funds can only be transferred based on a strict showing that the money will be used exclusively for religious, charitable, literary, or educational purposes and will not be diverted for terrorist activity. The bill also includes numerous relatively technical, but highly important, provisions that will facilitate investigations and prosecutions of terrorist crimes.

It is the Administration's intent that section 101 of the bill confer Federal jurisdiction only over international terrorism offenses. The Administration will work with Members of Congress to ensure that the language in the bill is consistent with that intent.

I urge the prompt and favorable consideration of this legislative proposal by the Congress.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *February 9, 1995.*

MESSAGES FROM THE HOUSE

At 12:10 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 666. An act to control crime by exclusionary rule reform.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 666. An Act to control crime by exclusionary rule reform; to the Committee on the Judiciary.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–409. A communication from the Secretary of the Army, transmitting, pursuant to law, the report on the Washington Aqueduct; to the Committee on Environment and Public Works.

EC–410. A communication from the Secretary of Labor, transmitting, pursuant to law, notice of the award of a sole-source contract for the Cleveland Job Corps Center; to the Committee on Governmental Affairs.

EC–411. A communication from the Secretary of Veterans' Affairs and the Secretary of Defense, transmitting, pursuant to law, the report on the implementation of the health resources sharing portion; to the Committee on Veterans' Affairs.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. MCCAIN (for himself and Mr. INOUYE):

S. 377. A bill to amend a provision of part A of title IX of the Elementary and Secondary Education Act of 1965, relating to Indian education, to provide a technical amendment, and for other purposes; to the Committee on Indian Affairs.

By Mr. GORTON (for himself and Mrs. MURRAY):

S. 378. A bill to authorize the Secretary of the Interior to exchange certain lands of the Columbia Basin Federal reclamation project, Washington, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. EXON:

S. 379. A bill for the relief of Richard W. Schaffert; to the Committee on Finance.

By Mr. FEINGOLD (for himself and Mr. SIMON):

S. 380. A bill to provide for public access to information regarding the availability of insurance, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HELMS (for himself, Mr. DOLE, Mr. MACK, Mr. COVERDELL, Mr. GRAHAM, Mr. D'AMATO, Mr. HATCH, Mr. GRAMM, Mr. THURMOND, Mr. FAIRCLOTH, Mr. GREGG, Mr. INHOFE, Mr. HOLLINGS, and Ms. SNOWE):

S. 381. A bill to strengthen international sanctions against the Castro government in Cuba, to develop a plan to support a transition government leading to a democratically elected government in Cuba, and for other purposes; ordered held at the desk.

By Mr. DASCHLE (for himself, Mr. PRESSLER, Mr. CAMPBELL, Mr. SIMON, Mr. PELL, and Mr. DORGAN):

S. 382. A bill to establish a Wounded Knee National Tribal Park, and for other purposes; to the Committee on Indian Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MCCAIN (for himself and Mr. INOUYE:)

S. 377. A bill to amend a provision of part A of title IX of the Elementary and Secondary Education Act of 1965, relating to Indian education, to provide a technical amendment, and for other purposes; to the Committee on Indian Affairs.

THE INDIAN EDUCATION TITLE TECHNICAL CORRECTION ACT OF 1995

● Mr. MCCAIN. Mr. President, I introduce a bill to make a technical correction to the Indian title in the Improving America's Schools Act. I am pleased that Senator DANIEL INOUYE, vice chairman of the Committee on Indian Affairs, has joined me as a cosponsor of this measure.

The technical corrections bill would correct a minor oversight in language which could have major ramifications in the education of American Indian and Alaska Native children. The law currently states that in order for a school to be eligible for an Indian Education Act formula grant, it must have 10 eligible students and have 25 percent of its student population eligible for the program. This language unnecessarily restricts a schools eligibility for grant funding by requiring schools to meet both criteria. I have been informed that the intent of the conferees was to include the word ''or'' rather than ''and'' thereby creating the potential for American Indians and Alaska Natives to have a greater opportunity to benefit from the Improving America's Schools Act. This amendment is intended to correct this oversight and fulfill the true intent of the act, to improve schools for all Americans, including Indians and Alaska Natives.

Mr. President, time is of the essence with regard to this legislation. I understand that the Department of Education is currently drafting regulations to implement the new provisions of the Indian Education Act. Unless this technical oversight is not immediately fixed, the existing language will result in the disqualification of many schools serving American Indians and Alaska Natives through the promulgation of regulation which do not accurately reflect the intent of Congress. Therefore, I hope that the Senate will act quickly on this amendment in order to prevent unnecessary hardships for the many American Indian and Alaska Native students which stand to benefit from this act.

I ask unanimous consent that the full text of the bill be printed in the RECORD.

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

S. 377

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

SECTION 1. TECHNICAL AMENDMENT.

Section 9112(a)(1)(A) of the Elementary and Secondary Education Act of 1965 (as added by section 101 of the Improving America's Schools Act of 1994 (Public Law 103–382)) is amended by striking ''and'' and inserting ''or''.●

school. Conferees agreed upon the Senate version: 10 students or 25 percent of the school's enrollment.

Mr. President, the issue before the conferees was only whether a minimum of 10 or 20 Indian children would be required for eligibility. The conjunction ''or'' was not ever an issue, and that it was not is testified to by the side-by-sides prepared for the Senate and House conferees. But, the final document prepared by the Senate Legislative Counsel substituted the word ''and'' for ''or.'' And that final document was enacted into law.

What this bill would do is correct the technical error. I have consulted conferees and their notes verify that the word ''or'' was in both House and Senate versions of the bill. The effect of the bill I am introducing would be to restore language intended by both the House and Senate.

Mr. President, if this bill should not be enacted, hundreds of classrooms with Indian children would lose the supplemental programs, all because of a drafting error. In reauthorizing the Indian Education Act, this was emphatically not the result intended by the Congress, and I hope that I may count on my colleagues to support enactment of this technical corrections bill.●

By Mr. GORTON (for himself and Mrs. MURRAY):

S. 378. A bill to authorize the Secretary of the Interior to exchange certain lands of the Columbia Basin Federal reclamation project, Washington, and for other purposes; to the Committee on Energy and Natural Resources.

THE BOISE CASCADE LAND EXCHANGE ACT OF 1995

● Mr. GORTON. Mr. President, today, together with Senator MURRAY, I introduce a bill to authorize a land exchange between the Bureau of Reclamation and the Boise Cascade Corp. Unfortunately for its proponents, this legislation has been introduced during both the 102d and 103d Congress. This year, Senator MURRAY and I will work to pass this legislation and finally get it signed into law.

Boise Cascade's plywood and sawmill operations in Kettle Falls, WA are adjacent to 26 acres of land owned by the Bureau of Reclamation. The Bureau land provides a buffer between scenic Lake Roosevelt and Boise Cascade's operations. The National Park Service, which manages the Bureau's land, historically has issued a special-use permit allowing Boise Cascade to operate along the edge of the land. However, the Park Service has indicated that it may not reissue the permit when it expires in 1995, and has stated conclusively that the permit will not be reissued upon expiration in 2000. Consequently, passage of this legislation this year is crucial.

Without a special use permit, Boise Cascade would not be able to continue its operations at Kettle Falls. Thus, 350 mill jobs would be lost and the community would be devastated. To prevent such a catastrophe, Boise Cascade has proposed exchanging 138 acres of land it owns for 6 of the 26 acres it needs to continue operating. The 138 acres is primarily wildlife habitat located along Lake Roosevelt and the Colville River, and would be conveyed to the Bureau of Reclamation upon passage of this legislation.

