS.—For purposes of this paragraph:

"(i) AFFORDABLE HOUSING DISCOUNT.—The term 'affordable housing discount' means, with

respect to any eligible residential or eligible condominium property transferred under this section by the Corporation, the difference (if any) between the realizable disposition value of the property and the actual sale price of the property under this section.

"(ii) REALIZABLE DISPOSITION VALUE.—The term 'realizable disposition value' means the estimated sale price that the Corporation reasonably would be able to obtain upon the sale of a property by the Corporation under the provisions of this Act, not including this section, and any other applicable laws. Not later than the expiration of the 120-day period beginning upon the commencement of the first fiscal year for which amounts are provided pursuant to paragraph (2)(A), the Corporation shall establish, and publish in the Federal Register, procedures for determining the realizable disposition value of a property transferred under this section, which shall take into consideration such factors as the Corporation considers appropriate, including the actual sale prices of properties disposed of by the Resolution Trust Corporation under section 21A(c) of the Federal Home Loan Bank Act, the prices of other properties sold under similar programs, and the appraised value of the property transferred under this section. Until such procedures are established, the Corporation may consider the realizable disposition value of any eligible residential or condominium property to be equal to the appraised value of the property.

"(3) EXISTING CONTRACTS.—The provisions of this section shall not apply to any eligible residential property or any eligible condominium property that is subject to an agreement entered into by the Corporation before the commencement of the first fiscal year for which amounts are provided pursuant to paragraph (2)(A) that provides for any other disposition of the property.

"(c) RULES GOVERNING DISPOSITION OF ELIGIBLE SINGLE FAMILY PROPERTIES.—

"(1) NOTICE TO CLEARINGHOUSES.—Within a reasonable period of time after acquiring title to an eligible single family property, the Corporation shall provide written notice to clearinghouses. Such notice shall contain basic information about the property, including but not limited to location, condition, and information relating to the estimated fair market value of the property. Each clearinghouse shall make such information available, upon request, to other public agencies, other nonprofit organizations, and qualifying households. The Corporation shall allow public agencies, nonprofit organizations, and qualifying households reasonable access to eligible single family property for purposes of inspection.

"(2) OFFERS TO SELL TO NONPROFIT ORGANIZATIONS, PUBLIC AGENCIES, AND QUALIFYING HOUSEHOLDS.—During the 180-day period beginning on the date on which the Corporation makes an eligible single family property available for sale, the Corporation shall offer to sell the property to—

"(A) qualifying households (including qualifying households with members who are veterans); or

"(B) public agencies or nonprofit organizations that agree to (i) make the property available for occupancy by and maintain it as affordable for low-income families (including low-income families with members who are veterans) for the remaining useful life of such property, or (ii) make the property available for purchase by any such family who, except as provided in paragraph (4), agrees to occupy the property as a principal residence for at least 12 months and certifies in writing that the family intends to occupy the property for at least 12 months.

The restrictions described in clause (i) of subparagraph (B) shall be contained in the deed or other recorded instrument. If, upon the expiration of such 180-day period, no qualifying household, public agency, or nonprofit organization has made a bona fide offer to purchase the property, the Corporation may offer to sell the property to any purchaser. The Corporation shall actively market eligible single family properties for sale to low-income families and to low-income families with members who are veterans.

"(3) RECAPTURE OF PROFITS FROM RESALE.—Except as provided in paragraph (4), if any eligible single family property sold (A) to a qualifying household, or (B) to a low-income family pursuant to paragraph (2)(B)(ii), subsection (j)(3)(A), or subsection (k)(2), is resold by the qualifying household or low-income family during the 1-year period beginning upon initial acquisition by the household or low-income family, the Corporation shall recapture 75 percent of the amount of any proceeds from the resale that exceed the sum of (i) the original sale price for the acquisition of the property by the qualifying household or low-income family, (ii) the costs of any improvements to the property made after the date of the acquisition, and (iii) any closing costs in connection with the acquisition.

"(4) EXCEPTIONS TO RECAPTURE REQUIREMENT.—

"(A) RELOCATION.—The Corporation may in its discretion waive the applicability (i) to any qualifying household of the requirement under paragraph (3) and the requirements relating to residency of a qualifying household under subsections (p)(12)(B) and (C), and (ii) to any low-income family of the requirement under paragraph (3) and the residency requirements under paragraph (2)(B)(ii). The Corporation may grant any such a waiver only for good cause shown, including any necessary relocation of the qualifying household or low-income family.

"(B) OTHER RECAPTURE PROVISIONS.—The requirement under paragraph (3) shall not apply to any eligible single family property for which, upon resale by the qualifying household or low-income family during the 1-year period beginning upon initial acquisition by the household or family, a portion of the sale proceeds or any subsidy provided in connection with the acquisition of the property by the household or family is required to be recaptured or repaid under any other Federal, State, or local law (including section 143(m) of the Internal Revenue Code of 1986) or regulation or under any sale agreement.

"(5) EXCEPTION TO AVOID DISPLACEMENT OF EXISTING RESIDENTS.—Notwithstanding the first sentence of paragraph (2), during the 180-day period following the date on which the Corporation makes an eligible single family property available for sale, the Corporation may sell the property to the household residing in the property, but only if (A) such household was residing in the property at the time notice regarding the property was provided to clearinghouses under paragraph (1), (B) such sale is necessary to avoid the displacement of, and unnecessary hardship to, the resident household, (C) the resident household intends to occupy the property as a principal residence for at least 12 months, and (D) the resident household certifies in writing that the household intends to occupy the property for at least 12 months.

"(d) RULES GOVERNING DISPOSITION OF ELIGIBLE MULTIFAMILY HOUSING PROPERTIES.—

"(1) NOTICE TO CLEARINGHOUSES.—Within a reasonable period of time after acquiring title to an eligible multifamily housing property, the Corporation shall provide written notice to clearinghouses. Such notice shall contain basic information about the property, including but not limited to location, number of units (identified by number of bedrooms), and information relating to the estimated fair market value of the property. Each clearinghouse shall make such information available, upon request, to qualifying multifamily purchasers. The Corporation shall allow qualifying multifamily purchasers reasonable access to eligible multifamily housing properties for purposes of inspection.

"(2) EXPRESSION OF SERIOUS INTEREST.—Qualifying multifamily purchasers may give written notice of serious interest in a property during a period ending 90 days after the time the Corporation provides notice under paragraph (1). The notice of serious interest shall be in such form and include such information as the Corporation may prescribe.

"(3) NOTICE OF READINESS FOR SALE.—Upon the expiration of the period referred to in paragraph (2) for a property, the Corporation shall provide written notice to any qualifying multifamily purchaser that has expressed serious interest in the property. Such notice shall specify the minimum terms and conditions for sale of the property.

"(4) OFFERS BY QUALIFYING MULTIFAMILY PURCHASERS.—A qualifying multifamily purchaser receiving notice in accordance with paragraph (3) shall have 45 days (from the date notice is received) to make a bona fide offer to purchase the property. The Corporation shall accept an offer that complies with the terms and conditions established by the Corporation. If, before the expiration of such 45-day period, any offer to purchase a property initially accepted by the Corporation is subsequently rejected or fails (for any reason), the Corporation shall accept another offer to purchase the property made during such period that complies with the terms and conditions established by the Corporation (if such another offer is made). The preceding sentence may not be construed to require a qualifying multifamily purchaser whose offer is accepted during the 45-day period to purchase the property before the expiration of the period.

"(5) EXTENSION OF RESTRICTED OFFER PERIODS.—The Corporation may provide notice to clearinghouses regarding, and offer for sale under the provisions of paragraphs (1) through (4), any eligible multifamily housing property—

"(A) in which no qualifying multifamily purchaser has expressed serious interest during the period referred to in paragraph (2), or

"(B) for which no qualifying multifamily purchaser has made a bona fide offer before the expiration of the period referred to in paragraph (4),

except that the Corporation may, in the discretion of the Corporation, alter the duration of the periods referred to in paragraphs (2) and (4) in offering any property for sale under this paragraph.

"(6) SALE OF MULTIFAMILY PROPERTIES TO OTHER PURCHASERS.—

"(A) TIMING.—If, upon the expiration of the period referred to in paragraph (2), no qualifying multifamily purchaser has expressed serious interest in a property, the Corporation may offer to sell the property, individually or in combination with other properties, to any purchaser.

"(B) LIMITATION ON COMBINATION SALES.—The Corporation may not sell in combination with other properties any property for which a qualifying multifamily purchaser has expressed serious interest in purchasing individually.

"(C) EXPIRATION OF OFFER PERIOD.—If, upon the expiration of the period referred to in paragraph (4), no qualifying multifamily purchaser has made an offer to purchase a property, the Corporation may offer to sell the property, individually or in combination with other properties, to any purchaser.

"(7) LOW-INCOME OCCUPANCY REQUIREMENTS.—

"(A) SINGLE PROPERTY PURCHASES.—With respect to any purchase of a single eligible multifamily housing property by a qualifying multifamily purchaser under paragraph (4) or (5)—

"(i) not less than 35 percent of all dwelling units purchased shall be made available for occupancy by and maintained as affordable for low-income and very low-income families during the remaining useful life of the property in which the units are located; provided that

"(ii) not less than 20 percent of all dwelling units purchased shall be made available for occupancy by and maintained as affordable for very low-income families during the remaining useful life of the property in which the units are located.

"(B) AGGREGATION REQUIREMENTS FOR MULTIPROPERTY PURCHASES.—With respect to any purchase under paragraph (4) or (5) by a qualifying multifamily purchaser involving more than one eligible multifamily housing property as a part of the same negotiation, with respect to which the purchaser intends to aggregate the low-income occupancy required under this paragraph over the total number of units so purchased—

"(i) not less than 40 percent of the aggregate number of all dwelling units purchased shall be made available for occupancy by and maintained as affordable for low-income and very low-income families during the remaining useful life of the building or structure in which the units are located; provided that

"(ii) not less than 20 percent of the aggregate number of all dwelling units purchased shall be made available for occupancy by and maintained as affordable for very low-income families during the remaining useful life of the building or structure in which the units are located; and further provided that

"(iii) not less than 10 percent of the dwelling units in each separate property purchased shall be made available for occupancy by and maintained as affordable for low-income families during the remaining useful life of the property in which the units are located.

The requirements of this paragraph shall be contained in the deed or other recorded instrument.

"(8) EXEMPTIONS.—

"(A) CONTINUED OCCUPANCY OF CURRENT RESIDENTS.—No purchaser of an eligible multifamily property may terminate the occupancy of any person residing in the property on the date of purchase for purposes of the meeting low-income occupancy requirement applicable to the property under paragraph (7). The purchaser shall be considered to be in compliance with this subsection if each newly vacant dwelling unit is reserved for low-income occupancy until the low-income occupancy requirement is met.

"(B) FINANCIAL INFEASIBILITY.—The Secretary or the State housing finance agency for the State in which an eligible multifamily housing property is located may temporarily reduce the low-income occupancy requirements under paragraph (7) applicable to the property, if the Secretary or such agency determines that an owner's compliance with such requirements is no longer financially feasible. The owner of the property shall make a good-faith effort to return low-income occupancy to the level required under paragraph (7), and the Secretary or the State housing finance agency, as appropriate, shall review the reduction annually to determine whether financial infeasibility continues to exist.

"(e) RENT LIMITATIONS.—

"(1) IN GENERAL.—With respect to properties under paragraph (2), rents charged to tenants for units made available for occupancy by very low-income families shall not exceed 30 percent of the adjusted income of a family whose income equals 50 percent of the median income for the area, as determined by the Secretary, with adjustment for family size. Rents charged to tenants for units made available for occupancy by low-income families other than very low-income families shall not exceed 30 percent of the adjusted income of a family whose income equals 65 percent of the median income for the area, as determined by the Secretary, with adjustment for family size.

"(2) APPLICABILITY.—The rent limitations under this subsection shall apply to any eligible single family property sold pursuant to subsection (c)(2)(B)(i) and to any eligible multifamily housing property sold pursuant to subsection (d).

"(f) PREFERENCES FOR SALES.—

"(1) IN GENERAL.—In selling any eligible multifamily housing property or combinations of eligible residential properties, the Corporation shall give preference, among substantially similar offers, to the offer that would reserve the highest percentage of dwelling units for occupancy or purchase by very low-income and low-income families and would retain such affordability for the longest term.

"(2) MULTIPROPERTY PURCHASES.—The Corporation shall give preference, among substantially similar offers made under paragraph (4) or (5) of subsection (d) to purchase more than one eligible multifamily housing property as a part of the same negotiation, to offers made by purchasers who agree to maintain low-income occupancy in each separate property purchased in compliance with the levels required for properties under subsection (d)(7)(A).

"(3) DEFINITION OF SUBSTANTIALLY SIMILAR OFFERS.—For purposes of this subsection, a given offer to purchase eligible multifamily housing property or combinations of such properties shall be considered to be substantially similar to another offer if the purchase price under such given offer is not less than 85 percent of the purchase price under the other offer.

"(g) FINANCING SALES.—

"(1) ASSISTANCE BY CORPORATION.—

"(A) SALE PRICE.—The Corporation shall establish a market value for each eligible multifamily housing property. The Corporation shall sell eligible multifamily housing property at the net realizable market value, except that the Corporation may agree to sell eligible multifamily housing property at a price below the net realizable market value to the extent necessary to facilitate an expedited sale of such property and enable a public agency or nonprofit organization to comply with the low-income occupancy requirements applicable to such property under subsection (d)(7). The Corporation may sell eligible single family property or eligible condominium property to qualifying households, nonprofit organizations, and public agencies without regard to any minimum sale price.

"(B) PURCHASE LOAN.—The Corporation may provide a loan at market interest rates to any purchaser of eligible residential property for all or a portion of the purchase price, which loan shall be secured by a first or second mortgage on the property. The Corporation may provide the loan at below market interest rates to the extent necessary to facilitate an expedited sale of eligible residential property and permit (i) a low-income family to purchase an eligible single family property under subsection (c), or (ii) a public agency or nonprofit organization to comply with the low-income occupancy requirements applicable to the purchase of an eligible residential property under subsection (c) or (d). The Corporation shall provide loans under this subparagraph in a form permitting sale or transfer of the loan to a subsequent holder. In providing financing for combinations of eligible multifamily housing properties under this section, the Corporation may hold a participating share, including a subordinate participation.

"(2) ASSISTANCE BY HUD.—The Secretary shall take such action as may be necessary to expedite the processing of applications for assistance under section 202 of the Housing Act of 1959, the United States Housing Act of 1937, title IV of the Stewart B. McKinney Homeless Assistance Act, and the National Housing Act, to enable any organization or individual to purchase eligible residential property.

"(3) ASSISTANCE BY FMHA.—The Secretary of Agriculture shall take such action as may be necessary to expedite the processing of applications for assistance under title V of the Housing Act of 1949 to enable any organization or individual to purchase eligible residential property.

"(4) EXCEPTION TO DISPOSITION RULES.—Notwithstanding the requirements under paragraphs (1), (2), (3), (4), (6), and (8) of subsection (d), the Corporation may provide for the disposition of eligible multifamily housing properties as necessary to facilitate purchase of such properties for use in connection with section 202 of the Housing Act of 1959.

"(5) BULK ACQUISITIONS UNDER HOME INVESTMENT PARTNERSHIPS ACT.—

"(A) PURCHASE PRICE.—In providing for bulk acquisition of eligible single family properties by participating jurisdictions for inclusion in affordable housing activities under title II of the Cranston-Gonzalez National Affordable Housing Act, the Corporation shall agree to an amount to be paid for acquisition of such properties. The acquisition price shall include discounts for bulk purchase and for holding of the property such that the acquisition price for each property shall not exceed the fair market value of the property, as valued individually.

"(B) EXEMPTIONS.—To the extent necessary to facilitate sale of properties under this paragraph, the requirements of subsections (c) and (f) and of paragraph (1) of this subsection shall not apply to such transactions and properties involved in such transactions.

"(C) INVENTORIES.—To facilitate acquisitions by such participating jurisdictions, the Corporation shall provide the participating jurisdictions with inventories of eligible single family properties not less than 4 times each year.

"(h) COORDINATION WITH OTHER PROGRAMS.—

"(1) USE OF SECONDARY MARKET AGENCIES.—In the disposition of eligible residential properties, the Corporation (in consultation with the Secretary) shall explore opportunities to work with secondary market entities to provide housing for low- and moderate-income families.

"(2) CREDIT ENHANCEMENT.—

"(A) IN GENERAL.—With respect to such properties, the Secretary may, consistent with statutory authorities, work through the Federal Housing Administration, the Government National Mortgage Association, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and other secondary market entities to develop risk-sharing structures, mortgage insurance, and other credit enhancements to assist in the provision of property ownership, rental, and cooperative housing opportunities for low- and moderate-income families.

"(B) CERTAIN TAX-EXEMPT BONDS.—The Corporation may provide credit enhancements with respect to tax-exempt bonds issued on behalf of nonprofit organizations pursuant to section 103, and subpart A of part IV of subchapter A of chapter 1, of the Internal Revenue Code of 1986, with respect to the disposition of eligible residential properties for the purposes described in subparagraph (A).

"(3) NATIONAL AFFORDABLE HOUSING ACT.—The Corporation shall coordinate the disposition of eligible residential property under this section with appropriate programs and provisions of, and amendments made by, the Cranston-Gonzalez National Affordable Housing Act, including titles II and IV of such Act.

"(i) EXEMPTION FOR CERTAIN TRANSACTIONS WITH INSURED DEPOSITORY INSTITUTIONS.—The

provisions of this section shall not apply with respect to any eligible residential property after the date the Corporation enters into a contract to sell such property to an insured depository institution (as defined in section 3), including any sale in connection with a transfer of all or substantially all of the assets of a closed insured depository institution (including such property) to another insured depository institution.

"(j) TRANSFER OF CERTAIN ELIGIBLE RESIDENTIAL PROPERTIES TO STATE HOUSING AGENCIES FOR DISPOSITION.—Notwithstanding subsections (c), (d), (f), and (g), the Corporation may transfer eligible residential properties to the State housing finance agency or any other State housing agency for the State in which the property is located, or to any local housing agency in whose jurisdiction the property is located. Transfers of eligible residential properties under this subsection may be conducted by direct sale, consignment sale, or any other method the Corporation considers appropriate and shall be subject to the following requirements:

"(1) INDIVIDUAL OR BULK TRANSFER.—The Corporation may transfer such properties individually or in bulk, as agreed to by the Corporation and the State housing finance agency or State or local housing agency.

"(2) ACQUISITION PRICE.—The acquisition price paid by the State housing finance agency or State or local housing agency to the Corporation for properties transferred under this subsection shall be an amount agreed to by the Corporation and the transferee agency.

"(3) LOW-INCOME USE.—Any State housing finance agency or State or local housing agency acquiring properties under this subsection shall offer to sell or transfer the properties only as follows:

"(A) ELIGIBLE SINGLE FAMILY PROPERTIES.—For eligible single family properties—

"(i) to purchasers described under subparagraphs (A) and (B) of subsection (c)(2);

"(ii) if the purchaser is a purchaser described under subsection (c)(2)(B)(i), subject to the rent limitations under subsection (e)(1);

"(iii) subject to the requirement in the second sentence of subsection (c)(2); and

"(iv) subject to recapture by the Corporation of excess proceeds from resale of the properties under paragraphs (3) and (4) of subsection (c).

"(B) ELIGIBLE MULTIFAMILY HOUSING PROPERTIES.—For eligible multifamily housing properties—

"(i) to qualifying multifamily purchasers;

"(ii) subject to the low-income occupancy requirements under subsection (d)(7);

"(iii) subject to the provisions of subsection (d)(8);

"(iv) subject to a preference, among financially acceptable offers, to the offer that would reserve the highest percentage of dwelling units for occupancy or purchase by very low- and low-income families and would retain such affordability for the longest term; and

"(v) subject to the rent limitations under subsection (e)(1).

"(4) AFFORDABILITY.—The State housing finance agency or State or local housing agency shall endeavor to make the properties transferred under this subsection more affordable to low-income families based upon the extent to which the acquisition price of a property under paragraph (2) is less than the market value of the property.

"(k) EXCEPTION FOR SALES TO NONPROFIT ORGANIZATIONS AND PUBLIC AGENCIES.—

"(1) SUSPENSION OF OFFER PERIODS.—With respect to any eligible residential property, the Corporation may (in the discretion of the Corporation) suspend any of the requirements of paragraphs (1) and (2) of subsection (c) and paragraphs (1) through (4) of subsection (d), as applicable, but only to the extent that for the duration of the suspension the Corporation negotiates the sale of the property to a nonprofit organization or public agency. If the property is not sold pursuant to such negotiations, the requirements of any provisions suspended shall apply upon the termination of the suspension. Any time period referred to in such subsections shall toll for the duration of any suspension under this paragraph.

"(2) USE RESTRICTIONS.—

"(A) ELIGIBLE SINGLE FAMILY PROPERTY.—Any eligible single family property sold under this subsection shall be (i) made available for occupancy by and maintained as affordable for low-income families for the remaining useful life of the property, or made available for purchase by such families, (ii) subject to the rent limitations under subsection (e)(1), (iii) subject to the requirements relating to residency of a qualifying household under subsection (p)(12) and to residency of a low-income family under subsection (c)(2)(B), and (iv) subject to recapture by the Corporation of excess proceeds from resale of the property under paragraphs (3) and (4) of subsection (c).

"(B) ELIGIBLE MULTIFAMILY HOUSING PROPERTY.—Any eligible multifamily housing property sold under this subsection shall comply with the low-income occupancy requirements under subsection (d)(7) and shall be subject to the rent limitations under subsection (e)(1).

"(l) RULES GOVERNING DISPOSITION OF ELIGIBLE CONDOMINIUM PROPERTY.—

"(1) NOTICE TO CLEARINGHOUSES.—Within a reasonable period of time after acquiring title to an eligible condominium property, the Corporation shall provide written notice to clearinghouses. Such notice shall contain basic information about the property. Each clearinghouse shall make such information available, upon request, to purchasers described in subparagraphs (A) through (D) of paragraph (2). The Corporation shall allow such purchasers reasonable access to an eligible condominium property for purposes of inspection.

"(2) OFFERS TO SELL.—For the 180-day period following the date on which the Corporation makes an eligible condominium property available for sale, the Corporation may offer to sell the property, at the discretion of the Corporation, to 1 or more of the following purchasers:

"(A) Qualifying households.

"(B) Nonprofit organizations.

"(C) Public agencies.

"(D) For-profit entities.

"(3) LOW-INCOME OCCUPANCY REQUIREMENTS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), any nonprofit organization, public agency, or for-profit entity that purchases an eligible condominium property shall (i) make the property available for occupancy by and maintain it as affordable for low-income families for the remaining useful life of the property, or (ii) make the property available for purchase by any such family who, except as provided in paragraph (5), agrees to occupy the property as a principal residence for at least 12 months and certifies in writing that the family intends to occupy the property for at least 12 months. The restriction described in clause (i) of the preceding sentence shall be contained in the deed or other recorded instrument.

"(B) MULTIPLE-UNIT PURCHASES.—If any nonprofit organization, public agency, or for-profit entity purchases more than 1 eligible condominium property as a part of the same negotiation or purchase, the Corporation may (in the discretion of the Corporation) waive the requirement under subparagraph (A) and provide instead that not less than 35 percent of all eligible condominium properties purchased shall be (i) made available for occupancy by and maintained as affordable for low-income families for the remaining useful life of the property, or (ii) made available for purchase by any such family who, except as provided in paragraph (5), agrees to occupy the property as a principal residence for at least 12 months and certifies in writing that the family intends to occupy the property for at least 12 months. The restriction described clause (i) of the preceding sentence shall be contained in the deed or other recorded instrument.

"(C) SALE TO OTHER PURCHASERS.—If, upon the expiration of the 180-day period referred to in paragraph (2), no purchaser described in subparagraphs (A) through (D) of paragraph (2) has made a bona fide offer to purchase the property, the Corporation may offer to sell the property to any other purchaser.

"(4) RECAPTURE OF PROFITS FROM RESALE.—Except as provided in paragraph (5), if any eligible condominium property sold (A) to a qualifying household, or (B) to a low-income family pursuant to paragraph (3)(A)(ii) or (3)(B)(ii), is resold by the qualifying household or low-income family during the 1-year period beginning upon initial acquisition by the household or family, the Corporation shall recapture 75 percent of the amount of any proceeds from the resale that exceed the sum of (i) the original sale price for the acquisition of the property by the qualifying household or low-income family, (ii) the costs of any improvements to the property made after the date of the acquisition, and (iii) any closing costs in connection with the acquisition.

"(5) EXCEPTION TO RECAPTURE REQUIREMENT.—The Corporation (or its successor) may in its discretion waive the applicability to any qualifying household or low-income family of the requirement under paragraph (4) and the requirements relating to residency of a qualifying household or low-income family (under subsection (p)(12) and paragraph (3) of this subsection, respectively). The Corporation may grant any such a waiver only for good cause shown, including any necessary relocation of the qualifying household or low-income family.

"(6) LIMITATIONS ON MULTIPLE UNIT PURCHASES.—The Corporation may not sell or offer to sell as part of the same negotiation or purchase any eligible condominium properties that are not located in the same condominium project (as such term is defined in section 604 of the Housing and Community Development Act of 1980). The preceding sentence may not be construed to require all eligible condominium properties offered or sold as part of the same negotiation or purchase to be located in the same structure.

"(7) RENT LIMITATIONS.—Rents charged to tenants of eligible condominium properties made available for occupancy by very low-income families shall not exceed 30 percent of the adjusted income of a family whose income equals 50 percent of the median income for the area, as determined by the Secretary, with adjustment for family size. Rents charged to tenants of eligible condominium properties made available for occupancy by low-income families other than very low-income families shall not exceed 30 percent of the adjusted income of a family whose income equals 65 percent of the median income for the area, as determined by the Secretary, with adjustment for family size.

"(m) LIABILITY PROVISIONS.—

"(1) IN GENERAL.—The provisions of this section, or any failure by the Corporation to comply with such provisions, may not be used by any person to attack or defeat any title to property after it is conveyed by the Corporation.

"(2) LOW-INCOME OCCUPANCY.—The low-income occupancy requirements under subsections (c), (d), (j)(3), (k)(2), and (l)(3) shall be judicially enforceable against purchasers of property under this section and their successors in interest by affected very low- and low-income

families, State housing finance agencies, and any agency, corporation, or authority of the United States. The parties specified in the preceding sentence shall be entitled to reasonable attorney fees upon prevailing in any such judicial action.

"(3) CLEARINGHOUSES.—A clearinghouse shall not be subject to suit for its failure to comply with the requirements of this section.

"(4) CORPORATION.—The Corporation shall not be liable to any depositor, creditor, or shareholder of any insured depository institution for which the Corporation has been appointed receiver, or any claimant against such an institution, because the disposition of assets of the institution under this section affects the amount of return from the assets.

"(n) AFFORDABLE HOUSING PROGRAM OFFICE.—The Corporation shall establish an Affordable Housing Program Office within the Corporation to carry out the provisions of this section and shall dedicate certain staff of the Corporation to the office.

"(o) REPORT.—To the extent applicable, in the annual report submitted by the Secretary to the Congress under section 8 of the Department of Housing and Urban Development Act, the Secretary shall include a detailed description of any activities under this section, including recommendations for any additional authority the Secretary considers necessary to implement the provisions of this section.

"(p) DEFINITIONS.—For purposes of this section:

"(1) ADJUSTED INCOME AND INCOME.—The terms 'adjusted income' and 'income' shall have the meaning given such terms in section 3(b) of the United States Housing Act of 1937.

"(2) CLEARINGHOUSE.—The term 'clearinghouse' means—

"(A) the State housing finance agency for the State in which an eligible residential property or eligible condominium property is located;

"(B) the Office of Community Investment (or other comparable division) within the Federal Housing Finance Board; and

"(C) any national nonprofit organizations (including any nonprofit entity established by the corporation established under title IX of the Housing and Community Development Act of 1968) that the Corporation determines has the capacity to act as a clearinghouse for information.

"(3) CORPORATION.—The term 'Corporation' means the Federal Deposit Insurance Corporation acting in its corporate capacity or its capacity as receiver.

"(4) ELIGIBLE CONDOMINIUM PROPERTY.—The term 'eligible condominium property' means a condominium unit, as such term is defined in section 604 of the Housing and Community Development Act of 1980—

"(A) to which such Corporation acquires title; and

"(B) that has an appraised value that does not exceed the applicable dollar amount set forth in the first sentence of section 203(b)(2) of the National Housing Act (which may, in the discretion of the Corporation, take into consideration any increase of such amount for high-cost areas).

"(5) ELIGIBLE MULTIFAMILY HOUSING PROPERTY.—The term 'eligible multifamily housing property' means a property consisting of more than 4 dwelling units—

"(A) to which the Corporation acquires title; and

"(B) that has an appraised value that does not exceed the applicable dollar amount set forth in section 221(d)(3)(ii) of the National Housing Act for elevator-type structures (which may, in the discretion of the Corporation, take into consideration any increase of such amount for high-cost areas).

"(6) ELIGIBLE RESIDENTIAL PROPERTY.—The term 'eligible residential property' includes eligible single family properties and eligible multifamily housing properties.

"(7) ELIGIBLE SINGLE FAMILY PROPERTY.—The term 'eligible single family property' means a 1-to 4-family residence (including a manufactured home)—

"(A) to which the Corporation acquires title; and

"(B) that has an appraised value that does not exceed the applicable dollar amount set forth in the first sentence of section 203(b)(2) of the National Housing Act (which may, in the discretion of the Corporation, take into consideration any increase of such amount for high-cost areas).

"(8) LOW-INCOME FAMILIES.—The term 'low-income families' means families and individuals whose incomes do not exceed 80 percent of the median income of the area involved, as determined by the Secretary, with adjustment for family size.

"(9) NET REALIZABLE MARKET VALUE.—The term 'net realizable market value' means a price below the market value that takes into account (A) any reductions in holding costs resulting from the expedited sale of a property, including foregone real estate taxes, insurance, maintenance costs, security costs, and loss of use of funds, and (B) the avoidance, if applicable, of fees paid to real estate brokers, auctioneers, or other individuals or organizations involved in the sale of property owned by the Corporation.

"(10) NONPROFIT ORGANIZATION.—The term 'nonprofit organization' means a private organization (including a limited equity cooperative)—

"(A) no part of the earnings of which inures to the benefit of any member, shareholder, founder, contributor, or individual; and

"(B) that is approved by the Corporation as to financial responsibility.

"(11) PUBLIC AGENCY.—The term 'public agency' means any Federal, State, local, or other governmental entity, and includes any public housing agency.

"(12) QUALIFYING HOUSEHOLD.—The term 'qualifying household' means a household—

"(A) who intends to occupy eligible single family property as a principal residence;

"(B) who agrees to occupy the property as a principal residence for at least 12 months;

"(C) who certifies in writing that the household intends to occupy the property as a principal residence for at least 12 months; and

"(D) whose income does not exceed 115 percent of the median income for the area, as determined by the Secretary, with adjustment for family size.

"(13) QUALIFYING MULTIFAMILY PURCHASER.—The term 'qualifying multifamily purchaser' means—

"(A) a public agency;

"(B) a nonprofit organization; or

"(C) a for-profit entity, which makes a commitment (for itself or any related entity) to comply with the low-income occupancy requirements under subsection (d)(7) for any eligible multifamily housing property for which an offer to purchase is made during or after the periods specified under subsection (d).

"(14) SECRETARY.—The term 'Secretary' means the Secretary of Housing and Urban Development.

"(15) STATE HOUSING FINANCE AGENCY.—The term 'State housing finance agency' means the public agency, authority, corporation, or other instrumentality of a State that has the authority to provide residential mortgage loan financing throughout the State.

"(16) VERY LOW-INCOME FAMILIES.—The term 'very low-income families' means families and individuals whose incomes do not exceed 50 percent of the median income of the area involved, as determined by the Secretary, with adjustment for family size.".

(b) COORDINATION.—The Federal Deposit Insurance Corporation and the Resolution Trust Corporation shall consult and coordinate with each other in carrying out their respective responsibilities under the affordable housing programs under section 42 of the Federal Deposit Insurance Act and section 21A(c) of the Federal Home Loan Bank Act. Such corporations shall develop any procedures, and may enter into any agreements, necessary to provide for the coordinated, efficient, and effective operation of such programs.

(c) CONFORMING AMENDMENTS.—

(1) FEDERAL DEPOSIT INSURANCE ACT.—Section 11(d) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)) is amended—

(A) in paragraph (2)(B), in the matter preceding clause (i), by inserting "(subject to the provisions of section 42)" before the comma; and

(B) in paragraph (2)(E), by inserting "(subject to the provisions of section 42)" before the first comma.

(2) HOUSING ACT OF 1959.—Section 202(h)(2) of the Housing Act of 1959 (12 U.S.C. 1701q(h)(2)), as amended by section 801(a) of the Cranston-Gonzalez National Affordable Housing Act, is amended by inserting "or from the Federal Deposit Insurance Corporation under section 42 of the Federal Deposit Insurance Act" after "Federal Home Loan Bank Act".

Subtitle E—Whistleblower Protections

SEC. 251. ADDITIONAL WHISTLEBLOWER PROTECTIONS.

(a) ADDITIONAL COVERAGE ESTABLISHED UNDER FEDERAL DEPOSIT INSURANCE ACT.—

(1) IN GENERAL.—Section 33(a) of the Federal Deposit Insurance Act (12 U.S.C. 1831j(a)) is amended to read as follows:

"(a) IN GENERAL.—

"(1) EMPLOYEES OF DEPOSITORY INSTITUTIONS.—No insured depository institution may discharge or otherwise discriminate against any employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to any Federal banking agency or to the Attorney General regarding any possible violation of any law or regulation by the depository institution or any director, officer, or employee of the institution.

"(2) EMPLOYEES OF BANKING AGENCIES.—No Federal banking agency, Federal home loan bank, or Federal Reserve bank may discharge or otherwise discriminate against any employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to any such agency or bank or to the Attorney General regarding any possible violation of any law or regulation by—

"(A) any depository institution or any such bank or agency;

"(B) any director, officer, or employee of any depository institution or any such bank; or

"(C) any officer or employee of the agency which employs such employee.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 33(c) of the Federal Deposit Insurance Act (12 U.S.C. 1831j(c)) is amended by inserting ", Federal home loan bank, Federal Reserve bank, or Federal banking agency" after "depository institution".

(3) DEFINITION.—Section 33 of the Federal Deposit Insurance Act (12 U.S.C. 1831j) is amended by adding at the end the following new subsection:

"(e) FEDERAL BANKING AGENCY DEFINED.—For purposes of subsections (a) and (c), the term 'Federal banking agency' means the Corporation, the Board of Governors of the Federal Re-

serve System, the Federal Housing Finance Board, the Comptroller of the Currency, and the Director of the Office of Thrift Supervision.".

(4) EFFECTIVE DATE.—Paragraph (2) of section 33(a) of the Federal Deposit Insurance Act (as added under the amendment made by paragraph (1)) shall be treated as having taken effect on January 1, 1987, and for purposes of any cause of action arising under such paragraph (as so effective) before the date of the enactment of this Act, the 2-year period referred to in section 33(b) of such Act shall be deemed to begin on such date of enactment.

(b) ADDITIONAL COVERAGE ESTABLISHED UNDER FEDERAL CREDIT UNION ACT.—

(1) IN GENERAL.—Section 213(a) of the Federal Credit Union Act (12 U.S.C. 1790b(a)) is amended to read as follows:

"(a) IN GENERAL.—

"(1) EMPLOYEES OF CREDIT UNIONS.—No insured credit union may discharge or otherwise discriminate against any employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to the Board or the Attorney General regarding any possible violation of any law or regulation by the credit union or any director, officer, or employee of the credit union.

"(2) EMPLOYEES OF THE ADMINISTRATION.—The Administration may not discharge or otherwise discriminate against any employee (including any employee of the National Credit Union Central Liquidity Facility) with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to the Administration or the Attorney General regarding any possible violation of any law or regulation by—

"(A) any credit union the Administration;

"(B) any director, officer, or employee of any depository institution or any such bank; or

"(C) any officer or employee of the Administration.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 213(c) of the Federal Credit Union Act (12 U.S.C. 1790b(c)) is amended by inserting "or the Administration" after "credit union".

(3) EFFECTIVE DATE.—Paragraph (2) of section 213(a) of the Federal Credit Union Act (as added under the amendment made by paragraph (1)) shall be treated as having taken effect on January 1, 1987, and for purposes of any cause of action arising under such paragraph (as so effective) before the date of the enactment of this Act, the 2-year period referred to in section 213(b) of such Act shall be deemed to begin on such date of enactment.

(c) COVERAGE FOR EMPLOYEES OF RTC, OVERSIGHT BOARD, AND RTC CONTRACTORS.—

(1) COVERAGE ESTABLISHED.—Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended by adding at the end the following new subsection:

"(q) RTC, OVERSIGHT BOARD, AND RTC CONTRACTOR EMPLOYEE PROTECTION REMEDY.—

"(1) PROHIBITION AGAINST DISCRIMINATION.—The Corporation, the Oversight Board, and any person who is performing, directly or indirectly, any function or service on behalf of the Corporation or the Oversight Board may not discharge or otherwise discriminate against any employee (including any employee of the Federal Deposit Insurance Corporation on assignment to the Corporation under this section or any personnel referred to in subparagraphs (C) and (F) of subsection (a)(5)) with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to the Corporation, the Oversight Board, the Attorney General, or any appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act) regarding any possible violation of any law or regulation by the Corporation, the Oversight Board, or such person or any director, officer, or employee of the Corporation, the Oversight Board, or the person.

"(2) ENFORCEMENT.—Any employee or former employee who believes that such employee has been discharged or discriminated against in violation of paragraph (1) may file a civil action in the appropriate United States district court before the end of the 2-year period beginning on the date of such discharge or discrimination.

"(3) REMEDIES.—If the district court determines that a violation has occurred, the court may order the Corporation or the person which committed the violation to—

"(A) reinstate the employee to the employee's former position;

"(B) pay compensatory damages; or

"(C) take other appropriate actions to remedy any past discrimination.

"(4) LIMITATION.—The protections of this section shall not apply to any employee who—

"(A) deliberately causes or participates in the alleged violation of law or regulation; or

"(B) knowingly or recklessly provides substantially false information to the Corporation, the Attorney General, or any appropriate Federal banking agency.".

(2) EFFECTIVE DATE.—Subsection (q) of section 21A of the Federal Home Loan Bank Act (as added under the amendment made by paragraph (1)) shall be treated as having taken effect on August 9, 1989, and for purposes of any cause of action arising under such subsection (as so effective) before the date of the enactment of this Act, the 2-year period referred to in section 21A(q)(2) of such Act shall be deemed to begin on such date of enactment.

Subtitle F—Truth in Savings

SEC. 261. SHORT TITLE.

This Act may be cited as the "Truth in Savings Act".

SEC. 262. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress hereby finds that economic stability would be enhanced, competition between depository institutions would be improved, and the ability of the consumer to make informed decisions regarding deposit accounts, and to verify accounts, would be strengthened if there was uniformity in the disclosure of terms and conditions on which interest is paid and fees are assessed in connection with such accounts.

(b) PURPOSE.—It is the purpose of this Act to require the clear and uniform disclosure of—

(1) the rates of interest which are payable on deposit accounts by depository institutions; and

(2) the fees that are assessable against deposit accounts,

so that consumers can make a meaningful comparison between the competing claims of depository institutions with regard to deposit accounts.

SEC. 263. DISCLOSURE OF INTEREST RATES AND TERMS OF ACCOUNTS.

(a) IN GENERAL.—Except as provided in subsection (b), each advertisement, announcement, or solicitation initiated by any depository institution or deposit broker relating to any demand or interest-bearing account offered by an insured depository institution which includes any reference to a specific rate of interest payable on amounts deposited in such account, or to a specific yield or rate of earnings on amounts so deposited, shall state the following information, to the extent applicable, in a clear and conspicuous manner:

(1) The annual percentage yield.

(2) The period during which such annual percentage yield is in effect.

(3) All minimum account balance and time requirements which must be met in order to earn the advertised yield (and, in the case of accounts for which more than 1 yield is stated, each annual percentage yield and the account minimum balance requirement associated with each such yield shall be in close proximity and have equal prominence).

(4) The minimum amount of the initial deposit which is required to open the account in order to obtain the yield advertised, if such minimum amount is greater than the minimum balance necessary to earn the advertised yield.

(5) A statement that regular fees or other conditions could reduce the yield.

(6) A statement that an interest penalty is required for early withdrawal.

(b) BROADCAST AND ELECTRONIC MEDIA AND OUTDOOR ADVERTISING EXCEPTION.—The Board may, by regulation, exempt advertisements, announcements, or solicitations made by any broadcast or electronic medium or outdoor advertising display not on the premises of the depository institution from any disclosure requirements described in paragraph (4) or (5) of subsection (a) if the Board finds that any such disclosure would be unnecessarily burdensome.

(c) MISLEADING DESCRIPTIONS OF FREE OR NO-COST ACCOUNTS PROHIBITED.—No advertisement, announcement, or solicitation made by any depository institution or deposit broker may refer to or describe an account as a free or no-cost account (or words of similar meaning) if—

(1) in order to avoid fees or service charges for any period—

(A) a minimum balance must be maintained in the account during such period; or

(B) the number of transactions during such period may not exceed a maximum number; or

(2) any regular service or transaction fee is imposed.

(d) MISLEADING OR INACCURATE ADVERTISEMENTS, ETC., PROHIBITED.—No depository institution or deposit broker shall make any advertisement, announcement, or solicitation relating to a deposit account that is inaccurate or misleading or that misrepresents its deposit contracts.

SEC. 264. ACCOUNT SCHEDULE.

(a) IN GENERAL.—Each depository institution shall maintain a schedule of fees, charges, interest rates, and terms and conditions applicable to each class of accounts offered by the depository institution, in accordance with the requirements of this section and regulations which the Board shall prescribe. The Board shall specify, in regulations, which fees, charges, penalties, terms, conditions, and account restrictions must be included in a schedule required under this subsection. A depository institution need not include in such schedule any information not specified in such regulation.

(b) INFORMATION ON FEES AND CHARGES.—The schedule required under subsection (a) with respect to any account shall contain the following information:

(1) A description of all fees, periodic service charges, and penalties which may be charged or assessed against the account (or against the account holder in connection with such account), the amount of any such fees, charge, or penalty (or the method by which such amount will be calculated), and the conditions under which any such amount will be assessed.

(2) All minimum balance requirements that affect fees, charges, and penalties, including a clear description of how each such minimum balance is calculated.

(3) Any minimum amount required with respect to the initial deposit in order to open the account.

(c) INFORMATION ON INTEREST RATES.—The schedule required under subsection (a) with respect to any account shall include the following information:

(1) Any annual percentage yield.
(2) The period during which any such annual percentage yield will be in effect.
(3) Any annual rate of simple interest.
(4) The frequency with which interest will be compounded and credited.
(5) A clear description of the method used to determine the balance on which interest is paid.
(6) The information described in paragraphs (1) through (4) with respect to any period after the end of the period referred to in paragraph (2) (or the method for computing any information described in any such paragraph), if applicable.
(7) Any minimum balance which must be maintained to earn the rates and obtain the yields disclosed pursuant to this subsection and a clear description of how any such minimum balance is calculated.
(8) A clear description of any minimum time requirement which must be met in order to obtain the yields disclosed pursuant to this subsection and any information described in paragraph (1), (2), (3), or (4) that will apply if any time requirement is not met.
(9) A statement, if applicable, that any interest which has accrued but has not been credited to an account at the time of a withdrawal from the account will not be paid by the depository institution or credited to the account by reason of such withdrawal.
(10) Any provision or requirement relating to nonpayment of interest, including any charge or penalty for early withdrawal, and the conditions under which any such charge or penalty may be assessed.

(d) OTHER INFORMATION.—The schedule required under subsection (a) shall include such other disclosures as the Board may determine to be necessary to allow consumers to understand and compare accounts, including frequency of interest rate adjustments, account restrictions, and renewal policies for time accounts.

(e) STYLE AND FORMAT.—Schedules required under subsection (a) shall be written in clear and plain language and be presented in a format designed to allow consumers to readily understand the terms of the accounts offered.

SEC. 265. DISCLOSURE REQUIREMENTS FOR CERTAIN ACCOUNTS.

The Board shall require, in regulations which the Board shall prescribe, such modification in the disclosure requirements under this Act relating to annual percentage yield as may be necessary to carry out the purposes of this Act in the case of—
(1) accounts with respect to which determination of annual percentage yield is based on an annual rate of interest that is guaranteed for a period of less than 1 year;
(2) variable rate accounts;
(3) accounts which, pursuant to law, do not guarantee payment of a stated rate;
(4) multiple rate accounts; and
(5) accounts with respect to which determination of annual percentage yield is based on an annual rate of interest that is guaranteed for a stated term.

SEC. 266. DISTRIBUTION OF SCHEDULES.

(a) IN GENERAL.—A schedule required under section 264 for an appropriate account shall be—
(1) made available to any person upon request;
(2) provided to any potential customer before an account is opened or a service is rendered; and
(3) provided to the depositor, in the case of any time deposit which is renewable at maturity without notice from the depositor, at least 30 days before the date of maturity.

(b) DISTRIBUTION IN CASE OF CERTAIN INITIAL DEPOSITS.—If—
(1) a depositor is not physically present at an office of a depository institution at the time an initial deposit is accepted with respect to an account established by or for such person; and
(2) the schedule required under section 264(a) has not been furnished previously to such depositor,

the depository institution shall mail the schedule to the depositor at the address shown on the records of the depository institution for such account no later than 10 days after the date of the initial deposit.

(c) DISTRIBUTION OF NOTICE OF CERTAIN CHANGES.—If—
(1) any change is made in any term or condition which is required to be disclosed in the schedule required under section 264(a) with respect to any account; and
(2) the change may reduce the yield or adversely affect any holder of the account,

all account holders who may be affected by such change shall be notified and provided with a description of the change by mail at least 30 days before the change takes effect.

(d) DISTRIBUTION IN CASE OF ACCOUNTS ESTABLISHED BY MORE THAN 1 INDIVIDUAL OR BY A GROUP.—If an account is established by more than 1 individual or for a person other than an individual, any distribution described in this section with respect to such account meets the requirements of this section if the distribution is made to 1 of the individuals who established the account or 1 individual representative of the person on whose behalf such account was established.

(e) NOTICE TO ACCOUNT HOLDERS AS OF THE EFFECTIVE DATE OF REGULATIONS.—For any account for which the depository institution delivers an account statement on a quarterly or more frequent basis, the depository institution shall include on or with any regularly scheduled mailing posted or delivered within 180 days after publication of regulations issued by the Board in final form, a statement that the account holder has the right to request an account schedule containing the terms, charges, and interest rates of the account, and that the account holder may wish to request such an account schedule.

SEC. 267. PAYMENT OF INTEREST.

(a) CALCULATED ON FULL AMOUNT OF PRINCIPAL.—Interest on an interest-bearing account at any depository institution shall be calculated by such institution on the full amount of principal in the account for each day of the stated calculation period at the rate or rates of interest disclosed pursuant to this Act.

(b) NO PARTICULAR METHOD OF COMPOUNDING INTEREST REQUIRED.—Subsection (a) shall not be construed as prohibiting or requiring the use of any particular method of compounding or crediting of interest.

(c) DATE BY WHICH INTEREST MUST ACCRUE.—Interest on accounts that are subject to this Act shall begin to accrue not later than the business day specified for interest-bearing accounts in section 606 of the Expedited Funds Availability Act, subject to subsections (b) and (c) of such section.

SEC. 268. PERIODIC STATEMENTS.

Each depository institution shall include on or with each periodic statement provided to each account holder at such institution a clear and conspicuous disclosure of the following information with respect to such account:
(1) The annual percentage yield earned.
(2) The amount of interest earned.
(3) The amount of any fees or charges imposed.
(4) The number of days in the reporting period.

SEC. 269. REGULATIONS.

(a) IN GENERAL.—
(1) REGULATIONS REQUIRED.—Before the end of the 9-month period beginning on the date of the enactment of this Act, the Board, after consultation with each agency referred to in section 270(a) and public notice and opportunity for comment, shall prescribe regulations to carry out the purpose and provisions of this Act.
(2) EFFECTIVE DATE OF REGULATIONS.—The regulations prescribed under paragraph (1) shall take effect not later than 6 months after publication in final form.
(3) CONTENTS OF REGULATIONS.—The regulations prescribed under paragraph (1) may contain such classifications, differentiations, or other provisions, and may provide for such adjustments and exceptions for any class of accounts as, in the judgment of the Board, are necessary or proper to carry out the purposes of this Act, to prevent circumvention or evasion of the requirements of this Act, or to facilitate compliance with the requirements of this Act.
(4) DATE OF APPLICABILITY.—The provisions of this Act shall not apply with respect to any depository institution before the effective date of regulations prescribed by the Board under this subsection (or by the National Credit Union Administration Board under section 12(b), in the case of any depository institution described in clause (iv) of section 19(b)(1)(A) of the Federal Reserve Act).

(b) MODEL FORMS AND CLAUSES.—
(1) IN GENERAL.—The Board shall publish model forms and clauses for common disclosures to facilitate compliance with this Act. In devising such forms, the Board shall consider the use by depository institutions of data processing or similar automated machines.
(2) USE OF FORMS AND CLAUSES DEEMED IN COMPLIANCE.—Nothing in this Act may be construed to require a depository institution to use any such model form or clause prescribed by the Board under this subsection. A depository institution shall be deemed to be in compliance with the disclosure provisions of this Act if the depository institution—
(A) uses any appropriate model form or clause as published by the Board; or
(B) uses any such model form or clause and changes it by—
(i) deleting any information which is not required by this Act; or
(ii) rearranging the format,

if in making such deletion or rearranging the format, the depository institution does not affect the substance, clarity, or meaningful sequence of the disclosure.
(3) PUBLIC NOTICE AND OPPORTUNITY FOR COMMENT.—Model disclosure forms and clauses shall be adopted by the Board after duly given notice in the Federal Register and an opportunity for public comment in accordance with section 553 of title 5, United States Code.

SEC. 270. ADMINISTRATIVE ENFORCEMENT.

(a) IN GENERAL.—Compliance with the requirements imposed under this Act shall be enforced under—
(1) section 8 of the Federal Deposit Insurance Act—
(A) by the appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act) in the case of insured depository institutions (as defined in section 3(c)(2) of such Act);
(B) by the Federal Deposit Insurance Corporation in the case of depository institutions described in clause (i), (ii), or (iii) of section 19(b)(1)(A) of the Federal Reserve Act which are not insured depository institutions (as defined in section 3(c)(2) of the Federal Deposit Insurance Act); and
(C) by the Director of the Office of Thrift Supervision in the case of depository institutions described in clause (v) and or (vi) of section 19(b)(1)(A) of the Federal Reserve Act which are not insured depository institutions (as defined in section 3(c)(2) of the Federal Deposit Insurance Act); and

(2) the Federal Credit Union Act, by the National Credit Union Administration Board in the case of depository institutions described in clause (iv) of section 19(b)(1)(A) of the Federal Reserve Act.

(b) ADDITIONAL ENFORCEMENT POWERS.—

(1) VIOLATION OF THIS ACT TREATED AS VIOLATION OF OTHER ACTS.—For purposes of the exercise by any agency referred to in subsection (a) of such agency's powers under any Act referred to in such subsection, a violation of a requirement imposed under this Act shall be deemed to be a violation of a requirement imposed under that Act.

(2) ENFORCEMENT AUTHORITY UNDER OTHER ACTS.—In addition to the powers of any agency referred to in subsection (a) under any provision of law specifically referred to in such subsection, each such agency may exercise, for purposes of enforcing compliance with any requirement imposed under this Act, any other authority conferred on such agency by law.

(c) REGULATIONS BY AGENCIES OTHER THAN THE BOARD.—The authority of the Board to issue regulations under this Act does not impair the authority of any other agency referred to in subsection (a) to make rules regarding its own procedures in enforcing compliance with the requirements imposed under this Act.

SEC. 271. CIVIL LIABILITY.

(a) CIVIL LIABILITY.—Except as otherwise provided in this section, any depository institution which fails to comply with any requirement imposed under this Act or any regulation prescribed under this Act with respect to any person who is an account holder is liable to such person in an amount equal to the sum of—

(1) any actual damage sustained by such person as a result of the failure;

(2)(A) in the case of an individual action, such additional amount as the court may allow, except that the liability under this subparagraph shall not be less than $100 nor greater than $1,000; or

(B) in the case of a class action, such amount as the court may allow, except that—

(i) as to each member of the class, no minimum recovery shall be applicable; and

(ii) the total recovery under this subparagraph in any class action or series of class actions arising out of the same failure to comply by the same depository institution shall not be more than the lesser of $500,000 or 1 percent of the net worth of the depository institution involved; and

(3) in the case of any successful action to enforce any liability under paragraph (1) or (2), the costs of the action, together with a reasonable attorney's fee as determined by the court.

(b) CLASS ACTION AWARDS.—In determining the amount of any award in any class action, the court shall consider, among other relevant factors—

(1) the amount of any actual damages awarded;

(2) the frequency and persistence of failures of compliance;

(3) the resources of the depository institution;

(4) the number of persons adversely affected; and

(5) the extent to which the failure of compliance was intentional.

(c) BONA FIDE ERRORS.—

(1) GENERAL RULE.—A depository institution may not be held liable in any action brought under this section for a violation of this Act if the depository institution demonstrates by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.

(2) EXAMPLES.—Examples of a bona fide error include clerical, calculation, computer malfunction and programming, and printing errors, except that an error of legal judgment with respect to a depository institution's obligation under this Act is not a bona fide error.

(d) NO LIABILITY FOR OVERPAYMENT.—A depository institution may not be held liable in any action under this section for a violation of this Act if the violation has resulted in—

(1) an interest payment to the account holder in an amount greater than the amount determined under any disclosed rate of interest applicable with respect to such payment; or

(2) a charge to the consumer in an amount less than the amount determined under the disclosed charge or fee schedule applicable with respect to such charge.

(e) JURISDICTION.—Any action under this section may be brought in any United States district court, or in any other court of competent jurisdiction, within 1 year after the date of the occurrence of the violation involved.

(f) RELIANCE ON BOARD RULINGS.—No provision of this section imposing any liability shall apply to any act done or omitted in good faith in conformity with any regulation or order, or any interpretation of any regulation or order, of the Board, or in conformity with any interpretation or approval by an official or employee of the Board duly authorized by the Board to issue such interpretation or approval under procedures prescribed by the Board, notwithstanding, the fact that after such act or omission has occurred, such regulation, order, interpretation, or approval is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

(g) NOTIFICATION OF AND ADJUSTMENT FOR ERRORS.—A depository institution shall not be liable under this section or section 270 for any failure to comply with any requirement imposed under this Act with respect to any account if—

(1) before—

(A) the end of the 60-day period beginning on the date on which the depository institution discovered the failure to comply;

(B) any action is instituted against the depository institution by the account holder under this section with respect to such failure to comply; and

(C) any written notice of such failure to comply is received by the depository institution from the account holder,

the depository institution notifies the account holder of the failure of such institution to comply with such requirement; and

(2) the depository institution makes such adjustments as may be necessary with respect to such account to ensure that—

(A) the account holder will not be liable for any amount in excess of the amount actually disclosed with respect to any fee or charge;

(B) the account holder will not be liable for any fee or charge imposed under any condition not actually disclosed; and

(C) interest on amounts in such account will accrue at the annual percentage yield, and under the conditions, actually disclosed (and credit will be provided for interest already accrued at a different annual percentage yield and under different conditions than the yield or conditions disclosed).

(h) MULTIPLE INTERESTS IN 1 ACCOUNT.—If more than 1 person holds an interest in any account—

(1) the minimum and maximum amounts of liability under subsection (a)(2)(A) for any failure to comply with the requirements of this Act shall apply with respect to such account; and

(2) the court shall determine the manner in which the amount of any such liability with respect to such account shall be distributed among such persons.

(i) CONTINUING FAILURE TO DISCLOSE.—

(1) CERTAIN CONTINUING FAILURES TREATED AS 1 VIOLATION.—Except as provided in paragraph (2), the continuing failure of any depository institution to disclose any particular term required to be disclosed under this Act with respect to a particular account shall be treated as a single violation for purposes of determining the amount of any liability of such institution under subsection (a) for such failure to disclose.

(2) SUBSEQUENT FAILURE TO DISCLOSE.—The continuing failure of any depository institution to disclose any particular term required to be disclosed under this Act with respect to a particular account after judgment has been rendered in favor of the account holder in connection with a prior failure to disclose such term with respect to such account shall be treated as a subsequent violation for purposes of determining liability under subsection (a).

(3) COORDINATION WITH SECTION 270.—This subsection shall not limit or otherwise affect the enforcement power under section 270 of any agency referred to in subsection (a) of such section.

SEC. 272. CREDIT UNIONS.

(a) IN GENERAL.—No regulation prescribed by the Board under this Act shall apply directly with respect to any depository institution described in clause (iv) of section 19(b)(1)(A) of the Federal Reserve Act.

(b) REGULATIONS PRESCRIBED BY THE NCUA.—Within 90 days of the effective date of any regulation prescribed by the Board under this Act, the National Credit Union Administration Board shall prescribe a regulation substantially similar to the regulation prescribed by the Board taking into account the unique nature of credit unions and the limitations under which they may pay dividends on member accounts.

SEC. 273. EFFECT ON STATE LAW.

The provisions of this Act do not supersede any provisions of the law of any State relating to the disclosure of yields payable or terms for accounts to the extent such State law requires the disclosure of such yields or terms for accounts, except to the extent that those laws are inconsistent with the provisions of this Act, and then only to the extent of the inconsistency. The Board may determine whether such inconsistencies exist.

SEC. 274. DEFINITIONS.

For the purposes of this Act—

(1) ACCOUNT.—The term "account" means any account offered to 1 or more individuals or an unincorporated nonbusiness association of individuals by a depository institution into which a customer deposits funds, including demand accounts, time accounts, negotiable order of withdrawal accounts, and share draft accounts.

(2) ANNUAL PERCENTAGE YIELD.—The term "annual percentage yield" means the total amount of interest that would be received on a $100 deposit, based on the annual rate of simple interest and the frequency of compounding for a 365-day period, expressed as a percentage calculated by a method which shall be prescribed by the Board in regulations.

(3) ANNUAL RATE OF SIMPLE INTEREST.—The term "annual rate of simple interest"—

(A) means the annualized rate of interest paid with respect to each compounding period, expressed as a percentage; and

(B) may be referred to as the "annual percentage rate".

(4) BOARD.—The term "Board" means the Board of Governors of the Federal Reserve System.

(5) DEPOSIT BROKER.—The term "deposit broker"—

(A) has the meaning given to such term in section 29(f)(1) of the Federal Deposit Insurance Act; and

(B) includes any person who solicits any amount from any other person for deposit in an insured depository institution.

(6) DEPOSITORY INSTITUTION.—The term "depository institution" has the meaning given such term in clauses (i) through (vi) of section 19(b)(1)(A) of the Federal Reserve Act.

(7) INTEREST.—The term "interest" includes dividends paid with respect to share draft accounts which are accounts within the meaning of paragraph (3).

(8) MULTIPLE RATE ACCOUNT.—The term "multiple rate account" means any account that has 2 or more annual rates of simple interest which take effect at the same time or in succeeding periods and which are known at the time of disclosure.

TITLE III—REGULATORY IMPROVEMENT

Subtitle A—Activities

SEC. 301. LIMITATIONS ON BROKERED DEPOSITS AND DEPOSIT SOLICITATIONS.

(a) IN GENERAL.—Section 29 of the Federal Deposit Insurance Act (12 U.S.C. 1831f) is amended—

(1) in subsection (a), by striking "troubled institution" and inserting "insured depository institution that is not well capitalized";

(2) in subsection (c), by inserting "which is adequately capitalized" after "insured depository institution";

(3) in subsection (d), by striking all after "unsound practice;" and inserting the following:

"(2) is necessary to enable the institution to meet the demands of its depositors or pay its obligations in the ordinary course of business; and

"(3) is consistent with the conservator's fiduciary duty to minimize the institution's losses.

Effective 90 days after the date on which the institution was placed in conservatorship, the institution may not accept such deposits.";

(4) by redesignating subsections (e) through (g) as subsections (f) through (h), respectively, and inserting after subsection (d) the following:

"(e) RESTRICTION ON INTEREST RATE PAID.—Any insured depository institution which, under subsection (c) or (d), accepts funds obtained, directly or indirectly, by or through a deposit broker, may not pay a rate of interest on such funds which, at the time that such funds are accepted, significantly exceeds—

"(1) the rate paid on deposits of similar maturity in such institution's normal market area for deposits accepted in the institution's normal market area; or

"(2) the national rate paid on deposits of comparable maturity, as established by the Corporation, for deposits accepted outside the institution's normal market area.";

(5) in subsection (f), as redesignated, by striking "troubled"; and

(6) by striking subsection (h), as redesignated.

(b) NOTIFICATION AND RECORDKEEPING.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 29 the following:

"SEC. 29A. DEPOSIT BROKER NOTIFICATION AND RECORDKEEPING.

"(a) NOTIFICATION.—

"(1) IN GENERAL.—A deposit broker, as defined in section 29(g), shall not solicit or place any deposit with an insured depository institution, unless such deposit broker has provided the Corporation with written notice that it is a deposit broker.

"(2) TERMINATION OF DEPOSIT BROKER STATUS.—When a deposit broker referred to in paragraph (1) ceases to act as a deposit broker it shall provide the Corporation with a written notice that it is no longer acting as a deposit broker.

"(3) FORM AND CONTENT.—The notices required by paragraphs (1) and (2) shall be in such form and contain such information concerning the deposit solicitation and placement activities of a deposit broker as the Corporation may prescribe as necessary or appropriate to carry out the purposes of this subsection.

"(b) RECORDS.—The Corporation may prescribe regulations requiring each deposit broker that has filed a notice under subsection (a)(1) to maintain separate records relating to the total amounts and maturities of the deposits placed by such broker for each insured depository institution during specified time periods. Such regulations shall specify the format in which and the period for which such records shall be preserved, as well as the time period within which the deposit broker shall furnish to the Corporation copies of such records (or designated portions thereof) as the Corporation may request.

"(c) PERIODIC REPORTS.—

"(1) IN GENERAL.—The Corporation may prescribe regulations requiring each deposit broker that has filed a notice under subsection (a)(1) to file with the Corporation separate quarterly reports relating to the total amounts and maturities of the deposits placed by such broker for each depository institution during the applicable quarter. Such regulations shall specify the form and content of such reports, as well as the applicable reporting period.

"(2) DESIGNATED AGENT.—The Corporation may designate another entity as its agent for the purpose of receiving and maintaining reports under this subsection. If the Corporation designates such an agent the Corporation may, through its agent, prescribe and collect an appropriate quarterly fee from each deposit broker that filed reports with the agent during the applicable quarter, in an amount sufficient to defray the Corporation's cost of retaining the agent and to reflect the proportionate amount of the deposits placed with insured depository institutions by each broker during the applicable quarter.".

(c) DEPOSIT SOLICITATION RESTRICTED.—Section 29 of the Federal Deposit Insurance Act (12 U.S.C. 1831f) is amended by adding at the end the following:

"(h) DEPOSIT SOLICITATION RESTRICTED.—An insured depository institution that is undercapitalized, as defined in section 38, shall not solicit deposits by offering rates of interest that are significantly higher than the prevailing rates of interest on insured deposits—

"(1) in such institution's normal market areas; or

"(2) in the market area in which such deposits would otherwise be accepted.".

(d) DEADLINE FOR REGULATIONS.—The Corporation shall promulgate final regulations to carry out the amendments made under subsections (a), (b), and (c) not later than 150 days after the date of enactment of this Act, and those regulations shall become effective not later than 180 days after that date of enactment, except that such regulations shall not apply to any specific time deposit made before that date of enactment until the stated maturity of the time deposit.

SEC. 302. RISK-BASED ASSESSMENTS.

(a) RISK-BASED ASSESSMENT SYSTEM.—Section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)) is amended to read as follows:

"(b) ASSESSMENTS.—

"(1) RISK-BASED ASSESSMENT SYSTEM.—

"(A) RISK-BASED ASSESSMENT SYSTEM REQUIRED.—The Board of Directors shall, by regulation, establish a risk-based assessment system for insured depository institutions.

"(B) PRIVATE REINSURANCE AUTHORIZED.—In carrying out this paragraph, the Corporation may—

"(i) obtain private reinsurance covering not more than 10 percent of any loss the Corporation incurs with respect to an insured depository institution; and

"(ii) base that institution's semiannual assessment (in whole or in part) on the cost of the reinsurance.

"(C) RISK-BASED ASSESSMENT SYSTEM DEFINED.—For purposes of this paragraph, the term 'risk-based assessment system' means a system for calculating a depository institution's semiannual assessment based on—

"(i) the probability that the deposit insurance fund will incur a loss with respect to the institution, taking into consideration the risks attributable to—

"(I) different categories and concentrations of assets;

"(II) different categories and concentrations of liabilities, both insured and uninsured, contingent and noncontingent; and

"(III) any other factors the Corporation determines are relevant to assessing such probability;

"(ii) the likely amount of any such loss; and

"(iii) the revenue needs of the deposit insurance fund.

"(D) SEPARATE ASSESSMENT SYSTEMS.—The Board of Directors may establish separate risk-based assessment systems for large and small members of each deposit insurance fund.

"(2) SETTING ASSESSMENTS.—

"(A) ACHIEVING AND MAINTAINING DESIGNATED RESERVE RATIO.—

"(i) IN GENERAL.—The Board of Directors shall set semiannual assessments for insured depository institutions—

"(I) to maintain the reserve ratio of each deposit insurance fund at the designated reserve ratio; or

"(II) if the reserve ratio is less than the designated reserve ratio, to increase the reserve ratio to the designated reserve ratio as provided in paragraph (3).

"(ii) FACTORS TO BE CONSIDERED.—In carrying out clause (i), the Board of Directors shall consider the deposit insurance fund's—

"(I) expected operating expenses,

"(II) case resolution expenditures and income,

"(III) the effect of assessments on members' earnings and capital, and

"(IV) any other factors that the Board of Directors may deem appropriate.

"(iii) MINIMUM ASSESSMENT.—The semiannual assessment for each member of a deposit insurance fund shall be not less than $1,000.

"(iv) DESIGNATED RESERVE RATIO DEFINED.—The designated reserve ratio of each deposit insurance fund for each year shall be—

"(I) 1.25 percent of estimated insured deposits; or

"(II) a higher percentage of estimated insured deposits that the Board of Directors determines to be justified for that year by circumstances raising a significant risk of substantial future losses to the fund.

"(B) INDEPENDENT TREATMENT OF FUNDS.—The Board of Directors shall—

"(i) set semiannual assessments for members of each deposit insurance fund independently from semiannual assessments for members of any other deposit insurance fund; and

"(ii) set the designated reserve ratio of each deposit insurance fund independently from the designated reserve ratio of any other deposit insurance fund.

"(C) NOTICE OF ASSESSMENTS.—The Corporation shall notify each insured depository institution of that institution's semiannual assessment.

"(D) PRIORITY OF FINANCING CORPORATION AND FUNDING CORPORATION ASSESSMENTS.—Notwithstanding any other provision of this paragraph, amounts assessed by the Financing Corporation under section 21 of the Federal Home Loan Bank Act against Savings Association Insurance Fund members, shall be subtracted from the amounts authorized to be assessed by the Corporation under this paragraph.

"(E) MINIMUM ASSESSMENTS.—The Corporation shall design the risk-based assessment system for any deposit insurance fund so that, if the Corporation has borrowings outstanding under section 14 on behalf of that fund or the reserve ratio of that fund remains below the des-

ignated reserve ratio, the total amount raised by semiannual assessments on members of that fund shall be not less than the total amount that would have been raised if—

"(i) section 7(b) as in effect on July 15, 1991 remained in effect; and

"(ii) the assessment rate in effect on July 15, 1991 remained in effect.

"(F) TRANSITION RULE FOR SAVINGS ASSOCIATION INSURANCE FUND.—With respect to the Savings Association Insurance Fund, during the period beginning on the effective date of the amendments made by section 302(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991 and ending on December 31, 1997—

"(i) subparagraph (A)(i)(II) shall apply as if such subparagraph did not include 'as provided in paragraph (3)'; and

"(ii) subparagraph (E) shall be applied by substituting 'if section 7(b) as in effect on July 15, 1991 remained in effect.' for 'if—' and all that follows through clause (ii).

"(G) SPECIAL RULE UNTIL THE INSURANCE FUNDS ACHIEVE THE DESIGNATED RESERVE RATIO.—Until a deposit insurance fund achieves the designated reserve ratio, the Corporation may limit the maximum assessment on insured depository institutions under the risk-based assessment system authorized under paragraph (1) to not less than 10 basis points above the average assessment on insured depository institutions under that system.

"(3) SPECIAL RULE FOR RECAPITALIZING UNDERCAPITALIZED FUNDS.—

"(A) IN GENERAL.—Except as provided in paragraph (2)(F), if the reserve ratio of any deposit insurance fund is less than the designated reserve ratio under paragraph (2)(A)(iv), the Board of Directors shall set semiannual assessment rates for members of that fund—

"(i) that are sufficient to increase the reserve ratio for that fund to the designated reserve ratio not later than 1 year after such rates are set; or

"(ii) in accordance with a schedule promulgated by the Corporation under subparagraph (B).

"(B) RECAPITALIZATION SCHEDULES.—For purposes of subparagraph (A)(ii), the Corporation shall by regulation promulgate a schedule that specifies, at semiannual intervals, target reserve ratios for that fund, culminating in a reserve ratio that is equal to the designated reserve ratio not later than 15 years after the date on which the schedule is implemented.

"(C) AMENDING SCHEDULE.—The Corporation may, by regulation, amend a schedule promulgated under subparagraph (B), but such amendments may not extend the date specified in subparagraph (B).

"(D) APPLICATION TO SAIF MEMBERS.—This paragraph shall become applicable to Savings Association Insurance Fund members on January 1, 1998.

"(4) SEMIANNUAL PERIOD DEFINED.—For purposes of this section, the term 'semiannual period' means a period beginning on January 1 of any calendar year and ending on June 30 of the same year, or a period beginning on July 1 of any calendar year and ending on December 31 of the same year.

"(5) RECORDS TO BE MAINTAINED.—Each insured depository institution shall maintain all records that the Corporation may require for verifying the correctness of the institution's semiannual assessments. No insured depository institution shall be required to retain those records for that purpose for a period of more than 5 years from the date of the filing of any certified statement, except that when there is a dispute between the insured depository institution and the Corporation over the amount of any assessment, the depository institution shall retain the records until final determination of the issue.".

(b) CERTIFIED STATEMENTS AND PAYMENT PROCEDURES.—Section 7(c) of the Federal Deposit Insurance Act (12 U.S.C. 1817(c)) is amended to read as follows:

"(c) CERTIFIED STATEMENTS; PAYMENTS.—

"(1) CERTIFIED STATEMENTS REQUIRED.—

"(A) IN GENERAL.—Each insured depository institution shall file with the Corporation a certified statement containing such information as the Corporation may require for determining the institution's semiannual assessment.

"(B) FORM OF CERTIFICATION.—The certified statement required under subparagraph (A) shall—

"(i) be in such form and set forth such supporting information as the Board of Directors shall prescribe; and

"(ii) be certified by the president of the depository institution or any other officer designated by its board of directors or trustees that to the best of his or her knowledge and belief, the statement is true, correct and complete, and in accordance with this Act and regulations issued hereunder.

"(2) PAYMENTS REQUIRED.—

"(A) IN GENERAL.—Each insured depository institution shall pay to the Corporation the semiannual assessment imposed under subsection (b).

"(B) FORM OF PAYMENT.—The payments required under subparagraph (A) shall be made in such manner and at such time or times as the Board of Directors shall prescribe by regulation.

"(3) NEWLY INSURED INSTITUTIONS.—To facilitate the administration of this section, the Board of Directors may waive the requirements of paragraphs (1) and (2) for the semiannual period in which a depository institution becomes insured.".

(c) REGULATIONS.—To implement the risk-based assessment system required under section 7(b) of the Federal Deposit Insurance Act (as amended by subsection (a)), the Federal Deposit Insurance Corporation shall—

(1) provide notice of proposed regulations in the Federal Register, not later than December 31, 1992, with an opportunity for comment on the proposal of not less than 120 days; and

(2) promulgate final regulations not later than July 1, 1993.

(d) AUTHORITY TO PRESCRIBE REGULATIONS AND DEFINITIONS.—Section 10 of the Federal Deposit Insurance Act (12 U.S.C. 1820) is amended by adding at the end the following:

"(f) AUTHORITY TO PRESCRIBE REGULATIONS AND DEFINITIONS.—Except to the extent that authority under this Act is conferred on any of the Federal banking agencies other than the Corporation, the Corporation may—

"(1) prescribe regulations to carry out this Act; and

"(2) by regulation define terms as necessary to carry out this Act.".

(e) CONFORMING AMENDMENTS.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended—

(1) in section 5(d)(3)(B)—

(A) by striking "average assessment base" and inserting "deposits"; and

(B) by striking "shall—" and all that follows through "(iii) shall be treated" and inserting "shall be treated";

(2) in section 7(a)(5) by striking "and for the computation of assessments provided in subsection (b) of this section";

(3) in section 7 by amending subsection (d) to read as follows:

"(d) CORPORATION EXEMPT FROM APPORTIONMENT.—Notwithstanding any other provision of law, amounts received pursuant to any assessment under this section and any other amounts received by the Corporation shall not be subject to apportionment for the purposes of chapter 15 of title 31, United States Code, or under any other authority."; and

(4) in the last sentence of section 8(q) by striking "upon" and inserting "with respect to".

(f) TRANSITION TO NEW ASSESSMENT SYSTEM.—To carry out the amendments made by this section, the Corporation may promulgate regulations governing the transition from the assessment system in effect on the date of enactment of this Act to the assessment system required under the amendments made by this section.

(g) EFFECTIVE DATE OF AMENDMENTS.—The amendments made by this section shall become effective on the earlier of—

(1) 180 days after the date on which final regulations promulgated in accordance with subsection (c) become effective; or

(2) January 1, 1994.

SEC. 303. RESTRICTIONS ON INSURED STATE BANK ACTIVITIES.

(a) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 23 the following new section:

"SEC. 24. ACTIVITIES OF INSURED STATE BANKS.

"(a) IN GENERAL.—After the end of the 1-year period beginning on the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, an insured State bank may not engage as principal in any type of activity that is not permissible for a national bank unless—

"(1) the Corporation has determined that the activity would pose no significant risk to the appropriate deposit insurance fund; and

"(2) the State bank is, and continues to be, in compliance with applicable capital standards prescribed by the appropriate Federal banking agency.

"(b) INSURANCE UNDERWRITING.—

"(1) IN GENERAL.—Notwithstanding subsection (a), an insured State bank may not engage in insurance underwriting except to the extent that activity is permissible for national banks.

"(2) EXCEPTION FOR CERTAIN FEDERALLY REINSURED CROP INSURANCE.—Notwithstanding any other provision of law, an insured State bank or any of its subsidiaries that provided insurance on or before September 30, 1991, which was reinsured in whole or in part by the Federal Crop Insurance Corporation may continue to provide such insurance.".

"(c) EQUITY INVESTMENTS BY INSURED STATE BANKS.—

"(1) IN GENERAL.—An insured State bank may not, directly or indirectly, acquire or retain any equity investment of a type that is not permissible for a national bank.

"(2) EXCEPTION FOR CERTAIN SUBSIDIARIES.—Paragraph (1) shall not prohibit an insured State bank from acquiring or retaining an equity investment in a subsidiary of which the insured State bank is a majority owner.

"(3) EXCEPTION FOR QUALIFIED HOUSING PROJECTS.—

"(A) EXCEPTION.—Notwithstanding any other provision of this subsection, an insured State bank may invest as a limited partner in a partnership, the sole purpose of which is direct or indirect investment in the acquisition, rehabilitation, or new construction of a qualified housing project.

"(B) LIMITATION.—The aggregate of the investments of any insured State bank pursuant to this paragraph shall not exceed 2 percent of the total assets of the bank.

"(C) QUALIFIED HOUSING PROJECT DEFINED.—As used in this paragraph—

"(i) QUALIFIED HOUSING PROJECT.—The term 'qualified housing project' means residential real estate that is intended to primarily benefit lower income people throughout the period of the investment.

"(ii) LOWER INCOME.—The term 'lower income' means income that less than or equal to the median income based on statistics from State or Federal sources.

"(4) TRANSITION RULE.—

"(A) IN GENERAL.—The Corporation shall require any insured State bank to divest any equity investment the retention of which is not permissible under this subsection as quickly as can be prudently done, and in any event before the end of the 5-year period beginning on the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991.

"(B) TREATMENT OF NONCOMPLIANCE DURING DIVESTMENT.—With respect to any equity investment held by any insured State bank on the date of enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991 which was lawfully acquired before such date, the bank shall be deemed not to be in violation of the prohibition in this subsection on retaining such investment so long as the bank complies with the applicable requirements established by the Corporation for divesting such investments.

"(d) SUBSIDIARIES OF INSURED STATE BANKS.—

"(1) IN GENERAL.—After the end of the 1-year period beginning on the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, a subsidiary of an insured State bank may not engage as principal in any type of activity that is not permissible for a subsidiary of a national bank unless—

"(A) the Corporation has determined that the activity poses no significant risk to the appropriate deposit insurance fund; and

"(B) the bank is, and continues to be, in compliance with applicable capital standards prescribed by the appropriate Federal banking agency.

"(2) INSURANCE UNDERWRITING PROHIBITED.—

"(A) PROHIBITION.—Notwithstanding paragraph (1), no subsidiary of an insured State bank may engage in insurance underwriting except to the extent such activities are permissible for national banks.

"(B) CONTINUATION OF EXISTING ACTIVITIES.—Notwithstanding subparagraph (A), a well-capitalized insured State bank or any of its subsidiaries that was lawfully providing insurance as principal in a State on November 21, 1991, may continue to provide, as principal, insurance of the same type to residents of the State (including companies or partnerships incorporated in, organized under the laws of, licensed to do business in, or having an office in the State, but only on behalf of their employees resident in or property located in the State), individuals employed in the State, and any other person to whom the bank or subsidiary has provided insurance as principal, without interruption, since such person resided in or was employed in such State.

"(C) EXCEPTION.—Subparagraph (A) does not apply to a subsidiary of an insured State bank if—

"(i) the insured State bank was required, before June 1, 1991, to provide title insurance as a condition of the bank's initial chartering under State law; and

"(ii) control of the insured State bank has not changed since that date.

"(e) SAVINGS BANK LIFE INSURANCE.—

"(1) IN GENERAL.—No provision of this Act shall be construed as prohibiting or impairing the sale or underwriting of savings bank life insurance, or the ownership of stock in a savings bank life insurance company, by any insured bank which—

"(A) is located in the Commonwealth of Massachusetts or the State of New York or Connecticut; and

"(B) meets the consumer disclosure requirements under section 18(k) with respect to such insurance.

"(2) FDIC FINDING AND ACTION REGARDING RISK.—

"(A) FINDING.—Before the end of the 1-year period beginning on the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, the Corporation shall make a finding whether savings bank life insurance activities of insured banks pose or may pose any significant risk to the insurance fund of which such banks are members.

"(B) ACTIONS.—

"(i) IN GENERAL.—The Corporation shall, pursuant to any finding made under subparagraph (A), take appropriate actions to address any risk that exists or may subsequently develop with respect to insured banks described in paragraph (1)(A).

"(ii) AUTHORIZED ACTIONS.—Actions the Corporation may take under this subparagraph include requiring the modification, suspension, or termination of insurance activities conducted by any insured bank if the Corporation finds that the activities pose a significant risk to any insured bank described in paragraph (1)(A) or to the insurance fund of which such bank is a member.

"(f) COMMON AND PREFERRED STOCK INVESTMENT.—

"(1) IN GENERAL.—An insured State bank shall not acquire or retain, directly or indirectly, any equity investment of a type or in an amount that is not permissible for a national bank or is not otherwise permitted under this section.

"(2) EXCEPTION FOR BANKS IN CERTAIN STATES.—Notwithstanding paragraph (1), an insured State bank may, to the extent permitted by the Corporation, acquire and retain ownership of securities described in paragraph (1) to the extent the aggregate amount of such investment does not exceed an amount equal to 100 percent of the bank's capital if such bank—

"(A) is located in a State that permitted, as of September 30, 1991, investment in common or preferred stock listed on a national securities exchange or shares of an investment company registered under the Investment Company Act of 1940; and

"(B) made or maintained an investment in such securities during the period beginning on September 30, 1990, and ending on November 26, 1991.

"(3) EXCEPTION FOR CERTAIN TYPES OF INSTITUTIONS.—Notwithstanding paragraph (1), an insured State bank may—

"(A) acquire not more than 10 percent of a corporation that only—

"(i) provides directors', trustees', and officers' liability insurance coverage or bankers' blanket bond group insurance coverage for insured depository institutions; or

"(ii) reinsures such policies; and

"(B) acquire or retain shares of a depository institution if—

"(i) the institution engages only in activities permissible for national banks;

"(ii) the institution is subject to examination and regulation by a State bank supervisor;

"(iii) 20 or more depository institutions own shares of the institution and none of those institutions owns more than 15 percent of the institution's shares; and

"(iv) the institution's shares (other than directors' qualifying shares or shares held under or initially acquired through a plan established for the benefit of the institution's officers and employees) are owned only by the institution.

"(4) TRANSITION PERIOD FOR COMMON AND PREFERRED STOCK INVESTMENTS.—

"(A) IN GENERAL.—During each year in the 3-year period beginning on the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, each insured State bank shall reduce by not less than ⅓ of its shares (as of such date of enactment) the bank's ownership of securities in excess of the amount equal to 100 percent of the capital of such bank.

"(B) COMPLIANCE AT END OF PERIOD.—By the end of the 3-year period referred to in subparagraph (A), each insured State bank and each subsidiary of a State bank shall be in compliance with the maximum amount limitations on investments referred to in paragraph (1).

"(5) LOSS OF EXCEPTION UPON ACQUISITION.—Any exception applicable under paragraph (2) with respect to any insured State bank shall cease to apply with respect to such bank upon any change in control of such bank or any conversion of the charter of such bank.

"(6) NOTICE AND APPROVAL.—An insured State bank may only engage in any investment pursuant to paragraph (2) if—

"(A) the bank has filed a 1-time notice of the bank's intention to acquire and retain investments described in paragraph (1); and

"(B) the Corporation has determined, within 60 days of receiving such notice, that acquiring or retaining such investments does not pose a significant risk to the insurance fund of which such bank is a member.

"(7) DIVESTITURE.—

"(A) IN GENERAL.—The Corporation may require divestiture by an insured State bank of any investment permitted under this subsection if the Corporation determines that such investment will have an adverse effect on the safety and soundness of the bank.

"(B) REASONABLE STANDARD.—The Corporation shall not require divestiture by any bank pursuant to subparagraph (A) without reason to believe that such investment will have an adverse effect on the safety and soundness of the bank.

"(g) DETERMINATIONS.—The Corporation shall make determinations under this section by regulation or order.

"(h) ACTIVITY DEFINED.—For purposes of this section, the term 'activity' includes acquiring or retaining any investment.

"(i) OTHER AUTHORITY NOT AFFECTED.—This section shall not be construed as limiting the authority of any appropriate Federal banking agency or any State supervisory authority to impose more stringent restrictions.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The 13th undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 330) is amended by striking ": Provided, however, That no Federal reserve bank" and inserting ", except that the Board of Governors of the Federal Reserve System may limit the activities of State member banks and subsidiaries of State member banks in a manner consistent with section 24 of the Federal Deposit Insurance Act. No Federal reserve bank".

SEC. 304. RESTRICTIONS ON REAL ESTATE LENDING.

(a) IN GENERAL.—Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end the following new subsection:

"(o) REAL ESTATE LENDING.—

"(1) UNIFORM REGULATIONS.—Not more than 9 months after the date of enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, each appropriate Federal banking agency shall adopt uniform regulations prescribing standards for extensions of credit that are—

"(A) secured by liens on interests in real estate; or

"(B) made for the purpose of financing the construction of a building or other improvements to real estate.

"(2) STANDARDS.—

"(A) CRITERIA.—In prescribing standards under paragraph (1), the agencies shall consider—

"(i) the risk posed to the deposit insurance funds by such extensions of credit;

"(ii) the need for safe and sound operation of insured depository institutions; and

"(iii) the availability of credit.

"(B) VARIATIONS PERMITTED.—In prescribing standards under paragraph (1), the appropriate Federal banking agencies may differentiate among types of loans—

"(i) as may be required by Federal statute;

"(ii) as may be warranted, based on the risk to the deposit insurance fund; or

"(iii) as may be warranted, based on the safety and soundness of the institutions.

"(3) LOAN EVALUATION STANDARD.—No appropriate Federal banking agency shall adversely evaluate an investment or a loan made by an insured depository institution, or consider such a loan to be nonperforming, solely because the loan is made to or the investment is in commercial, residential, or industrial property, unless such investment or loan may affect the institution's safety and soundness.

"(4) EFFECTIVE DATE.—The regulations adopted under paragraph (1) shall become effective not later than 15 months after the date of enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991. Such regulations shall continue in effect except as uniformly amended by the appropriate Federal banking agencies, acting in concert.".

(b) CONFORMING AMENDMENT.—Section 24(a) of the Federal Reserve Act (12 U.S.C. 371(a)) is amended by striking "such terms," and all that follows through the period and inserting "section 18(o) of the Federal Deposit Insurance Act and such restrictions and requirements as the Comptroller of the Currency may prescribe by regulation or order.".

SEC. 305. IMPROVING CAPITAL STANDARDS.

(a) PERIODIC REVIEW OF CAPITAL STANDARDS GENERALLY.—Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end the following new subsection:

"(o) PERIODIC REVIEW OF CAPITAL STANDARDS.—Each appropriate Federal banking agency shall, in consultation with the other Federal banking agencies, biennially review its capital standards for insured depository institutions to determine whether those standards require sufficient capital to facilitate prompt corrective action to prevent or minimize loss to the deposit insurance funds, consistent with section 38.".

(b) REVIEW OF RISK-BASED CAPITAL STANDARDS.—

(1) IN GENERAL.—Each appropriate Federal banking agency shall revise its risk-based capital standards for insured depository institutions to ensure that those standards—

(A) take adequate account of—

(i) interest-rate risk;

(ii) concentration of credit risk; and

(iii) the risks of nontraditional activities; and

(B) reflect the actual performance and expected risk of loss of multifamily mortgages.

(2) INTERNATIONAL DISCUSSIONS.—The Federal banking agencies shall discuss the development of comparable standards with members of the supervisory committee of the Bank for International Settlements.

(3) DEADLINE FOR PRESCRIBING REVISED STANDARDS.—Each appropriate Federal banking agency shall—

(A) publish final regulations in the Federal Register to implement paragraph (1) not later than 18 months after the date of enactment of this Act; and

(B) establish reasonable transition rules to facilitate compliance with those regulations.

(4) DEFINITIONS.—For purposes of this subsection, the terms "appropriate Federal banking agency", "Federal banking agency" and "insured depository institution" have the same meanings as in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

(c) CONFORMING AMENDMENT DEFINING FEDERAL BANKING AGENCIES.—Section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) is amended by adding at the end the following:

"(z) FEDERAL BANKING AGENCIES.—The term 'Federal banking agencies' means the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation.".

SEC. 306. SAFEGUARDS AGAINST INSIDER ABUSE.

(a) RECODIFICATION OF CURRENT LAW RESTRICTING EXTENSIONS OF CREDIT TO INSIDERS.—Section 22(h) of the Federal Reserve Act (12 U.S.C. 375b) is amended to read as follows:

"(h) EXTENSIONS OF CREDIT TO EXECUTIVE OFFICERS, DIRECTORS, AND PRINCIPAL SHAREHOLDERS OF MEMBER BANKS.—

"(1) IN GENERAL.—No member bank may extend credit to any of its executive officers, directors, or principal shareholders, or to any related interest of such a person, except to the extent permitted under paragraphs (2), (3), (4), and (6).

"(2) PREFERENTIAL TERMS PROHIBITED.—A member bank may extend credit to its executive officers, directors, or principal shareholders, or to any related interest of such a person, only if the extension of credit—

"(A) is made on substantially the same terms, including interest rates and collateral, as those prevailing at the time for comparable transactions by the bank with persons who are not executive officers, directors, principal shareholders, or employees of the bank; and

"(B) does not involve more than the normal risk of repayment or present other unfavorable features.

"(3) PRIOR APPROVAL REQUIRED.—A member bank may extend credit to a person described in paragraph (1) in an amount that, when aggregated with the amount of all other outstanding extensions of credit by that bank to each such person and that person's related interests, would exceed an amount prescribed by regulation of the appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act) only if—

"(A) the extension of credit has been approved in advance by a majority vote of that bank's entire board of directors; and

"(B) the interested party has abstained from participating, directly or indirectly, in the deliberations or voting on the extension of credit.

"(4) AGGREGATE LIMIT ON EXTENSIONS OF CREDIT TO ANY EXECUTIVE OFFICER OR PRINCIPAL SHAREHOLDER.—A member bank may extend credit to any executive officer or principal shareholder, or to any related interest of such a person, only if the extension of credit is in an amount that, when aggregated with the amount of all outstanding extensions of credit by that bank to that person and that person's related interests, would not exceed the limits on loans to a single borrower established by section 5200 of the Revised Statutes. For purposes of this paragraph, section 5200 of the Revised Statutes shall be deemed to apply to a State member bank as if the State member bank were a national banking association.

"(5) [Reserved.]

"(6) OVERDRAFTS BY EXECUTIVE OFFICERS AND DIRECTORS PROHIBITED.—

"(A) IN GENERAL.—If any executive officer or director has an account at the member bank, the bank may not pay on behalf of that person an amount exceeding the funds on deposit in the account.

"(B) EXCEPTIONS.—Subparagraph (A) does not prohibit a member bank from paying funds in accordance with—

"(i) a written preauthorized, interest-bearing extension of credit specifying a method of repayment; and

"(ii) a written preauthorized transfer of funds from another account of the executive officer or director at that bank.

"(7) [Reserved.]

"(8) EXECUTIVE OFFICER, DIRECTOR, OR PRINCIPAL SHAREHOLDER OF CERTAIN AFFILIATES TREATED AS EXECUTIVE OFFICER, DIRECTOR, OR PRINCIPAL SHAREHOLDER OF MEMBER BANK.—For purposes of this subsection, any executive officer, director, or principal shareholder (as the case may be) of any bank holding company of which the member bank is a subsidiary, or of any other subsidiary of that company, shall be deemed to be an executive officer, director, or principal shareholder (as the case may be) of the member bank.

"(9) DEFINITIONS.—For purposes of this subsection:

"(A) COMPANY.—

"(i) IN GENERAL.—Except as provided in clause (ii), the term 'company' means any corporation, partnership, business or other trust, association, joint venture, pool syndicate, sole proprietorship, unincorporated organization, or other business entity.

"(ii) EXCEPTIONS.—The term 'company' does not include—

"(I) an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act); or

"(II) a corporation the majority of the shares of which are owned by the United States or by any State.

"(B) CONTROL.—A person controls a company or bank if that person, directly or indirectly, or acting through or in concert with 1 or more persons—

"(i) owns, controls, or has the power to vote 25 percent or more of any class of the company's voting securities;

"(ii) controls in any manner the election of a majority of the company's directors; or

"(iii) has the power to exercise a controlling influence over the company's management or policies.

"(C) EXECUTIVE OFFICER.—A person is an 'executive officer' of a company or bank if that person participates or has authority to participate (other than as a director) in major policymaking functions of the company or bank.

"(D) EXTENSION OF CREDIT.—A member bank extends credit by making or renewing any loan, granting a line of credit, or entering into any similar transaction as a result of which a person becomes obligated (directly or indirectly, or by any means whatsoever) to pay money or its equivalent to the bank.

"(E) [Reserved.]

"(F) PRINCIPAL SHAREHOLDER.—The term 'principal shareholder' means any person that directly or indirectly, or acting through or in concert with one or more persons, owns, controls, or has the power to vote more than 10 percent of any class of voting securities of a member bank or company. For purposes of paragraph (4), if a member bank has its main banking office in a city, town, or village with a population of less than 30,000, the preceding sentence shall apply with '18 percent' substituted for '10 percent'.

"(G) RELATED INTEREST.—A 'related interest' of a person is—

"(i) any company controlled by that person; and

"(ii) any political or campaign committee that is controlled by that person or the funds or services of which will benefit that person.

"(H) SUBSIDIARY.—The term 'subsidiary' has the same meaning as in section 2 of the Bank Holding Company Act of 1956.

"(10) BOARD'S RULEMAKING AUTHORITY.—The Board of Governors of the Federal Reserve System may prescribe such regulations, including definitions of terms, as it determines to be necessary to effectuate the purposes and prevent evasions of this subsection.".

(b) REQUIRING DEPOSITORY INSTITUTIONS TO FOLLOW NORMAL CREDIT UNDERWRITING PROCE-

DURES WHEN EXTENDING CREDIT TO INSIDERS.—Section 22(h)(2) of the Federal Reserve Act (12 U.S.C. 375b(2)), as amended by subsection (a), is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting "; and"; and

(3) by inserting after subparagraph (B) the following new subparagraph:

"(C) the bank follows credit underwriting procedures that are not less stringent than those applicable to comparable transactions by the bank with persons who are not executive officers, directors, principal shareholders, or employees of the bank.".

(c) APPLYING TO DIRECTORS THE LIMIT ON LOANS TO ONE BORROWER.—Section 22(h)(4) of the Federal Reserve Act (12 U.S.C. 375b(4)), as amended by subsection (a), is amended—

(1) by inserting ", DIRECTOR," after "AGGREGATE LIMIT ON EXTENSIONS OF CREDIT TO ANY EXECUTIVE OFFICER"; and

(2) by inserting ", director," after "A member bank may extend credit to any executive officer".

(d) LIMITING DEPOSITORY INSTITUTION'S AGGREGATE EXTENSIONS OF CREDIT TO INSIDERS.—

(1) IN GENERAL.—Section 22(h)(5) of the Federal Reserve Act (12 U.S.C. 375b(5)), as amended by subsection (a), is amended to read as follows:

"(5) AGGREGATE LIMIT ON EXTENSIONS OF CREDIT TO ALL EXECUTIVE OFFICERS, DIRECTORS, AND PRINCIPAL SHAREHOLDERS.—

"(A) IN GENERAL.—A member bank may extend credit to any executive officer, director, or principal shareholder, or to any related interest of such a person, if the extension of credit is in an amount that, when aggregated with the amount of all outstanding extensions of credit by that bank to its executive officers, directors, principal shareholders, and those persons' related interests would not exceed the bank's unimpaired capital and unimpaired surplus.

"(B) MORE STRINGENT LIMIT AUTHORIZED.—The Board may, by regulation, prescribe a limit that is more stringent than that contained in subparagraph (A).

"(C) BOARD MAY MAKE EXCEPTIONS FOR CERTAIN BANKS.—The Board may, by regulation, make exceptions to subparagraph (A) for member banks with less than $100,000,000 in deposits if the Board determines that the exceptions are important to avoid constricting the availability of credit in small communities or to attract directors to such banks. In no case may the aggregate amount of all outstanding extensions of credit to a bank's executive officers, directors, principal shareholders, and those persons' related interests be more than 2 times the bank's unimpaired capital and unimpaired surplus.".

(2) CONFORMING AMENDMENT.—Section 22(h)(1) of the Federal Reserve Act (12 U.S.C. 375b(1)), as amended by subsection (a), is amended by inserting "(5)," after "(4),".

(e) PROHIBITING INSIDERS FROM ACCEPTING UNAUTHORIZED EXTENSIONS OF CREDIT.—Section 22(h)(7) of the Federal Reserve Act (12 U.S.C. 375b(7)), as amended by subsection (a), is amended to read as follows:

"(7) PROHIBITION ON KNOWINGLY RECEIVING UNAUTHORIZED EXTENSION OF CREDIT.—No executive officer, director, or principal shareholder shall knowingly receive (or knowingly permit any of that person's related interests to receive) from a member bank, directly or indirectly, any extension of credit not authorized under this subsection.".

(f) APPLYING UNIFORM RULES TO ALL COMPANIES CONTROLLING DEPOSITORY INSTITUTIONS.—Section 22(h)(8) of the Federal Reserve Act (12 U.S.C. 375b(8)), as amended by subsection (a), is amended by striking "bank holding".

(g) APPLYING SAFEGUARDS TO INSIDER TRANSACTIONS WITH DEPOSITORY INSTITUTION'S SUBSIDIARIES.—Section 22(h)(9)(E) of the Federal Reserve Act (12 U.S.C. 375b(9)(E)), as amended by subsection (a), is amended to read as follows:

"(E) MEMBER BANK.—The term 'member bank' includes any subsidiary of a member bank.".

(h) APPLYING UNIFORM RULES TO ALL PRINCIPAL SHAREHOLDERS.—Section 22(h)(9)(F) of the Federal Reserve Act (12 U.S.C. 375b(9)(F)), as amended by subsection (a), is amended by striking the last sentence.

(i) LIMITING SAVINGS ASSOCIATIONS' EXTENSIONS OF CREDIT TO EXECUTIVE OFFICERS.—Section 11(b)(1) of the Home Owners' Loan Act (12 U.S.C. 1468(b)(1)) is amended by striking "Section 22(h)" and inserting "Subsections (g) and (h) of section 22".

(j) PREVENTING SAVINGS ASSOCIATIONS FROM MAKING PREFERENTIAL EXTENSIONS OF CREDIT THROUGH CORRESPONDENT INSTITUTIONS.—Section 106(b)(2)(H)(i) of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1972(2)(H)(i)) is amended by inserting ", a savings bank, and a savings association (as those terms are defined in section 3 of the Federal Deposit Insurance Act)" after "mutual savings bank".

(k) LIMITING STATE NONMEMBER BANK'S EXTENSIONS OF CREDIT TO EXECUTIVE OFFICERS; CLARIFYING THE PROHIBITION ON PREFERENTIAL EXTENSIONS OF CREDIT TO INSIDERS.—Section 18(j) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j)) is amended to read as follows:

"(j) RESTRICTIONS ON TRANSACTIONS WITH AFFILIATES AND INSIDERS.—

"(1) TRANSACTIONS WITH AFFILIATES.—

"(A) IN GENERAL.—Sections 23A and 23B of the Federal Reserve Act shall apply with respect to every nonmember insured bank in the same manner and to the same extent as if the nonmember insured bank were a member bank.

"(B) AFFILIATE DEFINED.—For the purpose of subparagraph (A), any company that would be an affiliate (as defined in sections 23A and 23B) of a nonmember insured bank if the nonmember insured bank were a member bank shall be deemed to be an affiliate of that nonmember insured bank.

"(2) EXTENSIONS OF CREDIT TO OFFICERS, DIRECTORS, AND PRINCIPAL SHAREHOLDERS.—Subsections (g) and (h) of section 22 of the Federal Reserve Act shall apply with respect to every nonmember insured bank in the same manner and to the same extent as if the nonmember insured bank were a member bank.

"(3) AVOIDING EXTRATERRITORIAL APPLICATION TO FOREIGN BANKS.—

"(A) TRANSACTIONS WITH AFFILIATES.—Paragraph (1) shall not apply with respect to a foreign bank solely because the foreign bank has an insured branch.

"(B) EXTENSIONS OF CREDIT TO OFFICERS, DIRECTORS, AND PRINCIPAL SHAREHOLDERS.—Paragraph (2) shall not apply with respect to a foreign bank solely because the foreign bank has an insured branch, but shall apply with respect to the insured branch.

"(C) FOREIGN BANK DEFINED.—For purposes of this paragraph, the term 'foreign bank' has the same meaning as in section 1(b)(7) of the International Banking Act of 1978.".

(l) EFFECTIVE DATE.—The amendments made by this section shall become effective upon the earlier of—

(1) the date on which final regulations under subsection (m)(1) become effective; or

(2) 150 days after the date of enactment of this Act.

(m) REGULATIONS.—

(1) IN GENERAL.—The Board of Governors of the Federal Reserve System shall, not later than 120 days after the date of enactment of this Act, promulgate final regulations to implement the amendments made by this section, other than the amendments made by subsections (i) and (k).

(2) LIMITING EXTENSIONS OF CREDIT TO EXECUTIVE OFFICERS.—The Federal Deposit Insurance Corporation and Director of the Office of Thrift Supervision shall each, not later than 120 days after the date of enactment of this Act, promulgate final regulations prescribing the maximum amount that a nonmember insured bank or insured savings association (as the case may be) may lend under section 22(g)(4) of the Federal Reserve Act, as made applicable to those institutions by subsections (k) and (i), respectively.

(n) EXISTING TRANSACTIONS NOT AFFECTED.—The amendments made by this section do not affect the validity of any extension of credit or other transaction lawfully entered into on or before the effective date of those amendments.

(o) REPORTING OF CREDIT BY EXECUTIVE OFFICERS AND DIRECTORS.—An executive officer or director of an insured depository institution, a bank holding company, or a savings and loan holding company, the shares of which are not publicly traded, shall report annually to the board of directors of the institution or holding company the outstanding amount of any credit that was extended to such executive officer or director and that is secured by shares of the institution or holding company.

SEC. 307. FDIC BACK-UP ENFORCEMENT AUTHORITY.

Section 8(t) of the Federal Deposit Insurance Act (12 U.S.C. 1818(t)) is amended to read as follows:

"(t) AUTHORITY OF FDIC TO TAKE ENFORCEMENT ACTION AGAINST INSURED DEPOSITORY INSTITUTIONS AND INSTITUTION-AFFILIATED PARTIES.—

"(1) RECOMMENDING ACTION BY APPROPRIATE FEDERAL BANKING AGENCY.—The Corporation, based on an examination of an insured depository institution by the Corporation or by the appropriate Federal banking agency or on other information, may recommend in writing to the appropriate Federal banking agency that the agency take any enforcement action authorized under section 7(j), this section, or section 18(j) with respect to any insured depository institution or any institution-affiliated party. The recommendation shall be accompanied by a written explanation of the concerns giving rise to the recommendation.

"(2) FDIC'S AUTHORITY TO ACT IF APPROPRIATE FEDERAL BANKING AGENCY FAILS TO FOLLOW RECOMMENDATION.—If the appropriate Federal banking agency does not, before the end of the 60-day period beginning on the date on which the agency receives the recommendation under paragraph (1), take the enforcement action recommended by the Corporation or provide a plan acceptable to the Corporation for responding to the Corporation's concerns, the Corporation may take the recommended enforcement action if the Board of Directors determines, upon a vote of its members, that—

"(A) the insured depository institution is in an unsafe or unsound condition;

"(B) the institution is engaging in unsafe or unsound practices, and the recommended enforcement action will prevent the institution from continuing such practices; or

"(C) the institution's conduct or threatened conduct (including any acts or omissions) poses a risk to the deposit insurance fund, or may prejudice the interests of the institution's depositors.

"(3) EFFECT OF EXIGENT CIRCUMSTANCES.—

"(A) AUTHORITY TO ACT.—The Corporation may, upon a vote of the Board of Directors, and after notice to the appropriate Federal banking agency, exercise its authority under paragraph (2) in exigent circumstances without regard to the time period set forth in paragraph (2).

"(B) AGREEMENT ON EXIGENT CIRCUMSTANCES.—The Corporation shall, by agreement with the appropriate Federal banking

agency, set forth those exigent circumstances in which the Corporation may act under subparagraph (A).

"(4) CORPORATION'S POWERS; INSTITUTION'S DUTIES.—For purposes of this subsection—

"(A) the Corporation shall have the same powers with respect to any insured depository institution and its affiliates as the appropriate Federal banking agency has with respect to the institution and its affiliates; and

"(B) the institution and its affiliates shall have the same duties and obligations with respect to the Corporation as the institution and its affiliates have with respect to the appropriate Federal banking agency.

"(5) REQUESTS FOR FORMAL ACTIONS AND INVESTIGATIONS.—

"(A) SUBMISSION OF REQUESTS.—A regional office of an appropriate Federal banking agency (including a Federal Reserve bank) that requests a formal investigation of or civil enforcement action against an insured depository institution shall submit the request concurrently to the chief officer of the appropriate Federal banking agency and to the Corporation.

"(B) AGENCIES REQUIRED TO REPORT ON REQUESTS.—Each appropriate Federal banking agency shall report semiannually to the Corporation on the status or disposition of all requests under subparagraph (A), including the reasons for any decision by the agency to approve or deny such requests.".

SEC. 308. INTERBANK LIABILITIES.

(a) REDUCING SYSTEMIC RISKS POSED BY LARGE BANK FAILURES.—The Federal Reserve Act (12 U.S.C. 221 et seq.) is amended by inserting after section 22 the following new section:

"INTERBANK LIABILITIES

"SEC. 23. (a) PURPOSE.—The purpose of this section is to limit the risks that the failure of a large depository institution (whether or not that institution is an insured depository institution) would pose to insured depository institutions.

"(b) AGGREGATE LIMITS ON INSURED DEPOSITORY INSTITUTIONS' EXPOSURE TO OTHER DEPOSITORY INSTITUTIONS.—The Board shall, by regulation or order, prescribe standards that have the effect of limiting the risks posed by an insured depository institution's exposure to any other depository institution.

"(c) EXPOSURE DEFINED.—

"(1) IN GENERAL.—For purposes of subsection (b), an insured depository institution's 'exposure' to another depository institution means—

"(A) all extensions of credit to the other depository institution, regardless of name or description, including—

"(i) all deposits at the other depository institution;

"(ii) all purchases of securities or other assets from the other depository institution subject to an agreement to repurchase; and

"(iii) all guarantees, acceptances, or letters of credit (including endorsements or standby letters of credit) on behalf of the other depository institution;

"(B) all purchases of or investments in securities issued by the other depository institution;

"(C) all securities issued by the other depository institution accepted as collateral for an extension of credit to any person; and

"(D) all similar transactions that the Board by regulation determines to be exposure for purposes of this section.

"(2) EXEMPTIONS.—The Board may, at its discretion, by regulation or order, exempt transactions from the definition of 'exposure' if it finds the exemptions to be in the public interest and consistent with the purpose of this section.

"(3) ATTRIBUTION RULE.—For purposes of this section, any transaction by an insured depository institution with any person is a transaction with another depository institution to the extent that the proceeds of the transaction are used for the benefit of, or transferred to, that other depository institution.

"(d) INSURED DEPOSITORY INSTITUTION.—For purposes of this section, the term 'insured depository institution' has the same meaning as in section 3 of the Federal Deposit Insurance Act.

"(e) RULEMAKING AUTHORITY; ENFORCEMENT.—The Board may issue such regulations and orders, including definitions consistent with this section, as may be necessary to administer and carry out the purpose of this section. The appropriate Federal banking agency shall enforce compliance with those regulations under section 8 of the Federal Deposit Insurance Act.".

(b) TRANSITION RULES.—The Board shall prescribe reasonable transition rules to facilitate compliance with section 23 of the Federal Reserve Act (as added by subsection (a)).

(c) EFFECTIVE DATE.—The amendment made by this section shall become effective 1 year after the date of enactment of this Act.

Subtitle B—Coverage

SEC. 311. DEPOSIT AND PASS-THROUGH INSURANCE.

(a) EXCLUSION OF CERTAIN OBLIGATIONS FROM DEPOSIT INSURANCE COVERAGE.—

(1) IN GENERAL.—Section 11(a) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)) is amended by adding at the end the following new paragraph:

"(8) CERTAIN INVESTMENT CONTRACTS NOT TREATED AS INSURED DEPOSITS.—

"(A) IN GENERAL.—A liability of an insured depository institution shall not be treated as an insured deposit if the liability arises under any insured depository institution investment contract between any insured depository institution and any employee benefit plan which expressly permits benefit-responsive withdrawals or transfers.

"(B) DEFINITIONS.—For purposes of subparagraph (A)—

"(i) BENEFIT-RESPONSIVE WITHDRAWALS OR TRANSFERS.—The term 'benefit-responsive withdrawals or transfers' means any withdrawal or transfer of funds (consisting of any portion of the principal and any interest credited at a rate guaranteed by the insured depository institution investment contract) during the period in which any guaranteed rate is in effect, without substantial penalty or adjustment, to pay benefits provided by the employee benefit plan or to permit a plan participant or beneficiary to redirect the investment of his or her account balance.

"(ii) EMPLOYEE BENEFIT PLAN.—The term 'employee benefit plan'—

"(I) has the meaning given to such term in section 3(3) of the Employee Retirement Income Security Act of 1974; and

"(II) includes any plan described in section 401(d) of the Internal Revenue Code of 1986.".

(2) EXCLUSION OF OBLIGATIONS FROM TREATMENT AS DEPOSITS FOR OTHER PURPOSES.—Section 7(b)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(6)) is amended—

(A) by striking "and" at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph (C) and inserting "; and"; and

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

"(D) any liability of the insured depository institution which is not treated as an insured deposit pursuant to section 11(a)(8).".

(b) INSURANCE OF DEPOSITS.—

(1) INSURED AMOUNTS PAYABLE.—Section 11(a) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)) (as amended by subsection (a)(1) of this section) is amended by striking "(a)(1)" and all that follows through paragraph (1) and inserting the following:

"(a) DEPOSIT INSURANCE.—

"(1) INSURED AMOUNTS PAYABLE.—

"(A) IN GENERAL.—The Corporation shall insure the deposits of all insured depository institutions as provided in this Act.

"(B) NET AMOUNT OF INSURED DEPOSIT.—The net amount due to any depositor at an insured depository institution shall not exceed $100,000 as determined in accordance with subparagraphs (C) and (D).

"(C) AGGREGATION OF DEPOSITS.—For the purpose of determining the net amount due to any depositor under subparagraph (B), the Corporation shall aggregate the amounts of all deposits in the insured depository institution which are maintained by a depositor in the same capacity and the same right for the benefit of the depositor either in the name of the depositor or in the name of any other person, other than any amount in a trust fund described in section 7(i)(1).

"(D) COVERAGE ON PRO RATA OR 'PASS-THROUGH' BASIS.—

"(i) IN GENERAL.—Except as provided in clause (ii), for the purpose of determining the amount of insurance due under subparagraph (B), the Corporation shall provide deposit insurance coverage with respect to deposits accepted by any insured depository institution on a pro rata or 'pass-through' basis to a participant in or beneficiary of an employee benefit plan (as defined in section 11(a)(8)(B)(ii)), including any eligible deferred compensation plan described in section 457 of the Internal Revenue Code of 1986.

"(ii) EXCEPTION.—After the end of the 1-year period beginning on the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, the Corporation shall not provide insurance coverage on a pro rata or 'pass-through' basis pursuant to clause (i) with respect to deposits accepted by any insured depository institution which, at the time such deposits are accepted, may not accept brokered deposits under section 29.

"(iii) COVERAGE UNDER CERTAIN CIRCUMSTANCES.—Clause (ii) shall not apply with respect to any deposit accepted by an insured depository institution described in such clause if, at the time the deposit is accepted—

"(I) the institution meets each applicable capital standard; and

"(II) the depositor receives a written statement from the institution that such deposits at such institution are eligible for insurance coverage on a pro rata or 'pass-through' basis.".

(2) CERTAIN RETIREMENT ACCOUNTS.—Section 11(a)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(3)) is amended to read as follows:

"(3) CERTAIN RETIREMENT ACCOUNTS.—

"(A) IN GENERAL.—Notwithstanding any limitation in this Act relating to the amount of deposit insurance available for the account of any 1 depositor, deposits in an insured depository institution made in connection with—

"(i) any individual retirement account described in section 408(a) of the Internal Revenue Code of 1986;

"(ii) subject to the exception contained in paragraph (1)(D)(ii), any eligible deferred compensation plan described in section 457 of such Code; and

"(iii) any individual account plan defined in section 3(34) of the Employee Retirement Income Security Act, and any plan described in section 401(d) of the Internal Revenue Code of 1986, to the extent that participants and beneficiaries under such plan have the right to direct the investment of assets held in individual accounts maintained on their behalf by the plan,

shall be aggregated and insured in an amount not to exceed $100,000 per participant per insured depository institution.

"(B) AMOUNTS TAKEN INTO ACCOUNT.—For purposes of subparagraph (A), the amount aggregated for insurance coverage under this paragraph shall consist of the present vested

and ascertainable interest of each participant under the plan, excluding any remainder interest created by, or as a result of, the plan.".

(3) CERTAIN TRUST FUNDS.—Section 7(i) of the Federal Deposit Insurance Act (12 U.S.C. 1817(i)) is amended to read as follows:

"(i) INSURANCE OF TRUST FUNDS.—

"(1) IN GENERAL.—Trust funds held on deposit by an insured depository institution in a fiduciary capacity as trustee pursuant to any irrevocable trust established pursuant to any statute or written trust agreement shall be insured in an amount not to exceed $100,000 for each trust estate.

"(2) INTERBANK DEPOSITS.—Trust funds described in paragraph (1) which are deposited by the fiduciary depository institution in another insured depository institution shall be similarly insured to the fiduciary depository institution according to the trust estates represented.

"(3) REGULATIONS.—The Board of Directors may prescribe such regulations as may be necessary to clarify the insurance coverage under this subsection and to prescribe the manner of reporting and depositing such trust funds.".

(4) EXPANDED COVERAGE BY REGULATION.—

(A) REVIEW OF COVERAGE.—For the purpose of prescribing regulations, during the 1-year period beginning on the date of the enactment of this Act, the Board of Directors shall review the capacities and rights in which deposit accounts are maintained and for which deposit insurance coverage is provided by the Corporation.

(B) REGULATIONS.— After the end of the 1-year period referred to in subparagraph (A), the Board of Directors may prescribe regulations that provide for separate insurance coverage for the different capacities and rights in which deposit accounts are maintained if a determination is made by the Board of Directors that such separate insurance coverage is consistent with—

(i) the purpose of protecting small depositors and limiting the undue expansion of deposit insurance coverage; and

(ii) the insurance provisions of the Federal Deposit Insurance Act.

(C) DELAYED EFFECTIVE DATE FOR REGULATIONS.—No regulation prescribed under subparagraph (B) may take effect before the 2-year period beginning on the date of the enactment of this Act.

(5) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) Section 3(m) of the Federal Deposit Insurance Act (12 U.S.C. 1813(m)) is amended by striking "(m)(1)" and all that follows through paragraph (1) and inserting the following:

"(m) INSURED DEPOSIT.—

"(1) IN GENERAL.—Subject to paragraph (2), the term 'insured deposit' means the net amount due to any depositor for deposits in an insured depository institution as determined under sections 7(i) and 11(a).".

(B) Section 11(a)(2)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(2)(A)) is amended by striking "his deposit shall be insured" and inserting "such depositor shall, for the purpose of determining the amount of insured deposits under this subsection, be deemed a depositor in such custodial capacity separate and distinct from any other officer, employee, or agent of the United States or any public unit referred to in clause (ii), (iii), (iv), or (v) and the deposit of any such depositor shall be insured in an amount not to exceed $100,000 per account".

(C) The 2d subparagraph of section 11(a)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(2)) is amended by striking "(b)" and inserting "(B)".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsection (a) and paragraphs (2) and (3) of subsection (b) shall take effect at the end of the 2-year period beginning on the date of the enactment of this Act.

(2) APPLICATION TO TIME DEPOSITS.—

(A) CERTAIN DEPOSITS EXCLUDED.—Except with respect to the amendment referred to in paragraph (3), the amendments made by subsections (a) and (b) shall not apply to any time deposit which—

(i) was made before the date of enactment of this Act; and

(ii) matures after the end of the 2-year period referred to in paragraph (1).

(B) ROLLOVERS AND RENEWALS TREATED AS NEW DEPOSIT.—Any renewal or rollover of a time deposit described in subparagraph (A) after the date of the enactment of this Act shall be treated as a new deposit which is not described in such subparagraph.

(3) EFFECTIVE DATE FOR AMENDMENT RELATING TO CERTAIN EMPLOYEE PLANS.—

(A) Section 11(a)(1)(B) of the Federal Deposit Insurance Act (as amended by subsection (b)(1) of this section) shall take effect on the earlier of—

(i) the date of the enactment of this Act; or

(ii) January 1, 1992.

(B) Section 11(a)(3)(A) of the Federal Deposit Insurance Act (as amended by subsection (b)(2) of this section) shall take effect on the earlier of the dates described in clauses (i) and (ii) of subparagraph (A) with respect to plans described in clause (ii) of such section.

(d) INFORMATIONAL STUDY.—

(1) IN GENERAL.—The Federal Deposit Insurance Corporation, in conjunction with such consultants and technical experts as the Corporation determines to be appropriate, shall conduct a study of the cost and feasibility of tracking the insured and uninsured deposits of any individual and the exposure, under any Act of Congress or any regulation of any appropriate Federal banking agency, of the Federal Government with respect to all insured depository institutions.

(2) ANALYSIS OF COSTS AND BENEFITS.—The study under paragraph (1) shall include detailed, technical analysis of the costs and benefits associated with the least expensive way to implement the system.

(3) SPECIFIC FACTORS TO BE STUDIED.—As part of the study under paragraph (1), the Corporation shall investigate, review, and evaluate—

(A) the data systems that would be required to track deposits in all insured depository institutions;

(B) the reporting burdens of such tracking on individual depository institutions;

(C) the systems which exist or which would be required to be developed to aggregate such data on an accurate basis;

(D) the implications such tracking would have for individual privacy; and

(E) the manner in which systems would be administered and enforced.

(4) FEDERAL RESERVE BOARD SURVEY.—As part of the informational study required under paragraph (1), the Board of Governors of the Federal Reserve System shall conduct, in conjunction with other Federal departments and agencies as necessary, a survey of the ownership of deposits held by individuals including the dollar amount of deposits held, the type of deposit accounts held, and the type of financial institutions in which the deposit accounts are held.

(5) ANALYSIS BY FDIC.—The results of the survey under paragraph (4) shall be provided to the Federal Deposit Insurance Corporation before the end of the 1-year period beginning on the date of the enactment of this Act for analysis and inclusion in the informational study.

(6) REPORT TO CONGRESS.—Before the end of the 18-month period beginning on the date of the enactment of this Act, the Federal Deposit Insurance Corporation shall submit to the Congress a report containing a detailed statement of findings made and conclusions drawn from the study conducted under this section, including such recommendations for administrative and legislative action as the Corporation determines to be appropriate.

SEC. 312. FOREIGN DEPOSITS.

The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 40 (as added by preceding provisions of this Act) the following new section:

"SEC. 41. PAYMENTS ON FOREIGN DEPOSITS PROHIBITED.

"(a) IN GENERAL.—Notwithstanding any other provision of law, the Corporation, the Board of Governors of the Federal Reserve System, the Resolution Trust Corporation, any other agency, department, and instrumentality of the United States, and any corporation owned or controlled by the United States may not, directly or indirectly, make any payment or provide any assistance, guarantee, or transfer under this Act or any other provision of law in connection with any insured depository institution which would have the direct or indirect effect of satisfying, in whole or in part, any claim against the institution for obligations of the institution which would constitute deposits as defined in section 3(l) but for subparagraphs (A) and (B) of section 3(l)(5).".

"(b) EXCEPTION.—Subsection (a) shall not apply to any payment, assistance, guarantee, or transfer made or provided by the Corporation if the Board of Directors determines in writing that such action is not inconsistent with any requirement of section 13(c).

"(c) DISCOUNT WINDOW LENDING.—No provision of this section shall be construed as prohibiting any Federal Reserve bank from making advances or otherwise extending credit pursuant to the Federal Reserve Act to any insured depository institution to the extent that such advance or extension of credit is consistent with the conditions and limitations imposed under section 10B of such Act.".

SEC. 313. PENALTY FOR FALSE ASSESSMENT REPORTS.

(a) INSURED DEPOSITORY INSTITUTIONS.—Section 7(c) of the Federal Deposit Insurance Act (12 U.S.C. 1817(c)) is amended by adding at the end the following new paragraph:

"(5) PENALTY FOR FAILURE TO MAKE ACCURATE CERTIFIED STATEMENT.—

"(A) FIRST TIER.—Any insured depository institution which—

"(i) maintains procedures reasonably adapted to avoid any inadvertent error and, unintentionally and as a result of such an error, fails to submit the certified statement under paragraph (1) or (2) within the period of time required under paragraph (1) or (2) or submits a false or misleading certified statement; or

"(ii) submits the statement at a time which is minimally after the time required in such paragraph,

shall be subject to a penalty of not more than $2,000 for each day during which such failure continues or such false and misleading information is not corrected. The institution shall have the burden of proving that an error was inadvertent or that a statement was inadvertently submitted late.

"(B) SECOND TIER.—Any insured depository institution which fails to submit the certified statement under paragraph (1) or (2) within the period of time required under paragraph (1) or (2) or submits a false or misleading certified statement in a manner not described in subparagraph (A) shall be subject to a penalty of not more than $20,000 for each day during which such failure continues or such false and misleading information is not corrected.

"(C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), if any insured depository

institution knowingly or with reckless disregard for the accuracy of any certified statement described in paragraph (1) or (2) submits a false or misleading certified statement under paragraph (1) or (2), the Corporation may assess a penalty of not more than $1,000,000 or not more than 1 percent of the total assets of the institution, whichever is less, per day for each day during which the failure continues or the false or misleading information in such statement is not corrected.

"(D) ASSESSMENT PROCEDURE.—Any penalty imposed under this paragraph shall be assessed and collected by the Corporation in the manner provided in subparagraphs (E), (F), (G), and (I) of section 8(i)(2) (for penalties imposed under such section) and any such assessment (including the determination of the amount of the penalty) shall be subject to the provisions of such section.

"(E) HEARING.—Any insured depository institution against which any penalty is assessed under this paragraph shall be afforded an agency hearing if the institution submits a request for such hearing within 20 days after the issuance of the notice of the assessment. Section 8(h) shall apply to any proceeding under this subparagraph.".

(b) INSURED CREDIT UNIONS.—Section 202(d)(2) of the Federal Credit Union Act (12 U.S.C. 1782(d)(2)) is amended to read as follows:

"(2) PENALTY FOR FAILURE TO MAKE ACCURATE CERTIFIED STATEMENT OR TO PAY DEPOSIT OR PREMIUM.—

"(A) FIRST TIER.—Any insured credit union which—

"(i) maintains procedures reasonably adapted to avoid any inadvertent error and, unintentionally and as a result of such an error, fails to submit any certified statement under subsection (b)(1) within the period of time required or submits a false or misleading certified statement under such subsection; or

"(ii) submits the statement at a time which is minimally after the time required,

shall be subject to a penalty of not more than $2,000 for each day during which such failure continues or such false and misleading information is not corrected. The insured credit union shall have the burden of proving that an error was inadvertent or that a statement was inadvertently submitted late.

"(B) SECOND TIER.—Any insured credit union which—

"(i) fails to submit any certified statement under subsection (b)(1) within the period of time required or submits a false or misleading certified statement in a manner not described in subparagraph (A); or

"(ii) fails or refuses to pay any deposit or premium for insurance required under this title,

shall be subject to a penalty of not more than $20,000 for each day during which such failure continues, such false and misleading information is not corrected, or such deposit or premium is not paid.

"(C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), if any insured depository institution knowingly or with reckless disregard for the accuracy of any certified statement under subsection (b)(1) or submits a false or misleading certified statement under such subsection, the Corporation may assess a penalty of not more than $1,000,000 or not more than 1 percent of the total assets of the institution, whichever is less, per day for each day during which the failure continues or the false or misleading information in such statement is not corrected.

"(D) ASSESSMENT PROCEDURE.—Any penalty imposed under this paragraph shall be assessed and collected by the Corporation in the manner provided in section 206(k)(2) (for penalties imposed under such section) and any such assessment (including the determination of the amount of the penalty) shall be subject to the provisions of such section.

"(E) HEARING.—Any insured depository institution against which any penalty is assessed under this paragraph shall be afforded an agency hearing if the institution submits a request for such hearing within 20 days after the issuance of the notice of the assessment. Section 206(j) shall apply to any proceeding under this subparagraph.

"(F) SPECIAL RULE FOR DISPUTED PAYMENTS.—No penalty may be assessed for the failure of any insured credit union to pay any deposit or premium for insurance if—

"(i) the failure is due to a dispute between the credit union and the Board over the amount of the deposit or premium which is due from the credit union; and

"(ii) the credit union deposits security satisfactory to the Board for payment of the deposit or insurance premium upon final determination of the dispute.".

Subtitle C—Demonstration Project and Studies

SEC. 321. FEASIBILITY STUDY ON AUTHORIZING INSURED AND UNINSURED DEPOSIT ACCOUNTS.

(a) STUDY REQUIRED.—The Federal Deposit Insurance Corporation shall study the feasibility of authorizing insured depository institutions to offer both insured and uninsured deposit accounts to customers.

(b) FACTORS TO CONSIDER.—In conducting the study required under subsection (a), the Corporation shall consider the following factors:

(1) The risk a 2-window deposit system would pose to the deposit insurance system.

(2) The disclosure standards which would be necessary to prevent customer confusion over the insured status of deposits and fraudulent or misleading practices with respect to such insured status.

(3) The extent to which accounting standards would have to be revised or changed.

(4) The manner in which a 2-window deposit plan could be implemented with the least disruption to the stability of, and the confidence of consumers in, the banking system.

(c) REPORT.—Before the end of the 6-month period beginning on the date of the enactment of this Act, the Corporation shall submit a report to the Congress containing the Corporation's findings and conclusions with respect to the study under subsection (a) and any recommendations for legislative or administrative action the Corporation may determine to be appropriate.

SEC. 322. PRIVATE REINSURANCE STUDY.

(a) STUDY.—

(1) IN GENERAL.—The Board of Directors of the Federal Deposit Insurance Corporation, in consultation with the Secretary of the Treasury and individuals from the private sector with expertise in private insurance, private reinsurance, depository institutions, or economics, shall conduct a study of the feasibility of establishing a private reinsurance system.

(2) PROJECT.—The study conducted under this subsection shall include a demonstration project consisting of a simulation, by a sample of private reinsurers and insured depository institutions, of the activities required for a private reinsurance system, including—

(A) establishment of a pricing structure for risk-based premiums;

(B) formulation of insurance or reinsurance contracts; and

(C) identification and collection of information necessary to evaluate and monitor the risks in insured depository institutions.

(3) ACTUAL REINSURANCE TRANSACTIONS.—The Federal Deposit Insurance Corporation may engage in actual reinsurance transactions as part of a demonstration project conducted under paragraph (2).

(b) REPORT.—

(1) IN GENERAL.—Before the end of the 18-month period beginning on the date of the enactment of this Act, the Federal Deposit Insurance Corporation shall submit to the Congress a report on the study conducted under this section.

(2) CONTENTS.—The report under this subsection shall include—

(A) an analysis and review of the project conducted under subsection (a)(2);

(B) conclusions regarding the feasibility of a private reinsurance system;

(C) recommendations regarding whether—

(i) such a system should be restricted to depository institutions over a certain asset size;

(ii) similar systems are feasible for depository institutions or groups of depository institutions of a lesser asset size; and

(iii) public policy goals can be satisfied by such systems; and

(D) recommendations for administrative and legislative action that may be necessary to establish such systems.

TITLE IV—MISCELLANEOUS PROVISIONS

Subtitle A—Payment System Risk Reduction

SEC. 401. FINDINGS AND PURPOSE.

The Congress finds that—

(1) many financial institutions engage daily in thousands of transactions with other financial institutions directly and through clearing organizations;

(2) the efficient processing of such transactions is essential to a smoothly functioning economy;

(3) such transactions can be processed most efficiently if, consistent with applicable contractual terms, obligations among financial institutions are netted;

(4) such netting procedures would reduce the systemic risk within the banking system and financial markets; and

(5) the effectiveness of such netting procedures can be assured only if they are recognized as valid and legally binding in the event of the closing of a financial institution participating in the netting procedures.

SEC. 402. DEFINITIONS.

For purposes of this subtitle—

(1) BROKER OR DEALER.—The term "broker or dealer" means—

(A) any company that is registered or licensed under Federal or State law to engage in the business of brokering, underwriting, or dealing in securities in the United States; and

(B) to the extent consistent with this title, as determined by the Board of Governors of the Federal Reserve System, any company that is an affiliate of a company described in subparagraph (A) and that is engaged in the business of entering into netting contracts.

(2) CLEARING ORGANIZATION.—The term "clearing organization" means a clearinghouse, clearing association, clearing corporation, or similar organization—

(A) that provides clearing, netting, or settlement services for its members and—

(i) in which all members other than the clearing organization itself are financial institutions or other clearing organizations; or

(ii) which is registered as a clearing agency under the Securities Exchange Act of 1934; or

(B) that performs clearing functions for a contract market designated pursuant to the Commodity Exchange Act.

(3) COVERED CLEARING OBLIGATION.—The term "covered clearing obligation" means an obligation of a member of a clearing organization to make payment to another member of a clearing organization, subject to a netting contract.

(4) COVERED CONTRACTUAL PAYMENT ENTITLEMENT.—The term "covered contractual payment entitlement" means—

(A) an entitlement of a financial institution to receive a payment, subject to a netting contract from another financial institution; and

(B) an entitlement of a member of a clearing organization to receive payment, subject to a netting contract, from another member of a clearing organization of a covered clearing obligation.

(5) COVERED CONTRACTUAL PAYMENT OBLIGATION.—The term "covered contractual payment obligation" means—

(A) an obligation of a financial institution to make payment, subject to a netting contract to another financial institution; and

(B) a covered clearing obligation.

(6) DEPOSITORY INSTITUTION.—The term "depository institution" means—

(A) a depository institution as defined in section 19(b)(1)(A) of the Federal Reserve Act (other than clause (vii));

(B) a branch or agency as defined in section 1(b) of the International Banking Act of 1978;

(C) a corporation chartered under section 25(a) of the Federal Reserve Act; or

(D) a corporation having an agreement or undertaking with the Board of Governors of the Federal Reserve System under section 25 of the Federal Reserve Act.

(7) FAILED FINANCIAL INSTITUTION.—The term "failed financial institution" means a financial institution that—

(A) fails to satisfy a covered contractual payment obligation when due;

(B) has commenced or had commenced against it insolvency, liquidation, reorganization, receivership (including the appointment of a receiver), conservatorship, or similar proceedings; or

(C) has generally ceased to meet its obligations when due.

(8) FAILED MEMBER.—The term "failed member" means any member that—

(A) fails to satisfy a covered clearing obligation when due,

(B) has commenced or had commenced against it insolvency, liquidation, reorganization, receivership (including the appointment of a receiver), conservatorship, or similar proceedings, or

(C) has generally ceased to meet its obligations when due.

(9) FINANCIAL INSTITUTION.—The term "financial institution" means a broker or dealer, a depository institution, a futures commission merchant, or any other institution as determined by the Board of Governors of the Federal Reserve System.

(10) FUTURES COMMISSION MERCHANT.—The term "futures commission merchant" means a company that is registered or licensed under Federal law to engage in the business of selling futures and options in commodities.

(11) MEMBER.—The term "member" means a member of or participant in a clearing organization, and includes the clearing organization.

(12) NET ENTITLEMENT.—The term "net entitlement" means the amount by which the covered contractual payment entitlements of a financial institution or member exceed the covered contractual payment obligations of the institution or member after netting under a netting contract.

(13) NET OBLIGATION.—The term "net obligation" means the amount by which the covered contractual payment obligations of a financial institution or member exceed the covered contractual payment entitlements of the institution or member after netting under a netting contract.

(14) NETTING CONTRACT.—

(A) IN GENERAL.—The term "netting contract"—

(i) means a contract or agreement between 2 or more financial institutions or members, that—

(I) is governed by the laws of the United States, any State, or any political subdivision of any State, and

(II) provides for netting present or future payment obligations or payment entitlements (including liquidation or close-out values relating to the obligations or entitlements) among the parties to the agreement; and

(ii) includes the rules of a clearing organization.

(B) INVALID CONTRACTS NOT INCLUDED.—The term "netting contract" does not include any contract or agreement that is invalid under or precluded by Federal commodities law.

SEC. 403. BILATERAL NETTING.

(a) GENERAL RULE.—Notwithstanding any other provision of law, the covered contractual payment obligations and the covered contractual payment entitlements between any 2 financial institutions shall be netted in accordance with, and subject to the conditions of, the terms of any applicable netting contract.

(b) LIMITATION ON OBLIGATION TO MAKE PAYMENT.—The only obligation, if any, of a financial institution to make payment with respect to covered contractual payment obligations to another financial institution shall be equal to its net obligation to such other financial institution, and no such obligation shall exist if there is no net obligation.

(c) LIMITATION ON RIGHT TO RECEIVE PAYMENT.—The only right, if any, of a financial institution to receive payments with respect to covered contractual payment entitlements from another financial institution shall be equal to its net entitlement with respect to such other financial institution, and no such right shall exist if there is no net entitlement.

(d) PAYMENT OF NET ENTITLEMENT OF FAILED FINANCIAL INSTITUTION.—The net entitlement of any failed financial institution, if any, shall be paid to the failed financial institution in accordance with, and subject to the conditions of, the applicable netting contract.

(e) EFFECTIVENESS NOTWITHSTANDING STATUS AS FINANCIAL INSTITUTION.—This section shall be given effect notwithstanding that a financial institution is a failed financial institution.

SEC. 404. CLEARING ORGANIZATION NETTING.

(a) GENERAL NETTING RULE.—Notwithstanding any other provision of law, the covered contractual payment obligations and covered contractual payment entitlements of a member of a clearing organization to and from all other members of a clearing organization shall be netted in accordance with and subject to the conditions of any applicable netting contract.

(b) LIMITATION OF OBLIGATION TO MAKE PAYMENT.—The only obligation, if any, of a member of a clearing organization to make payment with respect to covered contractual payment obligations arising under a single netting contract to any other member of a clearing organization shall be equal to its net obligation arising under that netting contract, and no such obligation shall exist if there is no net obligation.

(c) LIMITATION ON RIGHT TO RECEIVE PAYMENT.—The only right, if any, of a member of a clearing organization to receive payment with respect to a covered contractual payment entitlement arising under a single netting contract from other members of a clearing organization shall be equal to its net entitlement arising under that netting contract, and no such right shall exist if there is no net entitlement.

(d) ENTITLEMENT OF FAILED MEMBERS.—The net entitlement, if any, of any failed member of a clearing organization shall be paid to the failed member in accordance with, and subject to the conditions of, the applicable netting contract.

(e) OBLIGATIONS OF FAILED MEMBERS.—The net obligation, if any, of any failed member of a clearing organization shall be determined in accordance with, and subject to the conditions of, the applicable netting contract.

(f) LIMITATION ON CLAIMS FOR ENTITLEMENT.—A failed member of a clearing organization shall have no recognizable claim against any member of a clearing organization for any amount based on such covered contractual payment entitlements other than its net entitlement.

(g) EFFECTIVENESS NOTWITHSTANDING STATUS AS MEMBER.—This section shall be given effect notwithstanding that a member is a failed member.

SEC. 405. PREEMPTION.

No stay, injunction, avoidance, moratorium, or similar proceeding or order, whether issued or granted by a court, administrative agency, or otherwise, shall limit or delay application of otherwise enforceable netting contracts in accordance with sections 403 and 404.

SEC. 406. RELATIONSHIP TO OTHER PAYMENTS SYSTEMS.

This subtitle shall have no effect by implication or otherwise on the validity or legal enforceability of a netting arrangement of any payment system which is not subject to this subtitle.

SEC. 407. NATIONAL EMERGENCIES.

The provisions of this subtitle may not be construed to limit the authority of the President under the Trading With the Enemy Act (50 U.S.C. App. 1 et seq.) or the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.).

Subtitle B—Right to Financial Privacy Act of 1978

SEC. 411. AMENDMENTS TO THE RIGHT TO FINANCIAL PRIVACY ACT OF 1978.

The Right to Financial Privacy Act of 1978 is amended—

(1) in section 1112(f)(2) (12 U.S.C. 3412(f)(2))—

(A) by inserting "for civil actions under section 951 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, or for forfeiture under sections 981 or 982 of title 18, United States Code" after "purposes"; and

(B) by adding at the end the following new sentence: "No agency or department so transferring such records shall be deemed to have waived any privilege applicable to those records under law.";

(2) in section 1113(h)(1)(A) (12 U.S.C. 3413(h)(1)(A)), by striking "the financial institution in possession of such records" and inserting "a financial institution (whether or not such proceeding, investigation, examination, or inspection is also directed at a customer)";

(3) in section 1113(h)(4) (12 U.S.C. 3413(h)(4)) by striking "the financial institution in possession of such records" and inserting "a financial institution (whether or not such proceeding, investigation, examination, or inspection is also directed at a customer)"; and

(4) in section 1113(l) (12 U.S.C. 3413(l)), by adding after paragraph (2) the following new sentence:

"No supervisory agency which transfers any such record under this subsection shall be deemed to have waived any privilege applicable to that record under law.".

Subtitle C—Final Settlement Payment Procedure

SEC. 416. FINAL SETTLEMENT PAYMENT PROCEDURE.

Section 11(d)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)) is amended to read as follows:

"(4) RULEMAKING AUTHORITY RELATING TO DETERMINATION OF CLAIMS.—

"(A) IN GENERAL.—The Corporation may prescribe regulations regarding the allowance or disallowance of claims by the receiver and providing for administrative determinations of claims and review of such determination.

"(B) FINAL SETTLEMENT PAYMENT PROCEDURE.—

"(i) IN GENERAL.—In the handling of receiverships of insured depository institutions, to maintain essential liquidity and to prevent financial disruption, the Corporation may, after the declaration of an institution's insolvency, settle all uninsured and unsecured claims on the receivership with a final settlement payment which shall constitute full payment and disposition of the Corporation's obligations to such claimants.

"(ii) FINAL SETTLEMENT PAYMENT.—For purposes of clause (i), a final settlement payment shall be payment of an amount equal to the product of the final settlement payment rate and the amount of the uninsured and unsecured claim on the receivership; and

"(iii) FINAL SETTLEMENT PAYMENT RATE.—For purposes of clause (ii), the final settlement payment rate shall be a percentage rate reflecting an average of the Corporation's receivership recovery experience, determined by the Corporation in such a way that over such time period as the Corporation may deem appropriate, the Corporation in total will receive no more or less than it would have received in total as a general creditor standing in the place of insured depositors in each specific receivership.

"(iv) CORPORATION AUTHORITY.—The Corporation may undertake such supervisory actions and promulgate such regulations as may be necessary to assure that the requirements of this section can be implemented with respect to each insured depository institution in the event of its insolvency.".

Subtitle D—Miscellaneous Committees, Studies, and Reports

SEC. 421. AMENDMENTS RELATING TO FEDERAL RESERVE BOARD RESERVE REQUIREMENTS.

(a) STUDY ON PAYMENT OF IMPUTED EARNINGS ON STERILE RESERVES TO INSURANCE FUNDS.—The Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, and the National Credit Union Administration shall jointly—

(1) conduct a study on the feasibility of assessing Federal Reserve banks an amount equal to the imputed earnings on reserves held at such banks by insured depository institutions under section 19(b) of the Federal Reserve Act; and

(2) assess the likely beneficial and adverse effects such an assessment would have on the Federal reserve banks, the deposit insurance funds, the insured depository institutions, and the Federal payment system, including a comparison of the effects on each such subject of the study.

(b) REPORT TO CONGRESS.—Before the end of the 6-month period beginning on the date of the enactment of this Act, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, and the National Credit Union Administration shall jointly submit a report to the Congress on the findings and conclusions made with respect to the study under subsection (a), together with any recommendation for any legislative or administrative action which such agencies may determine to be appropriate.

(c) REPORT OF DISSENTING VIEWS.—Any agency described in subsections (a) and (b) which does not concur in the findings, conclusions, or recommendations referred to in subsection (b) or has additional findings, conclusions, or recommendations which were not included in the report may submit a report to the Congress describing—

(1) the reasons why the agency does not concur in the findings, conclusions, or recommendations referred to in subsection (b); and

(2) such additional findings, conclusions, or recommendations.

SEC. 422. PERMANENT AUTHORIZATION OF CREDIT STANDARDS BOARD.

(a) IN GENERAL.—Section 1205 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1818 note) is amended by adding at the end the following new subsections:

"(f) FEDERAL ADVISORY COMMITTEE ACT DOES NOT APPLY.—The Federal Advisory Committee Act shall not apply with respect to the Committee.".

(b) CHAIRPERSON.—Section 1205(b)(3) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1818 note) is amended to read as follows:

"(3) CHAIRPERSON.—The Chairperson of the Committee shall be designated by the President from among the members appointed under paragraph (1)(F).".

Subtitle E—Utilization of Private Sector

SEC. 426. UTILIZATION OF PRIVATE SECTOR.

Section 11(d)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(2)) is amended by adding at the end the following new subparagraph:

"(K) UTILIZATION OF PRIVATE SECTOR.—In carrying out its responsibilities in the management and disposition of assets from insured depository institutions, as conservator, receiver, or in its corporate capacity, the Corporation shall utilize the services of private persons, including real estate and loan portfolio asset management, property management, auction marketing, and brokerage services, if such services are available in the private sector and the Corporation determines utilization of such services is practicable, efficient, and cost effective.".

SEC. 427. REPORTING.

Section 17 of the Federal Deposit Insurance Act (12 U.S.C. 1827) is amended by adding at the end the following new subsection:

"(h) ADDITIONAL REPORTS.—

"(1) IN GENERAL.—In addition to the reports required under subsections (a), (b), and (c), the Corporation shall submit to Congress not later than April 30 and October 31 of each year, a semiannual report on the activities and efforts of the Corporation for the 6-month period ending on the last day of the month prior to the month in which such report is required to be submitted.

"(2) CONTENTS OF REPORT.—Each semiannual report required under this subsection shall include the following information with respect to the Corporation's assets and liabilities and the assets and liabilities of institutions for which the Corporation serves as a conservator or receiver:

"(A) A statement of the total book value of all assets held or managed by the Corporation at the beginning and end of the reporting period.

"(B) A statement of the total book value of such assets which are under contract to be managed by private persons and entities at the beginning and end of the reporting period.

"(C) The number of employees of the Corporation at the beginning and end of the reporting period.

"(D) A statement of the total amount expended on private contractors for the management of such assets.

"(E) A statement of the efforts of the Corporation to maximize the efficient utilization of the resources of the private sector during the reporting period and in future reporting periods and a description of the policies and procedures adopted to ensure adequate competition and fair and consistent treatment of qualified third parties seeking to provide services to the Corporation.".

Subtitle F—Emergency Assistance for Rhode Island

SEC. 431. EMERGENCY LOAN GUARANTEE.

(a) IN GENERAL.—

(1) PROVISION FOR GUARANTEE.—Subject to the terms and conditions established by or under this subsection, the Secretary of the Treasury shall guarantee the repayment of any amount not to exceed $180,000,000 borrowed by the State of Rhode Island and Providence Plantations (hereafter in this section referred to as the "State of Rhode Island"), or the Depositors Economic Protection Corporation established by such State, to expedite the repayment of depositors at State-chartered banks and credit unions in receivership in such State and to facilitate the resolution of such receiverships.

(2) LOAN COLLATERAL REQUIRED AS CONDITION FOR GUARANTEE.—The Secretary of the Treasury may not guarantee the repayment of any amount under paragraph (1) unless the amount of any loan for which the guarantee is sought is fully secured as follows:

(A) A first lien on assets held or controlled by the Depositors Economic Protection Corporation and the proceeds from the sale of such assets, are irrevocably pledged to the extent necessary to provide collateral for the guarantee.

(B) If the lien and assets described in subparagraph (A) are insufficient to fully secure the guarantee, then a first lien on any assets held or controlled by the State of Rhode Island or any instrumentality of the State of Rhode Island and the proceeds from the sale of such assets, are irrevocably pledged to the extent necessary to provide collateral for the guarantee.

(C) If the liens and assets described in subparagraphs (A) and (B) are insufficient to fully secure the guarantee, then any revenue from the State sales tax which is dedicated to the Depositors Economic Protection Corporation under the law of the State of Rhode Island in excess of the amount necessary to pay principal and interest on any obligation of the State or the Corporation issued before the date of the loan is irrevocably dedicated to the extent necessary to provide collateral for the guarantee.

(3) GUARANTEE FEES.—The Secretary may assess and collect with respect to loans guaranteed under this subsection an annual guarantee fee computed daily at a rate which may not exceed one-half of 1 percent of the outstanding principal amount of the guaranteed loan.

(4) PLEDGE OF CERTAIN INCOME FOR REPAYMENT.—The Secretary may not guarantee under this section the repayment of any loan proposed to be made to the Depositors Economic Protection Corporation unless, for each fiscal year of the Depositors Economic Protection Corporation, all rents, issues, profits, products, proceeds, revenues, and other income (including insurance proceeds and condemnation awards) received by the Corporation from, or attributable to, the assets pledged to the United States in accordance with this subsection, in excess of the amount necessary to pay the interest, or principal and interest on any loan to the Corporation guaranteed under paragraph (1) that is payable in such fiscal year are irrevocably pledged to be deposited into a sinking fund or defeasance fund maintained by the Corporation and are irrevocably pledged and dedicated to the repayment of the principal of such guaranteed loan in the inverse order of the maturity of such principal installments.

(5) INVESTMENT GRADE RATING.—The Secretary may not guarantee under this section the repayment of any loan proposed to be made to the State of Rhode Island or the Depositors Economic Protection Corporation unless each such proposed loan has received a rating (for purposes of which the collateral securing the guarantee is considered to be securing the loan) of—

(A) the highest investment grade from a nationally recognized statistical rating organization;

(B) not less than 1 less than the investment grade rating from 2 nationally recognized statistical rating organizations; or

(C) not less than 2 less than the highest investment grade from 2 nationally recognized statistical rating organizations to the extent that—

(i) a rating of not less than 1 less than the highest investment grade rating from 2 nationally recognized statistical rating organization has not been achieved through the use of all of the collateral listed in subsection (a)(2)(A) and the available collateral under subparagraph (B) or (C) of subsection (a)(2) at the time of the State of Rhode Island's request for the loan guarantee; and

(ii) representatives of the State of Rhode Island and the Secretary are able to agree upon the lesser grade rating based on changes negotiated to other terms of this subtitle, including the purchase of bond insurance.

(6) TERMS.—

(A) IN GENERAL.—The guarantee provided for in this subsection shall be with respect to a loan which—

(i) is made not more than 1 year after the date of enactment of this Act;

(ii) will mature not later than 8 years after the date of such loan; and

(iii) is scheduled to be repaid in equal installments of principal during the last 4 years of the repayment term of such loan.

(B) AUTHORITY TO VARY TIME PERIODS.—The Secretary and the duly authorized representative of the State of Rhode Island may, by mutual agreement, modify any durational requirement specified in subparagraph (A).

(7) ADDITIONAL TERMS AND CONDITIONS.—Except as otherwise provided in this subsection, the terms and conditions of any loan guarantee under this section shall be established by mutual agreement of the Secretary of the Treasury and the duly authorized representative of the State of Rhode Island.

(b) APPROPRIATION OF AMOUNTS.—There are hereby appropriated to the Secretary of the Treasury such sums as may be necessary for any fiscal year to meet the obligation of the United States under subsection (a)(1).

Subtitle G—Qualified Thrift Lender Test Improvements

SEC. 436. SHORT TITLE.

This subtitle may be cited as the "Qualified Thrift Lender Reform Act of 1991".

SEC. 437. ADJUSTMENT OF COMPLIANCE PERIODS FOR PURPOSES OF QUALIFIED THRIFT LENDER TEST.

Section 10(m)(1)(B) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(1)(B)) (as in effect on July 1, 1991) is amended to read as follows:

"(B) the savings association's qualified thrift investments continue to equal or exceed 65 percent of the savings association's portfolio assets on a monthly average basis in 9 out of every 12 months.".

SEC. 438. INCREASE IN AMOUNT OF LIQUID ASSETS EXCLUDABLE FROM PORTFOLIO ASSETS.

Section 10(m)(4)(B)(iii) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(4)(B)(iii)) (as in effect on July 1, 1991) is amended by striking "10 percent" and inserting "20 percent".

SEC. 439. ADDITIONAL INVESTMENTS INCLUDED IN DEFINITION OF QUALIFIED THRIFT ASSETS.

Section 10(m)(4)(C) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(4)(C)) (as in effect on July 1, 1991) is amended—

(1) by adding at the end of clause (ii) the following new subclause:

"(VI) Shares of stock issued by any Federal home loan bank."; and

(2) by adding at the end of clause (iii) the following new subclause:

"(VII) Shares of stock issued by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association.".

SEC. 440. PRUDENT DIVERSIFICATION OF ASSETS.

(a) IN GENERAL.—Section 10(m)(4)(C)(iii)(VI) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(4)(C)(iii)(VI)) (as in effect on July 1, 1991) is amended by striking "5 percent" and inserting "10 percent".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 10(m)(4)(C)(iv) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(4)(C)(iv)) (as in effect on July 1, 1991) is amended by striking "15 percent" and inserting "20 percent".

SEC. 441. CONSUMER LENDING BY FEDERAL SAVINGS ASSOCIATIONS.

(a) PERCENTAGE ADJUSTMENT.—Section 5(c)(2)(D) of the Home Owners' Loan Act (12 U.S.C. 1464(c)(2)(D)) is amended in the second sentence by striking "30 percent" and inserting "35 percent".

(b) LOANS TO ORIGINAL OBLIGOR.—Section 5(c)(2)(B) of the Home Owners' Loan Act (12 U.S.C. 1464(c)(2)(B)) is amended by inserting before the period at the end the following: ", provided however, that no amount in excess of 30 percent of the assets may be invested in loans made directly by the association to the original obligor, and the association does not pay finder, referral, or other fees, directly or indirectly, to a third party.".

Subtitle H—Prohibition on Entering Secrecy Agreements and Protective Orders

SEC. 446. PROHIBITION ON ENTERING INTO SECRECY AGREEMENTS AND PROTECTIVE ORDERS.

Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by adding at the end the following new subsection:

"(s) PROHIBITION ON ENTERING SECRECY AGREEMENTS AND PROTECTIVE ORDERS.—The Corporation may not enter into any agreement or approve any protective order which prohibits the Corporation from disclosing the terms of any settlement of an administrative or other action for damages or restitution brought by the Corporation in its capacity as conservator or receiver for an insured depository institution.".

Subtitle I—Bank and Thrift Employee Provisions

SEC. 451. CONTINUATION OF HEALTH PLAN COVERAGE IN CASES OF FAILED FINANCIAL INSTITUTIONS.

(a) CONTINUATION COVERAGE.—The Federal Deposit Insurance Corporation—

(1) shall, in its capacity as a successor of a failed depository institution (whether acting directly or through any bridge bank), have the same obligation to provide a group health plan meeting the requirements of section 602 of the Employee Retirement Income Security Act of 1974 (relating to continuation coverage requirements of group health plans) with respect to former employees of such institution as such institution would have had but for its failure, and

(2) shall require that any successor described in subsection (b)(1)(B)(iii) provide a group health plan with respect to former employees of such institution in the same manner as the failed depository institution would have been required to provide but for its failure.

(b) DEFINITIONS.—For purposes of this section—

(1) SUCCESSOR.—An entity is a successor of a failed depository institution during any period if—

(A) such entity holds substantially all of the assets or liabilities of such institution, and

(B) such entity is—

(i) the Federal Deposit Insurance Corporation,

(ii) any bridge bank, or

(iii) an entity that acquires such assets or liabilities from the Federal Deposit Insurance Corporation or a bridge bank.

(2) FAILED DEPOSITORY INSTITUTION.—The term "failed depository institution" means any depository institution (as defined in section 3(c) of the Federal Deposit Insurance Act) for which a receiver has been appointed.

(3) BRIDGE BANK.—The term "bridge bank" has the meaning given such term by section 11(i) of the Federal Deposit Insurance Act.

(c) NO PREMIUM COSTS IMPOSED ON FDIC.—Subsection (a) shall not be construed as requiring the Federal Deposit Insurance Corporation to incur, by reason of this section, any obligation for any premium under any group health plan referred to in such subsection.

(d) EFFECTIVE DATE.—This section shall apply to plan years beginning on or after the date of the enactment of this Act, regardless of whether the qualifying event under section 603 of the Employee Retirement Income Security Act of 1974 occurred before, on, or after such date.

Subtitle J—Sense of the Congress Regarding the Credit Crisis

SEC. 456. CREDIT CRUNCH.

(a) FINDINGS.—The Congress finds that—

(1) during the past year and a half a credit crunch of crisis proportions has taken hold of the economy and grown increasingly severe, particularly for real estate;

(2) to date the credit crisis has shown no sign of improvement with its effects being felt broadly throughout the Nation as business failures soar, financial institutions weaken, real estate values decline, and State and local property tax bases further erode;

(3) approximately $200,000,000,000 of the nearly $400,000,000,000 in commercial real estate loans now held by commercial banks are coming due within the next 2 years;

(4) banks for a variety of reasons, are reluctant to renew these maturing real estate loans;

(5) both pension funds in the United States, with assets of nearly $2,000,000,000,000, and a stronger and more active secondary market for commercial real estate debt and equity could play a more significant role in providing liquidity and credit to the real estate and banking sectors of the economy;

(6) many regulatory practices encourage banks to reduce their real estate lending without regard to long-term historical risk; and

(7) the stability of real estate has suffered during the past decade first from tax rules that in 1981 stimulated excessive investment in real estate, and then in 1986 when rules were adopted that discourage capital investment in real estate, artificially eroding real estate values.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) immediate and carefully-coordinated action should be taken by the Congress and the President to arrest the credit crisis referred to in subsection (a) and provide a healthy and efficient marketplace that works for owners, lenders, and investors; and

(2) that efforts should be undertaken to explore measures that—

(A) modernize and simplify the rules that apply to pension investment in real estate to remove unnecessary barriers to pension funds seeking to invest in real estate;

(B) strengthen the secondary market for commercial real estate debt and equity by removing arbitrary obstacles to private forms of credit enhancement;

(C) restore balance to the regulatory environment by considering the impact of risk-based capital standards on commercial, multifamily and single-family real estate; ending mark-to-market, liquidation-based, appraisals; encouraging loan renewals; and, fully communicating the supervisory policy to bank examiners in the field; and

(D) rationalize the tax system for real estate owners and operators by modifying the passive loss rules and encouraging loan restructures.

Subtitle K—Aquisition of Insolvent Savings Associations

SEC. 461. AQUISITION OF INSOLVENT SAVINGS ASSOCIATIONS.

Section 4(i) of the Bank Holding Company Act (12 U.S.C. 1843(i)) is amended by adding at the end the following new paragraph:

"(3) ACQUISITION OF INSOLVENT SAVINGS ASSOCIATIONS.—

"(A) IN GENERAL.—Notwithstanding any other provision of this Act, any qualified savings association which became a federally chartered stock company in December of 1986 and which is acquired by any bank holding company without Federal financial assistance after June 1, 1991, and before March 1, 1992, and any subsidiary of any such association, may after such acquisition continue to engage within the home State of the qualified savings association in insurance agency activities in which any Federal savings association (or any subsidiary thereof) may engage in accordance with the Home Owners' Loan Act and regulations pursuant to such Act if the qualified savings association or subsidiary thereof was continuously engaged in such activity from June 1, 1991, to the date of the acquisition.

"(B) DEFINITION OF QUALIFIED SAVINGS ASSOCIATION.—For purposes of this paragraph, the term 'qualified savings association' means any savings association that—

"(i) was chartered or organized as a savings association before June 1, 1991;

"(ii) had, immediately before the acquisition of such association by the bank holding company referred to in subparagraph (A), negative tangible capital and total insured deposits in excess of $3,000,000,000; and

"(iii) will meet all applicable regulatory capital requirements as a result of such acquisition.".

Subtitle L—Creditability of Service

SEC. 466. CREDITABILITY OF SERVICE.

(a) CHAPTER 83.—Section 8332 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(n) Any employee who—

"(1) served in a position in which the employee was excluded from coverage under this subchapter because the employee was covered under a retirement system established under section 10 of the Federal Reserve Act; and

"(2) transferred without a break in service to a position to which the employee was appointed by the President, with the advice and consent of the Senate, and in which position the employee is subject to this subchapter,

shall be treated for all purposes of this subchapter as if any service that would have been creditable under the retirement system established under section 10 of the Federal Reserve Act was service performed while subject to this subchapter if any employee and employer deductions, contributions or rights with respect to the employee's service are transferred from such retirement system to the Fund.".

(b) CHAPTER 84.—Section 8411 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(g) Any employee who—

"(1) served in a position in which the employee was excluded from coverage under this subchapter because the employee was covered under a retirement system established under section 10 of the Federal Reserve Act; and

"(2) transferred without a break in service to a position to which the employee was appointed by the President, with the advice and consent of the Senate, and in which position the employee is subject to this subchapter,

shall be treated for all purposes of this subchapter as if any service that would have been creditable under the retirement system established under section 10 of the Federal Reserve Act was service performed while subject to this subchapter if any employee and employer deductions, contributions or rights with respect to the employee's service are transferred from such retirement system to the Fund.".

(c) APPLICABILITY.—The amendment made by this section shall apply with respect to any individual who transfers to a position in which he or she is subject to subchapter III of chapter 83 or chapter 84 of title 5, United States Code, on or after October 1, 1991.

Subtitle M—Other Miscellaneous Provisions

SEC. 471. PROVIDING SERVICES TO INSURED DEPOSITORY INSTITUTIONS.

Section 21A of the Home Owners' Loan Act (12 U.S.C. 1441a) is amended by adding at the end the following:

"(q) CONTINUATION OF OBLIGATION TO PROVIDE SERVICES.—No person obligated to provide services to an insured depository institution at the time the Resolution Trust Corporation is appointed conservator or receiver for the institution shall fail to provide those services to any person to whom the right to receive those services was transferred by the Resolution Trust Corporation after August 9, 1989, unless the refusal is based on the transferee's failure to comply with any material term or condition of the original obligation. This subsection does not limit any authority of the Resolution Trust Corporation as conservator or receiver under section 11(e) of the Federal Deposit Insurance Act.".

SEC. 472. REAL ESTATE APPRAISALS.

(a) CERTIFICATION AND LICENSING REQUIREMENTS.—Section 1116 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3345) is amended by adding at the end the following new subsection:

"(e) AUTHORITY OF THE APPRAISAL SUBCOMMITTEE.—The Appraisal Subcommittee shall not set qualifications or experience requirements for the States in licensing real estate appraisers, including a de minimus standard. Recommendations of the Subcommittee shall be nonbinding on the States.".

(b) USE OF STATE CERTIFIED AND STATE LICENSED APPRAISERS.—

(1) EFFECTIVE DATE FOR USE.—Section 1119(a)(1) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3348(a)(1)) is amended by striking "July 1, 1991" and inserting "December 31, 1992".

(2) EXTENSION OF EFFECTIVE DATE.—Section 1119(b) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3348(b)) is amended—

(A) in the first sentence, by striking "leading to inordinate delays" and inserting ", or in any geographical political subdivision of a State, leading to significant delays"; and

(B) in the second sentence, by striking "inordinate" and inserting "significant".

(c) OMB STUDY OF DE MINIMUS STANDARDS.—Before the end of the 6-month period beginning on the date of the enactment of this Act, the Director of the Office of Management and Budget shall conduct a study of whether there is a need to establish de minimus levels for commercial real estate.

SEC. 473. EMERGENCY LIQUIDITY.

Section 13 of the Federal Reserve Act (12 U.S.C. 343) is amended in the third paragraph by striking "of the kinds and maturities made eligible for discount for member banks under other provisions of this Act".

SEC. 474. DISCRIMINATION AGAINST REORGANIZED DEBTORS.

Section 7(a) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)) is amended by adding at the end the following new paragraph:

"(9) A Federal banking agency may not, by regulation or otherwise, designate, or require an insured institution or an affiliate to designate, a corporation as highly leveraged or a transaction with a corporation as a highly leveraged transaction solely because such corporation is or has been a debtor or bankrupt under title 11, United States Code, if, after confirmation of a plan of reorganization, such corporation would not otherwise be highly leveraged.".

SEC. 475. PURCHASED MORTGAGE SERVICING RIGHTS.

(a) IN GENERAL.—Notwithstanding section 5(t)(4) of the Home Owners' Loan Act, each appropriate Federal banking agency shall determine, with respect to insured depository institutions for which it is the appropriate Federal regulator, the amount of readily marketable purchased mortgage servicing rights that may be included in calculating such institution's tangible capital, risk-based capital, or leverage limit, if—

(1) such servicing rights are valued at not more than 90 percent of their fair market value; and

(2) the fair market value of such servicing rights is determined not less often than quarterly.

(b) DEFINITION.—For purposes of this section, the terms "appropriate Federal banking agency" and "insured depository institution" have the same meanings as in section 3 of the Federal Deposit Insurance Act.

(c) EFFECTIVE DATE.—The amendments made by this Act shall take effect at the end of the 60-day period beginning on the date of the enactment of this Act.

SEC. 476. LIMITATION ON SECURITIES PRIVATE RIGHTS OF ACTION.

The Securities Exchange Act of 1934 is amended by inserting after section 27 (15 U.S.C. 78aa) the following new section:

"SPECIAL PROVISION RELATING TO STATUTE OF LIMITATIONS ON PRIVATE CAUSES OF ACTION

"SEC. 27A. (a) EFFECT ON PENDING CAUSES OF ACTION.—The limitation period for any private civil action implied under section 10(b) of this Act that was commenced on or before June 19, 1991, shall be the limitation period provided by the laws applicable in the jurisdiction, including principles of retroactivity, as such laws existed on June 19, 1991.

"(b) EFFECT ON DISMISSED CAUSES OF ACTION.—Any private civil action implied under section 10(b) of this Act that was commenced on or before June 19, 1991—

"(1) which was dismissed as time barred subsequent to June 19, 1991, and

"(2) which would have been timely filed under the limitation period provided by the laws applicable in the jurisdiction, including principles of retroactivity, as such laws existed on June 19, 1991,

shall be reinstated on motion by the plaintiff not later than 60 days after the date of enactment of this section.".

SEC. 477. MODIFIED SMALL BUSINESS LENDING DISCLOSURE.

The Federal Reserve Board shall collect and publish, on an annual basis, information on the availability of credit to small businesses. The information shall, to the extent practicable—

(1) include information on commercial loans to small businesses, agricultural loans to small farms, and loans to minority-owned small businesses;

(2) be given for categories of small businesses determined by annual sales and for small businesses in existence for less than 1 year; and

(3) be given for each geographic region of the United States.

In collecting the information, the Federal Reserve board shall take into consideration the need to minimize reporting costs, if any, on financial institutions.

Subtitle N—Severability

SEC. 481. SEVERABILITY.

If any provision of this Act, or any application of any provision of this Act to any person or circumstance, is held invalid, the remainder of the Act, and the application of any remaining provision of the Act to any other person or circumstance, shall not be affected by such holding.

TITLE V—DEPOSITORY INSTITUTION CONVERSIONS

SEC. 501. MERGERS AND ACQUISITIONS OF INSURED DEPOSITORY INSTITUTIONS DURING CONVERSION MORATORIUM.

(a) IN GENERAL.—Section 5(d)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1815(d)(3)) is amended to read as follows:

"(3) OPTIONAL CONVERSIONS SUBJECT TO SPECIAL RULES ON DEPOSIT INSURANCE PAYMENTS.—

"(A) CONVERSIONS ALLOWED.—

"(i) IN GENERAL.—Notwithstanding paragraph (2)(A) and subject to the requirements of this paragraph, any insured depository institution may participate in a transaction described in clause (ii), (iii), or (iv) of paragraph (2)(B) with the prior written approval of the responsible agency under section 18(c)(2).

"(ii) HOLDING COMPANY SUBSIDIARIES.—If, in connection with any transaction referred to in clause (i), the acquiring, assuming, or resulting depository institution is a Bank Insurance Fund member which is a subsidiary of a bank holding company, the prior written approval of the Board shall be required for such transaction in addition to the approval of any agency referred to in clause (i).

"(B) ASSESSMENTS ON DEPOSITS ATTRIBUTABLE TO FORMER DEPOSITORY INSTITUTION.—

"(i) ASSESSMENTS BY SAIF.—In the case of any acquiring, assuming, or resulting depository institution which is a Bank Insurance Fund member, that portion of the average assessment base of such member for any semiannual period which is equal to the adjusted attributable deposit amount (determined under subparagraph (C) with respect to the transaction) shall—

"(I) be subject to assessment at the assessment rate applicable under section 7 for Savings Association Insurance Fund members;

"(II) not be taken into account for purposes of any assessment under section 7 for Bank Insurance Fund members; and

"(III) be treated as deposits which are insured by the Savings Association Insurance Fund.

"(ii) ASSESSMENTS BY BIF.—In the case of any acquiring, assuming, or resulting depository institution which is a Savings Association Insurance Fund member, that portion of the average assessment base of such member for any semiannual period which is equal to the adjusted attributable deposit amount (determined under subparagraph (C) with respect to the transaction) shall—

"(I) be subject to assessment at the assessment rate applicable under section 7 for Bank Insurance Fund members;

"(II) not be taken into account for purposes of any assessment under section 7 for Savings Association Insurance Fund members; and

"(III) be treated as deposits which are insured by the Bank Insurance Fund.

"(C) DETERMINATION OF ADJUSTED ATTRIBUTABLE DEPOSIT AMOUNT.—The adjusted attributable deposit amount which shall be taken into account for purposes of determining the amount of the assessment under subparagraph (B) for any semiannual period by any acquiring, assuming, or resulting depository institution in connection with a transaction under subparagraph (A) is the amount which is equal to the sum of—

"(i) the amount of any deposits acquired by the institution in connection with the transaction (as determined at the time of such transaction);

"(ii) the total of the amounts determined under clause (iii) for semiannual periods preceding the semiannual period for which the determination is being made under this subparagraph; and

"(iii) the amount by which the sum of the amounts described in clauses (i) and (ii) would have increased during the preceding semiannual period (other than any semiannual period beginning before the date of such transaction) if such increase occurred at a rate equal to the annual rate of growth of deposits of the acquiring, assuming, or resulting depository institution minus the amount of any deposits acquired through the acquisition, in whole or in part, of another insured depository institution.

"(D) DEPOSIT OF ASSESSMENT.—That portion of any assessment under section 7 which—

"(i) is determined in accordance with subparagraph (B)(i) shall be deposited in the Savings Association Insurance Fund; and

"(ii) is determined in accordance with subparagraph (B)(ii) shall be deposited in the Bank Insurance Fund.

"(E) CONDITIONS FOR APPROVAL, GENERALLY.—

"(i) FACTORS TO BE CONSIDERED; APPROVAL PROCESS.—In reviewing any application for a proposed transaction under subparagraph (A), the responsible agency (and, in the event the acquiring, assuming, or resulting depository institution is a Bank Insurance Fund member which is a subsidiary of a bank holding company, the Board) shall follow the procedures and consider the factors set forth in section 18(c).

"(ii) INFORMATION REQUIRED.—An application to engage in any transaction under this paragraph shall contain such information relating to the factors to be considered for approval as the responsible agency or Board may require, by regulation or by specific request, in connection with any particular application.

"(iii) NO TRANSFER OF DEPOSIT INSURANCE PERMITTED.—This paragraph shall not be construed as authorizing transactions which result in the transfer of any insured depository institution's Federal deposit insurance from 1 Federal deposit insurance fund to the other Federal deposit insurance fund.

"(iv) MINIMUM CAPITAL.—The responsible agency, and the appropriate Federal banking agency for any depository institution holding company, shall disapprove any application for any transaction under this paragraph unless each such agency determines that the acquiring, assuming, or resulting depository institution, and any depository institution holding company which controls such institution, will meet all applicable capital requirements upon consummation of the transaction.

"(F) CERTAIN INTERSTATE TRANSACTIONS.—The Board may not approve any transaction under subparagraph (A) in which the acquiring, assuming, or resulting depository institution is a Bank Insurance Fund member which is a subsidiary of a bank holding company unless the Board determines that the transaction would comply with the requirements of section 3(d) of the Bank Holding Company Act of 1956 if, at the time of such transaction, the Savings Association Insurance Fund member involved in such transaction was a State bank that the bank holding company was applying to acquire.

"(G) EXPEDITED APPROVAL OF ACQUISITIONS.—

"(i) IN GENERAL.—Any application by a State nonmember insured bank to acquire another insured depository institution that is required to be filed with the Corporation by subparagraph (A) or any other applicable law or regulation shall be approved or disapproved in writing by the Corporation before the end of the 60-day period beginning on the date such application is filed with the Corporation.

"(ii) EXTENSIONS OF PERIOD.—The period for approval or disapproval referred to in clause (i) may be extended for an additional 30-day period if the Corporation determines that—

"(I) an applicant has not furnished all of the information required to be submitted; or

"(II) in the Corporation's judgment, any material information submitted is substantially inaccurate or incomplete.

"(H) ALLOCATION OF COSTS IN EVENT OF DEFAULT.—If any acquiring, assuming, or resulting depository institution is in default or danger of default at any time before this paragraph ceases to apply, any loss incurred by the Corporation shall be allocated between the Bank Insurance Fund and the Savings Association Insurance Fund, in amounts reflecting the amount of insured deposits of such acquiring, assuming, or resulting depository institution assessed by the Bank Insurance Fund and the Savings Association Insurance Fund, respectively, under subparagraph (B).

"(I) SUBSEQUENT APPROVAL OF CONVERSION TRANSACTION.—This paragraph shall cease to apply if—

"(i) after the end of the 5-year period referred to in paragraph (2)(A), the Corporation approves an application by any acquiring, assuming, or resulting depository institution to treat the transaction described in subparagraph (A) as a conversion transaction; and

"(ii) the acquiring, assuming, or resulting depository institution pays the amount of any exit and entrance fee assessed by the Corporation under subparagraph (E) of paragraph (2) with respect to such transaction.

"(J) ACQUIRING, ASSUMING, OR RESULTING DEPOSITORY INSTITUTION DEFINED.—For purposes of this paragraph, the term 'acquiring, assuming, or resulting depository institution' means any insured depository institution which—

"(i) results from any transaction described in paragraph (2)(B)(ii) and approved under this paragraph;

"(ii) in connection with a transaction described in paragraph (2)(B)(iii) and approved under this paragraph, assumes any liability to pay deposits of another insured depository institution; or

"(iii) in connection with a transaction described in paragraph (2)(B)(iv) and approved under this paragraph, acquires assets from any insured depository institution in consideration of the assumption of liability for any deposits of such institution.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) to section 5(d)(3)(C) of the Federal Deposit Insurance Act shall apply with respect to semiannual periods beginning after the date of the enactment of this Act.

(c) TRANSITION RULE FOR SAVINGS ASSOCIATIONS ACQUIRING BANKS.—Section 5(c) of the Home Owners' Loan Act (12 U.S.C. 1464(c)) is amended—

(1) by redesignating paragraph (5) as paragraph (6); and

(2) by inserting after paragraph (4) the following new paragraph:

"(5) TRANSITION RULE FOR SAVINGS ASSOCIATIONS ACQUIRING BANKS.—

"(A) IN GENERAL.—If, under section 5(d)(3) of the Federal Deposit Insurance Act, a savings association acquires all or substantially all of the assets of a bank that is a member of the Bank Insurance Fund, the Director may permit the savings association to retain any such asset during the 2-year period beginning on the date of the acquisition.

"(B) EXTENSION.—The Director may extend the 2-year period described in subparagraph (A) for not more than 1 year at a time and not more than 2 years in the aggregate, if the Director determines that the extension is consistent with the purposes of this Act.".

SEC. 502. MERGERS, CONSOLIDATIONS, AND OTHER ACQUISITIONS AUTHORIZED.

(a) FEDERAL SAVINGS ASSOCIATIONS.—Section 10 of the Home Owners' Loan Act (12 U.S.C.

1467a) is amended by adding at the end the following new subsection:

"(t) MERGERS, CONSOLIDATIONS, AND OTHER ACQUISITIONS AUTHORIZED.—

"(1) IN GENERAL.—Subject to sections 5(d)(3) and 18(c) of the Federal Deposit Insurance Act and all other applicable laws, any Federal savings association may acquire or be acquired by any insured depository institution.

"(2) EXPEDITED APPROVAL OF ACQUISITIONS.—

"(A) IN GENERAL.—Any application by a savings association to acquire or be acquired by another insured depository institution which is required to be filed with the Director under section 5(d)(3) of the Federal Deposit Insurance Act or any other applicable law or regulation shall be approved or disapproved in writing by the Director before the end of the 60-day period beginning on the date such application is filed with the agency.

"(B) EXTENSION OF PERIOD.—The period for approval or disapproval referred to in subparagraph (A) may be extended for an additional 30-day period if the Director determines that—

"(i) an applicant has not furnished all of the information required to be submitted; or

"(ii) in the Director's judgment, any material information submitted is substantially inaccurate or incomplete.

"(3) ACQUIRE DEFINED.—For purposes of this subsection, the term 'acquire' means to acquire, directly or indirectly, ownership or control through a merger or consolidation or an acquisition of assets or assumption of liabilities, provided that following such merger, consolidation, or acquisition, an acquiring insured depository institution may not own the shares of the acquired insured depository institution.

"(4) REGULATIONS.—

"(A) REQUIRED.—The Director shall prescribe such regulations as may be necessary to carry out paragraph (1).

"(B) EFFECTIVE DATE.—The regulations required under subparagraph (A) shall—

"(i) be prescribed in final form before the end of the 90-day period beginning on the date of the enactment of this subsection; and

"(ii) take effect before the end of the 120-day period beginning on such date.

"(5) LIMITATION..—No provision of this section shall be construed to authorize a national bank or any subsidiary thereof to engage in any activity not otherwise authorized under the National Bank Act or any other law governing the powers of a national bank.".

(b) NATIONAL BANKS.—Chapter 1 of title LXII of the Revised Statutes of the United States (12 U.S.C. 5133 et seq.) is amended by adding at the end the following new section:

"SEC. 5156A. MERGERS, CONSOLIDATIONS, AND OTHER ACQUISITIONS AUTHORIZED.

"(a) IN GENERAL.—Subject to sections 5(d)(3) and 18(c) of the Federal Deposit Insurance Act and all other applicable laws, any national bank may acquire or be acquired by any insured depository institution.

"(b) EXPEDITED APPROVAL OF ACQUISITIONS.—

"(1) IN GENERAL.—Any application by a national bank to acquire or be acquired by another insured depository institution which is required to be filed with the Comptroller of the Currency by section 5(d)(3) of the Federal Deposit Insurance Act or any other applicable law or regulation shall be approved or disapproved in writing by the agency before the end of the 60-day period beginning on the date such application is filed with the agency.

"(2) EXTENSIONS OF PERIOD.—The period for approval or disapproval referred to in paragraph (1) may be extended for an additional 30-day period if the Comptroller of the Currency determines that—

"(A) an applicant has not furnished all of the information required to be submitted; or

"(B) in the Comptroller's judgment, any material information submitted is substantially inaccurate or incomplete.

"(c) RULE OF CONSTRUCTION.—No provision of this section shall be construed as authorizing a national bank or a subsidiary of a national bank to engage in any activity not otherwise authorized under this Act or any other law governing the powers of national banks.

"(d) ACQUIRE DEFINED.—For purposes of this section, the term 'acquire' means to acquire, directly or indirectly, ownership or control through a merger or consolidation or an acquisition of assets or assumption of liabilities, provided that following such merger, consolidation, or acquisition, an acquiring insured depository institution may not own the shares of the acquired insured depository institution.".

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same.

HENRY GONZALEZ,
FRANK ANNUNZIO,
STEPHEN L. NEAL,
CARROLL HUBBARD,
JOHN J. LAFALCE,
M.R. OAKAR,
BRUCE F. VENTO,
DOUG BARNARD, Jr.,
CHARLES SCHUMER,
BARNEY FRANK,
BEN ERDREICH,
TOM CARPER,
GERALD D. KLECZKA,
CHALMERS P. WYLIE,
JIM LEACH,
BILL MCCOLLUM,
MARGE ROUKEMA,
DOUG BEREUTER,
TOM RIDGE,
TOBY ROTH,
AL MCCANDLESS,
RICHARD H. BAKER,
Managers on the Part of the House.

DON RIEGLE,
ALAN CRANSTON,
PAUL SARBANES,
CHRISTOPHER DODD,
JAKE GARN,
ALFONSE D'AMATO,
Solely for the purpose of consideration of title X of the Senate Bill:
QUENTIN BURDICK,
GEORGE J. MITCHELL,
Managers on the Part of the Senate.

JOINT STATEMENT OF CONFERENCE COMMITTEE

House and Senate conferees met for two days under a stringent deadline to consider H.R. 3768 and S. 543, bills to recapitalize the Bank Insurance Fund and to improve the Federal Deposit Insurance Corporation. On November 25, 1991, the House overwhelmingly passed a motion by a vote of 398 ayes to 3 nays to instruct its conferees to consider only issues addressed within the scope of H.R. 3768, rather than the more voluminous bill, S. 543.

The conferees exchanged several offers, and worked from these to combine parts of each bill to form this conference agreement. While the conferees certainly hold differing views about the long-term changes needed in the banking system, all agreed that in the short time available for forging this compromise, recapitalizating the BIF took top priority. The FDIC have the resources to honor its guarantee of insured deposits, so that Americans will know their funds are safe.

HENRY GONZALEZ,
FRANK ANNUNZIO,
STEPHEN L. NEAL,
CARROLL HUBBARD,
JOHN J. LAFALCE,
M.R. OAKAR,
BRUCE F. VENTO,
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Managers on the Part of the House.

DON RIEGLE,
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JAKE GARN,
ALFONSE D'AMATO,
Solely for the purpose of consideration of title X of the Senate Bill:
QUENTIN BURDICK,
GEORGE J. MITCHELL,
Managers on the Part of the Senate.

Mr. NEAL of North Carolina. Mr. Speaker, pursuant to House Resolution 318, I call up the conference report on the Senate bill (S. 543 to reform Federal deposit insurance, protect the deposit insurance funds, recapitalize the Bank Insurance Fund, improve supervision and regulation of insured depository institutions, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. STUDDS). Pursuant to House Resolution 318, the conference report is considered as having been read.

□ 1040

The gentleman from North Carolina [Mr. NEAL] will be recognized for 30 minutes, and the gentleman from Ohio [Mr. WYLIE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. NEAL].

Mr. NEAL of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is essentially very similar to the bill that has passed the House. My colleagues may be interested to know that the Committee on Banking, Finance and Urban Affairs conferees were in conference with the Senate conferees essentially from yesterday morning at 9:30, on and on all day, into the evening, until this morning at something like 5 o'clock, and we finally came to this agreement which, as I say, is in most major respects very much like the bill that passed the House recently by an overwhelming margin.

Mr. Speaker, I think the significant thing to say about this legislation is that it is essential. There is a problem.

The bank insurance fund needs money, and, if it were not for that problem, we would not be here.

Now this bill provides some money to fix that problem for the short term, but I will have to report to our colleagues that, as far as fixing the problem for the long term, we do not do it.

We do provide some very significant regulatory reform, a couple of hundred pages of it. That is all to the good. But we knew how to do much more, and we should have done much more.

Mr. Speaker, our Subcommittee on Financial Institutions Supervision, Regulation and Insurance, after many days of hearings and study over a long period of time, reported out legislation that would have in a major way reformed the banking system of this country. It would have made the system safer, and sounder and more competitive, would have provided for economic diversity in terms of services, products and services, would have provided geographic diversity for safety and soundness. That bill passed our subcommittee with no votes against it. I think the vote was 35 to zero, something like that.

Well, Mr. Speaker, we took it to the full committee. The full committee worked its will on it, found a few more little problems, and the bill, very much the same bill, passed the full committee by about a 60–40 margin. But because of a lot of little manipulations that I will not go into now, we never really got a chance to vote on that major reform package.

Now I mention it at this time because one of these days, I would say to my colleagues, we must return to that. We must modernize this system. If we do not modernize the system, we will be back here again sometime in the future looking for more money to bail out banks. I do not want to vote one penny to bail out banks.

Mr. Speaker, there is a way to fix this system. We should provide geographic diversity, we should provide product diversity for safety and soundness, we should modernize the system so that it serves our savers, and our consumers and the businesses of this country so that we can be competitive in world trade. Now that is the challenge.

Mr. Speaker, we are engaged now in a stopgap measure. It is necessary. We have no choice. But very soon we must return to this subject and engage in a major reform.

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

Mr. WYLIE. Mr. Speaker, I rise in strong support of the conference report on H.R. 3768, the banking reform bill. As I do that, I want to compliment the distinguished chairman of the Committee on Banking, Finance and Urban Affairs who has worked so diligently, and so hard and so long. Without his persistent efforts we would not be here today. He encouraged us to work on this bill through the day yesterday, for almost 24 straight hours, until 5 o'clock this morning; and we came up with a very good bill in my judgment. Although the path has been arduous, the compromise before us encompasses pretty much the parameters of the House passed bill.

No one was completely satisfied with the product that we came out with, but clearly this is the most important issue that we have before the First Session of the 102nd Congress. Other important issues are not included: interstate banking, banking and commerce, modification of Glass-Steagall are still unanswered and will have to be revisited early next year. However the bill before us is a good compromise given where we started from when we went into our conference yesterday with Members of the other body.

First and foremost the bill provides the funding to recapitalize the bank insurance fund, and again I repeat again and again that this is not a taxpayer bailout. There is no taxpayer money authorized in this bill. This is a loan which will be repaid by the banking industry through an increase in premiums. This money will be used solely to protect depositors. Not one cent will be used to pay off any shareholders or any directors.

Mr. Speaker, we must recapitalize the bank insurance fund to show depositors that the government stands behind the promise to protect their deposits. We must show the American people that their money is protected by the full faith and credit of the United States Government. It would be irresponsible not to provide the FDIC with this crucial funding, as I have stated, before we adjourn.

Besides funding, Mr. Speaker, the bill does incorporate a number of very important reforms. It calls for annual examinations and independent audits. It implements a tripwire system of prompt early intervention to handle troubled institutions before they fail, and to minimize taxpayer losses. To further minimize the taxpayer liability, the bill limits brokered deposits to only those banks with the highest capital levels.

Furthermore, it establishes risk-based premiums. Risk-based premiums will reward well-capitalized and prudently managed institutions. Such a system will restore equity to the system and encourage high capital levels.

Although this legislation is not as comprehensive as some would like, it does make a number of important reforms. It is essentially the House bill which we passed by an overwhelming margin here last week. The capitalization, again I repeat, is must legislation, and I, therefore, urge my colleagues to approve the conference report on this crucial bill.

I would just add one other caveat, and that is that we did add to the bill a provision which was not before the Committee on Banking, Finance and Urban Affairs legislation, and that has to do with the so-called Lamp F decision. What it does is it extends the statute of limitations for securities and fraud cases. It is regarded as very important, and the distinguished chairman of the Committee on Energy and Commerce has signed off on that, according to the distinguished chairman of the House Committee on Banking, Finance and Urban Affairs, the gentleman from Texas [Mr. GONZALEZ]. We have a good package and I urge an aye vote.

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

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that I may be permitted to assign the balance of the time to the various Members seeking recognition.

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

There was no objection.

Mr. GONZALEZ. Mr. Speaker, essentially what we have, as the gentleman from Ohio [Mr. WYLIE] stated, is what we were under the mandate, because the bill overwhelmingly passed the House, to stick to the House version that passed with a vote of 344 to 64, and we did that. Essentially what we have here is more than just what has been referred to as a narrow bill. This is an achievement, and I just merely want to thank my colleagues on the Committee on Banking, Finance, and Urban Affairs.

□ 1050

We have walked the plank three times and, with this, four times.

Also, I wanted to compliment and thank, express my profound gratitude to the gentleman from Ohio [Mr. WYLIE] and people like the gentlewoman from New Jersey [Mrs. ROUKEMA] and the members of the minority as well as to our conferees from the State side who I think performed wonderfully.

We settled down 24 hours ago at 9:30 and kept going until 5:00 this morning when the conference rose. So I just merely wanted to express my profound gratitude. I am very proud of the Committee on Banking, Finance and Urban Affairs and of our colleague and of the House Members as a whole.

Mr. Speaker, I am pleased to report to the House that we have completed a successful House-Senate conference on the banking legislation. We have produced an excellent bill that will move us a giant step forward in restoring confidence in our Nation's financial system.

S. 543, the Federal Deposit Insurance Corporation Improvement Act of 1991, meets the priority of refinancing the bank insurance fund by providing an immediate line of credit of $30 billion at the Treasury Department. This ensures that depositors at the Nation's 12,300 banks will have protection for their funds.

The bill represents a new day for regulation of the Nation's banks. Key to this new approach will be a requirement for prompt intervention by regulators when the vital signs of a bank reach a critical point. This means that banks will no longer be allowed to slip away while the regulators wring their hands and hope for a better day—all at the expense of the taxpayer. S. 543 requires action to protect the bank and the insurance fund.

S. 543 also requires that the Federal Deposit Insurance Corporation resolve failed banks by the method least costly to the taxpayers. The discount window at the Federal Reserve, which dispenses below market interest rate loans to banks, will now operate under specific criteria that will prevent backdoor bailouts. Pouring money into sick financial institutions does more harm than good, as evidenced by a House Banking Committee study which showed that 90 percent of the banks that received loans from the discount window failed in the end anyway.

This conference report requires annual audits and annual examinations—both essential to a healthy banking system.

Not only our domestic banks, but foreign banking entities in the United States must now operate under a new set of regulatory requirements. The rogue banks like Banca Nazionale del Lavoro [BNL] and the Bank of Credit and Commerce International [BCCI] will no longer escape scrutiny in this Nation.

Mr. Speaker, I am also proud of the people issues we were able to deal with to make certain that consumers got a better break at insured institutions.

The conference report contains the House version of the Truth in Savings legislation that has languished through four Congresses without reaching final passage. This legislation, pushed through by our colleague, ESTEBAN TORRES, chairman of our Consumer Affairs and Coinage Subcommittee, puts an end to deceptive advertising and confusing information about savings rates. People who put their hard-earned dollars in financial institutions will know the terms precisely and will be in a position to shop for the best rates.

The conference report also contains important new steps forward in fair lending enforcement, including better requirements for more complete disclosure of banks' performance under the Community Reinvestment Act [CRA]. We've also closed a loophole that has let many mortgage banks escape reporting under the Home Mortgage Disclosure Act [HMDA]. The bill also provides protections against the willy-nilly closing of branches, particularly in innercity neighborhoods. Banks must now provide customers and the communities 90-day advance notice before closing branches and leaving neighborhoods without service.

Mr. Speaker, there are many who would have preferred that we had produced a bill with broader powers for banks—the right to expand into new activities and new markets. These provisions were brought to the House floor twice this month and they failed. This legislation would have failed again had the conferees been foolish enough to ignore the House's wishes.

But, I hope that the long fight over expanded powers for banks does not obscure the tremendous advances represented by this bill. It is a landmark piece of legislation that will serve the Nation and its financial system well.

Many will continue to mislabel the refinancing of the bank insurance fund as a bailout. This charge ignores the fact that the money provided from Treasury is a loan and the conference report requires that the funds be repaid by the banks on a specific schedule extending over 15 years. The prompt refinancing of BIF through this credit arrangement and the accompanying regulatory safeguards are the very best insurance against a taxpayer's bailout.

Mr. Speaker, S. 543 is extremely important legislation. The conference report should be adopted.

Mr. Speaker, I yield 5 minutes to our ranking majority member of the committee and the chairman of the Financial Institutions Subcommittee, the gentleman from Illinois [Mr. ANNUNZIO].

Mr. ANNUNZIO. Mr. Speaker, 8 months ago, the Subcommittee on Financial Institutions, which I chair, began hearings on a major banking bill. It was the beginning of a long legislative journey. This morning we are seeing the end of that journey and hopefully a new beginning in the commercial banking industry.

I strongly support the conference report before the House today. I want to commend the chairman of the committee, the gentleman from Texas [Mr. GONZALEZ] and the banking Republican, CHALMERS WYLIE for the leadership they have shown throughout the entire legislative process on this bill.

Mr. Speaker, I doubt if any bill in recent memory has been the subject of so much attention and scrutiny as this bill has been. But I think the turmoil that has surrounded this bill has actually made for a better bill. No section of this bill was won without hours of discussion and hundreds of votes. Too many cooks spoil the broth may be an old wives' tale, but the cooks of this legislative broth did a great job.

I am particularly proud of several provisions in this bill that I authored, including the requirement that every federally insured financial institution be examined at least once a year. The early intervention procedures will make certain that brain dead banks are not kept open on the misguided belief that they can grow into recovery.

The whistleblower section will make certain that those dedicated public servants who expose corruption and wrong-doing will not be punished for making that information pubic.

And most importantly, when the banks borrow $30 billion to replenish the bank insurance fund, my amendment will make certain that the banks, not the taxpayers will have to repay those loans.

Mr. Speaker, I urge adoption of the conference report.

Mr. WYLIE. Mr. Speaker, I yield 5 minutes to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Speaker, I will certainly try not to use all of the 5 minutes in rising to, regrettably, oppose this legislation, since it seems that everybody seems to be for it.

I do want to, first of all, commend the chairman of the committee and my friend, the gentleman from Ohio [Mr. WYLIE], and the subcommittee chairman and ranking members and everybody who has labored so diligently on this effort.

I know that this is probably the only bill that could come before the House. But I just want to state my concerns once again as I do when the House passed this measure, that I am afraid that we are simply not solving the problem. When this bill passed the House it was a non-reform bill. I said that then, and also predicted that the Senate would not improve on it. Sadly, I believe the bill before us now shows that I was correct.

This legislation, which does recapitalize the FDIC's bank insurance fund with a $70 billion loan from the taxpayers does nothing in the way of meaningful, significant reforms. I know that despite the considerable funds in this bill, we are going to be back here next year, and I think all of you know that too. Then we will really have to revisit the issue and approve some major reforms. We will be doing that in an election year, and that is going to be very, very difficult.

My first regret about this bill today is that it does nothing to maintain firewalls that keep bankers and the banking business out of everybody else's business, such as real estate, and insurance, and securities and everything else. Instead, it leaves those walls open so that they can continue to do what they have been doing in the past: losing money and being bailed out by the taxpayers of this Nation.

The second and more important problem that we have not dealt with at all in the bill is the issue of multiple deposit insurance guarantees available to investors. Despite today's $100,000 limit on deposit insurance, a family can effectively insure up to $1,400,000 of its savings in not just one bank but as may banks as they want. As long as that kind of system is in place, we will never solve this problem.

As I mentioned in our earlier debate on the bill, when I came to this Congress 13–14 years ago, I sold all of my stock and all of my businesses, as I had to. I took that money and put it into certificates of deposit. Since coming to Washington I have not only found that I am 100-percent Scotsman, tight with a dollar, but I also found myself instructing my wife by phone in upstate New York on how to go out and find whatever insured bank she could get with the highest possible return on our investment from dollars and certificates of deposit. Forgetting to look for a long-established conservative bank,

even in our hometown, she did that and I did it. If we did that, ladies and gentlemen, everybody in this country did that, and that is how we got ourselves in the mess today. Unfortunately, in this bill we have totally ignored doing anything about it.

An amendment to this bill, which would have required only one insured deposit of up to $100,000 per individual, would have gone a long way toward solving this problem. Although we have not done that, we are going to have to do it, and you had better think about it too because in March or April we will be back here again doing the same thing.

I hesitantly oppose the legislation, but I do commend the gentlemen for the hard work that went into it.

Mr. GONZALEZ. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. ANNUNZIO], for the purposes of a colloquy.

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

Mr. Speaker, I would like to take a minute to ask the distinguished chairman of the Banking Committee, Mr. Gonzalez to join me in a colloquy. I would like to ask the chairman if it is not true that under the new qualified thrift lender test in the conference report if it is the intent of the conferees that the increase from 30 to 35 percent of the consumer lending basket prohibits a savings and loan from placing loan application in an automobile or appliance showroom et cetera, and then have the sales people give their customers the loan applications. Is it not true that the intent of this provision is that consumers wishing to borrow money from the S&L for consumer loans under the increased loan authority are expected to deal directly with the S&L and not with a third party or middleman in any way whatsoever.

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

Mr. ANNUNZIO. I am happy to yield to the gentleman from Texas.

Mr. GONZALEZ. Mr. Speaker, on both counts, absolutely, the gentleman is correct. That is right.

Mr. ANNUNZIO. I want to once again extend my thanks and appreciation to the chairman.

Mr. GONZALEZ. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I thank the chairman for yielding me this time.

I want to commend the committee. I think that we did a good job in terms of the conference. Certainly we had give and take with the Senate, but, frankly, we came in, we used the House bill, and while we made modfications with our Senate colleagues, I think that it is a good product, and it deserves the support of the House.

Candidly, it does not have the powers in the branch banking and the security power issues that were so contentious in this House.

We came up to the floor twice, and we sunk twice, and everyone can get involved in their own revisionist history as to why that happened.

Today I think the task is before us to improve the deposit system, to reform it, and I think we have done the best we can as a Congress of 535 Members with this problem.

We have written new prescriptive language in this law to guide the administration and the regulators. There is less flexibility, for the banking regulators, but I think our experience has indicated that such limits are necessary.

We have obviously capitalized the BIF fund which is a principal responsibility based on the statements of Mr. Taylor, the new Director of the FDIC, that is essential before the House adjourns to back the deposits of hundreds of millions of people across this country that have savings in our financial institutions.

□ 1100

This is a comprehensive bill. It is a solid foundation that we can build on next year. We can deal with the powers issues. We have a sound foundation of deposit insurance now, and limiting the powers and addressing the issues of too big to fail of banks. We cannot deal with the symbolic issue of $100,000 accounts, but I think, candidly, that is more symbolic than substantive. The central issue of cost is to get the banks off the track of too big to fail. There are problems remaining with systematic risk that is in this measure but hopefully that should be limited in terms of the safeguards and tripwires we put in this measure, including early intervention and other necessary approvals.

Mr. Speaker, I think this is a good bill and I hope Members will support it.

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

Mr. Speaker, I think I would be remiss if I did not publicly thank the minority members who participated in this conference last night and yesterday. I would like to say that the gentleman from Iowa [Mr. LEACH], the gentleman from Florida [Mr. MCCOLLUM], the gentlewoman from New Jersey [Mrs. ROUKEMA], the gentleman from Nebraska [Mr. BEREUTER], the gentleman from Pennsylvania [Mr. RIDGE], the gentleman from Wisconsin [Mr. ROTH], the gentleman from California [Mr. MCCANDLESS], and the gentleman from Louisiana [Mr. BAKER] were in attendance throughout and gave of their best to this fine product we have before us.

I would also like to thank the minority staff and majority staff for all of the fine work they did do this legislation. It was a very difficult and trying experience.

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

Mr. WYLIE. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, I would ask the gentleman from Ohio [Mr. WYLIE], what about the gentleman from Louisiana [Mr. BAKER]?

Mr. WYLIE. Mr. Speaker, reclaiming my time, yes, I have Mr. BAKER's name on here. I add him to my list, also, Mr. Speaker.

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

Mr. GONZALEZ. Mr. Speaker, I yield 3 minutes to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Speaker, first I would like to commend the gentleman from Texas [Mr. GONZALES] and the ranking minority member, the gentleman from Ohio [Mr. WYLIE], and all those that have worked tirelessly to bring this legislation to the floor today.

I think there are five basic reasons why we should be pleased with this legislation and support it. First of all, this legislation does provide for the recapitalization of the Bank Insurance Fund.

We are not bailing out the banks. We are merely honoring a promise and a commitment that was made to depositors in this country 50 years ago. We have no choice. We have to recapitalize the bank insurance fund.

The "too big to fail" doctrine that many of our small community banks across this country have been very, very concerned about has also been changed. I happen to believe the provisions in this legislation requiring the President, the Treasury Department, the Federal Reserve and FDIC to certify in writing that a bank would cause systemic risk if it was allowed to fail is going to have the effect of putting the brakes on the use of the too big to fail doctrine. I think that is a very important reform.

In addition to that, there are other regulatory reforms empowering the regulators to intervene at an early stage, to use least cost resolution and also have annual audits of banks across the country. As far as I am concerned, all of this is good.

Another important reform is the change in the area of brokered deposits. Under this legislation we would prohibit undercapilatized institutions from accepting brokered deposits, this is another very important reform.

Many people who have observed the banking crisis in this country believe very strongly that brokered deposits have played a big role in creating the mess we are in. That is being corrected.

In addition to that, we are empowering the Federal Reserve System to regulate much more carefully foreign banks operating in this country, to deal with future BCCI type problems. This is also good.

Mr. Speaker, I know some of my colleagues wish we would have repealed Glass-Steagall and empowered the banks to get involved in the securities industry. We did not do that. This is one Member who is glad that we did not do that.

I believe one of the big achievements of this session is the defeat of efforts to repeal Glass-Steagall. Over the long term this will serve the taxpayers and consumers of this country well.

Mr. Speaker, I strongly urge Members to support this reform package. I know that next year we will have the opportunity to come back and revisit the question of interstate branch banking and revisit the question of Glass-Steagall. But today this is as good as we can do.

Mr. Speaker, this is a significant step forward. It is good legislation. It is deserving of strong bipartisan support. So I strongly urge my colleagues to join me in supporting this legislation.

Mr. WYLIE. Mr. Speaker, I respectfully yield such time as she may consume to the gentlewoman from New Jersey [Mrs. ROUKEMA], who was a very good member of our conference.

Mrs. ROUKEMA. Mr. Speaker, I thank the gentleman my ranking member, the gentleman from Ohio [Mr. WYLIE] for yielding. I do want to concur with some of the comments that have been made by the gentleman from Kansas [Mr. SLATTERY]. The gentleman alluded to the fact there are some very good parts to this bill. The tenor of his remarks were positive, and I want to underscore, that really we should not be ashamed of this product.

Mr. Speaker, we went through a procedure that resulted in the defeat of 2 bills that embodied more comprehensive reforms. Rightly or wrongly, the judgment was made by this body that we were not going to enter into new powers such as security and insurance powers with the attendant problems of how to define firewalls. Rightly or wrongly, that decision was made.

But I would suggest that when we are dealing with those kinds of complex issues that could have profound consequences that if we are going to err at all, we should err on the side of caution.

In this bill we have some excellent reforms with respect to capital requirements; with respect to early intervention and with respect to stronger, regulatory, requirements. There are reforms to be proud of. We must also say that with respect to new powers, firewalls, and interstate banking, we have some work to be done.

Mr. Speaker, because we could not come to those conclusions at this particular time, it does not mean that the product that we come out with in the new year will not be better for the time and effort that has already been expended on this matter.

Mr. Speaker, I do want to say, for those who are concerned, because I think there is a general tenor of regret that we have not reformed the deposit insurance fund, by limiting deposit insurance to $100,000 per customer.

Mr. Speaker, in my opinion, that was the correct decision to make. I understand that this decision is open to debate; but it is not open to debate to question the really fundamental reforms that we did put in this legislation.

It has already been mentioned that we have addressed in a very meaningful was "the too big to fail doctrine." I think that is quite a substantial accomplishment.

In addition, we have put limitations on brokered deposits. This particular issue of the brokered deposits and the level of capitalization that is needed in institutions that are permitted to use brokered deposits occupied a great deal of our time and effort. There was extended debate.

But the provision of brokered deposits is a meaningful one. It is restrictive, and it is a major reform in this bill.

Mr. Speaker, we have restrictions on pass-through insurance, the foreign deposits, and the risk-based premiums, in which I take some pride of authorship. I had a lot of help from others, but the fact is we are now basing the premium payments from the banks into the fund on the basis of the risks and the type of investments that they make.

Mr. Speaker, I think all in all there is nothing to be hesitant about here. We have meaningful reform. We are leaving to another day some of those questions that were more divisive, and merely more problematic in many ways, and for good reason. So we will have a number of engines that can lead us to the second level of reform next year.

In the meantime, we are protecting the depositors, we are restoring faith in the system, and, I think, Mr. Speaker, that the fact that we passed this bill 344 to 84 when it left the House the first time, and in this measure we have 95 percent of the House bill, that it is deserving of our support. Maybe we can get unanimous support.

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

Mr. Speaker, I would just add that the gentlewoman from New Jersey [Mrs. ROUKEMA] deserves a high compliment for leading the charge on the risk-based premium issue. She has been very diligent on this. The amendment that was adopted is pretty much her handiwork and, in that regard, made a real contribution to our deliberations.

Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana [Mr. BAKER], who certainly made a very tremendous contribution to the conference deliberations.

Mr. BAKER. Mr. Speaker, I thank the gentleman for yielding. I certainly appreciate his kind comments and extend to him and to the chairman of the Committee on Banking, Finance and Urban Affairs my appreciation for their hard work and diligence in bringing this measure to the House floor.

As we are all painfully aware, taxpayers of this country are indeed frustrated with the current condition of the financial marketplace. Everyone back home expects us to resolve the current problems without additional taxpayer dollars, to make sure our banks are operated in a safe and sound manner and that their deposits remain free from threat of loss.

□ 1110

The bill we have before us this morning goes a long way toward making important reforms. Certainly there is much yet to be done. The question of additional bank powers and commercial ownership of institutions were provisions contained in the bank bill as reported by the Committee on Banking, Finance and Urban Affairs earlier this session. And unfortunately they are not addressed in the measure before us now.

But equally important are those important regulatory tools necessary to intervene at an early time in a bank's business activities so that franchise value is preserved, so that taxpayer funds are protected and so that ultimately we are not called upon as a Federal deposit insuror to pay off losses of troubled institutions.

This legislation takes many progressive steps to allow regulators to do their jobs much more efficiently than they have been able to do in the past. It also makes some significant changes with regard to the operation of the thrifts. Provisions relating to the qualified thrift lender test which are included in this legislation will ensure that some 180, perhaps 200 thrifts in this country who were well-run, well-capitalized institutions will not arbitrarily be closed for their failure to meet a government standard relating to the construction of their lending portfolio, a technical change, for sure, but one very important in minimizing cost to the taxpayer.

I commend the bill and I hope the House will adopt it.

Mr. GONZALEZ. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. MARKEY].

Mr. GONZALEZ. Mr. Speaker, I yield 2 minutes to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Speaker, I rise in strong support of the conference report, the FDIC Recapitalization and Improvement Act of 1991.

Mr. Speaker, this bill before us today is critical to protecting the millions of depositors throughout our banking system and it is needed to protect our economy. The only protection between depositors and the potential loss of

their hard-earned money when a bank closes its doors is the FDIC's bank insurance fund, which is currently on the verge of insolvency. Make no mistake about it; a delay in recapitalizing the bank insurance fund will imperil the funds of depositors and our entire economy. It would not be responsible to vote against this bill and permit a return to the desperate economic times of our parents and grandparents.

This provides additional enforcement powers to bring foreign banks to comply with our regulations.

First, a provision I offered which I believe will limit the loss of the taxpayers which occurs when banks and savings and loans fail. In summary, this provision will permit any depository institution to combine with any savings association insurance fund member, and vice versa. This provision will encourage the use of private capital to acquire and merge financial institutions which may otherwise fail and end up costing the taxpayers a great deal of money.

The second provision which I strongly support will protect the retirement pensions of millions of Americans. The provision will continue the 25-year-old FDIC practice of providing pass through deposit insurance on a pro rata basis for pension plans. Again, this is good legislation since it will protect the pensions of millions of Americans at a time many of them are concerned about the safety of their deposits and investments in financial institutions. Stability of the banking system is also enhanced since, if deposit insurance for pension plans is discontinued, pension fund managers will probably move their pension fund deposits to financial institutions which they perceive as "too-big-to-fail". This movement of funds will undermine the stability of small banks. The amendment also provides fairness since so-called 401(k) plans—which are offered to management—will continue to receive pass through deposit insurance. It is only fair to also protect the retirement pensions of hard working Americans of all incomes.

Again, I want to commend Chairman GONZALEZ for his leadership regarding this legislation. I urge all Members to support the conference report.

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

I would just say that I think the chairman and I have reason to be very proud of the product which came out of the conference last night, and I urge adoption of the conference report.

Mr. GONZALEZ. Mr. Speaker, I yield 2 mintues to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Speaker, first let me compliment the gentleman from Texas, Chairman GONZALEZ, and the gentleman from Ohio, [Mr. WYLIE], for their persistence in getting to this point. Obviously this is not a day for great celebration. We all tried to pass bills or we all believed there was a need for real reform, dramatic and sweeping reform. We could not agree on what that reform was.

I say to the reform-minded Members, our day will come. There will be real reform. The banking system is sick and demands it. But this bill, given the fact that we could not have reform, is the best that could have been done. Anyone who feels it does not have much reform is sadly mistaken. The higher capital standards, the early intervention, the too-big-to-fail, those are three significant changes in the way the banking system will work.

In my judgment, the system will still stay sick. These are measures that deal with the sickness after the disease. But they do not cure it. They do not remove it. They do not remove it. We have to deal with the inextricable relationship between insured deposits and what banks can do with them to cure the disease.

But if one is sick, and this system is, and we could not come up with a cure, then having this kind of medicine is the best and right way to go. And this demands, I think, that we pass it.

It is a comprehensive bill within those confines. As I said, the three reforms, major reforms in there, are very important. We should pass them.

Once again, I want to say, it took a lot of persistence and hard work on the part of the chairman and on the part of the ranking minority member and the members of the committee to come up with this package. It is a package no one has to hang their head low about. We will come back next year and we will try again to cure the patient, the banking system, of the awful disease that it has.

Mr. GONZALEZ. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. FLAKE], a member of the committee.

Mr. FLAKE. Mr. Speaker, certainly it is a good day for those of us who have shared, as a part of the Committee on Banking, Finance and Urban Affairs, as we are able to commend both our chairman, the gentleman from Texas [Mr. GONZALEZ] and the ranking minority member, the gentleman from Ohio [Mr. WYLIE]. They have been very fair in allowing us to put up our amendments before them and allowing the committee to make its decision.

Two particular areas that I am very pleased with are still in the bill; one of them—the gentleman from Pennsylvania [Mr. RIDGE] and I sponsored an amendment for green-lighting, which is our tempt to try to deal with the problem of "red-lighting" by many of our banks, which allows us to be able to create community development banks so that those communities where there is a need to create housing, it might be able to be done.

I think that this is worthwhile. I think it is a fair and just means of trying to solve that problem.

Second, the Freedom National Bank issue. We have been fighting ever since the closing of Freedom, asking for fairness and justice as it relates to the Freedom Bank issue.

It is now in the bill. We are thankful to the chairman for fighting to keep it there, and we are grateful for the opportunity to be able to stand today to commend them and to say that this is a bill that everybody in the House ought to support.

The Committee on Banking, Finance and Urban Affairs has worked hard on it, and it needs to pass this House.

Mr. WYLIE. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan [Mr. HENRY].

Mr. HENRY. Mr. Speaker, I rise in opposition to the legislation.

Mr. Speaker, I regret that I cannot support the measure before us. While we all recognize the urgent need to recapitalize the FDIC, the problem with this legislation is that it treats the symptoms of a weakened banking system rather than treating the root causes.

As Secretary Brady has indicated, simply putting funds into the FDIC without also strengthening the competitive position of the banking industry only invites the need for future appropriations. The record will show that I supported many of the reforms which insured better capitalization by the banks. It will also show, however, that I have been consistent in my belief that the administration was correct in insisting that broadened banking powers are essential to addressing the root problems of the banking industry.

Regrettably, the achievements taken by the Senate in this direction were undone by the House in its consideration of the banking legislation. And it is unfortunate that during the conference process, the Senate repudiated its former position. Hence, we are left with a bailout for the FDIC—but without meaningful reform which will allow banks to become profitable. Given that fact, I cannot support the current legislation.

Mr. GONZALEZ. Mr. Speaker, for the purpose of a colloquy, I yield 2 minutes to the gentleman from Rhode Island [Mr. REED].

Mr. REED. Mr. Chairman, in section 451 of H.R. 3768, the Federal Deposit Insurance Corporation Improvements Act, referring to Rhode Island, references are made to investment grade ratings.

I understand that the highest grade rating means AAA; one less than the highest grade rating means AA; and two less than the highest grade rating means A.

Is my understanding correct?

Mr. GONZALEZ. Mr. Speaker, if the gentleman will yield; yes, it is.

Mr. REED. Mr. Speaker, I would also at this time like personally to commend the gentleman from Texas [Mr. GONZALEZ] for his extraordinary help to my home State of Rhode Island, and the gentleman from Ohio [Mr. WYLIE],

the ranking minority leader, for his help, particularly the gentleman from Kentucky [Mr. HUBBARD] and the gentleman from Massachusetts [Mr. FRANKS] and the gentleman from Wisconsin [Mr. KLECZKA], who also helped us immensely.

With this help, with this loan guarantee, I hope we can help the people of Rhode Island. With this bill I hope we can help the people throughout the United States to avoid the crisis that we have faced in Rhode Island.

I close again by commending the gentleman from Texas, Chairman GONZALEZ, for his extraordinary help.

Mr. DINGELL. Mr. Speaker, I commend the gentleman from Texas [Mr. GONZALEZ] the chairman of the Committee on Banking, Finance and Urban Affairs for the conference report on the banking bill (S. 543). That conference report includes a compromise worked out between the chairman and ranking member of the Senate Banking Committee and the House Energy and Commerce Committee to reverse the retroactive application of the Supreme Court's decision in Lampf versus Gilbertson. This provision is urgently needed to avoid dismissal of securities fraud cases that were timely filed prior to the Court's decision. It is our intent that "any private civil action implied under section 10(b) of the Act that was commenced on or before June 19, 1991 (1) which was dismissed as time barred subsequent to June 19, 1991, and (2) which would have been timely filed under the limitation period provided by the laws applicable in the jurisdiction, including principles of retroactivity, as such laws existed on June 19, 1991" shall have their clear meaning and shall not be interpreted to exclude any private civil action falling squarely within the plain meaning of the words of this statute.

This provision is critically important because Lampf has resulted in the dismissal of many private rule 10b–5 actions against figures in major financial scandals, including Charles Keating, Michael Milken, and others. Those cases can now be reinstated on motion by the plaintiff not later than 60 days after the date of enactment of this section.

I would also note that the conference report includes in title IV amendments reported by the Committee on Energy and Commerce with respect to payment system risk reduction and nettling contracts (see H. Rept. 102–157, part 4). The definition of the term "broker or dealer" in section 402 in the conference report includes language worked out between the Senate Banking Committee and the Committee on Energy and Commerce to include "to the extent consistent with this title, as determined by the Board of Governors of the Federal Reserve System, any company that is an affiliate of a company described in subparagraph (A) that is engaged in the business of entering into netting contracts." It is our intent that the term "affiliate" shall have the meaning as determined by section 3(a)(19) of the Securities Exchange Act of 1934 and sections 2(a)(2) and 2(a)(3) of the Investment Company Act of 1940, and that the Federal Reserve Board shall exercise this authority to include these entities in order to reduce the credit exposure of these entities and thus to reduce systemic risk. It is our belief that this is consistent with this title. I commend the conferees for including this important provision.

I urge my colleagues to vote "aye" on the conference report.

SEC. 476. LIMITATION ON SECURITIES PRIVATE RIGHTS OF ACTION.

The Securities Exchange Act of 1934 is amended by inserting after section 27 (15 U.S.C. 78aa) the following new section:

"SPECIAL PROVISION RELATING TO STATUTE OF LIMITATIONS ON PRIVATE CAUSES OF ACTION

"SEC. 27A. (a) EFFECT ON PENDING CAUSES OF ACTION.—The limitation period for any private civil action implied under section 10(b) of this Act that was commenced on or before June 19, 1991, shall be the limitation period provided by the laws applicable in the jurisdiction, including principles of retroactivity, as such laws existed on June 19, 1991.

"(b) EFFECT ON DISMISSED CAUSES OF ACTION—Any private civil action implied under section 10(b) of this Act that was commenced on or before June 19, 1991—

"(1) which was dismissed as time barred subsequent to June 19, 1991, and

"(2) which would have been timely filed under the limitation period provided by the laws applicable in the jurisdiction, including principles of retroactivity, as such laws existed on June 19, 1991,

shall be reinstated on motion by the plaintiff not later than 60 days after the date of enactment of this section.".

CONGRESS OF THE UNITED STATES,
Washington, DC, November 25, 1991.

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

DEAR MR. SPEAKER: As you know, the House-Senate conference on S. 543, the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act, is under way to discuss the issues primarily within the jurisdiction of the respective Banking Committees. As was discussed on Friday, November 22, Members and staff of the Senate Committee on Banking, Housing, and Urban Affairs have been meeting with Members and staffs of other House Committees to resolve issues contained in the Senate bill that are outside the jurisdiction of the House Committee on Banking, Finance and Urban Affairs. We are pleased to report that agreement has been reached between the Chairman and Ranking Member of the Senate Banking Committee and the House Energy and Commerce Committee[1] on a provision to return the law regarding the statute of limitations for securities fraud cases that were pending on June 19, 1991 to that which applied in the jurisdiction on that date. This has the effect of reversing the retroactive application of the Supreme Court's decision in Lampf versus Gilbertson. This provision is urgently needed to avoid dismissal of securities fraud cases that were timely filed prior to the Court's decision.

In light of the agreement between the bipartisan leadership of the two committees of jurisdiction, we respectfully request that you appoint Members of the House Committee on Energy and Commerce (Messrs. Dingell, Markey, and Lent) as conferees to the banking conference for the purpose of including this provision in the Conference Report.

Sincerely,

Donald W. Riegle, Jr., Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate.

John D. Dingell, Chairman, Committee on Energy and Commerce, U.S. House of Representatives.

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, November 26, 1991.

Hon. HENRY B. GONZALEZ,
Chairman, Committee on Banking, Finance and Urban Affairs Washington, DC.

DEAR HENRY: I am writing to you in your capacity as Chairman of the House conferees on S. 543, the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act, to advise you that this Committee has resolved its differences with the Senate Banking Committee on Section 1126 (Limitation on Securities Private Rights of Action). Consistent with the procedures outlined by the Speaker, we are writing to the Speaker to request appointment of Energy and Commerce conferees solely for the purpose of including this provision in the Conference Report.

On June 21, 1991, in a landmark 5–4 decision that alters the settled law of nine Circuits, the Supreme Court selected Section 9(e) of the 1934 Act (15 U.S.C. sec. 78i(e)) as the statute of limitations for private actions under Rule 10b–5 of the 1934 Act: one year from discovery, but in no event more than three years from the underlying violation. Lampf, Pleva, Lipkind, Prupis & Petigrow v. Gilbertson, No. 90–333 (U.S. June 20, 1991). Although the decision altered the law of the Circuit from which the case originated, the Court applied the new limitations period and dismissed respondents' claims as time-barred.

Moreover, in James B. Beam Distilling Co. versus Georgia, No. 89–689 (U.S. June 21, 1991), the Supreme Court changed the rules on retroactive application of civil decisions. This ruling portends full retroactive application of the new, shortened limitations period for private Rule 10b–5 actions established in Lampf, Pleva. In Beam, the Court ruled that where—as in Lampf, Pleva—the case announcing a new rule of federal law has applied that new rule to the litigants in the case, it is error for other courts to refuse to apply the rule retroactively. Thus, the Beam decision has resulted in dismissal of many currently pending private Rule 10b–5 actions against Charles Keating, Michael Milken and other figures in major financial scandals. According to a survey by our Telecommunications and Finance Subcommittee, suits totaling $652 million have been thrown out as a result of the Court's ruling. Motions to dismiss an additional $4.55 billion of suits are pending, and motions to dismiss a further $1.21 billion of suits are expected. As Arthur R. Miller, Bruce Bromley Professor of Law, Harvard University Law School, testified before the Subcommittee:

As a result, a number of lower courts have dismissed as untimely many important securities cases that victims originally filed in a timely fashion and thereafter prosecuted for long periods of time and at great expense. In some instances, the Lampf decision threatens verdicts already rendered. This completely unfair result undermines the reliance of parties on precedent and significantly undermines the principle of stare decisis.