This land exchange is supported by the Bureau of Reclamation, the Park Service, and Boise Cascade. In addition, a local citizen's group concerned with Columbia River water quality issues has negotiated a series of mitigation measures with Boise Cascade, and has given its full support to the land exchange.

Mr. President, this exchange make good sense and will avoid a potentially severe problem. Last year the Energy Committee reported out of committee the exact legislation that I am introducing today. I urge the committee to promptly review this legislation, and I will work with them on this issue. I thank my colleagues for their consideration.●

Mrs. MURRAY. Mr. President, I want to say a few words about an important bill for Washington State. Today, I join my colleague, the senior Senator from Washington [Mr. GORTON] introducing legislation to authorize a land exchange between Boise Cascade Corp. and the Bureau of Reclamation.

Boise Cascade operates a sawmill adjacent to the Lake Roosevelt National Recreation Area near Kettle Falls, WA. The land located between the mill and the lake is owned by the Bureau of Reclamation. However, it is managed by the National Park Service under its authority over the Lake Roosevelt unit. Unfortunately, the proximity of the mill to the recreation area has led to concerns within the Park Service about potential effects of Boise operation on the public.

Mr. President, Boise Cascade has been a stellar corporate citizen in this area. The company has absolutely no desire to adversely affect the recreation area. In fact, given their druthers, they'd like to enhance the area. That's why this bill is so important.

If we enact this bill, we will ensure Boise's ability to continue its mill operation. In addition, we will add significant benefit to Lake Roosevelt. That's because this bill seeks to implement a land exchange that will add 132 acres to the national recreation area. Here's how it works: Boise Cascade owns 138 acres along the lake near the Colville River. This land provides excellent wildlife forage habitat. The Bureau owns 26 acres between the mill and the lake. In exchange for 6 of these acres, Boise will deed its 138 to the Government for incorporation into the recreation area.

Mr. President, this is a great deal for the taxpayers and the citizens of Kettle Falls: 138 acres for just 6. There are 350 jobs at the Boise mill. Needless to say, it's the major employer in that area. The terms of this exchange have been mutually agreed to by the agencies, the company, the local citizens, and conservation groups concerned with protecting the lake. It's good for the community, and it's good for the resource. I hope all my colleagues will recognize this, and support our efforts to move the bill toward passage.

By Mr. FEINGOLD (for himself and Mr. SIMON):

S. 380. A bill to provide for public access to information regarding the availability of insurance, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

THE ANTI-REDLINING IN INSURANCE DISCLOSURE ACT OF 1995

Mr. FEINGOLD. Mr. President, today I am pleased to reintroduce legislation that I originally introduced in the Senate last year, the Anti-Redlining in Insurance Disclosure Act of 1995. Although the House of Representatives was able to pass a more limited disclosure bill during the 103d Congress, I was disappointed that the Senate was unable to address what I see as not only a critically important civil rights issue, but also an issue essential to any hopes of revitalizing the struggling economies of our inner cities.

In recent years, this Nation has made tremendous strides in fighting various forms of discrimination, particularly in terms of employment and educational opportunities. Unfortunately, the progress we have made in combating these forms of discrimination has not lessened the need to exercise the same level of persistence in extinguishing equally offensive, less subtle forms of racism and bigotry.

The term redlining actually evolved from the practice of particular individuals in the banking industry using maps with red lines drawn around certain neighborhoods. These individuals would then instruct their loan officers to avoid offering their financial services to residents of these redlined neighborhoods. These red lines typically encircled low-income and minority communities, resulting in the unavailability of the financial services necessary to purchase a home, a business, or an automobile. But even as Congress identified and moved to curb these discriminatory practices in the banking industry, a disturbing and growing level of discrimination was emerging from the insurance industry that would continue to deny certain individuals the opportunity to own their own home or start a small business.

Home ownership is an aspiration that transcends the artificial boundaries of race and income in America. As anyone who has secured their first home loan can attest, there is an extraordinary feeling of prestige and sense of self-worth that accompanies home ownership. But for those individuals that reside in the economically depressed inner-city neighborhoods of Milwaukee, Chicago, and other such cities, these feelings of pride and accomplishment are even further intensified. It is

tragic that redlining practices exist, and unless the Federal Government takes forceful action we will continue to send the wrong message to those who seek to stabilize and stimulate these inner-city economies. We must expose and eliminate these appalling redlining practices that prevent hard-working, fully qualified individuals from pursuing their dream, and their right, to obtain a home or business loan.

Though it may seem obvious to some, we must recognize that any serious effort to rebuild the economies of these inner-city communities must have minority home and small business ownership as their cornerstones. There are many well-motivated individuals in these communities that are committed to economic revitalization—whether it is purchasing a home for their family or starting a small business and creating jobs. It is heartening that there are both Democrats and Republicans, conservatives and liberals who recognize the need to revitalize our inner cities, and yet it seems fruitless to discuss ideas such as enterprise zones and community development block grants without addressing a glaring problem that prevents an otherwise qualified individual from owning their own home or business.

Several years ago Congress reacted to reports and studies that an element of the financial services industry was preventing residents of minority and low-income communities from obtaining home loans. In response, Congress passed the Home Mortgage Disclosure Act [HMDA] which required banks and thrifts to report their lending practices using a set level of criteria. This legislation, which contrary to dire predictions has had a nominal impact on the vitality and prosperity of the lending industry, has provided Federal and State regulators in the mortgage financing field with detailed information to identify mortgage redlining. This critical piece of legislation was passed for precisely the reason of enhancing the power of State and Federal authorities to determine if banks and other lending institutions were discriminating in their lending practices. But as effective as disclosure requirements have been in exposing these abuses in the banking industry, it is clearly not enough.

Property insurance, as we all know, is almost a prerequisite to obtaining a home loan. This was best illustrated by Judge Frank Easterbrook of the U.S. Seventh Circuit Court of Appeals in that court's ruling that redlining practices are illegal and a violation of the Fair Housing Act. Speaking for a unanimous court, Judge Easterbrook observed that ''lenders require their borrowers to secure property insurance. No insurance, no loan; no loan, no house; lack of insurance thus makes housing unavailable.'' Judge Easterbrook's remarks underscore the need to place people of all racial and ethnic backgrounds on a level playing field when it comes to the opportunity to purchase insurance. In short, denying an individual access to affordable and adequate property insurance is essentially denying that individual access to home ownership.

The key question, of course, is do redlining practices exist? Countless new reports and studies indicate that there is a prevalent and growing level of discriminatory underwriting in the insurance industry. Studies such as the 1979 report of the Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin Advisory Committees to the U.S. Commission on Civil Rights and the recent study on home insurance in 14 cities released by the community advocacy group ACORN have pointed out that insurance redlining practices are widespread in America. These reports highlight the fallacies in the contention that lack of adequate insurance in many of these communities is due to economics and statistically based risk assessment. In addition, there is substantial anecdotal evidence that suggests individuals residing in minority and low-income communities are systematically denied affordable or adequate homeowners insurance.