The compromise to be included in the Conference Report is urgently needed to allow timely filed cases to be reinstated and to

[1] Messrs. Markey, Dingell, Wyden and Harris, the sponsors of companion House legislation (H.R. 3185) have approved the compromise language, as have Messrs. Lent and Rinaldo.

avoid dismissal of further securities fraud cases that were timely filed prior to the Court's decision. In light of your Committee's extensive hearings on Charles Keating and the circumstances surrounding the failure of Lincoln Savings and Loan, we hope that you will support this result.

Sincerely,

JOHN D. DINGELL,
Chairman.

PUBLIC CITIZEN,
November 22, 1991.

Hon. JOHN DINGELL,
Chairman, Committee on Energy and Commerce, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: We would like to commend you for co-sponsoring H.R. 3185, the Securities Investors Legal Rights Act of 1991, which would restore vital protections to consumers and investors that were taken away by the recent Supreme Court decision of Lampf v. Gilbertson. This proposal is critically important because it would establish a reasonable statute of limitations for securities fraud cases, while restoring lawsuits that were brought in reliance on the law as it stood prior to Lampf.

As you may know, the Senate Banking Committee added a similar proposal to banking legislation earlier this year. In a compromise made during floor consideration of the measure this week, the Lampf proposal was modified so that, while it continues to protect lawsuits pending when Lampf was decided, it does not change the statute of limitations for future cases. While we are disappointed that the proposal was weakened in this way, we strongly support the compromise to protect fraud victims who relied on pre-Lampf rules in bringing their lawsuits.

We are writing to urge you to accept the Senate compromise when the House and Senate banking bills are reconciled. We believe that it is critical to pass the retroactive piece of the Lampf legislation before it is too late to protect pending or recently dismissed lawsuits. We would like to work with you next year to enact the rest of the proposal, so that the securities laws can once again afford fraud victims a meaningful remedy against those who conceal their fraudulent activities.

Thank you again for your leadership in the fight against (in Al Capone's phrase) the legitimate rackets.

Sincerely,

MICHAEL WALDMAN,
Director, Congress Watch.
PAMELA GILBERT,
Legislative Director, Congress Watch.

LEGISLATIVE ALERT,
November 25, 1991.

Hon. EDWARD J. MARKEY,
Chairman, Subcommittee on Telecommunications and Finance, House Committee on Energy and Commerce, Washington, DC.

DEAR MR. CHAIRMAN: On behalf of the millions of workers and retirees whose retirement savings are invested by pension plans, the AFL–CIO supports H.R. 3185, the Securities Investors Legal Rights Act of 1991.

H.R. 3185 is needed to reverse Lampf v. Gilbertson, a recent Supreme Court ruling which could destroy claims by thousands of defrauded investors who had been pursuing their rights in court in a timely manner. The Court's 5–4 decision held that private actions pursuant to Section 10(b) and Rule 10b–5 of the Securities Exchange Act of 1934 must be brought within one year after the injured party discovers the fraud and no later than three years after the fraud has occurred. The majority disregarded years of lower court precedent and applied its new rule retroactively to all cases currently pending in federal courts nationwide.

The Lampf decision ignores the reality of financial fraud which is by its very nature complex, difficult to detect, and often perpetrated against the most vulnerable in society. Because of Lampf, victims of some of the worst financial scandals in recent history will be unable to recover their losses, a result particularly harmful for senior citizens dependent on pension and other retirement investment income. A shortened limitations period protects the most stealthy and sophisticated criminals, while punishing pension funds and other innocent investors. As Justice Kennedy wrote in his dissent to Lampf, the majority simply tips the scale too far in favor of wrongdoers.

Here is a sampling of just a few of the financial manipulators who will not need to compensate their victims because of the legal loophole created by Lampf:

Executive Life Insurance CEO Fred Carr and assorted securities firms that are the subject of eight consolidated fraud cases filed between April and December 1990 have already sought to have their cases dismissed under the new, shorter limitations period. Meanwhile, thousands of workers and retirees lost significant portions of their meager monthly pension checks because of that long concealed scandal.

In Anixter v. Home-Stake Production Co. the Tenth Circuit Court of Appeals recently dismissed a $310 million jury verdict against the perpetrators of one of the most widely publicized financial scandals of the 1970s. In that case thousands of investors were swindled by a Ponzi scheme, a sophisticated fraud that can maintain the illusion of a profitmaking enterprise for many years. The Court cited Lampf and noted the draconian nature of the result in its opinion.

The Kansas Professional Employees Retirement System recently dscovered that it was the victim of a complex fraud that occurred over 3 years ago. That pension fund's beneficiaries will suffer a multi-million-dollar loss if the Lampf decision stands.

We agree with S.E.C. Chairman Richard Breeden that private fraud suits are an essential element in enforcing federal securities laws since the S.E.C does not have adequate resources to detect and prosecute all violations of the federal securities laws. Because Rule 10b–5 violations inherently involve fraud and concealment, the removal of a meaningful opportunity for private action by security holders is an invitation to abuse.

The purposes of the securities laws—to deter fraud and to preserve investor confidence in the market—are well served by this remedial legislation. We therefore support and urge swift Congressional approval of H.R. 3185.

Sincerely,

ROBERT M. MCGLOTTEN,
Director, Department of Legislation.

Mr. BACCHUS. Mr. Speaker, I voted against S. 543 today because I am very concerned that this legislation opens the back door of the Treasury wide open to a taxpayer bailout of commercial banks that could rival the scandalous bailout of the savings and loans.

S. 543 recapitalizes the Ban Insurance Fund through a loan from the taxpayers that is supposed to be repaid from across-the-board increases in bank premiums. FDIC Chairman William Seidman recently stated that the banking industry could not sustain the increase in premiums needed to repay the loan. Significantly higher premiums would undoubtedly cause more bank failures, with the taxpayers footing the bill. And under the financing scheme included in S. 543, the only alternative to higher premiums would also be to have the taxpayers foot the bill. I would have preferred to have the most profitable banks, with the most capital, loan the needed money to the BIF, as they offered to do. We should go to the taxpayers as a last resort, not a first resort.

Mr. MACHTLEY. Mr. Speaker, it has now been almost a year since the closure of Rhode Island's credit unions. Thirteen institutions remain closed, over $1 billion remains frozen, nearly 20 percent of Rhode Island's citizens remain without their money.

Since that day in Rhode Island's history, times have gotten worse. Rhode Island's unemployment has skyrocketed to 9.8 percent. Our State deficit is among the highest in the Nation. To put it simply, We are in a depressed recession.

Travelling through my district, I have personally heard and received thousands of letters and calls since the crisis occurred from helpless citizens who have their life's savings frozen in the closed credit unions.

I constantly hear about the deep economic difficulties this crisis is causing in my State. My constituents want to know how do they pay for the basic necessities? Their rent? Their mortgages? Their children's education? Their medical bills? Their groceries? How can they go on if all of their money is tied up in institutions whose doors have not opened for a year?

Over the past 11 months, members of Rhode Island's congressional delegation have been working hard to create a Federal response which will not cost the American taxpayer one penny. With the strong support of Chairman Gonzalez, the conference report to H.R. 3768 includes a $180 million Federal loan guarantee for Rhode Island.

This provision, which has passed in the House in every prior banking reform bill, has been scored as budget neutral by the Congressional Budget Office. This provision to the conference report allows Rhode Island to borrow money for the sole purpose of repaying depositors whose accounts were frozen as a result of the insolvency of their private insurer.

I strongly support adoption of the conference report and urge other members to support it as well.

Mr. MARKEY. Mr. Speaker, I rise in support of S. 543, and seek to focus my remarks in particular upon Section 476, which is a compromise version of H.R. 3185, the Securities Investors Legal Rights Act of 1991, which I introduced earlier this year with Chairman DINGELL, and Messrs. WYDEN and HARRIS. The adopted compromise rights at least the most egregious wrong of last summer's Supreme Court decisions, Lampf versus Gilbertson. This section would reverse the Court's retroactive application of that decision to dozens of cases across the country brought in the Federal courts by defrauded investors.

For the last 4 years, I have worked with my colleagues at the Telecommunications and Finance Subcommittee to expand the rights of

small investors and the sanction authority of the Securities and Exchange Commission in confronting securities fraud, through legislation on insider trading, stock market reform, enforcement remedies and penny stock reform among others. Yet with one stroke of the pen last spring, the Supreme Court of the United States plunged a sword directly at the heart of victims of securities fraud. In that one action, the case of Lampf versus Gilbertson, the Supreme Court signed over a multibillion dollar check to Michael Milken, Charles Keating, and a coalition of special interests which produced the financial wreckage of the 1980's. And threatened as well the recovery of billions of taxpayer dollars in S&L and bank failures attributable to securities fraud.

On November 21, 1991, I released a compilation of the effects to date of the Supreme Court's ill-considered decision to impose a severely restricted statute of limitations on securities fraud actions. As of today, over $650 million of securities fraud claims have been dismissed in suits brought all over the country long before the Supreme Court's decision. More shockingly, over $4 billion of fraud claims, including those against Milken, Keating, and Fred Carr, are threatened with pending dismissal motions solely as a result of Lampf, and that decision's retroactive application to every securities fraud case pending as of last summer.

For over 50 years, victims of securities fraud could file civil law suits pursuant to Section 10 of the Securities Exchange Act of 1934 under time limitations generally determined by appropriate State statutes, many with generous statutes of limitation. The Lampf decision reversed this long-standing practice. The Court ruled that any litigation instituted pursuant to section 10(b) of the Securities Exchange Act of 1934 and rule 10b-5 must be initiated within 3 years after the violation has occurred and within 1 year after discovery of the facts constituting that violation. Even more importantly, the Court applied its decision retroactively, denying thousands of victims whose cases are currently pending their rightful day in court.

In handing down its decision, the Court rejected the argument made by the Securities and Exchange Commission, among others, that it should have applied the explicit 5-year statute of limitations contained in the Insider Trader and Securities Fraud Enforcement Act, a piece of legislation I coauthored with Energy and Commerce Committee Chairman DINGELL and subcommittee ranking Republican member RINALDO In 1988. This 5-year limitation established an appropriate time frame for investors to uncover any wrongdoing while at the same time not punishing investors who may not discover the crime until a few years later.

The language of Section 476 unambiguously reverses the Lampf ruling's application of the 1-year and 3-year statute of limitations period to thousands of cases which were filed prior to June 19, 1991, and which were pending as of that data. Furthermore, it permits the reinstatement of any suit which may have been dismissed post-Lampf as a result of the Lampf decision.

As the statute specifically states, its application is to "any private civil action implied under section 10(b)" of the Securities and Exchange Act of 1934 "that was commenced on or before June 19, 1991." For all of those cases, without exception, the applicable limitation period is that "provided by the laws applicable in the jurisdiction, including principles of retroactivity, as such laws existed on June 19, 1991." Thus, this language would apply directly to the case and parties of Lampf versus Gilbertson itself, insofar as that case was a "private civil action implied under section 10(b)" and was "commenced on or before June 19, 1991."

The 1980's left us a legacy of financial fraud unparalleled in its size and scope. From the crime factories run out of savings and loans to the chicanery in the junk bond market to consumer rip-offs in limited partnership rollups, we are only now beginning to sort through the financial damage done in that decade. The language contained in this bill will directly reverse an egregious Supreme Court decision and will prevent the stripping away of legal rights of thousands of Americans. While I hope and fully expect to address the broader concerns of H.R. 3185 early next year, at this time I urge the adoption of this compromise language to alleviate the immediate injustice posed by Lampf.

Mr. LEHMAN of California. Mr. Speaker, perhaps the most visible change to average bank customers in this comprehensive banking bill will result from provisions requiring banks and savings institutions to clearly and uniformly disclose the interest rate, fees, and terms of savings and checking accounts. In all of the protracted debate over interstate banking, deposit insurance reform, and insurance sales, it should not be overlooked that true bank reform is that which provides the consumer with the ability to make banks more competitive.

As the primary sponsor of truth-in-savings legislation through five Congresses, I have considerable interest in seeing this measure enacted. As you may be aware, truth-in-savings has been approved unanimously by the House since the 99th Congress. Final passage of the bill has been delayed over the years after being caught up in the ongoing struggle to enact broader banking reform. It seems appropriate that enactment of truth-in-savings legislation coincides with the culmination of this effort.

The truth-in-savings provision which I have shepherded through Congress will give consumers the necessary tools to comparison shop in what has become an increasingly confusing and complex financial services marketplace. The delay in enacting this legislation has only heightened the need for it. As the banking markets become more sophisticated and as new and innovative products and services are offered, the consumer's confusion continues to grow over where to invest, how yields are calculated, what fees will be incurred, and how minimum balances affect their interest. Simple and understandable disclosure of terms, fees, conditions, and yields will go far to improving customer awareness.

Passage of truth-in-savings reform is long overdue and I applaud its inclusion in this measure. Bank reform which serves the customer's interest is the most important bank reform of all.

□ 1120

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

The SPEAKER pro tempore [Mr. HOYER]. Without objection, the previous question is ordered on the conference report.

There was no objection.

The conference report was agreed to.

A motion to reconsider was laid on the table.

□ 1130

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore [Mr. HOYER]. The Chair would simply advise the Members that the leadership is trying to work out some procedures with respect to legislation to be considered. That is the reason for the discussions that are ongoing. As soon as agreement is reached, the House will move forward.

ELEVATING EPA TO CABINET LEVEL

(Mr. BOEHLERT asked and was given permission to address the House for 1 minute.)

Mr. BOEHLERT. Mr. Speaker, while we are waiting, I wonder if I might ask a question of the Chair.

The SPEAKER pro tempore. The Chair has not seen the bill on the calendar yet, just anticipating the gentleman's question.

Mr. BOEHLERT. Mr. Speaker, would the Chair like to borrow my glasses, because all of us would like to see on the calendar that bill which would elevate the Environmental Protection Agency to Cabinet level status, and we are quite concerned, Mr. Speaker, that it is unnecessarily being delayed.

The American people are being denied something that is very important that they want. Our colleagues in the House on a bipartisan basis are being denied something we very much want. Every single environmental group in the country is being denied something that they very much want. The Administration is being denied something that it has worked assiduously on for the past year with Democrats and Republicans.

Can we not, Mr. Speaker, have some hope that this will be on the agenda sometime before we take leave of this fine institution?

The SPEAKER pro tempore. Frankly, the Chair would advise the gentleman from New York that the only information the Chair can pass along to the gentleman is that it is not currently on the agenda that the Chair has before it.

Mr. BOEHLERT. I wonder, Mr. Speaker, if we might have a personal colloquy to discuss how we might get it on the agenda?

The SPEAKER pro tempore. The Chair has answered to the extent of the Chair's knowledge.

The Chair thanks the gentleman for his inquiry.

Mr. BOEHLERT. I am in good humor, Mr. Speaker, despite the fact that we first appeared here about 24 hours ago to call attention to this shortcoming of this session.

I am ever hopeful, ever optimistic, and I thank the Chair.

The SPEAKER pro tempore. It is a good attitude to have.

APPOINTMENT OF MEMBER TO BRITISH-AMERICAN INTERPARLIAMENTARY GROUP

The SPEAKER pursuant to the provisions of section 168(b) of Public Law 102–138, the Chair appoints the following Member to the British-American Interparliamentary Group on the part of the House: Mr. HAMILTON, Indiana, chairman.

□ 1140

The SPEAKER pro tempore (Mr. HOYER). Again the Chair would call to the attention of the Members and others who may be interested that the House is waiting for an agreement. In these last hours of the session, the leadership is trying to move a few bills. There are some agreements that have to be reached before they get to the floor.

TAXPAYER BILL OF RIGHTS ACT OF 1991

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

Mr. PICKLE. Mr. Speaker, last week, I was joined by a number of my colleagues in introducing H.R. 3838, the Taxpayer Bill of Rights Act of 1991. This important legislation is a well-balanced and responsible package of reform measures that will provide taxpayers with long-needed and significant protections in their dealings with the IRS.

H.R. 3838 is a bipartisan effort and was introduced with the unanimous support of the Ways and Means Subcommittee on Oversight. The bill contains 33 provisions, and almost 80 recommendations, addressing inequities or problems that taxpayers experience in dealing with the IRS.

H.R. 3838 was developed after the Subcommittee on Oversight conducted an extensive investigation into the problems that taxpayers frequently encounter with the IRS. Many of these problems were brought to the subcommittee's attention by Members of this body who had heard of the difficulties from their constituents. Further, to develop this bill, the subcommittee held a series of hearings and visited IRS processing and taxpayer service offices around the country to review their operations, practices, and procedures. We considered numerous recommendations for improving the tax system which were made by individual taxpayers, tax professionals, and IRS employees.

H.R. 3838 is a good, pro-taxpayer reform package. With regard to certain issues, I recognize that this is an ongoing process, and therefore, intend to continue working with the IRS, Treasury, and others to fine-tune and improve the legislation. I urge you to join with me and my colleagues on the Committee in supporting the Taxpayer Bill of Rights Act of 1991.

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

Mr. PICKLE. I yield to the gentleman from New York.

Mr. BOEHLERT. I thank the gentleman for yielding.

Mr. Speaker, H.R. 3838, the Taxpayer Bill of Rights Act of 1991, I have had the opportunity to see the Dear Colleague letter of the gentleman from Texas, and I think it is a very fine piece of legislation and will be glad to support it.

Mr. Speaker, I wonder if the gentleman from Texas might join in supporting legislation that I am planning to introduce later today. It is called the Environmentalists Bill of Rights. It will give to the environmentalists and all those people across America, and our Republican and Democratic colleagues in this House, what they want and very much deserve, and that is cabinet-level status for the Environmental Protection Agency.

I think, as my colleague from Texas knows, the United States is the only developed Nation in the industrialized world that does not have cabinet or ministerial level for its top environmentalists in the Government. That is something I would like to correct.

I am sure my colleague would like to help in that.

Mr. PICKLE. I would be delighted to have a copy of the gentleman's bill and to join his name to the measure that we have introduced.

Mr. BOEHLERT. I thank the gentleman.

THE ADMINISTRATION, NOT CONGRESS, IS TO BLAME FOR THE DELAY IN FUNDING RTC

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

Mr. ANNUNZIO. Mr. Speaker, last week I received a letter from Peter H. Monroe, President of the Oversight Board of the Resolution Trust Corporation. In part, Mr. Monroe says that congressional delay in providing funds costs taxpayers $4 million for every day that funding is delayed.

I suggest that Mr. Monroe does not have his facts straight. It is the administration, not Congress, that has delayed RTC funding.

On May 28, I wrote to Secretary of the Treasury Brady asking him to send an RTC bill to the Congress immediately to avoid any last minute delays.

The administration did not send a bill to Congress for 129 days, and in fact, it was only after the gentlewoman from New Jersey [Mrs. ROUKEMA] introduced her own bill, that the administration finally sent up its bill. Using the administration's own figures, the 129-day delay means that the administration's unwillingness to forward a request to Congress amounts to a $516 million cost to the American people.

The RTC may not be good at placing blame, but it does know how to spend money. Only Imelda Marcos in a shoe store can spend money faster than the RTC.

□ 1150

THE RIGHT OF EVERY AMERICAN: COMPREHENSIVE HEALTH CARE

(Ms. OAKAR asked and was given permission to address the House for 1 minute.)

Ms. OAKAR. Mr. Speaker, I hope when we return that we will address what I consider to be a crisis in our country, and that is that we have 37 million Americans who have no access to health care, and we have another 40 million who are underinsured, and 8 million who are in need of long-term care; that is, home care and nursing home care. In our country one must be dirt poor to be able to get quality nursing home care, and it demeans families who have children with chronic diseases, and it demeans elderly who have saved all their lives for their golden years and all of a sudden find themselves in a predicament to get the kind of care they need.

Mr. Speaker, I think we can do it cheaper and with higher quality than the average American has today, even if one has insurance. We spend $750 billion in this country on health care. We spend 12.5 percent of our GNP. Canada spends about 8.5 percent; France, and England, and Italy, and Australia, about 8 percent of their GNP, and yet we have all of these American people, most of whom are from working families, who have no access to health care.

Mr. Speaker, I have a bill that will do just that, H.R. 8. I think we can have a high standard of coverage with acute care, with preventative care, wellness programs for children, immunization, mammography, prostate screening for men, and all the other important early detection and preventative health care needs, and more dollars for research so that we find cures to diseases. We include long-term care with homemaker

services and home services, and it costs about five-sevenths of what the American people pay today, so we can do it better in this country.

We should have, as every American's right, access to comprehensive, high-level health care. We are the only industrialized country, besides South Africa, that does not guarantee that right.

So, my colleagues, let us commit ourselves to listening to the American people. I do not think we are listening the way we should, and I certainly do not think the President has health care on his agenda. So, let us commit ourselves to what I think is a right of every American, comprehensive health care.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3435, RESOLUTION TRUST CORPORATION REFINANCING, RESTRUCTURING, AND IMPROVEMENT ACT OF 1991

Mr. DERRICK, from the Committee on Rules, submitted a privileged report (Rept. No. 102-408) on the resolution (H. Res. 320) providing for the consideration of the bill (H.R. 3435) to provide funding for the resolution of failed savings associations and working capital for the Resolution Trust Corporation, to restructure the Oversight Board and the Resolution Trust Corporation, and for other purposes, which was referred to the House Calendar and ordered to be printed.

RESOLUTION TRUST CORPORATION REFINANCING, RESTRUCTURING, AND IMPROVEMENT ACT OF 1991

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 320 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 320

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3435) to provide funding for the resolution of failed savings associations and working capital for the Resolution Trust Corporation, to restructure the Oversight Board and the Resolution Trust Corporation, and for other purposes. All points of order against consideration of the bill are hereby waived. Immediately after dispensing with the first reading, the bill shall be considered for amendment. No amendment to the bill shall be in order except: (1) the amendment in the nature of a substitute recommended by the Committee on Banking, Finance and Urban Affairs now printed in the bill; and (2) the amendment in the nature of a substitute printed in the report of the Committee on Rules accompanying this resolution. Each amendment shall be considered as having been read and each shall be debatable for not to exceed thirty minutes, equally divided and controlled by the proponent and a Member opposed thereto. Neither amendment shall be subject to amendment, and all points of order against the amendments are hereby waived. If both amendments are adopted, only the latter amendment which is adopted shall be considered as finally adopted and reported back to the House. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House, and the previous question shall be considered as ordered on the bill and amendment thereto to final passage without intervening motion except one motion to recommit, which may contain instructions if offered by Representative Michel of Illinois or his designee, or without instructions.

The SPEAKER pro tempore. The gentleman from South Carolina [Mr. DERRICK] is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. DREIER], and pending that, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 320 is the rule providing for the consideration of H.R. 3435, the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991. The rule provides no separate time for general debate. The rule makes in order only two amendments: First, the Banking Committee amendment in the nature of a substitute now printed in the bill, and second, the Barnard substitute now printed in the report to accompany the rule. Each substitute is debatable for 30 minutes.

The substitute amendments are considered under the king-of-the hill procedure. Under this procedure, only the last amendment adopted is finally adopted and reported back to the House. The substitutes are not subject to amendment, and all points of order are waived against the amendments.

Finally, the rule provides one motion to recommit without instructions, or one motion to recommit with instructions if offered by Representative MICHEL.

Mr. Speaker, this is a vitally important bill. It provides the funding needed to continue the work of the Resolution Trust Corporation and to make some needed improvements in the structure and operations of the Corporation.

Mr. Speaker, this rule permits the House to complete its business quickly, and fairly. I urge adoption of the resolution.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. speaker, given the controversial nature of the RTC funding bill and the time constraints we face, I believe this is an appropriate rule, and I will support it. The RTC has run out of funds to continue closing down as many as 400 insolvent institutions that remain open. Delaying this legislation will only add to the costs to the U.S. taxpayer, as much as $400 million by February.

In addition, the bill does not contain many of the objectionable provisions that worked to undermine the legislation reported out by the Committee on Banking, Finance and Urban Affairs on November 20. However it does include reforms to expedite the sale of assets of failed thrifts, which is very important. It also streamlines what many people have found is inefficient management at the Resolution Trust Corporation.

□ 1200

Mr. Speaker, I am deeply disappointed, however, that the rule does not make in order an important Republican amendment containing a package of economic growth incentives. That package would effectively reduce the cost of the savings-and-loan cleanup by addressing the economic problems that have contributed to thrift failures.

At the same time, it would help struggling families by lowering taxes, creating jobs, and expanding the economy. It acknowledges that the economic downturn is led by the real estate industry, and we are willing to provide the incentives to improve real estate values and lower the cost of the RTC's funding needs.

I am very heartened to know that the President will be working with us to submit a comprehensive economic growth package following his State of the Union Address. I believe, in light of the fact we have offered several Republican amendments in the Committee on Rules and failed in our effort to get those in, that we should proceed.

We have a number of requests for time. I will end up supporting this rule, Mr. Speaker.

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

Mr. DERRICK. Mr. Speaker, I yield 2½ minutes to the gentleman from Illinois [Mr. ANNUNZIO].

Mr. ANNUNZIO. Mr. Speaker, during the debate on the RTC funding legislation, it will be alleged that congressional delay in passing the funding costs the taxpayers $4 million for every day that the legislation is not passed. There are figures that are put forth by the Resolution Trust Corporation itself.

While I do not want to dispute what delay costs the American taxpayers, I strongly challenge the assertion that the delay in getting funding for the RTC is the fault of the Congress.

The delay in gaining RTC funding is squarely on the back of the administration. It was the administration that delayed RTC funding, not Congress, and once Congress started an RTC bill moving through the Banking Committee, it was the RTC that lobbied against most of the reform provisions that were attempted to be placed in the RTC funding bill. In short, the RTC wants to

money, but it does not want to do anything to make sure that the taxpayers are protected.

On May 28, I wrote to the Secretary of the Treasury in my capacity as chairman of the Financial Institutions Subcommittee, asking him not to delay in sending an RTC funding bill to the Congress. I pointed out that we could not wait until the last minute to deal with RTC because of the many needed reforms that had to be placed in the bill.

I promised the Secretary an immediate hearing on the legislation, but I had to wait 129 days before the administration sent up its funding request. In fact, the administration only sent up its funding request after the gentlelady from New Jersey submitted her own bill on RTC funding.

Apparently embarrassed that it had dropped the ball, the administration, shortly thereafter, sent up its own bill, but once again, 129 days after I had asked the Secretary of the Treasury to send a bill up immediately.

Mr. Speaker, if there was such urgency in the RTC funding, why did the administration wait nearly a quarter of a year before sending Congress a bill? Based on the RTC's own figures, the delay costs $4 million a day. The administration's delay in sending a bill to Congress has cost the taxpayer $516 million.

So if anybody wants to talk about delay during the debate let them talk about the administration's delay. Congress moved swiftly on an RTC bill after the administration delayed 129 days in sending it to the Congress. The administration must accept the blame for the delay, and it should not try to use Members of this House to shift the blame to the Congress where it does not belong.

Mr. DREIER of California. Mr. Speaker, I yield 5 minutes to the gentleman from Florida [Mr. MCCOLLUM], a hard-working member of the Committee on Banking, Finance and Urban Affairs, and the vice-chairman of the Republican conference.

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

I rise today to urge my colleagues to defeat this rule, to vote down the previous question, so an appropriate rule can be made in order, because what happened in the Committee on Rules, and I think in the committee as a whole as well, is a real travesty for the American taxpayer.

We were not allowed to make in order amendments that would save, in my judgment and the judgment of many others, anywhere from $25 to $35 billion from the cost in the loss of the RTC in resolving thrifts in this country, and in addition to that, I believe, and in connection with that, we could have saved and may still be able to save as many as 70 or 80 institutions or more that may otherwise be closed unnecessarily simply because they are not able to meet capital standards and simply because of supervisory goodwill.

Two amendments were offered before the Committee on Rules by the Republican leadership task force. One of them was a comprehensive substitute.

I want to say up front that this has nothing to do with the growth plan that you are going to hear discussed here in a minute that the Republicans authored. This is a comprehensive substitute that in and of itself, freestanding, could have saved these billions of dollars if we had had a chance to vote on it out here today, but we have not.

This particular comprehensive substitute would have brought back a substantial portion of supervisory goodwill that is on the books at many of these institutions today, and I want to explain that more in a minute. It would have given the Office of Thrift Supervision the discretion to save many more, because it would have allowed him some time to make up for capital that they do not have right now in their standards and delinked what is going to be an increase in the capital standards very shortly to much higher standards connected with banks here next year. It would have given the Office of Thrift Supervision the discretion to halt a lot of real estate sales that otherwise would have occurred.

It would have also provided three economic growth incentives in itself, a capital gains tax reduction, partial reinstatement of passive-loss rules for real estate, and penalty for use of IRA's for the purchase of primary residences.

The thing I want to focus on most of all was an independent freestanding amendment that I offered before the Committee on Rules that was held nongermane by the Democratic leadership both in the full committee and the Democratic leadership of the Committee on Rules that would, in my judgment, in one fell swoop have saved $25 to $35 billion. That concerns what is known as supervisory goodwill. That is what a lot of savings and loans took on the books in an agreement with the Home Loan Bank Board back in the decade of the 1980's, in return to take on some failing savings and loans.

These were healthy savings and loans we are talking about who took this on with the promise that they would have 40 years to pay it off. In 1989 we decided that that was not such a good idea. It probably was not. But instead of giving them a reasonable time to pay back that goodwill and pay it off and raise capital in other ways, we said you have got to get rid of that, or it cannot count towards capital over the next 5 years. We now have gotten rid of or closed through the RTC and the Thrift Supervision Office most of the really bad savings and loans. We now have quite a number of institutions out there with about $4 billion of this supervisory goodwill that are perfectly healthy, whose core earnings are good, who are in the black, under regular management, but we are about to close them.

We have no need to do that. We have no business to do that. For about $2 billion we can buy back supervisory goodwill from about 70 of these institutions.

The studies of the folks that are doing this closing can tell us, and have told us, that these institutions have about $180 billion in total assets. We also know that the closing costs to the RTC of closing these institutions is running now about 15 to 20 percent of total assets.

So it is very easy to see if we do not have to close those institutions you can save $25 to $35 billion, and the only cost is about $2 billion.

It does not make sense. There is one savings and loan in my area of Florida recently that was closed at a cost that was estimated by the Office of Thrift Supervision to be $170 million.

The cost of buying back supervisory goodwill from the otherwise healthy institution was running in the black on its core earnings would have been only $50 million, a savings to the taxpayers.

We could have saved the taxpayers at least $120 million in that one institution alone. That is an example of the folly of not buying back some supervisory goodwill when those are healthy institutions out there was only failing is the fact that they ar not going to be able to meet the capital standards we enacted in 1989, simply because of thise so-called supervisory goodwill that we contracted with them on that they took on at the request of the Goverment in the first place, a very egregious mistake.

I submit to my colleagues that it is a travesty for the Democratic leadership in the Committee on Rules not to allow us the opportunity today to save this kind of money.

We are being asked to vote for $80 billion in recapitalization of the RTC in order to take care of it over the next few years, in order to close down all of this.

We may get some other substitutes for short-term funding. We are talking about billions and billions of dollars. We do not need to be speding that. We could be saving a good hunk of that. We do not need to be closing all of those institutions.

We are making a horrible mistake here today by not having that kind of opportunity to have those savings.

I encourage my colleagues to vote against the rule; vote down the previous question. Let use have another opportunity at that, and if none of that succeeds, for gosh sakes, vote against the folly of what is out here today, and vote against the final passage of these bills.

□ 1210

Mr. DERRICK. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. GONZALEZ], the chairman of the Committee on Banking, Finance and Urban Affairs.

Mr. GONZALEZ. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise merely to ask the nature of the rule. I have not had the chance to see the rule. My basic question is, what is the basic intent of the rule?

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

Mr. GONZALEZ. I yield to the gentleman from South Carolina.

Mr. DERRICK. Mr. Speaker, the basic text is the Banking Committee text.

Mr. GONZALEZ. As it was approved by the Committee on Banking and Urban Affairs?

Mr. DERRICK. That is right. Then Barnard is a substitute, and it is a king of the hill rule. In other words, you will vote on the original text, then vote on the Barnard substitute, and then there is a motion to recommit with or without instructions by the gentleman from Illinois [Mr. MICHEL].

Mr. Speaker, I yield 2 minutes to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Speaker, I rise in support of the rule. I want to thank the Committee on Rules for folding in an amendment that I offered which built upon an amendment that was offered in committee by the gentleman from Texas [Mr. GONAZALEZ] and the gentleman from Ohio [Mr. WYLIE]. One of the reasons why I am convinced at times the American people do not support this agency and Congress as well is because of the lack of accountability. We hear of huge legal fees, the 7,000 people employed, the lack of computerized database, et cetera, and we wonder what are they really doing.

On the other hand, they have an awesome job to do. It is not easy to provide for this cleanup of the S&L crisis.

It seems very clear to me that the operations of the RTC have not been fully supported by the Congress or the American people. I believe this is because the Congress has not had sufficient information which allows us to carefully monitor and understand the many complex activities of the RTC. Specifically, we have not had the benefit of receiving regular quarterly and semiannual reports from the RTC regarding the progress of the sales of RTC assets, the progress made in auction sales of assets, the funding activities of the RTC, the use of seller financing to encourage sales of RTC assets, or the many other activities of this corporation. These are critical elements of the RTC's operations which need to be more closely monitored.

My amendment today expands upon the good work done by Chairman GONZALEZ. In addition, as an indication of its bipartisan support, language very similar to my amendment was offered by Mr. WYLIE as part of a substitute amendment he offered during full committee consideration of the RTC bill.

The language of the amendment includes quarterly reports from the RTC to the Banking Committees of the House and Senate which describe the following:

First, the total value of sales of RTC assets during the quarter;

Second, the total book value of asset sales;

Third, estimated fair market value of assets;

Fourth, net RTC recovery on the assets sold;

Fifth, subtotals by category of assets (i.e., commercial real estate, residential real estate, performing loans, nonperforming loans, etc.);

Sixth, the progress made on auction sales of assets;

Seventh, the amount and effectiveness of RTC's seller financing program;

Eighth, Federal financing bank loans status and activities;

Ninth, activities of the RTC Board; and

Tenth, activities and plans of the RTC to eventually phase out its operations.

I firmly believe we need to receive more information which gives the Congress and the public a better understanding of the complex operations of the RTC. This is the only way we can monitor the activities and the progress of the RTC in its mission to dispose of hundreds of billions of dollars of assets or the implications of the many other activities of the RTC. This is commonsense legislation which will result in a better run RTC.

So I was very, very pleased that the Committee on Rules allowed an amendment that would allow for RTC to regularly report quarterly and semi-annually to the progress of the sales of RTC assets to Congress, the progress made in auction sales of their assets, the funding activities of RTC, the use of seller financing to encourage the sales of RTC assets by a Federal agency.

Although some will point out by delay it is a $4 million a day additional cost to the taxpayers, perhaps that is not as great a concern as the fact that at this moment there are some 88 institutions which are now under RTC control representing 4½ million depositors around this Nation who are waiting on funding of the RTC to get their money back as a result of our inability to fund RTC activities.

The average size of those deposits is about $9,700. They are not large depositors, but there are 4.5 million of them around the country.

Much will be said about the failure of the RTC to act responsibly. Of 670 seized institutions, 582 have been sold or closed. Of $358 billion worth of assets under their control, over 60 percent, $210 billion, have now been disposed of.

But the more important issue as to how we got into this mess in the first place, of 871 criminals charged, 661 convictions have been rendered.

During the first 6 months of 1991, for the first time since 1986, the thrift industry has shown a profit. Now is not the time to turn our back on the industry.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the distinguished gentleman from Georgia [Mr. BARNARD].

Mr. BARNARD. Mr. Speaker, this amendment is an attempt by myself, Mr. WYLIE, Mr. VENTO, Mr. MCCANDLESS, Mr. KLECZKA, and Mr. BAKER to provide an alternative for Members to consider on the floor. Given the very short time available to us to get a bill through the House and Senate, we have tried to develop an alternative whose major provisions are as close to the Senate language as possible with the exception of the RTC funding. The Senate bill provides $80 billion while our alternative provides such sums as are necessary until April 15, with a cap of $25 billion.

The RTC is a difficult vote for Members and this is our best judgment as to what Members of both parties can support on the floor. As you know, it is vital that we provide some funding for continued RTC operations, as costs rapidly escalate when insufficient funds are available to resolve institutions in receivership.

The amendment that we have crafted is designed to provide enough loss funding and working capital to carry the RTC through until at least the end of March. Hopefully we can reach a consensus on a longer term bill that will pass the floor by that time. As I just mentioned, we did not provide an absolute funding figure in the amendment, but instead provided a cutoff date of April 1 with a cap of $25 billion.

There are 88 thrifts in the resolution process and the RTC should resolve as many of these as possible to staunch the hemorrhaging and lower the cost to the taxpayer. Rather than try and guess precisely how much funding the RTC would need April 1, we decided to provide "such sums as necessary." This is not a blank check for the RTC by any means since the language we chose does not permit the RTC to obligate itself past April 1, effectively making it a drop dead date. Additionally, there are substantial operational constraints that prevent the RTC from excessive spending. They can handle only a certain number of institutions at any given time. A rough estimate of how much they would spend would be in the area of $20 billion.

In addition to the funding provisions, the amendment adopts the RTC restructuring provisions agreed to in the Senate which provide for a single board and which are a substantial improvement.

It retains the housing provisions of H.R. 3435 as adopted in the full committee. It retains the minority provisions adopted in the subcommittee print of H.R. 3435.

An alternative in this form would represent a good faith effort to acknowledge Congress's concern for the taxpayer and minorities as well as the need for affordable housing while getting on with the task at hand.

Thank you for considering my views and I hope that you will make this alternative in order.

Mr. DREIER of California. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. WALKER], our chief deputy whip.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, as we approach this rule, this will be our last chance to try to get an economic growth package in this particular session of Congress.

Let me talk about the parliamentary situation. By defeating the previous question to this rule, it would permit an amendment to be offered. That amendment would say within the rule that we would bring an economic growth package to the floor. That would give us a chance to debate that economic growth package.

Should we defeat the previous question, we would be recognized to offer such an amendment. We would be prepared to do that, and then we are also prepared to offer an economic growth package.

There has been some talk that no such package really exists. Here it is. It is 67 pages. It does in fact represent a significant attempt to get economic growth going in the country.

This is a bill where it makes sense to do it. The RTC would not need additional taxpayer funding in a growing economy. If you had a growing economy, the likelihood is that the recapitalization of real estate alone would ensure the solvency of RTC and we would not have to be here for large amounts of money.

This 67-page package that I talk about would save the taxpayers further bailout money and would put them back to work in those situations where they are unemployed. It would keep their jobs intact where they are working, but fearful of the future.

□ 1220

After all, that is what America really wants. It wants jobs and it wants confidence in our economic future.

We can start down the road toward that kind of situation today and we can do so by passing this package.

We are likely to hear in the course of the debate about this package that somehow it does not represent a middle-class package. I know that there is a table being circulated that was brought up on the floor yesterday indicating that a substantial portion of this does not go to the middle-class. The fact is that they are only telling us part of the story.

First of all, only 2 of the 12 provisions in this package were analyzed in that study. Meaning that five-sixths of the package was not analyzed, much of which goes to the middle-class.

Let me give one example, eliminating the earnings test on social security was not analyzed. Yet that helps middle-income senior citizens to a great extent. It brings them down from a 70-percent tax bracket that many of them are in. And yet that is not analyzed as part of the Democrats' package.

It is also interesting to note that even the analysis that they had done indicates that people making between $20,000 and $30,000 a year, almost 55 percent of them are going to get capital gains tax breaks in this particular package; people making between $30,000 and $40,000 a year, 72 percent of them. That is middle-class America. And what it means is that we are not getting a real story about the nature of this package as it affects middle-income America.

I would ask that we defeat the previous question. Help us bring about an economic growth package by bringing it to the floor today, and I hope that we can effect passage of that package and get the economy growing again.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield two minutes and 30 seconds to the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. Mr. Speaker, we have just heard another description of an economic growth package. It is the 11th hour, the 12th hour now of the legislative session. We see the construction of it in the 12th hour, of a 27- or 47-page bill that has been written in recent evenings and without hearings.

We are told that we ought to pass this bill in order to jump-start the American economy. Some of the bill has been analyzed. We understand that the engine of this bill is a classic approach to provide capital gains tax reductions.

The question is, who will receive those tax reductions? The answer is very simple. The folks that have capital gains. Who has capital gains? A lot of people have some. So a lot of people get a very small benefit. But a few people have a lot, and those few will get an enormous benefit. The fact is, no matter how you describe it, this is not new. This is not improved. This is classic tax policy proposed by our friends on the other side.

About 70 percent of the benefit will go to those folks whose incomes are above $100,000 a year.

The fact is, anyone who seriously looks at this as a package is going to score it to say that this loses revenue. I know the Treasury Department has conveniently told them it does not, but the CBO and joint tax and others say this is a loser. So the proposition we have before us is to say, let us increase the federal deficit in the 12th hour of the legislative session so they can offer the wealthiest of the country a tax break.

Is that the way to jump-start the American economy? It is not the way to put this American economy back on track to solve the real problems, and are not the real problems that we have too much debt? It is not a case that the rich are not rich enough. We do not have to offer them more largesse with deep tax cuts.

What we have to do, it seems to me, is propose an economic package that does the basics, restores the old virtues. Pay your bills. The best thing we could do for the American economy is decide as Democrats and Republicans that we are going to start paying our bills and reduce the deficit.

When we reduce the deficit, this ship of state will be back sailing on the seas to the road to economic health again. That is the way to improve the economy of this country.

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

Mr. DORGAN of North Dakota. I yield to the gentleman from Illinois.

Mr. RUSSO. Mr. speaker, for those of us who have looked at the package, is it not a fact that 57 percent of the tax breaks go to people over $200,000?

Mr. DORGAN of North Dakota. Mr. Speaker, yes. And 70 percent goes to those over $100,000.

Mr. RUSSO. Mr. Speaker, if the gentleman will continue to yield, and for those people over $200,000, they will get $11,000 tax cut, and people under $50,000 will get a whopping $85.

Mr. DORGAN of North Dakota. Mr. Speaker, that is correct.

Yesterday, when I learned of this package, I called it the dollar and a quarter tax cut. A dollar and a quarter a week to the middle-income families so they save up for 5 or 6 weeks, maybe they chip together and send one person to a movie with this tax cut to middle-income families. Of course, they do not have enough left over for popcorn, just one movie ticket, 5 weeks of middle-class tax relief. The folks on the other end, $11,000 a year tax cut to those whose incomes are over $200,000 a year.

Listen, that is tired economic policy that has failed. That is not going to jump-start this economy. Let us come up with some new ideas that help middle-income families, give them something to work with.

They will be the engine for this American economy, to get this country moving again.

Mr. DREIER of California. Mr. Speaker, I yield 4 minutes to the gentleman from Minnesota [Mr. WEBER], the distinguished secretary of the Republican conference and a member of the Committee on Appropriations.

Mr. WEBER. Mr. Speaker, I rise in opposition to the rule. As has been stated quite well by the preceding speakers, the issue hanging over this Congress is indeed the economy. And this is the best of a bunch of poor vehicles available to us, admittedly at the 11th hour, to do something about it.

I oppose the rule because it does not afford us the opportunity to do something about the economy. Mr. Speaker, the economy needs help now. I am not going to talk about the details of the proposal. Other speakers are going to talk about that.

I would like to focus for a minute on something that I think Members on both sides of the aisle could agree on if we could get out of this supercharged last minute environment. Our economy is hurting a great deal. Yesterday we found that consumer confidence had dropped below the levels of the 1982 recession. I talk to people and they say they are puzzled by this. How can it be? After all, unemployment is not at levels that it was at at that time. We actually saw some small upturn in the economy in the last quarter.

Why is it that consumer confidence is going through the floor? There are a number of other indicators we have to look at to understand the depth of the economic problem we face right now.

The value of residential fixed assets has fallen 10 percent in this country in the last 18 months, Mr. Speaker. Why is that important? For the average middle-class American, the kind of people that my friend from North Dakota was just talking about, that is their only asset. Their only asset is their home and the possessions that are inside that home.

When they see the value of that asset falling, that sets off all sorts of red lights and warning signals in their minds about their own financial security.

I believe that that contributes materially to the drop in consumer confidence, even among people who are not unemployed and who do not have any great fear of being unemployed.

Housing starts are at the level of the 1920's. New business formation has fallen 5 years in a row, and that is where the engine of growth normally comes from in this economy.

We found out yesterday that the auto industry for all practical purposes has entered the double dip of this recession that many of us have been concerned would happen.

Mr. Speaker, all I am suggesting is, despite the fact that it is the 11th hour, we should act now. We should try to do something about the economy now.

The fact that it is the 11th hour, by the way, sort of does not state the fact that we have been here all 11 hours. It is not as if this issue crept up on us in the Congress.

We could go back over all the speeches in this well, and 1-minute speeches and special orders for the last year about the lack of action on a domestic agenda, lack of action on the economy. We knew there was a problem. We have been talking about a problem.

If we are now here incapable of acting at the 11th hour, we have no one to blame but ourselves.

Mr. Speaker, I further oppose this rule because of the issue itself, the narrow issue of the RTC. Look at the numbers. Eighty billion dollars so far has been spent on the RTC.

□ 1230

Eight hundred thirty billion dollars so far, $830 billion more officially projected, of which we are going to authorize up to $25 billion, but the unofficial estimates range from $200 to $500 billion. What is that $300 billion swing all about? It is our inability to accurately predict the value of the properties held by the RTC. We are potentially playing with up to $300 billion more of our taxpayers' money.

We have to spend some of that. I understand that. I voted for the S&L bill. I feel it is a responsible thing to do. But today the responsible thing to do is to take those minimal steps necessary to assure that at least through tax policy we have enhanced the value of those properties to the maximum degree possible to minimize the cost to the taxpayers.

Mr. Speaker, I do not know if I am going to vote against this bill in the event that we fail to amend it. I do not want to vote for it, but I want to do the responsible thing. But I will tell the Members, beyond today I can guarantee them if we do not do some things like capital gains tax reduction and restoration of passive loss deductibility, which will enhance the value of those and all the other real estate properties in the country, this is one Member that feels that he has lived up to his obligation to help the savings and loan problem. I for one will not be voting for one more nickel down the RTC rathole as long as this Congress refuses to take those steps necessary to minimize the cost of that bailout.

Vote against the previous question. Vote against the rule.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentlewoman from Ohio [Ms. KAPTUR].

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

I rise in support of this rule but will vote against the final bill, whether it has an open-ended appropriation in it or whether or not it specifies such sums as are necessary, or whether it says $80 billion or $60 billion more. I want to explain the reasons for that.

First of all, I think it is absolutely wrong that, as last year, we bring up such an important measure in the closing minutes of this session. I think it is absolutely wrong, and I do not thank the leadership on either side of the aisle for doing that to us and to the American people.

All of us here understand our responsibility to protect the depositors of this country. We understand that and we do not like being told that we do not understand that as part of this measure. But what is wrong about this bill is that it again asks the average taxpayers of our country to bear the costs of the S&L bailout. They have already paid up to $110 billion and the GAO estimates that overall they will end up paying over $371 billion. We have to ask the important question: If the taxpayers are going to be asked to pay the costs, what are the benefits that can go to the average taxpayer.

I have four proposals. All we are being asked to vote on here is the Bush bond bailout scheme. Basically the committees here gave to us the Bush proposal to vote on, which I do not support at all.

Alternative financing proposals have been offered. One involves the measure by the gentleman from Louisiana, BILLY TAUZIN, that would give tax exemptions to average depositors who put money into federally insured institutions, and it says to them if they put in up to $500 they do not have to pay Federal taxes on that. Revenue costs of that are about $1.2 billion, but it would help to promote savings inflows in institutions.

Mr. Speaker, I will give the other three proposals during a succeeding time.

All of those who serve here understand our obligation to protect the deposits of the American consumer in our Nation's saving and loans and banking institutions, but the question of a Member like myself is: At whose expense? Who should be paying to protect those deposits?

Mr. Speaker, essentially what has been happening is the administration's bill asks the taxpayers, the people listening, again to shoulder a S&L bailout. The U.S. taxpayer has already buoyed up failing S&L's to the tune of $110 billion. Our tax dollars are going to pay for the damage just in that industry, and economists estimate that taxpayers will be asked to add as much as $115 billion, not million, billion dollars more to that total, and then the General Accounting Office tells us that the overall cost of the bailout may rise just for the savings and loans as high as $371 billion before it is all over.

The pit truly seems bottomless. The focus should be on how to pay for the damage in this S&L debacle and do so on behalf of the American taxpayer.

The Bush bill is appallingly deficient on balancing taxpayer costs, the taxes the taxpayer is being asked to pay, with the benefits that go directly to the taxpayer. In essence what has been happening here in Washington is that the Bush administration and the bank-

ing industry, in alliance with powerful States that have the most to gain from this administration's proposal, have succeeded, succeeded in diverting public attention away from the cost of the taxpayer bailout and who is paying for it.

Meanwhile, the hidden interest payments on the Bush bond scheme to pay for the S&L mess and flow out of the Treasury to the tune of billions each year, and the American taxpayer has nearly forgotten that this in fact is going on.

Alternative financing proposals have been quashed in various congressional committees. The tax committees in both Chambers, the Committee on Ways and Means in this Chamber, essential to finding a fair solution to paying for this, have remained resoundingly silent.

Members of Congress like myself want a Democratic alternative bill that is fair to the average American taxpayer. They must benefit directly from the costs they are being asked to bear. There are plenty of ideas that hold promise. It is amazing to me that the financial press, the committees of jurisdiction, and brilliant economists have chosen to be so vastly uncreative in fashioning a fair answer for the American public who are paying the bill.

I want to just discuss four approaches that can be taken to resolve this serious financial crisis in the S&L industry. One part of the answer involves focusing on restoring healthy banks by encouraging more deposit inflows into those institutions. In this way, Federal policy could change from what it is today, merely propping up sick institutions and going bankrupt while you are doing it, to, rather, building healthy institutions.

For example, a proposal has been introduced in this House by my colleague, Congressman BILLY TAUZIN, called the Save America Act of 1989. This legislation exempts from taxable income interest up to a certain level earned in passbook savings accounts in federally insured institutions, so if you are a depositor out there and you put your money in a bank or a savings and loan or a credit union, up to a certain level the interest you earn would be tax free.

That tax incentive would create huge increased deposit flows to banks as well as savings and loans and other financial institutions like credit unions, and those very institutions would be able to improve their capitalization, they would be able to pay their assessments in taxes, they would be able to make safer investments, and most of all they would be able to cut their umbilical cord to the U.S. Treasury. Taxpayers would directly benefit from such an approach, and the costs that the taxpayers are currently paying would actually accrue back to them in the form of reduced tax payments to the Government of the United States.

Now, the institutions that would be benefiting from the deposit inflows would be asked to pay more in taxes, but that is only fair. And in this case the permission to remain in business and to receive increased deposit flows would be taxed by the Government and those taxes would go to pay for the bailout that is needed in the industry.

You do not hear much talk around here about how to make institutions more healthy. The talk always here is about how to prop up sick institutions.

A second set of choices involves how to democratize, and I like to use that word, the bond offerings that are currently in place to try to pay the cost of the bailout. Now, most of the American public does not realize that the way that this is being paid for currently is that every month the U.S. Treasury markets securities, and that the bailout bonds that are being used to pay for the insured accounts, depositors' accounts in institutions, are actually being floated by our Treasury Department.

In fact, these bonds are really not being sold to the average American taxpayers. What happens is that the majority of them are sold through 20 Wall Street bond houses which get really nice fees from the taxpayers for acting as intermediaries, and then those bond houses offer them to those who are in the buying public of bond buyers. Only about 10 percent of the people in our country currently purchase bonds. This certainly is not a very democratic system.

My idea would be to ask the Treasury Department to change the way that it markets and sells bonds, to make them broadly available to the American public. But I will tell you this, the Treasury Department will hate this idea. So will the Federal Reserve, because they have gotten real comfortable in dealing with those 20 bond houses, and you have seen recently how some of them have gotten in real trouble as a result of their finagling up on Wall Street and taking advantage of their special relationship.

But in view of the hemorrhage we are dealing with in this industry, U.S. taxpayers must be convinced that their sacrifices have a return, and if they are going to be asked to pay any of the bill on these banking messes, then by golly, the Treasury Department of this country which is asking them to pay for it should give them a benefit in the form of a bond that they can buy and earn the interest on. Business as usual at Treasury securities offerings can no longer prevail.

The average citizen of our country does not even know where to go to buy a Treasury security. In fact, only 25 percent, just one quarter of U.S. households, even own savings bonds, and the U.S. Treasury continues to sell bonds through its cozy relationship with about a dozen and a half bond houses up in New York. It is really time to democratize the sale of U.S. Treasury securities through banks, through savings and loan, through credit unions. My gosh, we could even do it through post offices.

Let average Jane and Joe Citizen earn the 8 to 9 percent interest the big bond buyers enjoy. You know, America used to do that, until our financial industry became so concentrated. We have all seen what happened with Salomon Bros. recently when they took advantage of their special relationship with Treasury and all their big CEO's and presidents had to resign up there in New York.

Would it not be wonderful if bonds in denominations of as low as $25 could be made available to the ordinary consumer? You would think that is what the U.S. Treasury Department, which collects taxes from every one of those consumers, you would think that would be the business they were in.

Not so. The U.S. Treasury, which loves to collect taxes from U.S. citizens, should be directed in a bill that comes out of this House, a Democratic bill, to design a bond offering to benefit the taxpayers footing this bill.

A third set of choices in how to dig ourselves out from under the S&L mess involves targeted taxes and plugging tax loopholes to raise the needed revenue. Over a 5-year period it would be reasonable to impose temporary surtaxes across the financial service industry which benefited from the S&L scam and bank transactions.

It is really amazing that no such idea has been offered yet. But if you watch the corridors of power in Washington, you can understand why. Instead, hardworking taxpayers struggling to get by in this recession. American people who are unemployed in my district and cannot even get the benefits of more than 6 weeks of unemployment compensation, are being asked to shoulder the load of this banking mess.

Two Members of the House Committee on Ways and Means, the gentleman from North Dakota [Mr. DORGAN], and the gentleman from New Jersey [Mr. GUARINI], have introduced a bill to plug tax loopholes for savings and loan owners that would recoup up to $5 billion by avoiding something called double-dipping in tax submissions by those institutions.

These funds could also then be applied to the amounts needed to salvage current problems within the banking industry. The gentleman from Massachusetts [Mr. DONNELLY], has introduced legislation to recapture overgenerous tax breaks which the S&L's received in 1988. I have been pushing legislation with the gentleman from Michigan [Mr. WOLPE], that passed in the Committee on Banking, Finance and Urban Affairs, but some-

how never made it onto this floor, what would make States pay for the proportion of the cleanup which their own failed thrifts caused by requiring those States that incurred excessive costs to pay an extra Federal deposit insurance premium if the thrifts want to remain federally insured.

The gentleman from Pennsylvania [Mr. KANJORSKI] has introduced legislation to permit private civil suits to be filed to recover funds from those who have plundered our Nation's savings and loans. The gentleman from Massachusetts [Mr. KENNEDY] proposes to levy a tax on those who enjoyed the benefits of our financial system through the Fedwire and Clearing House Interbanks Payments system to raise billions annually.

Mr. Speaker, I bring up these examples in the tax system merely to point out that money could be raised in alternative ways to pay for the savings and loan and banking crisis. Those bills have not been permitted here on the floor.

A fourth set of solutions involves getting rid of weaknesses in the current financial system that caused the problems in the first place, most especially overly generous deposit insurance in multiple accounts. Let us put together a bill that helps our real constituents—average Americans, sick of paying for the high times and the cunning of the few during the 1980's.

Mr. DREIER of California. Mr. Speaker, I would like to respond to the statement made by my good friend, the gentlewoman from Ohio [Ms. KAPTUR], and state that the figures we have been hearing of $60, $70, and $80 billion are not in fact, on track. We got an amendment from the Committee on Rules which has this structured as "such sums as may be necessary, not to exceed $25 billion."

Mr. Speaker, I yield 3 minutes to my friend, the gentleman from Pennsylvania [Mr. SANTORUM].

Mr. SANTORUM. Mr. Speaker, 26 hours ago I came here at the beginning of the mother of all sessions, and before I get into my remarks I want to commend the chairman and the ranking members and all of those who worked very hard and diligently through the night on all of these conference reports to get them to the floor and to have them voted on, and I want to offer my congratulations on doing so. It was very important work.

I also want to comment on the civility of the debate throughout the evening. I am on a half hour's sleep tonight and a lot of Members likewise, and I think we have all handled ourselves very responsibly and respectably. As a freshman Member I want to comment on that, and encourage the action to continue. I will try to depart from that decorum.

But 26 hours ago I came here and asked in a 1-minute speech that we consider an economic growth package. This is our opportunity. This is the vote on the rule to allow us to have an opportunity to offer our economic growth package today here on the floor before we leave.

Many speakers have already gotten up on our side and talked about what is in the package, and those on the other side have responded. If I can make a couple of comments, the gentleman from North Dakota [Mr. DORGAN], just made the statement that we got the Treasury Department to score this and they will do whatever we want them to do. I would remind the gentleman from North Dakota that in the budget agreement of last year the Treasury Department is responsible for scoring. We accepted that. They scored at $400 million plus. We accept that.

The gentleman from North Dakota [Mr. DORGAN], also said that the real need is for budget reduction. In the next couple of months the Republicans are going to be, or at least some members of the Republican Party, are going to be offering an alternative package that makes a budget reduction, and I extend my hand to the gentleman from North Dakota and Members on the other side of the aisle to come back here next year and to try to do spending cuts and deficit reductions, because I agree with the gentleman that we do need to do something.

I want to compliment the chairman of the Committee on the Budget for the work he has been doing on trying to find areas where we can cut spending to reduce the deficit.

The other thing I would like to comment on is the chart that the gentleman from Illinois brought to the floor, and has been referred to about the redistribution effects of this proposal. This chart is irrelevant. I would say to the gentleman from Illinois that we are proposing an economic growth package to create jobs, not an economic redistribution to create votes. This is not a relevant chart. What is relevant is to show how many jobs are created.

I would agree with the gentleman from $100 to someone making $200,000 a year may not be a substantial amount of money, but a $25,000 job to someone who is unemployed is a very substantial amount of money, is important to those people, and that is what this package is about. He is arguing apples and oranges.

What we are talking about is jobs. What we are talking about is growth. We are not talking about the Government redistributing the income of this country. That is the relevant issue, not this.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from Minnesota [Mr. VENTO].

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

I rise to support the rule and the previous question. I would say that someone commented that the reason the S&L's are problems is because of our tax policy. Indeed that is the case. In 1981 we passed a tax policy that did not make business sense; it made tax sense one could receive a tax break, a big tax benefit by investing in buildings and overbuilding and doing a variety of things, and clearly the S&L's financed that, the banks financed that. Now we are sitting with 25 percent excess commercial property in most parts of the nation and such property is not occupied.

In 1986 we passed the tax bill to correct the 1981 tax law. We corrected it, all right, and the fact of the matter is overnight some of those investments that made tax sense and did not make business sense and went immediately into the red, and some of those S&L's lost money, and many investors across this country lost money.

Today we are being asked in the last minute here, without even the type of analysis that went into those other tax bills, which I think I have indicated that serious problems developed with such policy and some expect us to act on a package that was introduced just last night. Ideas, some of these have been around for a long time, that people are receptive to, many are new and unknown, I would just point out the folly of pursuing this type of policy. These issues, even when we think we know what we are doing, do not always come out with the right consequences. The examples of 1981 and 1986 stand as a caution. Hopefully we will heed it. Vote yes on the previous question and the rule before the house today.

Mr. DREIER of California. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Speaker, let me apologize to everyone who wants to catch a plane and get out of here. But do not blame those of us concerned about RTC. We are not the ones who scheduled it at 12:40 on Wednesday afternoon.

Let us understand why we are asking Members to vote no on a previous question in simple economics. We just by voice vote authorized the borrowing of $70 billion for FDIC. We now are going to commit $25 billion of taxpayer money to the RTC. That is $100 billion that this Congress is going to commit in less that 1 hour.

The reason we are concerned about what is happening is it is like providing blood transfusions to a bleeding patient without ever sewing up the wound. You cannot do enough if you do not solve the problem and only treat the symptoms.

□ 1240

The fact is the RTC and the FDIC have been told, liquidate your acquired

properties as fast as possible. The net effect of that in a recession is to destroy literally the value of all other real estate around it.

What we are trying to do is get the opportunity to bring forth the economic growth package to restore some value in real estate so we do not have to come back next spring and add even more taxpayer dollars to the RTC.

First it was $50 billion, then it was $30 billion, up to $80 billion. Now we are going to provide $25 billion more to the RTC. That is $105 billion of taxpayers money to treat the symptom, not once trying to get at the disease.

Mr. Speaker, we have a chance to solve the problem if we vote no on the previous question. We beg you to do that, not in the interest of getting out of here, but in the interest of the taxpayers of this country and the economy that we are here to serve.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Speaker, as we approach the Thanksgiving season, I am sure that President Bush has visions of Camp David in his head. Instead, the President was badgered to think of Camp Gingrich, and to try to embrace this last-minute scheme by our Republican colleges to try to jump-start the economy.

The centerpiece of the Republican's so-called growth plan is a reduction of the capital gains tax rate, in effect a tax cut for the wealthy.

Let us be honest. Is this the right medicine at this time for our economy?

Take a look at the holiday season we now face, a season critical for our Nation's economy, particularly for our retailers. At this moment American consumers, American families are deep in personal debt. They fear layoffs and dismissals. There is real uncertainty about our Nation's economy and its future.

Can we overcome this recession mentality, this consumer reluctance, by giving an $11,000 tax break to people who make over $200,000 a year?

The Republicans would calm the fears of working families by giving massive tax breaks to millionaires.

In my mind, this is not the way to come out of this recession. A real growth plan does not put Donald Trump on Santa's knee with a longer wish list. A real growth plan goes back to the traditional Democratic approach which we favor and support in several pieces of legislation.

Give the tax break to working families. Have the wealthier Americans pay more. Give the spending power back to the working families who had to sacrifice through 10 years of Reagan-Bush supply side economics. That in my mind is more sensible. It is fair and it will work.

The so-called Republican growth plan is still unfair. It gives the tax breaks to the people who do not need them and sacrifices the kind of economic growth we need for America's working families.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, the Republicans have a tax package and they think it is good. A first look says to us that it is a giveaway to those over $200,000 a year. Now, maybe it is better than that. Maybe it is only a giveaway to those with $175,000 a year and above.

The point is let us not rush. Let the Ways and Means Committee look at it, the Republicans and the Democrats.

I want to remind this body that the last time a Republican Member of the Senate had a good idea, which he got from the President, dealing with credit card caps, and maybe it is a great idea, it was acted on rashly. The market dropped 125 points. I used to be a stockbroker. I know how volatile that can be.

Let us not make political points here. Let the Ways and Means Committee do its job. Let us look at a true economic growth and investment and incentive package in a bipartisan way and get this country moving again.

Mr. DREIER of California. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Oklahoma [Mr. EDWARDS], the chairman of the Republican Policy Committee.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I oppose the ordering of the previous question because we have here a rule that excludes not only the economic growth package that some of us feel very strongly this Congress ought to deal with quickly, but because it excludes consideration of the McCollum amendment, an amendment that in my opinion is necessary to send a message that is the responsibility of the regulators not to rush into situations that close down thrifts, but to find ways to keep them open.

I have a situation in my part of the country where we are not only having property dumped on the market and destroying real estate values, but that we are finding thrift institutions could be forced out of business.

It seems to me that the people who are running the RTC need to get a clear signal from the Congress that that is not the way we want business done and we cannot do it with this kind of a rule.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Speaker, I rise in support of the rule and obviously in support of ordering the previous question.

I think all of us share a common concern and a deep concern about the state of the economy. We are, as has been pointed out by both sides, looking at the weakest economy in the postwar era, whether you are looking at growth, productivity, unemployment growth and the deficit.

The most important thing is that we are dealing with a very fragile and sensitive economy and something that we ought not to just take for granted.

It is a sensitive and fragile economy and not one that we ought to simply take for granted or try to play political games with at this point in time.

The worst thing we can do right now, the very worst thing we can do in the Congress, is to raise expectations of the public that somehow there is a quick fix or a magic solution to the problems that confront the economy. It is going to take a lot of hard work on both sides to develop the kind of comprehensive program that does not just try to provide some tax incentives, but also looks at meaningful investments within our economy that will provide the kind of long-term growth that all of us are interested in.

The worst thing we can do right now is to take up a tax proposal that has had absolutely no hearings in the Ways and Means Committee, that has had no one focusing on the consequences of this proposal. It is a 60-page proposal that was developed, obviously, within the last 24 hours in terms of legislative language. That is not a way to do business when you are facing a fragile economy.

Last, the worst thing we can do is repeat the mistakes of the past. I get very suspicious when the promise is made that somehow we can cut taxes for everyone, particularly the wealthy, and that it will not involve any increase in the deficit.

I heard that same promise in 1981 and we have reaped the whirlwind.

This is not the way to do business. We can do better. The American people expect us to do better. The President of the United States can do better.

Mr. DREIER of California. Mr. Speaker, I yield 1 minute to the distinguished gentleman from San Diego, California [Mr. HUNTER], the chairman of the Republican Research Committee.

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

Mr. Speaker, this is not a last minute Johnny-come-lately proposal.

I looked over the statistics the other night. President Bush in the last 24 months has brought up his economic growth plan in 95 speeches. He has given 27 press conferences in which he brought up his economic growth plan. We have worked long and hard to put this together.

Now, 8.6 million Americans are unemployed as we leave for the holiday. I

think we have to conclude that an economic growth and jobs plan is the unfinished business of 1991 for this Congress.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I thank the gentleman for yielding me this time.

First, Mr. Speaker, let us be clear what we are doing. The RTC which was created in 1989 after the problems that the savings and loan industry had during the 1980's, what the committee and the Congress did was to give President Bush and his Treasury Department exactly the structure it wanted to have. That was the way that you wanted it structured and that is the way we have it.

Since then, there has been a drain on the Treasury that has come from having to pay off depositors; so the question is whether or not you want to pay off the depositors or not.

□ 1250

Now, one argument we had today was we should not vote for this now because it does not include supervisory goodwill.

Members should understand what supervisory goodwill is. It is from the "proof, you are a malted" school of creating capital. The man goes into the candy store and says, "Make me a malted." The man says, "Poof, you are a malted."

Supervisory goodwill is when somebody says, "I need some capital for my S&L," and you say in Congress, "Poof, you have some capital." There is no money there. Supervisory goodwill is not good currency; the ruble has a higher understanding. It is simply an artificial construct.

To defeat this bill as we have been asked to do because it does not restore supervisory goodwill is to express a very strong nostalgia for never-never land.

Then we have the tax package. And I agree with my friend who says, well, from the standpoint of the tax package, this is not the 11th hour; it is the 27th hour. We have passed the international dateline already.

This is a tax package which as far as distribution is skewed to the rich and the gentleman from Pennsylvania quite honestly said the chart was irrelevant. Irrelevant is something you say in a political debate, something which is embarrassing and true. You cannot refute it, you say it is irrelevant. So they have now stipulated to the truth of the distributional facts that Members on our side have talked about.

Then what they do, they brought the tax package up without any real support in their own administration, too late to do any good. I think the most carefully planned thing about this tax package is if we have been in such a terrible economic situation, where was it in May, June, July, when people say we needed unemployment compensation?

It is a tax package carefully crafted to be brought out too late to possibly be voted on.

Mr. DREIER of California. Mr. Speaker, I yield such time as he may consume to the chairman of the Republican Study Committee, the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Speaker, I thank the gentleman for yielding time to me, and I support defeat of the previous question.

Mr. DERRICK. Mr. Speaker, I reserve the right to close.

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

Mr. DERRICK. Mr. Speaker, let me yield myself such time as I may consume in order to make a brief remark before we move to close.

You know, in 1980 we were the largest creditor nation in the world; today we are the largest debtor nation in the world.

In 1980 we had an annual deficit around $60 billion. Now it is up between $300 and $400 billion.

In 1980 we had a debt, a total indebtedness of this Government of about $1 trillion; today it is about $3 to $4 trillion.

We did all of that in 10 years. We did that under two Republican administrations. And I do not give them all the blame for it. The Congress had to vote on it as well.

But I think we need to look at why that happened.

I think one of the reasons that that happened and one of the primary reasons is that someone always had a quick fix, starting out with Gramm/Latta in 1981, and moving on down through the 1980's.

The position that this country finds itself in today, and our country is hurting economically speaking, is that we are having to pay for the mistakes that we made during the 1980's.

I think it is really precipitous, and I cannot believe that anyone on the other side of the aisle is serious about taking up a growth package here at this late date when you have part of the economists who say it will cost the taxpayer $23 to $28 billion; you have other economists say that it is not going to cost anything.

You have some economists that say 70 percent of it will go to the very wealthy; others who disagree.

Mr. Speaker, these are things we need to have some reasonable certainty about before we move ahead with a package this far-reaching and this important. I do not say the package is all bad. Some of the parts of the package I have supported myself. But I think it would be very precipitous, very ill-advised and I think the people would look unkindly if we were to do that.

Mr. Speaker, having said that, I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DREIER of California. Mr. Speaker, I object to the vote on the ground 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 248, nays 144, not voting 42, as follows:

[Roll No. 444]

YEAS—248

Abercrombie	Espy	Levine (CA)
Ackerman	Evans	Lewis (GA)
Alexander	Fascell	Lipinski
Anderson	Fazio	Lloyd
Andrews (ME)	Feighan	Long
Andrews (NJ)	Flake	Lowey (NY)
Andrews (TX)	Foglietta	Luken
Annunzio	Ford (MI)	Manton
Anthony	Ford (TN)	Markey
Applegate	Frank (MA)	Martinez
Aspin	Frost	Mavroules
Atkins	Gaydos	McCloskey
Bacchus	Gejdenson	McCurdy
Barnard	Gephardt	McDermott
Beilenson	Geren	McHugh
Bennett	Gibbons	McMillen (MD)
Berman	Glickman	McNulty
Bilbray	Gonzalez	Mfume
Blackwell	Gordon	Miller (CA)
Bonior	Guarini	Mineta
Borski	Hall (OH)	Mink
Boucher	Hall (TX)	Moakley
Boxer	Hamilton	Mollohan
Brewster	Harris	Moody
Brooks	Hatcher	Moran
Browder	Hayes (IL)	Morella
Bruce	Hayes (LA)	Mrazek
Bustamante	Hefner	Murphy
Byron	Hertel	Murtha
Campbell (CO)	Hoagland	Nagle
Cardin	Hochbrueckner	Natcher
Carper	Horn	Neal (MA)
Carr	Houghton	Neal (NC)
Chapman	Hoyer	Nowak
Clay	Hubbard	Oakar
Clement	Huckaby	Oberstar
Coleman (TX)	Hughes	Obey
Conyers	Hutto	Olin
Cooper	Jefferson	Olver
Costello	Jenkins	Orton
Cox (IL)	Johnson (SD)	Owens (NY)
Coyne	Johnston	Owens (UT)
Cramer	Jones (GA)	Pallone
Darden	Jones (NC)	Panetta
DeFazio	Jontz	Parker
DeLauro	Kanjorski	Pastor
Dellums	Kaptur	Patterson
Derrick	Kennedy	Payne (NJ)
Dicks	Kennelly	Payne (VA)
Dixon	Kildee	Pease
Dooley	Kleczka	Penny
Dorgan (ND)	Kolter	Perkins
Downey	Kopetski	Peterson (FL)
Durbin	Kostmayer	Pickle
Early	LaFalce	Poshard
Eckart	Lantos	Price
Edwards (CA)	LaRocco	Rahall
Edwards (TX)	Laughlin	Rangel
Engel	Lehman (CA)	Ray
English	Lehman (FL)	Reed
Erdreich	Levin (MI)	Richardson

Roe	Skelton	Torricelli
Roemer	Slattery	Towns
Rose	Slaughter	Traficant
Rostenkowski	Smith (FL)	Traxler
Roukema	Solarz	Unsoeld
Rowland	Spratt	Valentine
Roybal	Staggers	Vento
Russo	Stallings	Visclosky
Sabo	Stark	Volkmer
Sanders	Stenholm	Walsh
Sangmeister	Stokes	Washington
Sarpalius	Studds	Waters
Savage	Swett	Wheat
Sawyer	Swift	Whitten
Scheuer	Synar	Williams
Schroeder	Tallon	Wilson
Schumer	Tanner	Wise
Serrano	Tauzin	Wolpe
Sharp	Taylor (MS)	Wyden
Sikorski	Thomas (GA)	Yates
Sisisky	Thornton	Yatron
Skaggs	Torres	

NAYS—144

Allard	Green	Oxley
Allen	Gunderson	Packard
Archer	Hammerschmidt	Paxon
Armey	Hancock	Petri
Barrett	Hastert	Porter
Barton	Henry	Pursell
Bateman	Herger	Ramstad
Bentley	Hobson	Ravenel
Bereuter	Holloway	Regula
Billirakis	Hopkins	Ridge
Bliley	Horton	Riggs
Boehlert	Hunter	Rinaldo
Boehner	Hyde	Roberts
Broomfield	Ireland	Rogers
Bunning	Jacobs	Rohrabacher
Burton	James	Ros-Lehtinen
Camp	Johnson (CT)	Roth
Chandler	Johnson (TX)	Santorum
Clinger	Kasich	Saxton
Coleman (MO)	Klug	Schaefer
Combest	Kolbe	Schiff
Coughlin	Kyl	Sensenbrenner
Cox (CA)	Lagomarsino	Shays
Crane	Leach	Skeen
Cunningham	Lewis (CA)	Smith (NJ)
Dannemeyer	Lewis (FL)	Smith (OR)
DeLay	Lightfoot	Smith (TX)
Doolittle	Livingston	Snowe
Dornan (CA)	Lowery (CA)	Solomon
Dreier	Machtley	Spence
Duncan	Martin	Stearns
Edwards (OK)	McCandless	Stump
Emerson	McCollum	Sundquist
Ewing	McCrery	Taylor (NC)
Fawell	McDade	Thomas (CA)
Fields	McEwen	Thomas (WY)
Franks (CT)	McGrath	Upton
Gallegly	McMillan (NC)	Vander Jagt
Gallo	Meyers	Vucanovich
Gekas	Michel	Walker
Gilchrest	Miller (OH)	Weber
Gillmor	Miller (WA)	Weldon
Gilman	Molinari	Wolf
Gingrich	Moorhead	Wylie
Goodling	Morrison	Young (AK)
Goss	Myers	Young (FL)
Gradison	Nichols	Zeliff
Grandy	Nussle	Zimmer

NOT VOTING—42

AuCoin	Dickinson	Montgomery
Baker	Dingell	Ortiz
Ballenger	Donnelly	Pelosi
Bevill	Dwyer	Peterson (MN)
Brown	Dymally	Pickett
Bryant	Fish	Quillen
Callahan	Hansen	Rhodes
Campbell (CA)	Hefley	Ritter
Coble	Inhofe	Schulze
Collins (IL)	Lancaster	Shaw
Collins (MI)	Lent	Shuster
Condit	Marlenee	Smith (IA)
Davis	Matsui	Waxman
de la Garza	Mazzoli	Weiss

□ 1313

Ms. MOLINARI and Mr. RAVENEL, changed their vote from "yea" to "nay."

Mr. CARDIN, Mrs. KENNELLY, and Mr. SANDERS changed their vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The resolution was agreed to. A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to House Resolution 320 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3435.

□ 1314

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3435) to provide funding for the resolution of failed savings associations and working capital for the Resolution Trust Corporation, to restructure the Oversight Board and the Resolution Trust Corporation, and for other purposes, with Mr. DURBIN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time and shall be considered as read for amendment. No amendment to the bill is in order except the amendment in the nature of a substitute recommended by the Committee on Banking, Finance and Urban Affairs now printed in the reported bill and the amendment in the nature of a substitute printed in the House Report 102–48.

Each amendment is considered as read, and will be debated for 30 minutes equally divided and controlled by the proponent of the amendment and a Member opposed thereto. Neither amendment is subject to amendment. If both amendments are adopted, only the latter amendment adopted will be considered as finally adopted and reported back to the House.

The Clerk will designate the committee amendment in the nature of a substitute.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 3435

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

TITLE I—RESOLUTION TRUST CORPORATION REFINANCING

Sec. 101. Thrift resolution funding provisions.
Sec. 102. RTC working capital borrowing limit.
Sec. 103. Appointment by Director of the Office of Thrift Supervision.
Sec. 104. Extension of Resolution Trust Corporation duty.
Sec. 105. Suspension of RTC funding upon the failure to provide an audited financial statement.

TITLE II—RESTRUCTURING AND IMPROVEMENT OF THE RESOLUTION TRUST CORPORATION

Subtitle A—RTC and Oversight Board Restructuring

Sec. 201. Accountability of Oversight Board.
Sec. 202. Restructuring of Oversight Board.
Sec. 203. Oversight Board duties and authorities.
Sec. 204. Limitation of Oversight Board authority.
Sec. 205. Duties of the Resolution Trust Corporation.
Sec. 206. Management of the Resolution Trust Corporation.
Sec. 207. Restructuring of the Resolution Trust Corporation Board of Directors.
Sec. 208. Staff of the Resolution Trust Corporation; chief executive officer.
Sec. 209. Rights of employees upon sunset of RTC.
Sec. 210. Additional whistleblower protections.

Subtitle B—RTC Improvements

Sec. 211. Annual independent audit.
Sec. 212. Uninsured depositors not covered.
Sec. 213. Minimization of costs for services; distribution of contracts.
Sec. 214. Management and disposition of property by local office which is closest to the property.
Sec. 215. Restrictions on nonsalary compensation and benefits for employees.
Sec. 216. GAO study of privatization of RTC functions.
Sec. 217. Prohibition on use of brokered deposits by conservators of insured depository institutions.
Sec. 218. Pay comparability.
Sec. 219. Disclosure of certain RTC and Oversight Board salaries.
Sec. 220. Report required with respect to 1988 deals.
Sec. 221. Misuse of RTC name and logo.
Sec. 222. Procedural provisions.
Sec. 223. Cross-guarantee provisions.
Sec. 224. Qualified financial contracts.
Sec. 225. Attorney-client privilege.
Sec. 226. Statute of limitations for receivership claims.
Sec. 227. Prohibition on RTC contracts with debarred or suspended contractors.
Sec. 228. Utilization of HUD multifamily insurance.
Sec. 229. Expansion of securitization program.
Sec. 230. Examination of asset management contracting process.
Sec. 231. Preservation of the value of partially completed real estate projects.
Sec. 232. Study methods to resolve disputes with borrowers.
Sec. 233. Study of liquidating trusts to sell real property assets.
Sec. 234. Restrictions on removal of employees performing liquidation functions.
Sec. 235. Asset management contracts.
Sec. 236. Criminal history records maintained by the Federal Bureau of Investigation.
Sec. 237. Substitution of RTC obligations for collateral on Federal home loan bank advances.
Sec. 238. Seller financing.
Sec. 239. Standard sales procedures.
Sec. 240. Regulatory requirements regarding
Sec. 241. Improvements to the list of legal counsel whose services are authorized to be retained.

Sec. 242. Technical and conforming amendments.
TITLE III—MINORITIES, WOMEN, AND SMALL BUSINESS PROVISIONS
Sec. 301. Increased participation of minorities and women in contracting process.
Sec. 302. Operation of branch facilities by minorities and women.
Sec. 303. Acquisition of failing majority associations by minority institutions.
Sec. 304. Statutory establishment of program.
Sec. 305. Goal for participation of small business concerns.
TITLE IV—REAL ESTATE PROVISIONS
Sec. 401. Real estate auction policy.
Sec. 402. Outreach program for State and local governments.
Sec. 403. Separate inventory of property with special significance.
Sec. 404. Disposition of property of special significance.
Sec. 405. Delegations of authority for the disposition of assets.
Sec. 406. Seller financing.
Sec. 407. FDIC property disposition standards.
Sec. 408. Risk-weighting for single family housing loans.
Sec. 409. Risk-weighting for multifamily housing loans.
Sec. 410. Real estate appraisals.
Sec. 411. Foreclosure powers.
Sec. 412. Utilization of brokers.
Sec. 413. Expedited title clearance procedures.
Sec. 414. Corporate powers relating to financing.
Sec. 415. Maintenance of properties in inventory.
Sec. 416. Reduction of multiple entities representing the RTC in cases of single assets.
TITLE V—RESOLUTION TRUST CORPORATION AFFORDABLE HOUSING PROGRAM
Sec. 501. Inclusion of eligible residential property under conservatorship.
Sec. 502. Time limitations on sale of eligible single family property.
Sec. 503. Active marketing of eligible single family property to lower-income veterans.
Sec. 504. Prevention of speculation on eligible single family property.
Sec. 505. Avoidance of displacement under single family property disposition program.
Sec. 506. Periods for expression of serious interest and restricted bids for eligible multifamily housing property.
Sec. 507. Lower-income occupancy requirements for eligible multifamily housing property.
Sec. 508. Extension of restricted offer period for eligible multifamily housing property.
Sec. 509. Sale price.
Sec. 510. Authority for RTC to participate in multifamily financing pools.
Sec. 511. Credit enhancement for certain tax-exempt bonds.
Sec. 512. Permanent effectiveness of exemption for transactions with insured depository institutions.
Sec. 513. Transfer of certain eligible residential properties to State housing agencies for disposition.
Sec. 514. Suspension of offer periods for sales of eligible residential property to nonprofit organizations and public agencies.
Sec. 515. Sale of eligible condominium property.
Sec. 516. Reports to Congress regarding affordable housing program.
Sec. 517. Definitions.
Sec. 518. Applicability.

TITLE I—RESOLUTION TRUST CORPORATION REFINANCING

SEC. 101. THRIFT RESOLUTION FUNDING PROVISIONS.

Section 21A(i) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(i)) is amended by adding at the end the following new paragraphs:

"(3) ADDITIONAL INTERIM FUNDING.—In addition to amounts appropriated under paragraph (2), there is authorized to be appropriated to the Corporation for fiscal years beginning after fiscal year 1991 not more than $20,000,000,000 to carry out the purposes of this section.

"(4) CONDITIONAL AUTHORITY.—No amount is authorized to be appropriated to the Corporation under any provision of law other than paragraph (3) unless—

"(A) the President submits to the Congress a plan which has the agreement of the Speaker of the House of Representatives, the majority leader and the minority leader of the House, the President pro tempore of the Senate, and the majority leader and the minority leader of the Senate to finance the losses incurred by the Corporation after the date of the enactment of this paragraph;

"(B) the plan submitted—

"(i) provides for the payment of such losses over a period of not more than 5 years beginning on the date the plan is implemented;

"(ii) allows no increase in the public indebtedness of the United States after the end of such period with respect to such payments;

"(iii) ensures that the financing of the payment of those losses is carried out in a manner such that any liability of persons to make any payment, the proceeds of which will be used to finance the payment of those losses, is distributed among the persons in accordance with the ability of each person to pay;

"(iv) provides that no amount authorized to be appropriated shall be funded by increased tax revenues or revenue enhancements in any manner; and

"(C) the plan is submitted to the Congress not less than 30 days after the date on which the Comptroller General of the United States reports to the Congress that the Corporation is, or within 60 days will be, unable to meet losses.".

SEC. 102. RTC WORKING CAPITAL BORROWING LIMIT.

Section 21A(j)(1) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(j)(1)) is amended to read as follows:

"(1) IN GENERAL.—The total amount of outstanding obligations of the Corporation may not exceed the lesser of—

"(A) $160,000,000,000; or

"(B) the amount that is equal to the sum of—

"(i) the amount of cash held by the Corporation; and

"(ii) 85 percent of the Corporation's estimate of the fair market value of other assets held by the Corporation.".

SEC. 103. APPOINTMENT BY DIRECTOR OF THE OFFICE OF THRIFT SUPERVISION.

Section 11(c)(6)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)(6)(B)) is amended to read as follows:

"(B) RECEIVER.—Whenever the Director of the Office of Thrift Supervision appoints a receiver under the provisions of section 5(d)(2)(C) of the Home Owners' Loan Act for the purpose of liquidation or winding up any State savings association's affairs—

"(i) before October 1, 1993, the Resolution Trust Corporation shall be appointed;

"(ii) after September 30, 1993, the Resolution Trust Corporation shall be appointed if the Resolution Trust Corporation had been placed in control of such savings association at any time on or before such date; and

"(iii) after September 30, 1993, the Corporation shall be appointed unless the Resolution Trust Corporation is required to be appointed under clause (ii).".

SEC. 104. EXTENSION OF RESOLUTION TRUST CORPORATION DUTY.

(a) IN GENERAL.—Section 21A(b)(3)(A) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(3)(A)) is amended to read as follows:

"(A) To manage and resolve all cases involving depository institutions—

"(i) the accounts of which were insured by the Federal Savings and Loan Insurance Corporation before the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 or which are Savings Association Insurance Fund members (as defined in section 7(l)(5) of the Federal Deposit Insurance Act); and

"(ii) for which a conservator or receiver is appointed after December 31, 1988, and before October 1, 1993 (including any institution described in paragraph (6) or section 11(c)(6)(B)(ii) of the Federal Deposit Insurance Act).".

(b) CONTINUATION OF RTC RECEIVERSHIP OR CONSERVATORSHIP.—Section 21A(b)(6) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(6)) is amended to read as follows:

"(6) CONTINUATION OF RTC RECEIVERSHIP OR CONSERVATORSHIP.—If the Corporation is appointed as conservator or receiver for any insured depository institution described in paragraph (3)(A) before October 1, 1993, and a conservator or receiver is appointed for such institution on or after such date for purposes of a resolution, the Corporation shall be appointed as conservator or receiver for such institution on or after October 1, 1993.".

SEC. 105. SUSPENSION OF RTC FUNDING UPON THE FAILURE TO PROVIDE AN AUDITED FINANCIAL STATEMENT.

(a) FINANCIAL STATEMENT FOR FY 91.—If no financial statement of the Resolution Trust Corporation for fiscal year 1991 which has been independently audited by a certified public accountant has been submitted to the Congress by the end of fiscal year 1992, no amount provided to the Resolution Trust Corporation under section 21A(i) of the Federal Home Loan Bank Act (as amended by section 101 of this title) shall be available for obligation until such audited financial statement has been submitted to the Congress.

(b) INDEPENDENT AUDIT PROVISION.—An audit of a financial statement of the Resolution Trust Corporation which has been conducted by the Comptroller General of the United States, using the services of certified public accountants, shall be treated as an independent audit for purposes of subsection (a).

TITLE II—RESTRUCTURING AND IMPROVEMENT OF THE RESOLUTION TRUST CORPORATION

Subtitle A—RTC and Oversight Board Restructuring

SEC. 201. ACCOUNTABILITY OF OVERSIGHT BOARD.

Section 21A(a)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(2)) is amended—

(1) by striking "and be accountable for"; and

(2) by inserting "and shall be accountable for the duties assigned to the Oversight Board by this Act" after "(hereinafter referred to in this section as the 'Corporation')".

SEC. 202. RESTRUCTURING OF OVERSIGHT BOARD.

Section 21A(a)(3) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(3)) is amended—

(1) in subparagraph (A)—

(A) by striking "5 members" and inserting "7 members";

(B) by striking "and" at the end of clause (iii);

(C) by redesignating clause (iv) as clause (vi); and

(D) by inserting after clause (iii) the following new clauses:

"(iv) the chief executive officer of the Corporation;

"(v) the Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation;"; and

(2) in subparagraph (E) by striking "3 members" and inserting "4 members".

SEC. 203. OVERSIGHT BOARD DUTIES AND AUTHORITIES.

Section 21A(a)(6) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(6)) is amended—

(1) by amending subparagraph (A) to read as follows:

"(A) To review overall strategies, policies, and goals established by the Corporation for the Corporation's activities to determine the impact on the overall financial goals, plans, and budgets of the Corporation, including such overall strategies, policies, and goals as—

"(i) overall strategies, policies, and goals for case resolutions, the management and disposition of assets, the use of private contractors, and the use of notes, guarantees or other obligations by the Corporation;

"(ii) overall financial goals, plans, and budgets; and

"(iii) restructuring agreements described in subsection (b)(11)(B).";

(2) in subparagraph (B), by inserting "financial plans, budgets, and" after "implementation";

(3) by striking subparagraphs (C), (D), and (I); and

(4) by redesignating subparagraphs (E), (F), (G), (H), and (J) as subparagraphs (C), (D), (E), (F), and (G), respectively.

SEC. 204. LIMITATION OF OVERSIGHT BOARD AUTHORITY.

Section 21A(a)(8)(A) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(8)(A)) is amended—

(1) by striking "(i) involving" and inserting instead "involving (i)"; and

(2) by striking "provide general policies and procedures" and inserting instead "review overall strategies, policies, and goals established by the Corporation".

SEC. 205. DUTIES OF THE RESOLUTION TRUST CORPORATION.

(a) DEVELOPMENT OF OVERALL STRATEGIES AND GOALS.—Section 21A(b)(3) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(3)) is amended—

(1) by redesignating subparagraph (D) as subparagraph (E); and

(2) by inserting after subparagraph (C) the following new subparagraphs:

"(D) To develop and establish overall strategies, policies, and goals for the Corporation, subject to review by the Oversight Board pursuant to subsection (a)(6)(A) of this section.".

(b) PROFIT PARTICIPATION PLAN.—Section 21A(b) of the Federal Home Loan Bank Act is amended by adding at the end the following new paragraph:

"(15) PROFIT PARTICIPATION PLAN.—

"(A) DEVELOPMENT OF PLAN REQUIRED.—Before the end of the 180-day period beginning on the date of the enactment of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991, the Corporation shall—

"(i) develop a profit participation plan under which the Corporation, subject to review by the Oversight Board, shall propose a method for increasing Federal profit participation in the subsequent resale, refinancing, or other disposition of commercial real estate sold by the Corporation; and

"(ii) submit a report on such plan to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

"(B) FEDERAL PROFIT PARTICIPATION REQUIREMENTS.—The plan required under subparagraph (A)(i) shall propose methods to include Federal profit participation requirements upon—

"(i) the subsequent resale, refinancing or other disposition of not less than 25 percent of the dollar volume of commercial real estate initially sold by the Corporation after the end of the 1-year period beginning on the date of the enactment of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991; and

"(ii) the subsequent resale, refinancing or other disposition of not less than 50 percent of the dollar volume of the commercial real estate initially sold by the Corporation after the end of the 18-month period beginning on such date of enactment.

"(C) FACTORS TO BE CONSIDERED.—In developing the profit participation plan required to be submitted under subparagraph (A), the Corporation shall take into consideration the following factors:

"(i) Profit participation models and formulas used by other Federal agencies.

"(ii) Profit participation models and formulas used in the private sector.

"(iii) Whether profit participation should be required in all commercial real estate sales or only in sales over a de minimis value.

"(iv) The length of time and number of subsequent sales that profit participation requirements should apply to, and whether or not the proportion of profit participation should decline over time.

"(v) Whether profit participation should vary depending on the amount of capital invested by the purchaser and the amount of financing, if any, provided by the Corporation.

"(vi) What a reasonable rate of return is for a purchaser.

"(vii) What a reasonable profit participation rate is for the Corporation.

"(viii) Whether purchasers should be offered one or several profit participation proposals which vary depending on purchase price, capital investment, length of time held, and level of government financing.

"(ix) Such other factors as the Corporation, subject to review by the Oversight Board, determines to be appropriate.".

(c) CREDIT ENHANCEMENT TO PROVIDE HOUSING OPPORTUNITIES FOR LOW-INCOME PERSONS.—Section 21A(b)(10)(K) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(10)(K)) is amended to read as follows:

"(K) To make loans and, with respect to eligible residential properties, develop risk sharing structures and other credit enhancements to assist in the provision of property ownership, rental, and cooperative housing opportunities for lower- and moderate-income families.".

SEC. 206. MANAGEMENT OF THE RESOLUTION TRUST CORPORATION.

Section 21A(b)(1)(C) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(1)(C)) is amended to read as follows:

"(C) MANAGEMENT BY BOARD OF DIRECTORS.—The Corporation shall be managed by a Board of Directors.".

SEC. 207. RESTRUCTURING OF THE RESOLUTION TRUST CORPORATION BOARD OF DIRECTORS.

(a) IN GENERAL.—Section 21A(b)(8)(A) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(8)(A)) is amended to read as follows:

"(A) IN GENERAL.—Except as provided in subsection (m), the Board of Directors of the Corporation shall consist of—

"(i) the members of the Board of Directors of the Federal Deposit Insurance Corporation; and

"(ii) the chief executive officer of the Corporation.".

(b) CHAIRPERSON.—Section 21A(b)(8)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(8)(B)) is amended to read as follows:

"(B) CHAIRPERSON.—The chief executive officer of the Corporation shall serve as the Chairperson of the Board of Directors of the Corporation.".

SEC. 208. STAFF OF THE RESOLUTION TRUST CORPORATION; CHIEF EXECUTIVE OFFICER.

(a) IN GENERAL.—Section 21A(b)(9) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(9)) is amended—

(1) in subparagraph (A), by striking "Unless the Oversight Board exercises its authority under subsection (m), the" and inserting "The";

(2) by striking clause (i) of subparagraph (B) and inserting the following new clause:

"(i) FDIC.—Subject to subparagraph (D), the Corporation shall use employees of the Federal Deposit Insurance Corporation and shall select such employees in accordance with the personnel policies and procedures of the Federal Deposit Insurance Corporation."; and

(3) by adding at the end the following new subparagraphs:

"(C) CHIEF EXECUTIVE OFFICER.—

"(i) APPOINTMENT.—The Corporation shall have a chief executive officer appointed by the President, by and with the advice and consent of the Senate.

"(ii) COMPENSATION.—The chief executive officer of the Corporation and members of the staff of the chief executive officer shall receive such compensation and benefits as the Corporation's Board of Directors may determine.

"(iii) POWERS AND DUTIES DEFINED BY BOARD OF DIRECTORS.—The Board of Directors shall provide the chief executive officer with such duties and powers as shall be adequate for the chief executive officer's efficient management and administration of the Corporation's day-to-day affairs.

"(iv) SPECIFIC DUTIES AND POWERS.—In addition to the duties and powers provided by the Board of Directors under clause (iii), the chief executive officer shall have the following duties and powers, subject to the direction of the Board of Directors and the exercise by the Oversight Board of any duty or power under subsection (a) with respect to the Corporation:

"(I) To specify the duties and powers of other officers of the Corporation and the duties and powers of other persons, including employees of the Federal Deposit Insurance Corporation, acting on behalf of the Corporation.

"(II) To make and modify staffing plans and organizational and management structures of the Corporation to satisfy the goals of this Act and other applicable laws.

"(III) To direct all aspects of the Corporation's operations in a manner consistent with general practices of the private sector, this section, and other applicable law.

"(IV) To modify and implement existing standards, policies, principles, procedures, guidelines, and statements in order to optimize the Corporation's performance, including the Corporation's performance in the disposition of assets.

"(V) To develop, adopt, and implement new standards, policies, principles, procedures, guidelines, and statements in order to optimize the Corporation's performance, including the Corporation's performance in the disposition of assets.

"(VI) Subject to subparagraph (B)(iii), section 1206 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, section 218 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991, and the pay practices of the Federal Deposit Insurance Corporation, to set and adjust the compensation and benefits of persons (other

than the chief executive officer or the staff of such officer) acting on behalf of the Corporation in accordance with laws and regulations applicable to the personnel practices of the Federal Deposit Insurance Corporation.

"(VII) To select employees of the Federal Deposit Insurance Corporation who are to be assigned by such corporation to the Corporation, to request the Federal Deposit Insurance Corporation to employ any such person and assign such employee to the Corporation, and, upon the employee's completion of the work assignment for which the assignment to the Corporation was made (and in the absence of any comparable work assignment in the Corporation) or upon mutual agreement of the chief executive officer of the Corporation and the Chairperson of the Federal Deposit Insurance Corporation, to reassign such employee to the Federal Deposit Insurance Corporation.

"(VIII) To appoint persons to staff positions within the office of the chief executive officer.

"(D) DUTIES AND POWERS OF THE FDIC.—

"(i) LIMITATION RELATING TO DUTY TO ASSIGN EMPLOYEES.—Subparagraph (B)(i) shall not be construed as requiring the Federal Deposit Insurance Corporation to assign to the Corporation any employee of the Federal Deposit Insurance Corporation who—

"(I) was employed by the Federal Deposit Insurance Corporation on the date of the enactment of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991; and

"(II) had not, before such date of enactment, been assigned to the Corporation by the Federal Deposit Insurance Corporation.

"(ii) DUTY TO HIRE AND ASSIGN NEW EMPLOYEES.—

"(I) IN GENERAL.—In addition to persons otherwise employed by the Federal Deposit Insurance Corporation, the Federal Deposit Insurance Corporation shall employ, and shall assign to the Corporation, such individuals as the Corporation may determine to be necessary in order for the Corporation to carry out this section.

"(II) TEMPORARY AND CONTRACT WORKERS.—To the maximum extent possible, the Federal Deposit Insurance Corporation shall employ individuals on a temporary basis or for an agreed upon period of time for purposes of assigning employees to the Corporation.

"(iii) DIRECTION OF ASSIGNED EMPLOYEES.—Any employee of the Federal Deposit Insurance Corporation who is on assignment to the Corporation shall be subject to the direction of the Corporation and may be reassigned to the Federal Deposit Insurance Corporation in accordance with subparagraph (C)(iv)(VII) or section 208(b)(2) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991, as appropriate.

"(iv) REIMBURSEMENT FOR ASSIGNED EMPLOYEES.—The Corporation shall reimburse the Federal Deposit Insurance Corporation for the actual costs incurred by the Federal Deposit Insurance Corporation in connection with employees assigned to the Corporation.

"(v) REDUCTIONS IN FORCE.—In any reduction-in-force or reorganization within the Federal Deposit Insurance Corporation after the date of the enactment of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991, any permanent employee who is or had been on assignment to the Corporation shall compete with the same rights as any other permanent employee of the Federal Deposit Insurance Corporation.

"(vi) ADMINISTRATIVE SERVICES.—The Corporation—

"(I) may use any administrative service of the Federal Deposit Insurance Corporation; and

"(II) shall reimburse the Federal Deposit Insurance Corporation for the actual costs of providing any such service.

"(vii) MINIMUM EMPLOYMENT STANDARDS.—The Federal Deposit Insurance Corporation shall prescribe regulations establishing procedures for ensuring that employees of the Federal Deposit Insurance Corporation who are on assignment to the Corporation meet minimum standards of competence, experience, integrity, and fitness.

"(viii) INFORMATION REQUIRED TO BE SUBMITTED.—Any employment application submitted by an individual to the Federal Deposit Insurance Corporation with respect to employment on behalf of the Corporation shall include a list and description of any instance during the 5 years preceding the submission of the application in which the individual or company under such individual's control defaulted on a material obligation to an insured depository institution.

"(ix) PROHIBITION REQUIRED IN CERTAIN CASES.—The standards established under clause (vii) shall require the Federal Deposit Insurance Corporation to prohibit any person who has—

"(I) been convicted of a felony,

"(II) been removed from, or prohibited from participating in the affairs of, any insured depository institution pursuant to any final enforcement action by any appropriate Federal banking agency,

"(III) demonstrated a pattern or practice of defalcation regarding obligations to insure depository institutions, or

"(IV) caused a substantial loss to Federal deposit insurance funds,

from employment on behalf of the Corporation.".

(b) TRANSITION PROVISIONS.—

(1) CONTINUATION OF FDIC BOARD OF DIRECTORS AS RTC BOARD OF DIRECTORS.—Notwithstanding the amendments made by subsection (a) and section 207, the Board of Directors of the Federal Deposit Insurance Corporation shall continue to serve as the Board of Directors of the Corporation, and the Federal Deposit Insurance Corporation shall continue to manage the Corporation, in accordance with paragraphs (1)(C) and (8) of section 21A(b) of the Federal Home Loan Bank Act (as in effect on the day before the date of the enactment of this Act) until the Board of Directors of the Corporation established pursuant to such Act (as amended by this title) first meets with a quorum present.

(2) EMPLOYEES ON ASSIGNMENT TO THE RTC.—

(A) CONTINUATION OF EMPLOYMENT.—Any permanent employee of the Federal Deposit Insurance Corporation who was on assignment to the Corporation immediately before the date of the enactment of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 shall continue to be assigned to the Corporation after such date of enactment until such time as the employee's assignment to the Corporation terminates.

(B) RETURN TO FDIC.—Upon the termination of the assignment, to the Resolution Trust Corporation, of any employee referred to in subparagraph (A), the employee shall be reassigned to a position with the Federal Deposit Insurance Corporation with the same status, tenure, pay, and grade as that held by such employee immediately before the reassignment.

SEC. 209. RIGHTS OF EMPLOYEES UPON SUNSET OF RTC.

(a) IN GENERAL.—Section 404(9) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 is amended—

(1) by striking "section 21A(m)" and inserting instead "section 21A(o)";

(2) by striking "of such Corporation shall be transferred to" and inserting instead "of the Federal Deposit Insurance Corporation assigned to the Resolution Trust Corporation shall be reassigned to a position within";

(3) by striking "of this subsection" and inserting instead "of this section"; and

(4) by striking "paragraphs (2) and (4) through (7)" and inserting "paragraphs (2) through (4)".

(b) GRADE RETENTION.—Section 404(2) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 is amended—

(1) by inserting "grade" after "status, tenure,"; and

(2) by inserting "or, if the employee is a temporary employee, separated in accordance with the terms of the appointment" after "cause".

(c) RULE OF CONSTRUCTION.—The amendments made by subsection (a) shall not be construed as providing any advantage to employees of the Federal Deposit Insurance Corporation who are on assignment to the Resolution Trust Corporation at the time of the termination of the Resolution Trust Corporation over other employees of the Federal Deposit Insurance Corporation in any subsequent reorganization or reduction in force.

(d) TREATMENT OF REORGANIZATIONS PURSUANT TO TERMINATION OF RTC.—Section 404(4) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 is amended to read as follows:

"(4) If the Federal Deposit Insurance Corporation determines that a reorganization of the work force of such corporation is required upon the reassignment of employees of the Corporation pursuant to section 21A(o) of the Federal Home Loan Bank Act, the reorganization shall be deemed to be a 'major reorganization' for purposes of affording affected employees retirement under section 8336(d)(2) or 8414(b)(1)(B) of title 5, United States Code.".

SEC. 210. ADDITIONAL WHISTLEBLOWER PROTECTIONS.

(a) ADDITIONAL COVERAGE ESTABLISHED UNDER FEDERAL DEPOSIT INSURANCE ACT.—

(1) IN GENERAL.—Section 33(a) of the Federal Deposit Insurance Act (12 U.S.C. 1831j(a)) is amended to read as follows:

"(a) IN GENERAL.—

"(1) EMPLOYEES OF DEPOSITORY INSTITUTIONS.—No insured depository institution may discharge or otherwise discriminate against any employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to any Federal banking agency or to the Attorney General regarding any possible violation of any law or regulation by the depository institution or any director, officer, or employee of the institution.

"(2) EMPLOYEES OF BANKING AGENCIES.—No Federal banking agency, Federal home loan bank, or Federal Reserve bank may discharge or otherwise discriminate against any employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to any such agency or bank or to the Attorney General regarding any possible violation of any law or regulation by—

"(A) any depository institution or any such bank or agency;

"(B) any director, officer, or employee of any depository institution or any such bank; or

"(C) any officer or employee of the agency which employs such employee.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 33(c) of the Federal Deposit Insurance Act (12 U.S.C. 1831j(c)) is amended by inserting ", Federal home loan bank, Federal Reserve bank, or Federal banking agency" after "depository institution".

(3) DEFINITION.—Section 33 of the Federal Deposit Insurance Act (12 U.S.C. 1831j) is amended by adding at the end the following new subsection:

"(e) FEDERAL BANKING AGENCY DEFINED.—For purposes of subsections (a) and (c), the term

'Federal banking agency' means the Corporation, the Board of Governors of the Federal Reserve System, the Federal Housing Finance Board, the Comptroller of the Currency, and the Director of the Office of Thrift Supervision.".

(4) EFFECTIVE DATE.—Paragraph (2) of section 33(a) of the Federal Deposit Insurance Act (as added under the amendment made by paragraph (1)) shall be treated as having taken effect on January 1, 1987, and for purposes of any cause of action arising under such paragraph (as so effective) before the date of the enactment of this Act, the 2-year period referred to in section 33(b) of such Act shall be deemed to begin on such date of enactment.

(b) ADDITIONAL COVERAGE ESTABLISHED UNDER FEDERAL CREDIT UNION ACT.—

(1) IN GENERAL.—Section 213(a) of the Federal Credit Union Act (12 U.S.C. 1790b(a)) is amended to read as follows:

"(a) IN GENERAL.—

"(1) EMPLOYEES OF CREDIT UNIONS.—No insured credit union may discharge or otherwise discriminate against any employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to the Board or the Attorney General regarding any possible violation of any law or regulation by the credit union or any director, officer, or employee of the credit union.

"(2) EMPLOYEES OF THE ADMINISTRATION.—The Administration may not discharge or otherwise discriminate against any employee (including any employee of the National Credit Union Central Liquidity Facility) with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to the Administration or the Attorney General regarding any possible violation of any law or regulation by—

"(A) any credit union the Administration;

"(B) any director, officer, or employee of any depository institution or any such bank; or

"(C) any officer or employee of the Administration.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 213(c) of the Federal Credit Union Act (12 U.S.C. 1790b(c)) is amended by inserting "or the Administration" after "credit union".

(3) EFFECTIVE DATE.—Paragraph (2) of section 213(a) of the Federal Credit Union Act (as added under the amendment made by paragraph (1)) shall be treated as having taken effect on January 1, 1987, and for purposes of any cause of action arising under such paragraph (as so effective) before the date of the enactment of this Act, the 2-year period referred to in section 213(b) of such Act shall be deemed to begin on such date of enactment.

(c) COVERAGE FOR EMPLOYEES OF RTC, OVERSIGHT BOARD, AND RTC CONTRACTORS.—

(1) COVERAGE ESTABLISHED.—Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended by adding at the end the following new subsection:

"(q) RTC, OVERSIGHT BOARD, AND RTC CONTRACTOR EMPLOYEE PROTECTION REMEDY.—

"(1) PROHIBITION AGAINST DISCRIMINATION.—The Corporation, the Oversight Board, and any person who is performing, directly or indirectly, any function or service on behalf of the Corporation or the Oversight Board may not discharge or otherwise discriminate against any employee (including any employee of the Federal Deposit Insurance Corporation on assignment to the Corporation under this section or any personnel referred to in subparagraphs (C) and (F) of subsection (a)(5)) with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to the Corporation, the Oversight Board, the Attorney General, or any appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act) regarding any possible violation of any law or regulation by the Corporation, the Oversight Board, or such person or any director, officer, or employee of the Corporation, the Oversight Board, or the person.

"(2) ENFORCEMENT.—Any employee or former employee who believes that such employee has been discharged or discriminated against in violation of paragraph (1) may file a civil action in the appropriate United States district court before the end of the 2-year period beginning on the date of such discharge or discrimination.

"(3) REMEDIES.—If the district court determines that a violation has occurred, the court may order the Corporation or the person which committed the violation to—

"(A) reinstate the employee to the employee's former position;

"(B) pay compensatory damages; or

"(C) take other appropriate actions to remedy any past discrimination.