I was shocked and outraged when I first saw the extensive media reports of the statements made by a district sales manager of a large insurance company which serves the city of Milwaukee. The sales manager was recorded saying to his insurance agents:

> Very honestly, I think you write too many blacks * * *. You gotta sell good, solid, premium paying white people * * *. They own their homes, the white works * * *. Very honestly, black people will buy anything that looks good right now * * * but when it comes to pay for it next time * * * you're not going to get your money out of them * * *. The only way you're going to correct your persistency is get away from blacks.

This policy of denying affordable insurance to minorities was also illustrated when the manager showed one agent how to accomplish this goal by stating that

> * * * if a black wants insurance, you don't have to say, just tell them, because based on this kind of policy, the company will only allow me to accept an annual premium. Do it that way.

Mr. President, Milwaukee, WI is truly a wonderful city. It has midwestern charm, a strong work ethic and like many other of our Nation's urban communities, a large inner-city population that is struggling to become economically vibrant and prosperous. But what redlining practices do is deny those who are playing by the rules the opportunity to own their own home or business. Again, there are those who will assert that insurance is less available in these areas because of risk-assessment and other economic principles. But according to a study by the Missouri insurance department, data comparing low-income minority areas with low-income white areas in St. Louis and Kansas City showed that low-income minorities on average paid higher premiums for homeowners insurance than white homeowners of similar means for comparable coverage. On top of this, actual losses were lower in the minority areas. Clearly the problem of discrimination exists and is widespread. The question now is what can we do about it.

Redlining practices are illegal. This was established by Judge Easterbrook and the Seventh Circuit Court of Appeals in NAACP versus American Family Insurance, when the court ruled that the Fair Housing Act also applies to the underwriting of homeowners insurance. The problem is with the inability of some regulators and the unwillingness of others to enforce the law. In powerful testimony before several congressional committees, it has been stated over and over that to enforce the law greater disclosure of crucial information is needed from the insurance industry. Assistant Secretary Roberta Achtenberg, head of the Department of Housing and Urban Development's Division of Fair Housing and Equal Opportunity testified to this, as did Deval Patrick, assistant attorney general for civil rights. It was also expressed by numerous State insurance commissioners including those from Texas, California, and Missouri, as well as several civil rights and community groups.

As clear as the problem of insurance redlining has become, so has the solution. Public disclosure can serve multiple purposes in combating insurance discrimination by allowing for an accurate assessment of the extent and nature of the problem, as well as assisting Federal and State regulators who are charged with enforcing the anti-discrimination laws that currently exist. The Home Mortgage Disclosure Act has been effective, but passing disclosure laws that only apply to banks and thrifts is like throwing out a life preserver with rope that is several feet short. We must go further, and pursue disclosure regulations that will provide Federal and State insurance regulators the same tools that Federal and State banking regulators have, and allow them to detect and expose any incidence of discrimination in the availability of homeowners insurance.

The bill I am introducing today, the Anti-Redlining in Insurance Disclosure Act, would require insurance companies to disclose information regarding where they write property insurance and is closely patterned after the requirements in the Home Mortgage Disclosure Act. The bill would require the Secretary of Housing and Urban Development to establish requirements for insurers to compile and submit policy information annually. The information that the bill requires to be disclosed must be reported along census tract lines, and must include the number and types of policies written, the race of the applicants, whether the applicant was accepted or rejected and the loss data for the specified area. This information would be collected in the 50 largest metropolitan statistical areas

[MSA's] and an additional 100 MSA's based on geographic diversity and size of MSA populations. These disclosure requirements are almost identical to those recommended by the General Accounting Office in their investigation of this issue last year. Providing this extensive and detailed information will enable regulators to analyze and compare the availability, affordability, and quality of insurance coverage for property, casualty, and homeowners insurance.

Insurance redlining is a national phenomena that demands a Federal response. In the insurance industry, enforcement by State officials of existing antidiscrimination statutes has proven to be difficult for one principal reason; though many State insurance commissioners have been forceful and aggressive in exposing and sanctioning appropriate parties, other State insurance commissioner offices lack the necessary resources to collect and compile data information adequately. In many markets this data is simply unavailable. And critical to this effort is the need to collect claims and other loss data which is central to determining if the unavailability of adequate and affordable insurance is due to sound economic underwriting principles, or to reprehensible factors such as the race and ethnic background of the applicant.

Last year, the efforts of Representatives CARDISS COLLINS, and JOSEPH KENNEDY resulted in the House of Representatives passing a disclosure bill similar to the bill I have introduced today. My colleague from Wisconsin, Representative TOM BARRETT, has also been actively involved with the insurance redlining issue. Just last year, Representative BARRETT chaired a field hearing in Milwaukee where first-hand testimony was given about the extent of these discrimination abuses in Milwaukee and other cities plagued by similar problems.

In addition, it is my understanding that due to the leadership of Secretary Cisneros and Assistant Secretary Achtenberg, HUD is considering the promulgation of disclosure requirements similar to the reporting requirements in the bill I have introduced today. Although some have suggested that HUD lacks the necessary authority to pass such regulations, it is important to note that HUD has been identified by a Federal court in Ohio as legally authorized to enforce the Fair Housing Act as it relates to homeowners insurance. This was affirmed in Nationwide Mutual Insurance Company versus Cisneros, when the U.S. District Court upheld HUD's regulatory authority, noting that HUD's contention that it had been delegated authority under the Fair Housing Act was ''reasonable and entitled to substantial deference.'' I look forward to monitoring the development of HUD's actions, and will certainly lend my support and assistance to their efforts to curb redlining practices.

Mr. President, Voltaire once said that ''Prejudices are what fools use for reason.'' It is clearly one thing to underwrite insurance policies based on sound economic factors and principles—it is another thing to deny adequate or affordable insurance based on an individual's race or ethnic background. We should be very proud of the civil rights accomplishments our society has made in the last 30 years. But as many potential homeowners in my State and across the country have discovered, too many individuals in the insurance industry have used their prejudices to determine the economic and social future of communities that are on the brink of collapse. Passing this legislation would represent marked progress in the pathway to offering all of our citizens, regardless of racial or ethnic background, equal access to social justice and economic opportunity.

I would like to conclude, Mr. President, by asking unanimous consent that several items be printed in the RECORD. These items include the text of the bill, a letter I received from several organizations supporting the legislation, a letter that I, Senator SIMON, and several member of the House sent to Roberta Achtenberg, Assistant Secretary for Fair Housing and Equal Opportunity as well as a response I received from that Department, and finally, two editorials from the Houston Post and the Dallas Morning News on the issue of insurance redlining.

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

S. 380

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 ''Anti-Redlining in Insurance Disclosure Act of 1995''.

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

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) there are disparities in insurance coverage provided by some insurers between areas of different incomes and racial composition;

(2) such disparities in affordability and availability of insurance severely limit the ability of qualified consumers to obtain credit for home and business purchases; and

(3) the lack of affordable and adequate commercial insurance for small businesses severely curtails the establishment and growth of such businesses.

(b) PURPOSES.—The purposes of this Act are—

(1) to establish a nationwide database for determining the availability, affordability, and adequacy of insurance coverage for consumers and small businesses;

(2) to facilitate the enforcement of Federal and State laws that prohibit illegally discriminatory insurance practices; and

(3) to determine whether the extent and characteristics of insurance availability, affordability, and coverage require public officials to take any actions—

(A) to remedy redlining or other illegally or unfairly discriminatory insurance practices; or

(B) regarding areas underserved by insurers.

(c) CONSTRUCTION.—Nothing in this Act is intended to, nor shall it be construed to, encourage unsound underwriting practices.