"(4) LIMITATION.—The protections of this section shall not apply to any employee who—

"(A) deliberately causes or participates in the alleged violation of law or regulation; or

"(B) knowingly or recklessly provides substantially false information to the Corporation, the Attorney General, or any appropriate Federal banking agency.".

(2) EFFECTIVE DATE.—Subsection (q) of section 21A of the Federal Home Loan Bank Act (as added under the amendment made by paragraph (1)) shall be treated as having taken effect on August 9, 1989, and for purposes of any cause of action arising under such subsection (as so effective) before the date of the enactment of this Act, the 2-year period referred to in section 21A(q)(2) of such Act shall be deemed to begin on such date of enactment.

Subtitle B—RTC Improvements

SEC. 211. ANNUAL INDEPENDENT AUDIT.

(a) IN GENERAL.—Section 21A(k)(1) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(k)(1)) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) ANNUAL INDEPENDENT AUDIT.—The Oversight Board shall contract with an independent certified public accountant to perform an annual audit of the Corporation's financial statement in accordance with generally accepted government auditing standards.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Subparagraph (C) of section 21A(k)(1) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(k)(1)) (as so redesignated by subsection (a) of this section) is amended by inserting "and the independent certified public accountant for purposes of the audits pursuant to subparagraphs (A) and (B)" before the period.

(c) CLERICAL AMENDMENT.—The heading for section 21A(k)(1)(A) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(k)(1)(A)) is amended by inserting "GAO" after "ANNUAL".

SEC. 212. UNINSURED DEPOSITORS NOT COVERED.

Section 21A(b) of the Federal Home Loan Bank Act is amended by inserting after paragraph (15) (as added by section 205 of this title) the following new paragraph:

"(16) DEPOSIT INSURANCE FUNDS AVAILABLE FOR INTENDED PURPOSE ONLY.—

"(A) IN GENERAL.—The Corporation may not take any action, directly or indirectly, with respect to any institution described in paragraph (3)(A) that would have the effect of increasing losses to the Corporation by protecting—

"(i) depositors for more than the insured portion of deposits (determined without regard to whether such institution is liquidated); or

"(ii) creditors other than depositors.

"(B) PURCHASE AND ASSUMPTION TRANSACTIONS.—No provision of this paragraph shall be construed as prohibiting the Corporation from allowing any person who acquires any assets or assumes any liabilities of any institution described in paragraph (3)(A) for which the Corporation has been appointed conservator or receiver to acquire uninsured deposit liabilities of such institution so long as the Corporation does not incur any loss with respect to such deposit liabilities in an amount greater than the loss which would have been incurred with respect to such liabilities if the institution had been liquidated.".

SEC. 213. MINIMIZATION OF COSTS FOR SERVICES; DISTRIBUTION OF CONTRACTS.

Section 21A(b)(12) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(12)) is amended by adding at the end the following new subparagraph:

"(H) MINIMIZATION OF COSTS FOR SERVICES; DISTRIBUTION OF CONTRACTS.—The Corporation shall adopt and follow procedures governing the procurement of legal, accounting, and investment banking services to assure that, to the extent reasonably practicable—

"(i) the costs of procuring those services are minimized, and

"(ii) there is a sufficiently representative geographic and size distribution of—

"(I) firms providing those services, and

"(II) contracts awarded for those services.".

SEC. 214. MANAGEMENT AND DISPOSITION OF PROPERTY BY LOCAL OFFICE WHICH IS CLOSEST TO THE PROPERTY.

Section 21A(b)(12) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(12)) is amended by inserting after subparagraph (H) (as added by section 213 of this title) the following new subparagraph:

"(I) REAL ESTATE MANAGEMENT AND DISPOSITION.—The Corporation shall establish a procedure under which—

"(i) real estate assets of any institution described in paragraph (3)(A) shall be managed and disposed of by the Corporation through the office of the Corporation which is closest to the location of any such real estate asset; and

"(ii) the management and disposition of assets pursuant to clause (i) shall be properly accounted for to the office of the Corporation which is responsible for administering the receivership of the institution referred to in such clause, consistent with the fiduciary responsibility of the Corporation to the creditors of the institution.".

SEC. 215. RESTRICTIONS ON NONSALARY COMPENSATION AND BENEFITS FOR EMPLOYEES.

(a) RTC EMPLOYEES.—Section 21A(b)(9)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(9)(B)) is amended by adding at the end the following new clause:

"(iii) COMPLIANCE WITH CERTAIN GSA RULES.—The Corporation shall issue directives with respect to the use of, and reimbursement for, alcoholic beverages, and furniture, fixtures, and equipment, and with respect to expenses for entertainment, which shall conform to the rules, regulations, and opinions issued by the General Services Administration and shall apply to all employees assigned to the Corporation.".

(b) OVERSIGHT BOARD EMPLOYEES.—Section 21A(a)(5)(E) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(5)(E)) is amended by adding at the end the following: "and the Oversight Board shall issue regulations or directives with respect to the use of, and reimbursement for, alcoholic beverages, and furniture, fixtures, and equipment, and with respect to expenses for entertainment, which shall conform to the rules, regulations, and opinions issued by the General Services Administration and shall apply to the employees of the Oversight Board;".

SEC. 216. GAO STUDY OF PRIVATIZATION OF RTC FUNCTIONS.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the feasibility of transferring all or a substantial portion of the functions being performed by the Resolution Trust Corporation as of the date of the enactment of this Act to the private sector, the most efficient methods for accomplishing such transfer, and the potential benefits of the transfer to the Corporation and the United States Government.

(b) REPORT.—The Comptroller General shall submit a report to the Congress before the end of the 6-month period beginning on the date of the enactment of this Act containing—

(1) the findings and conclusions of the Comptroller General in connection with the study conducted under subsection (a); and

(2) such recommendations for legislative or administrative action as the Comptroller General may determine to be appropriate.

SEC. 217. PROHIBITION ON USE OF BROKERED DEPOSITS BY CONSERVATORS OF INSURED DEPOSITORY INSTITUTIONS.

(a) IN GENERAL.—Section 29(d) of the Federal Deposit Insurance Act (12 U.S.C. 1831f(d)) is amended to read as follows:

"(d) BROKERED DEPOSITS PROHIBITED FOR CONSERVATORSHIPS.—Notwithstanding subsection (c), an insured depository institution for which a conservator has been appointed may not accept funds obtained, directly or indirectly, by or through any deposit broker for deposit into 1 or more deposit accounts.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 29(b) of the Federal Deposit Insurance Act (12 U.S.C. 1831f(b)) is amended by striking "subsection (a)" and inserting "subsections (a) and (d)".

SEC. 218. PAY COMPARABILITY.

(a) INFORMATION SHARING REQUIRED.—The Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the National Credit Union Administration Board, the Federal Housing Finance Board, the Oversight Board, the chief executive officer of the Resolution Trust Corporation, the Farm Credit Administration, and the Office of Thrift Supervision, in establishing and adjusting schedules of compensation and benefits which are to be determined solely by each agency under applicable provisions of law, shall inform the heads of the other agencies and the Congress of such compensation and benefits and shall seek to maintain comparability regarding compensation and benefits.

(b) PAY COMPARABILITY REQUIRED.—

(1) IN GENERAL.—In setting and adjusting compensation and benefits, each agency referred to in subsection (a) shall consult with and shall maintain reasonable comparability with the compensation and benefits programs of the other agencies.

(2) DOCUMENTED COMPARISONS REQUIRED.—The consultation required under paragraph (1) shall include documented comparisons of representative job series and representative positions within each series.

(c) LIMITATION ON EXCESSIVE COMPENSATION.—No employee of any appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act), the National Credit Union Administration, the Federal Housing Finance Board, the Farm Credit Administration, the Oversight Board, or the chief executive officer of the Resolution Trust Corporation may receive a total amount of allowances, benefits, compensation, and pay differentials, including bonuses and other awards, in excess of the amount which is equal to 115 percent of the total amount of allowances, benefits, compensation, and pay differentials, including bonuses and other awards, which—

"(1) in the case of any such employee other than an employee described in paragraph (2), may be provided to any officer holding a position at level III of the Executive Schedule; and

"(2) in the case of any employee of the Board of Governors of the Federal Reserve System, may be provided to any officer holding a position at level II of the Executive Schedule.

(d) SAVINGS PROVISIONS.—

(1) COLLECTIVE BARGAINING.—No provision of this section (other than subsection (c)) shall be construed as extinguishing or otherwise affecting any right or remedy under chapter 71 of title 5, United States Code, including the right, where applicable, to set employee pay through collective bargaining.

(2) NO REDUCTION IN RATE OF PAY.—No provision of this section (other than subsection (c)) shall be construed as allowing the reduction of base pay of any employee below those in effect on the effective date of this Act.

(3) CURRENT EMPLOYEES.—Notwithstanding any other provision of subsection (c), no officer or employee of an agency referred to in such subsection, shall, as a result of subsection (c), have their total amount of allowances, benefits, compensation, and pay differentials, including bonuses and other awards, reduced below the amount in effect for that officer or employee on October 8, 1991.

(e) COMPENSATION OF CHAIRMAN OF THE FEDERAL RESERVE BOARD.—

(1) IN GENERAL.—Section 5312 of title 5, United States Code, is amended by adding at the end the following new item:

"Chairman, Board of Governors of the Federal Reserve System."

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 5313 of title 5, United States Code, is amended by striking the following item:

"Chairman, Board of Governors of the Federal Reserve System."

SEC. 219. DISCLOSURE OF CERTAIN RTC AND OVERSIGHT BOARD SALARIES.

Section 21A(k)(5)(B)(iii) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(k)(5)(B)(iii)) is amended by inserting before the period the following: "the name of each employee of the Oversight Board, and each employee of the Federal Deposit Insurance Corporation assigned to the Corporation, whose rate of pay during the period on an annual basis exceeds the annual rate of basic pay payable for positions at level V of the Executive Schedule, the position and duty station of each such employee, and the amount of compensation paid to each such employee during the reporting period".

SEC. 220. REPORT REQUIRED WITH RESPECT TO 1988 DEALS.

The Corporation shall submit a report to the Congress before January 31, 1992, on the progress made in renegotiating the cases required to be reviewed under section 21A(b)(11)(B) as of December 31, 1991, and shall include—

(1) a detailed explanation of the reasons, if any, for not completing the renegotiation of all such cases by such date; and

(2) an assessment of the amount of money saved, if any, by resolving such cases in 1988.

SEC. 221. MISUSE OF RTC NAME AND LOGO.

Section 709 of title 18, United States Code, is amended by inserting after the 4th undesignated paragraph the following new paragraph:

"Whoever uses as a firm or business name the words 'Resolution Trust Corporation' or the letters 'RTC' alone or with other words or letters reasonably calculated to convey the false impression that such name or business has some connection with, or authorization from the Resolution Trust Corporation, the Government of the United States, or any agency of the United States, which does not in fact exist; or".

SEC. 222. PROCEDURAL PROVISIONS.

(a) REMOVAL OF CASES.—Section 21A(l)(3) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(l)(3)) is amended to read as follows:

"(3) REMOVAL AND REMAND.—

"(A) IN GENERAL.—

"(i) REMOVAL IN ANY CAPACITY.—The Corporation, in any capacity, may without bond or security, in addition to any other provision pursuant to which it would be otherwise eligible to remove, remove any action, suit, or proceeding from a State court to—

"(I) the United States district court embracing the place where the action, suit, or proceeding is pending;

"(II) to the United States District Court for the District of Columbia; or

"(III) to the United States district court embracing the principal place of business of an institution for which the Corporation has been appointed conservator or receiver if the action, suit, or proceeding is brought against the institution or the Corporation as conservator or receiver of such institution.

"(ii) PERIOD FOR REMOVAL.—The removal of any such action suit or proceeding shall be instituted—

"(I) not later than 90 days after the date the Corporation is substituted as a party;

"(II) not later than 30 days after proper service of a summons and complaint on the Corporation, if the Corporation is named as a party in any capacity and if such suit is filed after August 9, 1989; or

"(III) not later than 30 days after the Corporation becomes a party in any other manner.

"(B) SUBSTITUTION.—The Corporation shall be deemed substituted in any action, suit, or proceeding for a party upon the filing of a copy of the order appointing the Corporation as conservator or receiver for that party or the filing of such other pleading informing the court that the Corporation has been appointed conservator or receiver for such party.

"(C) APPEAL.—The Corporation may appeal any order of remand entered by a United States district court.".

(b) PROHIBITION ON ENTERING SECRECY AGREEMENTS AND PROTECTIVE ORDERS.—Section 21A(b) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)) is amended by inserting after paragraph (15) (as added by section 205(b) of this title) the following new paragraph:

"(16) PROHIBITION ON ENTERING SECRECY AGREEMENTS AND PROTECTIVE ORDERS.—The Corporation may not enter into any agreement or consent to or approve any protective order which prohibits the Corporation from disclosing the terms of any settlement of an administrative or other action for damages or restitution brought by the Corporation in the Corporation's capacity as conservator or receiver for an insured depository institution.".

SEC. 223. CROSS-GUARANTEE PROVISIONS.

(a) IN GENERAL.—Section 21A(b)(4) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(4)) is amended—

(1) by striking "sections 11," and inserting "sections 5(e), 11,"; and

(2) by inserting before the period the following: "; and, for purposes of exercising authority under such section 5(e), the Corporation shall have such authority with respect to all insured depository institutions as specified in such section".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 5(e) of the Federal Deposit Insurance Act (12 U.S.C. 1815(e)) is amended by adding at the end the following new paragraphs:

"(10) CORPORATION DEFINED.—For purposes of this subsection, the term 'Corporation' includes, with respect to any loss incurred by the Resolution Trust Corporation or any loss which the

Resolution Trust Corporation reasonably anticipates incurring, the Resolution Trust Corporation.

"(11) CONCURRENCE REQUIRED.—

"(A) IN GENERAL.—Whenever the exercise of any right or power pursuant to this subsection by the Federal Deposit Insurance Corporation or the Resolution Trust Corporation has the potential for causing a loss to the other corporation, the Federal Deposit Insurance Corporation or the Resolution Trust Corporation, as the case may be, shall obtain the concurrence of the other corporation before exercising any such right or power.

"(B) JOINT DETERMINATION.—In any such case, the Federal Deposit Insurance Corporation and the Resolution Trust Corporation shall jointly determine a course of action which minimizes losses to the Bank Insurance Fund, the Savings Association Insurance Fund, and the Resolution Trust Corporation.".

SEC. 224. QUALIFIED FINANCIAL CONTRACTS.

Section 11(e)(10) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(10)) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) EFFECT OF NOTICE.—

"(i) IN GENERAL.—Paragraph (8)(A) shall not apply to any person who is a party to a qualified financial contract with respect to such contract if such person is notified by the Corporation, as receiver for an insured depository institution, by the close of business on the business day following the day on which the Corporation is first appointed as receiver of such institution that the Corporation has transferred to a single financial institution (other than an insured depository institution in default)—

"(I) all qualified financial contracts of the person, and all affiliates of the person, with the depository institution for which the Corporation has been appointed as receiver;

"(II) all claims of the person and the affiliates of the person under any such qualified financial contract against such depository institution (other than claims subordinated by any such qualified financial contracts to the claims of general unsecured creditors of such institution);

"(III) all claims of the depository institution against the person and affiliates of the person under all such qualified financial contracts; and

"(IV) all property securing such claims under all such qualified financial contracts.

"(ii) ADEQUACY OF NOTICE.—For purposes of this paragraph, the Corporation as receiver shall be deemed to have notified any person if the Corporation has taken steps reasonably calculated to provide notice to such person.".

SEC. 225. ATTORNEY-CLIENT PRIVILEGE.

(a) NONWAIVER OF PRIVILEGE.—Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by adding at the end the following subsection:

"(s) PRIVILEGES.—The transfer by any appropriate Federal banking agency or the Resolution Trust Corporation (acting in any capacity) to any such agency, the Resolution Trust Corporation, or any other agency of the United States of any oral or written information which, but for the transfer, would be subject to a privilege of the transferring agency or corporation, shall not constitute a waiver of such privilege.".

(b) PRIVILEGE DEFINED.—Section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) is amended by adding at the end the following new subsection:

"(y) PRIVILEGE.—The term 'privilege' includes any governmental agency, work product, attorney-client, or other privilege recognized by Federal or State law.".

SEC. 226. STATUTE OF LIMITATIONS FOR RECEIVERSHIP CLAIMS.

(a) ESTABLISHMENT OF FILING PERIOD FOR CLAIMANTS NOTIFIED BY MAIL.—Section 11(d)(3)(C) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(3)(C)) is amended to read as follows:

"(C) MAILING REQUIRED.—

"(i) IN GENERAL.—The receiver shall mail a notice similar to the notice published under subparagraph (B)(i) at the time of such publication to any creditor shown on the institution's books—

"(I) at the creditor's last address appearing in such books; or

"(II) upon discovery of the name and address of a claimant not appearing on the institution's books within 30 days after the discovery of such name and address.

"(ii) FILING PERIOD LIMITED TO 30 DAYS.—The filing period for claimants notified under clause (i)(II) shall be the later of—

"(I) 30 days after the date established by subparagraph (B)(i); or

"(II) 30 days after the date of the notice mailed to the claimant under clause (i)(II).

"(iii) NOTICE OF FILING PERIOD.—Any notice provided pursuant to clause (i)(II) shall include a notice of the filing period established under clause (ii).".

(b) TIMELY FILING REQUIRED AS CONDITION FOR PAYING CLAIMS.—Section 11(d)(5)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(5)(B)) is amended to read as follows:

"(B) ALLOWANCE OF PROVEN CLAIMS.—

"(i) IN GENERAL.—The receiver shall allow any claim by a claimant which is—

"(I) received on or before the date specified in the notice published under paragraph (3)(B)(i) by the receiver or is timely filed pursuant to paragraph (3)(C)(ii), as the case may be; and

"(II) proved to the satisfaction of the receiver.

"(ii) EXCEPTION.—Notwithstanding clause (i), any claim filed under paragraph (3)(C)(ii) shall be allowed only to the extent that such claim is filed in time to permit payment.".

(c) DISALLOWANCE OF CLAIMS FILED AFTER FILING PERIOD.—Section 11(d)(5)(C) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(5)(C)) is amended to read as follows:

"(C) DISALLOWANCE OF CLAIMS FILED AFTER END OF FILING PERIOD.—

"(i) IN GENERAL.—Any claim filed after the date specified in the notice published under paragraph (3)(B)(i) with respect to such claim or after the end of the filing period established under paragraph (3)(C)(ii), as the case may be, shall be disallowed.

"(ii) FINALITY OF DISALLOWANCE.—The disallowance of any claim pursuant to clause (i) shall be final and the claimant shall have no further rights or remedies with respect to such claim.".

SEC. 227. PROHIBITION ON RTC CONTRACTS WITH DEBARRED OR SUSPENDED CONTRACTORS.

Section 21A(p)(6)(E) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(p)(6)(E)) is amended—

(1) by striking "or" at the end of clause (iii);

(2) by striking the comma at the end of clause (iv) and inserting "; or"; and

(3) by inserting after clause (iv) the following new clause:

"(v) been, and continues to be, debarred or suspended from doing business with any Federal agency, government corporation, or other instrumentality of the United States (unless the chief executive officer of the Corporation, or such officer's designee, determines in writing that a compelling reason exists for this clause not to apply to such person),".

SEC. 228. UTILIZATION OF HUD MULTIFAMILY INSURANCE.

The Resolution Trust Corporation shall examine the policies and procedures of the Corporation with respect to reliance on the multifamily insurance program established pursuant to section 223(f) of the National Housing Act and take such action as it deems reasonable and appropriate, consistent with the Corporation's duties under section 21A(b)(3)(C) of the Federal Home Loan Bank Act, to promote the use of such insurance.

(b) REPORT.—The Resolution Trust Corporation shall report to the Congress, on or before April 1, 1992, on the actions the Corporation has taken to comply with subsection (a).".

SEC. 229. EXPANSION OF SECURITIZATION PROGRAM.

The Resolution Trust Corporation shall conduct a review of the Corporation's securitization policies and procedures and make such reasonable modifications of such policies and procedures, to the extent necessary, to enhance the securitization of commercial mortgages.

SEC. 230. EXAMINATION OF ASSET MANAGEMENT CONTRACTING PROCESS.

(a) IN GENERAL.—The Corporation shall—

(1) examine the policies and procedures of the Corporation which govern its asset management contracting process; and

(2) take such steps as the Corporation determines to be reasonable and appropriate to make such process more expeditious, efficient, and effective.

(b) FACTORS TO BE EXAMINED.—The examination under subsection (a) shall include an exploration of ways to reduce paperwork, increase delegation of authority, improve targeting of bid solicitations, and preserve competition.

(c) REPORT.—The Corporation shall submit a report to the Congress before April 1, 1992, on the steps the Corporation has taken to comply with subsection (a).

SEC. 231. PRESERVATION OF THE VALUE OF PARTIALLY COMPLETED REAL ESTATE PROJECTS.

(a) IN GENERAL.—The Resolution Trust Corporation shall examine the policies and procedures of the Corporation concerning partially completed real estate projects under the Corporation's jurisdiction and take such steps as it deems reasonable and appropriate, consistent with section 21A(b)(3)(C) of the Federal Home Loan Bank Act, to preserve the economic value of such projects.

(b) REPORT.—The Corporation shall report to the Congress on or before April 1, 1992, on the actions the Corporation has taken to comply with subsection (a).".

SEC. 232. STUDY METHODS TO RESOLVE DISPUTES WITH BORROWERS.

(a) IN GENERAL.—The Resolution Trust Resolution Trust Corporation shall—

(1) examine the policies and procedures of the Corporation governing the resolution of disputes with borrowers under loans acquired by the Corporation as a result of its appointment as conservator or receiver of an insured depository institution; and

(2) take such action, consistent with its duties under section 21A(b)(3)(C) of the Federal Home Loan Bank Act, as it deems reasonable and appropriate to accelerate the resolution process.

(b) REPORT.—The Resolution Trust Corporation shall report to the Congress, on or before April 1, 1992, on the actions the Corporation has taken to comply with subsection (a).

SEC. 233. STUDY OF LIQUIDATING TRUSTS TO SELL REAL PROPERTY ASSETS.

Before the end of the 180-day period beginning on the date of the enactment of this Act, the Resolution Trust Corporation shall conduct a study of the feasibility of using liquidating trusts to dispose of real property assets under the jurisdiction of the Corporation.

SEC. 234. RESTRICTIONS ON REMOVAL OF EMPLOYEES PERFORMING LIQUIDATION FUNCTIONS.

(a) TEMPORARY AND CONTRACT WORKERS EMPLOYED FOR ASSIGNMENT TO THE RTC.—Section

21A(b)(9)(D)(ii) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(9)(D)(ii)), as added by section 208(a)(3) of this Act, is amended by adding at the end the following new subclause:

"(III) Section 9(c) of the Federal Deposit Insurance Act shall apply to individuals employed under this subparagraph on a temporary or contract basis.".

(b) OTHER EMPLOYEES OF THE FDIC.—Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819) is amended by adding at the end the following:

"(c) RESTRICTIONS ON REMOVAL OF EMPLOYEES PERFORMING LIQUIDATION FUNCTIONS.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, the Corporation shall not, except as provided in paragraph (2), remove any temporary or permanent employee who has been employed for at least 2 years in a position involving the performance of functions relating to—

"(A) liquidating the assets of any insured depository institution in conservatorship or receivership; or

"(B) paying the insured deposits at any such institution.

"(2) EXCEPTIONS.—The Corporation may remove an employee described in paragraph (1) if—

"(A) the employee's performance has been unacceptable within the meaning of chapter 43 of title 5, United States Code, or the employee has engaged in misconduct within the meaning of chapter 75 of such title, and the Corporation provides the employee with a detailed statement specifying the unacceptable performance or the misconduct that constitutes the grounds for the removal; or

"(B) the removal is necessitated by a reduction in the number of persons employed by the Corporation doing the same or similar work at the office or workplace where the employee is employed.

"(3) GRIEVANCE AND APPEAL RIGHTS.—Notwithstanding any other provision of law, an employee described in paragraph (1) with respect to whom action is taken in violation of this subsection shall be entitled to the same procedures and remedies to which excepted service employees are entitled under chapters 43 and 75 of title 5, United States Code.".

SEC. 235. ASSET MANAGEMENT CONTRACTS.

Any contract entered into between the Resolution Trust Corporation and any person on or after the date of the enactment of this Act, including any renewal of any contract (pursuant to the terms of the contract) which was first entered into before such date, shall contain all terms and conditions which—

(1) establish procedures and standards relating to performance which encourage the prompt disposition of any asset by such person on behalf of the Corporation; and

(2) were being included by such Corporation as of such date of enactment in initial contracts between the Corporation and any person providing for the disposition of assets.

SEC. 236. CRIMINAL HISTORY RECORDS MAINTAINED BY THE FEDERAL BUREAU OF INVESTIGATION.

Section 21A(p) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(p)) is amended by—

(1) redesignating paragraph (9) as paragraph (10); and

(2) by inserting the following new paragraph before paragraph (10), as redesignated:

"(9) FBI TO PROVIDE CRIMINAL HISTORY RECORDS.—

"(A) FITNESS AND INTEGRITY INVESTIGATIONS.—

"(i) IN GENERAL.—Notwithstanding any other provision of law, upon the request of the Corporation, the Federal Bureau of Investigation shall provide to the Corporation criminal history record information about any person or entity under investigation by the Corporation for the purpose of determining the fitness and integrity of such person or entity to be a purchaser of assets from the Corporation, contractor of the Corporation, or employee assigned to the Corporation.

"(ii) INFORMATION TO BE INCLUDED IN REQUEST.—Any request for information from the Corporation shall include the name and other descriptive information of the person or entity under investigation.

"(B) CONTENT OF RESPONSE.—In response to any such request of the Corporation, the Federal Bureau of Investigation shall provide to the Corporation, with respect to the person or entity under investigation, criminal history record information available to the Federal Bureau of Investigation, including all information contained in the Interstate Identification Index.

"(C) FEES FOR INFORMATION.—

"(i) REIMBURSEMENT OF BUREAU.—The Corporation shall reimburse the Federal Bureau of Investigation for providing such criminal history record information.

"(ii) LIMITATION ON EXCESSIVE FEES.—Fees paid by the Corporation to the Federal Bureau of Investigation under this paragraph shall not exceed—

"(I) the reasonable cost to the Federal Bureau of Investigation of providing such information; or

"(II) the fees charged by the Bureau to State or local agencies, other than criminal justice agencies, for such information.".

SEC. 237. SUBSTITUTION OF RTC OBLIGATIONS FOR COLLATERAL ON FEDERAL HOME LOAN BANK ADVANCES.

(a) IN GENERAL.—Section 10(d) of the Federal Home Loan Bank Act (12 U.S.C. 1430(d)) is amended by inserting after the 2d sentence the following: "Notwithstanding the preceding sentence, during the 2-year period beginning on the date of the enactment of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991, in the case of any member of a Federal home loan bank for which the Resolution Trust Corporation has been appointed conservator or receiver, the bank shall release any security interest held by the bank in, and surrender possession of, any assets of such member which are securing the bank's advances to the member immediately upon the receipt by the bank from the Corporation of, at the bank's option (1) a replacement promissory note of the Corporation in its corporate capacity, in the same amount and with the same terms, conditions and interest rate as the member's outstanding note or obligation for which the Corporation's note is being substituted, or (2) a guarantee by the Resolution Trust Corporation in its corporate capacity, guaranteeing payment as provided in the member's outstanding note or obligation. Notwithstanding section 21A(j)(3), any such note or guarantee of the Resolution Trust Corporation shall not be an obligation which has the full faith and credit of the United States. The Resolution Trust Corporation shall establish a reserve out of the funds available under section 21A in an amount equal to the amount of any such note or guarantee. Such reserve shall be dedicated to repayment of notes and guarantees issued pursuant to this subsection. The Bank may demand payment on any such guarantee only in the event of a material default on the terms of the member's outstanding note or obligation. A Federal home loan bank is authorized to have advances that in lieu of being secured by eligible collateral referred to in subsection (a) are secured pursuant to this subsection. The Bank stock of a member in conservatorship or receivership with outstanding advances shall remain outstanding at the same level that would be required under subsection 6(b) as if the advance were still outstanding to the member.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 11(e)(13) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(13)) is amended by striking "No provision of this subsection" and inserting "Except as provided in section 10(d) of the Federal Home Loan Bank Act, no provision of this subsection".

SEC. 238. SELLER FINANCING.

Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended in subsection (b), in paragraph (11), by adding the following new subparagraph:

"(C) SELLER FINANCING.—In marketing receivership assets, the Corporation is encouraged to use seller financing in cases where seller financing will maximize the return on such assets and where traditional financing arrangements or offers from buyers have not been forthcoming or acceptable to the Corporation prior to receivership.".

SEC. 239. STANDARD SALES PROCEDURES.

Section 21A(b)(12) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(12)) is amended by adding at the end the following new subparagraph:

"(G) STANDARD SALES PROCEDURES.—

"(i) IN GENERAL.—The Corporation shall, before the end of the 180-day period beginning on the date of the enactment of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991, establish standard contracting procedures for all conservatorship and receivership sales of real estate.

"(ii) OFFERS TO PURCHASE REAL ESTATE.—The Corporation shall include within such procedures a specific policy to facilitate the receipt and processing of offers to purchase real estate marketed by the Corporation.".

SEC. 240. REGULATORY REQUIREMENTS REGARDING CAPITAL AVAILABILITY.

The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following new section:

"SEC. 36. REGULATORY REQUIREMENTS REGARDING CAPITAL AVAILABILITY.

"(a) IN GENERAL.—The Director of the Office of Thrift Supervision may grant limited and temporary exceptions to the separate capitalization required for certain subsidiaries pursuant to subparagraphs (A) and (D) of section 5(t)(5) of the Home Owners' Loan Act as the Director deems necessary and appropriate, if—

"(1) the Director determines, in writing, that extraordinary circumstances exist or that economic conditions at the national, regional, or local level are such that an insufficient opportunity exists for the association to divest a subsidiary engaged in activities not permissible for a national bank or any investment in or extension of credit to such subsidiary; and

"(2) the Director determines, in writing, that the standards set forth in paragraph (7)(C)(i) are satisfied (and for purposes of such determination, such paragraph shall be applied by substituting 'exception' for 'exemption');

"(b) SCOPE OF EXCEPTION.—Any exception granted under subsection (a) may only apply to the amount of the savings association's investments in or extensions of credit to a subsidiary as of April 12, 1989, and the amounts that have been or will be expended to complete projects or investments that were initiated by such subsidiary before the date of the enactment of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991.

"(c) DEDUCTIONS FROM CAPITAL.—In granting any exception pursuant to this paragraph, the Director shall require the same percentage deduction from capital for amounts invested and credit extended as of April 12, 1989, and for amounts invested and credit extended after such date.

"(d) LIMITATIONS.—

"(1) MAXIMUM EFFECTIVE PERIOD OF EXCEPTION.—No exception under this subsection shall be effective after July 1, 1995.

"(2) LIMIT ON DEDUCTION OF CAPITAL.—No exception under this subsection may reduce the percentage deduction from capital to a percentage less than that required as of the date of the enactment of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 for investments and extensions of credit made prior to April 12, 1989.".

SEC. 241. IMPROVEMENTS TO THE LIST OF LEGAL COUNSEL WHOSE SERVICES ARE AUTHORIZED TO BE RETAINED.

(a) IN GENERAL.—Before the end of the 6-month period beginning on the date of the enactment of this Act, the Federal Deposit Insurance Corporation and the Resolution Trust Corporation shall each establish and maintain procedures governing the use of the list maintained by the respective corporation of legal counsel whose services are authorized to be retained by such corporation.

(b) SPECIFIC PROCEDURES REQUIRED.—The procedures established under subsection (a) shall include the following requirements:

(1) The list of legal counsel referred to in subsection (a) shall be updated on a monthly basis to remove legal counsel whose services are no longer authorized to be retained by the Federal Deposit Insurance Corporation or the Resolution Trust Corporation, as the case may be—

(A) because the counsel represents clients who are suing the corporation;

(B) because of other conflicts of interest involving such counsel;

(C) due to the failure of such counsel to meet reasonable performance standards established by the appropriate corporation for legal counsel retained by the corporation; or

(D) for any other reason as the corporation may determine to be appropriate.

(2) The list shall include information on any area of expertise of any counsel on the list and the billing rates of such counsel.

(3) Any minority- or woman-owned law firm on the list shall be identified as such.

(4) Any error or omission with respect to the list shall be corrected within 2 weeks of the date on which the appropriate corporation first learns of the error or omission, or as promptly as practicable, and reported to the regional offices.

(c) DEFINITIONS.—

(1) LAW FIRM.—For the purposes of this section, the term "law firm"—

(A) means any person who provides legal services for hire; and

(B) includes all partners, associates, employees, branch offices, and affiliates of such a person.

(2) MINORITY-OWNED LAW FIRM.—The term 'minority-owned law firm' means a law firm—

(A) more than 50 percent of the principals or members of, or partners in, are minority individuals; and

(B) more than 50 percent of the net profit or loss of which accrues to 1 or more minority individuals.

(3) WOMEN-OWNED LAW FIRM.—The term 'women-owned law firm' means a law firm—

(A) more than 50 percent of the principals or members of, or partners in, are women; and

(B) more than 50 percent of the net profit or loss of which accrues to 1 or more women.

(4) MINORITY.—The term 'minority' has the meaning given to such term by section 1204(c)(3) of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.

SEC. 242. TECHNICAL AND CONFORMING AMENDMENTS.

Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended—

(1) in subsection (a)(10)—

(A) by striking "establish and review the general policy of" and inserting "review overall strategies, policies, and goals established by"; and

(B) by striking "standards, policies, and procedures necessary to carry out" and inserting "matters as pertain to";

(2) in subsection (b)—

(A) in paragraph (3), by striking "and through the Federal Deposit Insurance Corporation (or any replacement authorized pursuant to subsection (m))"; and

(B) in paragraph (12)—

(i) by striking subparagraph (A) and inserting the following new subparagraph:

"(A) IN GENERAL.—The Corporation may establish overall strategies, policies, and goals for its activities and may issue such rules, regulations, standards, policies, principles, procedures, guidelines, and statements as the Corporation considers necessary or appropriate to carry out its duties."; and

(ii) by striking subparagraph (B) and inserting the following new subparagraph:

"(B) REVIEW AND PROMULGATION.—Such overall strategies, policies, and goals, and such rules, regulations, standards, policies, principles, procedures, guidelines, and statements—

"(i) shall be provided by the Corporation to the Oversight Board; and

"(ii) shall be promulgated pursuant to subchapter II of chapter 5 of title 5, United States Code.";

(3) in subsection (a)(11), by striking "United States District Court" the 1st place such term appears and inserting "United States district court";

(4) in subsection (b)(12)(E)(iv)(II), by striking "knowledgable" and inserting "knowledgeable";

(5) in subsection (c)(9)(B)(iii), by striking "organizations" and inserting "organization";

(6) in subsection (c)(9)(K), by striking "principle" and inserting "principal";

(7) in subsection (c)(9)(N), by striking "Secretary of the Housing" and inserting "Secretary of Housing";

(8) in subsection (e)(2)(B), by striking "shall"; and

(9) in subsection (p)(5), by striking "Government Corporation" and inserting "Government corporation".

TITLE III—MINORITIES, WOMEN, AND SMALL BUSINESS PROVISIONS

SEC. 301. INCREASED PARTICIPATION OF MINORITIES AND WOMEN IN CONTRACTING PROCESS.

Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended by inserting after subsection (s) (as added by section 225 of this Act) the following new subsection:

"(t) REVIEW AND EVALUATION PROCEDURE FOR CONTRACTS.—

"(1) IN GENERAL.—In the review and evaluation of proposals in accordance with this section and section 1216(c) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Corporation shall provide additional incentives to minority- or women-owned businesses by awarding any such business an additional 10 percent of the total technical points and an additional 5 percent of the total cost preference points achievable in the technical and cost rating process applicable with respect to such proposals.

"(2) CERTAIN JOINT VENTURES INCLUDED.—Paragraph (1) shall apply with respect to any proposal submitted by a joint venture in which—

"(A) a minority- or woman-owned business performs at least 25 percent of the duties;

"(B) the minority- or woman-owned business is responsible for a clearly defined portion of the work to be performed and holds management responsibilities in the joint venture: and

"(C) the minority- or woman-owned business is contractually entitled to compensation that is reasonably proportional to the duties performed by the business.

"(3) AUTHORITY TO ADJUST TECHNICAL AND COST PREFERENCE POINTS.—The Corporation may adjust the technical and cost preference points applicable in evaluating proposals to the extent necessary to ensure the maximum participation level possible for minority- or women-owned businesses.

"(4) DEFINITIONS.—For purposes of this subsection.—

"(A) MINORITY-OWNED BUSINESS.—The term 'minority-owned business' means a business—

"(i) more than 50 percent of the ownership or control of which is held by 1 or more minority individuals; and

"(ii) more than 50 percent of the net profit or loss of which accrues to 1 or more minority individuals.

"(B) WOMEN-OWNED BUSINESS.—The term 'women's business' means a business—

"(i) more than 50 percent of the ownership or control of which is held by 1 or more women;

"(ii) more than 50 percent of the net profit or loss of which accrues to 1 or more women; and

"(iii) a significant percentage of senior management positions of which are held by women.".

SEC. 302. OPERATION OF BRANCH FACILITIES BY MINORITIES AND WOMEN.

(a) ACQUISITION OF BRANCH FACILITIES FROM THE RTC.—Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended by inserting after subsection (t) (as added by section 301 of this title) the following new subsection:

"(u) ACQUISITION OF BRANCH FACILITIES IN MINORITY NEIGHBORHOODS.—

"(1) IN GENERAL.—In the case of any savings association for which the Corporation has been appointed conservator or receiver, the Corporation may make available any branch of such association which is located in any predominantly minority neighborhood to any minority depository institution or women's depository institution on the following terms:

"(A) The branch may be made available on a rent-free or reduced-rent lease basis for not less than 5 years.

"(B) Of all expenses incurred in maintaining the operation of the facilities in which such branch is located, the institution shall be liable only for the payment of applicable real property taxes, real property insurance, capital improvements, and utilities.

"(C) The lease may provide an option to purchase the branch during the term of the lease.

"(2) AVAILABILITY TO MINORITY-OWNED ASSOCIATION HAVING THE SAME ETHNIC IDENTIFICATION.—In the case of any savings association which is not a minority-owned institution and for which the Corporation has been appointed conservator or receiver, the Corporation shall, to the maximum extent practicable, make available any branch of such association which is located in any predominantly minority neighborhood to a minority-owned depository institution or minority investors having the same ethnic identification of the community or neighborhood being served by the branch.

"(3) CONSIDERATION OF FINANCIAL CONDITION OF MINORITY OR WOMEN'S DEPOSITORY INSTITUTION.—In determining whether to make available on a rent-free or reduced-rent basis a branch of a savings association to a minority depository institution or to a women's depository institution under this subsection, the Corporation shall consider the financial condition of the minority or women's depository institution.

"(4) ANNUAL REVIEW.—In the event the Corporation makes available to a minority deposi-

tory institution or to a women's depository institution a branch of a savings association under this subsection, the Corporation shall—

"(A) conduct annual reviews of the condition of the minority or women's depository institution to assess the financial health of the institution; and

"(B) adjust the amount of rent, if any, charged to such institution under this subsection to reflect changes, if any, in the financial condition of the minority or women's depository institution that are determined, as a result of such a review, to have occurred.".

"(5) DEFINITIONS.—For purposes of this subsection—

"(A) MINORITY DEPOSITORY INSTITUTION.—The term 'minority institution' means a depository institution (as defined in section 3(c) of the Federal Deposit Insurance Act)—

"(i) more than 50 percent of the ownership or control of which is held by 1 or more minority individuals; and

"(ii) more than 50 percent of the net profit or loss of which accrues to 1 or more minority individuals.

"(B) WOMEN'S DEPOSITORY INSTITUTION.—The term 'women's depository institution' means a depository institution (as defined in section 3(c) of the Federal Deposit Insurance Act)—

"(i) more than 50 percent of the ownership or control of which is held by 1 or more women;

"(ii) more than 50 percent of the net profit or loss of which accrues to 1 or more women; and

"(iii) a significant percentage of senior management positions of which are held by women.

"(C) MINORITY.—The term 'minority' has the meaning given to such term by section 1204(c)(3) of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.".

(b) COMMUNITY REINVESTMENT CREDIT FOR DEPOSITORY INSTITUTIONS PROVIDING ASSISTANCE.—The Community Reinvestment Act of 1977 (12 U.S.C. 2901 et seq.) is amended by adding at the end the following new section:

"SEC. 808. OPERATION OF BRANCH FACILITIES BY MINORITIES AND WOMEN.

"(a) IN GENERAL.—In the case of any depository institution which donates, sells on favorable terms (as determined by the appropriate Federal financial supervisory agency), or makes available on a rent-free or reduced-rent basis any branch of such institution which is located in any predominantly minority neighborhood to any minority depository institution or women's depository institution, the amount of the contribution or the amount of the loss incurred in connection with such activity shall be treated as meeting the credit needs of the institution's community for purposes of this title.

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

"(1) MINORITY DEPOSITORY INSTITUTION.—The term 'minority institution' means a depository institution (as defined in section 3(c) of the Federal Deposit Insurance Act)—

"(A) more than 50 percent of the ownership or control of which is held by 1 or more minority individuals; and

"(B) more than 50 percent of the net profit or loss of which accrues to 1 or more minority individuals.

"(2) WOMEN'S DEPOSITORY INSTITUTION.—The term 'women's depository institution' means a depository institution (as defined in section 3(c) of the Federal Deposit Insurance Act)—

"(A) more than 50 percent of the ownership or control of which is held by 1 or more women;

"(B) more than 50 percent of the net profit or loss of which accrues to 1 or more women; and

"(C) a significant percentage of senior management positions of which are held by women.

"(3) MINORITY.—The term 'minority' has the meaning given to such term by section 1204(c)(3) of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.".

SEC. 303. ACQUISITION OF FAILING MAJORITY ASSOCIATIONS BY MINORITY INSTITUTIONS.

Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended by inserting after subsection (u) (as added by section 302 of this title) the following new subsection:

"(v) ASSISTANCE UNDER CIRCUMSTANCES FOR ACQUISITION OF MAJORITY-OWNED INSTITUTIONS.—

"(1) IN GENERAL.—In addition to the assistance provided pursuant to the minority interim capital assistance program established by the Oversight Board by regulation pursuant to the strategic plan under subsection (a), the Corporation may provide assistance for minority-owned depository institutions and minority investors for the acquisition of any savings association for which the Corporation has been appointed conservator or receiver and which, before such appointment, was not a minority-owned association, if the Corporation has not received acceptable bids for the acquisition of such association without offering such assistance.

"(2) ADDITIONAL ASSETS.—In connection with the acquisition of any savings association for which the Corporation provides assistance under paragraph (1), the Corporation may transfer assets of other savings associations for which the Corporation has been appointed conservator or receiver.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) MINORITY.—The term 'minority' has the meaning given to such term by section 1204(c)(3) of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.

"(B) ACQUISITION.—The term 'acquisition' means any transaction in which a savings association is acquired (as defined in section 13(f)(8)(B) of the Federal Deposit Insurance Act).".

SEC. 304. STATUTORY ESTABLISHMENT OF PROGRAM.

Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended by inserting after subsection (v) (as added by section 303 of this title) the following new subsection:

"(w) MINORITY INTERIM CAPITAL ASSISTANCE PROGRAM.—

"(1) IN GENERAL.—The minority interim capital assistance program established by the Oversight Board by regulation pursuant to the strategic plan under subsection (a) is hereby established by law.

"(2) ASSISTANCE UNDER CIRCUMSTANCES FOR ACQUISITION OF MAJORITY-OWNED INSTITUTIONS.—In addition to the assistance provided pursuant to the program established under paragraph (1), the Corporation shall provide assistance under such program for minority-owned depository institutions and minority investors for the acquisition of any savings association for which the Corporation has been appointed conservator or receiver and which, before such appointment, was not a minority-owned association, if the Corporation has not received acceptable bids for the acquisition of such association without offering such assistance.

"(3) EXTENSION OF INTERIM FINANCING PERIOD.—The period for repayment of capital assistance provided under the minority interim capital assistance program shall be not less than 2 years.

"(4) INTEREST RATE.—The rate of interest imposed by the Corporation in connection with any interim financing provided under the minority interim capital assistance program may not exceed the average cost of funds to the Corporation as of the time such rate is established.

"(5) DEFINITIONS.—For purposes of this subsection—

"(A) MINORITY.—The term 'minority' has the meaning given to such term by section 1204(c)(3) of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.

"(B) ACQUISITION.—The term 'acquisition' means any transaction in which a savings association is acquired (as defined in section 13(f)(8)(B) of the Federal Deposit Insurance Act).".

SEC. 305. GOAL FOR PARTICIPATION OF SMALL BUSINESS CONCERNS.

Section 21A(b)(14) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(14)) is amended to read as follows:

"(14) GOAL FOR PARTICIPATION OF SMALL BUSINESS CONCERNS.—The Corporation shall have an annual goal that presents the maximum practicable opportunity for small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals to participate in the performance of contracts awarded by the Corporation.".

TITLE IV—REAL ESTATE PROVISIONS

SEC. 401. REAL ESTATE AUCTION POLICY.

(a) IN GENERAL.—The Resolution Trust Corporation shall examine the Corporation's policies and procedures with respect to conducting auctions for the disposition of real estate assets and shall to the extent it deems appropriate, consistent with section 21A(b)(3)(C) of the Federal Home Loan Bank Act, adjust the Corporation's threshold limitations with respect to dollar amounts of assets which may be disposed of through auction on an absolute basis.

(b) REPORT.—The Resolution Trust Corporation shall report to Congress not later than April 1, 1992, on the steps the Corporation has taken to comply with subsection (a).

SEC. 402. OUTREACH PROGRAM FOR STATE AND LOCAL GOVERNMENTS.

(a) OUTREACH PROGRAM ESTABLISHED.—Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended by inserting after subsection (w) (as added by section 304 of this title) the following new subsection:

"(x) OUTREACH PROGRAM FOR STATE AND LOCAL GOVERNMENTS.—

"(1) ESTABLISHMENT REQUIRED.—The Corporation shall establish and maintain an intergovernmental affairs branch within the office of governmental affairs or any successor to such office.

"(2) DUTIES.—The responsibilities of such branch shall include aggressive outreach to, and liaison with, State and local governments and any associations of State and local governments, as a means of enabling the Corporation to better take into account the concern of such governments and associations about the Corporation's policies and operations.

"(3) PRIMARY GOAL.—The primary goal of the outreach program shall be to inform State and local governments of the availability of real property assets within the jurisdiction of such governments and facilitating efforts by those governments to purchase real estate assets of institutions subject to the Corporation's jurisdiction.

"(4) REGIONAL OFFICE REPRESENTATIVES.—At least 1 representative of the intergovernmental affairs branch shall be employed in each regional office of the Corporation.".

(b) SELLER FINANCING FOR SALES TO STATE AND LOCAL GOVERNMENTS.—Section 21A(b)(12) of the Federal Home Loan Bank Act is amended by redesignating subparagraph (G) as subparagraph (H) and by inserting after subparagraph (F) the following new subparagraph:

"(G) SELLER FINANCING FOR SALES TO STATE AND LOCAL GOVERNMENTS.—

"(i) REVIEW OF SELLER FINANCING PROCEDURES.—Before the end of the 180-day period beginning on the date of the enactment of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991, the Corporation shall—

"(I) conduct a review of the Corporation's seller financing procedures; and

"(II) modify such seller financing procedures to ensure that the procedures consider the special needs of States, municipalities, and other political subdivisions in acquiring real property assets of the institutions described in paragraph (3)(A).

"(ii) MINIMUM REQUIREMENTS.—The seller financing procedures referred to in clause (i) shall provide that, to the extent consistent with the Corporation's mandate to maximize the return on the sale of assets, the Corporation will endeavor to arrange appropriate financing to States, municipalities, and other political subdivisions seeking to acquire real property assets of institutions described in paragraph (3)(A).".

SEC. 403. SEPARATE INVENTORY OF PROPERTY WITH SPECIAL SIGNIFICANCE.

Section 21A(b)(12) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(12)) is amended—

(1) in subparagraph (F), by striking the last sentence;

(2) by redesignating subparagraph (H) (as so redesignated by section 402 of this title) as subparagraph (K); and

(3) by inserting after subparagraph (G) (as added by section 402 of this title) the following new subparagraphs:

"(H) REAL PROPERTY INVENTORY.—

"(i) IN GENERAL.—Except as provided in clause (ii), the inventory of real property assets required to be published under subparagraph (F) shall be updated and republished semiannually.

"(ii) INVENTORY OF PROPERTY OF SPECIAL SIGNIFICANCE.—In the case of real property assets of institutions subject to the jurisdiction of the Corporation which is property of special significance, the Corporation shall develop and maintain, in accordance with clause (iii), an inventory of such property separately from the inventory required under subparagraph (F) and shall update and republish such inventory at least once during each calendar quarter.

"(iii) CONSULTATION WITH AGENCIES WITH EXPERTISE.—In developing, maintaining, and updating the inventory of property of special significance, the Corporation shall consult with the United States Fish and Wildlife Service, the National Park Service, the Advisory Council on Historic Preservation, and other appropriate agencies or instrumentalities of the United States.

"(iv) PROPERTY OF SPECIAL SIGNIFICANCE DEFINED.—For purposes of this subparagraph, the term 'property of special significance' means real property with natural, cultural, or scientific values of special significance, including real property which is protected or eligible for protection or special status under any Federal law or Executive order, such as wetlands, floodplains, endangered species habitats, historic sites, archaeological sites, natural landmarks, wilderness areas, wild and scenic rivers, and coastal barriers.

"(I) PROPERTY MAINTENANCE AND MANAGEMENT.—

"(i) IN GENERAL.—The Corporation shall maintain any property identified in the real property inventory maintained by the Corporation under subparagraph (H) as property of special significance in a manner consistent with the preservation of the property's value of special significance.

"(ii) EMPLOYMENT OF QUALIFIED PERSONS.—The Corporation may employ, on a reimbursable basis, the services of any qualified person to provide technical assistance and to maintain and manage property referred to in clause (i) during such period as the property is subject to the jurisdiction or control of the Corporation.

"(iii) NO DUTY TO REHABILITATE PROPERTY.—Clause (i) shall not be construed as requiring the Corporation to rehabilitate, restore, or reclaim any property referred to in such clause with respect to any condition of the property which existed at the time the Corporation acquired jurisdiction of the property.".

SEC. 404. DISPOSITION OF PROPERTY OF SPECIAL SIGNIFICANCE.

(a) IN GENERAL.—Section 21A(b)(12) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(12)) is amended by inserting after subparagraph (I) (as added by section 403 of this Act) the following new subparagraph:

"(J) LIMITATION ON TRANSFER.—

"(i) NOTICE OF AVAILABILITY.—The Corporation may not sell or otherwise transfer any covered property unless the Corporation causes to be published in the Federal Register a notice of availability of the property for purchase or other transfer that identifies the property and describes the location, characteristics, and size of the property.

"(ii) EXPRESSION OF SERIOUS INTEREST.—During the 90-day period beginning on the date that notice under clause (i) concerning a covered property is first published, any Federal land management agency, governmental agency, or qualified organization may submit to the Corporation a written notice of serious interest for the purchase or other transfer of a particular covered property for which notice has been published. The notice of serious interest shall be in such form and include such information as the Corporation may prescribe.

"(iii) PROHIBITION ON TRANSFER DURING SERIOUS INTEREST NOTIFICATION PERIOD.—During the period under clause (ii), the Corporation may not sell or otherwise transfer any covered property with respect to which a notice of availability has been published under clause (i). After the expiration of such period, the Corporation may sell or otherwise transfer any covered property for which notice under clause (i) has been published if no notice of serious interest under clause (ii) concerning the property has been timely submitted.

"(iv) PROHIBITION ON TRANSFER AFTER NOTIFICATION PERIOD.—Except as provided in clause (v), if a notice of serious interest in a covered property is timely submitted pursuant to clause (ii), the Corporation may not sell or otherwise transfer such covered property during the 90-day period beginning upon the expiration of the period under clause (ii), unless all notices of serious interest submitted pursuant to clause (ii) have been withdrawn.

"(v) REQUIRED TRANSFERS.—During the 90-day period referred to in clause (iv), the Corporation may sell or otherwise transfer a covered property for which any notice of serious interest has been timely submitted pursuant to clause (ii) only—

"(I) pursuant to notice of serious interest submitted by a Federal land management agency, government agency, or qualified organization for use of the covered property primarily for wildlife refuge, sanctuary, open space, historical, cultural, or natural resource conservation purposes; or

"(II) to any other such agency or qualified organization for any such purpose, except that the agency or organization which first submitted such notice of serious interest shall have a right of first refusal with respect to such property if such agency or organization matches any offer received under this subclause by the Corporation.

"(vi) REVERSIONARY INTEREST.—If any covered property sold or otherwise transferred under clause (v) ceases to be used for the purposes described in such clause, all rights, title, and interest in and to the covered property shall revert to the United States.

"(vii) DEFINITIONS.—For purposes of this subparagraph:

"(I) COVERED PROPERTY.—The term 'covered property' means any property to which the Corporation has acquired title in any capacity and that is identified in the inventory of property of special significance published under subparagraph (H)(ii).

"(II) FEDERAL LAND MANAGEMENT AGENCY.—The term 'Federal land management agency' means any Federal agency that manages land or structures for use primarily for wildlife refuge, sanctuary, open space, historical, cultural, or natural resources conservation purposes.

"(III) GOVERNMENTAL AGENCY.—The term 'governmental agency' means any agency or entity of a State or local government that manages land or structures for use primarily for wildlife refuge, sanctuary, open space, historical, cultural, or natural resources conservation purposes.

"(IV) QUALIFIED ORGANIZATION.—The term 'qualified organization' has the meaning given the term in section 170(h)(3) of the Internal Revenue Code of 1986.".

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply with respect to any covered property held by the Resolution Trust Corporation at any time on or after the date of the enactment of this Act without regard to the date on which the Corporation acquired the property or was appointed as conservator or receiver. This subsection shall not apply to covered property that is subject to a contract to sell or otherwise transfer as of the date of the enactment of this Act.

(c) AVAILABILITY OF FUNDS.—

(1) IN GENERAL.—This section shall not take effect until sufficient funds are determined to be available to compensate the RTC for any losses resulting from its implementation.

(2) PUBLIC INDEBTEDNESS.—No funding described in paragraph (1) shall increase the public indebtedness of the United States.

(3) TAXES.—No funding described in paragraph (1) may be provided from increased tax revenues or revenue enhancements in any manner.

SEC. 405. DELEGATIONS OF AUTHORITY FOR THE DISPOSITION OF ASSETS.

(a) IN GENERAL.—The Resolution Trust Corporation shall examine any delegation of authority which the Corporation has made with respect to the disposition of assets and shall further delegate such authority as the Corporation determines to be appropriate and to be consistent with section 21A(b)(3)(C) of the Federal Home Loan Bank Act and prudent business judgment.

(b) REPORT.—The Resolution Trust Corporation shall report to Congress not later than April 1, 1992, on the steps the Corporation has taken to comply with subsection (a).

SEC. 406. SELLER FINANCING.

(a) IN GENERAL.—The Resolution Trust Corporation shall examine the policies and procedures of the Corporation with respect to seller financing and shall use its best efforts, consistent with section 21A(b)(3)(C) of the Federal Home Loan Bank Act, to lower the Corporation's threshold limitations with respect to the size of transactions for seller financing.

(b) REPORT.—The Resolution Trust Corporation shall report to Congress not later than April 1, 1992, on the steps the Corporation has taken to comply with subsection (a).

SEC. 407. FDIC PROPERTY DISPOSITION STANDARDS.

(a) IN GENERAL.—Section 11(d)(13) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(13)) is amended by adding at the end the following new subparagraph:

"(E) DISPOSITION OF ASSETS.—In exercising any right, power, privilege, or authority as conservator or receiver in connection with any sale or disposition of assets of any insured deposi-

tory institution for which the Corporation has been appointed conservator or receiver, including any sale or disposition of assets acquired by the Corporation under section 13(d)(1), the Corporation shall conduct its operations in a manner which—

"(i) maximizes the net present value return from the sale or disposition of such assets;

"(ii) minimizes the amount of any loss realized in the resolution of cases;

"(iii) ensures adequate competition and fair and consistent treatment of offerors;

"(iv) prohibits discrimination on the basis of race, sex, or ethnic groups in the solicitation and consideration of offers; and

"(v) maximizes the preservation of the availability and affordability of residential real property for low- and moderate-income individuals.".

(b) CORPORATE CAPACITY.—Section 13(d)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1823(d)(3)) is amended by adding at the end the following new subparagraph:

"(D) DISPOSITION OF ASSETS.—In exercising any right, power, privilege, or authority described in subparagraph (A) regarding the sale or disposition of assets sold to the Corporation pursuant to paragraph (1), the Corporation shall conduct its operations in a manner which—

"(i) maximizes the net present value return from the sale or disposition of such assets;

"(ii) minimizes the amount of any loss realized in the resolution of cases;

"(iii) ensures adequate competition and fair and consistent treatment of offerors;

"(iv) prohibits discrimination on the basis of race, sex, or ethnic groups in the solicitation and consideration of offers; and

"(v) maximizes the preservation of the availability and affordability of residential real property for low- and moderate-income individuals.".

SEC. 408. RISK-WEIGHTING FOR SINGLE FAMILY HOUSING LOANS.

(a) 50 PERCENT RISK-WEIGHTED CLASSIFICATION.—

(1) IN GENERAL.—To provide consistent regulatory treatment of loans made for the construction of single family housing, not later than the expiration of the 120-day period beginning on the date of this Act each Federal banking agency shall amend the regulations and guidelines of the agency establishing minimum acceptable capital levels to provide that any single family residence construction loan described under paragraph (2) shall be considered as a loan within the 50 percent risk-weighted category.

(2) REQUIREMENTS.—Paragraph (1) shall apply to any construction loan—

(A) made for the construction of a residence consisting of 1 to 4 dwelling units;

(B) under which the lender has acquired from the lender originating the mortgage loan for purchase of the residence, before the making of the construction loan—

(i) documentation demonstrating that the buyer of the residence intends to purchase the residence and has the ability to obtain a mortgage loan sufficient to purchase the residence; and

(ii) any other documentation from the mortgage lender that the appropriate Federal banking agency may consider appropriate to provide assurances of the buyer's intent to purchase the property (including written commitments and letters of intent);

(C) under which the borrower requires the buyer of the residence to make a nonrefundable deposit to the borrower in an amount (as determined by the appropriate Federal banking agency) of not less than 1 percent of the principal amount of mortgage loan obtained by the borrower for purchase of the residence, for use in defraying any costs relating to any cancellation of the purchase contract of the buyer; and

(D) that meets any other underwriting characteristics that the appropriate Federal banking agency may establish, consistent with the purposes of the minimum acceptable capital requirements to maintain the safety and soundness of financial institutions.

(b) 100 PERCENT RISK-WEIGHTED CLASSIFICATION.—Not later than the expiration of the 120-day period beginning on the date of this Act each Federal banking agency shall amend the regulations and guidelines of the agency establishing minimum acceptable capital levels to provide that—

(1) any single family residence construction loan for a residence for which the purchase contract is canceled shall be considered as a loan within the 100 percent risk-weighted category; and

(2) the lender of any single family residence construction loan shall promptly notify the appropriate Federal banking agency of any such cancellation.

(c) APPROPRIATE FEDERAL BANKING AGENCY.—For purposes of this section, the term "Federal banking agency" means the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, and the Director of the Office of Thrift Supervision.

SEC. 409. RISK-WEIGHTING FOR MULTIFAMILY HOUSING LOANS.

(a) 50 PERCENT RISK-WEIGHTED CLASSIFICATION.—

(1) IN GENERAL.—To provide consistent regulatory treatment of loans made for the purchase of multifamily rental and homeowner properties, not later than the expiration of the 120-day period beginning on the date of this Act each Federal banking agency shall amend the regulations and guidelines of the agency establishing minimum acceptable capital levels to provide that any multifamily housing loan described under paragraph (2) and any security collateralized by such a loan shall be considered as a loan or security within the 50 percent risk-weighted category.

(2) REQUIREMENTS.—Paragraph (1) shall apply to any loan—

(A) secured by a first lien on a residence consisting of more than 4 dwelling units;

(B) under which—

(i)(I) the rate of interest does not change over the term of the loan, (II) the principal obligation does not exceed 80 percent of the appraised value of the property, and (III) the ratio of annual net operating income generated by the property (before payment of any debt service on the loan) to annual debt service on the loan is not less than 120 percent; or

(ii)(I) the rate of interest changes over the term of the loan, (II) the principal obligation does not exceed 75 percent of the appraised value of the property, and (III) the ratio of annual net operating income generated by the property (before payment of any debt service on the loan) to annual debt service on the loan is not less than 115 percent;

(C) under which—

(i) amortization of principal and interest occurs over a period of not more than 30 years;

(ii) the minimum maturity for repayment of principal is not less than 7 years; and

(iii) timely payment of all principal and interest, in accordance with the terms of the loan, occurs for a period of not less than 1 year; and

(D) that meets any other underwriting characteristics that the appropriate Federal banking agency may establish, consistent with the purposes of the minimum acceptable capital requirements to maintain the safety and soundness of financial institutions.

(b) SALE PURSUANT TO PRO RATA LOSS SHARING ARRANGEMENTS.—Not later than the expiration of the 120-day period beginning on the date of this Act, each Federal banking agency shall amend the regulations and guidelines of the agency establishing minimum acceptable capital levels to provide that any loan fully secured by a first lien on a multifamily housing property that is sold subject to a pro rata loss sharing arrangement by an institution subject to the jurisdiction of the agency shall be treated as sold to the extent that loss is incurred by the purchaser of the loan. For purposes of this subsection, the term "pro rata loss sharing arrangement" means an agreement providing that the purchaser of a loan shares in any loss incurred on the loan with the selling institution on a pro rata basis.

(c) SALE PURSUANT TO OTHER ARRANGEMENTS FOR LOSS.—Not later than the expiration of the 180-day period beginning on the date of the enactment of this Act, each Federal banking agency shall amend the regulations and guidelines of the agency establishing minimum acceptable capital levels to take into account other loss sharing arrangements, in connection with the sale by an institution subject to the jurisdiction of the agency of any loan that is fully secured by a first lien on multifamily housing property, for purposes of determining the extent to which such loans shall be treated as sold. For purposes of this subsection, the term "other loss sharing arrangement" means an agreement providing that the purchaser of a loan shares in any loss incurred on the loan with the selling institution on other than a pro rata basis.

(d) APPROPRIATE FEDERAL BANKING AGENCY.—For purposes of this section, the term "Federal banking agency" means the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, and the Director of the Office of Thrift Supervision.

SEC. 410. REAL ESTATE APPRAISALS.

(a) CERTIFICATION AND LICENSING REQUIREMENTS.—Section 1116 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3345) is amended by adding at the end the following new subsection:

"(e) AUTHORITY OF THE APPRAISAL SUBCOMMITTEE.—The Appraisal Subcommittee shall not set qualifications or experience requirements for the States in licensing real estate appraisers. Recommendations of the Subcommittee shall be nonbinding on the States.".

(b) USE OF STATE CERTIFIED AND STATE LICENSED APPRAISERS.—

(1) EFFECTIVE DATE FOR USE.—Section 1119(a)(1) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3348(a)(1)) is amended by striking "July 1, 1991" and inserting "December 31, 1992".

(2) EXTENSION OF EFFECTIVE DATE.—Section 1119(b) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3348(b)) is amended—

(A) in the 1st sentence, by striking "leading to inordinate delays" and inserting ", or in any geographical political subdivision of a State, leading to significant delays"; and

(B) in the 2d sentence, by striking "inordinate" and inserting "significant".

SEC. 411. FORECLOSURE POWERS.

Section 21A(b)(4) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(4)) is amended—

(1) in subparagraph (A), by inserting "and subparagraph (C)" after "or subparagraph (B)";

(2) by inserting after subparagraph (B) the following new subparagraph:

"(C) FORECLOSURE POWERS.—

"(i) IN GENERAL.—In addition to the powers provided to the Corporation as receiver or conservator under this paragraph, the Corporation, acting as receiver or conservator, shall—

"(I) have the same rights, powers, and obligations as those given to the Department of Hous-

ing and Urban Development under the Multifamily Mortgage Foreclosure Act; and

"(II) may utilize the procedures provided for in such Act, with respect to the foreclosure of mortgages on residential properties, other than 1- to 4-family residential property, and nonresidential properties held by the Corporation as receiver or conservator.

"(ii) AUTHORITY OF THE CEO.—For purposes of exercising the powers of the Corporation under clause (i), the chief executive officer of the Corporation shall be vested with all the rights, powers, and obligations given to the Secretary of Housing and Urban Development.

"(iii) RULE OF CONSTRUCTION.—This subparagraph shall not be construed as granting the Secretary of Housing and Urban Development any rights, powers, or obligations with respect to the disposition of real estate by the Corporation.

"(iv) REGULATIONS.—Before the end of the 180-day period beginning on date of the enactment of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991, the Corporation shall prescribe regulations providing for the implementation of the powers granted the Corporation under this subparagraph.".

SEC. 412. UTILIZATION OF BROKERS.

Section 21A(b)(11)(A) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(11)(A)) is amended—

(1) by redesignating clauses (iii), (iv), and (v) as clauses (iv), (v), and (vi), respectively; and

(2) by inserting after clause (ii), the following new clause:

"(iii) UTILIZATION OF BROKERS AND AGENTS.—

"(I) IN GENERAL.—Before the end of the 180-day period beginning on date of the enactment of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991, the Corporation shall establish policies and procedures for the utilization of real estate brokers and agents.

"(II) PRIVATE BROKERS AND AGENTS.—The policies and procedures established under subclause (I) shall be designed to include, to the greatest extent practicable, private brokers and agents in the asset disposition activity of the Corporation.".

SEC. 413. EXPEDITED TITLE CLEARANCE PROCEDURES.

Section 21A(b) of the Federal Home Loan Bank Act as amended (12 U.S.C. 1441a(b)) is amended by adding at the end the following new paragraph:

"(15) CONVEYANCE OF TITLE AND RELATED CLAIMS.—

"(A) TITLE PRESUMPTION.—Any purchaser for value of real property from the Corporation acting as receiver for a depository institution shall be conclusively presumed to have acquired free and clear title to the real property described in the document of conveyance, subject only to covenants, conditions, restrictions, encumbrances, easements, rights-of-way and other matters specifically described in the document of conveyance.

"(B) CLAIMS.—Any person having an interest in real property conveyed by the Corporation as receiver in accordance with paragraph (i) shall have a claim against the proceeds derived by the Corporation as receiver from such conveyance for the proportionate value of such interest.

"(C) DETERMINATION OF CLAIMS.—Any claim under subparagraph (B) shall be filed and determined in accordance with section 11(d) of the Federal Deposit Insurance Act and regulations prescribed by the Corporation.

"(D) FILING PERIOD.—Any claim under subparagraph (B) shall be considered timely if filed within 90 days after the date of any conveyance giving rise to the claim.

"(E) NO CLAIM OR REMEDY AGAINST THE CORPORATION.—No provision of this subsection shall be construed as creating any claim or afford any remedy against the Corporation in its corporate capacity.

"(F) REGULATIONS.—Before the end of the 90-day period beginning on the date of the enactment of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991, the Corporation shall prescribe regulations regarding conveyancing procedures and forms to be utilized under subparagraph (A), the procedure for giving public notice of the conveyance, and procedures related to claims under subparagraph (B), including procedures for identifying and setting aside proceeds of sale subject to such claims and establishing priorities of such claims.

"(G) NO AFFECT ON PRIOR CLAIMS.—No provision of this subsection shall affect, reduce, or impair any claim which could have been asserted (if timely filed) before any conveyance, or the priority of any such claim as against other claims.".

SEC. 414. CORPORATE POWERS RELATING TO FINANCING.

Section 21A(b)(10)(E) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(10)(E)) is amended by inserting "using any legally available methods, including seller financing, securitizations of assets, negotiated sales, structured financings, partnerships, mortgage investment conduits, and real estate investment trusts," after "real and personal property,".

SEC. 415. MAINTENANCE OF PROPERTIES IN INVENTORY.

Section 21A(b) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)) is amended by adding after paragraph (17) (as added by section 401 of this Act) the following new paragraph:

"(18) MAINTENANCE OF PROPERTIES IN INVENTORY.—Any occupied residential real property assets of institutions for which the Corporation has been appointed as conservator or receiver shall be subject to any standards for housing quality or maintenance relating to safety, sanitation, or habitability, that are established under State or local law, regulation, or ordinance by the State or unit of general local government in which the property is located.".

SEC. 416. REDUCTION OF MULTIPLE ENTITIES REPRESENTING THE RTC IN CASES OF SINGLE ASSETS.

(a) IN GENERAL.—The Resolution Trust Corporation shall establish and maintain policies and procedures to consolidate representation on behalf of the Corporation in connection with any qualified single-asset transaction in as few entities as is consistent with minimizing operating costs of the Corporation (including administrative expenses of conservatorships and receiverships) and expediting the resolution of disputes regarding the sale of the Corporation's assets.

(b) QUALIFIED SINGLE-ASSET TRANSACTION DEFINED.—For purposes of subsection (a), the term "qualified single-asset transaction" means any litigation, negotiation, sale, or other transaction involving a single asset in which the Resolution Trust Corporation has acquired interests through more than 1 depository institution for which the Corporation has been appointed conservator or receiver.

TITLE V—RESOLUTION TRUST CORPORATION AFFORDABLE HOUSING PROGRAM

SEC. 501. INCLUSION OF ELIGIBLE RESIDENTIAL PROPERTY UNDER CONSERVATORSHIP.

Section 21A(c)(9) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(9)) is amended—

(1) by striking subparagraphs (C) and (D) and inserting the following new subparagraphs:

"(C) CORPORATION.—The term 'Corporation' means the Resolution Trust Corporation.

"(D) ELIGIBLE MULTIFAMILY HOUSING PROPERTY.—

"(i) BASIC DEFINITION.—The term 'eligible multifamily housing property' means a property consisting of more than 4 dwelling units—

"(I) to which the Corporation acquires title either in its corporate capacity or as receiver (including its capacity as the sole owner of a subsidiary corporation of a depository institution under receivership, which subsidiary has as its principal business the ownership of real property), but not in its capacity as conservator; and

"(II) that has an appraised value that does not exceed the applicable dollar amount set forth in section 221(d)(3)(ii) of the National Housing Act for elevator-type structures (without regard to any increase of such amount for high-cost areas).

"(ii) EXPANDED DEFINITION.—Notwithstanding clause (i), effective upon a determination by the Oversight Board that sufficient amounts are available (subject to clause (iii)) to compensate the Corporation for any losses resulting from this clause taking effect, the term 'eligible multifamily housing property' shall mean a property consisting of more than 4 dwelling units—

"(I) to which the Corporation acquires title in its corporate capacity, its capacity as conservator, or its capacity as receiver (including its capacity as the sole owner of a subsidiary corporation of a depository institution under conservatorship or receivership, which subsidiary has as its principal business the ownership of real property); and

"(II) that has an appraised value that does not exceed the applicable dollar amount set forth in section 221(d)(3)(ii) of the National Housing Act for elevator-type structures (without regard to any increase of such amount for high-cost areas).

"(iii) LIMITATIONS.—No amount shall be considered as available for purposes of clause (ii) if such availability would result in an increase in the public indebtedness of the United States. No amount shall be considered as available for purposes of clause (ii) if the amount is provided from increased tax revenues or revenue enhancements in any manner."; and

(2) by striking subparagraph (F) and inserting the following new subparagraph:

"(F) ELIGIBLE SINGLE FAMILY PROPERTY.—The term 'eligible single family property' means a 1- to 4-family residence (including a manufactured home)—

"(I) to which the Corporation acquires title in its corporate capacity, its capacity as conservator, or its capacity as receiver (including its capacity as the sole owner of a subsidiary corporation of a depository institution under conservatorship or receivership, which subsidiary has as its principal business the ownership of real property); and

"(II) that has an appraised value that does not exceed the applicable dollar amount set forth in the first sentence of section 203(b)(2) of the National Housing Act (without regard to any increase of such amount for high-cost areas).".

SEC. 502. TIME LIMITATIONS ON SALE OF ELIGIBLE SINGLE FAMILY PROPERTY.

Section 21A(c)(2)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(2)(B)), as amended by Public Law 102-139, is amended by striking "3-month and one week period" each place it occurs and inserting "180-day period".

SEC. 503. ACTIVE MARKETING OF ELIGIBLE SINGLE FAMILY PROPERTY TO LOWER-INCOME VETERANS.

Section 21A(c)(2)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(2)(B)) is amended—

(1) in clause (i) of the first sentence, by inserting "(including qualifying households with members who are veterans)" after "households";

(2) in subclause (I) of clause (ii) of the first sentence, by inserting "(including lower-income

families with members who are veterans)" after "lower-income families"; and

(3) in the fourth sentence, by inserting "and to lower-income families with members who are veterans" before the period.

SEC. 504. PREVENTION OF SPECULATION ON ELIGIBLE SINGLE FAMILY PROPERTY.

(a) RESIDENCY REQUIREMENTS.—

(1) QUALIFYING HOUSEHOLDS.—Section 21A(c)(9)(K) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(9)(K)) is amended by striking "and (ii) whose adjusted income" and inserting the following: "(ii) who agrees to occupy the property as a principal residence for at least 12 months (except as provided in paragraph (2)(D)); (iii) who certifies in writing that the household intends to occupy the property as a principal residence for at least 12 months (except as provided in paragraph (2)(D)); and (iv) whose income".

(2) LOWER-INCOME FAMILIES.—The first sentence of section 21A(c)(2)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(2)) is amended by striking "by such families." and inserting the following: "by any such family who, except as provided in subparagraph (D), agrees to occupy the property as a principal residence for at least 12 months and who certifies in writing that the family intends to occupy the property for at least 12 months.".

(b) RECAPTURE OF PROFITS FROM RESALE.—Section 21A(c)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(2)) is amended by adding at the end the following new subparagraphs:

"(C) RECAPTURE OF PROFITS FROM RESALE.—Except as provided in subparagraph (D), if any eligible single family property sold (i) to a qualifying household, or (ii) to a lower-income family pursuant to subparagraph (B)(ii)(II), paragraph (12)(C)(i), or paragraph (13)(B), is resold by the qualifying household or lower-income family during the 1-year period beginning upon initial acquisition by the household or lower-income family, the Corporation shall recapture 75 percent of the amount of any proceeds from the resale that exceed the sum of (I) the original sale price for the acquisition of the property by the qualifying household or lower-income family, (II) the costs of any improvements to the property made after the date of the acquisition, and (III) any closing costs in connection with the acquisition.

"(D) EXCEPTIONS TO RECAPTURE REQUIREMENT.—

"(i) RELOCATION.—The Corporation (or its successor) may in its discretion waive the applicability (I) to any qualifying household of the requirement under subparagraph (C) and the requirements relating to residency of a qualifying household under paragraphs (9)(L) (ii) and (iii), and (II) to any lower-income family of the requirement under subparagraph (C) and the residency requirements under subparagraph (B)(ii)(II). The Corporation may grant any such a waiver only for good cause shown, including any necessary relocation of the qualifying household or lower-income family.

"(ii) OTHER RECAPTURE PROVISIONS.—The requirement under subparagraph (C) shall not apply to any eligible single family property for which, upon resale by the qualifying household or lower-income family during the 1-year period beginning upon initial acquisition by the household or family, a portion of the sale proceeds or any subsidy provided in connection with the acquisition of the property by the household or family is required to be recaptured or repaid under any other Federal, State, or local law (including section 143(m) of the Internal Revenue Code of 1986) or regulation or under any sale agreement.".

SEC. 505. AVOIDANCE OF DISPLACEMENT UNDER SINGLE FAMILY PROPERTY DISPOSITION PROGRAM.

Section 21A(c)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(2)) is amended by adding after subparagraph (D) (as added by section 504(b) of this Act) the following new subparagraph:

"(E) EXCEPTION TO AVOID DISPLACEMENT OF EXISTING RESIDENTS.—Notwithstanding the first sentence of subparagraph (B), during the 180-day period following the date on which the Corporation makes an eligible single family property available for sale, the Corporation may sell the property to the household residing in the property, but only if (i) such household was residing in the property at the time notice regarding the property was provided to clearinghouses under subparagraph (A), (ii) such sale is necessary to avoid the displacement of, and unnecessary hardship to, the resident household, (iii) the resident household intends to occupy the property as a principal residence for at least 12 months, and (iv) and the resident household certifies in writing that the household intends to occupy the property for at least 12 months.".

SEC. 506. PERIODS FOR EXPRESSION OF SERIOUS INTEREST AND RESTRICTED BIDS FOR ELIGIBLE MULTIFAMILY HOUSING PROPERTY.

Section 21A(c)(3) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(3)) is amended—

(1) in the first sentence of subparagraph (B), by striking the first comma and all that follows through "first";

(2) in subparagraph (C), by striking "determining that a property is ready for sale" and inserting the following: "the expiration of the period referred to in subparagraph (B) for a property,"; and

(3) in subparagraph (D), by inserting after the period at the end the following new sentence: "If, before the expiration of such 45-day period, any offer to purchase a property initially accepted by the Corporation is subsequently rejected or fails (for any reason), the Corporation shall accept another offer to purchase the property made during such period that complies with the terms and conditions established by the Corporation (if such another offer is made). The preceding sentence may not be construed to require a qualifying multifamily purchaser whose offer is accepted during the 45-day period to purchase the property before the expiration of the period.".

SEC. 507. LOWER-INCOME OCCUPANCY REQUIREMENTS FOR ELIGIBLE MULTIFAMILY HOUSING PROPERTY.

Section 21A(c)(3)(E) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(3)(E)) is amended to read as follows:

"(E) LOWER-INCOME OCCUPANCY REQUIREMENTS.—

"(i) SINGLE PROPERTY PURCHASES.—With respect to any purchase of a single eligible multifamily housing property by a qualifying multifamily purchaser under subparagraph (D)—

"(I) not less than 35 percent of all dwelling units purchased shall be made available for occupancy by and maintained as affordable for lower-income and very low-income families during the remaining useful life of the building or structure in which the units are located; provided that

"(II) not less than 20 percent of all dwelling units purchased shall be made available for occupancy by and maintained as affordable for very low-income families during the remaining useful life of the building or structure in which the units are located.

"(ii) AGGREGATION REQUIREMENTS FOR MULTIPROPERTY PURCHASES.—With respect to any purchase under subparagraph (D) by a qualifying multifamily purchaser involving more than one eligible multifamily housing property as a part of the same negotiation, with respect to which the purchaser intends to aggregate the lower-income occupancy required under this subparagraph over the total number of units so purchased—

"(I) not less than 40 percent of the aggregate number of all dwelling units purchased shall be made available for occupancy by and maintained as affordable for lower-income and very low-income families during the remaining useful life of the building or structure in which the units are located; provided that

"(II) not less than 20 percent of the aggregate number of all dwelling units purchased shall be made available for occupancy by and maintained as affordable for very low-income families during the remaining useful life of the building or structure in which the units are located; and further provided that

"(III) not less than 10 percent of the dwelling units in each separate property purchased shall be made available for occupancy by and maintained as affordable for lower-income families during the remaining useful life of the property in which the units are located.

The requirements of this subparagraph shall be contained in the deed or other recorded instrument.".

SEC. 508. EXTENSION OF RESTRICTED OFFER PERIOD FOR ELIGIBLE MULTIFAMILY HOUSING PROPERTY.

Section 21A(c)(3) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(3)) is amended—

(1) by redesignating subparagraph (G) as subparagraph (H); and

(2) by inserting after subparagraph (F) the following new subparagraph:

"(G) EXTENSION OF RESTRICTED OFFER PERIODS.—Notwithstanding subparagraph (F), the Corporation may provide notice to clearinghouses regarding, and offer for sale under the provisions of subparagraphs (A) through (D), any eligible multifamily housing property—

"(i) in which no qualifying multifamily purchaser has expressed serious interest during the period referred to in subparagraph (B), or

"(ii) for which no qualifying multifamily purchaser has made a bona fide offer before the expiration of the period referred to in subparagraph (D),

except that the Corporation may, in the discretion of the Corporation, alter the duration of the periods referred to in subparagraphs (B) and (D) in offering any property for sale under this subparagraph.".

SEC. 509. SALE PRICE.

Section 21A(c)(6)(A)(i) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(6)(A)(i)) is amended to read as follows:

"(i) SALE PRICE.—The Corporation shall establish a market value for each eligible multifamily housing property. The Corporation shall sell eligible multifamily housing property at the net realizable market value. The Corporation may agree to sell eligible multifamily housing property at a price below the net realizable market value to the extent necessary to facilitate an expedited sale of such property and enable a public agency or nonprofit organization to comply with the lower-income occupancy requirements applicable to such property under paragraph (3). The Corporation may sell eligible single family property or eligible condominium property to qualifying households, nonprofit organizations, and public agencies without regard to any minimum sale price.".

SEC. 510. AUTHORITY FOR RTC TO PARTICIPATE IN MULTIFAMILY FINANCING POOLS.

Section 21A(c)(6)(A)(ii) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(6)(A)(ii)) is amended by adding at the end the following new sentence: "In providing financing for combinations of eligible multifamily housing properties under this subsection, the Corporation

may hold a participating share, including a subordinate participation.".

SEC. 511. CREDIT ENHANCEMENT FOR CERTAIN TAX-EXEMPT BONDS.

Section 21A(c)(8)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(8)(B)) is amended—

(1) by striking "(B) CREDIT ENHANCEMENT.—With respect to" and inserting the following:

"(B) CREDIT ENHANCEMENT.—

"(i) IN GENERAL.—With respect to"; and

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

"(ii) CERTAIN TAX-EXEMPT BONDS.—The Corporation may provide credit enhancements with respect to tax-exempt bonds issued on behalf of nonprofit organizations pursuant to section 103, and subpart A of part IV of subchapter A of chapter 1, of the Internal Revenue Code of 1986, with respect to the disposition of eligible residential properties for the purposes described in clause (i).".

SEC. 512. PERMANENT EFFECTIVENESS OF EXEMPTION FOR TRANSACTIONS WITH INSURED DEPOSITORY INSTITUTIONS.

Notwithstanding section 203 of the Resolution Trust Corporation Funding Act of 1991, the amendment made by section 201(b) of such Act shall apply on and after the date of the enactment of this Act.

SEC. 513. TRANSFER OF CERTAIN ELIGIBLE RESIDENTIAL PROPERTIES TO STATE HOUSING AGENCIES FOR DISPOSITION.

Section 21A(c) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)) is amended by adding at the end the following new paragraph:

"(12) TRANSFER OF CERTAIN ELIGIBLE RESIDENTIAL PROPERTIES TO STATE HOUSING AGENCIES FOR DISPOSITION.—Notwithstanding paragraphs (2), (3), (5), and (6), the Corporation may transfer eligible residential properties to the State housing finance agency or any other State housing agency for the State in which the property is located, or to any local housing agency in whose jurisdiction the property is located. Transfers of eligible residential properties under this paragraph may be conducted by direct sale, consignment sale, or any other method the Corporation considers appropriate and shall be subject to the following requirements:

"(A) INDIVIDUAL OR BULK TRANSFER.—The Corporation may transfer such properties individually or in bulk, as agreed to by the Corporation and the State housing finance agency or State or local housing agency.

"(B) ACQUISITION PRICE AND DISCOUNT.—The acquisition price paid by the State housing finance agency or State or local housing agency to the Corporation for properties transferred under this paragraph shall be an amount agreed to by the Corporation and the transferee agency.

"(C) LOWER-INCOME USE.—Any State housing finance agency or State or local housing agency acquiring properties under this paragraph shall offer to sell or transfer the properties only as follows:

"(i) ELIGIBLE SINGLE FAMILY PROPERTIES.—For eligible single family properties—

"(I) to purchasers described under clauses (i) and (ii) of paragraph (2)(B);

"(II) if the purchaser is a purchaser described under paragraph (2)(B)(ii)(I), subject to the rent limitations under paragraph (4)(A);

"(III) subject to the requirement in the second sentence of paragraph (2)(B); and

"(IV) subject to recapture by the Corporation of excess proceeds from resale of the properties under subparagraphs (C) and (D) of paragraph (2).

"(ii) ELIGIBLE MULTIFAMILY HOUSING PROPERTIES.—For eligible multifamily housing properties—

"(I) to qualifying multifamily purchasers;

"(II) subject to the lower-income occupancy requirements under paragraph (3)(E);

"(III) subject to the provisions of paragraph (3)(H);

"(IV) subject to a preference, among financially acceptable offers, to the offer that would reserve the highest percentage of dwelling units for occupancy or purchase by very low-income families and lower-income families and would retain such affordability for the longest term; and

"(V) subject to the rent limitations under paragraph (4)(A).

"(D) AFFORDABILITY.—The State housing finance agency or State or local housing agency shall endeavor to make the properties transferred under this paragraph more affordable to lower-income families based upon the extent to which the acquisition price of a property under subparagraph (B) is less than the market value of the property.".

SEC. 514. SUSPENSION OF OFFER PERIODS FOR SALES OF ELIGIBLE RESIDENTIAL PROPERTY TO NONPROFIT ORGANIZATIONS AND PUBLIC AGENCIES.

Section 21A(c) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)) is amended by adding after paragraph (12) (as added by section 513 of this Act) the following new paragraph:

"(13) EXCEPTION FOR SALES TO NONPROFIT ORGANIZATIONS AND PUBLIC AGENCIES.—

"(A) SUSPENSION OF OFFER PERIODS.—With respect to any eligible residential property, the Corporation may (in the discretion of the Corporation) suspend any of the requirements of subparagraphs (A) and (B) of paragraph (2) and subparagraphs (A) through (D) of paragraph (3), as applicable, but only to the extent that for the duration of the suspension the Corporation negotiates the sale of the property to a nonprofit organization or public agency. If the property is not sold pursuant to such negotiations, the requirements of any provisions suspended shall apply upon the termination of the suspension. Any time period referred to in such paragraphs shall toll for the duration of any suspension under this subparagraph.

"(B) USE RESTRICTIONS.—

"(i) ELIGIBLE SINGLE FAMILY PROPERTY.—Any eligible single family property sold under this paragraph shall be (I) made available for occupancy by and maintained as affordable for lower-income families for the remaining useful life of the property, or made available for purchase by such families, (II) subject to the rent limitations under paragraph (4)(A), (III) subject to the requirements relating to residency of a qualifying household under paragraph (9)(L) and to residency of a lower-income family under paragraph (2)(B)(ii), and (IV) subject to recapture by the Corporation of excess proceeds from resale of the property under subparagraphs (C) and (D) of paragraph (2).

"(ii) ELIGIBLE MULTIFAMILY HOUSING PROPERTY.—Any eligible multifamily housing property sold under this paragraph shall comply with the lower-income occupancy requirements under paragraph (3)(E) and shall be subject to the rent limitations under paragraph (4)(A).".

SEC. 515. SALE OF ELIGIBLE CONDOMINIUM PROPERTY.

(a) IN GENERAL.—Section 21A(c) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)) is amended by adding after paragraph (13) (as added by section 514 of this Act) the following new paragraph:

"(14) RULES GOVERNING DISPOSITION OF ELIGIBLE CONDOMINIUM PROPERTY.—

"(A) NOTICE TO CLEARINGHOUSES.—Within a reasonable period of time after acquiring title to an eligible condominium property, the Corporation shall provide written notice to clearinghouses. Such notice shall contain basic information about the property. Each clearinghouse shall make such information available, upon request, to purchasers described in clauses (i) through (iv) of subparagraph (B). The Corporation shall allow such purchasers reasonable access to an eligible condominium property for purposes of inspection.

"(B) OFFERS TO SELL.—For the 180-day period following the date on which the Corporation makes an eligible condominium property available for sale, the Corporation may offer to sell the property, at the discretion of the Corporation, to 1 or more of the following purchasers:

"(i) Qualifying households.

"(ii) Nonprofit organizations.

"(iii) Public agencies.

"(iv) For-profit entities.

"(C) LOWER-INCOME OCCUPANCY REQUIREMENTS.—

"(i) IN GENERAL.—Except as provided in clause (ii), any nonprofit organization, public agency, or for-profit entity that purchases an eligible condominium property shall (I) make the property available for occupancy by and maintain it as affordable for lower-income families for the remaining useful life of the property, or (II) make the property available for purchase by any such family who, except as provided in subparagraph (E), agrees to occupy the property as a principal residence for at least 12 months and who certifies in writing that the family intends to occupy the property for at least 12 months. The restriction described in subclause (I) of the preceding sentence shall be contained in the deed or other recorded instrument.

"(ii) MULTIPLE-UNIT PURCHASES.—If any nonprofit organization, public agency, or for-profit entity purchases more than 1 eligible condominium property as a part of the same negotiation or purchase, the Corporation may (in the discretion of the Corporation) waive the requirement under clause (i) and provide instead that not less than 35 percent of all eligible condominium properties purchased shall be (I) made available for occupancy by and maintained as affordable for lower-income families for the remaining useful life of the property, or (II) made available for purchase by any such family who, except as provided in subparagraph (E), agrees to occupy the property as a principal residence for at least 12 months and who certifies in writing that the family intends to occupy the property for at least 12 months. The restriction described subclause (I) of the preceding sentence shall be contained in the deed or other recorded instrument.

"(iii) SALE TO OTHER PURCHASERS.—If, upon the expiration of the 180-day period referred to in subparagraph (B), no purchaser described in clauses (i) through (iv) of subparagraph (B) has made a bona fide offer to purchase the property, the Corporation may offer to sell the property to any other purchaser.

"(D) RECAPTURE OF PROFITS FROM RESALE.—Except as provided in subparagraph (E), if any eligible condominium property sold (i) to a qualifying household, or (ii) to a lower-income family pursuant to subparagraph (C)(i)(II) or (C)(ii)(II), is resold by the qualifying household or lower-income family during the 1-year period beginning upon initial acquisition by the household or family, the Corporation shall recapture 75 percent of the amount of any proceeds from the resale that exceed the sum of (I) the original sale price for the acquisition of the property by the qualifying household or lower-income family, (II) the costs of any improvements to the property made after the date of the acquisition, and (III) any closing costs in connection with the acquisition.

"(E) EXCEPTION TO RECAPTURE REQUIREMENT.—The Corporation (or its successor) may in its discretion waive the applicability to any

qualifying household or lower-income family of the requirement under subparagraph (D) and the requirements relating to residency of a qualifying household or lower-income family (under paragraph (9)(L) and subparagraph (C) of this paragraph, respectively). The Corporation may grant any such a waiver only for good cause shown, including any necessary relocation of the qualifying household or lower-income family.

"(F) LIMITATIONS ON MULTIPLE UNIT PURCHASES.—The Corporation may not sell or offer to sell as part of the same negotiation or purchase any eligible condominium properties that are not located in the same condominium project (as such term is defined in section 604 of the Housing and Community Development Act of 1980). The preceding sentence may not be construed to require all eligible condominium properties offered or sold as part of the same negotiation or purchase to be located in the same structure.

"(G) RENT LIMITATIONS.—Rents charged to tenants of eligible condominium properties made available for occupancy by very low-income families shall not exceed 30 percent of the adjusted income of a family whose income equals 50 percent of the median income for the area, as determined by the Secretary, with adjustment for family size. Rents charged to tenants of eligible condominium properties made available for occupancy by lower-income families other than very low-income families shall not exceed 30 percent of the adjusted income of a family whose income equals 65 percent of the median income for the area, as determined by the Secretary, with adjustment for family size.".

(b) CONFORMING AMENDMENT.—Section 21A(c)(11)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(11)(B)) is amended by striking "specified under paragraphs (2) and (3)" and inserting "applicable under paragraphs (2), (3), (12)(C), (13)(B), and (14)(C)".

SEC. 516. REPORTS TO CONGRESS REGARDING AFFORDABLE HOUSING PROGRAM.

Section 21A(c) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)) is amended by adding after paragraph (14) (as added by section 515 of this Act) the following new paragraph:

"(15) REPORTS TO CONGRESS.—

"(A) IN GENERAL.—The Corporation shall submit to the Congress semiannual reports under this paragraph regarding the disposition of eligible residential properties under this subsection during the most recently concluded reporting period. The first report under this paragraph shall be submitted not later than the expiration of the 4-month period beginning upon the conclusion of the first reporting period under subparagraph (B). Subsequent reports shall be submitted not less than every 6 months after such expiration.

"(B) REPORTING PERIODS.—For purposes of this paragraph, the term 'reporting period' means the 6-month period for which a report under this paragraph is made, except that the first reporting period shall be the period beginning on the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 and ending on the date of the enactment of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991. Each successive reporting period shall begin upon the conclusion of the preceding reporting period.

"(C) INFORMATION REGARDING PROPERTIES SOLD.—Each report under this paragraph shall contain information regarding each eligible residential property sold by the Corporation during the applicable reporting period, as follows:

"(i) A description of the property, the location of the property, and the number of dwelling units in the property.

"(ii) The appraised value of the property.

"(iii) The sale price of the property.

"(iv) For eligible single family properties—

"(I) the income and race of the purchaser of the property, if the property is sold to an occupying household or is sold for resale to an occupying household; and

"(II) whether the property is reserved for residency by very low- or lower-income families, if the property is sold for use as rental property.

"(v) For eligible multifamily housing properties, the number and percentage of dwelling units in the property reserved for occupancy by very low- and lower-income families.

"(vi) The number of eligible single family properties sold after the expiration of the offer period for such properties referred to in paragraph (2)(B).

"(vii) The number of eligible multifamily housing properties sold after the expiration of the periods for such properties referred to in subparagraphs (B) and (D) of paragraph (3).

"(D) NUMBER OF PROPERTIES WITHIN WINDOWS.—Each report under this paragraph shall contain the following information:

"(i) The number of eligible single family properties for which the offer period referred to in paragraph (2)(B) had not expired before the conclusion of the applicable reporting period (or had not yet commenced).

"(ii) The number of eligible multifamily housing properties for which the 90-day period referred to in paragraph (3)(B) had not expired before the conclusion of the applicable reporting period (or had not yet commenced).".

SEC. 517. DEFINITIONS.

Section 21A(c)(9) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(9)), as amended by sections 501 and 504(a)(1) of this Act, is further amended—

(1) by striking subparagraph (A) and inserting the following new subparagraph:

"(A) ADJUSTED INCOME AND INCOME.—The terms 'adjusted income' and 'income' shall have the meaning given such terms in section 3(b) of the United States Housing Act of 1937.";

(2) by redesignating subparagraphs (D) through (P) as subparagraphs (E) through (Q), respectively; and

(3) by inserting after subparagraph (C) the following new subparagraph:

"(D) ELIGIBLE CONDOMINIUM PROPERTY.—The term 'eligible condominium property' means a condominium unit, as such term is defined in section 604 of the Housing and Community Development Act of 1980—

"(i) to which the Corporation acquires title in its corporate capacity, its capacity as conservator, or its capacity as receiver (including its capacity as the sole owner of a subsidiary corporation of a depository institution under conservatorship or receivership, which subsidiary has as its principal business the ownership of real property); and

"(ii) that has an appraised value that does not exceed the applicable dollar amount set forth in the first sentence of section 203(b)(2) of the National Housing Act (without regard to any increase of such amount for high cost areas).".

SEC. 518. APPLICABILITY.

The amendments made by this title shall not apply to any eligible residential property or eligible condominium property of the Resolution Trust Corporation, that is subject to an agreement for sale entered into by the Corporation before the date of the enactment of this Act.

The CHAIRMAN. Under the rule, the gentleman from Texas [Mr. GONZALEZ], will be recognized for 15 minutes, and the gentleman from Ohio [Mr. WYLIE], the Member opposed, will be recognized for 15 minutes.

The Chair recognizes the gentleman from Texas [Mr. GONZALEZ].

Mr. GONZALEZ. Mr. Chairman, I yield myself such time as I may consume.

It is absolutely essential that the Congress provide further funding to the Resolution Trust Corporation. Unpleasant, distasteful as this may be, it is an inescapable responsibility.

Congress has insured deposits in the Nation's banks and savings and loan associations—we stand behind those deposits. Since our laws have made the commitment, we must honor it.

The Resolution Trust Corporation is necessary because the savings and loan insurance fund went broke. So what I bring to you is a report on the RTC bill reported by the Banking Committee and an urgent plea that you join in providing adequate financing not only for the bank insurance fund when it is considered later today, but that you join in providing the money needed to close out the business of the Resolution Trust Corporation.

The RTC has only one job—to pay off the insured deposits in failed savings and loan associations. In the process of doing that, it must incur losses because the assets of those institutions are not worth enough to cover the cost of the insured liabilities—the deposits. The cost of this operation has been greater than anyone expected, in large part because the economy has performed worse than expected. The poor economy has caused more institutions to fail, and it has also caused the value of the assets held by RTC to be lower than expected—meaning that there are more cases to handle, and that each one costs more than expected.

RTC has accomplished a great deal—it has resolved 587 dead thrifts and paid off almost 19 million accounts in 45 States.

What is left to be done? There are about 85 institutions in conservatorship now, and there are about 220 more that are likely to fail. These institutions have about $200 billion worth of assets. If losses in those institutions run to 40 percent of assets, we can expect RTC to spend about $80 billion to wind up its affairs. If losses are at a lower rate or there are fewer failures the need would be less. But one thing is certain: the job has to be done, and if we delay it will cost more. The final cost may be $65 billion, it may be $80 billion—but whatever the loss is, it must be covered, if we are going to keep faith with the insured depositors. The RTC is unpopular, its job is unpleasant, but it fulfills the Federal commitment to protect depositors. In short, like the mortician, it performs a necessary and unavoidable service. Once this job is done, the savings and loan insurance fund should again become self-sustaining, as it was for decades before the disaster of the eighties.

I would like now to report to you the action of the Banking Committee on

H.R. 3535, the RTC funding and reform bill.

Your committee reported this bill on a vote of 27 ayes and 25 nays. During the markup we considered 70 amendments, many of them difficult, and some of them very controversial.

The greatest controversy is of course about funding.

We considered one suggestion, a permanent, indefinite appropriation—a blank check to get the job done. This was rejected with only 7 votes in favor.

We considered another proposal, $80 billion—the sum estimated as necessary to finish the job outright, and that got only 17 aye votes.

As reported, the bill authorizes $20 billion. After that amount is consumed, any additional authorization would require that the President and the joint congressional leadership submit a pay as you go plan. However, as amended by Mr. WYLIE, that pay as you go plan could not include any taxes or revenue enhancements of any kind—it would all have to come from a spending reduction plan. This plan in turn would be predicated on an ability to pay basis.

In short, no funding option is easy. But the responsibility of adopting a bill that provides all that is required, is inescapable. We cannot leave without acting favorably.

In addition to funding, this bill contains provisions to make the operations of RTC more efficient, more accountable and more flexible. It greatly improves the operation of the RTC's affordable housing program. It improves other property disposition programs by encouraging greater flexibility in financing, for example. But the issue at hand is this: Do we want to finish the job? Will we provide the money to protect the depositors in those 300 or so institutions that have failed or soon will fail? That is the heart of the issue.

Let me reiterate this one thing: The money expended in this program is for the protection of innocent depositors. It does not help anyone else. If we fail to provide this funding, we will put in question the integrity of deposit insurance guarantees—and those guarantees are vital in today's very shaky economy. The truth is, if we don't protect those deposits, we will worsen the credit crunch, we will make things worse, and we will have reneged on the Federal guarantee.

It is not easy to honor this commitment—the vote in your committee demonstrates that. But honor it we must.

□ 1320

Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts [Mr. KENNEDY], a very active and very perminent member of the committee.

Mr. KENNEDY. Mr. Chairman, I rise in support of the committee bill, and in opposition to the Barnard substitute. The Barnard substitute fails to offer any real reform of the way in which this bailout is currently paid. And real reform is what the American people are screaming for.

As everyone knows, the bailout is currently funded entirely by deficit financing. This borrow and spend scheme roughly triples the cost of the bailout in interest. It adds hundreds of billions of dollars to the national debt. Worst of all, it sends the bill for this debacle to working families, their children, and even their grandchildren. They'll be paying for this mess for the next 30 years. That's why they're so upset: they are getting stuck with a tab for a party to which they were never even invited.

The Barnard substitute just continues this unfair, costly, borrow and spend policy. By contrast, the committee bill contains real reform. It would cut funding for the bailout from $80 billion to $20 billion, and require the President to fund all remaining losses on a pay-as-you-go basis. Right now there is an outrageous double standard at work in the way we pay for Government programs. We can't come up with even a few million dollars around here for food aid or housing or school loans without having to find offsetting revenues. Yet, the President and others have no trouble adding hundreds of billions of dollars to the country's debt to bail out failed thrifts. If pay-as-you-go is good enough for housing, for health care, for food stamps, and for education, then it should be good enough for the S&L bailout.

Now, I am well aware that the committee bill contains a Republican-sponsored measure that would prohibit any tax increases to fund thrift losses. Many of my Democratic colleagues say that this amendment confirms their worst fears about a pay-as-you-go bailout: that it will take funds from vital social programs. Let me just make a couple of points in response. First, I share their concerns. I don't think I take a back seat to anyone in this body when it comes to supporting social programs. That's why I suggested that the Rules Committee allow an amendment to permit us to tax the wealthiest 5 percent of the population to help pay for this problem. After all, the wealthy are the ones who most benefited from the thrift crisis, and they are best able to pay for it now. Beyond that, though, the money does not have to come out of social programs. It can come out of defense. And it can come out of the sale of the RTC's sale of its assets. Right now, the RTC is sitting on over $150 billion in assets. A lot of these assets could pay for losses.

The bottom line is that we who support social programs have got to realize that, by heaping this problem into the deficit, we are just hurting the programs we are trying to protect. Interest on our national debt will top $230 billion next year—more than all discretionary social spending combined. If we want to have money in the future to pay for social programs, we have go to stop this mindless deficit spending for unpopular programs.

In sum, the committee bill will end the morally indefensible and economically senseless way in which we currently pay for this bailout. It will require some tough choices, that's for sure. But we were not elected to make easy ones. I urge its adoption, and the defeat of the Barnard substitute.

Mr. WYLIE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I oppose the substitute that is before us now because of the Kennedy proposal that is contained in it. It was referred to as pay-go. What it does is simply require that the President would have to submit a plan to Congress to pay for these funds over the next 5 years without increasing the deficit.

During the course of the consideration of this bill in the committee, I offered an amendment that said that the President could not offer in his proposal to pay for it with a tax increase. That amendment was adopted.

Now we are looking at what has commonly been referred to as cut-go. In other words, in order to pay for the $60 billion, other programs would have to be cut, but the President would have to come up with a recommendation as to how those other programs could be cut.

Now, this is in violation of the budget summit agreement which was entered into last year, which said that these funds would not go to reduce other programs.

Mr. Chairman, the words "bailout" were used several times by the gentleman from Massachusetts [Mr. KENNEDY]. I submit that that is a misnomer. Nobody is being bailed out. The people who are being paid or are receiving these moneys are the depositors in these failed institutions.

The U.S. Government has a clear obligation. We have said that we stand behind those deposits with the full faith and credit of the U.S. Government. What this money goes for then is to pay them off. But in order to pay them off, we have to have the money in the Resolution Trust Corporation fund. Right now that fund is broke. The Resolution Trust Corporation estimates that there is something like $4 million a day being lost to the taxpayer because they do not have the funds to close these institutions timely.

Mr. Chairman, the Kennedy amendment, as I suggest, would give the Resolution Trust Corporation $20 billion. Then before they could get any more money, this so-called pay-go provision would have to be eliminated.

Mr. Chairman, the committee bill is pretty good otherwise. I prefer the Barnard-Wylie substitute because it deletes the pay-go provision and deletes

the provision which I had offered as an amendment which would say that none of these could be used from taxpayer money.

Mr. Chairman, I support that concept, that no new taxes should go to pay for these programs. On the other hand, we do need to get the money before us now, and we are not going to do it if this provision, the Kennedy pay-go provision, is in it.

Mr. Chairman, I reserve the balance of my time.

Mr. GONZALEZ. Mr. Chairman, I yield such time as he may consume to the gentleman from Kentucky [Mr. HUBBARD].

Mr. HUBBARD. Mr. Chairman, the bill reported from the House Banking Committee, which is now being offered as an amendment to the bill before us, itself includes an amendment offered in committee by the gentleman from Florida, Mr. MCCOLLUM, that is designed to enhance the viability and lending capacity of certain thrift institutions. The McCollum amendment permits the Office of Thrift Supervision to grant exceptions from currently applicable capital requirements to institutions that own subsidiaries engaged in activities that are not permissible for national banks. Specifically, the provision authorizes exceptions from a schedule provided in the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 [FIRREA] phasing out the degree to which a thrift institution's interest in any such subsidiary may count toward the computation of the thrift's capital. These subsidiaries often hold investments defined by the Office of Thrift Supervision as equity investments, which include a wide variety of investments in real estate. Under the McCollum provision, thrifts with subsidiaries that hold such investments can receive exceptions if the strict criteria specified in the provision are met.

The case for the McCollum provision is a strong one. When Congress enacted the phaseout schedule of FIRREA, it assumed that thrifts with subsidiaries covered by the schedule would divest themselves of the subsidiaries or their nonconforming investments as the schedule increasingly reduced the regulatory capital position of the institution. It did not assume, however, that the weakness of the market for those subsidiaries and investments would make divestiture a practical impossibility for most thrifts. In light of the current market conditions, the House Banking Committee agreed with Congressman MCCOLLUM that some relief from the FIRREA schedule should be authorized on a case-by-case basis. The Office of Thrift Supervision, which would administer the exceptions provided by the amendment, also supported the provision and is a strong proponent of its enactment.

It is important to note, however, that the rationale for the amendment applies equally to a situation that differs marginally from the specific fact situation covered by the amendment. Some thrift institutions now own equity investments not indirectly through a subsidiary but rather directly through the parent itself. The Office of Thrift Supervision's regulations provide for capital treatment for such investments that closely parallels the treatment provided to thrifts with subsidiaries engaged in such investments. A thrift with equity investments must phase out the degree to which such investments may count toward meeting the institution's risk based capital requirement. The phaseout schedule is exactly the same as that provided by FIRREA for thrifts with subsidiaries that hold such investments. As with the subsidiaries, the schedule was constructed based on the assumption that the investments would be divested. As with the subsidiaries, it has now become apparent that the market for the investments is so weak as to preclude divestiture in most cases.

It follows that while the language of the McCollum provision does not specifically cover thrift institutions holding equity investments other than through a subsidiary, the policy of the provision is directly applicable to such institutions. If the provision is enacted, therefore, the Office of Thrift Supervision should revise its regulations as they relate not only to the subsidiaries specifically referred to in the provision but also to institutions that own equity investments directly. Any other course would create an imbalance in the capital regulatory system that cannot be supported by any legitimate public policy consideration.

□ 1330

Mr. GONZALEZ. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. BROOKS], distinguished chairman of the Committee on the Judiciary and my distinguished fellow Texan and dean of the Texas delegation.

Mr BROOKS. Mr. Chairman, I have a question really.

Section 1133 of S. 543 which was accepted by the conferees on the banking bill is a pending antitrust issue that should rightfully be determined in the courts. Since the matter involves ligitation between Sears and VISA, Congress should let the matter be determined by the tenth circuit. I would like to clarify for the record that nothing in the language of section 1133 is intended to interfere with the pending Sears-VISA litigation.

Mr. GONZALEZ. Mr. Chairman, I questioned that last night. Unfortunately, I wish I had had the aid of my chairmen, but I did not. To be specific, the date they have in that amendment, August 9, 1989, is the date of the enactment of FIRREA. FIRREA, which we are enacting now, it certainly was never the intention to retroactively abridge or restrict the legal rights of anybody.

Mr. WYLIE. Mr. Chairman, I yield 1½ minutes to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Chairman, I rise opposed to the substitute. The theme that the Democratic Party has, that the economic growth package is only for the rich, is not true. They have marketed that very well. I will give that to them. But I would ask that we combine both the Democratic and Republican goods and bads and do something. In the desert bill, all the amendments except the Vento-Blaz amendment were bad on the Republican side. In the crime bill, all of the issues were wrong.

In the RTC, we are not allowed to offer any amendments. I just had a call from a boat builder in San Diego about 45 minutes ago. He said he called the gentleman from Illinois [Mr. ROSTENKOWSKI]. He called the gentleman from Missouri [Mr. GEPHARDT], and he has called on every Member he can because he employs 150 blue-collar workers that are going to lose their jobs.

So is it a luxury tax for the rich, or do we cut the tens of thousands of jobs and hurt the blue-collar workers? People change their buying habits. The luxury tax in the package, it takes the luxury tax out of the general fund. It costs more, and it was a mistake.

The Senate just did a straw man and would repeal the luxury tax.

What about the earnings test for the senior citizens? We do not call them senior citizens. They are chronologically gifted.

Mr. WYLIE. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. JOHNSON].

Mr. JOHNSON of Texas. Mr. Chairman, I represent Texas' Third District, Dallas, one of the areas hardest hit by the S&L failures and the RTC. Fifty-five percent of the RTC-controlled property is in Texas, which just happens to be $10.4 billion of real estate. As far as the Texas real estate market is concerned, the RTC is the only show in town. And it's a horror show.

I have, here, a few of the over 3,000 responses to my RTC newsletter poll. It was no surprise that 99 percent of the Dallas-area residents who responded, said they don't want to give the RTC another red cent. Texans are tired of being held hostage by the RTC.

Mr. Speaker, I don't believe Congress realizes just where the taxpayer's money is going. The RTC says it spent the previous $80 billion only to bail out depositors, but that isn't true. Those dollars also go toward operating costs and other expenditures by the RTC.

Right now, the RTC's southwest region alone, is spending $50 million a year in salaries and $1.6 million a year in rent for office space in one of the plushest buildings in Dallas. You'd be hard pressed to find a more blatant abuse of tax dollars.

As a matter of fact, at the rate the RTC is going right now, we really don't know if the additional $80 billion will be enough to clean up the failed S&L's and guarantee the end of the RTC.

The RTC was created to accomplish two things—to salvage failing thrifts and, as quickly as possible, liquidate their assets. We've given the RTC plenty of money to do the first half of its job. But on the asset disposal side, cash offers sit for months at a time while tax dollars go down the drain. As America falters on economic recovery—the RTC is stockpiling its assets

and inadvertently controlling entire real estate markets.

With this $80 billion, the RTC is going to shut down S&L's with a vengeance. I just wish they would use the same vengeance to sell off the assets they already control. The assets they stockpile are costing the taxpayers millions in maintenance fees and carrying costs. Mr. Chairman, we're pouring American tax dollars down a black hole. We're never going to get this S&L mess cleaned up, until the RTC understands that it is hamstringing any economic recovery for this Nation.

I can't say this any plainer—Congress must refuse to pay another penny to the RTC until we're given a specific agenda on how they plan to effectively dispose of real estate assets.

As if the incompetency and mismanagement isn't enough, last year, the RTC spent an estimated $300 million—some reports even say $500 million on private lawyers' fees and legal expenses.

Mr. Chairman, the taxpayers are being rolled. Americans don't want, don't need, and certainly don't deserve to have to pony-up another $80 billion for the RTC. I urge my colleagues to reject this bill and send a message to the RTC—This is not a permanent deal. The American taxpayers have had enough.

Mr. ORTON. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Texas. I yield to the gentleman from Utah.

Mr. ORTON. Mr. Chairman, could the gentleman describe for this group what percentage of the RTC assets were within his district and what percentage of the $160 billion of losses attributable to the RTC are found in Dallas? I am astounded that the people of Dallas say no more funding to bail out their real estate market.

Mr. JOHNSON of Texas. Mr. Chairman, they are fed up with it. That is what.

Mr. WYLIE. Mr. Chairman, I yield 2 minutes to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Chairman, I rise in support of a critical, anticredit crunch provision of H.R. 3435.

For many months, I have been deeply concerned about the credit crunch paralyzing our economy. Many economists and analysts agree that mortgage and construction financing has been largely cut off even for feasible, viable rental property and commercial projects. As one local developer recently told me, "Builders are finding it difficult to finance the construction of new homes, even when they have signed contracts from purchasers."

Mr. Chairman, an economy in trouble cannot recover if the building industry, which employs millions of people and spends billions of dollars on goods and services annually, cannot obtain financing for the construction of even presold homes—the safest investments in the building industry. For this reason, I asked my friend and colleague, Congressman WYLIE, the ranking member of the Banking Committee, to incorporate into H.R. 3435 language which would rationalize the regulatory process as it applies to construction loans on presold homes. As a result, H.R. 3435 stipulates that new construction loans for presold single and multifamily homes will carry a 50 percent, rather than a 100 percent, risk weighting. The banking committee unanimously adopted this proposal, which was already under serious consideration by the Office of Thrift Supervision.

I wish to thank Congressman WYLIE for his generous help in achieving this critical anticredit crunch measure. In addition, I would like to thank Mr. Bill Warfield, formerly of the professional minority staff of the Banking Committee, now with the Appropriations Committee, who provided invaluable assistance in this effort. My appreciation also to Joe Ventrone and Kyle Lundstedt of Congressman WYLIE'S staff for their thorough research and diligent follow-through on this important provision. To Mario Correa and Helen McDonald of my staff, thank you.

I urge my colleagues to take action against this debilitating credit crunch by supporting H.R. 3435.

□ 1340

The CHAIRMAN. The Chair advises at this point in the debate that the gentleman from Ohio [Mr. WYLIE] has 5½ minutes remaining, and the gentleman from Texas [Mr. GONZALEZ] has 3 minutes remaining. The gentleman from Texas [Mr. GONZALEZ] has the right to close.

Mr. WYLIE. Mr. Chairman, I yield myself 1 minute to comment on the statement by the gentlewoman from Maryland [Mrs. MORELLA]. She honed in on a very important provision in this bill, which is in there as a result of an amendment which I offered and it has to do with risk weighting on housing loans for purposes of capital requirements.

This issue came up in the Committee on Rules this morning, and what it does is direct the financial institution regulators to place single-family presold home construction loans in the 50 percent risk-weighted category of minimum capital standards, so they get a double advantage there. They are not rated 100 percent on risk weighting. This is the minimum standard as permitted by the BASL agreement, and for that reason would make the money go further.

Mr. GONZALEZ. Mr. Chairman, I yield such time as he may consume to the gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Mr. Chairman, I thank the gentleman for yielding. We have been here for 27 hours. We are tired, and I fear that the significance and impact of what we are doing now is not fully appreciated.

Mr. Chairman, the taxpayers of this country have already been hit up for $80 billion and today we are talking about another $80 billion, and there may be more to come.

Very simply, Mr. Chairman, one, I cannot support legislation which simply dumps this $80 billion payback into the deficit. That is absolutely irresponsible. We must have the courage to go forward on a pay-as-you-go basis.

Secondly, Mr. Chairman, in the last dozen years the wealthiest people in this country have become much wealthier, are paying less in taxes, and the working people have become poorer and are paying more in taxes. The payback must be based on a progressive basis. We cannot ask the middle class and the working class to bail out the S&Ls.

Mr. WYLIE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would just observe that I was a little bit taken aback by the statements from the gentleman from Texas [Mr. GONZALEZ], who is a very good member of the House Committee on Banking, Finance and Urban Affairs. As was pointed out by the gentleman from Utah [Mr. ORTON], most of the money going to failed thrifts have gone to the State of Texas. I think 80 percent of all the failed S&Ls are in that particular area of the country. I know that he would not want us to leave here today without voting more money to close down some more of those failed thrifts.

My position is a no vote on the substitute, an aye vote on the substitute offered by Mr. BARNARD that has been worked out with Members on the other side of the House here, and the amendment which is before us now is flawed because of the pay-go provision. The Members in the other body would not take this bill if that is contained in it. I urge a no vote now.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. WYLIE. I yield to the gentleman from Texas.

Mr. GONZALEZ. Mr. Chairman, I just want to enlighten the Members about Texas. We heard about Dallas from the gentleman from Texas [Mr. JOHNSON].

I want to tell every one of my colleagues and fellow Americans that in San Antonio, my district, the only thing RTC has not gotten yet is the Alamo, and we have drawn the line and we are going to fight to the death.

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

Mr. GONZALEZ. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Kansas [Mr. SLATTERY] to close the debate.

Mr. SLATTERY. Mr. Chairman, I rise today in support of the committee bill. I rise in support of the concept of pay as you go. I do so for one simple reason. That is that if we would agree next year to pay for this $60 billion over a 5-year period we would save the taxpayers of this country $100 billion in interest costs over the 30-year payment plan that the administration and probably the majority here today favor.

As far as I am concerned it is a simple concept. We have a moral obligation to pay our bills. This is not a pleasant thing to pay for. It will not be easy to pay for it next year, but it is right that we figure out how to pay for it next year even in an election year.

I know the hour is late and I am going to be very brief and just ask the Members to vote for the concept of pay as you go. We can find $60 billion in cuts in a $1.4 trillion budget over a 5-year period. That is $12 billion a year. That is not unreasonable. With all due respect to the gentleman from Ohio, Mr. WYLIE, it does not violate the budget agreement.

Any suggestion that by reducing the deficit further than the agreement called for last November, somehow we have breached the budget agreement I think is standing logic on its head. I think all of us understand that that agreement certainly was not an end-all in dealing with the deficit problem. This will help us solve that problem by requiring us to come together next year and develop a plan to pay for at least $60 billion of this terrible problem.

I believe so strongly that we have the moral obligation to do this for our kids and grandkids, and to stop handing them all these unpaid bills.

Mr. WYLIE. Mr. Chairman, if the gentleman will yield, I might join the gentleman. He says "we." I think he means we in Congress.

Mr. SLATTERY. Mr. Chairman, reclaiming my time, I would just observe that the President of the United States has told the people of this country that he can solve all these problems without any additional revenue. If he can do that I would like to see his plan. That is what this whole concept envisions. After he would lay his plan on the table the heat would be on us to produce. I think that given his leadership, this body could produce. I urge my colleagues to vote for the committee bill, vote for the concept of pay as you go, and to stop handling all these unpaid bills to our kids and grandkids.

The CHAIRMAN. Under the rule, all time has expired.

The question is on the committee amendment in the nature of a substitute.

The Committee amendment in the nature of a substitute was rejected.

The CHAIRMAN. It is now in order to consider the amendment in the nature of a substitute printed in House Report 102-408.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BARNARD

Mr. BARNARD. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. BARNARD: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991".

TITLE I—RESOLUTION TRUST CORPORATION REFINANCING

SEC. 101. THRIFT RESOLUTION FUNDING PROVISIONS.

Section 21A(i) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(i)) is amended by adding at the end the following new paragraph:

"(3) ADDITIONAL INTERIM FUNDING.—In addition to amounts provided under paragraph (2), the Secretary of the Treasury shall provide to the Corporation such sums as may be necessary not to exceed $25 billion to carry out the purposes of this section until April 1, 1992.".

SEC. 102. APPOINTMENT BY DIRECTOR OF THE OFFICE OF THRIFT SUPERVISION.

Section 11(c)(6)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)(6)(B)) is amended to read as follows:

"(B) RECEIVER.—Whenever the Director of the Office of Thrift Supervision appoints a receiver under the provisions of section 5(d)(2)(C) of the Home Owners' Loan Act for the purpose of liquidation or winding up any savings association's affairs—

"(i) before October 1, 1993, the Resolution Trust Corporation shall be appointed;

"(ii) after September 30, 1993, the Resolution Trust Corporation shall be appointed if the Resolution Trust Corporation had been placed in control of the depository institution at any time on or before such date; and

"(iii) after September 30, 1993, the Corporation shall be appointed unless the Resolution Trust Corporation is required to be appointed under clause (ii).".

SEC. 103. EXTENSION OF RESOLUTION TRUST CORPORATION DUTY.

(a) IN GENERAL.—Section 21A(b)(3)(A)(ii) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(3)(A)(ii)(II) is amended to read as follows:

"(ii) for which a conservator or receiver is appointed after December 31, 1988, and before October 1, 1993 (including any institution described in paragraph (6).".

(b) CONTINUATION OF RTC RECEIVERSHIP OR CONSERVATORSHIP.—Section 21A(b)(6) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(6)) is amended to read as follows:

"(6) CONTINUATION OF RTC RECEIVERSHIP OR CONSERVATORSHIP.—If the Corporation is appointed as conservator or receiver for any insured depository institution described in paragraph (3)(A) before October 1, 1993, and a conservator or receiver is appointed for such institution on or after such date, the Corporation may be appointed as conservator or receiver for such institution on or after October 1, 1993.".

SEC. 104. TERMINATION OF FICO BORROWING AUTHORITY.

Section 21(e)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1441(e)(2)) is amended to read as follows:

"(2) TERMINATION OF BORROWING AUTHORITY.—No obligation of the Financing Corporation shall be issued after the date of enactment of the Resolution Trust Corporation Thrift Depositor Protection Refinance Act of 1991.".

SEC. 105 REQUIREMENT TO PAY RTC WORKING CAPITAL DEBT BEFORE TRANSFERRING FUNDS TO REFCORP.

Section 21A(o)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(o)(2)) is amended by inserting after "Thereafter" the following ", if there are no liabilities of the Corporation outstanding,".

SEC. 106. RTC REPORTS ON ASSET SALES, LOANS SECURED BY ASSETS, BUDGETS, AND OTHER MATTERS.

(A) QUARTERLY REPORTS.—Section 21A(k)(7) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(k)(7)) is amended to read as follows:

"(7) QUARTERLY REPORTS.—Not later than May 31, August 31, November 30, and the last day of February of each year, the Corporation shall submit a report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate containing the following information for the quarter ending on the last day of the month ending before the month in which such report is required to be submitted:

"(A) ASSET SALES.—The report shall contain the following information with respect to assets of institutions described in subsection (b)(3)(A) which were disposed of by the Corporation during the quarter covered by the report:

"(i) The total amount of the actual sales of assets during the quarter.

"(ii) The value of the assets as determined on the basis of the amount at which each such asset was accounted for on the books of the institution.

"(iii) The fair market value of the assets as estimated by the Corporation for purposes of securing amounts borrowed from the Federal Financing Bank by the Corporation.

"(iv) The net recovery on asset sales during the quarter.

"(v) A subtotal of the value of the assets disposed of during the quarter in each of the following categories:

"(I) Cash and securities.

"(II) Mortgage loans for 1- to 4-family dwellings.

"(III) Construction and land loans.

"(IV) Other mortgage loans.

"(V) Consumer loans.

"(VI) Commercial loans.

"(VII) Real estate owned assets.

"(VIII) Other assets.

"(B) AUCTION SALES.—The report shall contain information regarding auction sales of RTC assets, including the following information:

"(i) The date and location of each auction sale during the quarter.

"(ii) The total value of the sales of assets sold during an auction during the quarter.

"(iii) The total value of assets sold at each auction, as determined on the basis of the amount at which each such asset was accounted for on the books of the institution.

"(iv) The total fair market value of assets sold at each auction, as estimated by the Corporation.

"(v) The total actual selling price of assets sold during each auction held during the quarter.

"(vi) The net recovery or loss on assets sold during an auction during the quarter, by category listed in subclauses (I) through (VII) of clause (vii).

"(vii) A subtotal of the value of the assets sold during an auction during the quarter in each of the following categories:

"(I) Cash and securities.

"(II) Mortgage loans for 1- to 4- family dwellings.

"(III) Construction and land loans.

"(IV) Other mortgage loans.

"(V) Consumer loans.

"(VI) Commercial loans.

"(VII) Real estate owned assets.

"(VIII) Other assets.

"(C) FEDERAL FINANCING BANK LOAN STATUS.—The report shall contain the following information with respect to loans from the Federal Financing Bank to the Corporation:

"(i) The total amount of loans outstanding at the beginning of the quarter.

"(ii) The total amount of loans originated during the quarter.

"(iii) The total amount of loans repaid during the quarter.

"(iv) The total amount of loans outstanding at the end of the quarter.

"(D) SELLER FINANCING.—The report shall contain information regarding the Corporation's use of seller financing to encourage the sales of assets during the quarter, including the following:

"(i) A total of the amount of funds used for seller financing purposes during the quarter.

"(ii) The number of applications received by the Corporation which requested seller financing.

"(iii) A breakdown of the type of assets sold, according to the categories listed in subclauses (I) through (VIII) of subparagraph (B)(vii).

"(iv) Projections of the total amount of seller financing which will be needed during the succeeding 2 quarters.".

(b) SEMIANNUAL REPORT ON NATIONAL AND REGIONAL ADVISORY BOARDS.—Section 21A)(k)(4)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a)(k)(4)(B)) is amended—

(1) by striking "and" at the end of clause (iii);

(2) by striking the period at the end of clause (iv) and inserting "; and"; and

(3) by inserting after clause (iv) the following new clause:

"(v) descriptions of the operations and activities of the national and regional advisory boards established under subsection (d) and financial statements detailing the expenses of such boards.".

(c) RTC AND OVERSIGHT BOARD BUDGET REPORTS.—Section 21A(k) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(k)) is amended by adding at the end the following new paragraph:

"(10) BUDGET REPORTS.—

"(A) IN GENERAL.—Before the end of each calendar quarter, the Oversight Board and the Corporation shall submit a report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate containing the complete annual budget, as approved by the Oversight Board.

"(B) ACTIVITIES RELATING TO PHASING OUT RTC OPERATIONS.—Beginning with the report due in the 1st quarter of 1994, the report shall include information on the Corporation's activities to phase down its operations and reduce the number of employees and the amount of office space and other overhead as the Corporation completes its duties under this section and approaches termination.".

"(d) EMPLOYEE REPORTS.—Section 21A(k) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(k)) is amended by inserting after paragraph (10) (as added by subsection (c) of this section) the following new paragraph:

"(11) EMPLOYEE REPORTS.—The Corporation shall submit semiannual reports to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate containing the following information:

"(A) The total number of employees of the Oversight Board and the total number of individuals performing services directly on behalf of the Corporation.

"(B) The total number of individuals performing services for the Corporation as an employee of the Federal Deposit Insurance Corporation or any other agency, including the Government Accounting Office and the number from each such agency.

"(C) The total number of individuals employed in each job classification and employment status, including employment on a temporary basis or for an agreed upon period of time.".

"(e) SUPPLEMENTAL UNAUDITED FINANCIAL STATEMENTS.—

"(1) INTERIM FINANCIAL STATEMENTS.—Section 21A(k)(5) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(k)(5)) is amended by inserting at the end the following new subparagraph:

"(C) SUPPLEMENTAL UNAUDITED FINANCIAL STATEMENTS.—In addition to the annual report required under paragraph (4), the Oversight Board and the Corporation shall submit to the Congress, not later than September 30 of each calendar year, an unaudited financial statement for the 6-month period ending on June 30 of such year.".

"(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to annual reports required to be submitted after the end of the 90-day period beginning of the date of the enactment of this Act.

TITLE II—RESTRUCTURING AND IMPROVEMENT OF THE RESOLUTION TRUST CORPORATION

SEC. 201. STAFF OF THE RESOLUTION TRUST CORPORATION; CHIEF EXECUTIVE OFFICER.

Section 21A(b)(9) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(9)) is amended—

(1) in subparagraph (B), by amending clause (i) to read as follows:

"(i) FDIC.—The Corporation shall use employees (selected by the Corporation) of the Federal Deposit Insurance Corporation and the Federal Deposit Insurance Corporation shall provide such personnel to the Corporation for its use. Notwithstanding the foregoing, the Federal Deposit Insurance Corporation need not provide to the Corporation any employee of the Federal Deposit Insurance Corporation who was employed by the Federal Deposit Insurance Corporation on the date of enactment of the Resolution Trust Corporation Thrift Depositor Protection Refinance Act of 1991 and who had not theretofore been provided to the Corporation by the Federal Deposit Insurance Corporation. In addition to persons otherwise employed by the Federal Deposit Insurance Corporation, the Federal Deposit Insurance Corporation shall employ, and shall provide to the Corporation, such persons as the Corporation may request from time to time. Federal Deposit Insurance Corporation employees provided to the Corporation shall be subject to the direction and control of the Corporation and any of them may be returned to the Federal Deposit Insurance Corporation at any time by the Corporation in the discretion of the Corporation. The Corporation shall reimburse the Federal Deposit Insurance Corporation for the actual costs incurred in providing such employees. Any permanent employee of the Federal Deposit Insurance Corporation who was performing services on behalf of the Corporation immediately prior to the date of enactment of the Resolution Trust Corporation Thrift Depositor Protection Refinance Act of 1991 shall continue to be provided to the Corporation after that date unless the Corporation determines the services of any such employee to be unnecessary, in which case such employee shall be returned to a similar position performing services on behalf of the Federal Deposit Insurance Corporation. In any ensuing reduction-in-force or reorganization within the Federal Deposit Insurance Corporation, any such employee shall compete with the same rights as any other Federal Deposit Insurance Corporation employee. The Corporation may use administrative services of the Federal Deposit Insurance Corporation and, if it does so, shall reimburse the Federal Deposit Insurance Corporation for the actual costs of providing such services. Any employee or officer in the executive service of the Federal Deposit Insurance Corporation who was performing services on behalf of the Corporation at level E–4 or above immediately prior to the date of enactment of the Resolution Trust Corporation Thrift Depositor Protection Refinance Act of 1991 shall continue to be assigned to perform substantially similar services on behalf of the Corporation after such date unless the Corporation—

"(I) determines that the services of any such employees are unnecessary, or

"(II) reassigns or substantially alters the responsibilities or duties of any such employees.

If an action described in subclause (I) or (II) occurs, any such employee with at least 20 years of service, as defined by chapter 83 or chapter 84 of title 5, United States Code, shall be entitled to an annuity under section 8336(d) or section 8414(b)(1) of title 5, United States Code, notwithstanding the fact that such employee has not attained the age of 50 years or has declined another position with the Federal Deposit Insurance Corporation, and the annuity of such employee shall not be reduced because of the age of such employee. The Federal Deposit Insurance Corporation shall reimburse the appropriate retirement insurance fund for any increased costs it incurs as a result of the annuities authorized pursuant to this clause."; and

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

"(C) CHIEF EXECUTIVE OFFICER.—There is established the office of chief executive officer of the Corporation. The chief executive officer of the Corporation shall be appointed by the President, by and with the advice and consent of the Senate, and shall serve at the pleasure of the President.".

SEC. 202. TECHNICAL AND CONFORMING AMENDMENTS.

(a) TREASURY PAYMENTS TO FUND.—Section 11(a)(6)(E) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(6)(E)) is amended—

(1) by striking "1992" and inserting "1993"; and

(2) by striking "1999" and inserting "2000".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 11(a)(6)(J) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(6)(J)) is amended—

(1) by striking "1991" each place it appears and inserting "1992";

(2) by striking "1992" and inserting "1993"; and

(3) by striking "1999" and inserting "2000".

(c) FSLIC RESOLUTION FUND.—Section 11A(a)(2)(B) of the Federal Deposit Insurance

Act (12 U.S.C. 1821a(a)(2)(B)) is amended by striking "1991" and inserting "1992".

(d) SOURCE OF FUNDS.—Section 11A(b)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1821a(b)(4)) is amended by striking "1991" and inserting "1992".

TITLE III—REFORM OF THE RTC

SEC. 301. SHORT TITLE.

This title may be cited as the "Resolution Trust Corporation Thrift Depositor Protection Reform Act of 1991".

SEC. 302. THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD; AMENDMENTS TO REFERENCES IN THE FEDERAL HOME LOAN BANK ACT.

(a) REDESIGNATION.—The Oversight Board, as established by section 21A(a)(1) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(1)), is redesignated the Thrift Depositor Protection Oversight Board.

(b) IN GENERAL.—Except as provided in subsection (c), the Federal Home Loan Bank Act (12 U.S.C. 1421 et seq.) is amended by striking "Oversight Board" each place it appears and inserting "Thrift Depositor Protection Oversight Board".

(c) EXCEPTION.—Subsection (b) does not apply to section 21A(k)(7) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(k)(7)).

SEC. 303. ACCOUNTABILITY OF THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD.

Section 21A(a)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(2)) is amended—

(1) by striking "be accountable for" and inserting "monitor the operations of"; and

(2) after "(hereinafter referred to in this section as the 'Corporation')," by inserting "and shall be accountable for the duties assigned to the Thrift Depositor Protection Oversight Board by this Act.".

SEC. 304. MEMBERSHIP OF THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD.

Section 21A(a)(3) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(3)) is amended—

(1) in subparagraph (A)—

(A) by striking "5 members" and inserting "7 members";

(B) by striking clause (iii);

(C) redesignating clause (iv) as clause (vi); and

(D) by inserting after clause (ii) the following:

"(iii) the Director of the Office of Thrift Supervision;

"(iv) the Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation;

"(v) the chief executive officer of the Corporation; and"; and

(2) in subparagraph (E) by striking "3 members" and inserting "4 members".

SEC. 305. DUTIES AND AUTHORITIES OF THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD.

Section 21A(a)(6) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(6)) is amended—

(1) by amending subparagraph (A) to read as follows:

"(A) To review overall strategies, policies, and goals established by the Corporation for its activities, which shall include such items as the Thrift Depositor Protection Oversight Board deems likely to have a material effect upon the financial condition of the Corporation, the results of its operations, or its cash flows, and such items as the Thrift Depositor Protection Oversight Board deems to involve substantial issues of public policy. After consultation with the Corporation, the Thrift Depositor Protection Oversight Board may require the modification of any such overall strategies, policies, and goals and their implementation. Overall strategies, policies, and goals shall include such items as—

"(i) overall strategies, policies, and goals for case resolutions, the management and disposition of assets, the use of private contractors;

"(ii) the use of notes, guarantees, or other obligations by the Corporation;

"(iii) financial goals, plans, and budgets; and

"(iv) restructuring agreements described in subsection (b)(10)(B).";

(2) in subparagraph (B), by inserting "financial plans, budgets, and" after "implementation"; and

(3) by amending subparagraph (C) to read as follows:

"(C) To review all rules, regulations, standards, principles, procedures, guidelines, and statements that may be adopted or announced by the Corporation. The provisions of this subparagraph shall not apply to internal administrative policies and procedures (including such matters as personnel practices, divisions and organization of staffing, delegations of authority, and practices respecting day-to-day administration of the Corporation's affairs) and determinations or actions described in paragraph (8) of this subsection.".

Section 305 is amended to add the following at the end of subsection (1) [amending subpart (A)]

". . . provided that if the Thrift Depositor Protection Oversight Board requires the modification of any overall strategies, policies and goals, it shall, within 30 days of the date at which it directs the RTC make such modification, provide the House and Senate Banking Committees with an explanation that identifies which ground justifies the review and giving reasons why the modification is necessary to satisfy these grounds."

SEC. 306. LIMITATION OF AUTHORITY OF THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD.

Section 21A(a)(8)(A) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(8)(A)) is amended—

(1) by striking "(i) involving" and inserting "involving (i)"; and

(2) by striking "provide general policies and procedures" and inserting "review overall strategies, policies, and goals established by the Corporation".

SEC. 307. OPEN MEETINGS.

Section 21A(c)(10) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(10)) is amended—

(1) by striking "4" and inserting "6"; and

(2) by adding a sentence at the end, to read as follows: "The Thrift Depositor Protection Oversight Board shall maintain a transcript of its open meetings.".

SEC. 308. STRATEGIC PLAN.

Section 21A(a)(14)(A) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(14)(A)) is amended to read as follows:

"(A) IN GENERAL.—The chief executive officer of the Corporation is authorized to implement the strategic plan for conducting the Corporation's functions and activities submitted by the former Oversight Board to the Congress, dated December 31, 1989.".

SEC. 309. MANAGEMENT AND DUTIES OF THE RESOLUTION TRUST CORPORATION.

(a) MANAGEMENT.—Section 21A(b)(1)(C) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(1)(C)) is amended to read as follows:

"(C) MANAGEMENT BY CHIEF EXECUTIVE OFFICER.—The Corporation shall be managed by or under the direction of its chief executive officer.".

(b) DUTIES.—Section 21A(b)(3)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(3)(B)) is amended to read as follows:

"(B) To develop and establish overall strategies, policies, and goals for the Corporation, subject to review by the Thrift Depositor Protection Oversight Board pursuant to subsection (a)(6)(A) of this section.".

(c) REAL AND PERSONAL PROPERTY.—Section 21A(b)(10(E) is amended by adding after "real and personal property," the following: "using any legally available private sector methods including without limitation, securitization of debt or equity, limited partnerships, mortgage investment conduits, and real estate investment trusts,".

SEC. 310. ABOLITION OF BOARD OF DIRECTORS OF THE RESOLUTION TRUST CORPORATION.

Section 21A(b) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)) is amended by striking paragraph (8) and redesignating paragraphs (9), (10), (11), (12), (13), and (14) as paragraphs (8), (9), (10), (11), (12), and (13), respectively.

SEC. 311. POWERS OF CHIEF EXECUTIVE OFFICER OF THE RESOLUTION TRUST CORPORATION; CONSULTATION.

Section 21A(b)(8) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(9)), as redesignated, is amended—

(1) in subparagraph (A), by striking "Unless the Oversight Board exercises its authority under subsection (m) of this section" and inserting "Except for its chief executive officer"; and

(2) by adding, after subparagraph (C), the following new subparagraphs

"(D) POWERS OF THE CHIEF EXECUTIVE OFFICER.—The chief executive officer may exercise all of the powers of the Corporation and act for and on behalf of the Corporation, and may delegate such authority, as deemed appropriate by the chief executive officer, including the power to subdelegate authority, to persons designated by the chief executive officer who are employees of the Federal Deposit Insurance Corporation utilized by the Corporation or who provide services for the Corporation.

SEC. 312. NATIONAL HOUSING ADVISORY BOARD.

Section 21A(d) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(d)) is amended—

(1) by redesignating paragraphs (2) through (4) as paragraphs (3) through (5), respectively;

(2) by inserting after paragraph (1) the following new paragraph:

"(2) NATIONAL HOUSING ADVISORY BOARD.—

"(A) ESTABLISHMENT.—The Thrift Depositor Protection Oversight Board shall establish a National Housing Advisory Board to advise the Thrift Depositor Protection Oversight Board on policies and programs related to the provision of affordable housing.

"(B) MEMBERSHIP.—The National Housing Advisory Board shall consist of—

"(i) the Secretary of Housing and Urban Development; and

"(ii) the chairpersons of any regional advisory boards established pursuant to paragraph (3).

"(C) MEETINGS.—The National Housing Advisory Board shall meet 4 times a year, or more frequently if requested by the Thrift Depositor Protection Oversight Board.".

SEC. 313. RIGHTS OF EMPLOYEES UPON SUNSET.

The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 is amended—

(1) in section 404(9)—

(A) by striking "of such Corporation shall be transferred to" and inserting "of the Federal Deposit Insurance Corporation assigned to the Resolution Trust Corporation shall be reassigned to a position within"; and

(B) by striking "of this subsection" and inserting "of this section"; and (2) in section 404(2)—

(A) by inserting "grade," after "status, tenure,"; and

(B) by inserting "or, if the employee is a temporary employee, separated in accordance with the terms of the appointment" after "cause".

SEC. 314. TECHNICAL AND CONFORMING AMENDMENTS TO THE FEDERAL HOME LOAN BANK ACT.

Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended—

(1) in subsection (a)—

(A) in paragraph (7), by striking "(b)(12)" and inserting "(b)(11)";

(B) in paragraph (8)—

(i) by striking "(A)"; and

(ii) by striking subparagraph (B); and (C) in paragraph (10)—

(i) by striking "establish and review the general policy of" and inserting "review overall strategies, policies, and goals established by"; and

(ii) by striking "standards, policies, and procedures necessary to carry out" and inserting "matters as pertain to";

(2) in subsection (b)—

(A) in paragraph (3), by striking "and through the Federal Deposit Insurance Corporation (or any replacement authorized pursuant to subsection (m)";

(B) in paragraph (9) as redesignated—

(i) by striking subparagraph (B) and redesignating subparagraphs (C) through (N) as subparagraphs (B) through (M), respectively;

(ii) in subparagraph (M), as redesignated, by striking "on behalf of the Federal Deposit Insurance Corporation, acting as exclusive manager"; and

(C) in paragraph (11), as redesignated—

(i) by amending subparagraph (A) to read as follows:

"(A) STRATEGIES, POLICIES, AND GOALS.—The Corporation shall adopt the rules, regulations, standards, procedures, guidelines, and statements necessary to implement the strategic plan submitted by the former Oversight Board to Congress dated December 31, 1989. The Corporation may establish overall strategies, policies, and goals for its activities and may issue such rules, regulations, standards, principles, procedures, guidelines, and statements as the Corporation considers necessary or appropriate to carry out its duties.";

(ii) by amending subparagraph (B) to read as follows:

"(B) REVIEW, ETC.—Such overall strategies, policies, and goals, and such rules, regulations, standards, principles, procedures, guidelines, and statements—

"(i) shall be provided by the Corporation to the Thrift Depositor Protection Oversight Board promptly or prior to publication or announcement to the extent practicable;

"(ii) shall be subject to the review of the Thrift Depositor Protection Oversight Board as provided in subsection (a)(6)(A) (with respect to overall strategies, policies, and goals); and

"(iii) shall be promulgated pursuant to subchapter II of chapter 5 of title 5, United States Code."; and

(iii) in subparagraphs (D) and (E), by striking "Board of Directors" each place it appears and inserting "chief executive officer";

(3) by striking subsections (m) and (n) and redesignating subsections (o), (p), (q), and (r) as subsections (m), (n), (o), and (p) respectively;

(4) in subsection (n), as redesignated, in paragraph (5), by striking "Directors, officers," and inserting "Officers"; and

(5) in subsection (o), as redesignated—

(A) in paragraph (1) by striking "director," and

(B) in paragraph (2)—

(i) by striking "—";

(ii) by striking subparagraph (A);

(iii) by striking the designation "(B)"; and

(iv) by striking "on behalf of the Federal Deposit Insurance Corporation, acting as exclusive manager".

SEC. 315. OTHER TECHNICAL AND CONFORMING AMENDMENTS.

(a) INSPECTOR GENERAL ACT.—Section 11(1) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by striking "Oversight Board and the Board of Directors of the Resolution Trust Corporation" and inserting "; the Chairperson of the Thrift Depositor Protection with jurisdiction over the place where the action, suit, or proceeding is pending, to the United States district court for the District of Columbia, or to the United States district court with jurisdiction over the principal place of business of any institution for which the corporation has been appointed conservator or receiver if the action, suit, or proceeding is brought against the institution or the Corporation as conservator or receiver of such institution. The removal of any such suit or proceeding shall be instituted—

"(i) not later than 90 days after the date the Corporation is substituted as a party, or

"(ii) not later than 30 days after service on the Corporation, if the Corporation is named as a party in any capacity and if such suit is filed after August 9, 1989.

"(B) SUBSTITUTION.—The Corporation shall be deemed substituted in any action, suit, or proceeding for a party upon the filing of a copy of the order appointing the Corporation as conservator or receiver for that party of the filing of such other pleading informing the court Oversight Board and the chief executive officer of the Resolution Trust Corporation."

(b) THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD.—Section 5313 of title 5, United States Code, is amended by striking "Oversight Board, Resolution Trust Corporation" and inserting "Thrift Depositor Protection Oversight Board".

(c) CHIEF EXECUTIVE OFFICER.—Section 5314 of title 5, United States Code, is amended by adding at the end the following: "chief executive officer, Resolution Trust Corporation.".

(d) RESOLUTION TRUST CORPORATION FUNDING ACT OF 1991.—Section 102(c)(1) of the Resolution Trust Corporation Funding Act of 1991 (12 U.S.C. 1441a note) is amended by striking "Chairman of the Resolution Trust Corporation" and inserting "chief executive officer of the Resolution Trust Corporation".

SEC. 316. REMOVAL AND REMAND.

Section 21A(1)(3) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(1)(3)) is amended to read as follows:

"(3) REMOVAL AND REMAND.—

"(A) IN GENERAL.—The corporation, in any capacity and without bond or security, may remove any action, suit, or proceeding from a State court to the United States district court that the Corporation has been appointed conservator or receiver for such party.

"(C) APPEAL.—The corporation may appeal any order of remand entered by a United States district court."

SEC. 317. SAVINGS PROVISIONS.

(a) SAVINGS PROVISIONS.—

(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—This title shall not affect the validity of any right, duty, or obligation of the United States, the Corporation, the Oversight Board, or any other person, that—

(A) arises under or pursuant to the Federal Home Loan Bank Act, or any other provision of law applicable with respect to the Oversight Board; and

(B) existed on the day before the effective date of the Resolution Trust Corporation Thrift Depositor Protection Reform Act of 1991.

(2) CONTINUATION OF SUITS.—No action or other proceeding commenced by or against the Oversight Board, with respect to any function of the Oversight Board, shall abate by reason of the enactment of this Act, except that the Thrift Depositor Protection Oversight Board shall continue as party to any such action or proceeding, notwithstanding the change of name of the Oversight Board.

(b) CONTINUATION OF ORDERS, RESOLUTIONS, DETERMINATIONS, AND REGULATIONS.—All orders, resolutions, determinations, and regulations that—

(1) have been issued, made, prescribed, or allowed to become effective by the Oversight Board (including orders, resolutions, determinations, and regulations which relate to the conduct of conservatorships and receiverships), or by a court of competent jurisdiction, in the performance of functions under the Federal Home Loan Bank Act; and

(2) are in effect on the effective date of the Resolution Trust Corporation Thrift Depositor Protection Reform Act of 1991,

shall continue in effect according to the terms of such orders, resolutions, determinations, and regulations, and shall be enforceable by or against the Thrift Depositor Protection Oversight Board, or the Resolution Trust Corporation, by any court of competent jurisdiction, or by operation of law, notwithstanding the change of name of the Oversight Board.

SEC. 318. EFFECTIVE DATE OF THIS TITLE.

The effective date of the Resolution Trust Corporation Thrift Depositor Protection Reform Act of 1991 shall be February 1, 1992.

TITLE IV—MINORITIES, WOMEN, AND SMALL BUSINESS PROVISIONS

SEC. 401. INCREASED PARTICIPATION OF MINORITIES AND WOMEN IN CONTRACTING PROCESS.

Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended by inserting after subsection(s) (as added by section 227 of this Act) the following new subsection:

"(t) REVIEW AND EVALUATION PROCEDURE FOR CONTRACTS.—

"(1) IN GENERAL.—In the review and evaluation of proposals, the Corporation shall provide additional incentives to minority- or women-owned businesses by awarding any such business an additional 10 percent of the total technical points and an additional 5 percent of the total cost preference points achievable in the technical and cost rating process applicable with respect to such proposals.

"(2) CERTAIN JOINT VENTURES INCLUDED.—Paragraph (1) shall apply to any proposal submitted by a joint venture in which a minority- or woman-owned business has participation of not less than 25 percent.

"(3) AUTHORITY TO ADJUST TECHNICAL AND COST PREFERENCE POINTS.—The Corporation may adjust the technical and cost preference points applicable in evaluating proposals to the extent necessary to ensure the maximum participation level possible for minority- or woman-owned businesses.

"(4) DEFINITIONS.—For purposes of this subsection.—

"(A) MINORITY-OWNED BUSINESS.—The term 'minority-owned business' means a business—

"(i) more than 50 percent of the ownership or control of which is held by 1 or more minority individuals; and

"(ii) more than 50 percent of the net profit or loss of which accrues to 1 or more minority individuals.

"(B) WOMEN-OWNED BUSINESS.—The term 'women's business' means a business—

"(i) more that 50 percent of the ownership or control of which is held by 1 or more women;

"(ii) more than 50 percent of the net profit or loss of which accrues to 1 or more women; and

"(iii) a significant percentage of senior management positions of which are held by women.".

SEC. 402. OPERATION OF BRANCH FACILITIES BY MINORITIES AND WOMEN.

(a) ACQUISITION OF BRANCH FACILITIES FROM THE RTC.—Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended by inserting after subsection (t) (as added by section 301 of this title) the following new subsection:

"(u) ACQUISITION OF BRANCH FACILITIES IN MINORITY NEIGHBORHOODS.—

"(1) IN GENERAL.—In the case of any savings association for which the Corporation has been appointed conservator or receiver, the Corporation may make available any branch of such association which is located in any predominantly minority neighborhood to any minority depository institution or women's depository institution on the following terms:

"(A) The branch may be made available on a rent-free lease basis for not less than 5 years.

"(B) Of all expenses incurred in maintaining the operation of the facilities in which such branch is located, the institution shall be liable only for the payment of applicable real property taxes, real property insurance, and utilities.

"(C) The lease may provide an option to purchase the branch during the term of the lease.

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) MINORITY DEPOSITORY INSTITUTIONS.—The term 'minority institution' means a depository institution (as defined in section 3(c) of the Federal Deposit Insurance Act)—

"(i) more than 50 percent of the ownership or control of which is held by 1 or more minority individuals; and

"(ii) more than 50 percent of the net profit or loss of which accrues to 1 or more minority individuals.

"(B) WOMEN'S DEPOSITORY INSTITUTION.—The term 'women's depository institution' means a depository institution (as defined in section 3(c) of the Federal Deposit Insurance Act)—

"(i) more than 50 percent of the ownership or control of which is held by 1 or more women;

"(ii) more than 50 percent of the net profit or loss of which accrues to 1 or more women; and

"(iii) a significant percentage of senior management positions of which are held by women.

"(C) MINORITY.—The term 'minority' has the meaning given to such term by section 1204(c)(3) of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.".

(b) COMMUNITY REINVESTMENT CREDIT FOR DEPOSITORY INSTITUTIONS PROVIDING ASSISTANCE.—The Community Reinvestment Act of 1977 (12 U.S.C. 2901 et seq.) is amended by adding at the end the following new section:

"SEC. 808. OPERATION OF BRANCH FACILITIES BY MINORITIES AND WOMEN.

"(a) IN GENERAL.—In the case of any depository institution which donates, sells on favorable terms (as determined by the appropriate Federal financial supervisory agency), or makes available on a rent-free basis any branch of such institution which is located in any predominantly minority neighborhood to any minority depository institution or women's depository institution, the amount of the contribution or the amount of the loss incurred in connection with such activity shall be treated as meeting the credit needs of the institution's community for purposes of this title.

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

"(1) MINORITY DEPOSITORY INSTITUTION.—The term 'minority institution' means a depository institution (as defined in section 3(c) of the Federal Deposit Insurance Act)—

"(A) more than 50 percent of the ownership or control of which is held by 1 or more minority individuals; and

"(B) more than 50 percent of the net profit or loss of which accrues to 1 or more minority individuals.

"(2) WOMEN'S DEPOSITORY INSTITUTION.—The term 'women's depository institution' means a depository institution (as defined in section 3(c) of the Federal Deposit Insurance Act)—

"(A) more than 50 percent of the ownership or control of which is held by 1 or more women;

"(B) more than 50 percent of the net profit or loss of which accrues to 1 or more women; and

"(C) a significant percentage of senior management positions of which are held by women.

"(3) MINORITY.—The term 'minority' has the meaning given to such term by section 1204(c)(3) of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.".

SEC. 403. ACQUISITION OF FAILING MAJORITY ASSOCIATIONS BY MINORITY INSTITUTIONS.

Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended by inserting after subsection (u) (as added by section 302 of this title) the following new subsection:

"(v) ASSISTANCE UNDER CIRCUMSTANCES FOR ACQUISITION OF MAJORITY-OWNED INSTITUTIONS.—

"(1) IN GENERAL.—In addition to the assistance provided pursuant to the minority interim capital assistance program established by the Oversight Board by regulation pursuant to the strategic plan under subsection (a), the Corporation may provide assistance for minority-owned depository institutions and minority investors for the acquisition of any savings association for which the Corporation has been appointed conservator or receiver and which, before such appointment, was not a minority-owned association, if the Corporation has not received acceptable bids for the acquisition of such association without offering such assistance.

"(2) ADDITIONAL ASSETS.—In connection with the acquisition of any savings association for which the Corporation provides assistance under paragraph (1), the Corporation may transfer assets of other savings associations for which the Corporation has been appointed conservator or receiver.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) MINORITY.—The term 'minority' has the meaning given to such term by section 1204(c)(3) of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.

"(B) ACQUISITION.—The term 'acquisition' means any transaction in which a savings association is acquired (as defined in section 13(c)(8) of the Federal Deposit Insurance Act).".

SEC. 404. STATUTORY ESTABLISHMENT OF PROGRAM.

Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended by inserting after subsection (v) (as added by section 303 of this title) the following new subsection:

"(w) MINORITY INTERIM CAPITAL ASSISTANCE PROGRAM.—

"(1) IN GENERAL.—The minority interim capital assistance program established by the Oversight Board by regulation pursuant to the strategic plan under subsection (a) is hereby established by law.

"(2) ASSISTANCE UNDER CIRCUMSTANCES FOR ACQUISITION OF MAJORITY-OWNED INSTITUTIONS.—In addition to the assistance provided pursuant to the program established under paragraph (1), the Corporation shall provide assistance under such program for minority-owned depository institutions and minority investors for the acquisition of any savings association for which the Corporation has been appointed conservator or receiver and which, before such appointment, was not a minority-owned association, if the Corporation has not received acceptable bids for the acquisition of such association without offering such assistance.

"(3) EXTENSION OF INTERIM FINANCING PERIOD.—The period for repayment of capital assistance provided under the minority interim capital assistance program shall be not less than 2 years.

"(4) INTEREST RATE.—The rate of interest imposed by the Corporation in connection with any interim financing provided under the minority interim capital assistance program may not exceed the average cost of funds to the Corporation as of the time such rate is established.

"(5) DEFINITIONS.—For purposes of this subsection.—

"(A) MINORITY.—The term 'minority ' has the meaning given to such term by section 1204(c)(3) of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.

"(B) ACQUISITION.—The term 'acquisition' means any transaction in which a savings association is acquired (as defined in section 13(c)(8) of the Federal Deposit Insurance Act).".

SEC. 405. GOAL FOR PARTICIPATION OF SMALL BUSINESS CONCERNS.

Section 21A(b)(14) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(14)) is amended to read as follows:

"(14) GOAL FOR PARTICIPATION OF SMALL BUSINESS CONCERNS.—The Corporation shall have an annual goal that presents the maximum practicable opportunity for small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals to participate in the performance of contracts awarded by the Corporation.".

TITLE V—MISCELLANEOUS HOUSING PROVISIONS

SECTION 501.

(a) CREDIT ENHANCEMENT TO PROVIDE HOUSING OPPORTUNITIES FOR LOW-INCOME PERSONS.—

(1) IN GENERAL.—Section 21A(b)(10)(K) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(10)(K)) is amended to read as follows:

"(K) To make loans and, with respect to eligible residential properties, develop risk sharing structures and other credit enhancements to assist in the provision of property

ownership, rental, and cooperative housing opportunities for lower- and moderate-income families.".

(2) CREDIT ENHANCEMENT FOR CERTAIN TAX-EXEMPT BONDS.—Section 21A(c)(8)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(8)(B)) is amended—

(A) by striking "(B) CREDIT ENHANCEMENT.—With respect to" and inserting the following:

"(B) CREDIT ENHANCEMENT.—

"(i) IN GENERAL.—With respect to"; and

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

"(ii) CERTAIN TAX-EXEMPT BONDS.—The Corporation may provide credit enhancements with respect to tax-exempt bonds issued on behalf of nonprofit organization pursuant to section 103, and subpart A of part IV of subchapter A of chapter 1, of the Internal Revenue Code of 1986, with respect to the disposition of eligible residential properties for the purposes described in clause (i).".

TITLE VI—RESOLUTION TRUST CORPORATION AFFORDABLE HOUSING PROGRAM

SEC. 601. INCLUSION OF ELIGIBLE RESIDENTIAL PROPERTY UNDER CONSERVATORSHIP.

Section 21A(c)(9) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(9)) is amended—

(1) by striking subparagraphs (C) and (D) and inserting the following new subparagraphs:

"(C) CORPORATION.—The term 'Corporation' means the Resolution Trust Corporation.

"(D) ELIGIBLE MULTIFAMILY HOUSING PROPERTY.—

"(i) BASIC DEFINITION.—The term 'eligible multifamily housing property' means a property consisting of more than 4 dwelling units—

"(I) to which the Corporation acquires title either in its corporate capacity or as receiver (including its capacity as the sole owner of a subsidiary corporation of a depository institution under receivership, which subsidiary has as its principal business the ownership of real property), but not in its capacity as an operating conservator; and

"(II) that has an appraised value that does not exceed the applicable dollar amount set forth in section 221(d)(3)(ii) of the National Housing Act for elevator-type structures (without regard to any increase of such amount for high-cost areas).

"(ii) EXPANDED DEFINITION.—Notwithstanding clause (i), to the extent or in such amounts as are provided in appropriations Acts for additional costs and losses to the Corporation resulting from this clause taking effect, the term 'eligible multifamily housing property' shall mean a property consisting of more than 4 dwelling units—

"(I) to which the Corporation acquires title in its corporate capacity, its capacity as conservator, or its capacity as receiver (including its capacity as the sole owner of a subsidiary corporation of a depository institution under conservatorship or receivership, which subsidiary has as its principal business the ownership of real property); and

"(II) that has an appraised value that does not exceed the applicable dollar amount set forth in section 221(d)(3)(ii) of the National Housing Act for elevator-type structures (without regard to any increase of such amount for high-cost areas)."; and

(2) by striking subparagraph (F) and inserting the following subparagraph:

"(F) ELIGIBLE SINGLE FAMILY PROPERTY.—The term 'eligible single family property' means a 1- to 4-family residence (including a manufactured home)—

"(I) to which the Corporation acquires title in its corporate capacity, its capacity as conservator, or its capacity as receiver (including its capacity as the sole owner of a subsidiary corporation of a depository institution under conservatorship or receivership, which subsidiary has as its principal business the ownership of real property); and

"(II) that has an appraised value that does not exceed the applicable dollar amount set forth in the first sentence of section 203(b)(2) of the National Housing Act (without regard to any increase of such amount for high-cost areas).".

SEC. 602. TIME LIMITATIONS ON SALE OF ELIGIBLE SINGLE FAMILY PROPERTY.

Section 21A(c)(2)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(2)(B)), as amended by Public Law 102-139, is amended—

(1) in the first sentence, by striking "For" and inserting "Except as provided in the last sentence of this subparagraph, for"; and

(2) by adding at the end the following new sentence: "To the extent or in such amounts as are provided in appropriations Acts for additional costs and losses to the Corporation resulting from this sentence taking effect, for purposes of this subsection the period referred to in the first and third sentences shall be considered to be the 180-day period following the date on which the Corporation first makes an eligible single family property available for sale.".

SEC. 603. ACTIVE MARKETING OF ELIGIBLE SINGLE FAMILY PROPERTY TO LOWER-INCOME VETERANS.

Section 21A(c)(2)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(2)(B)) is amended—

(1) in clause (i) of the first sentence, by inserting "(including qualifying households with members who are veterans)" after "households";

(2) in subclause (I) of clause (ii) of the first sentence, by inserting "(including lower-income families with members who are veterans)" after "lower-income families"; and

(3) in the fourth sentence, by inserting "and to lower-income families with members who are veterans" before the period.

SEC. 604. PREVENTION OF SPECULATION ON ELIGIBLE SINGLE FAMILY PROPERTY.

(a) RESIDENCY REQUIREMENTS.—

(1) QUALIFYING HOUSEHOLDS.—Section 21A(c)(9)(K) of the federal Home Loan Bank Act (12 U.S.C. 1441a(c)(9)(K)) is amended by striking "and (ii) whose adjusted income" and inserting the following: "(ii) who agrees to occupy the property as a principal residence for at least 12 months (except as provided in paragraph (2)(D)); (iii) who certifies in writing that the household intends to occupy the property as a principal residence for at least 12 months (except as provided in paragraph (2)(D)); and (iv) whose income".

(2) LOWER-INCOME FAMILIES.—The first sentence of section 21A(c)(2)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(2)) is amended by striking "by such families." and inserting the following: "by any such family who, except as provided in subparagraph (D), agrees to occupy the property as a principal residence for at least 12 months and who certifies in writing that the family intends to occupy the property for at least 12 months.".

(b) RECAPTURE OF PROFITS FROM RESALE.—Section 21A(c)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(2)) is amended by adding at the end the following new subparagraphs:

"(C) RECAPTURE OF PROFITS FROM RESALE.—Except as provided in subparagraph (D), if any eligible single family property sold (i) to a qualifying household, or (ii) to a lower-income family pursuant to subparagraph (B)(ii)(II), paragraph (12)(C)(i), or paragraph (13)(B), is resold by the qualifying household or lower-income family during the 1-year period beginning upon initial acquisition by the household or lower-income family, the Corporation shall recapture 75 percent of the amount of any proceeds from the resale that exceed the sum of (I) the original sale price for the acquisition of the property by the qualifying household or lower-income family, (II) the costs of any improvements to the property made after the date of the acquisition, and (III) any closing costs in connection with the acquisition.

"(D) EXCEPTIONS TO RECAPTURE REQUIREMENT.—

"(i) RELOCATION.—The Corporation (or its successor) may in its discretion waive the applicability (I) to any qualifying household of the requirement under subparagraph (C) and the requirements relating to residency of a qualifying household under paragraphs (9)(L)(ii) and (iii), and (II) to any lower-income family of the requirement under subparagraph (C) and the residency requirements under subparagraph (B)(ii)(II). The Corporation may grant any such a waiver only for good cause shown, including any necessary relocation of the qualifying household or lower-income family.

"(ii) OTHER RECAPTURE PROVISIONS.—The requirement under subparagraph (C) shall not apply to any eligible single family property for which, upon resale by the qualifying household or lower-income family during the 1-year period beginning upon initial acquisition by the household or family, a portion of the sale proceeds or any subsidy provided in connection with the acquisition of the property by the household or family is required to by recaptured or repaid under any other Federal, State, or local law (including section 143(m) of the Internal Revenue Code of 1986) or regulation or under any sale agreement.".

SEC. 605. AVOIDANCE OF DISPLACEMENT UNDER SINGLE FAMILY PROPERTY DISPOSITION PROGRAM.

Section 21A(c)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(2)) is amended by adding after subparagraph (D) (as added by section 504(b) of this Act) the following new subparagraph:

"(E) EXCEPTION TO AVOID DISPLACEMENT OF EXISTING RESIDENTS.—Notwithstanding the first sentence of subparagraph (B), during the 180-day period following the date on which the Corporation makes an eligible single family property available for sale, the Corporation may sell the property to the household residing in the property, but only if (i) such household was residing in the property at the time notice regarding the property was provided to clearinghouses under subparagraph (A), (ii) such sale is necessary to avoid the displacement of, and unnecessary hardship to, the resident household, (iii) the resident household intends to occupy the property as a principal residence for at least 12 months, and (iv) and the resident household certifies in writing that the household intends to occupy the property for at least 12 months.".

SEC. 606. PERIODS FOR EXPRESSION OF SERIOUS INTEREST AND RESTRICTED BIDS FOR ELIGIBLE MULTIFAMILY HOUSING PROPERTY.

Section 21A(c)(3) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(3)) is amended—

(1) in the first sentence of subparagraph (B), by striking the first comma and all that follows through "first";

(2) in subparagraph (C), by striking "determining that a property is ready for sale" and inserting the following: "the expiration of the period referred to in subparagraph (B) for a property,"; and

(3) in subparagraph (D), by inserting after the period at the end the following new sentence: "If, before the expiration of such 45-day period, any offer to purchase a property initially accepted by the Corporation is subsequently rejected or fails (for any reason), the Corporation shall accept another offer to purchase the property made during such period that complies with the terms and conditions established by the Corporation (if such another offer is made). The preceding sentence may not be construed to require a qualifying multifamily purchaser whose offer is accepted during the 45-day period to purchase the property before the expiration of the period.".

SEC 607. LOWER-INCOME OCCUPANCY REQUIREMENTS FOR ELIGIBLE MULTIFAMILY HOUSING PROPERTY.

Section 21A(c)(3)(E) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(3)(E)) is amended to read as follows:

"(E) LOWER-INCOME OCCUPANCY REQUIREMENTS.—

"(i) SINGLE PROPERTY PURCHASES.—With respect to any purchase of a single eligible multifamily housing property by a qualifying multifamily purchaser under subparagraph (D)—

"(I) not less than 35 percent of all dwelling units purchased shall be made available for occupancy by and maintained as affordable for lower-income and very low-income families during the remaining useful life of the property in which the units are located; provided that

"(II) not less than 20 percent of all dwelling units purchased shall be made available for occupancy by and maintained as affordable for very low-income families during the remaining useful life of the property in which the units are located.

"(ii) AGGREGATION REQUIREMENTS FOR MULTIPROPERTY PURCHASES.—With respect to any purchase under subparagraph (D) by a qualifying multifamily purchaser involving more than one eligible multifamily housing property as a part of the same negotiation—

"(I) the provisions of clause (i) shall apply in the aggregate to the properties so purchased; except that

"(II) to the extent or in such amounts as are provided in appropriations Acts for additional costs and losses to the Corporation resulting from this subclause taking effect, not less than (a) 40 percent of the aggregate number of all dwelling units purchased shall be made available for occupancy by and maintained as affordable for lower-income and very low-income families during the remaining useful life of the property in which the units are located, (b) 20 percent of the aggregate number of all dwelling units purchased shall be made available for occupancy by and maintained as affordable for very low-income families during the remaining useful life of the property in which the units are located, and (c) not less than 10 percent of the dwelling units in each separate property purchased shall be made available for occupancy by and maintained as affordable for lower-income families during the remaining useful life of the property in which the units are located

The requirements of this subparagraph shall be contained in the deed or other recorded instrument.".

SEC 608. EXTENSION OF RESTRICTED OFFER PERIOD FOR ELIGIBLE MULTIFAMILY HOUSING PROPERTY.

Section 21A(c)(3) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(3)) is amended—

(1) by redesignating subparagraph (G) as subparagraph (H); and

(2) by inserting after subparagraph (F) the following new subparagraph:

"(G) EXTENSION OF RESTRICTED OFFER PERIODS.—Notwithstanding subparagraph (F), the Corporation may provide notice to clearinghouses regarding, and offer for sale under the provisions of subparagraphs (A) and through (D), any eligible multifamily housing property—

"(i) in which no qualifying multifamily purchaser has expressed serious interest during the period referred to in subparagraph (B), or

"(ii) for which no qualifying multifamily purchaser has made a bona fide offer before the expiration of the period referred to in subparagraph (D).

except that the Corporation may, in the discretion of the Corporation, alter the duration of the periods referred to in subparagraphs (B) and (D) in offering any property for sale under this subparagraph.".

SEC. 609. SALE PRICE.

Section 21A(c)(6)(A)(i) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(6)(A)(i)) is amended to read as follows:

"(i) SALE PRICE.—The Corporation shall establish a market value for each eligible multifamily housing property. The Corporation shall sell eligible multifamily housing property at the net realizable market value. The Corporation may agree to sell eligible multifamily housing property at a price below the net realizable market value to the extent necessary to facilitate an expedited sale of such property and enable a public agency or nonprofit organization to comply with the lower-income occupancy requirements applicable to such property under paragraph (3). The Corporation may sell eligible single family property or eligible condominium property to qualifying households, nonprofit organizations, and public agencies without regard to any minimum sale price.".

SEC. 610. AUTHORITY FOR RTC TO PARTICIPATE IN MULTIFAMILY FINANCING POOLS.

Section 21A(c)(6)(A)(ii) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(6)(A)(ii)) is amended by adding at the end the following new sentence: "In providing financing for combinations of eligible multifamily housing properties under this subsection, the Corporation may hold a participating share, including a subordinate participation.".

SEC. 611. CREDIT ENHANCEMENT FOR CERTAIN TAX-EXEMPT BONDS.

Section 21A(c)(8)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(8)(B)) is amended—

(1) by striking "(B) CREDIT ENHANCEMENT.—With respect to" and inserting the following:

"(B) CREDIT ENHANCEMENT.—

"(i) IN GENERAL.—With respect to"; and

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

"(ii) CERTAIN TAX-EXEMPT BONDS.—The Corporation may provide credit enhancements with respect to tax-exempt bonds issued on behalf of nonprofit organizations pursuant to section 103, and subpart A of part IV of subchapter A of chapter 1, of the Internal Revenue Code of 1986, with respect to the disposition of eligible residential properties for the purposes described in clause (i).".

SEC. 612. PERMANENT EFFECTIVENESS OF EXEMPTION FOR TRANSACTIONS WITH INSURED DEPOSITORY INSTITUTIONS.

Notwithstanding section 203 of the Resolution Trust Corporation Funding Act of 1991, the amendment made by section 201(b) of such Act shall apply on and after the date of the enactment of this Act.

SEC. 613. TRANSFER OF CERTAIN ELIGIBLE RESIDENTIAL PROPERTIES TO STATE HOUSING AGENCIES FOR DISPOSITION.

Section 21A(c) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)) is amended by adding at the end the following new paragraph:

"(12) TRANSFER OF CERTAIN ELIGIBLE RESIDENTIAL PROPERTIES TO STATE HOUSING AGENTS FOR DISPOSITION.—Notwithstanding paragraphs (2), (3), (5), and (6), the Corporation may transfer eligible residential properties to the State housing finance agency or any other State housing agency for the State in which the property is located, or to any local housing agency in whose jurisdiction the property is located. Transfers of eligible residential properties under this paragraph may be conducted by direct sale, consignment sale, or any other method the Corporation considers appropriate and shall be subject to the following requirements:

"(A) INDIVIDUAL OR BULK TRANSFER.—The Corporation may transfer such properties individually or in bulk, as agreed to by the Corporation and the State housing finance agency or State or local housing agency.

"(B) ACQUISITION PRICE AND DISCOUNT.—The acquisition price paid by the State housing finance agency or State or local housing agency to the Corporation for properties transferred under this paragraph shall be an amount agreed to by the Corporation and the transferee agency.

"(C) LOWER-INCOME USE.—Any State housing finance agency or State or local housing agency acquiring properties under this paragraph shall offer to sell or transfer the properties only as follows:

"(i) ELIGIBLE SINGLE FAMILY PROPERTIES.—For eligible single family properties—

"(I) to purchasers described under clauses (i) and (ii) of paragraph (2)(B);

"(II) if the purchaser is a purchaser described under paragraph (2)(B)(ii)(I), subject to the rent limitations under paragraph (4)(A);

"(III) subject to the requirement in the second sentence of paragraph (2)(B); and

"(IV) subject to recapture by the Corporation of excess proceeds from resale of the properties under subparagraphs (C) and (D) of paragraph (2).

"(ii) ELIGIBLE MULTIFAMILY HOUSING PROPERTIES.—For eligible multifamily housing properties—

"(I) to qualifying multifamily purchasers;

"(II) subject to the lower-income occupancy requirements under paragraph (3)(E);

"(III) subject to the provisions of paragraph (3)(H);

"(IV) subject to a preference, among financially acceptable offers, to the offer that would reserve the highest percentage of dwelling units for occupancy or purchase by very low-income families and lower-income families and would retain such affordability for the longest term; and

"(V) subject to the rent limitations under paragraph (4)(A).

"(D) AFFORDABILITY.—The State housing finance agency or State or local housing agency shall endeavor to make the properties transferred under this paragraph more affordable to lower-income families based

upon the extent to which the acquisition price of a property under subparagraph (B) is less than the market value of the property.".

SEC. 614. SUSPENSION OF OFFER PERIODS FOR SALES OF ELIGIBLE RESIDENTIAL PROPERTY TO NONPROFIT ORGANIZATIONS AND PUBLIC AGENCIES.

Section 21A(c) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)) is amended by adding after paragraph (12) (as added by section 513 of this Act) the following new paragraph:

"(13) EXCEPTION FOR SALES TO NONPROFIT ORGANIZATIONS AND PUBLIC AGENCIES.—

"(A) SUSPENSION OF OFFER PERIODS.—With respect to any eligible residential property, the Corporation may (in the discretion of the Corporation) suspend any of the requirements of subparagraphs (A) and (B) of paragraph (2) and subparagraphs (A) through (D) of paragraph (3), as applicable, but only to the extent that for the duration of the suspension the Corporation negotiates the sale of the property to a nonprofit organization or public agency. If the property is not sold pursuant to such negotiations, the requirements of any provisions suspended shall apply upon the termination of the suspension. Any time period referred to in such paragraphs shall toll for the duration of any suspension under this subparagraph.

"(B) USE RESTRICTIONS.—

"(i) ELIGIBLE SINGLE FAMILY PROPERTY.—Any eligible single family property sold under this paragraph shall be (I) made available for occupancy by and maintained as affordable for lower-income families for the remaining useful life of the property, or made available for purchase by such families, (II) subject to the rent limitations under paragraph (4)(A), (III) subject to the requirements relating to residency of a qualifying household under paragraph (9)(L) and to residency of a lower-income family under paragraph (2)(B)(ii), and (IV) subject to recapture by the Corporation of excess proceeds from resale of the property under subparagraphs (C) and (D) of paragraph (2).

"(ii) ELIGIBLE MULTIFAMILY HOUSING PROPERTY.—Any eligible multifamily housing property sold under this paragraph shall comply with the lower-income occupancy requirements under paragraph (3)(E) and shall be subject to the rent limitations under paragraph (4)(A).".

SEC. 615. SALE OF ELIGIBLE CONDOMINIUM PROPERTY.

(a) IN GENERAL.—Section 21A(c) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)) is amended by adding after paragraph (13) (as added by section 514 of this Act) the following new paragraph:

"(14) RULES GOVERNING DISPOSITION OF ELIGIBLE CONDOMINIUM PROPERTY.—

"(A) NOTICE TO CLEARINGHOUSES.—Within a reasonable period of time after acquiring title to an eligible condominium property, the Corporation shall provide written notice to clearinghouses. Such notice shall contain basic information about the property. Each clearinghouse shall make such information available, upon request, to purchasers described in clauses (i) through (iv) of subparagraph (B). The Corporation shall allow such purchasers reasonable access to an eligible condominium property for purposes of inspection.

"(B) OFFERS TO SELL.—For the 180-day period following the date on which the Corporation makes an eligible condominium property available for sale, the Corporation may offer to sell the property, at the discretion of the Corporation, to 1 or more of the following purchasers:

"(i) Qualifying households.

"(ii) Nonprofit organizations.

"(iii) Public agencies.

"(iv) For-profit entities.

"(C) LOWER-INCOME OCCUPANCY REQUIREMENTS.—

"(i) IN GENERAL.—Except as provided in clause (ii), any nonprofit organization, public agency, or for-profit entity that purchases an eligible condominium property shall (I) make the property available for occupancy by and maintain it as affordable for lower-income families for the remaining useful life of the property, or (II) make the property available for purchase by any such family who, except as provided in subparagraph (E), agrees to occupy the property as a principal residence for at least 12 months and who certifies in writing that the family intends to occupy the property for at least 12 months. The restriction described in subclause (I) of the preceding sentence shall be contained in the deed or other recorded instrument.

"(ii) MULTIPLE-UNIT PURCHASES.—If any nonprofit organization, public agency, or for-profit entity purchases more than 1 eligible condominium property as a part of the same negotiation or purchase, the Corporation may (in the discretion of the Corporation) waive the requirement under clause (i) and provide instead that not less than 35 percent of all eligible condominium properties purchased shall be (I) made available for occupancy by and maintained as affordable for lower-income families for the remaining useful life of the property or (II) made available for purchase by any such family who, except as provided in subparagraph (E), agrees to occupy the property as a principal residence for at least 12 months and who certifies in writing that the family intends to occupy the property for at least 12 months. The restriction described subclause (I) of the preceding sentence shall be contained in the deed or other recorded instrument.

"(iii) SALE TO OTHER PURCHASERS.—If upon the expiration of the 180-day period referred to in subparagraph (B), no purchaser described in clauses (i) through (iv) of subparagraph (B) has made a bona fide offer to purchase the property the Corporation may offer to sell the property to any other purchaser.

"(D) RECAPTURE OF PROFITS FROM RESALE.—Except as provided in subparagraph (E), if any eligible condominium property sold (i) to a qualifying household, or (ii) to a lower-income family pursuant to subparagraph (C)(i)(II) or (C)(ii)(II), is resold by the qualifying household or lower-income family during the 1-year period beginning upon initial acquisition by the household or family, the Corporation shall recapture 75 percent of the amount of any proceeds from the resale that exceed the sum of (I) the original sale price for the acquisition of the property by the qualifying household or lower-income family, (II) the costs of any improvements to the property made after the date of the acquisition, and (III) any closing costs in connection with the acquisition.

"(E) EXCEPTION TO RECAPTURE REQUIREMENT.—The Corporation (or its successor) may in its discretion waive the applicability to any qualifying household or lower-income family of the requirement under subparagraph (D) and the requirements relating to residency of a qualifying household or lower-income family (under paragraph (9)(L) and subparagraph (C) of this paragraph respectively). The Corporation may grant any such a waiver only for good cause shown, including any necessary relocation of the qualifying household or lower-income family.

"(F) LIMITATIONS ON MULTIPLE UNIT PURCHASES.—The Corporation may not sell or offer to sell as part of the same negotiation or purchase any eligible condominium properties that are not located in the same condominium project (as such term is defined in section 604 of the Housing and Community Development Act of 1980). The preceding sentence may not be construed to require all eligible condominium properties offered or sold as part of the same negotiation or purchase to be located in the same structure.

"(G) RENT LIMITATIONS.—Rents charged to tenants of eligible condominium properties made available for occupancy by very low-income families shall not exceed 30 percent of the adjusted income of a family whose income equals 50 percent of the median income for the area, as determined by the Secretary, with adjustment for family size. Rents charged to tenants of eligible condominium properties made available for occupancy by lower-income families other than very low-income families shall not exceed 30 percent of the adjusted income of a family whose income equals 65 percent of the median income for the area, as determined by the Secretary, with adjustment for family size.".

"(b) CONFORMING AMENDMENT.—Section 21A(c)(11)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(11)(B)) is amended by striking "specified under paragraphs (2) and (3)" and inserting "applicable under paragraphs (2), (3), (12)(C), (13)(B), and (14)(C)".

SEC. 616. REPORTS TO CONGRESS REGARDING AFFORDABLE HOUSING PROGRAM.

Section 21A(c) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)) is amended by adding after paragraph (14) (as added by section 515 of this Act) the following new paragraph:

"(15) REPORTS TO CONGRESS.—

"(A) IN GENERAL.—The Corporation shall submit to the Congress semiannual reports under this paragraph regarding the disposition of eligible residential properties under this subsection during the most recently concluded reporting period. The first report under this paragraph shall be submitted not later than the expiration of the 4-month period beginning upon the conclusion of the first reporting period under subparagraph (B). Subsequent reports shall be submitted not less than every 6 months after such expiration.

"(B) REPORTING PERIODS.—For purposes of this paragraph, the term 'reporting period' means the 6-month period for which a report under this paragraph is made, except that the first reporting period shall be the period begining on the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 and ending on the date of the enactment of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991. Each successive reporting period shall begin upon the conclusion of the preceding reporting period.

"(C) INFORMATION REGARDING PROPERTIES SOLD.—Each report under this paragraph shall contain information regarding each eligible residential property sold by the Corporation during the applicable reporting period, as follows:

"(i) A description of the property, the location of the property, and the number of dwelling units in the property.

"(ii) The appraised value of the property.

"(iii) The sale price of the property.

"(iv) For eligible single family properties—

"(I) the income and race of the purchaser of the property, if the property is sold to an occupying household or is sold for resale to an occupying household; and

"(II) whether the property is reserved for residency by very low- or lower-income families, if the property is sold for use as rental property.

"(v) For eligible multifamily housing properties. The number and percentage of dwelling units in the property reserved for occupancy by very low- and lower-income families.

"(vi) The number of eligible single family properties sold after the expiration of the offer period for such properties referred to in paragraph (2)(B).

"(vii) The number of eligible multifamily housing properties sold after the expiration of the periods for such properties referred to in subparagraphs (B) and (D) of paragraph (3).

"(D) NUMBER OF PROPERTIES WITHIN WINDOWS.—Each report under this paragraph shall contain the following information:

"(i) The number of eligible single family properties for which the offer period referred to in paragraph (2)(B) had not expired before the conclusion of the applicable reporting period (or had not yet commenced).

"(ii) The number of eligible multifamily housing properties for which the 90-day period referred to in paragraph (3)(B) had not expired before the conclusion of the applicable reporting period (or had not yet commenced)."

SEC. 617. DEFINITIONS.

Section 21A(c)(9) for the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(9)), as amended by sections 501 and 504(a)(1) of this Act, is further amended—

(1) by striking subparagraph (A) and inserting the following new subparagraph:

"(A) ADJUSTED INCOME AND INCOME.—The terms 'adjusted income' and 'income' shall have the meaning given such terms in section 3(b) of the United States Housing Act of 1937.";

(2) by redesignating subparagraphs (D) through (P) as subparagraphs (E) through (Q), respectively; and

(3) by inserting after subparagraph (C) the following new subparagraph:

"(D) ELIGIBLE CONDOMINIUM PROPERTY.—The term 'eligible condominium property' means a condominium unit, as such term is defined in section 604 of the Housing and Community Development Act of 1980—

"(i) to which the Corporation acquires title in its corporate capacity, its capacity as conservator, or its capacity as receiver (including its capacity as the sole owner of a subsidiary corporation of a depository institution under conservatorship or receivership, which subsidiary has as its principal business the ownership of real property); and

"(ii) that has an appraised value that does not exceed the applicable dollar amount set forth in the first sentence of section 203(b)(2) of the National Housing Act (without regard to any increase of such amount for high cost areas).".

SEC. 618. RISK-WEIGHTING OF HOUSING LOANS FOR PURPOSES OF CAPITAL REQUIREMENTS.

(a) SINGLE FAMILY HOUSING LOANS.—

(1) 50 PERCENT RISK-WEIGHTED CLASSIFICATION.—

(A) IN GENERAL.—To provide consistent regulatory treatment of loans made for the construction of single family housing, not later than the expiration of the 120-day period beginning on the date of this Act each Federal banking agency shall amend the regulations and guidelines of the agency establishing minimum acceptable capital levels to provide that any single family residence construction loan described under subparagraph (B) shall be considered as a loan within the 50 percent risk-weighted category.

(B) REQUIREMENTS.—Subparagraph (A) shall apply to any construction loan—

(i) made for the construction of a residence consisting of 1 to 4 dwelling units:

(ii) under which the lender has acquired from the lender originating the mortgage loan for purchase of the residence, before the making of the construction loan—

(I) documentation demonstrating that the buyer of the residence intends to purchase the residence and has the ability to obtain a mortgage loan sufficient to purchase the residence; and

(II) any other documentation from the mortgage lender that the appropriate Federal banking agency may consider appropriate to provide assurances of the buyer's intent to purchase the property (including written commitments and letters of intent);

(iii) under which the borrower requires the buyer of the residence to make a nonrefundable deposit to the borrower in an amount (as determined by the appropriate Federal banking agency) of not less than 1 percent of the principal amount of mortgage loan obtained by the borrower for purchase of the residence, for use in defraying any costs relating to any cancellation of the purchase contract of the buyer; and

(iv) that meets any other underwriting characteristics that the appropriate Federal banking agency may establish, consistent with the purposes of the minimum acceptable capital requirements to maintain the safety and soundness of financial institutions.

(2) 100 PERCENT RISK-WEIGHTED CLASSIFICATION.—Not later than the expiration of the 120-day period beginning on the date of this Act each Federal banking agency shall amend the regulations and guidelines of the agency establishing minimum acceptable capital levels to provide that—

(A) any single family residence construction loan for a residence for which the purchase contract is cancelled shall be considered as a loan within the 100 percent risk-weighted category; and

(B) the lender of any single family residence construction loan shall promptly notify the appropriate Federal banking agency of any such cancellation.

(b) MULTIFAMILY HOUSING LOANS.—

(1) 50 PERCENT RISK-WEIGHTED CLASSIFICATION.—

(A) IN GENERAL.—To provide consistent regulatory treatment of loans made for the purchase of multifamily rental and homeowner properties, not later than the expiration of the 120-day period beginning on the date of this Act each Federal banking agency shall amend the regulations and guidelines of the agency establishing minimum acceptable capital levels to provide that any multifamily housing loan described under subparagraph (B) and any security collateralized by such a loan shall be considered as a loan or security within the 50 percent risk-weighted category.

(B) REQUIREMENTS.—Subparagraph (A) shall apply to any loan—

(i) secured by a first lien on a residence consisting of more than 4 dwelling units;

(ii) under which—

(I)(a) the rate of interest does not change over the term of the loan, (b) the principal obligation does not exceed 80 percent of the appraised value of the property, and (c) the ratio of annual net operating income generated by the property (before payment of any debt service on the loan) to annual debt service on the loan is not less than 120 percent; or

(II)(a) the rate of interest changes over the term of the loan, (b) the principal obligation does not exceed 75 percent of the appraised value of the property, and (c) the ratio of annual net operating income generated by the property (before payment of any debt service on the loan) to annual debt service on the loan is not less than 115 percent;

(iii) under which—

(I) amortization of principal and interest occurs over a period of not more than 30 years;

(II) the minimum maturity for repayment of principal is not less than 7 years; and

(III) timely payment of all principal and interest, in accordance with the terms of the loan, occurs for a period of not less than 1 year; and

(iv) that meets any other underwriting characteristics that the appropriate Federal banking agency may establish, consistent with the purposes of the minimum acceptable capital requirements to maintain the safety and soundness of financial institutions.

(2) SALE PURSUANT TO PRO RATA LOSS SHARING ARRANGEMENTS.—Not later than the expiration of the 120-day period beginning on the date of this Act, each Federal banking agency shall amend the regulations and guidelines of the agency establishing minimum acceptable capital levels to provide that any loan fully secured by a first lien on a multifamily housing property that is sold subject to a pro rata loss sharing arrangement by an institution subject to the jurisdiction of the agency shall be treated as sold to the extent that loss is incurred by the purchaser of the loan. For purposes of this paragraph, the term "pro rata loss sharing arrangement" means an agreement providing that the purchaser of a loan shares in any loss incurred on the loan with the selling institution on a pro rata basis.

(3) SALE PURSUANT TO OTHER ARRANGEMENTS FOR LOSS.—Not later than the expiration of the 180-day period beginning on the date of the enactment of this Act, each Federal banking agency shall amend the regulations and guidelines of the agency establishing minimum acceptable capital levels to take into account other loss sharing arrangements, in connection with the sale by an institution subject to the jurisdiction of the agency of any loan that is fully secured by a first lien on multifamily housing property, for purposes of determining the extent to which such loans shall be treated as sold. For purposes of this paragraph, the term "other loss sharing arrangement" means an agreement providing that the purchaser of a loan shares in any loss incurred on the loan with the selling institution on other than a pro rata basis.

(c) APPROPRIATE FEDERAL BANKING AGENCY.—For purposes of this section, the term "Federal banking agency" means the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, and the Director of the Office of Thrift Supervision.

SEC. 619. APPLICABILITY.

The amendments made by this title shall not apply to any eligible residential property or eligible condominium property of the Resolution Trust Corporation, that is subject to an agreement for sale entered into by the Corporation before the date of the enactment of this Act.

TITLE VII APPRAISAL AMENDMENTS

SEC. 705. REAL ESTATE APPRAISALS.

(a) CERTIFICATION AND LICENSING REQUIREMENTS.—Section 1116 of the Financial Institutions Reform, Recovery, and Enforcement

Act of 1989 (12 U.S.C. 3345) is amended by adding at the end the following new subsection:

"(e) AUTHORITY OF THE APPRAISAL SUBCOMMITTEE.—The Appraisal Subcommittee shall not set qualifications or experience requirements for the States in licensing real estate appraisers. Recommendations of the Subcommittee shall be nonbinding on the States.

(b) USE OF STATE CERTIFIED AND STATE LICENSED APPRAISERS.—

(1) EFFECTIVE DATE FOR USE.—Section 1119(a)(1) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3348(a)(1)) is amended by striking "July 1, 1991" and inserting "December 31, 1992".

(2) EXTENSION OF EFFECTIVE DATE.—Section 1119(b) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3348(b)) is amended—

(A) in the first sentence, by striking "leading to inordinate delays" and inserting ", or in any geographical political subdivision of a State, leading to significant delays"; and

(B) in the second sentence, by striking "inordinate" and inserting "significant".

The CHAIRMAN. Under the rule, the gentleman from Georgia [Mr. BARNARD] will be recognized for 15 minutes, and a Member opposed will be recognized for 15 minutes.

Mr. WYLIE. Mr. Chairman, I am not opposed to the amendment, but I would like to claim the 15 minutes in opposition.

The CHAIRMAN. If there is no objection, and no Member rises in opposition, the 15 minutes which have been allotted to the opposition to the amendment can be allotted by unanimous consent to the gentleman from Ohio [Mr. WYLIE].

Without objection, the gentleman from Ohio [Mr. WYLIE] will be recognized for 15 minutes.

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Georgia [Mr. BARNARD].

Mr. BARNARD. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we are about to make a very, very serious vote. I do not think anybody questions the fact that we have got to fund the Resolution Trust Corporation. It is very important. It is very vital that we do that.

The reason that our substitute is being offered this afternoon is not at all because of the fact that the committee did not do hard work. I want to congratulate the distinguished chairman of the House Committee on Banking, Finance and Urban Affairs for the very arduous task he went about in trying to structure this RTC bill.

Mr. Chairman, the reason we are here today is because the original bill contained 80-some-odd amendments. It was a very voluminous document. Unfortunately, the Senate bill is nowhere like the bill that we have just voted down. The bill that we are offering today has many similar features. No. 1, it does not have an $80 billion price tag.

□ 1350

We only put in this bill as much money as the RTC needs up until April 1, 1992, with a $25 billion cap.

We also have in here a restructuring of the RTC which is identical to the language in the Senate bill.

Believing that there are some very good features in the House bill, we have incorporated in our bill minority provisions as well as low-cost housing.

So I would say, please support this substitute. It will enable us to get a bill to the Senate and have early passage and that will also facilitate us going home.

Mr. Chairman, I yield to the gentleman from Minnesota [Mr. VENTO], a cosponsor of our amendment.

Mr. VENTO. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in support of the bill.

I think it is disappointing, obviously, to see the total work product of the Banking Committee not receive an affirmative vote here, but I think the reality is that the Senate did not consider a comprehensive bill. They are unwilling to accept various substantial amendments that were in the House measure, and therefore were left with a narrower bill, a narrow bill that is 80 pages long.

I am very pleased with the restructuring that has been accepted by the Senate, been accepted by the Treasury, and the other provisions of this bill. I think we have forged some important provisions dealing with housing and some of the other products of the committee, such as the treatment of minorities and women.

I am especially pleased that we do meet our obligations. It does mean we will have to come back next April, but I think we can leave passing this assured that the savings and loan deposits and the savings of individuals in them will be safeguarded.

Mr. BARNARD. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina [Mr. NEAL].

Mr. NEAL of North Carolina. Mr. Chairman, I do not think this is a pleasant task today. This is not a pleasant task for us to do at all. None of us want to do it, but we have two choices. We either do not pass anything, go home, leave the RTC without money, and it will not be able to close down bankrupt savings and loans, will not be able to pay off depositors, and there will be a run on banks. There will be absolute chaos. We cannot let it happen. It is unfortunate, but we cannot let it happen.

Now, we have rejected a big bill, $80 billion, a so-called cut-as-you-go-provision. This bill cuts the money way back, gives them temporary funding. It means we will be back in here next April trying to do the job better.

Anyone who does not like this bill will have that opportunity in April to help improve on procedure.

The gentleman from Texas who spoke earlier frankly amazed me, a Republican Member. If he does not like the administration, talk to the administration, his own administration. They are the ones running this thing. If it is not being run right, talk to them, get them to run it better.

We ought to try to build some of that in our law.

Mr. Speaker, I do not believe we have a choice. We have to give this organization some short-term funding now or there will be runs on banks. That is our choice. It is an unpleasant one. This is a minimum amount of money. We must unfortunately pass it.

Mrs. ROUKEMA. Mr. Chairman, will the gentleman yield?

Mr. NEAL of North Carolina. I am happy to yield to the gentlewoman from New Jersey.

Mrs. ROUKEMA. Mr. Speaker, I want to associate myself with the gentleman's remarks.

Also, I hope that we have noted the loss to the Treasury or the RTC over this time of $4 million a day with further delays.

Mr. NEAL of North Carolina. Mr. Chairman, the gentlewoman is correct.

Mr. WYLIE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of the Barnard-Wylie substitute which is before us now, a bill to provide such funds as may be necessary, but not to exceed $25 billion and it runs out on April 1; so, unfortunately, they have to come back to us on April 1, probably.

I would have preferred just having such funds as may be necessary with certain auditing restrictions, auditing requirements, et cetera, but that did not prevail.

This substitute also provides for a number of restructuring provisions. In particular, I would call attention of the Members to a provision which I was able to get in having to do with risk-weighting of housing loans for purposes of capital requirements.

This amendment directs the financial institution regulators to place seasoned low-risk family loans into the 50-percent risk-weighted category as permitted by the Basle Agreement.

I have here in my hand a letter from the National Association of Homebuilders, which says:

> In view of both the historic role that housing production has played in leading the nation out of past recessions and the credit crisis we continue to experience, it is critical that the true level of risk associated with the types of housing loans addressed by the Wylie amendments be reflected in the risk weighting of such loans.

That is a strong endorsement of my amendment.

The Barnard-Wylie substitute also contains a number of other reforms

with reference to affordable housing. The program is opened up to eligible properties held in conservatorship.

Finally, the Barnard-Wylie substitute contains two provisions which I mentioned, one is the risk-weighting to combat the credit crunch, and the other is a presold single family and seasoned multifamily loans arrangement in the bill.

As I indicated a little earlier, this provision has been worked out with Members of the other body, so if we are able to send it to them they will receive it with no objection.

Mr. BARNARD. Mr. Chairman, I yield 2 minutes to the gentleman from Iowa [Mr. LEACH].

Mr. LEACH. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I will try to use less than the 2 minutes.

Let me just say this is perhaps the most anguishing vote any of us will make this year or any year in the Congress.

The background is very simple. The greatest public policy mistake of the century was made and this Congress was part of it, not exclusively; State legislatures, the executive branch also contributed.

But the issue today is not whether there are losses. They are there, they are real, they are inescapable, but whether we will have a recession turn into a depression. At risk with a vote of this nature is the understanding that taxpayers are going to take a hit. A far more onerous circumstance is that the country will take a wallop if we say no.

So Mr. Chairman, I would just simply urge my colleagues to vote yes on both the substitute amendment and final passage, with the understanding that you will not be voting with pride, but out of necessity.

Mr. WYLIE. Mr. Chairman, I yield 2½ minutes to the gentleman from Utah [Mr. ORTON].

Mr. BARNARD. Mr. Chairman, I also yield 2½ minutes to the gentleman from Utah.

The CHAIRMAN. The gentleman from Utah [Mr. ORTON] is recognized for a total of 5 minutes.

Mr. ORTON. Mr. Chairman, I do not think I will take the entire 5 minutes.

Mr. Chairman, I reluctantly must rise in opposition to this amendment.

I must say, the gentleman from Dallas, TX, has virtually convinced me that if the people of Texas, of all places, are in opposition to funding the RTC, then I find it very, very difficult to ask the people of my district to help put up hundreds of billions of dollars which have gone down the rat hole in Texas, and I am quite offended by that; but the reason I am standing in opposition today is not because of the impassioned pleas of the people in Dallas, but it is because of the last 10 months of my life that I have spent virtually sequestered in the Banking Committee working on these issues.

Now, we in the Banking Committee have worked very hard for months. We have had hearings. We have had committee markups. We have had subcommittee markups, and we labored mightily and came forth with a bill.

□ 1400

That bill was not perfect, but that bill contained a number of fairly noncontroversial structural amendments which passed by a majority of the vote of the subcommittee and the full committee; structural amendments which are aimed and directed specifically at improving the operation of the RTC, aimed at reducing the hundreds of billions of dollars of losses and reducing delays that the RTC has in operating and functioning and carrying out its mandate.

Now, I, like everyone here, realize that the RTC must be funded. I do not like doing it. The problem was created long before I got here. I was in Washington speaking out publicly about the failed policies that brought us to this point.

And in fact I would favor waiving some jurisdictional bounds and making some tax changes that are directly involved with regard to the RTC, the reduced value of real estate assets directly attributable to passive loss rules and the capital gains rules.

By doing a couple of kinds of those directed things, indeed we could show the people of America that we not only understand the problem but that we are willing to stand up and do something about it.

But what I am frustrated about here today is not that we cannot cross jurisdictional lines but that when a committee with jurisdiction comes forward with a bill that then we have as the substitute a bill which has not been marked up in our committee, which has not been debated in our committee, which includes the provisions which one gentleman on the committee and the Committee on Rules believe ought to be included in the final bill.

Now, if we are going to act in that fashion, I submit to you that we may as well abolish the Committee on Banking, Finance and Urban Affairs and turn it over to the Committee on Rules.

For this purpose, I must reluctantly rise in opposition to this amendment because I simply think it is the wrong way to go. Rushing in here at 2 in the afternoon on Wednesday, when everyone is trying to catch an airplane home, to go home to Thanksgiving, and bring this kind of substitute and push it through on a voice vote on the floor is the wrong way to go. And if I am the only person in this House who stands up in opposition to it, then I believe I will be vindicated in the future. It is the wrong amendment.

Mr. Chairman, early this morning the House and Senate conferees completed their efforts on the FDIC Recapitalization and Improvement Act, S. 543/H.R. 3768. I applaud the efforts of the Banking conferees to resolve the differences between the House and Senate versions of this critically important legislation. The resulting legislation is a very workable banking bill worthy of the support of Members of the House of Representatives. The bill recapitalizes the FDIC's bank insurance fund—making good on the Government's commitment to stand behind depositors in federally insured institutions. The bill also makes a number of other important changes to the regulation of the banking industry including ending the FDIC's current "too big to fail" doctrine, strengthening Federal supervision of banks, and requiring prompt intervention by Federal regulators for banks in financial difficulties.

In the course of the conference committee's deliberations, it adopted section 1133 of the Senate bill dealing with the transfer of assets by the RTC. While I agree with the thrust of the section, that the RTC should not be unduly impeded in its attempts to dispose or otherwise transfer the assets of failed depository institutions, this provision threatens to interfere with a current legal dispute. Specifically, it threatens an ongoing litigation between Sears and VISA in the U.S. District Court in Utah posing significant issues in antitrust and commercial law. Mr. Chairman, I do not believe this provision should be construed to interfere with that dispute. In particular, I think that adoption of this provision should not impede the court in dealing with the complex antitrust issues presented by the case. Further, it is clear that while section 1133 does require a person to continue to provide services to a transferee of the RTC, nothing in this section should be interpreted to require that person to increase or expand those services or otherwise modify those services in any way.

Mr. BARNARD. Mr. Chairman, will the gentleman yield?

Mr. ORTON. I yield respectfully to the gentleman from Georgia [Mr. BARNARD]. Mr. Chairman, I have worked with the gentleman from Georgia for days and weeks in the committee, and I appreciate the work that he has done. But this amendment is the wrong way to go.

Mr. BARNARD. I thank the gentleman for yielding.

Mr. Chairman, I would just like to assure the gentleman that this Member did everything possible to include every amendment, but we hit a roadblock. The roadblock roughly was from our colleagues from the North. We communicated with them. Their bill had no semblance at all to the bill that the committee passed out. We would have gotten nothing.

I do think it is dutiful——

Mr. ORTON. Mr. Chairman, reclaiming my time, I would submit then the proper way to act, this bill came out of subcommittee over a month ago and it came out of committee over a week ago and we have been sitting around waiting for a rule for a week. We have

had time to get this to the floor to vote on it, to send it to them to have a conference committee and deal with it in a proper manner.

Mr. Chairman, I urge my colleagues to vote "no."

Mr. WYLIE. I yield myself such time as I may consume just to reply to the gentleman who was just in the well that every single provision in the Barnard-Wylie substitute was considered by the House Committee on Banking, Finance and Urban Affairs and approved. We took out some amendments which were approved by the House Banking Committee because they were controversial, and we tried to get an agreement with the Members on the other side of the Capitol as to what they would take. We think we have worked that out.

Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Chairman, I reluctantly rise in opposition to this amendment and to this bill, and I associate myself with the remarks of the gentleman from Utah [Mr. ORTON].

I think passing something in the name of funding the RTC at this hour when we are talking about billions of dollars we do not have to be spending if we just have reforms in this whole process.

An amendment this gentleman wanted to offer, I discussed with the Committee on Rules. It was not allowed, either not allowed in the committee by the chairman or by the Rules Committee, that would literally save $25 to $30 billion, in my judgment, and that of quite a number of other people, simply by not having us close down all the institutions that are now on the list to be closed. They have already closed the bad ones that are out there. The ones that are in the black and are earning, fine, who do not meet certain capital standards we set up in 1979 because we were in a recession, and they cannot meet them now, simply should not be closed. We should not be dumping real estate on the market like we are.

We need fundamental reforms out here before this Member can come out and vote for the billions of dollars in this bill, and we are not having that chance.

Mr. Chairman, despite my strong reservation regarding the rule, I wish to highlight a particular provision in the amendment offered by the Banking Committee. That provision would assist certain thrift institutions in remaining healthy and viable institutions and will prevent a senseless dumping of real estate investments into already weakened markets. The Financial Institutions Reform, Recovery and Enforcement Act, which we passed 2 years ago, requires that the value of subsidiaries engaged in activities not permissible for national banks, such as owning real estate, be phased out of calculations of a thrift institution's capital. When we enacted this phaseout, we expected that institutions could simply divest the real estate owned by the subsidiary or divest the subsidiary itself. The Congress did not foresee the precipitous drop in real estate markets that has occurred in many areas. These depressed markets make divestiture of real estate a virtual impossibility for most thrifts. Divestiture in these circumstances would serve only to further depress current markets.

For these reasons, the House Banking Committee adopted the provision I am supporting when I offered it in committee as an amendment to the RTC legislation now before us. The provision would give the Office of Thrift Supervision authority to provide relief from the FIRREA phase-out on a case-by-case basis if certain narrowly defined criteria were met. The OTS strongly supports this authority.

It should also be noted that exactly the same practical and policy concerns apply to real estate owned directly by thrift institutions. The OTS now applies the FIRREA phaseout schedule to such directly owned real estate under its risk-based capital regulations. Inflexible administration of that schedule, as with the FIRREA schedule itself, will lead to divestitures that will severely damage institutions and unnecessarily aggravate the weakness of current markets. Therefore, it is my hope that the agency will revise its rules to allow case-by-case relief from its regulatory schedules for thrifts that own real estate directly. It is important to the health of the thrift industry that relief be granted thrifts in both categories, subsidiary investors and direct investors.

The CHAIRMAN. The gentleman from Ohio [Mr. WYLIE] has 8½ minutes remaining.

Mr. WYLIE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the gentleman's amendment would use goodwill as capital. We crossed that bridge a long time ago. That is why some of us had to oppose it.

Mr. Chairman, I would yield 2 minutes to the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Chairman, I will be very brief, make a comment or two, and then would like to propound a question to the distinguished majority leader.

Let me say, echo the remarks made by so many here today, that this is not a pleasant task to address ourselves to the subject matter at hand. But, as we have no alternative, then when one charges that we are out there with a bailout here and a bailout there, and, yes, we have salted away some, some private entrepreneurs out there who betrayed their public trust.

It is not always those in public life who are guilty of that. In the private sector it happens every once in a while, and it sure did in spades in the savings-and-loan and bank institution failures. But most of the money is not going to take care of the families of those who salted away. If I remember the figures correctly, 19 million depositors have their deposits guaranteed, an average of $9,700. Now, that is where the big buck and the big money goes, to reimburse those depositors whose deposits are guaranteed by law. And we have got to make them whole. We cannot default on that role and responsibility.

That is why I am supporting the Barnard/Wylie substitute and will vote for the bill.

I would like to conclude by simply propounding a rather critical question to the distinguished majority leader.

If the amendment of Representative BARNARD passes, which will set a date certain for the consideration of a second RTC recapitalization bill, is it the intention of the majority to schedule around the middle of March consideration of the economic growth packages, including one to be offered by, certainly, our side under fair procedures? That is the question I would like to propound.

Mr. GEPHARDT. Mr. Chairman, if the gentleman would yield, and I would ask the gentleman from Georgia [Mr. BARNARD] to yield 3 additional minutes to me.

Mr. BARNARD. I yield 3 minutes to the gentleman from Missouri [Mr. GEPHARDT].

Mr. GEPHARDT. Mr. Chairman, it would be our intention to address the growth packages in this manner. I would say to the gentleman that we have had quite a debate over the last week about economic growth. It is obvious that on both sides of the aisle we have great concerns about the economy, great concerns about the loss of these savings-and-loan institutions and a desire on both sides to develop a growth package for our country.

The chairman of the Committee on Ways and Means, the gentleman from Illinois [Mr. ROSTENKOWSKI], in fact intends to have hearings in December and in January to hear testimony.

Mr. Chairman, it would be irresponsible, I think, on anyone's part to try to enter into, today or tomorrow, trying to develop on the floor a growth package. But obviously, with proper investigation and proper work, we ought to be able to do that.

Now, we have different ideas, fundamental differences sometimes on how this should be done. The tax measures that we favor are ones that are targeted at people in the middle. Sometimes we believe that yours are targeted in the wrong area. You have your own views. We have our views.

I would say to the gentleman: I would hope that in that this is very important to our country, and to issues like this one, that even though we will differ, we can find ways to resolve those differences even if it is by debate and vote. And where we can agree, I would hope we would agree and bring forth economic growth packages that have similarities—that have differences—bring them to this floor, decide them, and get them in a position

where they can be put on the President's desk at an early date so that we can change the laws of our country to move this economy in a positive direction.

□ 1410

Mr. Chairman, I would finally say that I think this is a very important vote for all of us. It is a vote that, as I said on the banking bill a couple of weeks ago, nobody wants to make. This is an unpleasant task, but I hope we will all remember that we are not bailing out anyone other than our constituents who have their deposits in these institutions.

Mr. Chairman, it is my understanding that the average deposit in these institutions is around $9,000. We are not talking about millionaires in most cases. We are talking about average, middle-income Americans. If we vote for this, their deposits will be secure. If irresponsibly we vote against it, then they will not be secure.

I urge Members on both sides of the aisle to back this measure today with a large positive vote.

Mr. WYLIE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I urge an aye vote on the Barnard-Wylie substitute.

Mr. Chairman, I yield back the balance of my time.

Mr. BARNARD. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Georgia [Mr. BARNARD].

The amendment in the nature of a substitute was agreed to.

Mr. ANNUNZIO. Mr. Chairman, I rise in the strongest possible opposition to this and to any RTC funding bill without adequate safeguards and reforms. None of the bills that are before the House at the present moment contain those safeguards.

During our discussions of RTC, you will be told that the administration warns that any delay in immediately refunding the RTC will cause a $300 to $500 million additional cost to the taxpayers. Let me suggest that the administration has already cost the taxpayers $516 million in delays in seeking RTC funding. It is the administration, not Congress that has brought about this delay.

Let me explain. On May 28, I wrote to the Secretary of the Treasury pointing out that the administration would be asking for additional funding for the RTC during this session of Congress. I said that last year the administration waited until the final days of the Congress to ask for the funding and then blamed Congress for the delay. I asked the Secretary of the Treasury to forward the legislation seeking the additional funding immediately so that Congress could begin working on the problem and not have to wait until the final days, if not the final hours, of the current session.

Now remember, that letter was sent on the 28th of May. I still have not received a response to that letter, and I announced that unless there was a bill before the House, I would not hold a markup on the RTC funding bill. Finally, the gentlewoman from New Jersey, Mrs. ROUKEMA, introduced an RTC funding bill. Only after she had introduced her bill, did the administration send up an identical bill. And 3 days later, I scheduled markups on the legislation and promptly reported the administration's request from the Financial Institutions Subcommittee, which I chair.

The administration had delayed sending its request to Congress for 129 days. And using the administration's own figures that a delay costs $4 million for each day the funding is not passed, that means that the administration's unwillingness to forward a request to Congress amounts to $516 million. If the administration wants to talk about delays, let it first explain its own delays.

Mr. Chairman, I have never been a great fan of the RTC, and I have been opposed to additional funding for RTC, particularly because the Secretary of Treasury, when he first testified on the savings and loan crisis, indicated that it would only cost $50 million to solve the problem. We have already appropriated $80 million, and today we will be asked to appropriate anywhere from $20 to $80 billion more, and there is no end in sight.

I cannot support the funding request today because most of the reforms and safeguards that were put into the funding bill during the subcommittee markup were subsequently taken out of the bill when the full committee marked it up a few days ago. In short, we are being asked today to hand over billions and billions of dollars, with no changes from existing RTC operations, and with no guarantee that the money will be spent to pay off depositors at failed thrifts.

We will be told during these debates that the RTC needs the money to pay off depositors. And without additional funding, depositors might not receive their money back when an institution goes under. That statement is simply not true. I can assure Members of this body that no one knows how much of the funds will be used to pay off depositors, and I can also assure Members of this body that a portion of the money, perhaps a large portion, will be used to continue the empire building of the RTC.

Mr. Chairman, only Imelda Marcos, in a shoe store, spends money faster than the RTC. The money we are being asked to approve today is not necessarily to pay off depositors. It is for many other things. Although the legislative history of the RTC suggests that the agency will not have any employees, but rather will use employees borrowed from other agencies, the RTC already has some 7,500 employees, and its ranks are growing daily.

The RTC's monthly payroll is $37.3 million. The agency is topheavy with high-paying jobs. Twenty-eight employees of the RTC are paid in excess of $103,100 a year, and that is just their pay, without any bonuses. This agency has the highest per capita payroll of any agency in the U.S. Government. The average salary of the RTC is $76,000 a year.

At a time when your constituents and mine are losing their jobs, the RTC is making sure that its employees are treated to the best.

During subcommittee markup, I successfully authored an amendment to cap the number of RTC employees as of October 1 of this year. I wanted to make certain that any money that went to the agency would be used primarily to pay off depositors and not to pad payrolls. My amendment was adopted easily. To my astonishment, however, when the bill reached the full committee, the payroll cap was removed, primarily because the RTC said it had to have more employees.

In the subcommittee I was also successful in getting a cap on RTC salaries to prevent the obscene growth of this bloated bureaucracy. But in full committee, that cap was replaced by what literally can be considered a pay increase for RTC top employees, since it raised the pay ceiling to well above the current level for most RTC employees. The new pay level actually encourages RTC to give pay increases to its top level employees.

Now it would be bad enough if the RTC was doing an outstanding job and providing service to the American people, but I don't know of a single Member of this House who has not received numerous complaints from constituents about RTC. I am willing to bet there is not a single Member of the House who will come to this floor and say that they are completely happy with the operations of the RTC. I have received complaints from Members who said their constituents cannot get phone calls returned, they cannot get on the bidding list, and that when contracts are let out, they don't have a chance to be considered for any of the RTC work.

I have tried for the past 2½ years to get RTC to sell more of its assets. But the Agency is moving forward with very little speed in this area. I have repeatedly urged the agency to use the auction method to dispose of property. And the agency has consistently refused to go that route contending that it won't work, and would actually result in lower prices for RTC property.

Yesterday the RTC finally gave in to my demands and held a large-scale auction. And did the agency lose money—did the properties go for fire sale prices? Hardly. In fact, the agency got 28.6 percent more than current market value for the properties, and much more than it was asking for the properties on negotiated sale prices. It was cheaper and quicker to conduct the auction, yet RTC has fought me on auctions for 2½ years.

Despite the success of yesterday's auction, the agency continues to resist auctions. In the subcommittee I was successful in pushing for an amendment that would have required the agency to auction off any property that it held on its books for more than 6 months. In addition, any property that was currently in negotiations when the 6-month period expired, would receive an extra period of time that would have given the agency up to 11 months before it would have had to auction the property. And to prevent fire sale prices, I gave the RTC the right to set the minimum terms and conditions for the auction sale prices. When my amendment reached the full committee, it was voted out of the bill because the RTC did not want to use auctions.

I am convinced, Mr. Chairman, that the RTC does not want to sell properties, and some Members of this body support the RTC in its unwillingness to sell properties even at above-market prices. It is too simple to go to the taxpayers and say, "You pay." And when the

payers and say, "You pay." And when the RTC runs out of money, the agency simply says to the taxpayers, "You pay again, and again, and again."

I would have voted for this bill had the safeguards I authored in subcommittee and other safeguards authored by other Members been contained in this legislation. But because they were stripped out of the bill, I cannot support this legislation.

We cannot ask the American taxpayer to continually pick up the bill for the RTC when much of the money that it spends is in a highly questionable, if not illegal, manner. We even had to adopt an amendment that prohibits the RTC from reimbursing its members for liquor purchases. Does that sound like an agency that is operating in the public interest?

The spending of the RTC and its sister agency, the Federal Deposit Insurance Corporation, has been so scandalous that I recently published a staff study outlining some of the questionable expenditures of the agency.

Here are some of the highlights of that study. I encourage Members to get a copy of that study before they vote on this bill.

FDIC purchased 3,000 copies of Asian cookbooks at a cost of $7,364.

Artwork in the individual hotel suites at the Seidman Center cost $84,353, while the remainder of the building houses at least $93,149 worth of art.

FDIC headquarters in Washington spent $6,330 over a 5-month period to purchase plants in addition to paying $1,303 per month to maintain them.

The RTC ordered 36 RTC coffee mugs and 12 RTC golf shirts for a total cost of $3,098.33. Earlier, the FDIC purchased 2,400 FDIC coffee mugs at a cost of $6,210.

Leather daily planners and refills were purchased for Washington FDIC and RTC executives for more than $6,000

FDIC paid a Washington company $31,274 to have various brass statues and certain brass leasehold improvements rubbed down with oil on four occasions.

Approximately 115 participants at a 4-day conference cost $65,724, including more than $2,000 in liquor charges.

In conclusion, let me point out that we are not voting to pay off depositors today, we are voting money to feed the lavish lifestyle of an agency that should be shut down and have its function turned over to the private sector.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. HOYER) having assumed the chair, Mr. DURBIN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3435) to provide funding for the resolution of failed savings associations and working capital for the Resolution Trust Corporation, to restructure the Oversight Board and the Resolution Trust Corporation, and for other purposes, pursuant to House Resolution 320, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. SOLOMON

Mr. SOLOMON. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. SOLOMON. I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. SOLOMON of New York moves to recommit the bill H.R. 3435 to the Committee on Banking, Finance and Urban Affairs.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the passage of the bill

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DANNEMEYER. 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. The Chair will count. Two hundred twenty-one Members are present, a quorum.

Mr. DANNEMEYER. Mr. Speaker, on that, I demand a division.

On a division (demanded by Mr. DANNEMEYER) there were ayes—112; noes—63.

PARLIAMENTARY INQUIRY

Mr. DANNEMEYER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. DANNEMEYER. Is 175 a quorum?

The SPEAKER pro tempore. Clearly the Chair cannot force everybody to stand every time the Chair asks the person to stand. That is not within the power of the Chair.

Mr. DANNEMEYER. Does there seem to be some glue around?

May I ask for a recorded vote?

PARLIAMENTARY INQUIRY

Mr. THOMAS of California. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. THOMAS of California. Mr. Speaker, do Members have the right to vote or not vote?

The SPEAKER pro tempore. Yes.

Mr. THOMAS of California. And they could choose not to vote?

The SPEAKER pro tempore. Yes.