SEC. 3. ESTABLISHMENT OF GENERAL REQUIREMENTS TO SUBMIT INFORMATION.

(a) IN GENERAL.—The Secretary shall, by regulation, establish requirements for insurers to compile and submit information to the Secretary for each annual reporting period, in accordance with this Act.

(b) CONSULTATION.—In establishing the requirements for the submission of information under this Act, the Secretary shall consult with Federal agencies having appropriate expertise, the National Association of Insurance Commissioners, State insurance regulators, statistical agents, representatives of small businesses, representatives of insurance agents (including minority insurance agents), representatives of property and casualty insurers, and community, consumer, and civil rights organizations, as appropriate.

SEC. 4. REPORTING OF NONCOMMERCIAL INSURANCE INFORMATION.

(a) IN GENERAL.—The requirements established pursuant to section 3 to carry out this section shall—

(1) be designed to ensure that information is submitted and compiled under this section as may be necessary to permit analysis and comparison of—

(A) the availability and affordability of insurance coverage and the quality or type of insurance coverage, by MSA and the applicable region, race, and gender of policyholders; and

(B) the location of the principal place of business of insurance agents and the race of such agents, and the location of the principal place of business of insurance agents terminated and the race of such agents, by MSA and applicable region; and

(2) specify the data elements required to be reported under this section and require uniformity in the definitions of the data elements.

(b) DESIGNATED INSURERS.—

(1) AGGREGATE INFORMATION.—The regulations issued under section 3 shall require that each designated insurer for a designated line of insurance under section 13(c)(1) compile and submit to the Secretary, for each annual reporting period—

(A) the total number of policies issued in such line, total exposures covered by such policies, and total amount of premiums for such policies, by designated line and by designated MSA and applicable region in which the insured risk is located;

(B) the total number of cancellations and nonrenewals (expressed in terms of policies or exposures, as determined by the Secretary), by designated line and by designated MSA and applicable region in which the insured risk is located;

(C) the total number and racial characteristics of—

(i) licensed agents of such insurer selling insurance in the designated line, by designated MSA and applicable region in which the agent's principal place of business is located; and

(ii) such agents who were terminated by the insurer, by designated MSA and applicable region in which the agent's principal place of business was located; and

(D) for such designated line of insurance, information that will enable the Secretary to assess the aggregate loss experience for the insurer, by designated MSA and applicable region in which the insured risk is located.

(2) SPECIFICATION OF INFORMATION FOR ITEMIZED DISCLOSURE.—

(A) IN GENERAL.—The regulations issued under section 3 regarding annual reporting requirements for designated insurers for a designated line of insurance under section 13(c)(1) shall, with respect to policies issued under the designated line or exposure units covered by such policies, as determined by the Secretary—

(i) specify the data elements that shall be submitted;

(ii) provide for the submission of information on an individual insurer basis;

(iii) provide for the submission of the information with the least burden on insurers, particularly small insurers, and insurance agents;

(iv) take into account existing statistical reporting systems in the insurance industry;

(v) require reporting by MSA and applicable region in which the insured risk is located;

(vi) provide for the submission of information that identifies the designated line and subline or coverage type;

(vii) provide for the submission of information that distinguishes policies written in a residual market from policies written in the voluntary market;

(viii) specify—

(I) whether information shall be submitted on the basis of policy or exposure unit; and

(II) whether information, when submitted, shall be aggregated by like policyholders with like policies, except that the Secretary shall not permit such aggregation if it will adversely affect the accuracy of the information reported;

(ix) provide for the submission of information regarding the number of cancellations and nonrenewals of policies under the designated line by MSA and applicable region in which the insured risk is located, by race and gender of the policyholder (if known to the insurer), and by whether the policy was issued in a voluntary or residual market; and

(x) provide for the submission of information on the racial characteristics and gender of policyholders at the level of detail comparable to that required by the Home Mortgage Disclosure Act of 1975 (and the regulations issued thereunder).

(B) RULES REGARDING OBTAINING RACIAL INFORMATION.—With respect to the information specified in subparagraph (A)(x), applicants for, and policyholders of, insurance may be asked their racial characteristics only in writing. Any such written question shall clearly indicate that a response to the question is voluntary on the part of the applicant or policyholder, but encouraged, and that the information is being requested by the Federal Government to monitor the availability and affordability of insurance. If an applicant for, or policyholder of, insurance declines to provide such information, the agent or insurer for such insurance may provide such information.

(3) RULE FOR REPORTING BY DESIGNATED INSURERS.—A designated insurer for a designated line shall submit—

(A) information required under subparagraphs (A), (B), and (D) of paragraph (1) and information required pursuant to paragraph (2), for risks insured under such line that are located within each designated MSA, any part of which is located in a State for which the insurer is designated; and

(B) information required under paragraph (1)(C) for agents within such designated MSA's.

(c) NONDESIGNATED INSURERS.—The regulations issued under section 3 shall require each insurer that issues an insurance policy in a designated line of insurance under section 13(c)(1) that covers an insured risk located in a designated MSA and which is not a designated insurer for the line in any State in which any part of such MSA is located, to compile and submit to the Secretary, for each annual reporting period—

(1) the total number of policies issued in such line;

(2) the total exposures covered by such policies; and

(3) the total amount of premiums for such policies;

by designated MSA and applicable region in which the insured risk is located.

SEC. 5. STUDY OF COMMERCIAL INSURANCE FOR RESIDENTIAL PROPERTIES AND SMALL BUSINESSES.

(a) IN GENERAL.—The Secretary shall conduct a study to determine the availability, affordability, and quality or types of commercial insurance coverage for residential properties and small businesses, in urban areas.

(b) SUBMISSION OF INFORMATION.—To acquire information for the study under this section, the Secretary shall, by regulation, establish requirements for insurers providing commercial insurance for residential properties and small businesses to compile and submit to the Secretary on an annual basis information regarding such insurance, as follows:

(1) MSA's.—The Secretary shall carry out the study only with respect to the 25 MSA's having the largest populations, as determined by the Secretary and specified in the regulations under this section.

(2) INSURERS.—For each of the MSA's specified pursuant to paragraph (1), the Secretary shall designate the insurers required to submit the information. The Secretary shall designate a sufficient number of insurers to provide a representative sample of the insurers providing such insurance in each such MSA.

(3) LINES OF INSURANCE.—The Secretary shall require the submission of information regarding such lines, sublines, or coverage types of commercial insurance as the Secretary determines are necessary or important with respect to establishing, operating, or maintaining residential properties and each type of small business selected under paragraph (4), and shall require submission of such information by such lines, sublines, or coverage types.

(4) SMALL BUSINESSES.—For purposes of paragraph (3), the Secretary shall determine the types of businesses that are typical of small businesses and shall select a representative sample of such types.

(5) DATA ELEMENTS.—The Secretary shall identify the data elements required to be submitted.

(6) SUBMISSION BY LOCATION.—The Secretary shall require the information to be submitted by designated MSA and applicable region in which the insured risk is located.

(7) SUBMISSION BY INSURER.—The Secretary shall require the submission of information on an individual insurer basis and shall specify whether information, when submitted, shall be aggregated by like policies, except that the Secretary shall not permit such aggregation if it will adversely affect the accuracy of the information reported.

(8) SUNSET.—The Secretary shall require the submission of information under this section only for each of the first 5 annual reporting periods beginning more than 3 years after the date of enactment of this Act.