Mr. THOMAS of California. And that would be the discrepancy between the Chair's count on the quorum and the Chair's count for a division?

The SPEAKER pro tempore. The gentleman from California [Mr. THOMAS] is correct.

Mr. DANNEMEYER. Mr. Speaker, I demand a recorded vote.

A recorded vote was refused.

The bill was passed, and a motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. MAZZOLI. Mr. Speaker, I was unavoidably absent for rollcall vote No. 444, concerning passage of House Resolution 320, the rule for H.R. 3435, the Resolution Trust Corporation Restructuring Act. Had I been present, I would have voted "yea."

AUTHORIZING CORRECTIONS IN ENGROSSMENT OF H.R. 3435, RESOLUTION TRUST CORPORATION REFINANCING, RESTRUCTURING, AND IMPROVEMENT ACT OF 1991

Mr. BARNARD. Mr. Speaker, I ask unanimous consent that the Clerk may be allowed to make technical and conforming changes in H.R. 3435, the bill just passed.

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

There was no objection.

□ 1420

PROVIDING FOR ADJOURNMENT OF THE HOUSE AND THE SENATE FROM WEDNESDAY, NOVEMBER 27, 1991, TO FRIDAY, JANUARY 3, 1992, AND ADJOURNMENT OF THE HOUSE FROM FRIDAY, JANUARY 3, 1992, TO WEDNESDAY, JANUARY 22, 1992

Mr. GEPHARDT. Mr. Speaker, I offer a concurrent resolution (H. Con. Res. 260) and I ask unanimous consent for its immediate consideration.

The SPEAKER pro tempore. The Clerk will report the concurrent resolution.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 260

Resolved by the House of Representatives (the Senate concurring), That when the House and Senate adjourn on the calendar day of Wednesday, November 27, 1991, in accordance with this resolution, they stand adjourned until 11:55 a.m. on Friday, January 3, 1992, or until noon on the second day after Members are notified to reassemble, whichever occurs first.

SEC. 2. That when the Congress convenes on January 3, 1992, for the second session of the 102d Congress, the House shall not conduct organizational or legislative business

and when it adjourns on that day, it stand adjourned until noon on Wednesday, January 22, 1992, or until noon on the second day after Members are notified to reassemble pursuant to section 3 of this concurrent resolution, whichever occurs first.

SEC. 3. The Speaker of the House and the Majority Leader of the Senate, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

LEGISLATIVE PROGRAM

Mr. GEPHARDT. Mr. Speaker, I ask for this time to explain the resolution and give the Members a sense of the schedule.

Let me first say on the schedule that there obviously could be a vote on this adjournment resolution in the next few moments. It is not debatable, and we will move to vote very rapidly if there is a vote.

After that, there is one additional matter that I am aware of that may require a vote, and that has to do with the Medicaid legislation which is here, and we will be coming forward with a rule, and there could be a vote on it at the end of its consideration.

Other than that, there should not be further votes, assuming the adjournment resolution passes.

Let me say this: This concurrent resolution provides that the House will, when we finish business today, recess until 11:55 a.m., January 3, 1992, at which time we will conclude the first session of this, the 102d Congress. At 12 noon that day, January 3, 1992, we will convene the second session of the 102d Congress and will then immediately proceed to recess until January 22, 1992.

During these recess periods, the House will be subject to the call of the Chair. If it becomes necessary or desirable to reconvene the two Houses to act on the President's returned veto of legislation we are sending to him for his consideration or because the scheduled work of the committees which has been described produces economic legislation which is ready for floor action or for other reasons, we will be able to reconvene in a timely manner.

Any such reconvening of the House will be done in the consultation with the leadership on both sides of the aisle.

That concludes my explanation of the concurrent resolution.

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

Mr. GEPHARDT. I am happy to yield to the gentleman from Illinois.

Mr. MICHEL. Mr. Speaker, I have been asked how long a timeframe would we expect for that Medicaid proposition, or if it appeared to be interminable, then would we just give up, or is there a point there of no return?

Mr. GEPHARDT. I would say that we do have to pass a rule. It is my understanding that it will be very rapid. The consideration of the bill should not take more than 15 or 20 minutes, after which there could be a vote. I am not saying that there definitely will be, but I think there could be a vote. We do not expect other votes, however.

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

Mr. GEPHARDT. I am happy to yield to the gentleman from New York.

Mr. LENT. Mr. Speaker, I just wanted to point out that we have concluded the conference on the Medicaid moratorium legislation, and the chairman of the Subcommittee on Health, the gentleman from California [Mr. WAXMAN], has indicated to me that he would be willing to bring this final piece of legislation up under a unanimous-consent request without the necessity of going through the rule process.

I would ask the gentleman from California if that is a correct statement.

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

Mr. GEPHARDT. I am happy to yield to the gentleman from California.

Mr. WAXMAN. I would like at the appropriate time to ask for unanimous consent so we could take this bill up without requiring the Committee on Rules to meet and report out a rule. It would not be my intention to ask for a rollcall vote on a rule or on final passage, but this is not only within my discretion. Other Members may want to have a vote. But I think that this is an issue we could dispose of with relatively little debate, and if my choice were to prevail, without a vote that would require all the Members to stay here.

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

Mr. GEPHARDT. I am happy to yield to the gentleman from California.

Mr. DANNEMEYER. Mr. Speaker, I was not a member of the conference committee, but I am on the committee that had jurisdiction over this, the subcommittee, and I have no objection to having the matter come up on the floor by unanimous consent at this time without the necessity of going to the Committee on Rules.

Mr. GEPHARDT. May I state also to the Members one additional concern that they should be aware of. The other body is still in session, and there may be the need for votes. I do not know that there will be votes, I do not anticipate votes, but as long as they are in session, completing business that we have already completed, we never can be absolutely certain that they will not send something back here that will require some kind of a vote.

So if Members are very concerned about being absolutely guaranteed that they will not miss a vote, I cannot stand here at this moment and tell you that I can guarantee you that there will not be some further votes required this afternoon.

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

Mr. GEPHARDT. I am happy to yield to the gentleman from California.

Mr. PACKARD. Mr. Speaker, I simply want to remind the Members that we are now down to about the last flights of the day, and some of us may not get home if we do not catch that last flight. I hope that we are not playing games.

Mr. GEPHARDT. I share the gentleman's view, and I know that all Members will try to respect the needs of our Members.

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

Mr. GEPHARDT. I am happy to yield to the gentleman from Washington.

Mr. FOLEY. Mr. Speaker, before the House concludes its business, I might just note that the House has been in continuous session now for about 26½ hours, and during that time we have had the very steady assistance of all of the staff of the Members of the Congress, of the committees, of the legislative counsel, of our pages, of all who serve the House and serve it so well, and I think we should express our appreciation to those who have worked consistently to bring this session to a completion.

The SPEAKER pro tempore. Without objection, the concurrent resolution is agreed to.

There was no objection.

A motion to reconsider was laid on the table.

AUTHORIZING THE SPEAKER AND THE MINORITY LEADER TO ACCEPT RESIGNATIONS AND TO APPOINT COMMISSIONS, BOARDS, AND COMMITTEES, NOTWITHSTANDING ADJOURNMENT

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that notwithstanding the adjournment of the first session of the 102d Congress until January 3, 1992, the speaker and the minority leader be authorized to accept resignations, and to appoint commissions, boards, and committees authorized by law or by the House.

The SPEAKER pro tempore (Mr. HOYER). Is there objection to the request of the gentleman from Missouri?

There was no objection.

□ 1430

AUTHORIZING MEMBERS TO REVISE AND EXTEND THEIR REMARKS IN THE CONGRESSIONAL RECORD

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that all Members of the House shall have the privilege, until the last edition authorized by the Joint Committee on Printing is published, to extend and revise their own remarks in the CONGRESSIONAL RECORD

on more than one subject, if they so desire, and may also include therein such short quotations as may be necessary to explain or complete such extensions of remarks. But this order shall not apply to any subject matter which may have occurred, or to any speech delivered subsequent to the adjournment of Congress.

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

There was no objection.

APPOINTMENT AS DIRECTOR OF CONGRESSIONAL BUDGET OFFICE

The SPEAKER laid before the House the following appointment as Director of the Congressional Budget Office:

CONGRESS OF THE UNITED STATES,
Washington, DC, November 27, 1991.

Pursuant to section 201(a)(2) of the Congressional Budget Act of 1974, the Speaker of the House of Representatives and the President pro tempore of the Senate hereby appoint Dr. Robert D. Reischauer to serve as Director of the Congressional Budget Office for the term beginning on January 3, 1991, and expiring on January 3, 1995.

THOMAS S. FOLEY,
Speaker of the House of Representatives,
ROBERT C. BYRD,
President Pro Tempore of the Senate.

DESIGNATION OF HON. STENY H. HOYER TO ACT AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS THROUGH JANUARY 3, 1992

The SPEAKER laid before the House the following communication:

U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, November 27, 1991.

I hereby designate the Honorable Steny H. Hoyer to act as Speaker pro tempore to sign enrolled bills and joint resolutions through January 3, 1992.

THOMAS S. FOLEY,
Speaker of the House of Representatives.

DO WE WANT ECONOMIC GROWTH? ENACTING NATIONAL ENERGY POLICY

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

Mr. ALEXANDER. Mr. Speaker, the economy continues to sag under the heavy burden of an unguided economic policy and a $4 trillion national debt, $3 trillion of which was incurred during the past decade.

During the same 10 years, 1980 to 1990, the Department of Commerce reported that the United States paid about $1.2 trillion to import foreign energy.

Mr. Speaker, it is no wonder that the economy is sick and needs a transfusion. A majority of understandably alarmed Republicans have written the President to warn that the Nation is enduring "a stagnant economy and an uncertain future."

Do we want economic growth?

Early next year, we have the opportunity to pump new life into the economy by passing a national energy policy.

It should be a policy aimed at significantly reducing this Nation's dependence on foreign oil and stopping the flow of billions-upon-billions of our dollars into the coffers of foreign oil producers. In other words, we should adopt a policy which keeps this money at home.

I can think of no greater single economic stimulus than paying ourselves for our fuel.

In Sunday's Washington Post, Edwin Rothschild spelled out the benefits of a $5-per-barrell reduction in oil prices. The benefits were great.

The reduction would:

Have the effect of an immediate $300 billion tax cut.

It would increase the GNP by 1.4 percent.

It would reduce inflation.

It would increase disposable income.

It would reduce both the trade deficit and the budget deficit by stimulating economy activity.

Not bad for five bucks a barrel.

But, what oil producers give, they can take away.

The benefits to our Nation of the oil price reduction, in other words, will last only as long as certain foreign oil producers decide they will last.

It doesn't have to be this way.

We have the means to make these benefits permanent by changing directions in energy, by moving to depend more on our own natural resources and less on imported oil.

Yes, we have the means. But, we lack the will.

Admittedly, it is easier to continue to depend on foreign oil, at least until it runs out.

It is less work, less trouble, less mentally taxing to continue business as usual. It is also less patriotic.

We cannot afford business as usual.

I believe that the figures in Mr. Rothschild's article show clearly the folly of sticking our heads in the sand.

Those figures also show the benefits of rolling up our sleeves and going to work on this problem.

By increasing the use of farm-grown ethanol, for example, we can greatly improve the agricultural economy.

And, that will improve the economies of our Nation's rural areas which will, in turn, have a ripple effect in the cities.

It is also important to remember that American farmers will be more reliable fuel suppliers than foreign oil producers.

One of the problems in crafting a new agenda in energy, Mr. Speaker, is that we are a Nation of forgetters—at least when the gas tank is full.

We forget the oil embargoes.

We forget the huge price hikes.

We forget the tanker reflagging.

We forget going to war to protect our oil supplies.

We forget that our Nation, that America is being held hostage—to foreign oil.

But, our faulty memory is costing us—and costing us dearly in both lives and treasure.

It is cowardly to continue on this path because that will leave the solution of this problem to our children.

I believe it is up to us.

Mr. Speaker, a new national energy policy must have as its goal the breaking of our addiction to foreign crude.

And, the economic benefits from our efforts will be permanent, not a temporary gift bestowed by oil barons.

Yes, our economy needs help. And, we can give it a big shot in the arm by formulating a new energy policy which will make us more self-reliant.

I can think of no more lasting legacy this Congress could leave than an innovative energy policy which will make America and her people more free and more independent than they are today.

Again, it is important to remember that the economic benefits of a $5-a-barrel drop in oil prices will not be realized unless leaders in Saudi Arabia and Kuwait decree it.

Our Revolution was fought because we were being dictated to by a foreign power. The situation in energy today is no different.

America is being dictated to by those who supply her oil. Much of our economic, military, and foreign policy is established with oil in mind.

I do not want my country to be dependent on the decisions of foreign leaders.

We should be more independent.

We can be more independent.

Unless we resist the future and forget the past.

[From the Washington Post, Nov. 24, 1991]

AN OIL CARD UP HIS SLEEVE

(By Edwin S. Rothschild)

As President Bush watches the economy falter and public support for his domestic leadership erode, he may be considering the one option that can stimulate the economy and deliver his margin of victory next November: getting oil prices down. A reduction in world oil prices of $5 per barrel in 1992 would have the lubricating effect of an immediate $300-billion tax cut. This option would, of course, require the assistance of Saudi Arabia's King Fahd, the emir of Kuwait and other Persian Gulf producers, but all of these have been obliging in the past to White House entreaties and are in a good position to oblige Bush now.

It is well known that lower oil prices have an immediate, stimulative economic impact. On an annual basis, a $5 per barrel drop in oil prices would increase U.S. GNP by about 1.4 percent, reduce inflation and increase disposable income. Lower oil prices would directly reduce the huge U.S. trade deficit and the economic activity stimulated would also reduce the budget deficit because of higher tax

revenues and reduced demand for public benefits.

In addition to lowering the price of gasoline to consumers, a $5 price cut would reduce operating costs for the airline, trucking and chemical industries. Even though an oil price decline would hurt domestic oil producers, Bush might well conclude that jumpstarting the economy—and thus helping to reassure his reelection—is far more important than the complaints of a few noisy Texans.

In any event, other than hoping that consumers increase their spending—and so reduce their savings—to bring the country out of recession, the Bush administration does not have any domestic economy policy levers it can pull. Most economic analyst agree that the President's alternative policy options are blocked by either political or economic considerations.

Short-term interest rates are at their lowest level in 18 years. Lowering short-term interest rates much more would hamper the Treasury's ability to borrow. A tax cut for the middle class, while politically appealing, could not take effect soon enough and would increase the size of the already huge deficit.

By the same token, increasing government spending to stimulate the economy would increase the deficit as well as violate the budget agreement and Republican doctrine, so most observers rule out this option. Finally, stimulating U.S. exports by devaluing the dollar is not likely because the Japanese and Europeans, upon whom we are dependent to finance our trade and budget deficits, would resist such a move.

But domestic levers are not the only weapons in the president's arsenal. There are also his close friends in the Middle East, the most important of whom is King Fahd of Saudi Arabia.

There are several recent precedents for cooperation between the Saudi monarch and American presidents. For example, in 1986, the Reagan-Bush administration persuaded Fahd to open Saudi oil spigots to reduce world oil prices from $29 to $18 a barrel. Together with the devaluation of the U.S. dollar engineered by then-secretary of the treasury James Baker, the oil price crash boosted U.S. economic growth. (It also triggered an economic collapse in Texas, Louisiana and other oil-producing states and hastened the S&L crisis.)

King Fahd's commitment to U.S. oil and foreign policy was also shown during the Reagan administration's secret war against the Sandinistas. In February 1985, when he visited Reagan, the king agreed to contribute at least $24 million to the cause at the request of then-national security adviser Robert McFarlane.

In 1988, during the Iran-Iraq War, the administration sent the Navy to protect Saudi and Kuwaiti oil tankers. As a Washington Post editorial in May 1988 observed, "Because of the number of Navy ships now in the gulf, and their demonstrated readiness to hit back at Iranian provocation, America's standing among the gulf Arabs is currently high. One result is that the price of oil will for the present stay low." William Randol, a highly regarded Wall Street analyst, was even more direct, stating in a June 1988 analysis, "Some have maintained that there is a secret pact between the United States and Saudi Arabia that provides for the continued presence of the U.S. Navy in the Persian Gulf in exchange for Saudi Arabia's agreement to keep oil price down between now and the November presidential election."

For its part, the Bush administration has been highly supportive of the Saudi monarchy. The most salient example of that support was, of course, the Persian Gulf War, which was premised on protecting the Persian Gulf monarchies and U.S. access to the world's most abundant and cheapest source of crude oil. Recently the king, delighted with the war's outcome, was effusive in his praise of Bush saying, "A man of this caliber deserves to head the United States another time."

In the earlier election years 1986, 1988 and 1990, crude oil prices fell considerably. Market conditions during 1992 will be different from conditions in those years. (Between January and June of this year crude prices fell $5 a barrel). But Bush has reason to expect that he can rely on his Persian Gulf oil-producing friends to keep their oil output high enough to depress prices.

First of all, the International Energy Agency expects little near-term growth in world oil demand. Secondly, even though Soviet production and exports are expected to decline, the Kuwaiti oil industry is roaring back and should be producing about 500,000 barrels per day by early next year. The Saudis, for their part, are at work increasing production capacity and could probably produce 9 to 10 million barrels a day, if necessary.

In addition, it is likely that Iraq will be able to export about 500,000 barrels a day, an increasing likelihood as the Bush administration tones down its criticism of Iraqi noncompliance with U.N. resolutions. Analysts also expect increased production from North Sea producers. Finally, stocks of oil are quite high. All of these factors indicate that if Saudi Arabia, Kuwait and the United Arab Emirates decide to maximize their production, they could easily propel a $5 drop in world oil prices.

Fahd's willingness to pump extra oil to reduce oil prices in 1992 would be only a continuation of a close mutually supporting economic, political and military relationship that will ensure continued U.S. arm sales and military protection in the volatile Persian Gulf, and coincidentally help his friend George Bush. The only downside is that while an oil price drop would improve the president's—and the U.S. economy's—short-term prospects, it would not necessarily have a positive long-term effect on the economy. Once the election is safely over, the Saudis would, in all likelihood, reinstate their production policy to maintain world prices at or nearly $20 a barrel. Thus, unless the economy recovered for other reasons, higher oil prices in 1993 could simply resurrect the recession.

Mr. DORGAN of North Dakota. Mr. Speaker, will the gentleman yield?

Mr. ALEXANDER. I yield to the gentleman from North Dakota.

Mr. DORGAN of North Dakota. Mr. Speaker, I just want to say that the gentleman from Arkansas [Mr. ALEXANDER] has been a leader on these energy issues, especially ethanol and other national energy policy issues, for a long, long time.

The point the gentleman makes is an important point to understand, that putting our country on the right track on an energy policy is an economic growth stimulus plan. It will strengthen this country from within if we begin to do the things we should do in energy policy to make this country move toward greater energy independence.

Mr. Speaker, I commend the gentleman from Arkansas [Mr. ALEXANDER]. He has a voice that has continued to be raised year after year after year.

Mr. Speaker, I hope all of us next year can work on an energy policy that strengthens this country.

Mr. ALEXANDER. Mr. Speaker, reclaiming my time, the gentleman from North Dakota [Mr. DORGAN] has likewise joined in as an early advocate of a national energy policy and in the development and use of alternative fuels, those that we can produce here in our own Nation.

Mr. Speaker, the benefits to our economy can be far beyond our imagination. Just imagine if we had, back in the early 1980's, developed a national energy policy and reduced our dependence on foreign oil by as much as 50 percent. We could have saved $500 billion.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. McCathran, one of his secretaries.

TRIBUTE TO BOB JOHNSON

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

Mr. SANTORUM. Mr. Speaker, this is the first opportunity I have had to come to the well since I found out some very tragic news in Pittsburgh yesterday afternoon. I come here with profound grief personally and for the city of Pittsburgh over the loss of the hockey coach for the Pittsburgh Penguins, a great hero, a sports hero, "Badger" Bob Johnson.

Mr. Speaker, Bob Johnson took a team of very gifted athletes in Pittsburgh that had never won anything and had high expectations every year, and, through his positive attitude, through his tirelessness and conviction that these people could achieve, molded this team and made it a winner.

Mr. Speaker, Bob Johnson impressed upon this team and impressed upon a community a can-do positive attitude. He was always upbeat. It was always a great day for Bob Johnson.

Mr. Speaker, even after he discovered after the season that he had inoperable brain cancer, Bob Johnson was upbeat. Bob Johnson was positive, and Bob Johnson was a winner. Pittsburgh will dearly miss that positive influence in their community. The kids in Pittsburgh who looked up to him and admired him will miss him.

Mr. Speaker, if I could take just a second to share my own personal experience with Bob Johnson. When the Penguins came here to Capitol Hill and to the White House to meet with the President, Bob and his tremendous wife Martha, who was with him, were there with the Penguins. But you would have

thought Bob was the trainer or the water boy.

□ 1440

He stood in the background and allowed his team, his athletes to revel in the day and just for him to soak in their joy. And to marvel, to marvel in their success and not seek any attention for himself.

He was a great man. Pittsburgh will miss him. I will miss him, and this country will miss men like Bob Johnson.

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

Mr. SANTORUM. I yield to the gentleman from Minnesota.

Mr. WEBER. Mr. Speaker, I would like to associate myself with the remarks of the gentleman from Pennsylvania. It is my understanding that Bob Johnson is a native of Minnesota and that he has many friends back there. I appreciate the very moving remarks the gentleman has made and I would like to associate myself with those remarks.

Mr. SANTORUM. Mr. Speaker, I will be placing even further remarks in the RECORD at a later date.

FUNDING FOR HEAD START

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, I must say I am very, very disappointed as we leave here that one more time I do not think we have treated America's children fairly. I am going to ask unanimous consent to put in the RECORD a Wall Street Journal article written this Tuesday by Herbert Stein, who is the former chairman of President Nixon's Council of Economic Advisers. I think it is very important what he said in this column.

What he said in there is that the proper way to have a growth package is to do things like fully fund Head Start, to fully fund things that are investments in human beings, because human beings are the ones that are going to be out and be competing in the future.

If we look at our history and the past growth charts of this budget in the 1980's, we have done exactly the wrong thing. We are investing in the wrong thing because it shows that the investment in children has only been one-tenth of any other investment anywhere else in the Federal Government.

I hope when we come back we can finally begin to remedy this oversight. I have been so hopeful that when both the House and the Senate had passed their commitment that at least that would stay in. It makes me very sad that we are leaving here and that was taken out. But let us hope that over the holiday we will have time to reflect upon this and get these priorities back into the budget.

I think Nixon's economic adviser is right. Head Start and programs like that are the way to get this country moving again, and it is very essential that we get refocused on it.

I include for the RECORD a copy of the article to which I referred.

[From the Wall Street Journal, Nov. 26, 1991]

WRONG REASONS TO OPPOSE A TAX CUT

(By Herbert Stein)

I am not in favor of a tax cut. I would like to write that on the blackboard 100 times, because what I say here will almost certainly be misinterpreted. But I am uncomfortable with bad reasoning, even when it sometimes leads to the right conclusion. I think that the common reasons about a tax cut today is bad.

No wisdom is more conventional these days than the proposition that the large budget deficit renders ineffective the traditional instruments of anti-recession fiscal policy—cutting taxes and increasing expenditures. The argument is that increasing deficits would undermine confidence, raise interest rates, depress investment and prolong the recession.

AS LOGICAL AS HOOVER

This argument may be correct. Sixty years ago, during the Depression, Herbert Hoover believed it. In fact, he followed the argument to its logical conclusion. If a tax cut would weaken confidence and worsen the Depression, a tax increase would inspire confidence and promote recovery. So, he raised taxes. President Hoover was not a dishonorable man or a foolish one. He was worse; he was unlucky. No one today is willing to be as logical as President Hoover, but many would go halfway. They would say that today's taxes are like Baby Bear's bed—"just right." To raise them or to lower them would be dangerous.

The confidence argument is very tricky. No one really knows what affects the confidence of investors, or by how much. The "how much" part is important. If, for example, taxes are cut, there will be a number of consequences other than the effect on confidence. The result will depend on the net of these consequences.

Suppose that income tax rates are cut by some large amount across the board, reducing federal revenue by, say, $50 billion a year. Shoppers return to the malls, cash registers are ringing, inventories are being worked down, profits are rising. Are investors going to bang their foreheads and say: "Egad, the deficit is rising. We better hunker down, sell bonds, and stop investing"? And if they do, will the negative effect be so great as to offset the positive effects of higher consumer spending? All one can honestly say is that one doesn't know.

When talk about a tax cut blossomed recently, long-term interest rates rose. This rise was commonly interpreted as due to the tax-cut talk, and as a sign that cutting taxes would have a negative effect on the economy. Aside from the fact that journalistic explanations of daily interest-rate moves are a weak reed for policy, this reasoning is seriously incomplete. The standard "textbook" description of the way in which a tax cut would stimulate the economy includes a rise of interest rates.

The increase in the budget deficit tends to raise interest rates, and that tends to restrain investment. At the same time, the cut in taxes raises consumers' spending, which tends to raise investment to meet the enlarged market for consumers' goods. Whether the net of these two tendencies is an increase or decrease of investment is unclear, but total spending—investment plus consumption—rises. The rise of interest rates contributes to the expansion of the total economy by reducing the demand for money. Possibly this textbook model does not work. But to jump from the fact or prospect of an increase of interest rates to the conclusion that stimulative fiscal policy is ineffective would require evidence and analysis that is surely absent in the present discussion.

Today's paralysis about the deficit is puzzling after the experience of the strong recovery from the deep Reagan recession in the face of, or perhaps led by, the soaring Reagan budget deficits. Perhaps the feeling is that although, as Adam Smith said, there is a great deal of ruin in a nation, the Reagan administration used it all up. Certainly many people are being misled by a simple-minded picture of the history and prospects of the deficit. They see an enormous increase in the deficit for the current fiscal year, to about $350 billion, and extrapolate that into an explosion.

The fact is that this year's deficit is heavily influenced by two extraordinary and temporary factors—the savings and loan bailout and the recession. Realistically, our long-run prospect, and it is the long-run that mainly counts, is for the deficit to level out around $180 billion and for both the deficit and the debt to be on a declining path relative to gross national product.

Nervousness today about the use of anti-recession fiscal policy is aggravated by an unrealistic view of the 1990 budget agreement. Although hardly anyone likes the 1990 agreement very much, there is a common feeling that it is the last barrier that keeps us from sliding down the easy descent to Avernus. (Ah, fourth-year Latin!) Any departure from the agreement, however small, is regarded as opening the door to uncontrollable, unlimited, expenditures and deficits. President Bush encourages this attitude by describing any budget proposal he dislikes as a "budget-buster." But that is not the way the world works.

Budgets may be bent, modified, or enlarged, but they are not busted. There remains a budget, and many more decisions to be made and lots of opportunities to undo what may be done today if it turns out to be the wrong thing to do. The president has a veto power, and none of his vetoes has been overridden. He does not have to worry that he cannot prevent a little pussycat of a tax cut from turning into a raging lion.

The 1990 budget agreement was a particular expression for a particular point in time of a few more durable principles. They were:

(a) That gradual reduction of the deficit was important.

(b) That limiting expenditures and increasing revenue were both eligible means for achieving that end.

(c) That because of certain unpredictable conditions, including the costs of the savings and loan bailout, the costs of various entitlements, and the state of the economy, a precise path for the total deficit could not be prescribed.

(d) That for some categories of expenditures, ceilings enduring for several years could be established.

(e) That the world is uncertain, and room has to be left for departure from some of the terms of the agreement when the president and Congress concur without the other terms being invalidated.

If our leaders would describe our policy in this way, they would be able to think of

what needs to be done now without necessarily implying that any step they take is over the edge of a cliff.

Since I have gone this far, you may wonder why I am not in favor of a tax cut now. I have two reasons:

First, the recession so far has been moderate—milder than the average post-war recession—and I see no persuasive evidence that we will not have, with the assistance of active monetary policy, an ordinary recovery. In that case, extraordinary fiscal stimulus is unnecessary and a potential source of future inflation.

SEVERE AND PROTRACTED

Second, even if I thought the recession would be more severe and protracted, and monetary policy less potent, than I do, and fiscal stimulus therefore more indicated, I would not start by cutting taxes. I would ask what is the most important use of the tens of billions of dollars of potential output that is not being used and should be used if the economy is to recover.

My answer would not be to increase the consumption of Middle America, which would be the main consequence of cutting taxes. I would rather fund Head Start fully, make sure that states have the money to provide the training, social services and jobs called for by the new welfare program, beef up the struggle against crime, and keep the libraries and schools open. (A county neighboring Washington is planning to cut the school year because it is running out of money!) I would also accelerate public construction and military procurement, with the intent of bringing into 1992 some of the work that would otherwise be done in 1994 and 1995.

Of course, in saying this I am only saying what everyone else says. That is, everyone wants to do for the recession what he always wanted to do, recession or not. The people who want to cut particular taxes—such as the capital gains tax—always want to cut those taxes, in good times or bad. There is nothing wrong with that. But we should be candid and recognize that we are talking about competing priorities and values, and not about "neutral" means for curing a recession.

DEATH IN THE FOREST

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute, and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, several weeks ago, the National Geographic Society's "Explorer" program devoted important segments to the illegal poaching of black bears. Sickening indeed were the scenes of black bear corpses lying on the forest floor, with their gallbladders removed and paws chopped off.

Most people are unaware of the fact that our forests are silently being emptied in order to satisfy the heavy demand for bear body parts from customers in Korea, Japan, and Taiwan. In this gruesome business, Asian herbal dealers purchase bear gallbladders from poachers, and then ship them overseas where they are prized for various curative properties. The gallbladder is dried, pulverized, and sold in capsule form to those who believe that it will cure blood disorders, cancer, and even hemorrhoids.

According to law enforcement officials, the trade in bear gallbladders has become so frenzied that counterfeiters will often substitute pig and cow gallbladders for the real article. Some dealers now ask poachers to provide a videotape documenting the removal of the gallbladder—a bizarre "certificate of authenticity" if there ever was one. Mr. Speaker, this is an outrage and one that I plan to address in the form of legislation when the Congress reconvenes in 1992.

OCTOBER SURPRISE

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

Mr. LIVINGSTON. I will be brief, but for the last 6 or 8 weeks I have been coming to the well of the House to chastise the Democratic leadership for its intent to proceed with an investigation known as the October surprise. That is the investigation of the alleged activities of the Reagan administration before they came to office to deal with the Ayatollah in order to keep our hostages—our American hostages—held hostage in Iran in order to gain political advantage.

That was an investigation based on myth and was totally debunked by the authors of the articles appearing in the New Republic and in Newsweek. It was thrown out by Members of the Senate. They chose not to investigate it.

The GAO said there was nothing to it, and yet Members of this House insisted that there was something there and they should go forward with the investigation.

I came day after day saying that there was nothing to it, and I just want to applaud the Democratic leadership for realizing there was nothing to it. There was no political advantage to go forward with that investigation, and we did not bring it to the floor of the House.

I think it is good for the country that we start thinking about the problems that face this country today and not mythical aberrations that might have transpired according to liars and con men some 12 years ago.

HAITIAN REFUGEES

(Mr. RANGEL asked and was given permission to address the House for 1 minute.)

Mr. RANGEL. Mr. Speaker, it is getting close to the end of this session and I do hope at the appropriate time that I will be able to make a unanimous-consent request hoping that we can agree that the President has done a remarkable job in striking out against the oppression that exists in Haiti and encouraging the Organization of American States to intervene to bring peace and to restore or reinstitute a legitimate government in Haiti and that we hope that he will continue to reach out to other countries to provide such type of safe haven for the poor wretched souls that are fleeing for their lives from an out-of-control bandit, vicious terrorist army that overthrew the legitimate government.

I want to thank the Republican side for cooperating. The effort still continues, and I hope that before we finally adjourn some agreement can be made with the White House, working with the legislative body, to say that with all of our efforts we would not have to return these people to Haiti.

THE ECONOMIC GROWTH PACKAGE

(Mr. SCHEUER asked and was given permission to address the House for 1 minute.)

Mr. SCHEUER. Mr. Speaker, we have heard a lot about an economic growth package these past couple of days. I think we have to ask ourselves, what constitutes an effective economic growth package. For the Republicans, we know it means a capital gains tax cut for the rich.

A capital gains tax is not the cure to all that ails us. Yes, we should index capital gains, and maybe make the holding period longer, but if we think that pushing through a capital gains tax cut at this late hour will solve our economic woes, we are only kidding ourselves.

Making our economy more conducive to economic growth is a long-term problem, and passing short-term solutions to long-term problems, as we all know, is not a good idea.

If we want to spur long-term growth we need to increase savings, investment, and productivity, and a capital gains tax cut is not a very effective way to do this.

The best way to spur savings is to reduce our national deficit. Soaring Federal spending continues to place an incredible drain on our economy. If you want to consider tax policy, then a targeted investment tax credit is a much more effective growth tool than a capital gains tax cut.

The other thing we must do is improve our productivity. To do this we must make our work force better prepared and better educated, and we must improve the efficiency of the equipment we use. A better educated, more skilled work force will make our industries more competitive and spur growth.

Before I close, I would like to read a couple of sentences from an Op Ed piece that appeared yesterday.

I am not in favor of a tax cut * * * I would ask what is the most important use of the tens of billions of dollars of potential output that is not being used and should be used if the economy is to recover.

My answer would not be to increase the consumption of Middle America, which would be the main consequence of cutting taxes. I would rather fund Head Start fully, make sure that States have the money to provide the training, social services and jobs, * * * beef up the struggle against crime, and keep the libraries and schools open.

This letter was not written by some left wing, Democratic yahoo. It was written by Herbert Stein, the conservative Chairman of President Nixon's Council of Economic Advisors, and currently a fellow at the American Enterprise Institute, and it was published in yesterday's Wall Street Journal on the Op Ed page.

□ 1450

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. HOYER). The Chair will announce that the Chair reserves the right and specifically puts on notice all Members that the House may, at any time, at the designation of the Chair, return to the regular order of legislative business.

BANKING LEGISLATION

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

Mr. HOAGLAND. Mr. Speaker, we passed two important bills earlier this afternoon, a banking bill and the RTC refunding bill. I would like to talk a little bit about the relationship between those two bills at this time. I think this is an appropriate time to make the remarks that I would like to make, and I think are an important part of filling in the picture on those two bills.

The RTC bill that we just passed that authorizes borrowing up to an additional $25 billion underscores the reservations many Members have about the banking bill.

As we well know, because of failures in the late 1970's and early 1980's to deal properly and effectively with the problems of the thrift industry, failures here in Congress, failures at the State level, failures in the administration, we have already incurred since 1989, $80 billion in losses in institutions that we have taken over through the Office of Thrift Supervision and the Resolution Trust Corporation. That is in addition to the billions of dollars that we incurred before 1989 when we refunded the bank insurance fund to the tune of $15 billion in about 1987 and 1988, and also we had a series of year-end tax breaks for institutions that were being taken over in late 1988.

This experience with the savings and loan crisis once again today makes clear to us how tremendously expensive our failure to deal adequately with problems in the financial services institutions industry can be, how terribly costly they can be.

The banking bill we passed earlier today was the subject of some celebration by those who spoke before passage, and in fact it is a good bill as far as it goes. It is a good bill in that it enhances the regulatory structure of those organizations that oversee banks, the FDIC and the Office of Comptroller of the Currency, and the Associated Regulators, and it makes a lot of very positive changes in the regulatory structure. We have heard talk about early intervention, annual onsite examinations, and on and on, significant reforms. But we must point out also that that is not without considerable additional cost to the industry, because all of those additional regulatory features do cost the industry additional funds, some of which are passed on to the depositors and to the citizens of our country.

The point I would like to make is that, as has been stated so often before, the banking industry is in decline. It is losing market share. In the last 20 years it has made a series of investments in real estate or foreign countries that have turned out to be poor investments, and is suffering a number of structural problems. Many of those structural problems relate back to depression era statutes that are currently on the books that simply need to be revised, and we are not going to stem the decline in the banking industry if all we do is enhance the regulatory part of the equation.

We also have to take important steps to make the industry more competitive, to make the industry more profitable, and to make banking failures less likely. We need to do things like interstate branching which will provide millions of dollars of savings in the administration of banks around the country. We need to seriously consider giving the banks the ability to sell and make money off of additional products, products that their competitors currently use, large financial industry rates that banks cannot offer, a whole range of financial services that banks under the provisions of the Bank Holding Company Act and other Federal statutes are prohibited from offering. Until we make these fundamental structural changes, the industry is going to continue to decline.

In other words, regulatory enhancements alone like those we enacted today, are not going to be enough. I think it is very, very important for us to recognize that we do not want to be in a position 10 years from now to look back to this year, this August, September, October when the Banking Committee reported out a good bill, H.R. 6 that my colleague from New York [Mr. FLAKE], actively participated in, and that bill was emasculated on the floor, and a whole range of things were taken out of that bill that were intended to make banks more profitable and more competitive, because that ultimately is the thing that is going to stave off a sort of kind of recovery in the banking industry, taxpayer financed, that we have to implement in the savings and loan industry.

□ 1500

So let me just say in conclusion, Mr. Speaker, that yes, it was a good bill we passed today, but only as far as it goes. We have much, much more work to do and we simply have got to put back on the plate, back before this body, these very significant structural reforms.

Let me make one final point in closing. We have accomplished a great deal this year. The Banking Committee reported out a bill the likes of which the committee has never reported before, and that bill was debated on the floor of this House. These issues have not been debated out here before that in a long, long time.

So the silver lining is that they were debated.

Also, it is very important to get through any legislative body reforms in 1 year from the time we try it the first time.

We have to remember that we have got to come back time and time again until we get these changes made.

A TRIBUTE TO TWO GREAT TEACHERS

(Mr. FLAKE asked and was given permission to address the house for 1 minute.)

Mr. FLAKE. Mr. Speaker, I rise today to take advantage of this opportunity to pay tribute to two very special persons in my life. Both of them were teachers during my youth. I would suggest that without their involvement in my life and in my development, I would not be standing as a Member of the House of Representatives today.

The first person is Mrs. Gladys Grice, to whom I pay tribute posthumously today. She is a teacher I met in my third grade year. She was also my fourth grade teacher, because my early years of education started in a four-room classroom in which there were eight grades.

I entered into the third grade with Mrs. Grice, and the next year I moved across the room to the fourth grade.

In order to get to the Korhville Elementary School where Mrs. Grice taught, we had to pass three white schools so that we could go to the only black school in the district; but Mrs. Grice never allowed us to make excuses and alibis for the fact that we had to find our way to this little school in the country in order to be educated. Rather, she demanded of us a degree of excellence that made all her students realize that it was not about color, but it

was really about whether one had a will to excel. She was a very creative woman who in 1 year of my life, my fourth grade year when I had to stay out of school for a whole semester, came each Friday to my house and brought me my homework, picked up homework from the previous week and she would mark it and then bring back another batch of homework.

It was a very good thing Mrs. Grice did, because she lived almost a hundred miles away from where the school was. She went 16 miles out of her way to extend herself to me as a student.

Today, I would like to pay tribute to her because I believe that she represents the epitome of what teachers can do and ought to do if they are seriously concerned about educating our students. It would be marvelous if our educational system had in it more persons like Gladys Grice who took the time to make the sacrifice to assure that students excelled to the degree of their potential.

The second person whom I would like to pay tribute is Mrs. Jewel Simpson Houston. I also met Mrs. Houston as a very young man. She was my history teacher in high school, and during my high school years I worked in the bookstore at school which turned out to be moments that she monitored and managed me as I did my homework. Without her guiding and directing my life, I suspect that I could not be standing here this day.

I saw her about a month ago. She said she never could have imagined that in her teaching of civics and history that she would have a student who would be a Representative in this body.

Mr. Speaker, I am very pleased to pay this tribute, because she took extra time with me. After school she took me to various places, taught me public speaking, and in due time I became the president of a number of church organizations throughout the State of Texas.

One of the things that I attribute to my success even as a pastor is the simple fact that she took time to teach me public speaking. She took time to take me to places where I aspired to and was accepted in positions of leadership, and it is out of those positions of leadership that I was blessed to be able to come forth as a pastor and as a Member of this House of Representatives.

Mrs. Jewel Houston went to a small college in Texas called Quinn. She went on to Texas Southern and received her master's degree. She still lives, though she has retired after 34 years of service both as a teacher and as a counselor in education in the Aldine-Carver School District in Houston, TX.

Mr. Speaker, I pay tribute to both these women because both of them have made sacrifices to improve the lives of so many hundreds of young people, and I stand as an example of what can be done when teachers are committed, dedicated, concerned, and willing to make the sacrifice, demanding of their students a degree of excellence which those students by nature would not believe they had.

Again, she would not allow us to make excuses about being black, but she told us that we could be the best that we could possibly be if we were taught enough for it.

Mrs. Grice, Mrs. Houston, thank you.

REPORT ON FISCAL YEAR 1992 REDUCTION IN TRAVEL AND TRANSPORTATION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore (Mr. RANGEL) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Appropriations and ordered to be printed.

(For message, see proceedings of the Senate of today, November 27, 1991.)

A MOST SIGNIFICANT HIGHWAY BILL

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

Mr. WISE. Mr. Speaker, as the session winds down, I think there has been a lot that is significant that has been accomplished in terms of economic recovery. The most significant bill that I have heard Members on both sides of the aisle address themselves to is the highway bill. I hope that is a harbinger of things to come, because what the highway bill does is to mark the first significant public investment that has occurred in probably a decade in this country. The 1986 highway bill was significant. This one takes that one even further. What this bill does is to put $151 billion over a 6-year period into a highway program; not enough, Mr. Speaker, it is not enough, but it is a healthy start.

So its most immediate result will be to create up to 2 million new jobs in construction in the industries that will benefit from this and flow from this.

But I hope just as the Congress has put itself into public investment, it will also look at other kinds in the months to come; aviation, for instance, water and sewer, construction grants programs, schools and other facilities, and I think very significantly telecommunications, because there is an infrastructure that needs to be developed.

Some quick statistics, Mr. Speaker. One is that Japan with half our population and half our gross national product is spending more today in real dollars in infrastructure development, in public infrastructure investment, than does the United States; quite a telling statistic.

Another interesting statistic I think, Mr. Speaker, is that studies are beginning to show that for the first time investments in infrastructure directly correlate with increases in productivity.

You may wonder why we have been running a flat line in this country for a number of years.

□ 1510

Because perhaps it is our infrastructure today, in terms of our gross national product, is exactly one-half of what it was 20 years ago.

So this highway bill today I hope and believe can mark a significant change from that.

I hope that we understand that a $1 investment in infrastructure is not like $1 spent in a transfer payment or buying something. That dollar comes back time after time after time. Indeed, it generates new tax revenues.

Whole portions of my State I can see an economic birth and sometimes a rebirth because of massive investments in infrastructure which permit the private sector to make the investments they need to make.

I am very encouraged and hope that this investment that we see today is a sign of things to come because our country is saying we want to be building again.

CORRECTING TECHNICAL ERRORS IN ENROLLMENT OF S. 543, COMPREHENSIVE DEPOSIT INSURANCE REFORM AND TAXPAYER PROTECTION ACT 1991

Mr. RANGEL. Mr. Speaker, I offer a concurrent resolution (H. Con. Res. 261) and ask unanimous consent for its immediate consideration.

The Clerk read the title of the concurrent resolution.

The SPEAKER (Mr. FLAKE). Is there objection to the request of the gentleman from New York?

Mr. HUNTER. Mr. Speaker, reserving the right to object, I would ask my friend, the gentleman from New York, has this been cleared with the Republican leadership?

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

Mr. HUNTER. I yield to the gentleman from New York.

Mr. RANGEL. I thank the gentleman for yielding.

Mr. Speaker, yes, it has been; not only with the leadership but with the minority, the Banking Committee on the Senate side as on the House side.

Mr. HUNTER. Mr. Speaker, I thank my friend, and I withdraw my reservation of objection.

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

There was no objection.

The clerk read the concurrent resolution as follows:

H. CON. RES 261

Resolved by the House of Representatives (the Senate concurring), That, in the enrollment of the bill (S. 543) to require the least-cost resolution of insured depository institutions, to improve supervision and examinations, to provide additional resources to the Bank Insurance Fund, and for other purposes, the Secretary of the Senate shall make the following corrections:

(1) Strike section 1 and insert the following new section:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Federal Deposit Insurance Corporation Improvement Act of 1991".

(B) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents

TITLE I—SAFETY AND SOUNDNESS

Subtitle A—Deposit Insurance Funds

Sec. 101. Funding for the Federal deposit insurance funds.
Sec. 102. limitation on outstanding borrowing.
Sec. 103. Repayment schedule.
Sec. 104. Recapitalizing the Bank insurance Fund.
Sec. 105. Borrowing for BIF from BIF members.

Subtitle B—Supervisory Reforms

Sec. 111. Improved examinations.
Sec. 112. Independent annual audits of insured depository institutions.
Sec. 113. Assessments required to cover costs of examinations.
Sec. 114. Examination and supervision fees for national banks and savings associations.
Sec. 115. Application to FDIC required for insurance.

Subtitle C—Accounting Reforms

Sec. 121. Accounting objectives, standards, and requirements.
Sec. 122. Small business and small farm loan information.
Sec. 123. FDIC property disposition standards.

Subtitle D—Prompt Regulatory Action

Sec. 131. Prompt regulatory action.
Sec. 132. Standards for safety and soundness.
Sec. 133. Conservatorship and receivership amendments to facilite prompt regulatory action.

Subtitle E—Least-Cost Resolution

Sec. 141. Least-cost resolution.
Sec. 142. Federal Reserve discount window advances.
Sec. 143. Early resolution.

Subtitle F—Federal Insurance for State Chartered Depository Institutions

Sec. 151. Depository institutions lacking Federal deposit insurance.

Subtitle G—Technical Corrections

Sec. 161. Technical corrections and clarifications.

TITLE II—REGULATORY IMPROVEMENT

Subtitle A—Regulation of Foreign Banks

Sec. 201. Short title.
Sec. 202. Regulation of foreign bank operations.
Sec. 203. Conduct and coordination of examinations.
Sec. 204. Supervision of the representative offices of foreign banks.
Sec. 205. Reporting of stock loans.
Sec. 206. Cooperation with foreign supervisors.
Sec. 207. Approval required for acquisition by foreign banks of shares of United States banks.
Sec. 208. Penalties.
Sec. 209. Powers of agencies respecting applications, examinations, and other proceedings.
Sec. 210. Clarification of managerial standards in Bank Holding Company Act of 1956.
Sec. 211. Standards and factors in the Home Owners' Loan Act.
Sec. 212. Authority of Federal banking agencies to enforce consumer statutes.
Sec. 213. Criminal penalty for violating the International Banking Act of 1978.
Sec. 214. Miscellaneous amendments to the International Banking Act of 1978.
Sec. 215. Study and report on subsidiary requirements for foreign banks.

Subtitle B—Customer and Consumer Provisions

Sec. 221. Study on regulatory burden.
Sec. 222. Discussion of lending data.
Sec. 223. Enforcement of Equal Credit Opportunity Act.
Sec. 224. Home Mortgage Disclosure Act.
Sec. 225. Notice of safeguard exception.
Sec. 226. Delegated processing.
Sec. 227. Deposits at nonproprietary automated teller machines.
Sec. 228. Notice of branch closure.

Subtitle C—Bank Enterprise Act

Sec. 231. Short title.
Sec. 232. Reduced assessment rate for deposits attributable to lifeline accounts.
Sec. 233. Assessment credits for qualifying activities relating to distressed communities.
Sec. 234. Community development organizations.

Subtitle D—FDIC Property Disposition

Sec. 241. FDIC affordable housing program.

Subtitle E—Whistleblower Protections.

Sec. 251. Additional whistleblower protections.

Subtitle F—Truth in Savings

Sec. 261. Short title.
Sec. 262. Findings and purpose.
Sec. 263. Disclosure of interest rates and terms of accounts.
Sec. 264. Account schedule.
Sec. 265. Disclosure requirements for certain accounts.
Sec. 266. Distribution of schedules.
Sec. 267. Payment of interest.
Sec. 268. Periodic statements.
Sec. 269. Regulations.
Sec. 270. Administrative enforcement.
Sec. 271. Civil liability.
Sec. 272. Credit unions.
Sec. 273. Effect on State law.
Sec. 274. Definitions.

TITLE III—REGULATORY IMPROVEMENT

Subtitle A—Activities

Sec. 301. Limitations on brokered deposits and deposit solicitations.
Sec. 302. Risk-based assessments.
Sec. 303. Restrictions on insured State bank activities.
Sec. 304. Restrictions on real estate lending.
Sec. 305. Improving capital standards
Sec. 306. Safeguards against insider abuse.
Sec. 307. FDIC back-up enforcement authority
Sec. 308. Interbank liabilities.

Subtitle B—Coverage

Sec. 311. Deposit and pass-through insurance.
Sec. 312. Foreign deposits.
Sec. 313. Penalty for false assessment reports.

Subtitle C—Demonstration Project and Studies

Sec. 321. Feasibility study on authorizing insured and uninsured deposit accounts.
Sec. 322. Private reinsurance study.

TITLE IV—MISCELLANEOUS PROVISIONS

Subtitle A—Payment System Risk Reduction

Sec. 401. Findings and purpose.
Sec. 402. Definitions.
Sec. 403. Bilateral netting.
Sec. 404. Clearing organization netting.
Sec. 405. Preemption.
Sec. 406. Relationship to other payments systems.
Sec. 407. National emergencies.

Subtitle B—Right to Financial Privacy Act of 1978

Sec. 411. Amendments to the Right to Financial Privacy Act of 1978.

Subtitle C—Final Settlement Payment Procedure

Sec. 416. Final settlement payment procedure.

Subtitle D—Miscellaneous Committees, Studies, and Reports

Sec. 421. Amendments relating to Federal Reserve Board reserve requirements.
Sec. 422. Permanent authorization of Credit Standards Board.

Subtitle E—Utilization of Private Sector

Sec. 426. Utilization of private sector.
Sec. 427. Reporting.

Subtitle F—Emergency Assistance for Rhode Island

Sec. 431. Emergency loan guarantee.

Subtitle G—Qualified Thrift Lender Test Improvements

Sec. 436. Short title.
Sec. 437. Adjustment of compliance periods for purposes of qualified thrift lender test.
Sec. 438. Increase in amount of liquid assets excludable from portfolio assets.
Sec. 439. Additional investments included in definition of qualified thrift assets.
Sec. 440. Prudent diversification of assets.
Sec. 441. Consumer lending by Federal savings associations.

Subtitle H—Prohibition on Entering Secrecy Agreements and Protective Orders

Sec. 446. Prohibition on entering into secrecy agreements and protective orders.

Subtitle I—Bank and Thrift Employee Provisions

Sec. 451. Continuation of health plan coverage in cases of failed financial institutions.

Subtitle J—Sense of the Congress Regarding the Credit Crisis

Sec. 456. Credit crunch.

Subtitle K—Acquisition of Insolvent Savings Associations

Sec. 461. Acquisition of insolvent savings associations.

Subtitle L—Creditability of Service

Sec. 466. Creditability of service.

Subtitle M—Other Miscellaneous Provisions
Sec. 471. Providing services to insured depository institutions.
Sec. 472. Real estate appraisals.
Sec. 473. Emergency liquidity.
Sec. 474. Discrimination against reorganized debtors.
Sec. 475. Purchased mortgage servicing rights.
Sec. 476. Limitation on securities private rights of action.
Sec. 477. Modified small business lending disclosure.
Sec. 478. Special insured deposits.
Subtitle N—Severability
Sec. 481. Severability.
TITLE V—DEPOSITORY INSTITUTION CONVERSIONS
Sec. 501. Mergers and acquisitions of insured depository institutions during conversion moratorium.
Sec. 502. Mergers, consolidations, and other acquisitions authorized.

(2) After section 477, insert the following new section:

SEC. 478. SPECIAL INSURED DEPOSITS.

For purposes of the Federal Deposit Insurance Act (12 U.S.C. 1811 *et seq.*) the deposits of the Freedom National Bank of New York and the deposits of the Community Bank and Trust Company of New York that—

(1) were deposited in the bank involved by a charitable organization, as such term is defined by New York State law; and

(2) were deposits in such bank on the date of the bank's closure by the Comptroller of the Currency,

shall be considered to have been insured deposits (as defined in section 3 of the Federal Deposit Insurance Act).

(3) In the heading to section 461, strike "AQUISITION" and insert "ACQUISITION".

(4) In section 441(b), strike "(c)(2)(B)" each place such term appears and insert "(c)(2)(D)".

The SPEAKER pro tempore. The Chair recognizes the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Mr. Speaker, during the conference, inadvertently certain technical corrections were omitted from the final package as well as certain financial institutions' coverage for the depositors. The gentleman from Texas [Mr. GONZALEZ], and the ranking members were in the process of preparing the papers, and they have asked me, since one of the banks is located in my district, whether or not I would present this concurrent resolution to the body.

Mr. Speaker, I immediately conferred with the minority, and there being no objection, I present this to the House for consideration and passage.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

□ 1530

RECESS

The SPEAKER pro tempore (Mr. RANGEL). The Chair declares a recess until approximately 4 p.m.

Accordingly (at 3 o'clock and 31 minutes p.m.), the House stood in recess until a time in excess of 4 p.m.

□ 1634

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. HOYER) at 4 o'clock and 34 minutes p.m.

CONFERENCE REPORT ON H.R. 3595, MEDICAID VOLUNTARY CONTRIBUTION AND PROVIDER-SPECIFIC TAX AMENDMENTS OF 1991

Mr. WAXMAN submitted the following conference report and statement on the bill (H.R. 3595) to delay until September 30, 1992, the issuance of any regulations by the Secretary of Health and Human Services changing the treatment of voluntary contributions and provider-specific taxes by States as a source of a State's expenditures for which Federal financial participation is available under the medicaid program and to maintain the treatment of intergovernmental transfers as such a source.

CONFERENCE REPORT (H. REPT. 102-409)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3595), to delay until September 30, 1992, the issuance of any regulations by the Secretary of Health and Human Services changing the treatment of voluntary contributions and provider-specific taxes by States as a source of a State's expenditures for which Federal financial participation is available under the medicaid program and to maintain the treatment of intergovernmental transfers as such a source, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicaid Voluntary Contribution and Provider-Specific Tax Amendments of 1991".

SEC. 2. PROHIBITION ON USE OF VOLUNTARY CONTRIBUTIONS, AND LIMITATION ON THE USE OF PROVIDER-SPECIFIC TAXES TO OBTAIN FEDERAL FINANCIAL PARTICIPATION UNDER MEDICAID.

(a) IN GENERAL.—Section 1903 of the Social Security Act (42 U.S.C. 1396b) is amended by adding at the end of the following new subsection:

"(w)(1)(A) Notwithstanding the previous provisions of this section, for purposes of determining the amount to be paid to a State (as defined in paragraph (7)(D)) under subsection (a)(1) for quarters in any fiscal year, the total amount expended during such fiscal year as medical assistance under the State plan (as determined without regard to this subsection) shall be reduced by the sum of any revenues received by the State (or by a unit of local government in the State) during the fiscal year—

"(i) from provider-related donations (as defined in paragraph (2)(A)), other than—

"(I) bona fide provider-related donations (as defined in paragraph (2)(B)), and

"(II) donations described in paragraph (2)(C);

"(ii) from health care related taxes (as defined in paragraph (3)(A)), other than broad-based health care related taxes (as defined in paragraph (3)(B));

"(iii) from a broad-based health care related tax, if there is in effect a hold harmless provision (described in paragraph (4)) with respect to the tax; or

"(iv) only with respect to State fiscal years (or portions thereof) occurring on or after January 1, 1992, and before October 1, 1995, from broad-based health care related taxes to the extent the amount of such taxes collected exceeds the limit established under paragraph (5).

"(B) Notwithstanding the previous provisions of this section, for purposes of determining the amount to be paid to a State under subsection (a)(7) for all quarters in a Federal fiscal year (beginning with fiscal year 1993), the total amount expended during the fiscal year for administrative expenditures under the State plan (as determined without regard to this subsection) shall be reduced by the sum of any revenues received by the State (or by a unit of local government in the State) during such quarters from donations described in paragraph (2)(C), to the extent the amount of such donations exceeds 10 percent of the amounts expended under the State plan under this title during the fiscal year for purposes described in paragraphs (2), (3), (4), (6), and (7) of subsection (a).

"(C)(i) Except as otherwise provided in clause (ii) subparagraph (A)(i) shall apply to donations received on or after January 1, 1992.

"(ii) Subject to the limits described in clause (iii) and subparagraph (E), subparagraph (A)(i) shall not apply to donations received before the effective date specified in subparagraph (F) if such donations are received under programs in effect or as described in State plan amendments or related documents submitted to the Secretary by September 30, 1991, and applicable to State fiscal year 1992, as demonstrated by State plan amendments, written agreements, State budget documentation, or other documentary evidence in existence on that date.

"(iii) In applying clause (ii) in the case of donations received in State fiscal year 1993, the maximum amount of such donations to which such clause may be applied may not exceed the total amount of such donations received in the corresponding period in State fiscal year 1992 (or not later than 5 days after the last day of the corresponding period).

"(D)(i) Except as otherwise provided in clause (ii), subparagraphs (A)(ii) and (A)(iii) shall apply to taxes received on or after January 1, 1992.

"(ii) Subparagraphs (A)(ii) and (A)(iii) shall not apply to impermissible taxes (as defined in clause (iii)) received before the effective date specified in subparagraph (F) to the extent the taxes (including the tax rate or base) were in effect, or the legislation or regulations imposing such taxes were enacted or adopted, as of November 22, 1991.

"(iii) In this subparagraph and subparagraph (E), the term 'impermissible tax' means a health care related tax for which a reduction may be made under clause (ii) or (iii) subparagraph (A).

"(E)(i) In no case may the total amount of donations and taxes permitted under the exception provided in subparagraphs (C)(ii) and (D)(ii) for the portion of State fiscal year 1992 occurring during calendar year 1992 exceed the limit under paragraph (5) minus the total amount of broad-based health care related taxes received in the portion of that fiscal year.

"(ii) In no case may the total amount of donations and taxes permitted under the exception provided in subparagraphs (C)(ii) and (D)(ii) for State fiscal year 1993 exceed the limit under paragraph (5) minus the total amount of broad-based health care related taxes received in that fiscal year.

"(F) In this paragraph in the case of a State—

"(i) except as provided in clause (iii), with a State fiscal year beginning on or before July 1, the effective date is October 1, 1992,

"(ii) except as provided in clause (iii), with a State fiscal year that begins after July 1, the effective date is January 1, 1993, or

"(iii) with a State legislature which is not scheduled to have a regular legislative session in 1992, with a State legislature which is not scheduled to have a regular legislative session in 1993, or with a provider-specific tax enacted on November 4, 1991, the effective date is July 1, 1993.

"(2)(A) In this subsection (except as provided in paragraph (6)), the term 'provider-related donation' means any donation or other voluntary payment (whether in cash or in kind) made (directly or indirectly) to a State or unit of local government by—

"(i) a health care provider (as defined in paragraph (7)(B)),

"(ii) an entity related to a health care provider (as defined in paragraph (7)(C)), or

"(iii) an entity providing goods or services under the State plan for which payment is made to the State under paragraph (2), (3), (4), (6), or (7) of subsection (a).

"(B) For purposes of paragraph (1)(A)(i)(I), the term 'bona fide provider-related donation' means a provider-related donation that has no direct or indirect relationship (as determined by the Secretary) to payments made under this title to that provider, to providers furnishing the same class of items and services as that provider, or to any related entity, as established by the State to the satisfaction of the Secretary. The Secretary may by regulation specify types of provider-related donations described in the previous sentence that will be considered to be bona fide provider-related donations.

"(C) For purposes of paragraph (1)(A)(i)(II), donations described in this subparagraph are funds expended by a hospital, clinic, or similar entity for the direct cost (included costs of training and of preparing and distributing outreach materials) of State or local agency personnel who are stationed at the hospital, clinic, or entity to determine the eligibility of individuals for medical assistance under this title and to provide outreach services to eligible or potentially eligible individuals.

"(3)(A) In this subsection (except as provided in paragraph (6)), the term 'health care related tax' means a tax (as defined in paragraph (7)(F) that—

"(i) is related to health care items or services, or to the provision of, the authority to provide, or payment for, such items or services, or

"(ii) is not limited to such items or services but provides for treatment of individuals or entities that are providing or paying for such items or services that is different from the treatment provided to other individuals or entities.

In applying clause (i), a tax is considered to relate to health care items or services if at least 85 percent of the burden of such tax falls on health care providers.

"(B) In this subsection, the term 'broad-based health care related tax' means a health care related tax which is imposed with respect to a class of health care items or services (as described in paragraph (7)(A) or with respect to providers of such items or services and which, except as provided in subparagraphs (D) and (E)—

"(i) is imposed at least with respect to all items or services in the class furnished by all non-Federal nonpublic providers in the State (or, in the case of a tax imposed by a unit of local government, the area over which the unit has jurisdiction) or is imposed with respect to all non-Federal, nonpublic providers in the class; and

"(ii) is imposed uniformly (in accordance with subparagraph (C)).

"(C)(i) Subject to clause (ii), for purposes of subparagraph (B)(ii), a tax is considered to be imposed uniformly if—

"(I) in the case of a tax consisting of a licensing fee or similar tax on a class of health care items or services (or providers of such items or services), the amount of the tax imposed is the same for every provider providing items or services within the class;

"(II) in the case of a tax consisting of a licensing fee or similar tax imposed on a class of health care items or services (or providers of such services) on the basis of the number of beds (licensed or otherwise) of the provider, the amount of the tax is the same for each bed or each provider of such items or services in the class;

"(III) in the case of a tax based on revenues or receipts with respect to a class or items or services (or providers of items or services) the tax is imposed at a uniform rate for all items and services (or providers of such items or services) in the class on all the gross revenues or receipts, or net operating revenues, relating to the provision of all such items or services (or all such providers) in the State (or, in the case of a tax imposed by a unit of local government within the State, in the area over which the unit has jurisdiction); or

"(IV) in the case of any other tax, the State establishes to the satisfaction of the Secretary that the tax is imposed uniformly.

"(ii) Subject to subparagraphs (D) and (E), a tax imposed with respect to a class of health care items and services is not considered to be imposed uniformly if the tax provides for any credits, exclusions, or deductions which have as their purpose or effect the return to providers of all or a portion of the tax paid in a manner that is inconsistent with subclauses (I) and (II) of subparagraph (E)(ii) or providers for a hold-harmless provision described in paragraph (4).

"(D) A tax imposed with respect to a class of health care items and services is considered to be imposed uniformly—

"(i) notwithstanding that the tax is not imposed with respect to items or services (or the providers thereof) for which payment is made under a State plan under this title or title XVIII, or

"(ii) in the case of a tax described in subparagraph (C)(i)(III), notwithstanding that the tax provides for exclusion (in whole or in part) of revenues or receipts from a State plan under this title or title XVIII.

"(E)(i) A State may submit an application to the Secretary requesting that the Secretary treat a tax as a broad-based health care related tax, notwithstanding that the tax does not apply to all health care items or services in class (or all providers or such items and services), provides for a credit, deduction, or exclusion, is not applied uniformly, or otherwise does not meet the requirements of subparagraphs (B) and (C). Permissible waivers many include exemptions for rural or sole-community providers.

"(ii) The Secretary shall approve such an application if the State establishes to the satisfaction of the Secretary that—

"(I) the net impact of the tax and associated expenditures under this title as proposed by the State is generally redistributive in nature, and

"(II) the amount of the tax is not directly correlated to payments under this title for items or services with respect to which the tax imposed.

The Secretary shall by regulation specify types of credits, exclusions, and deductions that will be considered to meet the requirements of this subparagraph.

"(4) For purposes of paragraph (1)(A)(iii), there is in effect a hold-harmless provision with respect to a broad-based health care related tax imposed with respect to a class of items or services if the Secretary determines that any of the following applies:

"(A) The State or other unit of government imposing the tax provides (directly or indirectly) for a payment (other than under this title) to taxpayers and the amount of such payment is positively correlated either to the amount of such tax or to the difference between the amount of the tax and the amount of payment under the State plan.

"(B) All or any portion of the payment made under this title to the taxpayer varies based only upon the amount of the total tax paid.

"(C) The State or other unit of government imposing the tax provides (directly or indirectly) for any payment, offset, or waiver that guarantees to hold taxpayers harmless for any portion of the costs of the tax.

The provisions of this paragraph shall not prevent use of the tax to reimburse health care providers in a class for expenditures under this title nor preclude States from relying on such reimbursement to justify or explain the tax in the legislative process.

"(5)(A) For purposes of this subsection, the limit under this subparagraph with respect to a State is an amount equal to 25 percent (or, if greater, the State base percentage, as defined in subparagraph (B)) of the non-Federal share of the total amount expended under the State plan during a State fiscal year (or portion thereof), as it would be determined pursuant to paragraph (1)(A) without regard to paragraph (1)(A)(iv).

"(B)(i) In subparagraph (A), the term 'State base percentage' means, with respect to a State, an amount (expressed as a percentage) equal to—

"(I) the total of the amount of health care related taxes (whether or not broad-based) and the amount of provider-related donations (whether or not bona fide) projected to be collected (in accordance with clause (ii)) during State fiscal year 1992, divided by

"(II) the non-Federal share of the total amount estimated to be expended under the State plan during such State fiscal year.

"(ii) For purposes of clause (i)(I), in the case of a tax that is not in effect throughout State fiscal year 1992 or the rate (or base) of which is increased during such fiscal year, the Secretary shall project the amount to be collected during such fiscal year as if the tax (or increase) were in effect during the entire State fiscal year.

"(C)(i) The total amount of health care related taxes under subparagraph (B)(i)(I) shall be determined by the Secretary based on only those taxes (including the tax rate or base) which were in effect, or for which legislation or regulations imposing such taxes were enacted or adopted, as of November 22, 1991.

"(ii) The amount of provider-related donations under subparagraph (B)(i)(I) shall be determined by the Secretary based on programs in effect on September 30, 1991, and applicable to State fiscal year 1992, as demonstrated by State plan amendments, written agreements, State budget documentation, or other documentary evidence in existence on that date.

"(iii) The amount of expenditures described in subparagraph (B)(i)(II) shall be determined by the Secretary based on the best data available as of the date of the enactment of this subsection.

"(6)(A) Notwithstanding the provisions of this subsection, the Secretary may not restrict States' use of funds where such funds are derived from State or local taxes (or funds appropriated to State university teaching hospitals) transferred from or certified by units of government within a State as the non-Federal share of expenditures under this title, regardless of whether the unit of government is also a health

care provider, except as provided in section 1902(a)(2), unless the transferred funds are derived by the unit of government from donations or taxes that would not otherwise be recognized as the non-Federal share under this section.

"(B) For purposes of this subsection, funds the use of which the Secretary may not restrict under subparagraph (A) shall not be considered to be a provider-related donation or a health care related tax.

"(7) For purposes of this subsection:

"(A) Each of the following shall be considered a separate class of health care items and services:

"(i) Inpatient hospital services.

"(ii) Outpatient hospital services.

"(iii) Nursing facility services (other than services of intermediate care facilities for the mentally retarded).

"(iv) Services of intermediate care facilities for the mentally retarded.

"(v) Physicians' services.

"(vi) Home health care services.

"(vii) Outpatient prescription drugs.

"(viii) Services of health maintenance organizations (and other organizations with contracts under section 1903(m)).

"(ix) Such other classification of health care items and services consistent with this subparagraph as the Secretary may establish by regulation.

"(B) The term 'health care provider' means an individual or person that receives payments for the provision of health care items or services.

"(C) An entity is considered to be 'related' to a health care provider if the entity—

"(i) is an organization, association, corporation or partnership formed by or on behalf of health care providers;

"(ii) is a person with an ownership or control interest (as defined in section 1124(a)(3)) in the provider;

"(iii) is the employee, spouse, parent, child or sibling of the provider (or of a person described in clause (ii)); or

"(iv) has a similar, close relationship (as defined in regulations) to the provider.

"(D) The term 'State' means only the 50 States and the District of Columbia but does not include any State whose entire program under this title is operated under a waiver granted under section 1115.

"(E) The 'State fiscal year' means, with respect to a specified year, a State fiscal year ending in that specified year.

"(F) The term 'tax' includes any licensing fee, assessment, or other mandatory payment, but does not include payment of a criminal or civil fine or penalty (other than a fine or penalty imposed in lieu of or instead of a fee, assessment, or other mandatory payment).

"(G) The term 'unit of local government' means, with respect to a State, a city, county, special purpose district, or other governmental unit in the State.".

(b) CONFORMING AMENDMENTS.—(1) Section 1902(t) of such Act (42 U.S.C. 1396a(t)) is amended—

(A) by striking "Except as provided in section 1903(i), nothing" and inserting "Nothing", and

(B) by striking "taxes (whether or not general applicability)" and inserting "taxes of general applicability".

(2) Section 1903(i) of such Act (42 U.S.C. 1396(i)) is amended by striking paragraph (10) inserted by section 4701(b)(2)(B) of the Omnibus Budget Reconciliation Act of 1990.

(c) EFFECTIVE DATE.—(1) The amendments made by this section shall take effect January 1, 1992, without regard to whether or not regulations have been promulgated to carry out such amendments by such date.

(2) Except as specifically provided in section 1903(w) of the Social Security Act and notwithstanding any other provision of such Act, the Secretary of Health and Human Services shall not, with respect to expenditures prior to the effective date specified in section 1903(w)(1)(F) of such Act, disallow any claim submitted by a State for, or otherwise withhold Federal financial participation with respect to, amounts expended for medical assistance under title XIX of the Social Security Act by reason of the fact that the source of the funds used to constitute the non-Federal share of such expenditures is a tax imposed on, or a donation received from, a health care provider, or on the ground that the amount of any donation or tax proceeds must be credited against the amount of the expenditure.

(3) The interim final rules promulgated by the Secretary of Health and Human Services on October 31, 1991 (56 Federal Register 56132), relating to the State share of financial participation under the Medicaid program, is hereby nullified and is no effect. No part of such rule shall be effective except pursuant to a rule promulgated after the date of the enactment of this Act and consistent with this section (and the amendments made by this section).

SEC. 3. RESTRICTIONS ON AGGREGATE PAYMENTS FOR DISPROPORTIONATE SHARE HOSPITALS.

(A) REPEAL OF PROHIBITION OF UPPER PAYMENT LIMIT FOR DISPROPORTIONATE SHARE HOSPITALS.—Section 1902(h) of the Social Security Act (42 U.S.C. 1396a(h)) is amended by striking "to limit" the first place it appears and all that follows through "special needs or".

"(b) LIMITATION ON AGGREGATE PAYMENT ADJUSTMENTS.—

(1) IN GENERAL.—Section 1923 of such Act (42 U.S.C. 1396r-4) is amended by adding at the end the following new subsection:

"(f) DENIAL OF FEDERAL FINANCIAL PARTICIPATION FOR PAYMENTS IN EXCESS OF CERTAIN LIMITS.—

"(1) IN GENERAL.—

"(A) APPLICATION OF STATE-SPECIFIC LIMITS.—Except as provided in subparagraph (D), payment under section 1903(a) shall not be made with respect to any payment adjustment made under this section for hospitals in a State (as defined in paragraph (4)(B)) for quarters—

"(i) in fiscal year 1992 (beginning on or after January 1, 1992), unless—

"(I) the payment adjustments are made—

"(a) in accordance with the State plan in effect or amendments submitted to the Secretary by September 30, 1991,

"(b) in accordance with the State plan in effect or amendments submitted to the Secretary by November 26, 1991, or modification thereof, if the amendment designates only disproportionate share hospitals with a medicaid or low-income utilization percentage at or above the Statewide arithmetic mean, or

"(c) in accordance with a payment methodology which was established and in effect as of September 30, 1991, or in accordance with legislation or regulations enacted or adopted as of such date; or

"(II) the payment adjustments are the minimum adjustments required in order to meet the requirements of subsection (c)(1); or

"(ii) in a subsequent fiscal year, to the extent that the total of such payment adjustments exceeds the State disproportionate share hospital (in this subsection referred to as 'DSH') allotment for the year (as specified in paragraph (2)).

"(B) NATIONAL DSH PAYMENT LIMIT.—The national DSH payment limit for a fiscal year is equal to 12 percent of the total amount of expenditures under State plans under this title for medical assistance during the fiscal year.

"(C) PUBLICATION OF STATE DSH ALLOTMENTS AND NATIONAL DSH PAYMENT LIMIT.—Before the beginning of each fiscal year (beginning with fiscal year 1993), the Secretary shall, consistent with section 1903(d), estimate and publish—

"(i) the national DSH payment limit for the fiscal year, and

"(ii) the State DSH allotment for each State for the year.

"(D) CONDITIONAL EXCEPTION FOR CERTAIN STATES.—Subject to subparagraph (E), beginning with payments for quarters beginning on or after January 1, 1996, and at the option of a State, subparagraph (A) shall not apply in the case of a State which defines a hospital as a disproportionate share hospital under subsection (a)(1) only if the hospital meets any of the following requirements:

"(i) The hospital's medicaid inpatient utilization rate (as defined in subsection (b)(2)) is at or above the mean medicaid inpatient utilization rate for all hospitals in the State.

"(ii) the hospital's low-income utilization rate (as defined in subsection (b)(3)) is at or above the mean low-income utilization rate for all hospitals in the State.

"(iii) The number of inpatient days of the hospital attributable to patients who (for such days) were eligible for medical assistance under the State plan is equal to at least 1 percent of the total number of such days for all hospitals in the State.

"(iv) The hospital meets such alternative requirement as the Secretary may establish by regulation, taking into account the special circumstances of children's hospitals, hospitals located in rural areas, and sole community hospitals.

"(E) CONDITION FOR OPTION.—The option specified in subparagraph (D) shall not apply for payments for a quarter beginning before the date of enactment of legislation establishing a limit on payment adjustments under this section which would apply in the case of a State exercising such option.

"(2) DETERMINATION OF STATE DSH ALLOTMENTS.—

"(A) IN GENERAL.—Subject to subparagraph (B), the State DSH allotment for a fiscal year is equal to the State DSH allotment for the previous fiscal year (or, for fiscal year 1993, the State base allotment as defined in paragraph (4)(C)), increased by—

"(i) the State growth factor (as defined in paragraph (4)(E)) for the fiscal year, and

"(ii) the State supplemental amount for the fiscal year (as determined under paragraph (3)).

"(B) EXCEPTIONS.—

"(i) LIMIT TO 12 PERCENT OR BASE ALLOTMENT.—A State DSH allotment under subparagraph (A) for a fiscal year shall not exceed 12 percent of the total amount of expenditures under the State plan for medical assistance during the fiscal year, except that, in the case of a high DSH State (as defined in paragraph (4)(A)), the State DSH allotment shall equal the State base allotment.

"(ii) EXCEPTION FOR MINIMUM REQUIRED ADJUSTMENT.—No State DSH allotment shall be less than the minimum amount of payment adjustments the State is required to make in the fiscal year to meet the requirements of subsection (c)(1).

"(3) STATE SUPPLEMENTAL AMOUNTS.—The Secretary shall determine a supplemental amount for each State that is not a high DSH State for a fiscal year as follows:

"(A) DETERMINATION OF REDISTRIBUTION POOL.—The Secretary shall subtract from the national DSH payment limit (specified in paragraph (1)(B)) for the fiscal year the following:

"(i) the total of the State base allotments for high DSH States;

"(ii) the total of State DSH allotments for the previous fiscal year (or, in the case of fiscal year 1993, the total of State base allotments) for all States other than high DSH States;

"(iii) the total of the State growth amounts for all States other than high DSH States for the fiscal year; and

"(iv) the total additions to State DSH allotments the Secretary estimates will be attributable to paragraph (2)(B)(ii).

"(B) DISTRIBUTION OF POOL BASED ON TOTAL MEDICAID EXPENDITURES FOR MEDICAL ASSISTANCE.—The supplemental amount for a State for a fiscal year is equal to the lesser of—

"(i) the product of the amount determined under subparagraph (A) and the ration of—

"(I) the total amount of expenditures made under the State plan under this title for medical assistance during the fiscal year, to

"(II) the total amount of expenditures made under the State plans under this title for medical assistance during the fiscal year for all States which are not high DSH States in the fiscal year, or

"(ii) the amount that would raise the State DSH allotment to the maximum permitted under paragraph (2)(B).

"(4) DEFINITIONS.—In this subsection:

"(A) HIGH DSH STATE.—The term 'high DSH State' means, for a fiscal year, a State for which the State base allotment exceeds 12 percent of the total amount of expenditures made under the State plan under this title for medical assistance during the fiscal year.

"(B) STATE.—The term 'State' means only the 50 States and the District of Columbia but does not include any State whose entire program under this title is operated under a waiver granted under section 1115.

"(C) STATE BASE ALLOTMENT.—The term 'State base allotment' means, with respect to a State, the greater of—

"(i) the total amount of payment adjustments made under subsection (c) under the State plan during fiscal year 1992 (excluding any such payment adjustments for which a reduction may be made under paragraph (1)(A)(i)), or

"(ii) $1,000,000.

The amount under clause (i) shall be determined by the Secretary and shall include only payment adjustments described in paragraph (1)(A)(i)(I).

"(D) STATE GROWTH AMOUNT.—The term 'State growth amount' means, with respect to a State for a fiscal year, the lesser of—

"(i) the product of the State growth factor and the State DSH payment limit for the previous fiscal year, or

"(ii) the amount by which 12 percent of the total amount of expenditures made under the State plan under this title for medical assistance during the fiscal year exceeds the State DSH allotment for the previous fiscal year.

"(E) STATE GROWTH FACTOR.—The term 'State growth factor' means, for a State for a fiscal year, the percentage by which the expenditures described in section 1903(a) in the State in the fiscal year exceed such expenditures in the previous fiscal year.".

(2) CONFORMING AMENDMENTS.—(A) Such section 1923 is further amended—

(i) in subsection (a)(2)(B), by striking "subsection (c)," and inserting "subsections (c) and (f),"; and

(ii) in subsection (c), by striking "In order" and inserting "Subject to subsection (f), in order".

(B) Section 1903(a)(1) of such Act (42 U.S.C. 1396b(a)(1)) is amended by inserting "and section 1923(f)" after "of this section".

(c) LIMITS ON AUTHORITY TO RESTRICT DSH DESIGNATIONS.—Subsection (b) of such section is amended by adding at the end the following new paragraph:

"(4) The Secretary may not restrict a State's authority to designate hospitals as disproportionate share hospitals under this section. The previous sentence shall not be construed to affect the authority of the Secretary to reduce payments pursuant to section 1903(w)(1)(A)(iii) if the Secretary determines that, as a result of such designations, there is in effect a hold harmless provision described in section 1903(w)(4).".

(d) STUDY OF DSH PAYMENT ADJUSTMENTS.—(1) IN GENERAL.—The Prospective Payment Assessment Commission shall conduct a study concerning—

(A) the feasibility and desirability of establishing maximum and minimum payment adjustments under section 1923(c) of the Social Security Act for hospitals deemed disproportionate share hospitals under State medicaid plans, and

(B) criteria (other than criteria described in clause (i) or (ii) of section 1923(f)(1)(D) of such Act) that are appropriate for the designation of disproportionate share hospitals under section 1923 of such Act.

(2) ITEMS INCLUDED IN STUDY.—The Commission shall include in the study—

(A) a comparison of the payment adjustments for hospitals made under such section and the additional payments made under title XVIII of such Act for hospitals serving a significantly disproportionate number of low-income patients under the medicare program; and

(B) an analysis of the effect the establishment of limits on such payment adjustments will have on the ability of the hospitals to be reimbursed for the resource costs incurred by the hospitals in treating individuals entitled to medical assistance under State medicaid plans and other low-income patients.

(3) REPORT.—Not later than January 1, 1994, the Commission shall submit a report on the study conducted under paragraph (1) to the Committee on Finance of the Senate and the Committee on Energy and Commerce of the House of Representatives. Such report shall include such recommendations respecting the designation of disproportionate share hospitals and the establishment of maximum and minimum payment adjustments for such hospitals under section 1923 of the Social Security Act as may be appropriate.

(e) EFFECTIVE DATE.—(1) The amendments made by this section shall take effect January 1, 1992.

(2) The proposed rule promulgated by the Secretary of Health and Human Services on October 31, 1991 (56 Federal Register 56141), relating to the standards for defining disproportionate share hospitals under the medicaid program, shall be withdrawn and canceled. No part of such proposed rule shall be effective except pursuant to a rule promulgated after the date of the enactment of this Act and consistent with this section (and the amendments made by this section).

SEC. 4. REPORTING REQUIREMENT.

(a) IN GENERAL.—Section 1903(d) of the Social Security Act (42 U.S.C. 1396b(d)) is amended by adding at the end the following:

"(6)(A) Each State (as defined in subsection (w)(7)(D)) shall include, in the first report submitted under paragraph (1) after the end of each fiscal year, information related to—

"(i) provider-related donations made to the State or units of local government during such fiscal year, and

"(ii) health care related taxes collected by the State or such units during such fiscal year.

"(B) Each State shall include, in the first report submitted under paragraph (1) after the end of each fiscal year, information related to the total amount of payment adjustments made, and the amount of payment adjustments made to individual providers (by provider), under section 1923(c) during such fiscal year.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply fiscal years ending after the date of the enactment of this Act.

SEC. 5 INTERIM FINAL REGULATIONS.

(a) IN GENERAL.—Subject to subsection (b), the Secretary of Health and Human Services shall issue such regulations (on an interim final or other basis) as may be necessary to implement this Act and the amendments made by this Act.

(b) REGULATIONS CHANGING TREATMENT OF INTERGOVERNMENTAL TRANSFERS.—The Secretary may not issue an interim final regulation that changes the treatment (specified in section 433.45(a) of title 42, Code of Federal Regulations) of public funds as a source of State share of financial participation under title XIX of the Social Security Act, except as may be necessary to permit the Secretary to deny Federal financial participation for public funds described in section 1903(w)(6)(A) of such Act (as added by section 2(a) of this Act) that are derived from donations or taxes that would not otherwise be recognized as the non-Federal share under section 1903(w) of such Act.

(c) CONSULTATION WITH STATES.—The Secretary shall consult with the States before issuing any regulations under this Act.

And the Senate agree to the same.

JOHN D. DINGELL,
HENRY A. WAXMAN,
NORMAN F. LENT,
Managers on the Part of the House.

LLOYD BENTSEN,
JAY ROCKEFELLER,
DONALD W. RIEGLE,
BOB PACKWOOD,
DAVE DURENBERGER,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3595), to delay until September 30, 1992, the issuance of any regulations by the Secretary of Health and Human Services changing the treatment of voluntary contributions and provider-specific taxes by States as a source of a State's expenditures for which Federal financial participation is available under the medicaid program and to maintain the treatment of intergovernmental transfers as such a source, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

1. USE OF VOLUNTARY CONTRIBUTIONS, PROVIDER-SPECIFIC TAXES, AND INTERGOVERNMENTAL TRANSFERS BY STATES TO RECEIVE FEDERAL MATCHING FUNDS UNDER MEDICAID

Current Law

The Technical and Miscellaneous Revenue Act of 1988, as amended by the Omnibus Budget Reconciliation Act of 1990, prohibits the Secretary from issuing any final regulation prior to December 31, 1991, changing the treatment of voluntary contributions or provider-paid taxes used by States to receive Federal matching funds. The Omnibus Budget Reconciliation Act of 1990 prohibits the Secretary from denying or limiting payments to a State from expenditures attrib-

utable to taxes, whether or not of general applicability, imposed with respect to the provision of medical services. The Secretary is permitted to deny matching funds for Medicaid payments made to reimburse a hospital, nursing facility (NF), or intermediate care facility for the mentally retarded (ICF-MR) for taxes imposed by a State solely with respect to such facilities.

House Bill

Extends the moratorium on issuance of new regulations through September 30, 1992. Permanently prohibits the issuance of regulations that change the treatment of public funds used as the State share of Medicaid, including funds contributed by an agency that provides Medicaid services. Provides that any regulation changing the treatment of voluntary contributions may not apply to contributions made before January 1, 1993, except that FY 1993 Federal financial participation (FFP) related to a State's use of contributions must not exceed the amount of FFP related to such contributions in FY 1991. Prohibits the Secretary from reducing payments to States based on quarterly State expenditure estimates because such estimates include amounts attributable to contributions, intergovernmental transfers, or provider-paid taxes, or from assessing any penalty or taking other regulatory action against a State related to its use of such contributions, transfers, or taxes. The prohibitions apply to payments for quarters beginning on or after January 1, 1992, and ending on or before September 30, 1992 (for intergovernmental transfers and provider-paid taxes) or December 31, 1992 (for voluntary contributions), and to actions taken by the Secretary during the same periods.

Senate Amendment

Provides that, for the purpose of computing Federal matching funds, State Medicaid spending for a quarter (other than in Arizona) is to be reduced by the amount of any revenues received by the State or a local government on or after January 1, 1992, from:

Provider-related donations (donations from a medical provider, related entity, or administrative contractor), except "bona-fide" donations, and donations in the form of payment for outstanding Medicaid eligibility workers. Beginning in Federal FY 1993, donations related to outstationing are limited to 10 percent of State administrative costs.

Health care related taxes (those related to provision of health services and 85% paid by providers or those not equally imposed on non-health items) that are not broad-based. Broad-based taxes are defined as those uniformly imposed on all non-Federal nonpublic providers in the same class in the State or locality or all items or services in the class furnished by such providers. A tax is imposed uniformly if the amount, rate, and or base for the tax is the same for all subject providers, and the tax does not provide for credits, deductions or exclusions that have the effect of refunding all or a portion of the tax. A tax may be uniform even if it applies only to services not covered under Medicaid or Medicare non-Medicare revenues. The Secretary may treat a tax as broad-based on application by the State if the tax and related spending are generally redistributive and the tax and Medicaid payments are not directly correlated. Waivers may include exemptions for rural or sole community providers.

Health care related taxes that are broad-based but to which a hold harmless provision applies. A hold harmless provision is one that provides for: a non-Medicaid payment to the provider that is correlated to the tax or to differences between the tax and Medicaid payments; Medicaid payment varying on the basis of taxes paid; or the State or locality guarantees that some or all of the tax will be offset in some way.

Broad-based taxes in amounts that exceed 25 percent of the State share of Medicaid or (if greater) the State's "base percentage" in all or part of State fiscal years beginning on or after January 1, 1992, and before October 1, 1995. The base percentage is equal to the total of provider donations and/or health care related taxes (whether or not permissible) projected to be collected during the State 1992 fiscal year, divided by the estimated State share of Medicaid spending for the year. In the case of a tax not in effect (or increased) during the full base year, the Secretary is to compute the base percentage as if it were in effect for the full year. Donations are to be counted only under a program in effect or reported to the Secretary by September 30, 1991; taxes are to be counted if they were in effect or legislation or regulations had been adopted, as of November 22, 1991.

Permits matching for certain otherwise prohibited revenues received before October 1, 1992 (for States with fiscal years beginning on or before July 1), January 1, 1993 (for States with fiscal years beginning after July 1), or July 1, 1993 (for a State that has an enacted provider tax on November 4, 1992, or whose legislature is not scheduled to meet in 1992 or 1993); prohibits a disallowance or withholding of FFP related to donations or taxes before the applicable date. Matching is permitted for donations only under a program in effect or reported to the Secretary by September 30, 1992. Countable donations for a State's 1993 fiscal year may not exceed those for the State's 1992 fiscal year. Matching is permitted for non-broad-based taxes, or broad-based taxes with a hold harmless provision, only if the taxes were in effect or legislation or regulations had been adopted, as of November 22, 1991. Increases after that dare are not permitted. The sum of allowed donations and taxes (including broad-based taxes) for the part of a State's fiscal year occurring in calendar year 1992, or for all of State fiscal year 1993 may not exceed 25 percent (or the base percentage) of the State share of Medicaid.

Prohibits the Secretary from restricting States' use of funds derived from State or local taxes (including funds appropriated to State-owned teaching hospitals) transferred from or certified by local government units (including units that are providers) unless the transfers exceed the 40 percent limit on local government sharing in Medicaid or stem from otherwise prohibited donations or taxes.

Conference Agreement

The agreement includes the Senate amendment with modifications. The Secretary is required to withdraw the October 31, 1991, interim final rule with respect to donations and taxes. The Secretary may not change current treatment of intergovernmental transfers except through the formal APA regulatory process (except as needed to deny matching for public funds described in section 1903(w)(6)(A) that are derived from donations or taxes that would not otherwise be recognized). Use appropriations made to State university teaching hospitals is to be treated as a permissible transfer. The conferees note that current transfers from a country or other local teaching hospitals continue to be permissible if not derived from sources of revenue prohibited under this act. The conferees intend the provision of section 1903(w)(6)(A) to prohibit the Secretary from denying Federal financial participation for expenditures resulting from State use of finds referenced in that provision.

2. RESTRICTIONS ON AGGREGATE PAYMENTS FOR DISPROPORTIONATE SHARE HOSPITALS

Current Law

Prohibits the Secretary from limiting payment adjustments made by States to hospitals serving a disproportionate number of low-income patients with special needs.

House Bill

No provision.

Senate Amendment

Effective January 1, 1992, establishes a national limit on disproportionate share hospital payment adjustments during each fiscal year equal to 12 percent to total Medicaid spending for that year. Limits a State's disproportionate share adjustment:

In the part of FY 1992 beginning on or after January 1, 1992, to those made under the State plan in effect or as submitted by September 30, 1991, or under a methodology established an in effect by that date, or legislation or regulation adopted by that date. A State plan amendment in effect or submitted by November 26, 1991, may be used if it designates only disproportionate share hospitals with a Medicaid or low-income percentage at or above the Statewide arithmetic mean. Higher payment adjustments are permitted if necessary to meet the minimum prescribed by Medicaid law.

For FY 1993 and subsequent fiscal years, to the amount of the State's disproportionate share hospital (DSH) allotment. The DSH allotment for a State is equal to the previous year's allotment (or, for FY 1993, its "base allotment"), increased by the State growth factor and the State supplemental amount for the fiscal year. The base allotment is equal to the greater of the State's payment adjustment during FY 1992 (subject to the limits for that year) or $1 million. The growth factor is the annual percentage increase in the State's Medicaid spending. The supplemental amount is an amount payable to States that are not high DSH States. (A State is a high DSH State for a fiscal year if its base allotment exceeds 12 percent of its total Medicaid spending for that fiscal year.)

The supplemental amounts are established from a pool whose size is determined by subtracting from the amount of the national DSH limit the amounts of: (a) the base allotment for high DSH States, (b) total allotment to non-high DSH States for the previous year, (c) total "growth amounts" for non-high DSH States for the current year, and (d) any additional amounts needed to bring State's payment adjustments up to statutory minimums. A State's growth amount is the greater of: the State's allotment for the previous year times the growth factor; or the difference between the allotment for the previous year and 12 percent of total current year Medicaid spending. The supplemental amount for each non-high DSH State is the lesser of (a) a share of the pool proportionate to the State's share of all Medicaid spending by non-high DSH States or (b) the amount that would raise the State's allowable payment adjustments to 12 percent of its Medicaid spending.

Requires the Secretary to publish State allotments and national limits for each fiscal year before the beginning of the year. Limits on payment adjustments do not apply in Arizona.

Prohibits a State from using DSH payment adjustments to hold providers harmless for

health care related taxes after the effective date of limits on the use of such taxes. With this exception, prohibits the Secretary from restricting a State's authority to designate disproportionate share hospitals.

Conference Agreement

The agreement includes the Senate amendment, with modifications.

After January 1, 1996, a state will not be subject to the aggregate limit on payment adjustments if it designates as DSH's only facilities whose low-income or Medicaid utilization rate exceeds the state mean, that account for at least 1 percent of all Medicaid days in the state, or that meet other criteria established by the Secretary, taking into account the special circumstances of rural, sole community, and childrens hospitals.

This option will be available only after Congress has established limits in law on payment adjustments to DSH hospitals for states electing the option. The Prospective Payment Assessment Commission is required to submit a report to Congress by January 1, 1994, on appropriate methods for establishing appropriate minimum and maximum adjustment amounts and criteria for DSH designation.

3. REPORT

Current Law

No provision.

House Bill

Requires the Secretary to report to the House Energy and Commerce and Senate Finance Committees by February 3, 1992, on any regulations the Secretary intends to issue to limit the use of contributions and provider-specific taxes, the specific types of contributions and taxes that would remain permissible, and any legislation the Secretary thinks appropriate.

Senate Amendment

No provision.

Conference Agreement

The agreement does not include the House provision.

4. BUDGET COMPLIANCE PROVISIONS

Current Law

No provision.

House Bill

Provides that the applicable cost estimates for the purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 shall 0 in increased outlays and receipts for FY 1991 through FY 1995.

Senate Amendment

No provision.

Conference Agreement

The agreement does not include the House provision.

5. STATE REPORTS

Current Law

No provision.

House Bill

No provision.

Senate Amendment

Requires States to report annually on donations received and taxes collected by the State or local governments during each fiscal year and the amount of payment adjustments made to disproportionate share providers during the year, beginning with fiscal years ending after the date of enactment.

Conference Agreement

The agreement includes the Senate amendment.

6. INTERIM FINAL REGULATIONS

Current Law

No provision.

House Bill

No provision.

Amendment

Requires the Secretary, after consultation with States, to issue implementing regulations.

JOHN D. DINGELL,
HENRY A. WAXMAN,
NORMAN F. LENT,
Managers on the Part of the House.

LLOYD BENTSEN,
JAY ROCKEFELLER,
DONALD W. RIEGLE,
BOB PACKWOOD,
DAVE DURENBERGER,
Managers on the Part of the Senate.

Mr. WAXMAN. Mr. Speaker, I call up the conference report on the bill (H.R. 3595) to delay until September 30, 1992, the issuance of any regulations by the Secretary of Health and Human Services changing the treatment of voluntary contributions and provider-specific taxes by States as a source of a State's expenditures for which Federal financial participation is available under the Medicaid Program and to maintain the treatment of intergovernmental transfers as such a source, and ask unanimous consent for its immediate consideration in the House and ask that it be considered as read.

The Clerk read the title of the bill.

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

Mr. LENT. Mr. Speaker, reserving the right to object, I do not intend to object.

Mr. WAXMAN. Mr. Speaker, will the gentleman yield so I can say a few words about this conference report?

Mr. LENT. Mr. Speaker, I yield to the gentleman from California [Mr. WAXMAN], the distinguished chairman of the Subcommittee on Health and the Environment.

Mr. WAXMAN, Mr. Speaker, this conference report represents the agreement between the House and Senate conferees on what passed this House, a moratorium on regulations being proposed by the Department of Health Care Financing Administration in the Department of Health and Human Services. This whole issue began when the White House proposed new limits on Medicaid. This is the program that provides the only health insurance for 28 million poor Americans. Most of them are under 18, over 65, or totally disabled. In response to those proposals the House voted overwhelmingly to place a moratorium on any regulatory changes. With a threatened Presidential veto of the House passed moratorium over their heads, the Governors were told to negotiate a new package or face the original OMB regulation. They reached an agreement.

I want to put this in context. The administration put the Governors in an untenable position. They acted understandably to avoid the uncertainty of these court fights to declare invalid these proposed regulations and the uncertainty for their budgets.

But I want to tell my colleagues that the agreement that the administration forced upon the Governors is not a good agreement. I think it is going to do them well in a very short run, but it is going to do a great deal of disservice to the millions of Americans who are poor, elderly, disabled, women, and children who rely on the disproportionate share in institutions, the public hospitals, the children's hospitals, to give them care because in that agreement the Governors and the administration put limits on the reimbursement for those institutions.

Mr. Speaker, we worked on the framework of that agreement, and I regretted the fact that the Governors accepted this agreement rather than to call for moratoriums so the whole matter could be discussed and thought through rather than make an important and really quite fundamental change in the Medicaid Program without a lot of scrutiny and evaluation of the consensus.

But we are here today to enact legislation that I think we are going to all regret in a very short period of time, but we have very little choice before us.

So, I will present this conference report. I myself will vote against it because I do not want to be associated with it, but I know that this agreement will pass and will become law, and we will have to revisit these issues on another occasion.

Mr. LENT. Mr. Speaker, further reserving the right to object, I rise to strongly support the conference report on H.R. 3595, the Medicaid Moratorium Amendments of 1991. It reflects the agreement that we have just reached with the Senate conferees.

It is consistent with H.R. 3900, the Medicaid Voluntary Contribution and Provider-Specific Tax Amendments of 1991, introduced by Mr. MICHEL and myself on Saturday. That bill represented the agreement between the National Governors' Association and the administration as of that date.

Since then, further discussions have taken place among the administration, the NGA, and the Senate. I am very pleased that a final agreement was reached.

In terms of provider taxes, the legislation replaces the OBRA '90 provider-specific tax provisions with language stipulating that Federal money will be available only if the tax uniformly applies to all providers in a class, and to all the health-related business of the providers. A class of providers would be, for example, all hospitals, all physicians, or all nursing homes in the State. A tax on "all business of providers" would include taxes such as a gross revenues tax, a tax based on inpatient days, or a head tax on all patients.

And unlike the current financing scams, these taxes would in fact be

bona fide taxes on all providers. These taxes would be truly redistributive. Tax revenues would flow from rich hospitals to public hospitals that serve the poor. And this legislation would forbid hold-harmless arrangements in which States rebate the tax revenue directly back to the providers, after the State has received the Federal matching payments.

In addition to the requirement that these taxes be bona fide taxes, the legislation also provides a percentage limit on their use. For purposes of calculating Federal matching, total revenues from these broad-based provider taxes may not exceed 25 percent. This provision ensures the integrity of the Medicaid Program by guaranteeing financial participation of both the States and the Federal Government.

The legislation prohibits the States from receiving Federal payments for revenues obtained from donations by or on behalf of providers. An exception to this rule is created for donations for moneys related to personnel costs for workers in hospitals and clinics who determine Medicaid eligibility of beneficiaries. The total amount of donations permitted under this exception may not exceed 10 percent of the State's total Medicaid administrative expenses.

Several States have raised concerns about the impact of the Health Care Financing Administration [HCFA] regulation on intergovernmental transfers. This bill provides that States may continue to use funds transferred to the State from counties, cities, or other governmental entities as the State share of Medicaid expenditures. The use of such transfers would, however, be disallowed if the source of the funds was donations or taxes that would not otherwise be recognized as the non-Federal share under this legislation.

Mr. Speaker, this is a reasonable compromise which has been agreed to by the conferees. It restores the basic tenet of the Medicaid Program—which is shared financial responsibility between the Federal Government and the States.

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

Mr. LENT. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Illinois, the distinguished chairman of the Committee on Ways and Means, for the purpose of a clarification.

□ 1640

Mr. ROSTENKOWSKI. Mr. Speaker, I am pleased to support the conference report on H.R. 3595, the Medicaid Moratorium Amendments of 1991.

The conference agreement would allow States to continue to receive essential matching payments for Medicaid costs funded with revenues from provider-specific taxes. It would also protect the current policy regarding intergovernmental transfers.

On September 12, 1991, the Health Care Financing Administration published interim final regulations that would have severely restricted Federal matching payments to States.

This regulation would have created financial chaos for many State Medicaid Programs. It is clearly contrary to the letter and spirit of the Medicaid provisions of the 1990 Budget Reconciliation Act.

If implemented, the regulation would have been devastating for the Medicaid beneficiaries and health care providers in many States. In my own State of Illinois, many hospitals would not have been able to survive.

Because the regulation would have taken effect in the middle of the 1992 fiscal year for most States, State governments would have had no choice but to cut payments for disproportionate share providers, eliminate important benefits, or restrict eligibility.

The State of Illinois acted responsibly in relying on Federal law when it enacted the provider assessment program, and the State, its hospitals, and its economy should not be thrown into disarray because of unwarranted and arbitrary Federal agency decisions.

Under this conference agreement, the current level of provider-specific taxes in Illinois would be allowed through 1995. Intergovernmental transfers may not be affected.

In addition, under the compromise payments to disproportionate share hospitals would be permanently limited to 12 percent. These hospitals provide health care services to our most vulnerable fellow citizens. While I understand that this cap is not a problem for hospitals in Illinois, I have serious reservations about any limit on payments for disproportionate share hospitals.

Until every American has health insurance, I would be concerned about a policy that may reduce payments to hospitals that provide critical health care services in Chicago and in other American cities.

This conference agreement represents a good compromise. Although I would have liked the Secretary to withdraw the regulations altogether, I support the provisions of the conference agreement.

I urge my colleagues to support this important conference report.

Mr. Speaker, I would ask if the gentleman from New York would yield further in order that I may engage in a colloquy with the gentleman from California [Mr. WAXMAN].

Mr. LENT. Mr. Speaker, further reserving the right to object, I am happy to yield to the gentleman from Illinois.

Mr. ROSTENKOWSKI. Mr. Speaker, I would like to request a clarification regarding the disproportionate share hospital provisions of current law and this bill.

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

Mr. LENT. Further reserving the right to object, I yield to the gentleman from California.

Mr. WAXMAN. I would be pleased to respond to a question from the gentleman from Illinois.

Mr. ROSTENKOWSKI. I want to be sure that this agreement does not infringe on State flexibility with respect to determining the level of disproportionate share payments for a given hospital.

I would like to reaffirm that it was the intent of OBRA '90 to give States the option of taking other factors into consideration when determining payment adjustments for disproportionate share hospitals.

Is it your understanding that some of the other factors a State may take into consideration may include but are not limited to:

Intensity of care;

The provision of services essential to the Medicaid and low-income patients of a State;

The efficiency of hospitals as measured through occupancy rates or other factors reasonably related to efficiency;

Medicare, Medicaid, and/or low-income utilization levels;

The types of services that are predominantly furnished by a hospital;

Geographic location; or

Any combination of these and other factors?

Mr. WAXMAN. Mr. Speaker, if the gentleman will yield further, the answer is yes.

It was the intent of the Congress that the third payment option of section 1923(c) included in OBRA '90 would allow States to take into consideration these, and other factors when calculating disproportionate share hospital payment adjustments.

This would be true as long as the factors apply equally to all hospitals of each type and result in an adjustment that is reasonably related to the costs, volume, or proportion of services provided to low-income patients.

Mr. ROSTENKOWSKI. Mr. Speaker, if the gentleman will yield further, I would like to thank the gentleman for his clarification. I know the gentleman from California is very learned in this area, and I particularly want him to realize the importance of these provisions to the State of Illinois.

Mr. LENT. Mr. Speaker, further reserving the right to object, in conclusion, I would like to address my gratitude to the two gentlemen from California, Mr. WAXMAN and Mr. DANNEMEYER, for their efforts, and also acknowledge the very fine contributions of some of the people on my staff: Howard Cohen, Mary McGrane, and Melody Houghton, and also Ed Grossman and Noah Woofsy, two attorneys in the Office of Legislative Counsel, for the ex-

cellent work that they have done in drafting this very complex agreement.

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

Mr. LENT. Further reserving the right to object, I yield to the gentleman from California.

Mr. WAXMAN. Mr. Speaker, I want to join with the gentleman in saluting our staff, and I want to single out Andy Schneider of our subcommittee staff who put in an enormous amount of effort in this legislation.

Mr. LENT. Further reserving the right to object, I thank the gentleman for his contribution and I extend thanks to those members of his staff.

Mr. RITTER. Mr. Speaker, we are faced with the difficult task of reconciling a ballooning Medicaid Program—one that has increased more than 2,000 percent since its inception in 1965, with States that are struggling just to maintain basic health care coverage for their poorest citizens.

All this at a time of economic stagnation.

How have we gotten into this horrendous situation? Because many in Congress have seen fit to push one Medicaid mandate after another to the point of diminishing whatever flexibility the States had for dealing with this situation on their own.

Now the States have come up with very creative financing schemes. Indeed, I do not condone the manner in which my own State, Pennsylvania, has dealt with its Medicaid funding problems. And it's obvious that such a system must change. But, I cannot in good conscience watch my State be immediately cut off from funds for certain prenatal care programs, drug and alcohol treatment, or catastrophic illness, for example. The States need a reasonable transition period to find other funding options. Pennsylvania is a prime example where administrative deficiencies cannot be allowed to harm large numbers of people.

So, as a Pennsylvanian concerned about fellow Pennsylvanians, I will support this legislation.

I commend the administration and the National Governors' Association for the rational agreement that they have reached. This agreement will give States enough time and flexibility to meet their Medicaid obligations in the coming years.

The bottom line is that we in Congress must reduce the pressure—the mandate madness that forces States to go around the spirit of the law.

Mr. LENT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. HOYER). Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the conference report.

There was no objection.

The conference report was agreed to.

A motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2950), "An act to develop a national intermodal surface transportation system, to authorize funds for construction of highways, for highway safety programs, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the resolution (H.J. Res. 157), "Joint resolution making technical corrections and correcting enrollment errors in certain acts making appropriations for the fiscal year ending September 30, 1991, and for other purposes."

The message also announced that the Senate had passed a concurrent resolution of the following title, in which the concurrence of the House is requested:

S. Con. Res. 83. Concurrent resolution to authorize a correction in the enrollment to S. 543.

RECESS

The SPEAKER pro tempore. The House will stand in recess subject to the call of the Chair.

Accordingly (at 4 o'clock and 47 minutes p.m.) the House stood in recess subject to the call of the Chair.

□ 1853

AFTER RECESS

The recess having expired, the House was called to order by the Speaker (Mr. GEPHARDT) at 6 o'clock and 55 minutes p.m.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills and a concurrent resolution of the House of the following titles:

H.R. 355. An act to provide emergency drought relief to the Reclamation States, and for other purposes;

H.R. 3337. An act to require the Secretary of the Treasury to mint coins in commemoration of the 200th anniversary of the White House, and for other purposes; and

H. Con. Res. 260. Concurrent resolution providing for an adjournment of the Congress to a date certain.

The message also announced that the Senate recedes from its amendment to the bill from the House (H.R. 355), "An act to provide emergency drought relief to the Reclamation States, and for other purposes" with an amendment.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (S. 543), "An act to reform Federal deposit insurance, protect the deposit insurance funds, recapitalize the bank insurance fund, improve supervision and regulation of insured depository institutions, and for other purposes."

The message also announced that the Senate had passed bills and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 2015. An act to urge and request the award of the bronze star to Navy and Marine Corps personnel who served in the defense of Corregidor Island, the Philippines, under General Wainwright;

S. 2034. An act to establish certain requirements for the Secretary of the Interior to undertake environmental cleanup at the Phoenix Indian School property; and

S. Con. Res. 84. Concurrent resolution to correct the enrollment of H.R. 3435 the RTC funding bill.

PROVIDING FOR THE ADJOURNMENT OF THE CONGRESS ON NOVEMBER 26, 1991, TO A DAY CERTAIN

The SPEAKER pro tempore, by unanimous consent, laid before the House the Senate amendment to the concurrent resolution (H. Con. Res. 260) providing for an adjournment of the Congress to a day certain.

The Clerk read the Senate amendment as follows:

On page 1, line 14, after "first" insert: "; and that when the Congress convenes on January 3, 1992, for the second session of the 102nd Congress, the Senate shall not conduct any organizational or legislative business and when it recesses or adjourns on that day, it stand in recess or adjournment until 11:30 a.m. on Tuesday, January 21, 1992, or until noon on the second day after Members are notified to reassemble pursuant to section 3 of this concurrent resolution, whichever occurs first".

The Senate amendment was agreed to.

A motion to reconsider was laid on the table.

CORRECTING ENROLLMENT OF S. 543, COMPREHENSIVE DEPOSIT INSURANCE REFORM AND TAXPAYER PROTECTION ACT OF 1991

Mr. RANGEL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 83) to correct the enrollment of the bill (S. 543) to reform Federal deposit insurance, protect the deposit insurance funds, recapitalize the bank insurance fund, improve supervision and regulation of insured depository institutions, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate concurrent resolution.