(c) CONSIDERATIONS.—In establishing the requirements for submission of information under this section, the Secretary shall—

(1) take into consideration the administrative, paperwork, and other burdens on insurers and insurance agents involved in complying with the requirements of this section;

(2) minimize the burdens imposed by such requirements with respect to such insurers and agents; and

(3) take into consideration existing statistical reporting systems in the insurance industry.

(d) REPORT.—Not later than 6 months after the expiration of the fifth of the 5 annual reporting periods referred to in subsection (b)(8), the Secretary shall submit a report to the Congress describing the information submitted under the study conducted under this section and any findings of the Secretary from the study regarding disparities in the availability, affordability, and quality or types of commercial insurance coverage for residential properties and small businesses, in urban areas.

SEC. 6. REPORTING OF RURAL INSURANCE INFORMATION.

(a) IN GENERAL.—The Secretary shall, by regulation, establish requirements for insurers to annually compile and submit to the Secretary information concerning the availability, affordability, and quality or type of insurance in designated rural areas in the lines designated under section 13(c)(1).

(b) CONTENT.—The regulations under this section shall provide that—

(1) the information to be compiled and submitted under this section by designated insurers and insurers that are not designated insurers shall be of such types, data elements, and specificity that is as identical as possible to the types, data elements, and specificity of information required under this Act of designated and nondesignated insurers, respectively, for designated MSA's and shall be subject to the provisions of section 4(b)(2)(B); and

(2) the information compiled and submitted under this section shall be compiled and submitted on the basis of each 5-digit zip code in which the insured risks are located, rather than on the basis of designated MSA and applicable region (as otherwise required in this Act).

(c) DESIGNATION OF RURAL AREAS.—For purposes of this section, the term ''designated rural area'' means the following:

(1) FIRST 5 YEARS.—With respect to the first 5 annual reporting periods to which the reporting requirements under this section

apply, any of the 50 rural areas designated by the Secretary and specified in regulations issued pursuant to section 22, which shall not be amended or revised after issuance. The Secretary shall (to the extent possible) designate one rural area under this paragraph in each State of the United States.

(2) AFTER FIRST 5 YEARS.—With respect to annual reporting periods thereafter, a rural area for which a designation made by the Secretary under this paragraph is in effect, pursuant to the following requirements:

(A) The designations shall be made for each of the successive 5-year periods at the time provided in subparagraph (C), and the first such period shall be the 5-year period beginning upon the commencement of the sixth annual reporting period to which the reporting requirements under this Act apply.

(B) The Secretary shall designate 50 rural areas as designated rural areas for each such 5-year period and shall designate such rural areas based upon the information and recommendations made in the report under section 18(b) relating to the period.

(C) The Secretary shall make the designation of rural areas for an ensuing 5-year period by regulations issued—

(i) not later than 12 months before the commencement of the 5-year period; and

(ii) not later than 6 months after the submission to the Secretary of the report under section 18(b) relating to such period.

(D) The designations of rural areas for a 5-year period shall take effect upon the commencement of the first annual reporting period of the 5-year period beginning not less than 12 months after the issuance of the regulations making such designations, and shall remain in effect until the expiration of the 5-year period.

Notwithstanding any other provision of this section, the designation of a rural area shall remain in effect until a succeeding designation of rural areas under paragraph (2) takes effect.

SEC. 7. WAIVER OF REPORTING REQUIREMENTS.

(a) WAIVER FOR STATES COLLECTING EQUIVALENT INFORMATION.—

(1) AUTHORITY.—Subject to the requirements under this section, the Secretary shall provide, by regulation, for the waiver of the applicability of the provisions of sections 4, 5, and 6 for each insurer transacting business within a State referred to in paragraph (2), but only with respect to information required to be submitted under such sections that relates to agents or insured risks located in the State.

(2) REQUIREMENTS.—The Secretary may make a waiver pursuant to paragraph (1) only with respect to a State that the Secretary determines has in effect a law or other requirement that—

(A) requires insurers to submit to the State information that is the same as or equivalent to the information that is required to be submitted to the Secretary pursuant to sections 4, 5, and 6;

(B) provides for adequate enforcement of such law or other requirements;

(C) provides for the same annual reporting period used by the Secretary under this Act and for submission of the information to the Secretary in a timely fashion, as determined by the Secretary; and

(D) provides that, to the extent statistical agents are permitted to submit information to the State on behalf of insurers, such agents are subject to the same or equivalent requirements as provided under section 9(b).

(3) DURATION.—A waiver pursuant to paragraph (1) may remain in effect only during the period for which the State law or other requirement under paragraph (2) remains in effect.

(b) MULTIPLE-STATE MSA'S.—In the case of any designated MSA that contains area within—

(1) any State for which a waiver has been made pursuant to subsection (a); and

(2) any State for which such a waiver has not been made;

the provisions of this Act requiring submission of information to the Secretary regarding such MSA shall be considered to apply only to the portion of such MSA that is located within the State for which such a waiver has not been made.

(c) AUTHORITY FOR SECRETARY TO OBTAIN INFORMATION DIRECTLY FROM INSURERS.—If the State for which a waiver has been made pursuant to subsection (a) does not submit to the Secretary the information required under subsection (a)(2)(A) or submits information that is not complete, the Secretary shall require the insurers transacting business within the State to submit such information directly to the Secretary.

SEC. 8. REPORTING BY PRIVATE MORTGAGE INSURERS.

(a) HMDA REPORTING.—On an annual basis, the Federal Financial Institutions Examination Council (hereafter in this section referred to as the ''Council'') shall determine the extent to which each insurer providing private mortgage insurance is making available to the public and submitting to the appropriate agency information regarding such insurance that is equivalent to the information regarding mortgages required to be reported under the Home Mortgage Disclosure Act of 1975.

(b) REPORTING UNDER THIS ACT.—

(1) CERTIFICATION OF NONCOMPLIANCE.—If, for any annual period referred to in subsection (a), the Council determines that any insurer providing private mortgage insurance is not making available to the public or submitting the information referred to in subsection (a) or that the information made available or submitted is not equivalent information as described in subsection (a), then the Council shall notify the insurer of such noncompliance. If, after the expiration of a reasonable period of time, the insurer has not remedied such noncompliance to the satisfaction of the Council, then the Council shall immediately certify such noncompliance to the Secretary.

(2) REQUIREMENT.—Upon the receipt of a certification under paragraph (1), the Secretary shall, by regulation, require such insurer to submit to the Secretary information regarding such insurance that complies with the provisions of section 4 that are applicable to such insurance. Such regulations shall be issued not later than 6 months after receipt of such certification and shall apply to the first succeeding annual reporting period beginning not less than 6 months after issuance of such regulations and to each annual reporting period thereafter.

SEC. 9. USE OF DATA CONTRACTOR AND STATISTICAL AGENTS.

(a) DATA COLLECTION CONTRACTOR.—The Secretary may contract with a data collection contractor to collect the information required to be maintained and submitted under sections 4, 5, 6, 7, and 8(b), if the contractor agrees to collect the information pursuant to the terms and conditions of such sections and this Act and the regulations issued thereunder. Information submitted to such contractor shall be available to the public to the same extent as if the information were submitted directly to the Secretary.

(b) USE OF STATISTICAL AGENTS.—

(1) IN GENERAL.—The Secretary shall provide, by regulation, that insurers may submit any information required under sections 4, 5, 6, and 8(b) through statistical agents acting on behalf of more than one insurer.

(2) PROTECTIONS.—The regulations issued under this subsection shall permit submission of information through a statistical agent only if the Secretary determines that—

(A) the statistical agent has adequate procedures to protect the integrity of the information submitted;

(B) the statistical agent has a statistical plan and format for submitting the information that meets the requirements of this Act;

(C) the statistical agent has procedures in place that ensure that information reported under the statistical plan in connection with reporting under this Act and submitted to the Secretary is not subject to any adjustment by the statistical agent or an insurer for reasons other than technical accuracy and conformance to the statistical plan;

(D) the information of an insurer is not subject to review by any other insurer before being made available to the public; and

(E) acceptance of the information through the statistical agent will not adversely affect the accuracy of the information reported.

(3) DISCONTINUANCE OF ACCEPTANCE OF INFORMATION.—The Secretary may discontinue accepting information reported through a statistical agent pursuant to this subsection if the Secretary determines that the requirements for such reporting are no longer met or that continued acceptance of such information is contrary to the goal of ensuring the accuracy of the information reported.

(4) GAO AUDITS.—The Comptroller General of the United States shall, at the request of the Secretary, audit information collection and submission performed under this subsection by data collection contractors or statistical agents to ensure that the integrity of the information collected and submitted is protected. In determining whether to request an audit of a statistical agent, the Secretary shall consider the sufficiency (for purposes of this Act) of audits of the statistical agent conducted in connection with State insurance regulation.

(5) LIABILITY.—Notwithstanding any use of a statistical agent as authorized under this subsection, an insurer using such an agent shall be responsible for compliance with the requirements under this Act.

SEC. 10. SUBMISSION OF INFORMATION TO SECRETARY AND MAINTENANCE OF INFORMATION.

(a) PERIOD OF MAINTENANCE.—Each insurer required by this Act to compile and submit information to the Secretary shall maintain such information for the 3-year period beginning upon the conclusion of the annual reporting period to which such information relates. The Secretary shall maintain any information submitted to the Secretary for such period as the Secretary considers appropriate and feasible to carry out the purposes of this Act and to allow for historical analysis and comparison of the information.

(b) SUBMISSION.—The Secretary shall issue regulations prescribing a standard schedule (taking into consideration the provisions of section 12(a)), format, and method for submitting information under this Act to the Secretary. The format and method of submitting the information shall facilitate and encourage the submission in a form readable by a computer. Any insurer submitting information to the Secretary may submit in writing to the Secretary any additional information or explanations that the insurer considers relevant to the decision by the insurer to sell insurance.

SEC. 11. COMPILATION OF AGGREGATE INFORMATION.

(a) INSURANCE INFORMATION.—For each annual reporting period, the Secretary shall—

(1) compile, for each designated MSA, by designated line (and if such information is submitted, by subline or coverage type)—

(A) information submitted under sections 4, 5, 7, and 8(b) and loss ratios (if the submission of loss information is required), aggregated by applicable region for all insurers submitting such information; and

(B) such information and loss ratios (if the submission of loss information is required), aggregated by applicable region for each such insurer; and

(2) produce tables based on information submitted under sections 4, 5, 7, and 8(b) for each designated MSA, by insurer and for all insurers, by designated line (and if such information is submitted, by subline or coverage type), indicating—

(A) insurance underwriting patterns aggregated for the applicable regions within the MSA, grouped according to location, age of property, income level, and racial characteristics of neighborhoods; and

(B) loss ratios based on the information obtained pursuant to sections 4, 5, 7, and 8(b) (if the submission of loss information is required), aggregated for the applicable regions within the MSA, grouped according to location, age of property, income level, and racial characteristics of neighborhoods.

(b) AGENT INFORMATION.—For each annual reporting period and for each designated MSA, the Secretary shall compile, by designated line, the information submitted under section 4(b)(1)(C)—

(1) by designated insurer by applicable region;

(2) by designated insurer aggregated for the applicable regions within the designated MSA, grouped according to location, age of property, income level, and racial characteristics; and

(3) for all designated insurers that have submitted such information for the designated MSA, aggregated for the applicable regions within the designated MSA, grouped according to location, age of property, income level, and racial characteristics.

(c) RURAL INSURANCE INFORMATION.—For each annual reporting period, the Secretary shall—

(1) compile for each applicable 5-digit zip code, by designated line (and if such information is submitted, by subline or coverage type)—

(A) information regarding insurance in rural areas submitted under sections 6 and 7 and loss ratios, for all insurers for which such information is submitted; and

(B) such information and loss ratios, for each such insurer; and

(2) produce tables for each 5-digit zip code based on information regarding insurance in rural areas submitted under sections 6 and 7, by insurer and for all such insurers for which information is submitted under such sections, by designated line (and if such information is submitted, by subline or coverage type), indicating—

(A) insurance underwriting patterns, aggregated by zip codes, grouped according to location, age of property, income level, and racial characteristics of neighborhoods (where such demographic information is available); and

(B) loss ratios, based on the information obtained pursuant to sections 6 and 7, aggregated by zip codes, grouped according to location, age of property, income level, and racial characteristics of neighborhoods (where such demographic information is available).

SEC. 12. AVAILABILITY AND ACCESS SYSTEM.

(a) AVAILABILITY TO PUBLIC.—

(1) IN GENERAL.—The Secretary shall maintain and make available to the public, in accordance with the requirements of this section, any information submitted to the Secretary under this Act and any information compiled by the Secretary under this Act.

(2) TIMING.—The Secretary shall make such information publicly available on a timetable determined by the Secretary, but not later than 9 months after the conclusion of the annual reporting period to which the information relates, except that such information shall not be made available to the public until it is available in its entirety unless not all the information required to be reported is available by such date.

(b) PUBLIC ACCESS SYSTEM.—

(1) IMPLEMENTATION.—The Secretary shall implement a system to facilitate access to any information required to be made available to the public under this Act.

(2) BASES OF AVAILABILITY.—The system shall provide access in the following manners:

(A) ACCESS TO ITEMIZED INFORMATION.—To information submitted under sections 4, 5, 6, 7, and 8(b) on the basis of the insurer submitting the information, on the basis of designated MSA and applicable region (or in the case of rural information submitted under section 6 or 7, on the basis of 5-digit zip code), and on any other basis the Secretary considers feasible and appropriate.

(B) ACCESS TO AGGREGATE INFORMATION.—To aggregate information compiled under section 11, on the basis of—

(i) the insurer submitting the information;

(ii) designated MSA and applicable region (or in the case of rural information submitted under section 6 or 7, on the basis of 5-digit zip code); and

(iii) any other basis the Secretary considers feasible and appropriate.

(3) METHOD.—The access system shall include a toll-free telephone number that can be used by the public to request such information and the address at which a written request for such information may be submitted.

(4) FORM.—The Secretary shall, by regulation, establish the forms in which such information may be furnished by the Secretary. Such forms shall include written statements, forms readable by widely used personal computers, and, if feasible, on-line access for personal computers. The Secretary shall provide the information available under this section in any such form requested by the person requesting the information, except that the Secretary may charge a fee for providing such information, which may not exceed the amount, determined by the Secretary, that is equal to the cost of reproducing the information.