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

Mr. WELDON. Mr. Speaker, reserving the right to object, and I will not object, but I understand that our leadership is in support of the initiative as proposed by my colleague and friend, the gentleman from New York [Mr. RANGEL].

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

Mr. WELDON. I yield to the gentleman from New York.

Mr. RANGEL. Mr. Speaker, the gentleman from Pennsylvania [Mr. WELDON] is correct.

Mr. WELDON. Mr. Speaker, will the gentleman from New York explain the initiative, please?

Mr. RANGEL. Yes, Mr. Speaker.

When the conference was held this morning, inadvertently the language that is in this concurrent resolution specifically leaves out a banking institution. There was an attempt to restore it, and I then went through the leadership on both sides of the Committee on Banking, Finance and Urban Affairs, the counsel and the Speaker, and by unanimous consent I was able to pass the concurrent resolution that was supposed to remedy the defect that all of the conferees intended that would be included in the conference report. After that passed, that was sent over to the Senate. The Senate passed this concurrent resolution, which was resting at the House, and it was this resolution that I have just had taken from the Speaker's desk that was the intent of both the House and the Senate conferees.

As a result of the difficulty here, Mr. Speaker, the gentleman from Ohio [Mr. WYLIE] immediately went to the majority leader, the gentleman from Missouri [Mr. GEPHARDT], and counsel of both sides shared the information with the leadership on both sides, and they concurred that this was an inequity that could be corrected in this manner.

□ 1900

Mr. WELDON. Mr. Speaker, I thank the gentleman for his explanation, and I am happy that we were able to work with our distinguished colleague, the gentleman from New York, Mr. RANGEL, and the distinguished Senator from New York, Mr. D'AMATO, in this important initiative.

Mr. RANGEL. Mr. Speaker, I thank the minority for its consideration of this matter. It is very important. I thank the gentleman, and I thank the Chair.

Mr. WELDON. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. GEPHARDT). Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 83

Resolved by the Senate (the House of Representatives concurring), That, in the enrollment of the bill, S. 543, the Secretary of the Senate shall make the following correction:

At the appropriate place, insert:

SEC. . SPECIAL INSURED DEPOSITS.

For purposes of the Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.), the deposits of the Freedom National Bank of New York and the deposits of Community National Bank and Trust Company of New York that—

(1) were deposited by a charitable organization as such term is defined by New York State law, or by a religious organization; and

(2) were deposits of such bank on the date of its closure by the Office of the Comptroller of the Currency, shall be fully insured notwithstanding any other provisions of the Federal Deposit Insurance Act.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

ENGLISH: LET'S MAKE IT OFFICIAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri [Mr. EMERSON] is recognized for 5 minutes.

Mr. EMERSON. Mr. Speaker, I recently had the good fortune to meet with Dr. Robert M. Spiro, a member of the board of the American Security Council. In the course of our visit, Dr. Spiro expressed his grave concern about the increasing division of our society among racial and ethnic lines. He and I share the view that America's strength lies in our unity, and that the English language is the common thread that ties our many races, religions, and cultures together.

Dr. Spiro has written an excellent article outlining a few of the reasons why we need a common language. I respectfully request that the article be reprinted in the RECORD, and I commend the article to each of my colleagues. Please take a few minutes to read why America needs official English.

ENGLISH: LET'S MAKE IT OFFICIAL

(By Robert H. Spiro, Jr.)

It is a truism, accepted at home and abroad, that the United States of America is a diverse nation, pulsating with the heartbeats of a hundred ethnic groups, harking back to every other nation on the entire globe.

All continents, races, ethnic groups, languages, tribes, and families have contributed to the making of America.

America is a vast "melting pot" with ties to all humanity, and it is remarkable that despite 200 years of constant stirring and adding new ingredients to the brew, the pot does not boil over. The search for unity, harmony, order and tranquility was expressed eloquently in the Preamble to the Constitution, and has been a constant theme in American history.

Throughout two centuries of national history, this exciting Nation has searched for a central concept, unity. Midway in its history, a terrible Civil War, by far the bloodiest in the New World, tore the Nation apart. Twenty-two northern states, inspired by Lincoln, faced eleven seceding states. Four million men were mobilized and 600,000 died in fierce fighting. There were many "causes" for this conflagration, but the basic issue was the right to secede, to separate, to disrupt the unity of the Nation.

Diverse ethnic ties are constantly dividing the Nation, and cultural tensions frequently pull it apart. Its many religions are increasingly varied, while many citizens decry all religions. Nothing is more important than a single common language, spoken by all citizens.

A COMMON LANGUAGE IS THE CEMENT THAT BINDS THE NATION

A nation speaking one language is stronger, more firmly united, and more secure than a nation divided by language barriers and the consequences of those barriers—acrimony and ethnic conflict. It is apparent that the strongest of the many new immigrant nations of the modern world are those with a common language.

Canada, self governing since 1867, is officially bilingual, a fact which engenders bitter conflict. Martin G. W. King, a Canadian who edits an insurance industry magazine in Washington, D.C., has written eloquently about "O Canada! Coming Apart at the Seams?" Washington Post, May 27, 1990).

He laments, "And yet my country is falling apart . . . Throughout the 1960s and 1970s, Canadian governments tried to mend the country's increasingly tattered social fabric by promoting 'unity and diversity.' The country became officially bilingual, and new laws required that even cereal boxes be printed in both official languages. Civil servants were provided with crash courses in each other's language."

Yet the demands of separatists in Quebec have become increasingly strident, and there have been kidnapping and murders. And now, after the failure of the Meech Lake Accords of 1987, Canada is facing even greater discord and the possible secession of its second largest province, which also in 1987 adopted "laws that made Quebec a unilingual French province, with draconian provisions forbidding even public restaurant signs in anything but French." Canada has become unglued.

Belgium, another advanced western nation, features a French-speaking majority together with Flemish and German minorities. It is a nation bitterly divided and at war with itself.

Sri Lanka, formerly Ceylon, has seen sharp rivalry and civil war between its two language groups, the Sinhali and the Tamils.

India, with 123 languages and over 600 dialects, has severe conflicts among its ethnic components, greatly exacerbated by language differences.

But many say of the United States: "What's the problem? English has been our common language for more than 200 years. We have no problem." But we do have a problem. Puerto Rico, which has been officially bi-lingual for 89 years (since 1902), when the Official Language Act was passed by its legislature, has just voted (March 1991) to make Spanish the sole official language of the Commonwealth.

Yes, it is true that English has been our common language for more than 200 years. America has welcomed millions of immigrants from every nation under the sun. In the first decade of this century, more than one million a year came to these shores. Almost without exception, those immigrants eagerly, almost fiercely, embraced the Eng-

lish language, certain their future was dependent upon their learning English and adopting the "American Way of Life" in the exciting New World, to which they had voluntarily come.

Today, new waves are bringing immigrants from Central and South America, Mexico, the Caribbean, Cambodia, Vietnam, Japan, China and Korea, and many other places. Some—by no means a majority—resist Americanization, and which to create old-country enclaves in the United States. This is understandable, and is by no means a new phenomenon.

America must resist Balkanization, with its attendant hostilities and rivalries. It is wonderful to remember one's roots, to cherish one's native language and culture; but a permanent move to a new country symbolizes a fresh start, a new commitment—a new birth in a new world!

Surely the problem is a complex one. If America is to have a second language, which one shall it be? Waves of immigration throughout history occasioned by wars, persecutions, droughts and famines, earthquakes and floods, social and volcanic upheavals, have sent successive floods of immigrants to this land from four continents and the islands of the sea. If there is a second language, then there must be a third, fourth, and a fifth, ad infinitum.

Perhaps an excellent example of the complexity of the issue is to be found in a local high school in northern Virginia where there are thousands of new immigrants. In the JEB Stuart High School in Fairfax County, VA. are 1600 students. They represent 60 nations speaking 35 different languages. In fact, there are so many different ethnic contingents that JEB Stuart High offers four 4 levels of English as a second language.

How can the language problem affect you as an English-speaking U.S. citizen? Picture yourself applying for a business permit in a foreign language; or attending a city council meeting in which the council member speaks in another language; or dealing with a police officer who doesn't speak English; or fretting with an I.R.S. agent whose language is not English. This is not as far-fetched as one may imagine. It is said that the City Council of Sweetwater, Florida, does not conduct its meetings in English.

I know of no one supporting English as the official language who asserts the superiority of English. English is not necessarily "superior" to any other language. But it is the historic and common language of the United States, and a common national language is essential to national harmony and unity.

There are a few apparent exceptions, like Switzerland, but they are indeed few, and are in very special circumstances with a long evolutionary history. The strongest of the many new immigrant nations in the modern world are those with a common language, such as the United States, Australia, and New Zealand.

The point is obvious. The U.S. is derived from diverse ethnic, national, and religious groups, held together by the glue of a common language. The English language is for the United States the cement that bonds the Nation, unifies the people.

There is also an important security factor. As a reserve military officer, I am concerned about the effect of multiple language usages of military strength. Defeat in battle will surely result from the inability of men and women in the military forces to communicate in one common language. Only thus can clear, understandable, and unmistakable military orders be issued, understood, and carried out.

Here, then is a rational language policy, good for individuals and good for the nation:

1. The U.S. must remain united by one language, not divided by two.

2. Non-English speaking newcomers must be encouraged to learn English quickly, to develop fluency in English as soon as possible as the crucial first step in their integration into American life. This is in their best interest, and the nation's.

3. Bilingual education courses must aim toward moving students rapidly into standard, English-speaking classrooms as soon as possible, within one or two years, three at the most.

4. To be consistent with the English language requirement for U.S. citizenship, ballots for U.S. elections should be in English.

5. New Americans should be encouraged, in all constructive ways, to remember and honor their roots, which is a time-honored tradition deep in American history.

6. All U.S. citizens should be encouraged to study and use foreign languages both to enhance their personal growth and cultural understanding, and to promote better communication with all mankind.

The effort to make English official is a very positive program. It denigrates no ethnic group nor demeans any language. It is imperative that this great democratic and immigrant republic, devoted to human rights and dedicated to liberty, protect its unity by legally declaring the common language, English, to be the official language of the Republic.

The Congress has run hot and cold on the issue. But eighteen (18) states so far have amended their constitutions to make English official. This year, on January 3, 1991, Representative Bill Emerson of Missouri, with 38 co-sponsors, introduced House Resolution 123 declaring English the official language of the Government of the United States. At a September 1991 Capitol kickoff of the national campaign to make English official, members of Congress lauded English as the common bond among Americans and called for the passage of H.R. 123.

California, the largest state, with a very large percentage of new Americans, in 1986 passed Proposition 63. Exactly 73.2 percent of all voters approved the amendment to make English the official language of the state.

Florida, the fourth largest of the states, made English official in 1988 by a resounding affirmative vote of 83 percent. Other states with approved amendments are Arkansas, Arizona, Colorado, Georgia, Illinois, Indiana, Kentucky, Mississippi, Nebraska, North Carolina, North Dakota, South Carolina, Tennessee, Virginia, Alaska, and Hawaii.

Thus almost half of the requisite 38 states to amend the Federal Constitution have already approved the English Language Amendment. Let us hope that by the year 2000 we shall attain the approval of both 38 states and the Congress. With an approved English Language Amendment we shall assure the continuing unity and strength of the Nation in the 21st century.

THE ROUGE RIVER DEMONSTRATION PROJECT

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, following the adjournment of the 1st session of the 102d Congress, numerous elected officials, community leaders, and dedicated volunteers will converge on the historic Henry Ford estate to celebrate a major funding victory for a critically important environmental project in southeastern Michigan: the cleanup of the Rouge River. The upcoming event will provide an opportunity to explain the expenditure of funding provided for the Rouge River national wet weather demonstration project in the fiscal year 1992 VA, HUD, and independent agencies appropriations legislation, Public Law 102–139. In advance of this event, it is my privilege today to formally outline the purpose of this project.

The $46 million appropriation, offered as a grant to the Wayne County Division of Public Works [DPW], represents what I hope will be the cornerstone of the Rouge River demonstration project outlined in the attached "Rouge River Basin Wide Water Quality Management Program: A National Demonstration Project." This outline is based on the Southeastern Michigan Council of Government's Remedial Action plan which enjoys the support of the Environmental Protection Agency, the Michigan Department of Natural Resources, and 48 communities representing 1.5 million people residing in the Rouge River Basin.

This project is a major step in an ongoing effort to make the Rouge River cleaner and safer for our communities. Over the past 4 years, the U.S. Environmental Protection Agency has worked with the State of Michigan, Wayne County, the Southeast Michigan Council of Governments [SEMCOG], local governments, and the Friends of the Rouge, a citizens group, to help perfect a design and engineering plan to accomplish the objectives of this innovative demonstration project..

Throughout the continuous and lengthy process to obtain funding, my colleagues, Representatives WILLIAM D. FORD and BOB TRAXLER, and I, have worked closely with Mr. James E. Murray, director of the Wayne County DPW to develop this project. We believe that the resulting Rouge River demonstration project will assist communities throughout the Rouge River Basin in reducing point source discharges, combined sewer overflows, and stormwater runoffs. It will also serve as national model for wet weather discharge for urban communities throughout the country in meeting nationally imposed standards.

The comprehensive Rouge River demonstration project will directly and indirectly assist established and independent efforts which serve the goal of improving the environmental quality of the Rouge River. These funds are intended to be used expressly for the purpose outlined in the statutory language of the legislation, committee report 102–94, conference report 102–226, and amplified by the attached "Rouge River Basin Wide Water Quality Man-

agement Program: A National Demonstration Project" outline prepared by the Wayne County DPW.

By cleaning up one of the greatest single sources of pollution to the Great Lakes, this important demonstration project will restore the Rouge River as a cleaner and more valuable resource, protect the health of millions of residents living in its proximity, and improve the environmental quality of the Great Lakes.

As this critically important project gets underway, I want to salute all of the elected officials and dedicated community leaders and volunteers who have assisted in Rouge River cleanup efforts. I thank them for their past contributions, and look forward to working with them as we proceed to strengthen and preserve the environmental quality of the Rouge River.

I insert into the RECORD, for the edification of my colleagues, the excellent "Rouge River Basin Wide Water Quality Management Program: A National Demonstration Project" outline. the plan follows:

ROUGE RIVER BASIN WIDE WATER QUALITY MANAGEMENT PROGRAM: A NATIONAL DEMONSTRATION PROJECT

The Rouge River Basin contains a wide range of urban, suburban and rural areas. The river has become increasingly stressed by the pollutants introduced by the urbanization process. Discharges from industry, waste treatment facilities, combined sewer wet weather overflows, and urban stormwater runoff combine to produce river reaches that continually fail to meet minimum water quality standards.

Past and current efforts have focused on the control or elimination of continual discharges to the river by industry and government. Yet, water quality within the basin has not shown significant noticeable improvement. Water quality within the Rouge River and similar urban watersheds is adversely affected by intermittent discharges of pollutants during wet weather events.

Current federal and state regulatory programs have begun to address the wet weather pollution problem on two separate fronts.

The first is the required elimination or reduction of overflows from combined sewer systems. These sewage collection systems carry both sanitary sewage and stormwater runoff within the same network of pipes. During dry weather, all flows are transported to the wastewater treatment plant for treatment and discharge. In periods of rainfall, storm runoff is transported within portions of the same pipe network. Since wastewater conveyance and treatment facilities cannot be economically sized to transport or treat all storm flows, significant amounts of the combined flows overflow to the receiving waters. These flows contain pollutants associated with both domestic and industrial wastes as well as those from surface runoff.

The second program recently initiated by the US EPA deals with the reduction of pollutant loads from separate storm water collection systems within larger urban communities. It has been documented that significant quantities of pollutants are carried to rivers and streams by rainwater as it washes roadways, rooftops, parking lots, construction sites, and industrial facilities. Even after reduction of pollutant loads from point sources and CSOs large portions of the urban watershed will fail to meet water quality standards due to pollutant loads contained in stormwater runoff.

Within the Rouge River basin regulatory efforts are currently concentrating on the numerous CSO discharges which have been identified. Strict criteria for storage and treatment of all flows from these combined sewer overflows are being developed by the regulatory agencies. These standards are being incorporated into wastewater municipal permits issued by the Michigan Department of Natural Resources under delegation from the US EPA. These requirements have been developed apart from determination of cost effectiveness and without consideration of stormwater impacts on the receiving waters.

Reduction of pollutant loading to urban river systems which are of a scale large enough to impact water quality will be an exceptionally costly undertaking. Yet, thus far, no attempt has been made to assess the relative costs and benefits associated with various levels of CSO and Urban Non-Point control when they are applied to a common watershed. Current policies and regulations consider each of these components independently and do not recognize their common effects on urban water quality.

The Wayne County Department of Public Works has prepared a outline for a demonstration program which will use the Rouge River Basin to demonstrate the impacts of both CSO reduction technologies and urban non-point control strategies on receiving water quality. The program is intended to determine a method of selecting the most cost effective mix of controls while assuring maximum use of the resource.

The program is designed to provide the basis for final planning and implementation of remedial measures within the Rouge River Basin. Full scale construction of selected CSO retention basins as well as full implementation non-point strategies will take place as part of the program. Analysis and modeling of results obtained from these pilot studies will form the basis for development of a decision support system capable of assisting future planning efforts. Care will be taken in structuring the demonstration program and in developing the decision support system to assure transferability to other similar urban watersheds throughout the Great Lakes Region.

The Rouge River Basin Wide Water Quality Management Program will be composed of a number of closely interrelated components. These are outlined below.

1. Development of a basin wide Geographical Information System (GIS) which will become the basis for collecting, organizing, and analyzing data on Rouge River basin characteristics. The GIS will provide a link between historical watershed data, measured quality improvements at demonstration locations, and predictive modeling tools which can extend local resultant improvements to estimates of basin wide impact. Coupled with the data base will be a interactive decision support system designed to allow policy planners to readily ascertain the impacts of modifications to the overall basin management strategy.

2. Collection and verification of physical data on the drainage networks within the Rouge Basin. This information will be compiled for both the natural drainage courses making up tributary streams to the Rouge and the man-made modifications to the drainage network be they open drains or enclosed conduits.

3. Design and implementation of a comprehensive program of water quality sampling and analysis. This program will supplement previous efforts to quantify water quality problems within the Rouge. Permanent sampling stations will be located at key locations within the watershed where base line dry and wet weather samples can be taken. These stations will be located within the receiving waters both upstream and downstream of proposed improvement sites. This will allow site specific assessment of impacts achieved by the implementation of the control measures.

4. Development and implementation of predictive models of the watershed. Mathematical models of the watershed hydrology, the stream and drain network hydraulics, and the water quality impacts of planned improvements will be developed. Similar models dealing with the transport through the river network of polluted sediments will be developed. Finally, based on these modeling efforts, a risk assessment tool will be formulated which will be able to link these models of the physical system to the decision support tool provided above.

5. Establishment and Implementation of a series of Best Management Practices (BMPs) to reduce the effects of urban non-point pollution to the Rouge. These BMPs will be tested on three to six sub-watersheds within the Rouge Basin. They will consist of a mix of structural improvements such as end-of-pipe detention basins and nonstructural approaches such as street sweeping, catch basin cleaning, and land planning requirements. Water quality within receiving waters prior to and after implementation of the measures will be analyzed in order to quantify effects of the procedures.

6. Design and construction of CSO detention and treatment facilities. A major portion of the effort associated with this demonstration will be focused on the location, design and construction of CSO abatement facilities within the Rouge River Basin. A coordinated effort will be provided to assure that facilities which planned, designed and built by various operating agencies throughout the basin will cover a range of CSO remediation approaches. Designs will be varied between control structures to allow testing of different approaches. Standards will be put forth to provide for sufficient sampling and analysis of both influent and effluent water quality throughout the entire range of rainfall and runoff events.

7. Public information and Reporting. The program is intended to provide a sound basis for further remedial planning and implementation within the Rouge Basin. For this reason an intensive public information effort will be undertaken. Key findings and general information will be distributed to the local technical community for use in future planning and design. And the general public will be kept informed as to the progress being made toward improving the water quality within the Rouge River. Appropriate findings will be published for use by others dealing with similar urban wet weather pollution problems within the Great Lakes Area.

It is currently envisioned that the program will be funded by the US EPA with certain administrative oversite provided by the MDNR. Overall program execution proceed under the direction of the Wayne County Department of Public Works who will act as the Lead Agency in charge of all program activities.

Management support to the Lead Agency will be provided by a Program Management Team comprised of staff from the county and

consultants. The US EPA Large Lakes Laboratory will provide leadership and direction in the development of the GIS and the decision support system. They will also play a significant role in the selection and implementation of the mathematical models used for prediction of future conditions. SEMCOG will coordinate the activities of a group of technical advisory groups assembled to oversee the activities of key program teams.

The responsibility for the majority of data collection, facility design, construction and operation will remain with the local Operating Agencies which currently have responsibility for sanitary sewers, storm drainage facilities and combined sewers. The Program Management Team will provide standards to be incorporated within local facility design, but final design, construction and operation will remain with the local units of government.

RAIDS ON CALIFORNIA PUBLIC RETIREMENT PLANS MUST BE BLOCKED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. STARK] is recognized for 5 minutes.

Mr. STARK. Mr. Speaker, last week, my distinguished colleague, Mr. ROYBAL of California, chairman of the Select Committee on Aging, and I as chairman of the Joint Economic Subcommittee on Investment, Jobs and Prices, chaired a hearing into the use of public employee pensions to balance State and local budgets and its impact on public employees, retirees, and taxpayers.

In the hearing, we heard testimony from elected public officials from Illinois and Rhode Island; from executives of labor organizations; from a labor economist, and from a noted trust lawyer.

What we learned from this hearing was that raids on public pension plans are becoming commonplace. State and local politicians are diverting funds obligated to be deposited into these retirement savings trusts to offset the financial requirements of current government operations. By these actions, these State and local officials are guaranteeing massive new public debt in the future. One of the witnesses, Arnold M. Schneider, executive director of the American Association of Classified School Employees, told us that "we are witnessing the disintegration of retirement savings trust funds through diversion and expropriation. It is not the same as the savings and loan crisis—it is worse."

He explained that there is no Federal program to guarantee losses—no Pension Benefit Guaranty Corporation coverage for State and local public worker pension plans. There are not even any Federal laws protecting these trust funds, such as the Employee Retirement Income Security Act [ERISA], which applies only to the private sector workers.

While witnesses brought up raids in Illinois, Rhode Island, and Texas and raised concern with regard to underfunding and diversions of assets in West Virginia and Oklahoma, grave concern was expressed about actions in my State of California.

The California Public Employees' Retirement System [CalPERS], serves 700,000 active employees of the State, the State universities, and 2,300 local government entities such as school districts, as well as 250,000 retirees and survivors who receive an average pension benefit payment of less than $700 a month.

Notwithstanding the fact that the funds to administer CalPERS comes from its earnings and not from the taxpayers or the State general fund, the legislature and the Governor control its budget.

Through most of the 1980's, the workload of CalPERS increased, but the size of the staff has not expanded at a rate to meet the challenge. For example, in the 1986–87 fiscal year, 765 CalPERS employees provided services to less than 800,000 persons in the plan. By the last fiscal year, only 44 more employees had been added to provide services to 150,000 more persons.

As a result, people—particularly the disabled and senior citizens—pay the price in the form of cruel delays. Elderly and disabled persons, for example, sometimes are off the payroll for at least 6 months before they receive their first retirement checks.

The short staffing of CalPERS is also resulting in the plan being defrauded. Actual retirement benefits—the pensions—that retirees receive are based upon a formula that involves their pay and length of service.

It is rare, but from time to time, some public employers, particularly small ones, such as fire districts, will inflate their payroll records so that a favored retiring fire chief, for example, can get a bigger pension.

CalPERS tries to prevent this kind of abuse, but there are today only 8 payroll auditors charged with reviewing the payrolls of 2,300 employers of 750,000 persons. Although additional auditors had been requested there has been a 1½-year delay in filling these positions.

This severe control by the State is impairing the exercise by the board and its staff of their fiduciary duties to administer the plan for the exclusive benefit of active workers and retirees. CalPERS is doing the best it can, but it needs help.

Last summer, the Governor took steps to assert even greater control over CalPERS.

He sought without success to sack the current board of trustees and stack it with his own puppets. Currently, a 13-member board oversees the operations and investments of CalPERS. This board consists of six members elected by active and retired employee groups, four members appointed by the Governor, one chosen by the State legislature and, finally, the elected State treasurer and controller.

The Governor said that the board was not accountable to the taxpayers. Mr. Schneider said that the record provides evidence of a different story. In 1966, for each dollar of revenue paid into CalPERS: 34 cents came from employees; 39 cents from employers; and 27 cents from investment income. Today, for each dollar of revenue paid into the plan: 11 cents comes from employees; 18 cents comes from employers; and 71 cents comes from investment income.

Indeed, in the past 5 years, employer contributions have been reduced by $2.1 billion because of CalPERS investment performance. In the past 10 years, the State employer's rate has decreased 38.5 percent.

With the help of the legislature, the Governor last summer eliminated two supplemental accounts containing $1.9 billion. The earnings in these accounts had been used to restore the purchasing power of pensions paid to the oldest and poorest retirees. Wilson did not actually remove the money from the trust fund. As the State employer, he claimed these funds as credits against future employer payments into the plan.

In addition to several other complex changes made in benefit structure formulas, the Governor was also successful in stripping from the CalPERS board the authority to choose its own actuary, and set assumptions which insure plan stability. Instead, this responsibility has been placed in the office of the Governor.

A public plan's actuary makes the critically important assumptions regarding investment income and benefit costs to the trust fund. The annual contributions to the fund by State and other public employers are calculated on the basis of these assumptions. With the actuary under the control of the employer, there is accountability to the plan, board, or the beneficiaries.

Thus, the actuary is free to make politically motivated assumptions regarding plan earnings, and thereby, give credence to reduced contributions into the fund by the State and local public employers.

In summary, witnesses before the hearing told us:

First, the government of the State of California controls the CalPERS budget and this is indirectly causing cruel delays in elderly and disabled people obtaining payments to which they are entitled and even fraud against the plan.

Second, the Governor also took control of CalPERS' actuarial functions.

Third, finally, he has diverted 41.9 billion in funds.

For all practical purposes, the Governor of California will dominate CalPERS if he can take control of the investment decisions, which is a power currently vested in the board of administration.

During the course of our research that led up to the November 20, 1991 hearing, we obtained information that a sponsor is being sought for legislation to be introduced in the California Legislature next month that would remove control of investment decisions from the CalPERS board.

I am troubled by this possibility and I am very concerned that it could lead to an absence of effective checks and balances within the governing structure of the trust fund. In the past, in California and other States, this absence has led to behavior that ultimately was harmful to the plan beneficiaries.

Several years ago, the Federal Bureau of Investigation conducted an investigation of an

investment decision made by the California State Teachers' Retirement System. This California statewide retirement plan for teachers has a board that is essentially controlled by the Governor, in contrast to CalPERS which has 13 board members, only 4 of whom are appointed by the Governor and the majority of whom are either elected by beneficiary and employee groups or the public at large.

After evading investigators for 4 years, the former chairman of the State Teachers' Retirement System surrendered himself to Federal authorities and in September 1987 pled guilty to extortion, conspiracy, misuse of funds, and tax evasion in connection with a scheme involving the channeling of a loan of $50 million in teacher pension funds to a wildcat oil company owned by an ex-convict. A Federal grand jury had accused the former pension plan official of accepting a $1.5 million bribe in connection with the loan from which the ex-convict got $1.5 million of the retirement trust funds.

Elsewhere, Governors' appointees to public employee pension plans are running afoul of the law. On the day of our November 20, 1991, hearing, the press reported that former board members of the Kansas Public Employees Retirement System are the subject of an investigation by a special prosecutor appointed to handle potential criminal cases resulting from questionable investment decisions. The State securities commissioner filed felony fraud charges on November 18, 1991, against a former chairman on the board. All trustees of the Kansas plan are appointees of the Governor.

In another November 20, 1991, report, the Philadelphia Inquirer said that an internal investigation commissioned by the Pennsylvania Public School Employees Retirement System has developed allegations of kickbacks and other payments to a board member from investments consultants to the plan. Information, including reports of "the mailing of envelopes stuffed with cash," have been forwarded to law enforcement authorities.

In each of these instances of questionable conduct, the trust funds suffered losses of the workers' retirement savings.

CalPERS has never been the subject of even alleged improprieties in its 60-year history. It is the Nation's largest public employee trust fund containing $66 billion in retirement savings of almost 1 million working and retired public employees. Therefore, I hope that the Governor and legislature will not alter the effective, efficient, and accountable manner in which CalPERS is administered.

The witnesses before our November 20, 1991, hearing were nearly unanimous in their call for legislation. A few even called for new Federal criminal sanctions for trust fund tampering by elected officials.

The Select Committee on Aging and the Joint Economic Subcommittee Investment, Prices, and Jobs are going to continue congressional oversight of public employer conduct with regard to active and retired workers' retirement savings trust funds. Congressional staff will be continuing their inquiry through the upcoming recess and we will examine their findings early next year.

Mr. Speaker, to help further explain the importance of this issue and the abuses which are occurring in California, I would like to include in the RECORD at this point my opening statement at an August 19, 1991, hearing in California:

OPENING STATEMENT OF CONGRESSMAN PETE STARK

Last month, California's Governor took $1.6 billion from 900,000 active and retired members of the California Public Employees' Retirement System (CalPERS).

He took $1,800 from each police officer, fire fighter, school cafeteria worker and other public employees—and a quarter of million others who are retired.

But the Governor was unsuccessful in his effort to sack the CalPERS Board. He said the Board had to go because it was too responsive to employees, and not responsive enough to employers.

The State's Constitution and laws say that pension funds must be used solely for the benefit of active participants and retirees. This is known as the "exclusive benefit rule."

There's an exclusive benefit rule in the Federal Internal Revenue Code, too. The tax code says that pension plans administered for the exclusive benefit of workers and retirees may, as a result, enjoy exemption from Federal tax. That means employee contributions to such plans may be made with before-tax dollars.

The only Federal law protecting public employee pensions from being stolen by employers is in the Internal Revenue Code. The remedy for violation of this rule is loss of the tax exempt status of the plan.

Let's be clear. A public employer can steal money from a trust fund and the only Federal remedy would be take away the tax exempt status of the pension plan. Who pays? Not the thief. The workers would pay.

Contributions to their own retirement would then be made with after-tax dollars.

That is neither acceptable to me nor would it be acceptable to the members of the House of Representatives Ways and Means Committee or the majority of the House and Senate, for that matter.

The question is: Do public employees need Federal protection from expropriation and diversions of retirement savings by their employers?

The Chief Executive Officer of a corporation cannot rip off an employee pension fund. The CEO could go to jail. In the private sector, pensions are protected from employer thefts by the Employee Retirement Income Security Act (ERISA).

But no Federal crime was committed by the Chief Executive Officer of California when he expropriated the retirement savings of public employees.

Public employee pension funds are not covered by ERISA because the Congress was convinced that public officials—public employers—meet a higher standard of conduct than their private sector counterparts.

Not only are public employers accountable to taxpayers and the subject of press scrutiny, but also, it was argued, State laws would prohibit elected officials from engaging in the kind of conduct ERISA banned in the private sector.

I am not extolling the virtues of ERISA—especially its administrator. ERISA is administered by the Department of Labor. The Labor Department stood by and watched corporate crooks replace federally protected worker pensions with cheap annuities purchased from insurance companies that had to be taken over by regulators.

Beware of any proposal that would suggest that the Department of Labor will help working and retired people.

However, there is much in ERISA that is good:

ERISA contains a standard of conduct for fiduciaries. So does State law. But the Governor, who swore to uphold that law and others, broke it.

ERISA contains an exclusive benefit rule. The State law—even the constitution—does too. The Governor took an oath to uphold the law and constitution, but he has violated that oath.

The State courts will decide these issues.

Notwithstanding that decision, the Congress has an obligation to ask some questions:

Should public employees and their unions and associations have the right to go to Federal Court to protect their retirement savings?

Should government executives—from Governors to Mayors—be subject to ERISA-like civil and criminal penalties for stealing their employees' retirement money from trust funds?

Theft of trust funds—retirement savings—is a crime against senior citizens—a cruel and unusual one.

The purpose of this hearing today is to learn about the impact of Assembly Bill 702 on the retirement trust fund; the views of the people with regard to whether there should be a Federal role to protect those funds; and, if so, what that role should be.

SOCIAL SECURITY AMENDMENTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ROSTENKOWSKI] is recognized for 5 minutes.

Mr. ROSTENKOWSKI. Mr. Speaker, as the 102d Congress completes its business for 1991, I am deeply disappointed that it did not approve the package of Social Security amendments that the Committee on Ways and Means proposed adding to H.R. 2967, the Older Americans Act Amendments of 1991. These amendments would have made life a bit more comfortable for thousands of senior citizens who need our help. They would have improved Social Security benefits for elderly widows—those widows who are the poorest of the elderly; and they would have liberalized the Social Security retirement earnings test in a way that provides maximum assistance to middle-income working seniors.

I am particularly disappointed that the amendments were not approved because they enjoyed such strong support. Clearances were received from members of the Senate Finance Committee who said they would accept our package if the House sent it to them. Moreover, several key House Republicans indicated that they found the package acceptable. In short, we came very close to enacting needed Social Security improvements with broad appeal and broad support. It is unfortunate for Social Security beneficiaries across the country that the Congress could not reach consensus on going the last mile and enacting this important legislation.

LEGISLATION TO AUTHORIZE THE STATE OF NEW YORK TO IMPOSE PILOTAGE REQUIREMENTS FOR THE HUDSON RIVER MORE STRINGENT THAN FEDERAL LAW

The SPEAKER pro tempore. Under a previous order of the House, the gentle-

woman from New York [Mrs. LOWEY] is recognized for 5 minutes.

Mrs. LOWEY of New York. Mr. Speaker, today I rise to introduce legislation to empower the State of New York to enact pilotage requirements for the Hudson River that are more stringent than Federal law.

In March 1989, the most devastating oilspill in U.S. history taught Americans a cruel lesson: Pilotage is an issue of grave environmental significance. The captain of the *Exxon Valdez* left the bridge in the hands of an inexperienced mate, and a few mistakes later, millions of gallons of oil were gushing into Prince William Sound. In response, the Congress approved the historic Oil Pollution Act of 1990, a dramatic step forward in oilspill prevention and response.

Despite its broad scope, the OPA postponed needed action on one of the most important elements in accident prevention: Pilotage. The law calls for an examination of Federal pilotage standards as part of a comprehensive study of the causes of oilspills. But the Coast Guard says that up to 80 percent of all oilspills result from some kind of human error. The *Exxon Valdez* spill showed that having the wrong person at the wheel, even temporarily, can result in unprecedented environmental devastation.

Mr. Speaker, the Hudson River cannot afford to wait for another study.

In October of last year, the wrong person was at the helm of a tanker carrying 204,000 gallons of kerosene up the Hudson River. With virtually no experience on the river, the pilot grounded the vessel on Diamond Reef, one of the Hudson's most notorious hazards. Only luck prevented this spill, and over 60 like it on the Hudson since 1981, from being catastrophic.

The Hudson River is one of North America's most remarkable natural resources because of the breathtaking variety of activities it supports. It is home to perhaps our most important striped bass spawning area, contains thousands of acres of tidal wetlands, and provides drinking water to numerous communities including New York City. On top of all of that, it continues to support heavy commercial and recreational vessel traffic.

Yet, under current Federal law, a massive tank barge carrying thousands of gallons of oil on the Hudson River is not required to have a licensed pilot on board. In fact, in most cases, it is not subject to Federal pilotage requirements at all. The State of New York understands the value of this precious resource but is barred by Federal law from enacting more stringent pilotage requirements that would provide the Hudson with desperately needed protection.

It is time for the Congress to recognize that pilotage standards—first and foremost—are an environmental issue. While the need to preserve the ability of oil transport companies to operate profitably deserves careful consideration, the current system, locked in place by outdated Federal laws, virtually assures that mariners lacking adequate local knowledge will be at the helm of tank vessels brimming with oil. Resources like the Hudson River are too important to sacrifice to minimal Federal pilotage standards that often require no pilot at all.

Mr. Speaker, the existing pilotage statute turns environmental law on its head. The vast majority of environmental laws are drafted with the expectation that States will enact tougher standards to respond to local circumstances. The pilotage law makes that impossible. If the Clean Water Act were written like the pilotage statute, States would be barred from imposing water quality standards more stringent than Federal law in order to save endangered waterways and protect human health. That's absurd.

Federal pilotage laws are the product of a different era, before the American people fully realized that having the wrong person at the helm of a tank vessel can result in an environmental disaster. *Exxon Valdez* changed that forever. We should not wait for a *Valdez* on the Hudson to fix the pilotage statute.

The legislation I am introducing is a modest attempt to empower the State of New York, through which virtually all the Hudson River passes, to enact more stringent pilotage requirements within its borders. The State has the experience, the resources, and the commitment to work with the interests involved to craft additional pilotage requirements that will protect the river without impeding commerce.

New York, for example, is in the process of convening the first of a series of meetings with industry and environmentalists to examine pilotage in the New York area and to work on methods of raising the standard of practice on New York waterways. In addition, the Governor's Task Force on New York's coastal resources, on which I sit, today released its final report. It includes a recommendation that the State pursue efforts to strengthen pilotage requirements. Under existing Federal law, however, the State is hamstrung in attempting to implement this recommendation.

Mr. Speaker, a clear and present danger exists on the Hudson River and Federal law expressly prohibits the State of New York from responding. We must not wait for another disaster before we remove that barrier.

Mr. Speaker, I am including in the RECORD at this point the text of the bill I am introducing.

H.R.—

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8501 of title 46, United States Code, is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following new subsection:

"(e) Notwithstanding any other provision of law, the State of New York may establish any requirement applicable to the pilotage of vessels on the Hudson River upstream of 41©00'00" north latitude, that is more stringent than any requirements that apply to that pilotage under this title.".

CLOSE THE REVOLVING DOOR TO TOP TRADE OFFICIALS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas [Mr. GLICKMAN] is recognized for 5 minutes.

Mr. GLICKMAN. Mr. Speaker, McDonnell Douglas, one of the great pioneers of commercial aviation, last week announced it was selling a 40-percent stake in its commercial airliner business to Taiwan Aerospace Corp. This move should sound alarm bells in the White House and Capitol. What is wrong in this country when an industry giant like McDonnell Douglas is forced to go begging to the Far East for capital to stay in business?

It is no secret the Reagan and Bush administrations have failed to push for fair trade practices by our economic competitors. Diplomatic and strategic concerns related to the cold war always put the interests of American corporations on the back burner. Economic concerns have been considered by Presidents Reagan and Bush to be less important than maintaining friendly relations with a pro-western ally. Now, United States dependence on foreign capital to finance the deficit has withered any muscle we might use in trade negotiations with the Japanese. We need to change our approach to trade policy before we lose any more of our jobs and vital industries.

One symptom of our ailing trade policy is the revolving door which allows U.S. Government trade negotiators to represent the interest of U.S. corporations and industries, and then take the experience, knowledge and contracts they have developed and sell them to the highest bidder. All too often, U.S. corporate heads find the Commerce or USTR official, in whom they confided and trusted, sitting opposite them at the negotiating table or representing their opponents in an antidumping proceeding. This is wrong and should not be encouraged by U.S. policy.

The revolving door hurts our trade position in myriad ways. It results in constant turnover in personnel and loss of seasoned negotiators. it casts doubts on the notion that our Government zealously represents American interests in trade negotiations. It may also damage or inhibit the performance of a U.S. negotiator if he or she has in mind a job working for one of the foreign corporations or governments involved in the negotiations. Finally, the personal relationships between current U.S. Government employees and former employees working for foreign interests may taint the conduct of proceedings seeking an objective evaluation of a trade compliant.

The PBS show "Frontline" recently reported on an antidumping proceeding brought against Japanese producers of flat computer screens before the International Trade Commission. Representing a Japanese company accused of dumping was a former Chairman of the ITC. The economic analysis bolstering the defense of the dumping claim was prepared by another former Chair of the ITC. As much as I would like to believe their participation would have no influence on the proceeding, some people, including the former Chairmen, believe their services are more valuable than some other expert in trade law. There is a quality beyond expertise that makes a former Chairman of the ITC a very valuable advocate.

The same can be said of other former top U.S. officials, like agency heads and undersecretaries, who go to work for foreign interests after leaving Government service. One of the top executives of Airbus Industries, a French Government-subsidized airplane manufacturer that pushed McDonnell Douglas from the No. 2 position in the industry, is a

former Secretary of Transportation. I cannot prove a link between the former Secretary's position and the U.S. Government's failure to attack the subsidies to Airbus which gave it an unfair advantage in the global aircraft market, but there could be one. Why did the administration allow unfair competition to so weaken McDonnell Douglas that it had to look for new capital from Taiwan?

The cold war is behind us, and we must use this opportunity to begin to exercise some economic nationalism on the trade front. My colleague, Representative ROD CHANDLER of Washington, and I are introducing legislation that would create a lifetime ban on working for a foreign government or foreign controlled corporation for level 1 and 2 appointees of the executive branch and officials involved in trade negotiations, which would involve people at USTR, ITC, Commerce Department, and Defense Department.

The purpose is manifold: To stop opportunists who use political influence to get trade jobs in the Government, blocking out people who would choose public service as a career rather than a pitstop; to remove the financial incentives for experienced trade negotiators to leave public service; to stop the flow of insider information about trade negotiations and individual corporations to foreign interests; and to remove the unfair advantage foreign competitors gain by having a former high-level U.S. official represent them before a Federal agency, tribunal, Congress, or the White house.

The message of this bill is clear; government service is public service, not a training program for financial self-enrichment. If that is not your interest, do not seek an appointment in the next administration or a job negotiating the most sensitive issues of U.S. economic survival. Someone must begin to realize the United States is being taken to the cleaners by the Japanese and other trading partners. We need to begin to fight for our own, to keep U.S. corporations strong, and to preserve American jobs.

RESOLUTION FOR ACTION ON YUGOSLAVIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. PANETTA] is recognized for 5 minutes.

Mr. PANETTA. Mr. Speaker, today I am introducing legislation to urge the President to bring to bear the full force of the United States immediately to work toward a permanent peace in Yugoslavia and a negotiated settlement of the interethnic conflict in that fractured collection of republics. The resolution calls on the President to press the U.N. Security Council urgently to impose worldwide economic sanctions, including a halt in the shipment of oil, against Serbia and to work closely with the former Soviet Union to encourage that nation's critical participation in the effort to force the Yugoslav Federal Army to abandon its violent war on Croatia and to allow peaceful negotiations to resolve the conflict.

Additionally, the resolution implores the President to support the stationing of U.N. peacekeeping troops between Serbian and Croatian personnel, to withhold recognition of border changes achieved through violence, to extend humanitarian aid immediately to besieged civilians in Croatia and to refugees of the war, and to call for protection for minority enclaves within Croatia and Serbia.

Mr. Speaker, I have submitted statements on this crisis to the House of Representatives twice in the last month. Each time I have voiced my strongest concern that the President and the administration are simply not doing enough to resolve the Serbo-Croatian war. In fact, they have done very little. The President has not responded to the plethora of calls from the Congress and from around the Nation for his leadership and the resources and expertise of the State Department.

Over 7,000 people have died since the start of the war last spring. Serbia now occupies 40 percent of Croatia, and the Yugoslav Federal Army continues to attack other border cities, holding entire populations hostage in brutal sieges and fanning the flames of historic interethnic hatred and violence. The people of Yugoslavia are engulfed in the competing drives for power by Serbia's nationalist autocratic leadership and the Yugoslav Federal Army, beholden to no one and bound to retain if not expand its power.

How much more suffering and how many deaths must Yugoslavia endure before the United States Government becomes seriously involved in the effort to resolve the crisis? This war is the bellwether of future potential interethnic conflicts in Eastern Europe and the former Soviet Union. As Yugoslavia goes, so will go Nagorno-Karabakh. If the President truly intended to contribute to a new world order, he would seize this opportunity to prevent Yugoslavia's descent into disorder.

The United Nations and the U.N. Security Council have demonstrated their enormous new prestige and sway in international conflicts in the past several years, from El Salvador to the Middle East to Cambodia to Namibia. I know that many of my colleagues share my view that the President and Secretary of State ought to work closely with the U.N. Security Council, the European Community, and newly reappointed Soviet Foreign Minister Shevardnadze to arrange a comprehensive package of worldwide economic sanctions against Serbia and a framework for negotiations leading to a permanent cease-fire and a national settlement.

This resolution expresses the sense of Congress that the President should take these critical steps now. I would hope that the introduction of the resolution would spark the administration to action, and I invite my colleagues to join me in entreating the President to act now.

H. CON. RES.—

Whereas the American people share a strong desire for a permanent peace in Yugoslavia;

Whereas an expeditious resolution of the Serbo-Croatian conflict is in the national interest of the United States;

Whereas Serbo-Croatian violence has claimed the lives of over 7,000 people, most of whom were innocent civilians;

Whereas both Serbian and Croatian forces have broken 13 cease-fires arranged by the European Community within hours of their implementation;

Whereas the Yugoslav Federal Army has clearly joined forces with Serbian forces, violating its constitutional mandate to remain nonpartisan and to guarantee the peace;

Whereas nationalist leaders in Serbia and Croatia have greatly exacerbated the conflict through ad hominem appeals to historic ethnic tensions and incited the escalation of the conflict toward civil war;

Whereas Serbian forces have devastated and occupied the Croatian city of Vukovar, taken control of 40 percent of Croatia, and laid siege to the city of Dubrovnik;

Whereas the Helsinki Final Act, the Paris Charter, and other Conference on Security and Cooperation in Europe documents by which Yugoslavia is bound contain principles on human rights and fundamental freedoms, the equal rights and self-determination of peoples, and guidelines concerning the peaceful resolution of disputes;

Whereas the European Community has been unable to resolve the conflict;

Whereas the European Community and the United States have imposed economic sanctions on Yugoslavia;

Whereas the world community's response to the Serbo-Croatian conflict will be a bellwether of the outcomes of other potential inter-ethnic conflicts in Eastern Europe and Central Asia; and

Whereas the Yugoslav Federal Army continues to threaten to expand and escalate the conflict and a fresh approach to the conflict is required: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the President should—

(1) condemn the ongoing violence, the cycle of atrocities and retributions in Yugoslavia, in lieu of political negotiations;

(2) immediately bring to bear the full diplomatic force of the United States to work toward a permanent cessation of hostilities leading to a negotiated settlement and peace in Yugoslavia;

(3) urge the United Nations Security Council to impose worldwide economic sanctions (including petroleum shipments) against Serbia pending a permanent resolution of the conflict;

(4) work closely with the former Soviet Union to encourage its critical participation in efforts to impose sanctions against Serbia and to resolve the conflict;

(5) support the stationing of a United Nations peacekeeping force between Serbian and Croatian forces once a permanent cease-fire takes effect;

(6) withhold recognition of border changes in the region brought about by force;

(7) immediately extend humanitarian assistance to besieged civilians in Croatia and to refugees of the conflict; and

(8) call for protection for minority enclaves within Croatia and Serbia.

HONORING THE PRINCE GEORGES COUNTY PARKS AND RECREATION FOUNDATION, INC.

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, I rise today to pay tribute to the community service of Lucille C. Brogden, president of the Prince Georges County Parks and Recreation Foundation. This year represents the last year in her role as president of the foundation where she has been volunteering her invaluable services since 1987. In her role as president, Lucille Brogden has worked hard to raise funds to support parks and recreation, conservation, education and cultural activities within Prince

Georges County in an effort to enhance the quality of life for all citizens of the county.

Whether by telephone or in person, every day Lucille worked to improve the operation of the foundation. In her role with the board of the foundation, she was instrumental in raising the funds necessary to restore the historic Riverdale Mansion. Lucille Brogden has also taken the two annual fundraising activities and make them the most successful ever, allowing the foundation to issue more grants to help meet the crucial needs of the different communities within the county.

Additionally, Ms. Brogden has played an instrumental role in the creation of the National Fund for the Patuxent Wildlife Research Center, which is a special foundation created to assist in the funding of the operation of a national visitors center that will be build at the Patuxent Wildlife Research Center. As my colleagues know, this Congress has provided $15 million for the construction of this visitors center which will be a premier educational wildlife center for visitors to our Nation's capital. Ms. Brogden was instrumental in helping build the community consensus that led to the creation of this visitors center and which will be critical in sustaining the center.

Mr. Speaker, leadership is about stepping up to bat when you see a need. Lucille Brogden is a leader—and she has stepped up to bat time and time again and has hit more than a few home-runs. I congratulate her upon her service as president and commend her impressive record of community service and wish her every success in the future.

HOPES FOR PEACE IN YUGOSLAVIA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

Mrs. BENTLEY. Mr. Speaker, over last weekend, Cyrus Vance and Lord Carrington called Franjo Tudjman and Slobodan Milosevic to peace talks in Geneva which resulted in the 14th cease-fire in the current crisis.

The efforts of these two mediators have been herculean, and I believe that there is finally a light at the end of the tunnel, and none too soon.

All inhabitants of Yugoslavia long have tired of this senseless civil war that is tearing their country apart. The chance for a peaceful settlement is now, as a number of situations currently are looming that threaten even this chance for peace.

According to an article entitled "Yugoslav Army, Hailing Vukovar, Calls Its Own Tune", by correspondent Blaine Harden in Saturday's Washington Post, the Yugoslav National Army is out of control and fighting for its own gains, instead of acting in its capacity as a guarantor of the human rights of the Serbian minority in Croatia.

In addition, Franjo Tudjman, President of Croatia, has arrested Dobroslav Paraga, leader of the Croatian Party of the Pure Right, an opposition group in Croatia that is very vocal in its criticism of the Tudjman's regime, and advocates a greater Croatia encompassing parts of Serbia and Bosnia-Herzegovina, for planning an armed coup against his Government. Paraga slights Tudjman for even considering a settlement in the current crisis, believing instead that the war should be expanded.

On October 16, I spoke on the floor about Mr. Paraga, whose party appears to be thriving in Croatia, and who represents a very real threat to President Tudjman. While it is acknowledged that Tudjman is an unabashed nationalist, whose policies have aggravated the current crisis in Yugoslavia, these policies pale in comparison to those of the Croatian Party of the Pure Right, who openly base themselves on the Second World War Ustashe movement. If Mr. Paraga were to gain power, I shudder to think of the carnage that might take place at his hands.

These additions to the already complex situation in Yugoslavia could spell the end to any hope for an early peace.

A number of very good media analyses regarding the various players in Yugoslavia have come out over the last week in addition to Mr. Harden's article on the military. I would like to list some of these articles at the onset, and recommend them to anyone wishing to expand their understanding of the Yugoslav conflict. I will be quoting from them extensively, I also ask that they be included in the RECORD at the end of my text.

These articles are: "Why the 'Abominable Serbs' Do Have a Case," Nora Beloff, the European, November 21–28, 1991; "Croatia's Borders: Over the Edge," David Martin, the New York Times, November 22, 1991; "The Last Best Hope For Yugoslavia," Stephen S. Rosenfeld, the Washington Post, November 22, 1991; "Hope and History in Yugoslavia," Nora Beloff, the Washington Post, November 19, 1991; and "Yugoslavia Teeters on Brink of Cataclysm," Alan Ferguson, the Toronto Star, November 17, 1991.

The carnage in Yugoslavia must stop, Mr. Speaker. Unofficial estimates of the amount of casualties that I have received in my office are more than 20,000 since the outbreak of hostilities. The damage to the infrastructure of the disputed areas in Croatia, and cultural monuments, both Serbian and Croatian, is phenomenal. The economic damage to both the Republics is just as great, and long difficult winter lies ahead.

It is important to understand the concerns of the various players involved in the current conflict to understand how to resolve it. I would like to start with the Federal Army.

I quote from Mr. Harden's article:

The federal army, with at least 100,000 men in arms and a well paid officers' corps, consumes more that half the federal budget. This year's disintegration of Yugoslavia, particularly the secession last summer of the republics of Croatia and Slovenia, is having a devastating economic effect on the military.

Taxes from the two breakaway republics, by far the richest in the Yugoslav federation, were instrumental in allowing the army to provide its primarily Serbian officers with a privileged life of free housing, vacation villas and big pensions.

As the army gears up for more territorial conquest in Croatia, questions are being raised, even among nationalist Serbian politicians, about what the generals are fighting for and who controls them. Is the army protecting the ethnic Serb minority in Croatia or its own privileges?

What is not in question is that the army, in the name of saving Serbs from Croatian "genocide," is beginning to move against Croatian cities where there are very few ethnic Serbs to save.

Mr. Harden continues later in the article:

While the army steps up its offensive, there are signs that Serbia's leadership may want to wind down a civil conflict that is ruining the republic's economy and turning Serbia into an international pariah.

Serbia and the army have been criticized by the EC and the U.S. government as aggressors in the war. The EC singled out Serbia when it imposed economic sanctions on Yugoslavia this month, and it has called for the United Nations to impose an oil embargo that would cripple the federal army.

Serbian President Slobodan Milosevic, a hard-line nationalist who is widely blamed in the west as the principal provocateur behind the Yugoslav civil war, now appears to be seeking a way to consolidate Serbian gains in Croatia and, at the same time, stop the fighting.

This week he has showered support on a plan to bring U.N. peace-keeping forces into the Croatian war zone. Milosevic is scheduled to meet here on Saturday with U.N. envoy Cyrus Vance and EC peace mediator Lord Carrington for further discussions on how the peace-keepers would be deployed. It will be Milosevic's third meeting this week on the plan.

Local Serb politicians inside Croatia have also met with Vance this week and reportedly have welcomed the U.N. plan as a way to stop the fighting. The plan would put the United Nations in charge of security inside a Croatian zone where neither Croatian nor Serbian armed units could operate.

The army has been less than enthusiastic about the plan. General Marko Negovanovic, a deputy defense minister, has said the army would not pull out of Croatia to leave the protection of Serbs to foreigners.

The war began here in June after Croatia declared its independence. The declaration frightened the 600,000 ethnic Serbs who live in that republic, and many of them participated in an insurrection backed by Serbia and the army. Serbian forces have since managed to seize control of one-third of Croatia's territory.

As the war has continued, however, some Serbian politicians in Croatia have complained that the conflict is being directed by the army without regard to what local Serbs want.

"At this moment, we do not want Osijek because ethnically it is a Croatian town," said Caslaz Ocic, who is the foreign minister of what is being called a Serbian autonomous zone that has been carved by fighting out of eastern Croatia. Ocic said there is little communication between politicians and the army, and that the military is trying to impose a simple armed solution on a complex political problem.

Military analyst Milos Vasic, who writes for the liberal Belgrade magazine Vreme, said this week that the army is fighting a war for its own survival. "The army doesn't want to be commanded by anyone," Vasic said.

He argued that an end to the civil war would force the army to withdraw into Serbia, whose collapsed economy cannot afford to pay the generals' bills."

Alan Ferguson also comments on the role of the Federal military in the current crisis. I quote from his article:

But the assault on the ancient coastal city of Dubrovnik stripped away what little

credibility the army retained. Even Serb journalists laughed out loud over an army communique which said it had entered a village near the city, "at the urging of citizens" who "came out into the streets and welcomed our soldiers heartily" and had "wondered why the army had not arrived even earlier to liberate them."

Milosevic, whose interests have mostly coincided with those of the army, is now believed to be trying to distance himself from the Dubrovnik debacle. The battered port city does not figure in his plans to win autonomy for the swathes of Croatian territory already under Serbian control.

The crafty ex-banker, who once said that foreign troops would never be welcome on Yugoslav soil, is now putting his money on a United Nations peacekeeping force to seal the gains in the Krajina. For the first time since the conflict began, Milosevic, Tudjman, and the army are all agreed: a peacekeeping force is necessary, though all have their different reasons.

The negotiations led by Britain's Lord Carrington, chairman of the European community's Yugoslav peace conference, are taking place amid a number of significant developments.

Support for the war in Belgrade, never strong, is fast ebbing away. Thousands of young Serbs have fled to avoid the draft and peace groups, muzzled by the official media, are at last making their voice heard.

Economic activity has ground almost to a halt, particularly in Croatia where up to one-third of the republics's industrial infrastructure has been destroyed.

Federal institutions are in limbo—the federal presidency, supposedly the commander-in-chief of the army, has virtually ceased to exist, leaving the army to operate outside of any political control.

Cries for even more blood can still be heard from extremist groups in both Croatia and Serbia. But the brutalizing effect of the war has already exacted a heavy price—child psychologists find students writing essays beginning: "The war will only end when we kill all the Croats or they kill all of us."

And most ordinary people, by far the majority, want peace.

The most likely solution, the one now being worked on, would allow Croatia to secede, but with its Serb-dominated territories given autonomy under the protection of a U.N. peace-keeping force and allowed eventually to vote on their future allegiance.

The alternative, if this peace effort fails, is a likely extension of the war into Yugoslavia's other republics with the potential of setting the whole Balkan peninsula alight. One senior Yugoslav diplomat in Belgrade said that if peace is achieved, "everything will change—Milosevic and Trudjman will be swept aside and the army in its present form will disappear."

Others are less sure that the army, still a powerful political force, will surrender its authority so easily. Some predict a post-war struggle for power in Serbia in which the army launches a last-ditch bid for survival by crushing the emerging democracy in the republic.

"I predict they'll be bombing Belgrade by January," said a prominent peace activist this week. She wasn't joking.

As you can see, Mr. Speaker, the Federal army's agenda is much different than that of Mr. Milosevic's wish to guarantee the human rights of the Serbian minority in Croatia. The lumping of the two together as seen in much of the press has done much to discredit the concerns of the Serbian minority in Croatia to live without being persecuted.

And Croatian President Franjo Tudjman did not do much to allay the feats of a repeated genocide against this much maligned minority. Tudjman is both openly anti-Semitic and a holocaust revisionist. In fact, a November 25 New Republic article by Robert D. Kaplan reviews one of his recent publications, "Wastelands—Historical Truth."

I quote from this article.

Tudjman's primary concern is not the fate of the Jews, but the role of the Croats in the mass murder of Serbs. Yet the route his mind travels on the way to his destination is telling: "The estimated loss of up to 6 million dead is founded too much on both emotional, biased testimonies and on exaggerated data in the postwar reckoning of war crimes and squaring of accounts with the defeated . . . in the mid-'80s, world Jewry still has the need to recall its "holocaust" by trying to prevent the election of the former U.N. Secretary General Kurt Waldheim as President of Austria!"

Mr. Kaplan continues later in the article regarding the Jasenovac concentration camp:

Jasenovac was a World War II concentration camp manned by the Croatian Ustashe in which Jews, Gypsies, and, more significantly, Serbs were murdered. For decades Serbs have maintained that "at least 700,000" people were killed at Jasenovac. Croats have long said that the number was more like 60,000. The discrepancy between these two sums is as good litmus test as any for the vastness of the psychological gulf separating Serbs from Croats * * *

But for Tudjman, the figure of 60,000 given by Croat nationalists is still too high: he reckons no more than 40,000 inmates perished * * *

As he explains it, even the figure of 40,000 overstates Ustashe crimes, since the liquidation apparatus was largely controlled by Jews * * *

Therefore, according to Tudjman, the mass murder of Serbs by Croats during World War II is not an issue, since not all that many Serbs were killed in the first place, and those who were slaughtered were mainly done in by the Jews. Case closed.

Mr. Speaker, shades of David Duke.

President Tudjman also invited the return to Croatia of the Croatian Party of the Pure Right, by which he currently is being threatened, previously banned from Yugoslavia under communism.

Many of the Ustashe movement's principals escaped Europe and Nuremberg war crime trials after the war, and some members of the Croatian emigree community have openly sympathized with the movement, returning to join Dobroslav Paraga's reincarnated Party of the Pure Right, of which I spoke on October 16 of this year.

Tudjman, upon election, enacted a series of laws redesignating the Serbian minority in Croatia, which it previously had considered an equal, as a national minority. He denied their rights to the use of the Cyrillic alphabet, and while officially denied as Government policy, also forced ethnic Serbs living in Croatia to sign loyalty oaths to the Republic of Croatia under threat of termination of employment.

Serbs in Croatia were fired en masse from Government controlled jobs, and local political officials went to pains to mark Serbian homes with crosses, reminiscent of similar actions during the Second World War.

Even today, Serbs living in the metropolitan centers in Croatia still are forced to sign loyalty oaths, and frequently are harassed and discriminated against, their houses and churches subject to vandalism, themselves subject to threats of bodily harm and death. This has resulted in thousands of Serbs leaving Zagreb, which had a population of around 100,000 before the outbreak of hostilities.

Compare this to the approximately 100,000 Croats currently residing in Belgrade, who report very few, if any instances of this type focused toward them as Croats living in Serbia.

I quote Dr. John Lampe, specialist on Balkan affairs at the Woodrow Wilson Center, who was also a witness for a Helsinki Commission hearing on human rights here in Washington a few weeks ago, from his November 1991, report, "Yugoslavia from Crisis to Tragedy":

[Western Journalists] have generally proved less sensitive to the failure of Croatia's democratically elected government to live up to the promises of free press, free markets, and the protection of minority rights that would have reassured its 600,000 Serbs and challenged the Serbian public to demand that their government follow the Croatian model. Instead we have seen less privatization in Zagreb than in Belgrade and the trumpeting of constitutional provisions and national symbols that make the Croats the only "nationality" (others are "pucanstva," or populations without recognized ethnic identity, or at best, "minority groups"). While the new government did not order the loyalty oaths to Croatia and the firing of Serbs at enterprise that has widely occurred, neither has it intervened to prevent such abuses.

I also quote David Martin, who I might add is an authority on Yugoslavia, having served there with the British Secret Service in the Second World War, and since having written many books on that area of the world, including "Web of Disinformation: Churchill's Yugoslav Blunder," a critical expose on the complicity of Kim Philby and his circle of Communists in allowing Tito to assume control of Yugoslavia.

Franjo Tudjman, Croatia's President and former Tito general, has done little to alleviate Serbian's fear of an independent Croatia. He said last year that the Ustashe regime, which ruled occupied Croatia from 1941 to 1945, "reflected the centuries old aspirations of the Croat people." A recent article in The Guardian of London quoted Mr. Tudjman as saying he was thankful that his own wife did not have any Jewish or Serbian blood, and that for the Jews, "genocidal violence is a natural phenomenon, in keeping with the human-social and mythological-divine nature. It is not only allowed, but even recommended."

Mr. Tudjman's treatment of the Serbs has gone beyond this unfortunate rhetoric. Since Croatia declared independence in June, the Serbs in Croatia have been the victims of a campaign of harassment. Serbs working for the Croatian government were dismissed. Serbian schools were banned. The Victims of Fascism Square in Zagreb was renamed the Square of the Sovereigns of Croatia. Mr. Tudjman's decision to adopt a flag modeled on the Ustashe flag has only made matters worse.

I also quote Mr. Ferguson again:

Tudjman, a stiff and autocratic leader not prone to advice, gave Milosevic the ammuni-

tion he needed. His "mupes"—interior ministry police—went barging into communities dominated by ethnic Serbs to raise the Croatian flag—an emblem closely identified by the Serbs with the hated insignia of the wartime Ustashe fascists.

Ms. Beloff says in the Washington Post:

In Croatia and Slovenia, as in Serbia, the post-communist movements have been national rather than liberal, even though all three now brandish democratic and free enterprise slogans. In Croatia the ex-Partisan general Franjo Tudjman was elected president. He had fallen out with Tito and served two prison sentences on charges of nationalism. By the time I first met him in 1980, he was already pathologically anti-Serb. He has allowed himself to be surrounded by Ustasha sympathizers, many of them returning from Canada and Australia.

Tudjman armed his followers, and though they were unable to break into the all-Serb regions, which were ferociously defended, in areas of Croat majority they made life for the Serbs impossible. With jobs denied and homes burnt down, tens of thousands fled long before the federal army and the international community intervened. On a smaller scale, the Serbs retaliated.

In Dubrovnik, one year ago, a young Croat girl running her own travel agency described the ravages of the Tudjman regime. To her horror, this little Venice was being transformed into a nationalist stronghold, and she found herself ostracized by her fellow-citizens for rejecting ethnic hatreds which she felt were running the country

And in the European:

When Tudjman came to power he misguidedly dispatched his armed followers to try to take over official buildings and police stations from Serb areas, where the right to autonomy had existed since the 17th century. The Hapsburgs had given land and home rule to Serb refugees from the Ottoman empire, in return for helping in defending them against the Turks.

Armed Serb groups fighting in Croatia are motivated by memories of the wartime genocide and are as fanatically self-righteous as the Croats, now fighting to the death in Vukovar. These refuse to admit—and in the case of the younger generation, probably do not even know—the Ustashi holocaust * * *

The monstrous behavior of the federal army of the Milosevic government and some Serb irregulars does not justify attributing all the violence to the 'abominable Serbs'. Since Tudjman became president, Serbs in mixed regions have been harassed, deprived of jobs, had their homes burnt down and more than 100,000 have been forced to flee.

In addition, Mr. Speaker, Mr. Tudjman has maintained a hard line stance on the Croatian border question that has been based on borders drawn under Tito's Communist regime. I regard these as illegal, as all actions under a totalitarian regime should be considered. If the border question must be addressed, let it be based on a Yugoslavia that was not gerrymandered under Nazi and Communist rule, using, as I have advocated, the borders that existed previous to 1941, or even 1936.

Ms. Beloff comments on the border question:

The internal borders, which we treat as permanent features of Yugoslavia, were in reality drawn up secretly by Tito's men in 1943 and were designed as administrative boundaries, within a centrally planned Stalinist state. Tito himself was, of course, aware of the vitality of ethnic feeling, and after physically liquidating his enemies and potential enemies, he suspended terror and ruled primarily by playing off the communities against each other.

Mr. Martin does also:

However well intentioned, the community and the U.S. are misguided in their approach. Yugoslavia's internal borders are recent inventions of a communist dictator and have no historical validity * * *

The Serbs cannot be blamed for fearing the rebirth of an extremist Croatia. But one must ask the community and the U.S. why frontiers established by a communist dictator, no matter how much they may violate the more compelling concept of ethnic frontiers, must be considered legally valid for all time.

Politically stability cannot be achieved by giving Mr. Milosevic ultimatums. Surely there is a more moral, humane and politically acceptable way of delineating frontiers. For example, shouldn't some provision be made for the use of a plebiscite or for arbitration procedures? Even now, it may not be too late for the community to shift its position in a manner that allows for frontier changes in both directions.

There is much evidence that the Serbian public would favor a compromise settlement. Among other things, there has been little persecution of Croats in Serbia.

Mr. Speaker, I have said before, and I will say again, that Serbians—myself included—do not stand in the way for independence for Croatia. However, many questions must be addressed before recognition is taken. At the top of my list is the fact that Tudjman's government is considered "democratic." "Democratic" is a very unfortunate misnomer when applied to the current regime in Croatia.

Franjo Tudjman, President of Croatia, like Milosevic, was elected on a nationalist platform, which I may add, was virulently anti-Serb. Upon gaining power, he placed former Communists in the majority of his administration posts, and in fact, has replicated the institutional structure of the former Communist government down to the township level. Croatia is a one-party state, with any opposition openly suppressed by the current regime.

Despite having been elected in April 1990, he has enacted very little, if any democratic reform in the Republic of Croatia; no privatization of business, no viable opposition parties, no independent press.

And now we read in the news, of the arrest of Paraga and other officials within his party for "planning an armed rebellion." This has led to demonstrations for his release in Zagreb. According to AP wire reporter Richard Meares:

The HSP has been winning support among despairing Croats, largely through the reputation for bravery and toughness which its paramilitary wing HOS has gained in war zones of the breakaway Yugoslav republic.

Dressed in black and clutching machine guns, HOS fighters—who act as an army within the Croatian national guard—led small demonstrations in the rain on Zagreb's main square demanding Paraga's release.

"If he is not freed, then Tudjman and the others have signed their own death certificates," one speaker told the 200-strong crowd on Sunday.

Paraja says the HOS has 10,000 men who volunteered because they felt Tudjman was incapable of protecting Croatia, which has lost a third of its land to the Serb-led army in fighting which erupted after Croatia declared independence from Yugoslavia in June.

The fall of Vukovar at the end of a three-month siege by Yugoslav forces last week has intensified public disillusionment with Tudjman * * *.

Mr. Speaker, questions must be asked such as, on one hand, the assassination of Ante Paradzik, second in command of the Croatian Party of Rights, said to have been shot to death by Croatian soldiers at a road block earlier this fall, or the arrest of Paraga, as is happening now.

On the other hand questions about such a ultra-nationalist leader, Paraga, who advocates all-out war against Serbia, and bases his movement on the World War II Ustashe, responsible for the murder of more than a half a million Serbs, Jews, and Gypsies.

But Tudjman's actions extend beyond these immediate instances. According to a November 15 UPI report by correspondent Nesho Djuric:

The Croatian government arrested the party's chief of security two weeks ago after a gun battle in downtown Zagreb which left one Croatian national guardsman dead and one seriously wounded. The Croatian Party of Rights rejected government claims that its forces initiated the attack.

And, according to a Washington Post article Tuesday by correspondent Blaine Harden.

In another development, a reliable source reported that six people were killed in three gunfights between police and other uniformed men in Zagreb.

There was no official confirmation but police were presumably hunting members of the nationalist Party of Rights, whose leader, Dobrostav Paraga was arrested Friday on allegations of planning an armed rebellion. The party opposes any truce while the army occupies any of Croatia.

Not that a similar situation does not exist in Serbia as well, Mr. Speaker, I quote Blaine Harden in today's Washington Post.

The nationalist bullies of Serbia are young, clean shaven and neatly dressed. They carry clubs and smash typewriters.

Their targets are fellow Serbs who doubt the wisdom of an ethnic war.

As Serbia's conflict with the breakaway republic of Croatia intensified this month, the kids with clubs have been busy harassing Serbian antiwar activists and busting up their office furniture.

Since Serbia is an authoritarian state, anti-war activists say the bullies could not freely operate without the tacit approval of the government and the Serb-dominated federal army. These institutions, as the war has intensified, have manifested a ruling style that marries old-fashioned communist thuggery with latter day nationalist zeal.

Groups like these are responsible for the ransacking of the Yutel offices in Belgrade, which they considered too liberal, and for an active campaign of harassment against any-

body who is not a fervent nationalist. Yutel is an independent television network.

The complicity of the Belgrade government in such actions ranks on that of Tudjman's involvement with Paraga's party. Neither is commendable, and both indicate the need for true democracy throughout Yugoslavia.

Mr. Speaker, as the war progresses, the actions of the main players are getting more and more outrageous. With a lack of total press freedom in both republics, the true voice of the people is not being heard. Instead the populus is being blasted with propaganda from their respective governments, widening the schism between two groups which lived in harmony for many years.

Atrocity reports abound on both sides of this unfortunate situation, and I do not doubt that they exist, fueled by the martial attitudes touted by their respective leaders.

In fact, Amnesty International has just published a report on these claims, and I would like to quote from a press statement on the report:

AMNESTY ACCUSES YUGOSLAVIA COMBATANTS OF TORTURE, MURDER

LONDON, Nov. 25—Amnesty International said on Monday that all sides in the fighting in Yugoslavia had tortured prisoners and deliberately killed non-combatants.

The London-based human rights group said: "Reports from the war zones of Yugoslavia over the past four months show that all sides in the conflict have blatantly flouted international human rights and humanitarian standards that explicitly forbid the murder and torture of captured combatants and civilians not actively involved in the fighting."

Amnesty called on all parties to stop deliberate attacks on unarmed civilians taking no part in the fighting and to spare the lives of combatants who surrendered.

Its statement said the many thousands killed in the fighting included unarmed civilians who were victims of summary executions and other deliberate and arbitrary killings and combatants captured by police, military and paramilitary forces.

"Information about such gross human rights abuses has often been contradictory and allegations frequently difficult to verify," Amnesty said.

But there have been a series of incidents well-documented in the media and by official sources showing clearly the deliberate killing of civilians and wounded or surrendered soldiers and the torture of prisoners.

Amnesty said it was impossible to judge the scale of human rights violations in Yugoslavia.

I added: "What is clear is that people not involved in the fighting are being arbitrarily and deliberately killed or tortured, and these outrages must stop."

Mr. Speaker, the basis of the current conflict is the human rights of the Serbian minority in Croatia. The Serbian minority's rights suffered previous to, and continue to suffer after, the outbreak of hostilities.

There are a host of questions to be addressed if there is to be a solution to the crisis. Blame can, and should, be addressed to both sides of the current conflict. Both Tudjman's and Milosevic's maintenance of hard-line stances regarding the recognized problems of minority rights and border resolution are doing nothing to lead to a peaceful end of the Yugoslav crisis.

The current overtures for peace by both parties, and willingness to allow peace-keeping forces into the disputed areas, are a step in the right direction to ending this senseless conflict.

Mr. Speaker, let us hope that with the latest attempts by Cyrus Vance and Lord Carrington to come to a resolution of, or at least halt the bloodshed, that the attitude of irrationality and unwillingness to compromise that defines the current conflict can be overcome, and a lasting peace taking into account the concerns of all parties can be forged. If it is not, we will be facing a situation that makes the current situation look tame in comparison.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED AFTER ADJOURNMENT

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and joint resolutions of the House of the following titles, which were thereupon signed by the Speaker:

On December 3, 1991:

H.R. 525. An act to amend the Federal charter for the Boys' Clubs of America to reflect the change of the name of the organization to the Boys & Girls Clubs of America;

H.R. 635. An act for the relief of Abby Cooke;

H.R. 690. An act to authorize the National Park Service to acquire and manage the Mary McLeod Bethune Council House National Historic Site, and for other purposes;

H.R. 829. An act to amend title 28, United States Code, to make changes in the composition of the eastern and western districts of Virginia;

H.R. 948. An act to designate the U.S. courthouse located at North Henry Street in Madison, WI, as the "Robert W. Kastenmeier United States Courthouse";

H.R. 990. An act to authorize additional appropriations for land acquisition at Monocacy National Battlefield, MD;

H.R. 1009. An act to amend the Wild and Scenic Rivers Act by designating segments of the Lamprey River in the State of New Hampshire for study for potential addition to the National Wild and Scenic Rivers System and for other purposes;

H.R. 1476. An act to provide for the divestiture of certain properties of the San Carlos Indian Irrigation Project in the State of Arizona, and for other purposes;

H.R. 1724. An act to provide for the termination of the application of title IV of the Trade Act of 1974 to Czechoslovakia and Hungary;

H.R. 2105. An act to designate an area as the "Myrtle Foester Whitmire Division of the Arkansas National Wildlife Refuge;

H.R. 3012. An act to amend the Wild and Scenic Rivers Act by designating the White Clay Creek in Delaware and Pennsylvania for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes;

H.R. 3029. An act to make technical corrections to agricultural laws;

H.R. 3049. An act to amend the Immigration and Nationality Act to restore certain exclusive authority in courts to administer oaths of allegiance for naturalization, to revise provisions relating to O and P nonimmigrants, and to make certain technical corrections relating to the immigration laws;

H.R. 3169. An act to lengthen from 5 to 7 years the expiration period applicable to legislative authority relating to construction of commemorative works on Federal land in the District of Columbia and its environs;

H.R. 3245. An act to designate National Forest System lands in the State of Georgia as wilderness, and for other purposes;

H.R. 3322. An act to designate the building in St. Louis, MO, which is currently known as the Wellston Station, as the "Gwen B. Giles Post Office Building";

H.R. 3327. An act to amend title 38, United States Code, to provide for the designation of an Assistant Secretary of the Department of Veterans Affairs as the Chief Minority Affairs Officer of the Department;

H.R. 3387. An act to amend the Pennsylvania Avenue Development Corporation Act of 1972 to authorize appropriations for implementation of the development plan for Pennsylvania Avenue Between the Capitol and the White House, and for other purposes;

H.R. 3435. An act to provide funding for the resolution of failed savings associations and working capital for the Resolution Trust Corporation, to restructure the Oversight Board and the Resolution Trust Corporation, and for other purposes;

H.R. 3531. An act to authorize appropriations for the Patent and Trademark Office in the Department of Commerce for fiscal year 1992, and for other purposes;

H.R. 3576. An act to amend the Cranston-Gonzalez National Affordable Housing Act to reserve assistance under the HOME Investment Partnerships Act for certain insular areas;

H.R. 3595. An act to delay until September 30, 1992, the issuance of any regulations by the Secretary of Health and Human Services changing the treatment of voluntary contributions and provider-specific taxes by States as a source of a State's expenditures for which Federal financial participation is available under the medicaid program and to maintain the treatment of intergovernmental transfers as such a source;

H.R. 3604. An act to direct acquisitions within the Eleven Point Wild and Scenic River, to establish the Greer Spring Special Management Area in Missouri, and for other purposes;

H.R. 3709. An act to waive the period of congressional review for certain District of Columbia acts;

H.R. 3807. An act to amend the Arms Export Control Act to authorize the President to transfer battle tanks, artillery pieces, and armored combat vehicles to member countries of the North Atlantic Treaty Organization in conjunction with implementation of the Treaty on Conventional Armed Forces in Europe;

H.R. 3881. An act to expand the boundaries of Stones River National Battlefield, TN, and for other purposes;

H.R. 3909. An act to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes;

H.R. 3919. An act to temporarily extend the Defense Production Act of 1950;

H.R. 3932. An act to improve the operational efficiency of the James Madison Memorial Fellowship Foundation, and for other purposes;

H.J. Res. 157. Joint resolution making dire emergency supplemental appropriations and transfers for relief from the effects of natural disasters, and for other urgent needs, and for incremental costs of "Operation Desert Shield/Desert Storm" for the fiscal year ending September 30, 1992, and for other purposes;

H.J. Res. 191. Joint resolution designating January 5, 1992 through January 11, 1992 as "National Law Enforcement Training Week";

H.J. Res. 212. Joint resolution to designate the week beginning February 16, 1992, as "National Visiting Nurse Associations Week";

H.J. Res. 372. Joint resolution designating December 21, 1991, as "Basketball Centennial Day"; and

H.J. Res. 356. Joint resolution designating December 1991 as "Bicentennial of the District of Columbia Month".

On December 9, 1991:

H.R. 2950. An act to develop a national intermodal service transportation system, to authorize funds for construction of highways, for highway safety programs, and for mass transit program, and for other purposes.

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:

[The following reports were filed November 27 (legislative day of November 26), 1991]

Mr. DE LA GARZA: Committee on Agriculture, H.R. 1514. A bill to disclaim or relinquish all right, title, and interest of the United States in and to certain lands conditionally relinquished to the United States under the act of June 4, 1897 (30 Stat. 11, 36), and for other purposes; with an amendment (Rept. 102–89, Pt. 3). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 2637. A bill to withdraw lands for the Waste Isolation Pilot Plant, and for other purposes; with an amendment (Rept. 102–241, Pt. 3). Referred to the Committee of the Whole House on the State of the Union.

Mr. WHITTEN: Committee of conference. Conference report on House Joint Resolution 157 (Rept. 102–394). Ordered to be printed.

Mr. SLAUGHTER of New York: Committee on Rules. House Resolution 309. Resolution waiving all points of order against the conference report on the joint resolution (H.J. Res. 157) making technical corrections and correcting enrollment errors in certain acts making appropriations for the fiscal year ending September 30, 1991, and for other purposes, and against consideration of such conference report (Rept. 102–395). Referred to the House Calendar.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 1202. A bill to amend the Food Stamp Act of 1977 to respond to the hunger emergency afflicting American families and children, to attack the causes of hunger among all Americans, to ensure an adequate diet for low-income people who are homeless or at risk of homelessness because of the shortage of affordable housing, to promote self-sufficiency among food stamp recipients, to assist families affected by adverse economic conditions, to simplify food assistance programs' administration, and for other purposes; with an amendment (Rept. 102–396). Referred to the Committee of the Whole House on the State of the Union.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 1058. A bill to designate the Lake Tahoe Basin National Forest in the States of California and Nevada to be administered by the Secretary of Agriculture, and for other purposes; with an amendment (Rept. 102–397, Pt. 1). Ordered to be printed.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 1182. A bill to authorize and direct the exchange of lands in Colorado; with an amendment (Rept. 102–398, Pt. 1). Ordered to be printed.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 2624. A bill to amend section 721 of the Defense Production Act of 1950 to clarify and strengthen its provisions pertaining to national security takeovers; with an amendment (Rept. 102–399, Pt. 1). Ordered to be printed.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 787. A bill to amend the Trade Act of 1974 to strengthen and expand the authority of the U.S. Trade Representative to identify trade liberalization priorities, and for other purposes; with an amendment (Rept. 102–400, Pt. 1). Ordered to be printed.

Mr. WHEAT: Committee on Rules. House Resolution 316. Resolution providing for disposition of the Senate amendments to the bill (H.R. 3807) to amend the Arms Export Control Act to authorize the President to transfer battle tanks, artillery pieces, and armored combat vehicles to member countries of the North Atlantic Treaty Organization in conjunction with implementation of the Treaty on Conventional Armed Forces in Europe (Rept. 102–401). Referred to the House Calendar.

Mr. MOAKLEY: House Resolution 317. Resolution waiving all points of order against the conference report on the bill (H.R. 2950) to develop a national intermodal surface transportation system, to authorize funds for the construction of highways, for highway safety programs, and for mass transit programs, and for other purposes, and against consideration of such conference report (Rept. 102–402). Referred to the House Calendar.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 3556. A bill to authorize the Food for Emerging Democracies Act of 1991; with amendments (Rept. 102–403, Pt. 1). Ordered to be printed.

Mr. ROE: Committee on conference. Conference report on H.R. 2950 (Rept. 102–404). Ordered to be printed.

Mr. BROOKS: Committee on conference. Conference report on H.R. 3371 (Rept. 102–405). Ordered to be printed.

Mr. FROST: Committee on Rules. House Resolution 318. Resolution waiving all points of order against the conference report on (S. 543) a bill to reform Federal deposit insurance, protect the deposit insurance funds, recapitalize the Bank Insurance Fund, improve supervision and regulation of insured depository institutions, and against consideration of such conference report (Rept. 102–406).

Mr. GONZALEZ: Committee of conference. Conference report on S. 543 (Rept. 102–407).

Mr. DERRICK: Committee on Rules. House Resolution 320. Resolution to provide funding for the resolution of failed savings associations and working capital for the Resolution Trust Corporation, to restructure the Oversight Board and the Resolution Trust Corporation, and for other purposes (Rept. 102–408). Referred to the House Calendar.

Mr. DINGELL: Committee of conference. Conference report on H.R. 3595 (Rept. 102–409).

[Pursuant to the order of the House on November 26, 1991, the following report was filed on December 2, 1991]

Mr. CONYERS: Committee on Government Operations. Report on Obstacles to Drug Development for HIV-Related Opportunistic Infections (Rept. 102–410). Ordered to be printed.

[Pursuant to the order of the House on November 26, 1991, the following reports were filed on December 4, 1991]

Mr. CONYERS: Committee on Government Operations. Report on The Fiesta Bowl Fiasco: Department of Education's Attempt to Ban Minority Scholarships (Rept. 102–411). Referred to the Committee of the Whole House on the State of the Union.

Mr. CONYERS: Committee on Government Operations. Report on Narcotics Control Recommendations for the Andean Region, 1987–1991: More Aggressive Congressional Followup is Necessary (Rept. 102–412). Referred to the Committee of the Whole House on the State of the Union.

[Pursuant to the order of the House on November 26, 1991, the following report was filed on December 5, 1991]

Mr. CONYERS: Committee on Government Operations. Report on Department of Justice Computer Security: Neglect Leads to High Risk (Rept. 102–413). Referred to the Committee of the Whole House on the State of the Union.

[Pursuant to the order of the House on November 26, 1991, the following reports were filed on December 6, 1991]

Mr. CONYERS: Committee on Government Operations. Report on Short-Selling Activity in the Stock Market: Market Effects and the Need for Regulation (Part 1) (Rept. 102–414). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROWN: Committee on Science, Space, and Technology. H.R. 191. A bill to amend the Stevenson-Wydler Technology Innovation Act of 1980 to enhance technology transfer for works prepared under certain cooperative research and development agreements; with— amendment (Rept. 102–415, Pt. 1). Ordered to be printed.

Mr. CONYERS: Committee on Government Operations. Report on Interim Report on the Advisability of Imposing Flexible Interest Rate Ceilings on Insured Deposits in Combination with Core Banking (Rept. 102–416). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROWN: Committee on Science, Space, and Technology. H.R. 3507. A bill to establish programs under the Technology Administration of the Department of Commerce, and elsewhere, to promote a skilled work force and U.S. industrial competitiveness; with— amendment (Rept. 102–418, Pt. 1). Ordered to be printed.

[Pursuant to the order of the House on November 26, 1991, the following report was filed on December 10, 1991]

Mr. CONYERS: Committee on Government Operations. Report on the Feasibility of Initiating a System for the Verification of Corporate Tax Returns Through an Information and Document Matching Program at IRS (Rept. 102–419). Referred to the Committee of the Whole House on the State of the Union.

[Pursuant to the order of the House on November 26, 1991, the following report was filed on December 11, 1991]

Mr. CONYERS: Committee on Government Operations. Report on Asleep at the Switch? Federal Communications Commission Efforts to Assure Reliability of the Public Telephone Network (Rept. 102–420). Referred to the Committee of the Whole House on the State of the Union.

[Submitted December 18, 1991]

Mr. CONYERS: Committee on Government Operations. Report on the Scourge of

Telemarketing Fraud: What Can Be Done Against It? (Rept. 102-421). Referred to the Committee of the Whole House on the State of the Union.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

[Pursuant to the order of the House on November 26, 1991, the following report was filed on December 6, 1991]

Mr. BROWN: Committee on Science, Space, and Technology. H.R. 2941. A bill to authorize appropriations to the Department of Transportation for surface transportation research and development, and for other purposes; with an amendment; referred to the Committees on Energy and Commerce and Public Works and Transportation for a period ending not later than March 6, 1992, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of those committees pursuant to clause 1 (h) and (p), rule X, respectively (Rept. 102-417, Pt. 1). Ordered to be printed.

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. WALKER) to revise and extend their remarks and include extraneous material:)

Mr. SANTORUM, for 60 minutes, today.

Mr. KASICH, for 5 minutes, today.

Mr. DREIER of California, for 60 minutes, on December 10, 11, 12, and 23.

Mr. RIGGS, for 60 minutes, on December 10, 11, and 12.

Mr. EMERSON, for 5 minutes, today.

(The following Members (at the request of Mr. FLAKE) to revise and extend their remarks and include extraneous material:)

Mr. ALEXANDER, for 5 minutes, today.

Mr. SKELTON, for 5 minutes, today.

Mr. STAGGERS, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. PANETTA, for 5 minutes, today.

Mr. GLICKMAN, for 5 minutes, today.

Mrs. LOWEY of New York, for 5 minutes, today.

Mr. STARK, for 5 minutes, today.

Mr. DINGELL, for 5 minutes, today.

Mr. HOAGLAND, for 5 minutes, today.

Mr. ROSTENKOWSKI, for 5 minutes, today.

Mr. OBEY, for 60 minutes each day, on December 2, 3, 4, 5, 6, 9, 10, 11, 12, 13, 16, 17, 18, 19, 20, 21, 23, 24, 26, 27, 30, and 31.

SENATE BILLS AND JOINT RESOLUTION REFERRED

Bills and a Joint Resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 447. An act to recognize the organization known as The Retired Enlisted Association, Incorporated; to the Committee on the Judiciary.

S. 452. An act to authorize a transfer of administrative jurisdiction over certain land to the Secretary of the Interior, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 455. An act to authorize a national program to reduce the threat to human health posed by exposure to contaminants in the air indoors; to the Committees on Energy and Commerce, Education and Labor, and Science, Space, and Technology.

S. 606. An act to amend the Wild and Scenic Rivers Act by designating certain segments of the Allegheny River in the Commonwealth of Pennsylvania as a component of the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 754. An act to provide that a portion of the income derived from trust or restricted land held by an individual Indian shall not be considered as a resource or income in determining eligibility for assistance under any Federal or federally assisted program; to the Committees on Interior and Insular Affairs and Ways and Means.

S. 1187. An act to amend the Stock Raising Homestead Act to provide certain procedures for entry onto Stock Raising Homestead Act lands, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 1528. An act to establish the Mimbres Culture National Monument and to establish an archeological protection system for Mimbres sites in the State of New Mexico, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 1577. An act to amend the Alzheimer's Disease and Related Dementias Services Research Act of 1986 to reauthorize the Act, and for other purposes; to the Committee on Energy and Commerce.

S. 1595. An act to preserve and enhance the ability of Alaska Natives to speak and understand their native languages; to the Committee on Education and Labor.

S. 1707. An act to authorize the establishment of the Fort Totten National Historic Site; to the Committee on Interior and Insular Affairs.

S. 1743. An act to amend the Wild and Scenic Rivers Act by designating certain rivers in the State of Arkansas as components of the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 1770. An act to convey certain surplus real property located in the Black Hills National Forest to the Black Hills Workshop and Training Center, and for other purposes; to the Committee on Government Operations.

S.J. Res. 23. Joint resolution to consent to certain amendments enacted by the legislature of the State of Hawaii to the Hawaiian Homes Commission Act, 1920; to the Committee on Interior and Insular Affairs.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and joint resolutions of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 794. An act to establish the Silvio O. Conte National Fish and Wildlife Refuge along the Connecticut River and for other purposes;

H.R. 848. An act to establish the Little Bighorn Battlefield National Monument;

H.R. 1988. An act to authorize appropriations to the National Aeronautics and Space Administration for research and development, space flight, control, and data communications construction of facilities, research and program management, and Inspector General, and for other purposes;

H.R. 3370. An act to direct the Secretary of the Interior to carry out a study and make recommendations to the Congress regarding the feasibility of establishing a Native American cultural center in Oklahoma City, Oklahoma;

H.J. Res. 201. Joint resolution designating the week beginning December 1, 1991 and the week beginning November 15, 1992, each as "Geography Awareness Week";

H.J. Res. 300. Joint resolution designating the month of May 1992 as "National Trauma Awareness Month"; and

H.J. Res. 346. Joint resolution approving the extension of nondiscriminatory treatment with respect to the products of the Union of Soviet Socialist Republics.

SENATE ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to enrolled bills and a joint resolution of the Senate of the following titles:

S. 272. An act to provide for a coordinated Federal program to ensure continued United States leadership in high-performance computing;

S. 1284. An act to make certain technical corrections in the Judicial Improvements Act of 1990 and other provisions of law relating to the courts; and

S.J. Res. 187. Joint resolution to make a technical correction in Public Law 101-549.

ADJOURNMENT

Mr. JONES of North Carolina. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER pro tempore. Pursuant to the provisions of House Concurrent Resolution 260 of the 102d Congress, the House stands adjourned until 11:55 a.m., Friday, January 3, 1992.

Thereupon (at 7 o'clock and 3 minutes p.m.), calendar day, Wednesday, November 27, 1991 (legislative day, Tuesday, November 26, 1991), at 7:03 p.m., pursuant to House Concurrent Resolution 260, the House adjourned until Friday, January 3, 1992, at 11:55 a.m.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ASPIN: Committee on Armed Services. H.R 2637. A bill to withdraw lands for the Waste Isolation Pilot Plant, and for other purposes; with an amendment (Rept. 102-241, pt. 2). Ordered to be printed.

Mr. CONYERS: Committee on Government Operations. Report on tax systems mod-

ernization: Some early observations on its progress (Rept. 102–388). Referred to the Committee of the Whole House on the States of the Union.

Ms. SLAUGHTER of New York: Committee on Rules. House Resolution. 306. Resolution waiving all points of the order against the conference report on the bill (H.R. 1724) to provide for the termination of the application of title IV of the Trade Act of 1974 to Czechoslovakia and Hungary, and against consideration of such conference report (Rept. 102–389). Referred to the House Calendar.

Mr. FROST: Committee on Rules. House Resolution 307. Resolution waiving all points of order against the conference report on the bill (H.R. 2212) regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, for other purposes, and against consideration of such conference report. (Rept. 102–390). Referred to the House Calendar.

Mr. ROSTENKOWSKI: Committee of Conference. Conference Report on H.R. 1724 (Rept. 102–391). Ordered to be printed.

Mr. ROSTENKOWSKI: Committee of Conference. Conference Report on H.R. 2212 (Rept. 102–392). Ordered to be printed.

Mr. BROOKS: Committee on The Judiciary. Report on deficiencies in the Department of Justice award and management of its Project Eagle ADP procurement (Rept. 102–393). Referred to the Committee of the Whole House on the State of the Union.

Mr. WHITTEN. Committee of Conference. Conference report on House Judiciary Resolution 157 (Rept. 102–394). Ordered to be printed.

Ms. SLAUGHTER of New York: Committee on Rules. House Resolution 309. Resolution waiving all points of order against the conference report on the joint resolution (H.J. Res. 157) making technical corrections and correcting enrollment errors in certain acts making appropriations for the fiscal year ending September 30, 1991, and for other purposes, and against consideration of such conference report. (Rept. 102–395). Referred to the House Calendar.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2411. A letter from the Architect of the Capitol, transmitting the report of expenditures of appropriations during the period April 1, 1991 through September 30, 1991, pursuant to section 105(b) of Public Law 88–454; to the Committee on Appropriations.

2412. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9–99, "Revocable Trust Tax Exemption Amendment Act of 1991", and report, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

2413. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9–98, "Comprehensive Anti-Drunk Driving Amendment Act of 1991", and report, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

2414. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9–107, "Uniform Disposition of Unclaimed Property Act of 1980 Clarifying Temporary Amendment Act of 1991", pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

2415. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9–106, "Redistricting Procedure Amendment Act of 1991 Clarification Temporary Amendment Act of 1991", pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

2416. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9–101, "Way of the Cross Church of Christ, Inc., Equitable Real Property Tax Relief Act of 1991", and report, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

2417. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9–102, "Spring of Freedom Street Designation Act of 1991", and report, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

2418. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9–103, "Sursum Corda Cooperative Association, Inc., Clarification Act of 1991", and report, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

2419. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9–100, "Child Restraint Act of 1982 Amendment Act of 1991", and report, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

2420. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9–104, "Queen's Stroll Place Designation Act of 1991", and report, pursuant to D.C. Code Sec. 1–233(c)(1); to the Committee on the District of Columbia.

2421. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9–105, "District of Columbia Real Property Tax Rates for Tax Year 1992 and Real Property Tax Reclassification Amendment Act of 1991", and report, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

2422. A letter from the Inspector General, Department of the Interior, transmitting the Department's semiannual report on the activities of the Office of Inspector General for the period April 1, 1991, through September 30, 1991, pursuant to Public Law 95–452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

2423. A letter from the Chairman, U.S. Merit System Protection Board, transmitting the Board's fiscal year 1991 annual report as required by the Inspector General Act Amendments of 1988; to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DE LA GARZA: Committee on Agriculture. H.R. 1514. A bill to disclaim or relinquish all right, title, and interest of the United States in and to certain lands conditionally relinquished to the United States under the act of June 4, 1897 (30 Stat. 11, 36), and for other purposes; with an amendment (Rept. 102–89, Pt. 3). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 2637. A bill to withdraw lands for the Waste Isolation Pilot Plant, and for other purposes; with an amendment (Rept. 102–241, Pt. 3). Referred to the Committee of the Whole House on the State of the Union.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 1202. A bill to amend the Food Stamp Act of 1977 to respond to the hunger emergency afflicting American families and children, to attack the causes of hunger among all Americans, to ensure an adequate diet for low-income people who are homeless or at risk of homelessness because of the shortage of affordable housing, to promote self-sufficiency among food stamp recipients, to assist families affected by adverse economic conditions, to simplify food assistance programs' administration, and for other purposes; with an amendment (Rept. 102–396). Referred to the Committee of the Whole House on the State of the Union.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 1058. A bill to designate the Lake Tahoe Basin National Forest in the States of California and Nevada to be administered by the Secretary of Agriculture, and for other purposes; with an amendment (Rept. 102–397, Pt. 1). Ordered to be printed.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 1182. A bill to authorize and direct the exchange of lands in Colorado; with an amendment (Rept. 102–398, Pt. 1). Ordered to be printed.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 2624. A bill to amend section 721 of the Defense Production Act of 1950 to clarify and strengthen its provisions pertaining to national security takeovers; with an amendment (Rept. 102–399, Pt. 1). Ordered to be printed.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 787. A bill to amend the Trade Act of 1974 to strengthen and expand the authority of the U.S. Trade Representative to identify trade liberalization priorities, and for other purposes; with an amendment (Rept. 102–400, Pt. 1). Ordered to be printed.

Mr. WHEAT: Committee on Rules. House Resolution 316. Resolution providing for disposition of the Senate amendments to the bill (H.R. 3807) to amend the Arms Export Control Act to authorize the President to transfer battle tanks, artillery pieces, and armored combat vehicles to member countries of the North Atlantic Treaty Organization in conjunction with implementation of the Treaty on Conventional Armed Forces in Europe. (Rept. 102–401). Referred to the House Calendar.

Mr. MOAKLEY: House Resolution 317. Resolution waiving all points of order against the conference report on the bill (H.R. 2950) to develop a national intermodal surface transportation system, to authorize funds for the construction of highways, for highway safety programs, and for mass transit programs, and for other purposes, and against consideration of such conference report (Rept. 102–402). Referred to the House Calendar.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 3556. A bill to authorize the Food for Emerging Democracies Act of 1991; with amendments (Rept. 102–403, Pt. 1). Ordered to be printed.

Mr. ROE: Committee of conference. Conference report on H.R. 2950 (Rept. 102–404). Ordered to be printed.

Mr. BROOKS: Committee of conference. Conference report on H.R. 3371 (Rept. 102–405). Ordered to be printed.

Mr. FROST: Committee on Rules. House Resolution 318. Resolution waiving all points

of order against the conference report on (S. 543) a bill to reform Federal deposit insurance, protect the deposit insurance funds, recapitalize the Bank Insurance Fund, improve supervision and regulation of insured depository institutions, and against consideration of such conference report (Rept. 102-406).

Mr. GONZALEZ: Committee of conference. Conference report on S. 543 (Rept. 102-407).

Mr. DERRICK: Committee on Rules. House Resolution 320. Resolution to provide funding for the resolution of failed savings associations and working capital for the Resolution Trust Corporation, to restructure the Oversight Board and the Resolution Trust Corporation, and for other purposes (Rept. 102-408). Referred to the House Calendar.

Mr. DINGELL: Committee of conference. Conference report on H.R. 3595 (Rept. 102-409).

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. SISISKY:

H.R. 3932 A bill to improve the operational efficiency of the James Madison Memorial Fellowship Foundation, and for other purposes; to the Committee on Education and Labor.

By Mr. GONZALEZ (for himself and Mr. WYLIE);

H.R. 3933. A bill to require the least-cost resolution of insured depository institutions, to improve supervision and examinations, to provide additional resources to the Bank Insurance Fund, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. WYDEN:

H.R. 3934. A bill to amend the Solid Waste Disposal Act to provide for greater use of recycled materials in packaging; to the Committee on Energy and Commerce.

By Mr. GIBBONS (for himself, Mr. CRANE, and Mr. PEASE);

H.R. 3935. A bill to modernize and simplify the administration of the customs laws; to the Committee on Ways and Means.

By Mr. DREIER of California:

H.R. 3936. A bill to amend and establish certain laws relating to housing, community and neighborhood development and preservation, and housing assistance and self sufficiency programs, and for other purposes; jointly, to the Committees on Banking, Finance and Urban Affairs and Ways and Means.

By Mr. SWETT:

H.R. 3937. A bill to enhance the process for Federal agencies to enter into shared energy savings contracts, and for other purposes; to the Committee on Energy and Commerce.

By Mr. OWENS of Utah:

H.R. 3938. A bill to amend the Internal Revenue Code of 1986 to impose an excise tax on group health plans that fail to provide for preexisting conditions, and for other purposes; to the Committee on Ways and Means.

By Mr. SIKORSKI (for himself, Mrs. COLLINS of Illinois, Mr. WYDEN, Mr. BOEHLERT, and Mr. MARKEY);

H.R. 3939. A bill to amend the Solid Waste Disposal Act to promote materials use reduction, reuse, and recycling; to the Committee on Energy and Commerce.

By Mr. WYDEN (for himself and Mr. LENT):

H.R. 3940. A bill to provide for the certification of embryo laboratories; to the Committee on Energy and Commerce.

By Mr. WYDEN (for himself and Mr. SYNAR):

H.R. 3941. A bill to protect employees who report violations at Department of Energy facilities; jointly, to the Committees on Education and Labor and Energy and Commerce.

By Mr. ABERCROMBIE:

H.R. 3942. A bill to amend title 46, United States Code, to establish requirements for manning and watches on towing vessels; to the Committee on Merchant Marine and Fisheries.

By Mr. ANTHONY:

H.R. 3943. A bill to amend the Internal Revenue Code of 1986 to permit certain entities to elect taxable years required by the Tax Reform Act of 1986, and for other purposes; to the Committee on Ways and Means.

By Mr. ANTHONY (for himself, Mr. RAHALL, Mr. ALEXANDER, Mr. NAGLE, Mr. ENGLISH, Mr. SARPALIUS, Mr. JOHNSON of South Dakota, Mr. CHAPMAN, Mr. WILLIAMS, Mr. BREWSTER, Mr. EVANS, Mr. ESPY, Mr. GLICKMAN, and Mr. GRANDY):

H.R. 3944. A bill to amend the Internal Revenue Code of 1986 to encourage parity giving in order to increase prices to farmers while assisting in feeding the starving of the world; to the Committee on Ways and Means.

By Mr. ARCHER:

H.R. 3945. A bill to amend the Internal Revenue Code of 1986 to allow gain recognized on the sale of a principal residence to be reduced by the aggregate losses which were not allowed on prior sales of principal residences; to the Committee on Ways and Means.

By Mr. AUCOIN:

H.R. 3946. A bill to amend the Hazardous Materials Transportation Act to ensure that designations of hazardous materials made under that act are uniformly applicable to all modes of transportation, and for other purposes; jointly, to the Committee on Public Works and Transportation and Energy and Commerce.

By Mr. BACCHUS:

H.R. 3947. A bill to establish the High Speed Surface Transportation Development Corporation; to provide for high speed surface transportation infrastructure development, and for other purposes; jointly, to the Committees on Public Works and Transportation and Energy and Commerce.

By Mr. BEREUTER:

H.R. 3948. A bill to amend the Agricultural Trade Development and Assistance Act of 1954 with respect to the farmer to farmer program; jointly, to the Committees on Foreign Affairs and Agriculture.

By Mr. BERMAN:

H.R. 3949. A bill to amend title 11 of the United States Code with respect to the rights of municipal employees; to the Committee on the Judiciary.

By Mr. BILIRAKIS:

H.R. 3950. A bill to amend title 38, United States Code, to provide reclassification of members of the Board of Veterans Appeals and to ensure pay equity between those members and administrative law judges; jointly, to the Committees on Veterans' Affairs and Post Office and Civil Service.

H.R. 3951. A bill to amend the Internal Revenue Code of 1986, titles XVIII and XIX of the Social Security Act, and the Public Health Service Act to provide a credit for health insurance expenses and to increase deductible health insurance cost for self-employed individuals, to make grants to States to establish risk pools to provide insurance to medically uninsurable individuals, to reduce excessive paperwork in the processing of claims for health insurance benefits, to reduce the costs associated with medical malpractice litigation, to promote preventive health care services, to improve access to long-term care services, and for other purposes; jointly, to the Committees on Ways and Means, Energy and Commerce, and the Judiciary.

By Mr. BOUCHER (for himself, Mr. TAUZIN, and Mr. OLIN):

H.R. 3952. A bill to amend the Solid Waste Disposal Act to require the owner or operator of a landfill, incinerator, or other solid waste disposal facility to obtain authorization from the affected local government before accepting waste generated outside the State; to the Committee on Energy and Commerce.

By Mr. BROWN (for himself and Mr. SCHEUER):

H.R. 3953. A bill to establish national electromagnetic fields research and public information dissemination programs, and for other purposes; jointly, to the Committees on Science, Space, and Technology, and Energy and Commerce.

By Mr. CAMP:

H.R. 3954. A bill to amend the Social Security Act to clarify the Medicare geographic classification adjacency requirements; to the Committee on Ways and Means.

By Mr. CHANDLER (for himself and Mr. MCDERMOTT):

H.R. 3955. A bill to amend the Internal Revenue Code of 1986 to clarify that conservation expenditures by electric utilities are deductible for the year in which paid or incurred; to the Committee on Ways and Means.

By Mrs. COLLINS of Illinois (for herself and Mr. HASTERT):

H.R. 3956. A bill to amend the Solid Waste Disposal Act and the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to provide for the recycling and management of used oil, and for other purposes; to the Committee on Energy and Commerce.

By Mr. CUNNINGHAM (for himself, Mr. BALLENGER, Mr. BOEHNER, Mr. DE LUGO, Mr. HAYES of Illinois, Mr. JEFFERSON, Mr. KLUG, Mr. MARTINEZ, Ms. MOLINARI, and Mr. PAYNE of New Jersey):

H.R. 3957. A bill to amend subpart 4 of part A of title IV of the Higher Education Act of 1965 to require the Secretary of Education to carry out an advanced placement test fee payment program, and for other purposes; to the Committee on Education and Labor.

By Mr. DAVIS (for himself and Mr. VANDER JAGT):

H.R. 3958. A bill to grant Federal recognition to the Little Traverse Bay Bands of Odawa Indians and the Little River Band of Ottawa Indians, to clarify the status of members of the bands, and for other purpose; to the Committee on Interior and Insular Affairs.

By Mr. DORGAN of North Dakota:

H.R. 3959. A bill to amend chapter 17 of title 38, United States Code, to require the Secretary of Veterans Affairs to conduct a mobile health care clinic program for furnishing health care to veterans located in rural areas of the United States; to the Committee on Veterans' Affairs.

By Mr. ENGEL (for himself and Mr. MANTON):

H.R. 3960. A bill to require the Federal Communications Commission to initiate rulemaking proceedings to improve multilingual radio broadcasting, and for other purposes; to the Committee on Energy and Commerce.

By Mr. EVANS (for himself and Mr. CONYERS):

H.R. 3961. A bill to amend title 31, United States Code, to require an unclassified report concerning the Nation's stockpile of nuclear weapons and fissile materials to be included by the President in the budget submitted to Congress; jointly, to the Committees on Government Operations, Armed Services, and Foreign Affairs.

By Mr. FASCELL (by request):

H.R. 3962. A bill to transfer the au pair program from the U.S. Information Agency to the Department of Justice; to the Committee on the Judiciary.

By Mr. FRANKS of Connecticut:

H.R. 3963. A bill to allow individuals to participate in voluntary prayer or a moment of silence in any public building supported in whole or in part through the expenditure of Federal funds; to the Committee on the Judiciary.

By Mr. GEJDENSON:

H.R. 3964. A bill to amend chapters 85 and 87 of title 28, United States Code, to provide that the U.S. District Court for the District of Columbia shall have original and exclusive jurisdiction over any civil action challenging an award of a defense procurement contract in an amount in excess of $25 million, and for other purposes; to the Committee on the Judiciary.

By Mr. GINGRICH (for himself and Mr. KASICH):

H.R. 3965. A bill to ensure that any peace dividend is invested in America's families and in deficit reduction; jointly, to the Committees on Government Operations, Ways and Means, and Rules.

By Mr. GLICKMAN (for himself, Mr. CHANDLER, Mr. CLEMENT, and Mr. MCCLOSKEY):

H.R. 3966. A bill to amend title 18, United States Code, to prohibit certain officers and employees of the Government from representing foreign entities after their Government service terminates; to the Committee on the Judiciary.

By Mr. GORDON:

H.R. 3967. A bill to amend the Higher Education Act of 1965 to prohibit prison inmates from receiving Pell grants; to the Committee on Education and Labor.

By Mr. GUARINI (for himself, Mr. TORRICELLI, Mr. RANGEL, and Mr. MCGRATH):

H.R. 3968. A bill to extend scholarship assistance to students from the Andean region; to the Committee on Foreign Affairs.