(5) ANALYSIS SOFTWARE.—The Secretary shall make available to the public software that can be used on a personal computer to analyze the information provided under this section. The software shall be capable of analyzing the information by insurer, designated line, race, gender, MSA, and applicable region. It shall also contain data compiled by the Secretary for each MSA and applicable region on income levels, age of property, and racial characteristics that can be used to evaluate the information provided under this Act by insurers. The software and any accompanying data shall be made available to the public without charge, except for an amount, determined by the Secretary, which shall not exceed the actual cost of reproducing the software and the accompanying data.

(c) PROTECTIONS REGARDING LOSS INFORMATION.—

(1) PROHIBITION OF DISCLOSURE OF LOSS INFORMATION.—Notwithstanding any other provision of this Act, the Secretary may not make available to the public or otherwise disclose any information submitted under this Act regarding the amount or number of claims paid by any insurer, the amount of losses of any insurer, or the loss experience for any insurer, except—

(A) in the form of a loss ratio (expressing the relationship of claims paid to premiums) made available or disclosed in compliance with the provisions of paragraph (2); or

(B) as provided in paragraph (3).

(2) PROTECTION OF IDENTITY OF INSURER.—In making available to the public or otherwise disclosing a loss ratio for an insurer—

(A) the Secretary may not identify the insurer to which the loss ratio relates; and

(B) the Secretary may disclose the loss ratio only in a manner that does not allow any party to determine the identity of the specific insurer to which the loss ratio relates, except parties having access to information under paragraph (3).

(3) CONFIDENTIALITY OF INFORMATION DISCLOSED TO GOVERNMENTAL AGENCIES.—The Secretary may make information referred to in paragraph (1) and the identity of the specific insurer to which such information relates available to any Federal entity and any State agency responsible for regulating insurance in a State and may otherwise disclose such information to any such entity or agency, but only to the extent such entity or agency agrees not to make any such information available or disclose such information to any other person.

SEC. 13. DESIGNATIONS.

(a) DESIGNATION OF MSA'S.—For purposes of this Act, the term ''designated MSA'' means the following MSA's:

(1) FIRST 5 YEARS.—With respect to the first 5 annual reporting periods to which the reporting requirements under this Act apply (pursuant to section 24), any of the 150 MSA's selected as follows:

(A) The Secretary shall select the 50 MSA's having the largest populations, as determined by the Secretary and specified in regulations issued pursuant to section 22, which shall not be amended or revised after issuance.

(B) The Secretary shall select 100 additional MSA's, on a basis that provides for—

(i) geographic diversity among the designated MSA's under this paragraph; and

(ii) diversity in size of the populations among such MSA's.

(2) AFTER FIRST 5 YEARS.—With respect to annual reporting periods thereafter, an MSA for which a designation under this paragraph is in effect, pursuant to the following requirements:

(A) The designations shall be made for each of the successive 5-year periods at the time provided in subparagraph (C), and the first such period shall be the 5-year period beginning upon the commencement of the sixth annual reporting period to which the reporting requirements under this Act apply.

(B) The Secretary shall designate not less than 150 MSA's as designated MSA's for each such 5-year period and shall designate such MSA's based upon the information and recommendations made in the report under section 18(b) relating to the period.

(C) The Secretary shall make the designation of MSA's for an ensuing 5-year period by regulations issued—

(i) not later than 12 months before the commencement of the 5-year period; and

(ii) not later than 6 months after the submission to the Secretary of the report under section 20(b) relating to such period.

(D) The designations of MSA's for a 5-year period shall take effect upon the commencement of the first annual reporting period of the 5-year period beginning not less than 12 months after the issuance of the regulations making such designations, and shall remain in effect until the expiration of the 5-year period.

Notwithstanding any other provision of this section, the designation of an MSA shall remain in effect until a succeeding designation of MSA's under paragraph (2) takes effect.

(b) DESIGNATION OF INSURERS.—The Secretary shall designate, for each designated line and each State, insurers doing business in the lines as designated insurers in the State for purposes of this Act, subject to the following requirements:

(1) HIGHEST AGGREGATE PREMIUM VOLUME.—

(A) GENERAL RULE.—For each State, the Secretary shall designate, for each designated line, each of the insurers and insurer groups included in the class established under this paragraph for the State.

(B) DETERMINATION.—In each State, the Secretary shall rank the insurers and insurer groups in each designated line from the insurer or group having the largest aggregate premium volume in the State for such line to the insurer or group having the smallest such aggregate premium volume and shall include in the class for the State only—

(i) the insurer or group of the highest rank;

(ii) each insurer or group of successively lower rank if the inclusion of such insurer or group in the class does not result in the sum of such aggregate premium volumes for insurers and groups in the class exceeding 80 percent of the total aggregate premium volume in the State for the line; and

(iii) the first such successively lower ranked insurer or insurer group whose inclusion in the class results in such sum exceeding 80 percent of the total aggregate premium volume in the State for the line.

(2) MINIMUM AGGREGATE PREMIUM VOLUME.—For each State, the Secretary shall designate, for each designated line, each insurer and insurer group not designated pursuant to paragraph (1) whose premium volume in the State for the designated line exceeds 1 percent of the total aggregate premium volume in the State for the line.

(3) FAIR PLANS AND JOINT UNDERWRITING ASSOCIATIONS.—For each State, the Secretary shall designate, for each designated line—

(A) each statewide plan under part A of title XII of the National Housing Act to assure fair access to insurance requirements; and

(B) each joint underwriting association;

that provides insurance under such line.

(4) DURATION.—The Secretary shall designate insurers under this subsection once every 5 years. Each insurer designated shall be a designated insurer for each of the first 5 successive annual reporting periods commencing after such designation.

(c) DESIGNATION OF LINES OF INSURANCE.—

(1) IN GENERAL.—The Secretary shall, by regulation, designate homeowners, dwelling fire, and allied lines of insurance as designated lines for purposes of this Act, and shall distinguish the coverage types in such lines by the perils covered and by market or replacement value. For purposes of this Act, homeowners insurance shall not include any renters coverage or coverage for the personal property of a condominium owner.

(2) REPORT.—At any time the Secretary determines that any line of insurance not described in paragraph (1) should be a designated line because disparities in coverage provided under such line exist among geographic areas having different income levels or racial composition, the Secretary shall submit a report recommending designating such line of insurance as a designated line for purposes of this Act to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the appropriate committees of the Senate.

(3) DURATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall make the designations under this subsection once every 5 years, by regulation, and each line and subline or coverage type designated under such regulations shall be designated for each of the first 5 successive annual reporting periods occurring after issuance of the regulations.

(B) ALTERATION.—During any 5-year period referred to in subparagraph (A) in which designations are in effect, the Secretary may amend or revise the designated lines, sublines, and coverage types only by regulation and only in accordance with the requirements of this subsection. Such regulations amending or revising designations shall apply only to annual reporting periods beginning after the expiration of the 6-month period beginning on the date of issuance of the regulations.

(d) TIMING OF DESIGNATIONS.—The Secretary shall make the designations required by subsections (b)(4) and (c)(3)(A) and notify interested parties during the 6-month period ending 6 months before the commencement of the first annual reporting period to which such designations apply.

(e) OBTAINING INFORMATION.—The Secretary may require insurers to submit to the Secretary such information as the Secretary considers necessary to make designations specifically required under this Act. The Secretary may not require insurers to submit any information under this subsection that relates to any line of insurance not specifically authorized to be designated pursuant to this Act or that is to be used solely for the purpose of a report under subsection (c)(2).