By Mr. HOCHBRUECKNER:

H.R. 3969. A bill to improve vessel navigational accuracy and enhance ship safety in order to protect the marine environment; to the Committee on the Merchant Marine and Fisheries.

By Mr. HUNTER:

H.R. 3970. A bill to amend the Internal Revenue Code of 1986 to reduce the tax on capital gains and to allow a deduction for the use of American-manufactured highway vehicles and to amend the Social Security Act to repeal the limitation on outside earnings; to the Committee on Ways and Means.

By Mr. JONES of North Carolina:

H.R. 3971. A bill to establish a national research program to improve the production and marketing of sweetpotatoes and increase the consumption and use of sweetpotatoes by domestic and foreign consumers; to the Committee on Agriculture.

By Mr. JONES of North Carolina (for himself and Mr. STUDDS):

H.R. 3972. A bill to direct the Secretary of the Interior to make minor and technical corrections to maps depicting the Coastal Barrier Resources System; to the Committee on Merchant Marine and Fisheries.

By Mr. JONTZ (for himself, Mr. MILLER of California, and Mr. SHARP):

H.R. 3973. A bill to amend the Atomic Energy Act of 1954 to provide for the payment of the cost of decontamination and decommissioning of Department of Energy uranium enrichment facilities, and for other purposes; jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

By Mr. KENNEDY:

H.R. 3974. A bill to amend title XIX of the Social Security Act to convert the Medicaid Program to a federally administered program of medical assistance, and for other purposes; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Mrs. KENNELLY (for herself, Mr. LEWIS of Georgia, Mr. FORD of Michigan, Mr. EDWARDS of California, Mrs. SCHROEDER, Mrs. MINK, Ms. OAKAR, Ms. NORTON, Mrs. MORELLA, Mr. ROYBAL, Mr. ATKINS, Mr. AUCOIN, Mr. CAMPBELL of Colorado, Mr. MOODY, Mr. ACKERMAN, Mr. PANETTA, Mr. EVANS, Mr. STUDDS, Mr. ESPY, Mr. HAYES of Illinois, Mr. SERRANO, Mr. LEHMAN of Florida, Mr. TOWNS, Mr. HOCHBRUECKNER, Mr. MATSUI, Mr. MARTINEZ, Mr. COLEMAN of Texas, Mr. WHEAT, Mr. MCDERMOTT, Mr. DEFAZIO, Mr. NOWAK, Mr. STARK, Mrs. UNSOELD, Mr. JONTZ, Mr. DIXON, Mr. FRANK of Massachusetts, Ms. PELOSI, Mr. GREEN of New York, Mr. BERMAN, Mr. RICHARDSON, Mr. MILLER of California, Mr. SANDERS, Mr. NEAL of Massachusetts, Mr. MFUME, Mrs. BOXER, and Mr. MINETA):

H.R. 3975. A bill to amend section 1977A of the revised statutes to equalize the remedies available to all victims of international employment discrimination, and for other purposes; jointly, to the Committees on the Judiciary and Education and Labor.

By Mr. KOSTMAYER:

H.R. 3976. A bill to amend the Federal Power Act; to the Committee on Energy and Commerce.

H.R. 3977. A bill to amend the Federal Water Pollution Control Act; to the Committee on Public Works and Transportation.

By Mr. LAFALCE:

H.R. 3978. A bill to temporarily limit the number of motor vehicles that are products of Japan that may be imported into the United States; to the Committee on Ways and Means.

By Mr. LEVIN of Michigan:

H.R. 3979. A bill to amend the Internal Revenue Code of 1986 to allow a credit for payments or contributions to certain cooperative research organizations; to the Committee on Ways and Means.

H.R. 3980. A bill to amend title XVIII of the Social Security Act to require health maintenance organizations under the Medicare Program to determine whether individuals enrolled with the organization are entitled to medical assistance for Medicare cost-sharing under a State Medicaid plan; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. LEVIN of Michigan (for himself, Mr. MCGRATH, Mr. GEPHARDT, Mr. DURBIN, Mr. HOUGHTON, Mrs. COLLINS of Illinois, Mr. WOLPE, Mr. ACKERMAN, Mr. ANTHONY, Mr. BOEHLERT, Mr. BRYANT, Mr. CARDIN, Mr. CARPER, Mr. DORGAN of North Dakota, Mr. DUNCAN, Mr. FLAKE, Mr. GILMAN, Mr. GRANDY, Mr. GREEN of New York, Mr. GUARINI, Mr. HOCHBRUECKNER, Ms. HORN, Mr. JONTZ, Ms. KAPTUR, Mrs. KENNELLY, Mr. MATSUI, Mr. MCMILLAN of North Carolina, Mr. MINETA, Mr. MOODY, Mr. OWENS of Utah, Mr. PEASE, Mr. REGULA, Mr. RUSSO, Mr. SARPALIUS, Mr. SPRATT, Mr. STARK, Mr. TRAXLER, Mr. VISCLOSKY, Mr. WISE, Mr. WOLF, Mr. WYDEN, AND Mr. ZELIFF):

H.R. 3981. A bill to authorize the Secretary of Commerce to establish a pilot program to promote United States goods and services through United States Commercial Centers; to the Committee on Foreign Affairs.

By Mr. LEVIN of Michigan (for himself and Mr. STARK):

H.R. 3982. A bill to amend title XVIII of the Social Security Act to expand the Secretary of Health and Human Services' authority to impose intermediate sanctions on health maintenance organizations participating in the Medicare Program for violation of any requirement of the program and to amend title XI of the Social Security Act to prohibit providers of services under the Medicare Program from offering certain inducements to beneficiaries or employees; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. LEVINE of California:

H.R. 3983. A bill to expand eligibility for Pell grants and to increase the maximum amount of a Pell grant award; to the Committee on Education and Labor.

H.R. 3984. A bill to establish a program of Federal grants to assist local educational agencies to establish and provide for a school year of not less than 240 days; to the Committee on Education and Labor.

By Mr. LEVINE of California (for himself, Mr. FEIGHAN, and Mr. SCHIFF):

H.R. 3985. A bill to amend title 18, United States Code, to provide for longer prison sentences for convicts who commit a violent felony while under a criminal justice sentence, such as parole, furlough, or probation; to the Committee on the Judiciary.

By Mr. LEVINE of California (for himself and Mr. HYDE):

H.R. 3986. A bill to ensure that consumer credit reports include information on any overdue child support obligations of the consumer; jointly, to the Committees on Banking, Finance and Urban Affairs and Ways and Means.

By Mr. LIPINSKI:

H.R. 3987. A bill to establish a National Industrial Revitalization Board to provide loans and loan guarantees to industries that are unable to obtain the financing needed to modernize, expand, or improve such industries; to the Committee on Banking, Finance and Urban Affairs.

H.R. 3988. A bill to amend the Water Resources Development Act of 1990 to require full Federal funding of the project to construct a lock at Sault Saint Marie, MI; to the Committee on Public Works and Transportation.

By Mrs. LLOYD (for herself, Mr. MARKEY, and Mr. RICHARDSON):

H.R. 3989. A bill to amend title XIX of the Social Security Act to provide for coverage of prostate cancer screening tests under the Medicaid Program; to the Committee on Energy and Commerce.

By Mrs. LLOYD (for herself and Mr. WYDEN):

H.R. 3990. A bill to amend the Public Health Service Act to establish a program for postreproductive health care; to the Committee on Energy and Commerce.

By Mrs. LLOYD (for herself and Mr. SCHIFF):

H.R. 3991. A bill to amend the Public Health Service Act and the Social Security Act to increase the availability of primary and preventive health care, and for other purposes; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Mrs. LLOYD (for herself, Mr. MARKEY, and Mr. RICHARDSON):

H.R. 3992. A bill to amend title XVIII of the Social Security Act to provide for coverage of prostrate cancer screening tests under the Medicare Program; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mrs. LOWEY of New York:

H.R. 3993. A bill to amend title 46, United States Code, to clarify the authority of the State of New York to regulate pilotage of vessels on the Hudson River upstream of Yonkers, NY; to the Committee on Merchant Marine and Fisheries.

By Mr. LUKEN:

H.R. 3994. A bill to direct the Secretary of Transportation to conduct a rulemaking proceeding to review and modify regulations issued pursuant to the Aviation Safety and Noise Abatement Act of 1979 on measuring noise in areas surrounding airports, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. McCANDLESS:

H.R. 3995. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

H.R. 3996. A bill to establish the Social Security Administration as an independent agency, which shall be headed by a Social Security Board, and which shall be responsible for the administration of the old-age, survivors, and disability insurance program under title II of the Social Security Act and the supplemental security income program under title XVI of such act; to the Committee on Ways and Means.

By Mr. McCURDY:

H.R. 3997. A bill to amend the Higher Education Act of 1965 to require applicants for Federal student financial assistance to prove a minimum level of academic achievement before receiving such assistance; to the Committee on Education and Labor.

H.R. 3998. A bill to establish a youth apprenticeship demonstration program, and for other purposes; to the Committee on Education and Labor.

By Mr. McGRATH:

H.R. 3999. A bill to amend the Internal Revenue Code to provide that a foster care provider and a qualified foster individual may share the same home; to the Committee on Ways and Means.

By Mr. JEFFERSON:

H.R. 4000. A bill to establish a scholarship program to encourage minority students to pursue doctoral degrees in mathematics, science, and engineering, and for other purposes; to the Committee on Education and Labor.

By Mr. McGRATH (for himself and Mr. JENKINS):

H.R. 4001. A bill to amend the Internal Revenue Code of 1986 to modify the individual alternative minimum tax to allow for the deduction of certain investment expenses and for other purposes; to the Committee on Ways and Means.

By Mr. MATSUI (for himself, Mr. GIBBONS, Mr. CRANE, Mr. DOWNEY, and Mr. McGRATH):

H.R. 4002. A bill to amend the Trade Act of 1974 to require the national trade estimate to include information regarding the impact of Arab boycotts on certain U.S. businesses; to the Committee on Ways and Means.

By Mr. MAVROULES and Mr. DINGELL:

H.R. 4003. A bill to repeal and amend certain postemployment rules relating to procurement and contract administration.

By Mr. MILLER of California:

H.R. 4004. A bill to assist in the development of tribal judicial systems, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. MILLER of Ohio:

H.R. 4005. A bill to amend the Internal Revenue Code of 1986 to allow individuals credits for the acquisition of new passenger vehicles and first homes; to the Committee on Ways and Means.

By Mr. MILLER of Washington:

H.R. 4006. A bill to encourage the establishment of new domestic passenger cruise ship service between the Pacific Northwest United States and Alaska; to the Committee on Merchant Marine and Fisheries.

By Mr. MINETA (for himself, Mr. BERMAN, Mr. EDWARDS of California, Mr. CHANDLER, Mrs. MINK, and Mrs. SCHROEDER):

H.R. 4007. A bill to provide the children of female U.S. citizens born abroad before May 24, 1934, and their descendants, with the same rights to citizenship at birth as children born of male citizens abroad; to the Committee on the Judiciary.

By Mr. MOODY:

H.R. 4008. A bill to provide for temporary protected status for nationals of Yugoslavia; to the Committee on the Judiciary.

By Mr. MRAZEK:

H.R. 4009. A bill to establish a higher education loan program open to students of all income levels, and for other purposes; to the Committee on Education and Labor.

H.R. 4010. A bill to amend the Internal Revenue Code of 1986 to reinstate the 10-percent investment tax credit; to the Committee on Ways and Means.

By Mr. MURPHY:

H.R. 4011. A bill to amend the Fair Labor Standards Act of 1938 to bring the minimum wage in American Samoa up to the wage in effect in the United States; to the Committee on Education and Labor.

By Mr. MURTHA:

H.R. 4012. A bill to extend eligibility for the homeowners assistance program established in section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966 to members of the Armed Forces involuntarily separated as a result of reductions in the size of the Armed Forces and to provide additional mortgage loan flexibility to veterans, and for other purposes; jointly to the Committees on Armed Services, Veterans' Affairs, and Banking, Finance and Urban Affairs.

By Mr. MURTHA (for himself, Mr. MOLLOHAN, Mr. RAHALL, Mr. STAGGERS, Mr. WISE, and Mr. McCLOSKEY):

A bill to amend certain provisions of the Internal Revenue Code of 1986 to improve the provisions of health care to retirees in the coal industry, to revise the manner in which such care is funded and maintained, and for other purposes; jointly to the Committees on Ways and Means and Education and Labor.

By Mr. OWENS of New York (for himself, Mr. FORD of Michigan, and Mr. GOODLING):

H.R. 4014. A bill to improve education in the United States by promoting excellence in research, development, and the dissemination of information; to the Committees on Education and Labor.

By Mr. OWENS of Utah:

H.R. 4015. A bill to direct the Secretary of the Interior to conduct a study of the Escalante Canyon region of Utah for potential inclusion in the National Park System; to the Committee on Interior and Insular Affairs.

By Mr. PANETTA:

H.R. 4016. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to require the Federal Government, before termination of Federal activities on any real property owned by the Government, to identify real property where no hazardous substance was stored, released, or disposed of; to the Committee on Energy and Commerce.

By Ms. PELOSI (for herself, Mr. ESPY, and Mr. DELLUMS, Mr. JEFFERSON, Mr. PETERSON of Minnesota, Mr. EVANS, Mr. DOWNEY, Ms. NORTON, and Mr. FOGLIETTA):

H.R. 4017. A bill to authorize the Administration of the Small Business Administration to make loans and grants to community-based organizations for the purpose of assisting in the startup and expansion of microenterprises; to the Committee on Small Business.

By Mr. PENNY:

H.R. 4018. A bill to amend title 38, United States Code, to revise the rules relating to crediting of third-party reimbursements received by the United States for the costs of medical services and hospital care furnished by the Department of Veterans Affairs; to the Committee on Veterans' Affairs.

By Mr. PENNY (for himself, Mr. JOHNSON of South Dakota, and Mr. ZELIFF):

H.R. 4019. A bill to amend the Food Security Act of 1985 to eliminate abuses of the farm program payment limitations rule, and for other purposes; to the Committee on Agriculture.

By Mr. PETERSON of Minnesota:

H.R. 4020. A bill to amend the Internal Revenue Code of 1986 to repeal the limitation on passive activity losses and credits and to provide an accelerated depreciation schedule for real estate; to the Committee on Ways and Means.

By Mr. PETRI (for himself, Mr. MURPHY, Mr. GOODLING, Mr. PENNY, Mr. GUNDERSON, Mr. IRELAND, and Mr. ARMEY):

H.R. 4021. A bill to amend the Internal Revenue Code of 1986 to increase the amount of the earned income tax credit for taxpayers with school age or preschool age children; to repeal the health insurance credit thereunder, and for other purposes; to the Committee on Ways and Means.

By Mr. RANGEL:

H.R. 4022. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives for the establishment of tax enterprise zones, and for other purposes; jointly, to the Committee on Ways and Means, the Judiciary, Education and Labor, Energy and Commerce, and Banking, Finance and Urban Affairs.

H.R. 4023. A bill to reform the system under which compensation for overtime Customs inspectional services is determined; to amend chapters 83 and 84 of title 5, United States Code, to provide that Customs employees be treated as law enforcement officers for purposes of those chapters; and for other purposes; jointly, to the Committees on Ways and Means and Post Office and Civil Service.

By Mr. RAY:

H.R. 4024. A bill to amend provisions of the Comprehensive Environmental Response,

Compensation, and Liability Act of 1980 relating to Federal property transferred by Federal agencies, and for other purposes; jointly, to the Committees on Energy and Commerce and Armed Services.

H.R. 4025. A bill to indemnify States, political subdivisions of States, and certain other entities from liability relating to the release of hazardous substances at military installations that are closed pursuant to a base closure law; jointly, to the Committees on Energy and Commerce and Armed Services.

By Mr. RICHARDSON:

H.R. 4026. A bill to formulate a plan for the management of natural and cultural resources on the Zuni Indian Reservation, on the lands of the Ramah Band of the Navajo Tribe of Indians, and the Navajo Nation, and in other areas within the Zuni River watershed and upstream from the Zuni Indian Reservation, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 4027. A bill to provide for the Secretary of the Interior and the Secretary of Housing and Urban Development to carry out a demonstration program to transfer control of federally assisted Indian housing to selected Indian tribes and to permit the tribes to use assistance received under the housing improvement program of the Bureau of Indian Affairs and Indian housing programs under the U.S. Housing Act of 1937 as the tribes determine appropriate; jointly, to the Committee on Banking, Finance and Urban Affairs and Interior and Insular Affairs.

By Mr. ROGERS:

H.R. 4028. A bill to amend title 38, United States Code, to repeal the $2 charge for outpatient prescription drugs required to be charged by the Department of Veterans Affairs in certain cases; to the Committee on Veterans' Affairs.

H.R. 4029. A bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for interest on education loans; to the Committee on Ways and Means.

By Mr. SANDERS:

H.R. 4030. A bill to establish the Marsh-Billings National Historical Park in the State of Vermont, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. SANTORUM (for himself and Mr. GOSS):

H.R. 4031. A bill to impose certain restrictions on franked mass mailings by any Member of the House of Representatives who is a candidate for such office.

By Mr. SAXTON (for himself, Mr. DAVIS, Mr. HUBBARD, Mr. YOUNG of Alaska, Mr. HUGHES, Mr. LENT, Mr. TAUZIN, Mr. FIELDS, Mr. LIPINSKI, Mr. BATEMAN, Mr. BENNETT, Mr. WELDON, Mr. PALLONE, Mr. HERGER, Mr. LAUGHLIN, Mr. RAVENEL, Mr. TAYLOR of Mississippi, Mr. GILCHREST, Mr. ANDERSON, Mr. DOOLITTLE, Mr. LANCASTER, Mr. CUNNINGHAM, Mr. GALLO, Mr. BAKER, Mr. MILLER of Washington, Mr. DICKS, Mr. JACOBS, and Ms. KAPTUR):

H.R. 4032. A bill to amend title 46, United States Code, to require that any regulation establishing or increasing a fee or change for a person engaged in the carriage of goods or passengers by vessel for hire be issued after notice, hearing, and comment and on the record, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. SCHIFF:

H.R. 4033. A bill to amend the Internal Revenue Code of 1986 to permit amounts in individual retirement plans to be used for certain housing purposes; to the Committee on Ways and Means.

By Mr. SCHUMER:

H.R. 4034. A bill to deny nondiscriminatory most-favored-nation [MFN] treatment to countries that participate in, or cooperate with, the economic boycott of Israel; to the Committee on Ways and Means.

By Mr. SENSENBRENNER:

H.R. 4035. A bill to amend title 18, United States Code, to require a waiting period before the purchase of a handgun; to the Committee on the Judiciary.

By Mr. SKAGGS:

H.R. 4036. A bill to provide for the transfer of certain public lands located in Clear Creek County, CO, to the U.S. Forest Service, the State of Colorado, and certain local governments in the State of Colorado, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. SMITH of New Jersey:

H.R. 4037. A bill to require the redetermination of the boundaries of the metropolitan statistical areas, primary metropolitan statistical areas, and consolidated metropolitan statistical areas of the United States, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 4038. A bill to provide that any interim pay adjustment under the Federal Employees Comparability Act of 1990 which becomes payable to a Federal employee as a result of a revision in the boundaries of a metropolitan or other statistical area in calendar year 1992 shall be payable as if the revision had been effective as of the beginning of such year; to the Committee on Post Office and Civil Service.

H.R. 4039. A bill to amend the Internal Revenue Code of 1986 to provide for the establishment of, and deduction of contributions to, education savings accounts; to the Committee on Ways and Means.

By Mr. SMITH of New Jersey (for himself, Mr. HYDE, Mr. MOLLOHAN, Mr. VOLKMER, Mrs. VUCANOVICH, Mr. DORNAN of California, Mr. HUNTER, Mr. HOLLOWAY, Mr. BOEHNER, Mr. EMERSON, Mr. DELAY, Mr. INHOFE, Mr. DANNEMEYER, Mr. BUNNING, Mr. HANCOCK, and Mr. WALKER):

H.R. 4040. A bill to protect religious freedom; to the Committee on the Judiciary.

By Ms. SNOWE:

H.R. 4041. A bill to establish a program to stimulate the U.S. economy; jointly, to the Committees on Public Works and Transportation, Small Business, Ways and Means, Armed Services, Science, Space, and Technology, and Foreign Affairs.

By Mr. STARK:

H.R. 4042. A bill to amend the Internal Revenue Code of 1986 to impose an excise tax on certain sales of assets of medical service organizations to managers, et cetera, of such organization; to the Committee on Ways and Means.

H.R. 4043. A bill to amend the Emergency Unemployment Compensations Act of 1991 to increase the number of weeks of eligibility for emergency unemployment compensation; to the Committee on Ways and Means.

By Mr. STARK (for himself, Mrs. BOXER, Ms. PELOSI, Mr. MILLER of California, Mr. DELLUMS, Mr. DE LUGO and Mr. MATSUI):

H.R. 4044. A bill to amend the Internal Revenue Code of 1986 to provide tax relief for certain disaster losses, and for other purposes; to the Committee on Ways and Means.

By Mr. STUDDS (for himself, Mr. DINGELL, Mr. HUGHES, Mr. HERTEL, Mr. BENNETT, Mr. SOLARZ, Mr. BROWN, Mr. BEILENSON, Mr. SAXTON, Mr. RAVENEL, Mr. GILCHREST, Mr. DELLUMS, Mr. ROYBAL, Mrs. SCHROEDER, Mr. KOSTMAYER, Mr. VENTO, Mr. MARKEY, Mr. STARK, Mr. BERMAN, Mr. WEISS, Mr. EDWARDS of California, Mr. ACKERMAN, Mr. DWYER of New Jersey, Mr. ATKINS, Mr. JONTZ, Mr. MRAZEK, Mr. MFUME, Mrs. MINK, Mr. SMITH of Florida, and Mr. SIKORSKI):

H.R. 4045. A bill to reauthorize and amend the Endangered Species Act in order to strengthen programs for the conservation of threatened and endangered species, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. TALLON (for himself, Mr. DOWNEY, Mr. EMERSON, Mr. DE LA GARZA, Mr. JENKINS, Mr. LEWIS of Florida, Mrs. JOHNSON of Connecticut, Mr. HATCHER, Mr. ESPY, Mr. DURBIN, Mr. THOMAS of Georgia, Mr. DERRICK, Mr. SPRATT, Mr. RAVENEL, Mr. ROSE, Mrs. PATTERSON, Mr. SPENCE, Mrs. SCHROEDER, Mr. PANETTA, Mr. MCCLOSKEY, Mr. CLEMENT, Mr. HOYER, Mr. ARMEY, Mr. WHEAT, Mr. RAHALL, Mr. MCCURDY, Mr. BALLENGER, Mr. MCMILLAN of North Carolina, Mr. GLICKMAN, Mr. DELAY, Mr. GINGRICH, Mr. WISE, Mr. WAXMAN, Mr. ANDREWS of Texas, Mr. COMBEST, Mr. HARRIS, Mr. BUNNING, Mr. WOLF, Mr. STENHOLM, Mr. HUCKABY, Mr. ANTHONY, Mr. SLATTERY, Mr. COBLE, Mr. SARPALIUS, Ms. LONG, Mr. DELLUMS, Mr. KENNEDY and Mr. HALL of Ohio):

H.R. 4046. A bill to provide for a joint report by the Secretary of Health and Human Services and the Secretary of Agriculture to assist in decisions to reduce administrative duplication, promote coordination of eligibility services, and remove eligibility barriers which restrict access of pregnant women, children, and families to benefits under the food stamp program and benefits under titles IV and XIX of the Social Security Act; jointly, to the Committees on Agriculture, Ways and Means, and Energy and Commerce.

By Mr. TAUZIN:

H.R. 4047. A bill to extend the jurisdiction of the Mississippi River Commission to include an additional geographic area; to the Committee on Public Works and Transportation.

By Mr. TOWNS:

H.R. 4048. A bill to establish a program to assist fiscally distressed local governments in the provision of essential services, and for other purposes; to the Committee on Government Operations.

By Mr. UPTON:

H.R. 4049. A bill to deauthorize the turning basin portion of the navigation project of South Haven Harbor, MI; to the Committee on Public Works and Transportation.

By Mr. VANDER JAGT:

H.R. 4050. A bill to amend title VII of the Tariff Act of 1930 to include interim processors within industries producing processed agricultural products, and for other purposes; to the Committee on Ways and Means.

By Mr. VISCLOSKY (for himself, Mr. MURTHA, Mr. APPLEGATE, Mrs. BENTLEY, Mr. BEVILL, Mr. BROWN, Mr. GAYDOS, Mr. MOLLOHAN, Mr. NOWAK, Mr. OBERSTAR, Mr. RITTER, Mr. RUSSO, Mr. CAMPBELL of Colorado, Mr. CONYERS, Mr. COYNE, Mr. DAVIS, Mr. DINGELL, Mr. ECKART, Mr. EVANS, Mr. FEIGHAN, Mr. GUARINI, Mr. JONTZ, Mr. KANJORSKI, Ms. KAPTUR, Mr. KOSTMAYER, Mr. MCCLOSKEY, Mr.

MCMILLEN of Maryland, Mr. MANTON, Mr. MURPHY, Mr. OWENS of Utah, Mr. PAYNE of Virginia, Mr. PERKINS, Mr. RAHALL, Mr. RIDGE, Mr. SANTORUM, Mr. STAGGERS, Mr. STOKES, Mr. TOWNS, and Mr. TRAFICANT):

A bill to extend the application of the steel trade liberalization program; to the Committee on Ways and Means.

By Mr. VOLKMER:

H.R. 4052. A bill to prohibit export to, and imports from, Yugoslavia until the President certifies to the Congress that the Government of Yugoslavia has recognized the right of each of the Republics of Croatia, Slovenia, Macedonia, Bosnia, and Herzegonia to be an independent state; jointly, to the Committees on Foreign Affairs and Ways and Means.

By Ms. WATERS:

H.R. 4053. A bill to provide for the minting of $1 silver coins in commemoration of the Year of the Vietnam Veteran and the 10th anniversary of the dedication of the Vietnam Veteran Memorial; to the Committee on Banking, Finance and Urban Affairs.

By Mr. WEBER (for himself, Mr. CAMP, Mr. BARRETT, Mr. MACHTLEY, Mr. HANCOCK, Mr. RAMSTAD, Mr. BOEHNER, Mr. TAYLOR of North Carolina, Mr. SOLOMON, Mr. RIGGS, Mr. NUSSLE, and Mr. DOOLITTLE):

H.R. 4054. A bill to provide for improvements in access and affordability of health insurance coverage through small employer health insurance reform, for improvements in the portability of health insurance, and for health care cost containment, and for other purposes; jointly, to the Committees on Energy and Commerce, Ways and Means, and the Judiciary.

By Mr. WOLF:

H.R. 4055. A bill to provide for approval of a license for telephone communications between the United States and Vietnam; to the Committee on Foreign Affairs.

By Mr. YOUNG of Alaska:

H.R. 4056. A bill to amend the National Fish and Wildlife Foundation Establishment Act; to the Committee on Merchant Marine and Fisheries.

By Mr. BILIRAKIS:

H.R. 4057. A bill to require Members of Congress to pay for medical services and products from the Office of the Attending Physician; to the Committee on House Administration.

By Mr. DANNEMEYER:

H.R. 4058. A bill to amend the Endangered Species Act of 1973 to require the preparation of economic impact analysis with respect to certain actions to protect endangered species and threatened species, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. DE LA GARZA:

H.R. 4059. A bill to amend the Agricultural Trade Development and Assistance Act of 1954 to authorize additional functions within the Enterprise for the Americas Initiative, and for other purposes; jointly, to the Committees on Agriculture and Foreign Affairs.

By Mr. HOAGLAND:

H.R. 4060. A bill to require that the President transmit to Congress, that the congressional budget committees report, and that the Congress consider a balanced budget for each fiscal year; jointly, to the Committees on Government Operations and Rules.

By Mr. KOSTMAYER:

H.R. 4061. A bill to amend the Internal Revenue Code of 1986 to create and preserve American jobs; to the Committee on Ways and Means.

By Mr. MINETA (for himself and Mr. GEPHARDT):

H.R. 4062. A bill to require reauthorizations of budget authority for Government programs at least every 10 years, to provide for review of Government programs at least every 10 years, and for other purposes; jointly, to the Committees on Government Operations and Rules.

By Mr. OWENS of Utah (for himself, Mr. ORTON, and Mr. HANSEN):

H.R. 4063. A bill to amend the National Park Service Concessions Policy Act to clarify management of concessioners who solely operate outfitter services for backcountry recreation in the National Park System; to the Committee on Interior and Insular Affairs.

By Mr. SCHULZE:

H.R. 4064. A bill to amend the Trade Act of 1974; to the Committee on Ways and Means.

By Mr. STALLINGS (for himself and Mr. LAROCCO):

H.R. 4065. A bill to amend the Federal Property and Administrative Services Act of 1949 and title 10, United States Code, to require as a term in each contract for property or services made by an executive agency that the contractor, and any subcontractors under that contract, shall comply with the workmen's compensation laws of each State in which the contract is performed; jointly, to the Committees on Government Operations and Armed Services.

By Mr. TAUZIN:

H.R. 4066. A bill to request from certain countries information concerning American servicemen and civilians missing in Southeast Asia during the Vietnam conflict and to require the heads of Federal departments and agencies to disclose to Congress information concerning such servicemen and civilians; jointly, to the Committees on Foreign Affairs, Ways and Means, and Intelligence (Permanent Select).

By Mr. TAUZIN (for himself, Mr. SLATTERY, Mr. HAYES of Louisiana, Mr. ACKERMAN, Mr. TALLON, Mr. CAMPBELL of Colorado, Mr. RICHARDSON, Mr. WYDEN, Mr. HUTTO, Mr. HALL of Texas, Mrs. BYRON, Mrs. LLOYD, Ms. OAKAR, Mr. AUCOIN, Mr. MONTGOMERY, Mr. JONES of North Carolina, Mr. HUCKABY, Mr. MCCURDY, Mr. CONDIT, Mr. ERDREICH, Mr. PARKER, Mrs. PATTERSON, Mr. IRELAND, Mr. HYDE, Mr. LIVINGSTON, Mr. LOWERY of California, Mr. YOUNG of Alaska, Mr. THOMAS of Georgia, Mr. WEBER, Mr. SHAW, Mr. GLICKMAN, Mr. HARRIS, Mr. BROWDER, Mr. KOSTMAYER, Mr. JEFFERSON, Ms. KAPTUR, Mr. CRAMER, Mr. GOSS, Mr. KASICH, Mr. NOWAK, Mr. LENT, and Mr. LAUGHLIN):

H.R. 4067. A bill to provide that interest earned on certain passbook savings accounts shall be excluded from gross income of the taxpayer as an incentive to taxpayers to increase savings in local banks and savings institutions; to the Committee on Ways and Means.

By Mr. TAUZIN (for himself, Mr. FIELDS, Mr. LIVINGSTON, Mr. HOLLOWAY, and Mr. LAUGHLIN):

H.R. 4068. A bill entitled: Coastal Communities Impact Assistance Act of 1992; jointly, to the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries.

By Mr. FASCELL:

H.R. 4070. A bill to amend the Foreign Assistance Act of 1961 to rewrite the authorities of that act in order to establish more effective assistance programs and eliminate obsolete and inconsistent provisions, to amend the Arms Export Control Act and to redesignate that act as the Defense Trade and Export Control Act, to authorize appropriations for foreign assistance programs for fiscal years 1992 and 1993, and for other purposes; to the Committee on Foreign Affairs.

By Mr. HAYES of Louisiana:

H.R. 4071. A bill to amend the Consolidated Farm and Rural Development Act to prohibit the Secretary of Agriculture from making or enforcing any rule requiring all borrowers under such act to demonstrate a positive cash flow, without taking into account the individual characteristics of borrowers; to the Committee on Agriculture.

By Mr. PAXON (for himself, Mr. MARTIN, and Mr. WALSH):

H.R. 4072. A bill to amend the Solid Waste Disposal Act to prohibit the import into the United States of all solid waste except solid waste imported for the purpose of recycling; to the Committee on Energy and Commerce.

By Mr. ABERCROMBIE:

H.J. Res. 383. Joint resolution to consent to certain amendments enacted by the Legislature of the State of Hawaii to the Hawaiian Homes Commission Act, 1920; to the Committee on Interior and Insular Affairs.

By Mr. EWING:

H.J. Res. 384. Joint resolution proposing an amendment to the Constitution allowing an item veto in appropriations; to the Committee on the Judiciary.

By Mr. GREEN of New York:

H.J. Res. 385. Joint resolution designating the week beginning September 13, 1992, as "National Fragrance Week"; to the Committee on Post Office and Civil Service.

By Mr. KENNEDY (for himself, Mr. RICHARDSON, Mr. POSHARD, Mr. MURPHY, Mr. STENHOLM, Mr. WILSON, Mr. DEFAZIO, Mr. BUSTAMANTE, Mr. CAMPBELL of California, Mr. SARPALIUS, Mr. OWENS of Utah, Mr. NEAL of Massachusetts, and Mr. MCMILLEN of Maryland):

H.J. Res. 386. Joint resolution proposing an amendment to the Constitution to provide for a balanced budget for the U.S. Government and for greater accountability in the enactment of tax and spending legislation; to the Committee on the Judiciary.

By Mr. KILDEE (for himself, Mr. FORD of Michigan, and Mr. GOODLING):

H.J. Res. 387. Joint resolution designating February 9 through February 15, 1992, as "Vocational-Technical Education Week"; to the Committee on Post Office and Civil Service.

By Mr. ROSTENKOWSKI:

H. Con. Res. 249. Concurrent resolution correcting a technical error in the enrollment of the bill, H.R. 1724; considered and agreed to.

By Mr. COSTELLO:

H. Con. Res. 250. Concurrent resolution to express the sense of the Congress that the U.S. Trade Representative must negotiate a tough but fair multilateral trade agreement regarding steel products before the expiration of the enforcement authority for existing bilateral arrangements governing steel product imports; to the Committee on Ways and Means.

By Mr. FAZIO (for himself, Mr. ATKINS, Mr. BERMAN, Mr. CLAY, Mr. GREEN of New York, Mr. LEVIN of Michigan, Mr. MCDERMOTT, Mr. MARTINEZ, Mr. MATSUI, Mr. MFUME, Mr. TORRES, Mr. WAXMAN, and Mr. WEISS):

H. Con. Res. 251. Concurrent resolution expressing the sense of the Congress that the Fox Broadcasting Co. be commended for accepting paid advertising promoting the use of condoms as a method for preventing the

spread of Acquired Immune Deficiency Syndrome [AIDS], that all other commercial broadcast networks should follow the example of the Fox Broadcasting Co., and that the Secretary of Health and Human Services should prepare, and encourage the preparation of, public service announcements, promoting the use of condoms as a method for preventing the spread of AIDS; to the Committee on Energy and Commerce.

By Mr. MRAZEK (for himself, Mr. BEREUTER, Mr. DOWNEY, Mr. FROST, Mr. MCNULTY, Mr. SCHEUER, Mr. SMITH of Florida, and Mr. TOWNS):

H. Con. Res. 252. Concurrent resolution in support of unity of the common state in the Czech and Slovak Federal Republic; to the Committee on Foreign Affairs.

By Mr. PANETTA:

H. Con. Res. 253. Concurrent resolution to express the sense of the Congress that the President should urge the United Nations Security Council to impose sanctions against Serbia and that the President should take a more active role in resolving the Serbo-Croatian conflict; to the Committee on Foreign Affairs.

By Mr. RIDGE (for himself, Mr. MURTHA, Mr. JENKINS, Mr. CLINGER, Mr. RITTER, Mr. VISCLOSKY, Mr. RAVENEL, Mr. MURPHY, Mr. APPLEGATE, Mr. SANTORUM, Mr. GAYDOS, Mr. JONTZ, Mr. KOLTER, Mr. PERKINS, Mrs. PATTERSON, Mr. PEASE, Mr. SPRATT, Mr. RAHALL, Mrs. LLOYD, Mr. TRAFICANT, Mr. WISE, Ms. KAPTUR, Mrs. BENTLEY, and Mr. EVANS):

H. Con. Res. 254. Concurrent resolution to request the U.S. Trade Representative to refuse to agree to certain provisions proposed to be included in the General Agreement on Tariffs and Trade; to the Committee on Ways and Means.

By Mr. SANTORUM (for himself, Mr. DOWNEY, Ms. KAPTUR, Mr. ALLARD, Mr. BILIRAKIS, Mr. LEVINE of California, Ms. NORTON, Mr. SCHIFF, and Mr. JEFFERSON):

H. Con. Res. 255. Concurrent resolution expressing the sense of the Congress that the States, in order to expedite the dispute settlement process for grandparent visitation privileges, are encouraged to adopt uniform visitation rights laws, modeled after a federally commissioned American Bar Association report; to the Committee on the Judiciary.

By Mr. SCHEUER (for himself, Mr. ACKERMAN, Mr. OBERSTAR, Mr. AUCOIN, Mr. FLAKE, Mr. BROWN, Mr. FAWELL, Mr. ANDREWS of Maine, Mr. GUARINI, Mr. JOHNSON of South Dakota, Mr. HORTON, and Mr. KENNEDY):

H. Con. Res. 256. Concurrent resolution to express the sense of the Congress with respect to the support of the United States for the protection of the African elephant; to the Committee on Merchant Marine and Fisheries.

By Mr. VENTO (for himself and Mr. RIDGE):

H. Con. Res. 257. Concurrent resolution expressing the sense of the Congress that the substantial changes implemented during 1991 by the Secretary of Housing and Urban Development to the single family housing mortgage insurance program of the Federal Housing Administration, pursuant to the Cranston-Gonzalez National Affordable Housing Act of 1991, including the changes made to the pricing and structure of mortgage insurance premiums, should be reexamined to determine the effects of the changes on the affordability of home ownership, the long-term financial viability of the Mutual Mortgage Insurance Fund, and the composition of the FHA loan portfolio; to the Committee on Banking, Finance and Urban Affairs.

By Mrs. BENTLEY:

H. Con. Res. 258. Concurrent resolution expressing the sense of the Congress that the President should convene a White House conference on revitalizing American industry; to the Committee on Banking, Finance and Urban Affairs.

By Mrs. BENTLEY (for herself and Mr. LIGHTFOOT).

H. Con. Res. 259. Concurrent resolution expressing the sense of the Congress that the Secretary of Labor, in cooperation with the ACTION Agency, should publicize and promote projects under the Retired Senior Volunteer Program and the Older American Community Service Employment Program that encourage and recruit older individuals to provide child care services in community-based child care centers; to the Committee on Education and Labor.

By Mr. GEPHARDT:

H. Con. Res. 260. Concurrent resolution providing for an adjournment of the Congress to a date certain; considered and agreed to.

By Mr. RANGEL:

H. Con. Res. 261. Concurrent resolution correcting technical errors in the enrollment of the bill (S. 543); considered and agreed to.

By Mr. DE LA GARZA:

H. Res. 305. Resolution concurring in the Senate amendment to H.R. 3029 with an amendment; considered under the suspension of rules and agreed to.

By Mr. HOYER:

H. Res. 308. Resolution electing Representative Blackwell of Pennsylvania to the Committee on Public Works and Transportation; considered and agreed to.

By Mr. BACCHUS (for himself and Mr. ZIMMER):

H. Res. 310. Resolution to amend the Rules of the House of Representatives to allow open meetings and hearings to be closed only for reasons of national security; to the Committee on Rules.

By Mr. MCCURDY (for himself, Mr. STENHOLM, Mr. SABO, Mr. ANDREWS of Texas, and Mr. GLICKMAN):

H. Res. 311. Resolution to amend the Rules of the House of Representatives to provide for the election of the chairmen and ranking minority members of the standing committees and for other purposes; to the Committee on Rules.

By Mr. OWENS of Utah:

H. Res. 312. Resolution amending the Rules of the House of Representatives to limit the number of years a Member may serve as chairperson of a particular standing committee or subcommittee; to the Committee on Rules.

By Mr. PENNY:

H. Res. 313. Resolution expressing the sense of the House of Representatives that the President should initiate an appraisal of, and consider alternatives to, the current structure and membership of the U.N. Security Council in the context of recent changes in the world's economic and political realities; to the Committee on Foreign Affairs.

By Mr. SANTORUM (for himself, Mr. PURSELL, Mr. GOSS, Mr. GALLEGLY, Mr. ZELIFF, Mr. MCCANDLESS, and Mr. BALLENGER):

H. Res. 314. Resolution providing for motor vehicle leasing for the House of Representatives to be conducted through the General Services Administration; to the Committee on House Administration.

By Mr. SAXTON (for himself, Mr. DAVIS, Mr. HUBBARD, Mr. YOUNG of Alaska, Mr. HUGHES, Mr. LENT, Mr. TAUZIN, Mr. FIELDS, Mr. LIPINSKI, Mr. BATEMAN, Mr. BENNETT, Mr. WELDON, Mr. PALLONE, Mr. HERGER, Mr. LAUGHLIN, Mr. RAVENEL, Mr. TAYLOR of Mississippi, Mr. GILCHREST, Mr. ANDERSON, Mr. DOOLITTLE, Mr. LANCASTER, Mr. CUNNINGHAM, Mr. GALLO, Mr. BAKER, Mr. MILLER of Washington, Mr. DICKS, Mr. JACOBS, and Ms. KAPTUR):

H. Res. 315. Resolution to amend the Rules of the House of Representatives to require economic impact statements for reported bills and amendments that create or increase any taxes, duties, or other fees on the maritime industry, and for other purposes; to the Committee on Rules.

By Mrs. KENNELLY:

H. Res. 319. Resolution supporting the activities of the Peace Corps in the republics of Armenia and Ukraine; to the Committee on Foreign Affairs.

By Mr. HOYER (for himself, Mrs. BOXER, Mrs. MORELLA, Mr. RITTER, Mr. LEHMAN of California, and Mr. LEVINE of California):

H. Res. 321. Resolution concerning the conflict between the Armenian and Azerbaijani populations of the Nagorno-Karabakh Autonomous Oblast in the Territory of Azerbaijan: to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII:

Mr. STALLINGS introduced a bill (H.R. 4069) for the relief of Rollins H. Mayer; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 23: Mr. MORRISON.

H.R. 44: Mr. SHUSTER, Mr. DICKS, Mr. PERKINS, Mr. GOSS, Mr. BORSKI, Mr. FAWELL, Mr. PAYNE of New Jersey, Mr. KOLTER, Mr. LIVINGSTON, Mr. BARNARD, Mr. WISE, Mr. OWENS of Utah, Mr. HORTON, Mr. HYDE, Mrs. UNSOELD, Mr. DIXON, Mr. DE LUGO, Mr. GALLEGLY, Mr. SPENCE, Mr. YOUNG of Alaska, Mr. ZELIFF, and Mr. YOUNG of Florida.

H.R. 53: Mr. MANTON.

H.R. 66: Mr. BEILENSON, Mr. COX of Illinois, Mr. FAWELL, and Mr. PURSELL.

H.R. 81: Mr. ACKERMAN, Mr. ESPY, Mr. DOWNEY, Mr. HASTERT, and Mr. HORTON.

H.R. 83: Mr. LIVINGSTON.

H.R. 118: Mr. GALLO, Mr. ROHRABACHER, and Mr. MINETA.

H.R. 123: Mrs. MEYERS of Kansas.

H.R. 127: Mr. WYLIE.

H.R. 246: Mr. DORNAN of California, Mr. DOOLITTLE, Mr. MARTIN, Mr. ZELIFF, Mr. BOEHNER, Mr. HORTON, and Mr. KLUG.

H.R. 318: Mr. SWETT.

H.R. 341: Mr. MCNULTY.

H.R. 381: Mr. TORRICELLI.

H.R. 415: Mr. BAKER.

H.R. 430: Mr. WHEAT, Mr. ALEXANDER, and Mr. OXLEY.

H.R. 467: Mr. GALLEGLY.

H.R. 501: Mr. RICHARDSON, Mr. ERDREICH, Mr. MCNULTY, Mr. OLVER, and Mr. ECKART.

H.R. 544: Mr. ATKINS.

H.R. 565: Mr. NUSSLE, Mr. YOUNG of Florida, and Mr. MORRISON.

H.R. 602: Mr. GINGRICH.
H.R. 608: Mr. BACCHUS and Mr. GALLEGLY.
H.R. 639: Mr. YOUNG of Florida.
H.R. 640: Mr. RHODES.
H.R. 643: Mr. BUSTAMANTE, Mr. NUSSLE, and Mr. BALLENGER.
H.R. 709: Mr. GILMAN.
H.R. 710: Mr. WOLPE, Mr. ESPY, Mr. RICHARDSON, and Mr. QUILLEN.
H.R. 784: Mr. THOMAS of Wyoming and Mr. OLVER.
H.R. 793: Mr. HUCKABY, Mr. KLECKA, and Mr. GALLEGLY.
H.R. 842: Mr. ASPIN, Mr. MCMILLEN of Maryland, Mrs. MINK, Mr. BLACKWELL, and Mr. SWETT.
H.R. 858: Mr. RHODES.
H.R. 863: Mr. JOHNSON of South Dakota.
H.R. 917: Mr. SHARP, Mr. YOUNG of Florida, and Mr. STUDDS.
H.R. 951: Mr. MORRISON.
H.R. 976: Mrs. ROUKEMA.
H.R. 1048: Mr. ESPY.
H.R. 1063: Mrs. LOWEY of New York.
H.R. 1115: Mr. RICHARDSON.
H.R. 1120: Mr. SPENCE.
H.R. 1126: Mr. ROEMER.
H.R. 1145: Mr. GALLEGLY, Mr. RUSSO, Mr. WALKER, Mr. CARPER, Mr. SKAGGS, Mr. OBERSTAR, AND MR. DYMALLY.
H.R. 1154: Mr. KLUG, Mr. MOODY, Mr. LUKEN, and Mr. AUCOIN.
H.R. 1186: Mr. LUKEN, Mr. ROYBAL, Mrs. PATTERSON, and Mr. SPENCE.
H.R. 1200: Mr. MARTIN and Mr. YOUNG of Florida.
H.R. 1202: Mr. BERMAN.
H.R. 1218: Mr. YATES.
H.R. 1239: Mr. HAYES of Louisiana.
H.R. 1244: Ms. NORTON, Mr. JONTZ, Mr. LAFALCE, Mr. ROYBAL, and Mr. ESPY.
H.R. 1345: Mr. RITTER.
H.R. 1354: Mr. ANDREWS of Maine.
H.R. 1385: Mr. SMITH of FLORIDA.
H.R. 1408: Mr. ANDREWS of Maine and Mrs. BOXER.
H.R. 1411: Mr. JONES of North Carolina, Mr. EDWARDS of Oklahoma, Mr. GOODLING, Mr. WILSON, Mr. RAY, Mrs. BYRON, Mr. MONTGOMERY, Mr. FORD of Tennessee, Mr. HYDE, Mr. HERGER, Mr. BARRETT, Mr. SHUSTER, Mr. KASICH, Mr. BREWSTER, Mr. SABO, Mr. ESPY, Mr. HEFLEY, Mr. ROTH, Mr. MARTINEZ, Mr. HUTTO, and Mr. CUNNINGHAM.
H.R. 1458: Mr. LIVINGSTON.
H.R. 1472: Mr. BILIRAKIS, Mr. MCMILLAN of North Carolina, and Mr. SISISKY.
H.R. 1473: Mr. MAVROULES, Mr. RIGGS, and Mr. TRAXLER.
H.R. 1481: Mr. HOLLOWAY.
H.R. 1500: Mr. BONIOR, Mr. FORD of Tennessee, Mr. HOAGLAND, Mr. PAYNE of Virginia, Mr. CONYERS, Mr. DE LUGO, Mr. COSTELLO, Mr. DWYER of New Jersey, Mr. CLAY, Mr. LEHMAN of California, Mr. JOHNSTON of Florida, Mr. FEIGHAN, Mr. GREEN of New York, Mr. LIPINSKI, and Mr. RICHARDSON.
H.R. 1506: Mr. HOCHBRUECKNER.
H.R. 1527: Mr. ALLEN.
H.R. 1531: Mr. BRUCE.
H.R. 1536: Mr. MORRISON.
H.R. 1547: Mr. HUTTO.
H.R. 1557: Mr. SOLARZ, Mr. COMBEST, Mr. OWENS of Utah, Mr. GALLO, Mr. DYMALLY, Mr. GILMAN, and Mr. YOUNG of Florida.
H.R. 1565: Mr. MACHTLEY.
H.R. 1566: Mr. ALEXANDER.
H.R. 1570: Mr. LEACH, Mr. CAMP, Mr. YOUNG of Florida, and Mr. LANTOS.
H.R. 1602: Mr. TOWNS, Mr. ECKART, and Mr. DIXON.
H.R. 1628: Mr. MARKEY, Mr. TORRES, Mr. WILSON, Mr. COBLE, Mr. BUSTAMANTE, Mr. SWIFT, Mr. ANDREWS of Texas, Mr. RUSSO, Mr. LEVIN of Michigan, Mr. SHAYS, Mr. HYDE, Mrs. MEYERS of Kansas, Mr. WALKER, Mr. PASTOR, Mr. ESPY, Mr. HOYER, Mr. NEAL of Massachusetts, Mr. CHANDLER, Mr. SKAGGS, Mr. ANNUNZIO, Mr. GLICKMAN, Mr. KILDEE, Mr. WAXMAN, Mr. YATES, Mr. DURBIN, Mr. KLECZKA, Mr. BERMAN, Ms. HORN, Mr. ROSTENKOWSKI, and Mr. MFUME.
H.R. 1637: Mr. TRAFICANT and Mr. EVANS.
H.R. 1663: Mr. SWETT.
H.R. 1664: Mr. MILLER of California.
H.R. 1730: Mr. ALLEN, Mr. DE LUGO, Mr. BUSTAMANTE, Mr. EMERSON, and Mr. SIKORSKI.
H.R. 1755: Mr. YOUNG of Florida.
H.R. 1856: Mr. EDWARDS of California, Mr. FRANKS of Connecticut, and Mr. MARKEY.
H.R. 1882: Mr. STENHOLM.
H.R. 1898: Mr. ZELIFF.
H.R. 1960: Mr. CONYERS, Mr. PARKER, Mr. DOWNEY, Mr. REGULA, Mr. BUSTAMANTE, and Mr. EVANS.
H.R. 1987: Mr. AUCOIN and Mr. VISCLOSKY.
H.R. 1992: Mr. HENRY and Mr. CAMP.
H.R. 2027: Mr. ATKINS.
H.R. 2037: Mr. RHODES.
H.R. 2071: Mr. MARTINEZ, and Mr. LANCASTER, Mr. DREIER of California, and Mr. FIELDS.
H.R. 2083: Mr. SWETT and Mr. FORD of Michigan.
H.R. 2086: Mr. YOUNG of Florida.
H.R. 2101: Mr. ESPY and Mr. FAZIO.
H.R. 2106: Mr. NEAL of North Carolina.
H.R. 2186: Mr. HERGER.
H.R. 2199: Mr. YOUNG of Florida.
H.R. 2223: Mr. DE LUGO, Mr. GEREN of Texas, Mr. DURBIN, Mr. SIKORSKI, Mr. SABO, Mr. KANJORSKI, and Mr. SMITH of New Jersey.
H.R. 2232: Mr. HAYES of Louisiana.
H.R. 2242: Mr. WEISS, Mr. COYNE, Mr. DICKS, Mr. ANDREWS of Maine, and Mr. JOHNSON of South Dakota.
H.R. 2244: Mr. FLAKE.
H.R. 2248: Mr. FROST, Mr. PETERSON of Florida, Mr. YOUNG of Florida and Mr. HATCHER.
H.R. 2336: Mr. STEARNS, Mr. MILLER of Washington, and Mr. DAVIS.
H.R. 2359: Ms. MOLINARI, Mr. MAVROULES, Mr. STUMP, Mr. YOUNG of Alaska, Mr. RHODES, Mr. HORTON, Mr. KOLBE, Mr. MARLENEE, Mr. TAUZIN, and Mr. COBLE.
H.R. 2401: Mr. ROEMER, Mr. MARLENEE, and Mr. JONES OF North Carolina.
H.R. 2410: Mr. HOBSON and Mr. YATRON.
H.R. 2419: Ms. NORTON and Mr. SWETT.
H.R. 2437: Mr. YOUNG of Florida.
H.R. 2453: Mr. MACHTLEY.
H.R. 2485: Mr. LAFALCE and Mr. EVANS.
H.R. 2489: Mr. FISH.
H.R. 2493: Mr. HUGHES.
H.R. 2534: Mr. PICKETT, Mr. LEHMAN of Florida, Mr. KOPETSKI, Mr. HOBSON, and Ms. ROS-LEHTINEN.
H.R. 2540: Ms. DELAURO, Mr. LANCASTER, and Mr. RAMSTAD.
H.R. 2546: Mr. BOEHLERT.
H.R. 2571: Mr. SARPALIUS, Mr. MARKEY, Mr. OWENS of Utah, Mr. FEIGHAN, Mrs. BOXER, Mr. SABO, Mr. COYNE, Mr. BOUCHER, and Mr. WALSH.
H.R. 2598: Mr. BARTON of Texas, Mr. BUSTAMANTE, Mr. BORSKI, Mr. LANTOS, Mr. MCNULTY, and Mr. TOWNS.
H.R. 2625: Mr. PURSELL, Mr. MONTGOMERY, Mr. MCGRATH, Mr. GILCHREST, Mr. KYL, Mr. CHANDLER, Mr. EWING, Mr. UPTON, Mr. PAXON, Mr. SARPALIUS, Mr. ZELIFF, and Mr. HAYES of Louisiana.
H.R. 2643: Mr. HOBSON, Mr. GUNDERSON, and Mr. KLUG.
H.R. 2672: Mr. LENT.
H.R. 2797: Mr. ATKINS, Mr. BLACKWELL, Mr. BUSTAMANTE, Mr. GILMAN, Mr. HARRIS, and Mr. TALLON.
H.R. 2806: Mr. SKELTON, Mr. SMITH of Iowa, Mr. VOLKMER, Mr. PANETTA, Mr. CRANE, Mr. OWENS of Utah, Mr. MILLER of Washington, and Mr. ALEXANDER.
H.R. 2871: Mr. MILLER of Ohio.
H.R. 2880: Mr. DURBIN, Mr. DONNELLY, Mr. MCMILLEN of Maryland, Mr. ANDREWS of New Jersey, and Mr. MINETA.
H.R. 2912: Mrs. MEYERS of Kansas.
H.R. 2915: Mr. YOUNG of Florida and Mr. CAMP.
H.R. 2922: Mr. OLIN, Mr. FORD of Tennessee, and Mr. MCNULTY.
H.R. 2943: Mr. SOLOMON.
H.R. 2945: Mr. COLEMAN of Texas.
H.R. 2951: Mr. GORDON, Mr. JEFFERSON, Mr. RANGEL, Ms. PELOSI, Mr. LAFALCE, and Mr. EVANS.
H.R. 2966: Mr. JONTZ and Mr. OWENS of Utah.
H.R. 3006: Mr. ZIMMER and Mr. FISH.
H.R. 3026: Mr. BERMAN, Mrs. SCHROEDER, Mr. DELLUMS, and Mr. CAMPBELL of Colorado.
H.R. 3027: Mr. ABERCROMBIE.
H.R. 3042: Mr. DICKINSON, Mr. HARRIS, and Mr. ERDREICH.
H.R. 3051: Mr. FRANK of Massachusetts.
H.R. 3063: Mr. PETERSON of Florida, Mr. FROST, and Mr. MARTINEZ.
H.R. 3070: Mr. ANNUNZIO, Mr. LAGOMARSINO, Mr. MARKEY, Mr. YOUNG of Florida, and Mr. STEARNS.
H.R. 3071: Mr. YOUNG of Florida.
H.R. 3902: Mr. EMERSON.
H.R. 3112: Mr. FROST and Mr. DYMALLY.
H.R. 3140: Mr. ABERCROMBIE.
H.R. 3160: Mr. CONYERS, Mr. DIXON, Mr. LIPINSKI, Mr. MARKEY, Mr. MRAZEK, Mr. RUSSO, and Mr. STUDDS.
H.R. 3164: Mr. ALEXANDER.
H.R. 3189: Mrs. LOWEY of New York.
H.R. 3204: Mr. BERMAN, Mr. BOUCHER, Mr. BRYANT, Mr. CHAPMAN, Mr. COBLE, Mr. CONYERS, Mr. EDWARDS of California, Mr. ENGEL, Mr. FEIGHAN, Mr. FISH, Mr. GLICKMAN, Mr. JAMES, Mr. KOPETSKI, Mr. LEVINE of California, Mr. MCCOLLUM, Mr. MOORHEAD, Mr. REED, Mr. SANGMEISTER, Mr. STAGGERS, Mr. SYNAR, Mr. ABERCROMBIE, Mr. ACKERMAN, Mr. ALEXANDER, Mr. ANTHONY, Mr. BARTON of Texas, Mr. BONIOR, Mrs. BOXER, Mr. BRUCE, Mr. CARR, Mr. CLEMENT, Mr. COOPER, Mr. DOWNEY, Mr. GEREN of Texas, Mr. GORDON, Mr. GUARINI, Mr. HORTON, Mr. LEHMAN of California, Mr. LENT, Mr. LEWIS of California, Mrs. LOWEY of New York, Mr. MANTON, Mr. MATSUI, Mr. MCMILLEN of Maryland, Mr. MICHEL, Mr. OXLEY, Mr. RICHARDSON, Mr. RINALDO, Mr. SCHEUER, Mr. SIKORSKI, Mr. SMITH of Texas, Mr. STARK, Mr. SUNDQUIST, Mr. TANNER, Mr. VANDER JAGT, Mr. WAXMAN, and Mr. WEISS.
H.R. 3216: Mr. ROTH and Mr. WISE.
H.R. 3219: Mr. STOKES, Mr. DELLUMS, Mr. DIXON, Mr. DYMALLY, Mr. OWENS of New York, Mr. WHEAT, Mr. HAYES of Illinois, Mr. FLAKE, Mr. PAYNE of New Jersey, Mr. WASHINGTON, Mrs. COLLINS of Michigan, Ms. NORTON, and Mr. JEFFERSON.
H.R. 3221: Mr. MICHEL, Mr. LAUGHLIN, Mr. HARRIS, Mr. RAY, and Mr. MCMILLEN of Maryland.
H.R. 3236: Mr. NEAL of Massachusetts and Mr. BUSTAMANTE.
H.R. 3250: Mr. WOLPE.
H.R. 3253: Mr. BROWN and Mr. OWENS of Utah.
H.R. 3256: Mr. ECKART, Mr. BERMAN, Ms. KAPTUR, and Mr. RANGEL.

H.R. 3273: Mr. MARTINEZ, Mr. LANCASTER, Mr. BALLENGER, Mr. HANSEN, Mr. COX of California, Mr. KOSTMAYER, Mr. KOLBE, Mr. KOPETSKI, Mr. HORTON, Mr. BROWN, Mr. IRELAND, Mr. TAYLOR of North Carolina, Mr. COMBEST, Mr. ZELIFF, Mr. ACKERMAN, and Mrs. BOXER.

H.R. 3283: Mr. CAMPBELL of California, Mr. ENGEL, Mr. DICKINSON, Mr. SAXTON, Mr. BALLENGER, Mr. COBLE, Mr. TAYLOR of North Carolina, Mr. BEVILL, Mr. HERGER, Mr. CALLAHAN, Mr. ROHRABACHER, Mr. BURTON of Indiana, Mr. BROOMFIELD, Mr. WOLF, Mr. SMITH of New Jersey, Mr. DOOLITTLE, Mr. EDWARDS of Oklahoma, Mr. BARTON of Texas, Mr. SOLOMON, Mr. GOSS, Mr. LIGHTFOOT, Mr. WALKER, Mr. QUILLEN, Mr. ROGERS, Mr. PETRI, Mr. GEKAS, Mr. CUNNINGHAM, Mr. CRANE, Mr. GINGRICH, Mr. BOEHNER, Mr. HANCOCK, Mr. MILLER of Ohio, Mr. SCHAEFER, Mr. HASTERT, Mr. MONTGOMERY, Mr. WELDON, Mr. HUTTO, Mr. HAMMERSCHMIDT, Mr. GILCHREST, Mr. GALLEGLY, Mr. LAGOMARSINO, Mr. CAMP, Mr. HALL of Texas, Mr. HUNTER, Mr. JOHNSON of Texas, Mr. SKEEN, Mr. GILLMOR, Mr. NICHOLS, Mr. SANTORUM, Mr. COMBEST, Mr. BAKER, Mr. RAMSTAD, Mr. FRANKS of Connecticut, Mr. KYL, Mr. LOWERY of California, Mr. ALLEN, Mr. RIGGS, Mr. CHANDLER, Mr. WYLIE, Mr. THOMAS of Wyoming, Mr. YOUNG of Florida, Mr. SAWYER, Mr. ARMEY, Mr. DE LUGO, Mr. GUNDERSON, and Mr. WEBER.

H.R. 3285: Mr. JONTZ and Ms. NORTON.

H.R. 3286: Mr. CONYERS and Mr. OLVER.

H.R. 3326: Mr. FIELDS and Mr. GILMAN.

H.R. 3334: Mr. RANGEL.

H.R. 3337: Mr. ORTON, Mr. STENHOLM, Mrs. SCHROEDER, Mr. SISISKY, Mr. STUMP, Mrs. BYRON, Mr. CONDIT, Mr. SKELTON, Mr. VOLKMER, Mr. APPLEGATE, Mr. HAMMERSCHMIDT, Mr. SAXTON, Mr. GILMAN, Mr. HUBBARD, Mr. BENNETT, Mr. NATCHER, Ms. SLAUGHTER of New York, Ms. HORN, Mr. PARKER, Mr. TANNER, Mrs. LLOYD, Mr. CRAMER, Mr. JENKINS, Mr. HEFNER, Mr. ROWLAND, Mr. GEREN of Texas, Mr. SAWYER, Mr. ORTIZ, Mr. PASTOR, Ms. LONG, Mr. GLICKMAN, Mr. WYDEN, Mr. BROWDER, Mrs. PATTERSON, Ms. KAPTUR, Mr. VALENTINE, Mr. CARPER, Mr. PAYNE of Virginia, Mr. CHAPMAN, Mr. STUDDS, Mr. JONTZ, Mr. THORNTON, Mr. MCDADE, Mr. MURTHA, Mr. HUCKABY, Mr. REGULA, Mr. BOEHLERT, Mr. BOEHNER, Mr. RINALDO, Mrs. BENTLEY, Mr. BATEMAN, Mr. MOORHEAD, Mr. GOSS, Mr. MYERS of Indiana, Mr. IRELAND, Mrs. MEYERS of Kansas, and Mr. HOBSON.

H.R. 3342: Mr. RIGGS.

H.R. 3344: Mr. CARPER.

H.R. 3345: Ms. NORTON and Mr. FROST.

H.R. 3348: Mr. ARCHER, Mr. KOLTER, Mr. ROHRABACHER, Mr. KANJORSKI, Mr. NEAL of Massachusetts, Mr. LAROCCO, Mr. FRANK of Massachusetts, Mr. MARTINEZ, Mrs. JOHNSON of Connecticut, Mr. MILLER of Washington, Mr. GAYDOS, Mr. WILSON, Mr. COX of Illinois, Mr. HOCHBRUECKNER, Mr. MRAZEK, Mr. COX of California, Mrs. VUCANOVICH, Mr. ECKART, Mr. OLVER and Mr. STALLINGS.

H.R. 3349: Mr. ZELIFF.

H.R. 3360: Mr. MAZZOLI, Mr. PAYNE of Virginia, and Mr. NOWAK.

H.R. 3373: Mr. ABERCROMBIE and Mr. YOUNG of Florida.

H.R. 3376: Mr. ALLEN and Mr. CAMP.

H.R. 3412: Mr. WELDON.

H.R. 3420: Mr. SPENCE, Mr. OBERSTAR, Mr. BRYANT, and Mr. GUNDERSON.

H.R. 3422: Mr. SMITH of Florida.

H.R. 3423: Mr. LEVINE of California, Mr. STOKES, and Mr. POSHARD.

H.R. 3424: Mr. LEVINE of California, Mr. STOKES, Mr. POSHARD, and Mr. DIXON.

H.R. 3437: Mr. GOODLING.

H.R. 3438: Mr. MCCANDLESS.

H.R. 3439: Mr. MCCANDLESS.

H.R. 3440: Mr. MCCANDLESS.

H.R. 3441: Mr. MCCANDLESS.

H.R. 3442: Mr. MCCANDLESS.

H.R. 3451: Mr. ZELIFF.

H.R. 3452: Mr. APPLEGATE.

H.R. 3454: Mr. WILLIAMS, Mr. CHAPMAN, and Mr. GORDON.

H.R. 3484: Mrs. BOXER.

H.R. 3487: Mr. HOBSON and Mr. MORRISON.

H.R. 3501: Mr. JACOBS.

H.R. 3506: Mr. ZELIFF and Mrs. MEYERS of Kansas.

H.R. 3509: Mr. MCCLOSKEY, Mr. CONYERS, Mr. POSHARD, Mr. RANGEL, Mr. LIPINSKI, Mr. LAFALCE, Mr. GEJDENSON, Ms. NORTON, Mrs. BOXER, Mr. KLUG, Mrs. SCHROEDER, Mr. FORD of Michigan, and Mr. YATES.

H.R. 3515: Mr. VOLKMER and Mr. BUSTAMANTE.

H.R. 3528: Ms. SNOWE.

H.R. 3552: Mr. FOGLIETTA and Mr. DOOLEY.

H.R. 3553: Mr. Stokes, Mr. DE LA GARZA, Mr. RICHARDSON, Mr. ROYBAL, Mr. BUSTAMANTE, Mr. MORRISON, and Mrs. BOXER.

H.R. 3554: Mr. HUGHES.

H.R. 3560: Mr. WEISS.

H.R. 3561: Mr. SCHIFF and Mrs. MEYERS of Kansas.

H.R. 3568: Mr. EVANS and Mr. BUSTAMANTE.

H.R. 3571: Mr. BUSTAMANTE, Mr. RAY, and Mr. ZELIFF.

H.R. 3583: Mr. FOGLIETTA.

H.R. 3591: Mr. MCDERMOTT, Mr. VISCLOSKY, Mr. SHAYS, Mr. HYDE, Mr. GOSS, Mr. PAYNE of Virginia, Mr. ENGLISH, Mr. MCGRATH, Mr. JOHNSON of South Dakota, Mr. LEWIS of Florida, Mr. DELLUMS, Mr. TOWNS, Mr. LANCASTER, Mr. HORTON, Mr. STAGGERS, Mr. KOLTER, Mr. DWYER of New Jersey, Mr. SARPALIUS, Mr. STENHOLM, Mrs. KENNELLY, Ms. PELOSI, Mr. UPTON, Mr. ROSE, Mr. AUCOIN, Mr. CARDIN, and Mr. FOGLIETTA.

H.R. 3592: Mr. WALSH, Mr. HERGER, and Mrs. MEYERS of Kansas.

H.R. 3599: Mr. GEREN of Texas.

H.R. 3601: Mr. SCHEUER, Mr. MAZZOLI, Mr. DYMALLY, Mr. ENGEL, and Mr. JOHNSON of South Dakota.

H.R. 3605: Mr. MCCANDLESS.

H.R. 3619: Mr. STEARNS, Mr. DARDEN, Mr. CONYERS, Mr. DERRICK, Mr. JENKINS, Mr. BERMAN, Mr. FEIGHAN, and Mr. GLICKMAN.

H.R. 3620: Ms. COLLINS of Michigan and Mr. DAVIS.

H.R. 3627: Mr. DE LA GARZA, Mr. SPRATT, Mr. GOSS, Mr. SPENCE, Mr. BOEHNER, Mr. LUKEN, Mr. PARKER, Mr. MARTIN, Mr. HATCHER, Mrs. MORELLA, Mr. WOLF, Mr. NEAL of Massachusetts, Mr. MOODY, Mr. SKELTON, Mrs. BENTLEY, Mr. SOLARZ, Mr. HUGHES, Mr. SCHAEFER, Mr. ROSE, Mr. HUBBARD, Mr. PAYNE of Virginia, Mr. HALL of Texas, Mr. MURPHY, Mr. EMERSON, Mr. COX of California, Mr. PACKARD, Mr. MCCRERY, Mr. DELAY, Mr. ATKINS, Mr. MILLER of Ohio, Mr. LEWIS of California, Mr. YOUNG of Florida, Mr. YATRON, Mr. GUARINI, Mr. LENT, and Mr. SANTORUM.

H.R. 3630: Mr. HERGER, Mr. SANTORUM, Mr. BALLENGER, Mr. GILLMOR, Mr. FAWELL, and Mr. HYDE.

H.R. 3634: Mr. FROST, Mr. OWENS of Utah, Mr. LANCASTER, Mr. SWETT, and Mr. GILMAN.

H.R. 3636: Mr. PRICE, Mr. BOEHLERT, Mr. SHARP, Mr. MCNULTY, Mr. SAVAGE, Mr. BLACKWELL, Mr. SHAYS, Mr. GIBBONS, Mr. MANTON, Mr. COYNE, Mr. SANGMEISTER, Mr. GORDON, Mr. JACOBS, Mr. GREEN of New York, Mr. JEFFERSON, and Mr. KLECZKA.

H.R. 3639: Mr. GILMAN.

H.R. 3661: Ms. NORTON, Mr. KOSTMAYER, Mr. ROGERS, and Mr. FLAKE.

H.R. 3669: Mr. ABERCROMBIE, Mr. DIXON, and Mr. PANETTA.

H.R. 3672: Mr. ABERCROMBIE.

H.R. 3677: Mr. DE LUGO and Mr. GEREN of Texas.

H.R. 3681: Mr. COYNE.

H.R. 3688: Mr. DICKS, Mr. FASCELL, and Mr. MARKEY.

H.R. 3695: Mr. KOSTMAYER.

H.R. 3699: Mr. LAROCCO.

H.R. 3705: Mr. HASTERT.

H.R. 3706: Mr. LANCASTER and Mr. BUSTAMANTE.

H.R. 3718: Mr. FAZIO.

H.R. 3726: Mr. KOLTER, Mr. GUARINI, Mrs. LLOYD, Mr. JONTZ, Mr. LANCASTER, Mr. LEWIS of Florida, and Ms. KAPTUR.

H.R. 3732: Mr. WHEAT, Mrs. SCHROEDER, Mr. WOLPE, Mr. DYMALLY, Mr. MATSUI, Mr. FOGLIETTA, Mr. FUSTER, Mr. JONTZ, Mr. COX of Illinois, Mr. PRICE, Mr. DEFAZIO, Mr. FORD of Tennessee, Mr. RANGEL, Ms. PELOSI, Mr. STARK, and Mr. BACCHUS.

H.R. 3734: Mr. GOSS, Mr. GALLEGLY, Mr. ARMEY, Mr. BOEHLERT, Mr. ZELIFF, Mr. WELDON, Mr. MCCANDLESS, Mr. SOLOMON, Mr. BUNNING, and Mr. MCCRERY.

H.R. 3736: Mr. OLIN, Mr. KOLTER, Mr. COLEMAN of Texas, Mr. JOHNSON of South Dakota, Mr. WILSON, Mr. RAMSTAD, Mr. POSHARD, Mr. CAMP, Mr. PETERSON of Florida, Mr. YOUNG of Florida, and Mr. EVANS.

H.R. 3740: Mr. MCCANDLESS.

H.R. 3741: Mr. SISISKY, Mr. SHAYS, Mr. PRICE, Mrs. BOXER, Mr. FAZIO, Mr. RICHARDSON, Mr. ESPY, and Mr. SWETT.

H.R. 3744: Mr. Ritter, Mr. DREIER of California, Mr. BARTON of Texas, Mr. HUTTO, Mr. HANCOCK, Mr. HOLLOWAY, Mr. DORNAN of California, Mr. JOHNSON of Texas, Mr. RHODES, and Mr. EWING.

H.R. 3752: Mr. CLEMENT, Mr. MCHUGH, Mr. FAWELL, Mr. LAGOMARSINO, Mr. OWENS of Utah, and Mr. LOWERY of California.

H.R. 3753: Mr. FROST and Mr. YOUNG of Florida.

H.R. 3756: Mr. KOLTER, Mr. RANGEL, and Mrs. MEYERS of Kansas.

H.R. 3758: Mr. POSHARD and Ms. NORTON.

H.R. 3774: Mr. DWYER of New Jersey, Mr. ROGERS, Mr. KOLTER, Mr. TOWNS, Mr. RANGEL, Mrs. LLOYD, Mr. JONTZ, Mr. HUCKABY, Mr. ZELIFF, Mr. DAVIS, and Mr. RAHALL.

H.R. 3776: Mr. ACKERMAN, Mr. ANNUNZIO, Mr. SHAYS, Mr. MCGRATH, Mr. MANTON, and Mr. HOCHBRUECKNER.

H.R. 3777: Mr. HAYES of Louisiana, Mr. CALLAHAN, and Mr. ANTHONY.

H.R. 3779: Mr. DEFAZIO and Mr. SARPALIUS.

H.R. 3781: Mr. BUNNING and Mr. APPLEGATE.

H.R. 3782: Mr. ACKERMAN, Mr. HORTON, Mr. BOUCHER, Mr. GORDON, Mr. DELLUMS, Mr. MANTON, Mr. MATSUI, Mr. RICHARDSON, Mr. DICKS, Mr. APPLEGATE, Mr. SANGMEISTER, Mr. OLIN, Mr. NOWAK, Mr. PENNY, Mr. NEAL of Massachusetts, Ms. COLLINS of Michigan, Mr. PANETTA, Mrs. KENNELLY, Mr. DURBIN, Mr. YATES, Mr. COX of Illinois, Mr. HALL of Ohio, Mr. ANDREWS of Maine, Mr. ATKINS, Mr. SKAGGS, Mr. MAZZOLI, Mr. DIXON, Mr. LEHMAN of Florida, Mr. DEFAZIO, Mr. DORGAN of North Dakota, Mr. JEFFERSON, Mr. KENNEDY, Mr. EARLY, Mr. SANDERS, Mr. HOCHBRUECKNER, Ms. NORTON, Mr. KOSTMAYER, Mr. PALLONE, Mr. WOLPE, Mr. SIKORSKI, Mr. BEILENSON, Mr. KOPETSKI, Mr. BORSKI, Mr. GEJDENSON, Mr. TOWNS, Mr. BRYANT, Mr. ABERCROMBIE, Mr. SABO, Mr. EVANS, Mr. AUCOIN, and Mr. JOHNSON of South Dakota.

H.R. 3808: Mr. DWYER of New Jersey, Mr. KLUG, Mr. GUARINI, Mr. MAZZOLI, Mr. LIPINSKI, Mr. DELLUMS, Mr. CAMP, Mr. GALLEGLY, Mr. VALENTINE, and Mr. WOLF.

H.R. 3809: Mr. ECKART and Mr. GUARINI.

H.R. 3836: Mr. YATES.

H.R. 3838: Mr. CLEMENT, Mr. OWENS of Utah, Mr. GRADISON, Mr. STARK, Mr. AUCOIN, Mr. REGULA, and Mr. MCCANDLESS.

H.R. 3843: Mr. JOHNSON of South Dakota, Mr. GUNDERSON, and Mr. HENRY.

H.R. 3844: Mr. OBERSTAR.

H.R. 3845: Mr. WILLIAMS, Mr. PANETTA, Mr. TRAFICANT, Mrs. SCHROEDER, Mr. DELLUMS, Ms. NORTON, Mr. ANNUNZIO, and Mr. OWENS of New York.

H.R. 3864: Mr. HARRIS, Mr. LAUGHLIN, and Mr. BOEHLERT.

H.R. 3869: Mr. EMERSON, Mr. ZELIFF, Mr. BALLENGER, and Mr. JOHNSON of South Dakota.

H.R. 3876: Mr. MATSUI.

H.R. 3886: Ms. NORTON and Mr. HORTON.

H.R. 3891: Mr. HYDE and Mr. KLUG.

H.R. 3904: Mr. SANDERS, Mr. BLACKWELL, Mr. FLAKE, and Mr. OBERSTAR.

H.R. 3906: Mr. JOHNSON of South Dakota.

H.R. 3908: Mr. EVANS.

H.R. 3923: Mr. TAUZIN and Mr. BALLENGER.

H.J. Res. 22: Mr. SMITH of Oregon.

H.J. Res. 106: Mr. LIVINGSTON.

H.J. Res. 107: Mr. MARKEY.

H.J. Res. 159: Mr. ROYBAL, Mr. KOLTER, Mr. STUDDS, Mr. SISISKY, Mr. WHEAT, Mr. POSHARD, and Mr. BLACKWELL.

H.J. Res. 271: Mr. MILLER of Washington.

H.J. Res. 272: Mr. CAMP.

H.J. Res. 318: Mr. BALLENGER, Mr. MCDERMOTT, Mr. SAVAGE, Mr. GOODLING, Mr. FOGLIETTA, Mr. THOMAS of Wyoming, and Mr. NEAL of Massachusetts.

H.J. Res. 343: Mr. ABERCROMBIE, Mrs. COLLINS of Michigan, Ms. DELAURO, Mr. DOWNEY, Mr. EDWARDS of California, Mr. HYDE, Mr. JACOBS, Mr. JENKINS, Ms. LONG, Mr. MILLER of Washington, Mr. MINETA, Mr. NEAL of North Carolina, Ms. OAKAR, Mr. PICKETT, Mr. ROE, Mr. ROSE, Mr. SHAYS, Mr. STALLINGS, and Ms. WATERS.

H.J. Res. 353: Mr. ATKINS, Mr. BACCHUS, Mr. COOPER, Mr. DOOLITTLE, Mr. ENGEL, and Mr. VISCLOSKY.

H.J. Res. 356: Mr. GEKAS, Mr. GUNDERSON, Mr. SPENCE, Mr. SKEEN, Mr. YOUNG of Alaska, Mr. ROGERS, Mrs. BENTLEY, Mr. CARR, Mr. ROHRABACHER, Mr. CALLAHAN, Mr. DORNAN of California, Mr. RIGGS, Mr. BURTON of Indiana, Mr. SMITH of New Jersey, Mr. BILIRAKIS, Mr. CRANE, Mr. JOHNSON of South Dakota, Mr. MCDADE, Mr. VALENTINE, Mr. CAMPBELL of Colorado, Mr. CARDIN, Ms. MOLINARI, Mr. GEJDENSON, Mr. MCCLOSKEY, Mr. SOLARZ, Mr. LEVINE of California, Ms. PELOSI, Mr. WYDEN, Ms. OAKAR, Mr. HARRIS, Mr. SAVAGE, Mr. GEREN of Texas, Mr. FLAKE, Mr. DOWNEY, Mr. THORNTON, Mr. TALLON, Mr. OLIN, Mr. MOODY, Mr. JONES of North Carolina, Mr. TRAFICANT, Mr. MURTHA, Mr. YATRON, Mr. BARNARD, Mr. FRANK of Massachusetts, Mr. ATKINS, Mr. BREWSTER, Ms. LONG, Mr. ENGEL, Mr. RAVENEL, Mr. PAYNE of New Jersey, Mr. KENNEDY, Mr. SLATTERY, Mr. FEIGHAN, Mr. GIBBONS, Mr. GREEN of New York, Mr. CARPER, Mr. ROWLAND, Mr. LUKEN, Mr. ASPIN, Mr. BERMAN, Mr. SERRANO, Mr. SHAYS, Mr. OWENS of Utah, Mrs. PATTERSON, Mr. PARKER, Mr. OXLEY, Mr. NEAL of Massachusetts, Mr. SMITH of Florida, Mr. BACCHUS, Mr. MCHUGH, Mr. STOKES, Mr. RICHARDSON, Mr. DONNELLY, Mr. LANTOS, Mr. SYNAR, Mr. ECKART, Mr. COX of Illinois, Ms. SNOWE, Mrs. LOWEY of New York, Ms. SLAUGHTER of New York, Mr. DERRICK, Mr. SCHUMER, Mr. ALLEN, Mr. FISH, Mr. HAMMERSCHMIDT, Mr. HASTERT, Mr. LENT, Mr. ROBERTS, Mr. ROTH, Mr. WEBER, Mr. WELDON, Mr. RITTER, Mr. DELAY, Mr. RAMSTAD, Mr. WEISS, Mr. KOPETSKI, Mr. ROSE, Ms. HORN, Mr. BLACKWELL, Mrs. JOHNSON of Connecticut, Mr. FUSTER, Mr. CRAMER, Mr. EDWARDS of California, Mr. PETERSON of Florida, Mr. BUSTAMANTE, Mr. SKAGGS, Mr. EWING, Mr. RIDGE, Mr. HALL of Ohio, Mr. STUDDS, Mr. SWIFT, Mr. VOLKMER, Mr. HATCHER, Mr. WISE, Mrs. BOXER, Mr. OBERSTAR, Mr. HUTTO, Mr. PERKINS, Mr. ANDERSON, Mr. BARRETT, Mr. MCCOLLUM, Mr. PACKARD, Mr. SCHAEFER, Mr. SHUSTER, Mr. SOLOMON, Mr. GILLMOR, Mr. MOAKLEY, Mr. SWETT, Mr. LEACH, Mr. CLINGER, Mr. MINETA, Mr. KASICH, Ms. DELAURO, and Mrs. LLOYD.

H.J. Res. 357: Mr. MCCANDLESS.

H.J. Res. 363: Mr. KOLTER and Mr. WILSON.

H.J. Res. 366: Mr. DEFAZIO, Mr. MARKEY, Mr. KOLTER, Ms. NORTON, and Mr. TRAXLER.

H.J. Res. 368: Mr. ATKINS, Mr. MINETA, Mr. STARK, Mr. PETERSON of Florida, Mr. ALEXANDER, Mr. MURTHA, Mr. RUSSO, Mr. NOWAK, Mr. KLECZKA, Mr. COLEMAN of Texas, Mr. DORGAN of North Dakota, Mr. BRUCE, Mr. ORTON, Mr. BROOKS, Mr. KOPETSKI, Mr. HERTEL, Mr. TANNER, Mr. WILLIAMS, Mr. GEREN of Texas, Ms. HORN, Mr. ANTHONY, Mr. JEFFERSON, Mr. HUBBARD, Mr. PANETTA, Mr. PICKLE, Mr. SARPALIUS, Mr. BEVILL, Mr. LEWIS of Georgia, Mr. PERKINS, Ms. DELAURO, Mr. GIBBONS, Mr. FLAKE, Mr. DURBIN, Mr. GEJDENSON, Mr. GEPHARDT, Mr. DINGELL, Mr. ROSTENKOWSKI, Mr. MATSUI, Mr. CRAMER, Mr. PRICE, Mr. JONES of Georgia, Mr. FALEOMAVAEGA, Mr. LAROCCO, Mr. MANTON, Mr. NEAL of North Carolina, Mr. HANSEN, Mr. JOHNSON of South Dakota, Ms. NORTON, Mr. AUCOIN, Mr. WALSH, Mr. ROTH, Mr. OWENS of New York, Mr. ROE, Mr. PALLONE, Mr. SANDERS, Mr. ROYBAL, Mr. SAVAGE, Mr. SAXTON, Mr. SCHEUER, Mr. CAMPBELL of Colorado, Mr. FAZIO, Mr. SLATTERY, Mr. LEACH, Mr. JONTZ, Mr. NATCHER, Mr. ORTIZ, Mr. SABO, Mr. WHEAT, Mr. BONIOR, Mr. MAZZOLI, Mr. ROSE, Mr. WISE, Mr. BREWSTER, Mr. STAGGERS, Mr. KANJORSKI, Mr. MCCLOSKEY, Mr. HEFNER, Mr. FORD of Michigan, Mr. PEASE, Mr. DICKS, Mr. CLEMENT, Mr. ANDREWS of Maine, Mr. EVANS, Mr. MOODY, Mr. OBERSTAR, Mr. NEAL of Massachusetts, Mr. HUTTO, Mr. MCMILLEN of Maryland, Mr. MARKEY, Mr. MOAKLEY, Mr. GUARINI, Mr. DARDEN, Mr. DOWNEY, Mr. OLVER, Mr. SKELTON, Mr. MORAN, Mr. BACCHUS, Mr. EDWARDS of Texas, Mr. BLAZ, Mr. BENNETT, Mr. DEFAZIO, Ms. PELOSI, Mr. SAWYER, Mr. MCDERMOTT, Mr. TALLON, Mr. DELLUMS, Mr. DE LUGO, Mr. MONTGOMERY, Mr. DIXON, Mr. PASTOR, Mr. BLACKWELL, Mrs. LLOYD, Mr. ACKERMAN, Mr. SERRANO, Mr. RICHARDSON, Mr. DORNAN of California, Mr. KENNEDY, Mr. REED, Mr. COX of Illinois, Mr. SWIFT, Mr. GLICKMAN, Mr. GREEN of New York, Mr. BUSTAMANTE, Mr. LEHMAN of Florida, Mr. DE LA GARZA, Mr. STALLINGS, Mr. RAVENEL, Mr. STUDDS, Mr. ROBERTS, Mr. MCNULTY, Mrs. SCHROEDER, Mr. ROEMER, Mr. ANDERSON, Mr. BROWDER, Mr. ECKART, Mr. TAYLOR of Mississippi, Mr. POSHARD, Mr. SKEEN, Mr. TAYLOR of North Carolina, Mr. TRAFICANT, Mr. THOMAS of Georgia, Mr. VOLKMER, Mr. SYNAR, Mr. EDWARDS of California, Mr. HOYER, Mr. BILIRAKIS, Mr. ENGEL, Mr. MFUME, Mr. BRYANT, Mr. MILLER of California, Mr. SWETT, Mr. ASPIN, Mr. SISISKY, Mr. COSTELLO, Mr. STENHOLM, Mr. WHITTEN, Mr. CONDIT, Mr. MARTIN, Mr. BEILENSON, Mr. HOCHBRUECKNER, Mr. ROGERS, Mr. MCHUGH, Mr. INHOFE, Mr. SOLARZ, Mrs. VUCANOVICH, Mr. SMITH of New Jersey, Mrs. BENTLEY, Mr. LAFALCE, Mr. MORRISON, Mr. THORNTON, Mr. HYDE, Mr. FOGLIETTA, Mr. CARPER, Ms. MOLINARI, Mr. NAGLE, Mr. YOUNG of Florida, Mr. MAVROULES, Mr. RAHALL, Mr. BLILEY, Mr. VENTO, Mr. WASHINGTON, Mr. FRANK of Massachusetts, Mr. LANCASTER, Mr. ROWLAND, Mr. GORDON, Mrs. COLLINS of Illinois, Mrs. LOWEY of New York, Mr. BERMAN, Mr. SPRATT, Mrs. BOXER, Mr. LEHMAN of California, Mr. DOOLEY, Mr. VISCLOSKY, Mr. HORTON, Mr. KOLBE, Mr. CARR, Mr. OWENS of Utah, Mr. WAXMAN, Ms. SLAUGHTER of New York, Mr. WILSON, Mr. SMITH of Florida, Mr. LAUGHLIN, Mr. ANDREWS of New Jersey, Mr. MURPHY, Mr. DYMALLY, Mr. JONES of North Carolina, Mr. HAYES of Illinois, Mr. LIPINSKI, Ms. COLLINS of Michigan, Mr. TORRICELLI, Mr. CONYERS, Mr. DWYER of New Jersey, Mrs. BYRON, Mr. GILMAN, Mr. HAMILTON, Mr. CRANE, Mr. KILDEE, Mr. WOLPE, Ms. KAPTUR, Ms. WATERS, Mr. RAMSTAD, Mr. WEBER, Mr. HALL of Ohio, Mr. GILCHREST, Mr. HALL of Texas, Mr. RHODES, Ms. OAKAR, Mr. OBEY, Mr. BOUCHER, Mr. CAMP, and Mr. PAXON.

H.J. Res. 375: Mr. BEREUTER and Mr. BLAZ.

H. Con. Res. 11: Mr. SWETT.

H. Con. Res. 104: Mr. HALL of Ohio, Mr. EMERSON, Mr. RAVENEL, Mr. HORTON, Mr. VANDER JAGT, Mr. MARTINEZ, and Mr. EDWARDS of Oklahoma.

H. Con. Res. 145: Mr. YATES.

H. Con. Res. 156: Mr. BURTON of Indiana, Mr. DYMALLY, Mrs. MEYERS of Kansas, and Mr. JONES of Georgia.

H. Con. Res. 180: Mr. LEVINE of California.

H. Con. Res. 182: Mr. LENT.

H. Con. Res. 192: Mr. VANDER JAGT, Mr. SHAW, Mr. RUSSO, Mr. GOSS, Mr. OWENS of Utah, Mr. RHODES, Mr. BOEHLERT, Mr. MARTINEZ, Mrs. VUCANOVICH, Mr. HAMMERSCHMIDT, Mr. PAXON, Mr. GEREN of Texas, and Mr. DORGAN of North Dakota.

H. Con. Res. 210: Mr. CRANE.

H. Con. Res. 211: Mr. TAYLOR of Mississippi, Mr. MCDADE, Mr. SCHUMER, and Mr. DOWNEY.

H. Con. Res. 212: Mr. PAXON, Mr. MURPHY, Mr. WOLF, Mr. SHAYS, Mr. KYL, Mr. LEVIN of Michigan, Mr. YOUNG of Florida, Mr. SMITH of New Jersey, Mr. SCHAEFER, Mr. SOLOMON, Mr. KOSTMAYER, Mr. LEVINE of California, Mr. PURSELL, and Mr. ZELIFF.

H. Con. Res. 215: Mr. KOPETSKI.

H. Con. Res. 220: Mr. SCHEUER, Mr. DELLUMS, Mr. SMITH of Florida, Mr. OWENS of New York, Mr. FLAKE, Mr. TOWNS, Mr. DYMALLY, Mr. PAYNE of New Jersey, Mr. LEHMAN of Florida, Mr. DE LUGO, Mr. MFUME, Mr. FUSTER, Ms. NORTON, Mr. KOSTMAYER, Mr. ACKERMAN, Mr. FOGLIETTA, Mr. SERRANO, Mr. KENNEDY, Mrs. LOWEY of New York, Mrs. COLLINS of Michigan, Mr. WEISS, Mr. DIXON, Mr. JONES of Georgia, Mrs. KENNELLY, and Mr. LEVINE of California.

H. Con. Res. 222: Mr. SOLOMON.

H. Con. Res. 223: Mr. BATEMAN, Mr. BRUCE, Mr. BURTON of Indiana, Mr. DEFAZIO, Mr. EMERSON, Mr. FEIGHAN, Mr. FUSTER, Mr. GALLEGLY, Mr. GEJDENSON, Mr. GREEN of New York, Mr. HORTON, Mr. JONES of Georgia, Mrs. LOWEY of New York, Mr. PAXON, Mr. SERRANO, Mr. WAXMAN, and Mr. WEISS.

H. Con. Res. 224: Mr. RAMSTAD, Mr. ZELIFF, Mr. PAXON, Mr. SHAYS, Mr. HUTTO, Mr. NUSSLE, Mr. YOUNG of Florida, and Mrs. MEYERS of Kansas.

H. Con. Res. 229: Mr. LAGOMARSINO, Mrs. VUCANOVICH, Mr. HEFLEY, Mr. DOOLITTLE, and Mr. SMITH of Oregon.

H. Con. Res. 232: Mr. ENGEL, Mr. BUSTAMANTE, Mr. WEISS, Mr. LENT, and Mr. JONTZ.

H. Con. Res. 233: Mr. REGULA, Mr. APPLEGATE, Mr. KYL, Mr. DAVIS, Mr. ZELIFF, Mr. RAMSTAD, and Mr. BILIRAKIS.

H. Con. Res. 235: Mr. DIXON and Mr. ZELIFF.

H. Con. Res. 236: Mr. ENGEL, Mr. GUARINI, Mr. PACKARD, Mr. WALSH, Mr. CAMP, Mr. ZELIFF, Mr. BUSTAMANTE, Mr. LANCASTER, Mrs. MORELLA, Mr. GALLEGLY, Mr. FAWELL, Mr. ABERCROMBIE, Mr. MAVROULES, and Mr. LIVINGSTON.

H. Con. Res. 244: Mr. ACKERMAN, Mr. BLAZ, Mr. GONZALEZ, Mr. ENGEL, Ms. NORTON, Mr. HOCHBRUECKNER, Mr. TOWNS, and Mr. STARK.

H. Res. 107: Mr. KLUG.

H. Res. 130: Mr. WOLPE, Mr. EVANS, and Mr. DWYER of New Jersey.
H. Res. 161: Mr. UPTON.
H. Res. 194: Mr. ANNUNZIO, Mr. MOLLOHAN, Mr. DE LUGO, and Mr. BUSTAMANTE.
H. Res. 205: Mr. REED.
H. Res. 215: Mr. GALLEGLY and Mr. MILLER of Washington.
H. Res. 222: Mr. SLATTERY.
H. Res. 233: Mr. KLUG, Mr. ZELIFF, and Mr. PALLONE.
H. Res. 234: Mr. TRAFICANT, Mrs. KENNELLY, Mr. SMITH of Florida, Mr. ANDREWS of Maine, Mr. LENT, Mr. LANCASTER, Mr. BUSTAMANTE, and Ms. SNOWE.
H. Res. 237: Mr. MILLER of California, Mr. HUBBARD, and Mr. WEISS.
H. Res. 263: Mr. LEWIS of Florida, Ms. NORTON, Mrs. BOXER, Mr. PAXON, and Mrs. MEYERS of Kansas.
H. Res. 272: Mr. JONTZ, Mr. DE LUGO, Ms. NORTON, Mr. POSHARD, Mr. GUARINI, and Mr. EVANS.
H. Res. 276: Mr. BALLENGER, Mr. LEWIS of Florida, Mr. PORTER, Mr. HEFLEY, Mr. SOLOMON, Mr. MOORHEAD, Mr. ZELIFF, Mr. LENT, Mr. POSHARD, Mr. SHAYS, Mr. FAWELL, and Mr. KLUG.
H. Res. 293: Mr. ATKINS, Mr. DOOLEY, Mr. SOLOMON, Mr. ROEMER, Mr. GOODLING, Mr. STUMP, Mrs. BENTLEY, Mr. YOUNG of Florida, Mr. QUILLEN, Mr. WHITTEN, Mr. VALENTINE, Mr. SKELTON, Mr. SISISKY, Mr. SHAW, Ms. NORTON, Mr. ROHRABACHER, Mr. CLEMENT, Mr. MOODY, Mr. ORTIZ, Mr. OBERSTAR, Mr. HUTTO, Mr. OLVER, Mr. BACCHUS, Mr. TALLON, Mr. PASTOR, Mr. CAMPBELL of California, Mr. CRANE, Mr. RIDGE, Mr. LIVINGSTON, Mr. SKEEN, Mr. KYL, Mr. MACHTLEY, Mr. KILDEE, Mr. TAYLOR of Mississippi, Mr. DELLUMS, Mr. KENNEDY, Mr. NEAL of North Carolina, Mr. JOHNSON of South Dakota, Mr. PACKARD, Mr. SAVAGE, Mr. FOGLIETTA, Mr. HYDE, Mr. DARDEN, Mr. BUSTAMANTE, Mr. RIGGS, Mr. WOLPE, Mr. TRAFICANT, Mr. YATES, Mr. MILLER of Washington, Mr. DE LUGO, Mr. SMITH of Oregon, Mr. DORNAN of California, Mr. SLATTERY, Mr. MCCLOSKEY, Mr. YOUNG of Alaska, Mr. HANSEN, Mr. RAVENEL, Mrs. MINK, Mr. LANCASTER, Mr. WEISS, Mr. VANDER JAGT, Mr. MYERS of Indiana, Mr. MILLER of California, Mr. MARTIN, Mr. MANTON, Mr. MCNULTY, Mrs. LLOYD, Mr. LEWIS of California, Mr. KASICH, Mr. JONES of Georgia, Mr. IRELAND, Mr. HOUGHTON, Mr. HARRIS, Mr. HAMMERSCHMIDT, Mr. GONZALEZ, Mr. GIBBONS, Mr. GALLEGLY, Mr. FRANK of Massachusetts, Mr. ESPY, Mr. DICKINSON, Mr. PURSELL, Mr. GRADISON, Mr. LEWIS of Florida, Mr. ROTH, Mr. WILSON, Mr. TORRES, Mr. VOLKMER, Mr. GUARINI, Mr. HUGHES, Mr. CONYERS, Mr. ROSE, Mrs. COLLINS of Illinois, Mr. OWENS of New York, Mr. SANDERS, Mr. MATSUI, Mr. STARK, Mr. CLINGER, Mr. NICHOLS, Mr. LIGHTFOOT, Mr. RICHARDSON, Mr. CLAY, Mrs. LOWEY of New York, Mr. MAVROULES, Mr. STOKES, Mr. YATRON, Mr. MURPHY, Mr. ANDERSON, Mr. EMERSON, Mr. THORNTON, Mr. RHODES, Mr. GEKAS, Mr. COX of California, Mr. SABO, Mr. MOORHEAD, Mr. BREWSTER, Mr. PORTER, Mr. ECKART, Mr. SPRATT, Mr. OWENS of Utah, Mr. NOWAK, Mr. ANDREWS of New Jersey, Mr. DYMALLY, Mr. SARPALIUS, Mr. PANETTA, Mr. BROWDER, Mr. FEIGHAN, Mr. SCHUMER, Mr. HOYER, Mr. ACKERMAN, Mr. CAMPBELL of Colorado, Mr. ZELIFF, Mr. GOSS, Mr. APPLEGATE, Ms. LONG, Mr. COX of Illinois, and Mr. DIXON.
H. Res. 296: Mr. RAMSTAD, Mr. SHAYS, and Mr. SANTORUM.
H. Res. 297: Mr. GUARINI, Mrs. COLLINS of Michigan, Ms. KAPTUR, Mr. FEIGHAN, Mr. ROTH, Mr. OXLEY, Mr. KLECZKA, Mr. KOSTMAYER, Mr. MARKEY, Mr. LEVIN of Michigan, Mr. MOLLOHAN, Mr. KASICH, Ms. OAKAR, Mr. MAVROULES, Mr. ZELIFF, Mr. COSTELLO, Mr. EVANS, Mr. KANJORSKI, Mr. MCMILLAN of North Carolina, and Mr. HOYER.
H. Res. 302: Mr. JONTZ and Mr. MCCLOSKEY.

[Submitted November 27, 1991]

H.R. 12: Mr. MINETA.
H.R. 25: Mr. OLVER and Mr. PICKLE.
H.R. 81: Mr. MARTINEZ.
H.R. 123: Mr. WHITTEN.
H.R. 246: Mr. LENT.
H.R. 353: Mr. ALLEN.
H.R. 840: Mr. DARDEN and Mr. MINETA.
H.R. 1277: Mr. MCNULTY, Mr. OLVER, and Mr. COLEMAN of Texas.
H.R. 1473: Mr. DIXON, Mr. MORRISON, and Mr. ESPY.
H.R. 1485: Mr. SUNDQUIST, Mr. PICKETT, Mr. GILCHREST, Mr. DELLUMS, Mr. PETERSON of Minnesota, and Mr. ZELIFF.
H.R. 1490: Mr. LIVINGSTON.
H.R. 1692: Mr. SAVAGE.
H.R. 1745: Mr. RIGGS.
H.R. 1930: Mr. SCHIFF.
H.R. 2002: Mr. HAYES of Louisiana.
H.R. 2075: Mr. FISH.
H.R. 2164: Mr. MCMILLAN of North Carolina.
H.R. 2223: Mr. PETERSON of Minnesota.
H.R. 2363: Mr. MAZZOLI and Mr. MCMILLAN of North Carolina.
H.R. 2448: Mr. TRAXLER.
H.R. 2561: Mr. YATES, Mr. ANNUNZIO, Ms. KAPTUR, Mr. KLECZKA, Mr. RICHARDSON, and Mr. LIPINSKI.
H.R. 2598: Mr. MORRISON, Mr. SERRANO, and Mr. MANTON.
H.R. 2695: Mr. YOUNG of Florida.
H.R. 2721: Mr. COLEMAN of Texas.
H.R. 2776: Mr. MARTINEZ, Mr. SKEEN, Mr. GOODLING, and Mr. GONZALEZ.
H.R. 2880: Mr. FEIGHAN.
H.R. 2895: Mr. HAYES of Louisiana.
H.R. 2923: Mr. FEIGHAN.
H.R. 3030: Mr. GILMAN.
H.R. 3056: Mr. WEISS, Mr. JOHNSON of South Dakota, Ms. NORTON, and Mr. TOWNS.
H.R. 3058: Mrs. PATTERSON.
H.R. 3059: Mrs. PATTERSON.
H.R. 3128: Mr. BARTON of Texas and Mr. MOORHEAD.
H.R. 3130: Mr. RINALDO.
H.R. 3132: Mr. WELDON.
H.R. 3198: Mr. BOEHLERT, Mr. MCEWEN, Mr. COMBEST, Mr. HORTON, and Mr. FRANKS of Connecticut.
H.R. 3202: Mr. CAMPBELL of Colorado.
H.R. 3221: Mr. COLEMAN of Missouri.
H.R. 3429: Ms. PELOSI and Mr. YATES.
H.R. 3454: Mr. BURTON of Indiana.
H.R. 3471: Mr. ZELIFF, Mr. HOBSON, and Mr. BOEHNER.
H.R. 3486: Mr. PANETTA, Mr. FALEOMAVAEGA, Mr. MARTINEZ, and Ms. NORTON.
H.R. 3511: Mr. WEISS.
H.R. 3515: Mr. HATCHER and Mr. VANDER JAGT.
H.R. 3553: Mr. MCDERMOTT, Mr. RANGEL, and Ms. KAPTUR.
H.R. 3627: Mr. BUSTAMANTE, Mr. LEHMAN of Florida, Ms. ROS-LEHTINEN, Mr. CHAPMAN, Ms. OAKAR, Mr. ANDERSON, Mr. DWYER of New Jersey, Mr. PANETTA, Mr. COYNE, Ms. HORN, Mr. MANTON, Mr. TOWNS, Mr. FOGLIETTA, Mr. ANDREWS of New Jersey, Mr. ROEMER, Mr. DYMALLY, Mr. BRUCE, Mr. HOBSON, Mr. MCCANDLESS, Mr. ALLARD, Mr. MILLER of Washington, Mr. BATEMAN, Mr. ZELIFF, Mr. KLUG, Mr. CARR, Mr. MYERS of Indiana, Mr. MURTHA, Mr. MCDADE, Mr. WHITTEN, Mr. MFUME, Mr. PURSELL, Mr. HENRY, Mr. DOOLITTLE, Mr. CAMP, Mr. SHUSTER, Mr. GALLEGLY, Mr. SHAW, Mr. BLILEY, Mrs. ROUKEMA, Mr. MCEWEN, Mr. MCCOLLUM, Mr. BARTON of Texas, Mr. RAVENEL, Mr. HEFNER, Mr. ROWLAND, Mr. EDWARDS of California, Mr. DICKS, Mr. SAXTON, Mr. CUNNINGHAM, Mr. HALL of Ohio, Mr. MORRISON, Mr. HAYES of Louisiana, Mr. ROBERTS, Mr. ROHRABACHER, Mr. MCGRATH, Mr. MICHEL, Mr. ERDREICH, Mr. HARRIS, Mr. MINETA, Mr. BRYANT, Mr. FEIGHAN, Mr. MCCURDY, Mr. OLIN, Mr. PENNY, Mr. PRICE, Mr. FISH, and Mr. BEVILL.
H.R. 3636: Mr. JONES of North Carolina.
H.R. 3639: Mr. SMITH of New Jersey.
H.R. 3702: Mr. WISE, Mr. HUGHES, Mr. LANCASTER, Mrs. PATTERSON, and Mr. FORD of Michigan.
H.R. 3724: Mr. CAMPBELL of Colorado.
H.R. 3725: Mr. KLUG.
H.R. 3763: Mr. BERMAN.
H.R. 3825: Mr. ROGERS, Mr. ZELIFF, Mr. GUARINI, Mr. HORTON, Mr. ESPY, Mr. VALENTINE, Mr. ROWLAND, Mr. WELDON, Mr. GUNDERSON, Mr. JONES of North Carolina, Mr. LIPINSKI, and Mr. MORRISON.
H.R. 3838: Mr. BOEHLERT, Mr. THOMAS of California, Mr. JONTZ, Mr. LEHMAN of Florida, Mr. CRAMER, Mr. MAVROULES, Mr. CAMPBELL of Colorado, and Mr. ANDREWS of Texas.
H.R. 3844: Ms. PELOSI.
H.R. 3848: Mr. ENGEL, Mr. GEREN of Texas, and Mr. NAGLE.
H.R. 3875: Mr. ACKERMAN.
H.R. 3886: Mr. RANGEL.
H.R. 3904: Mr. KENNEDY, Mr. ROWLAND, Mr. LIPINSKI, and Ms. KAPTUR.
H.R. 3975: Mr. LEVINE of California, and Mr. FAZIO.
H.R. 3981: Mr. PANETTA, Mr. LIPINSKI, Mr. FISH, Mr. PAYNE of Virginia, Mr. RITTER, and Mr. JENKINS.
H.R. 4040: Mr. TAUZIN, Mr. LAGOMARSINO, and Mr. RINALDO.
H.J. Res. 293: Mr. ENGEL, Mr. DICKINSON, Mr. BARRETT, Mr. TRAFICANT, Mr. ABERCROMBIE, and Mr. BLAZ.
H.J. Res. 318: Mr. CONYERS.
H.J. Res. 343: Mr. KOPETSKI, Mr. LENT, Mr. LOWERY of California, Mr. MOORHEAD, Mr. PANETTA, and Mr. WISE.
H.J. Res. 369: Mr. OWENS of Utah, Mr. COLEMAN of Texas, Mr. MCMILLEN of Maryland, Mr. EDWARDS of Texas, Mr. YOUNG of Alaska, Mr. HANCOCK, Mr. CHAPMAN, Mr. ZELIFF, Mr. CAMP, Mr. GEREN of Texas, Mr. THOMAS of Georgia, Mr. BUNNING, Mr. SARPALIUS, Mr. LUKEN, Mr. LANCASTER, and Mr. MACHTLEY.
H.J. Res. 372: Mr. DEFAZIO and Mr. HANSEN.
H. Con. Res. 180: Mr. WOLPE, Mr. MFUME, and Mrs. MEYERS of Kansas.
H. Con. Res. 192: Mr. MCMILLAN of North Carolina.
H. Con. Res. 212: Mr. MOORHEAD, Mr. QUILLEN, Mr. JACOBS, Mr. PETERSON of Minnesota, Mr. MARTINEZ, and Mr. HUGHES.
H. Con. Res. 224: Mr. OBERSTAR, Mrs. JOHNSON of Connecticut, and Mr. SANGMEISTER.
H. Con. Res. 233: Mr. FAWELL and Mr. LIPINSKI.
H. Res. 17: Mr. SHAYS and Mr. GOSS.
H. Res. 26: Mr. ROGERS, Mr. GILCHREST, Mr. KOLTER, and Mr. SCHAEFER.
H. Res. 296: Mr. OBERSTAR, Mr. FROST, and Ms. PELOSI.
H. Res. 302: Mr. JACOBS, Mr. LIPINSKI, Ms. KAPTUR, and Mr. HAMILTON.
H. Res. 311: Mr. PENNY and Mr. SWETT.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

[Omitted from the Record of November 25, 1991]

H.R. 2824: Mr. HARRIS.

[Submitted November 26, 1991]

H.R. 585: Mr. OLIN.
H.R. 1572: Mr. MACHTLEY.
H.R. 2540: Mr. DEFAZIO.
H.R. 2797: Mr. HANCOCK, Mr. VOLKMER, and Mr. EMERSON.
H.R. 2824: Mr. LANCASTER.
H.R. 3816: Mr. DICKS.
H. Con. Res. 210: Mr. SMITH of Florida.