SEC. 14. IMPROVED METHODS AND REPORTING ON BASIS OF OTHER AREAS.

(a) DEVELOPMENT OF IMPROVED METHODS.—The Secretary shall develop, or assist in the improvement of, methods of matching addresses and applicable regions to facilitate compliance by insurers, in as economical a manner as possible, with the requirements of this Act. The Secretary shall allow insurers, or statistical agents acting on behalf of insurers, to match addresses and applicable regions through the use of 9-digit zip codes if the Secretary determines that such use will substantially reduce the cost and burden to insurers of such matching without significant adverse impact on the reliability of the matching.

(b) ADDRESS CONVERSION SOFTWARE.—The Secretary shall make available, to any insurer required to provide information to the Secretary under this Act, computer software that can be used to convert addresses to applicable regions within designated MSA's. The software shall be made available in forms that provide such conversion for designated MSA's on a nationwide basis and on a State-by-State basis. The software shall be made available not later than 6 months before the first annual reporting period to which the reporting requirements under this Act apply (pursuant to section 26) and shall be updated annually. The software shall be made available without charge, except for an amount, determined by the Secretary, which shall not exceed the actual cost of reproducing the software.

(c) CONVERTIBILITY.—

(1) AUTHORITY.—The Secretary may, by regulation, provide for insurers to comply with the requirements under sections 4, 5, and 8(b) by reporting the information required under such sections on the basis of geographical location other than MSA and applicable region, but only if the Secretary determines that information reported on such other basis is convertible to the basis of MSA and applicable region and such conversion does not affect the accuracy of the information.

(2) LIMITATION.—With respect to any information submitted on the basis of geographical location other than designated MSA and applicable region pursuant to paragraph (1), the Secretary may disclose the information only on the basis of designated MSA and applicable region.

SEC. 15. ANNUAL REPORTING PERIOD.

(a) IN GENERAL.—For purposes of this Act, the annual reporting periods shall be the 12-month periods commencing in each calendar year on the same day, which shall be selected under subsection (b) by the Secretary.

(b) SELECTION.—Not later than the expiration of the 6-month period beginning on the date of enactment of this Act, the Secretary shall, by regulation, select a day of the year upon which all annual reporting periods shall commence. In determining such day, the Secretary shall consider the reporting periods used for purposes of State and other insurance statistical reporting systems, in order to minimize the burdens on insurers.

SEC. 16. DISCLOSURES BY INSURERS TO APPLICANTS AND POLICYHOLDERS.

(a) IN GENERAL.—The Secretary shall, by regulation, require the following disclosures:

(1) APPLICANTS.—Each insurer that, through the insurer, or an agent or broker, declines a written application or written request to issue an insurance policy under a designated line shall provide to the applicant at the time of such declination, through such insurer, agent, or broker, one of the following:

(A) A written explanation of the specific reasons for the declination.

(B) Written notice that—

(i) the applicant may submit to the insurer, agent, or broker, within 90 days of such notice, a written request for a written explanation of the reasons for the declination; and

(ii) pursuant to such a request, an explanation shall be provided to the applicant within 21 days after receipt of such request.

(2) PROVISION OF EXPLANATION.—If an insurer, agent, or broker making a declination receives a written request referred to in paragraph (1)(B) within such 90-day period, the insurer, agent, or broker shall provide a written explanation referred to in such subparagraph within such 21-day period.

(3) POLICYHOLDERS.—Each insurer that cancels or refuses to renew an insurance policy under a designated line shall provide to the policyholder, in writing and within an appropriate period of time as determined by the Secretary, the reasons for canceling or refusing to renew the policy.

(b) MODEL ACTS.—In issuing regulations under subsection (a), the Secretary shall consider relevant portions of model acts developed by the National Association of Insurance Commissioners.

(c) PREEMPTION.—Subsection (a) shall not be construed to annul, alter, or effect, or exempt any insurer, agent, or broker subject to the provisions of subsection (a) from complying with any laws or requirements of any State with respect to notifying insurance applicants or policyholders of the reasons for declination or cancellation of, or refusal to renew insurance, except to the extent that such laws or requirements are inconsistent with subsection (a) (or the regulations issued thereunder) and then only to the extent of such inconsistency. The Secretary is authorized to determine whether such inconsistencies exist and to resolve issues regarding such inconsistencies. The Secretary may not provide that any State law or requirement is inconsistent with subsection (a) if it imposes requirements equivalent to the requirements under such subsection or requirements that are more stringent or comprehensive, in the determination of the Secretary.

(d) IMMUNITY.—In issuing regulations under subsection (a), the Secretary shall specifically consider the necessity of providing insurers, agents, and brokers with immunity solely for the act of conveying or communicating the reasons for a declination or cancellation of, or refusal to renew insurance on behalf of a principal making such decision. The Secretary may provide for immunity under the regulations issued under subsection (a) if the Secretary determines that such a provision is necessary and in the public interest, except that the Secretary may not provide immunity for any conduct that is negligent, reckless, or willful.

(e) ENFORCEMENT.—The Secretary may authorize the States to enforce the requirements under regulations issued under subsection (a).

SEC. 17. ENFORCEMENT.

(a) CIVIL PENALTIES.—Any insurer who is determined by the Secretary, after providing opportunity for a hearing on the record, to have violated any requirement pursuant to this Act shall be subject to a civil penalty of not to exceed $5,000 for each day during which such violation continues.

(b) INJUNCTION.—The Secretary may bring an action in an appropriate United States district court for appropriate declaratory and injunctive relief against any insurer who violates the requirements referred to in subsection (a).

(c) INSURER LIABILITY.—An insurer shall be responsible under subsections (a) and (b) for any violation of a statistical agent acting on behalf of the insurer.

SEC. 18. REPORTS.

(a) ANNUAL REPORT.—The Secretary shall annually report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the appropriate committees of the Senate on the implementation of this Act and shall make recommendations to such committees on such additional legislation as the Secretary deems appropriate to carry out this Act. The Secretary shall include in each annual report a description of any complaints or problems resulting from the implementation of this Act, of which the Secretary has knowledge, made by (or on behalf of) insurance policyholders that concern the disclosure of information regarding policyholders and any recommendations for addressing such problems. Each report shall specifically address whether granting property and casualty insurance powers to other financial intermediaries would significantly reduce redlining and other discriminatory insurance practices and the Secretary shall consult with the appropriate financial institution regulators regarding such issues in preparing the report.

(b) GAO REPORTS.—

(1) IN GENERAL.—The Comptroller General of the United States shall submit a report under this subsection to the Secretary and the Congress for each 5-year period referred to in sections 6(c)(2) and 13(a)(2), which contains information to be used by the Secretary in implementing this Act during such period.

(2) TIMING.—The report under this subsection for each such 5-year period shall be submitted not later than 18 months before the commencement of the period to which the report relates.

(3) CONTENTS.—A report under this subsection shall include the following information:

(A) An analysis of the adequacy of the implementation of this Act and any recommendations of the Comptroller General for improving the implementation.

(B) The costs to the Federal Government, insurers, and consumers of implementing and complying with this Act.

(C) Any beneficial or harmful effects resulting from the requirements of this Act.

(D) An analysis of whether, considering the purposes of this Act, insurers are required by this Act (or by implementing regulations) to submit appropriate information.

(E) An analysis of whether sufficient evidence exists of patterns of disparities in the availability, affordability, and quality or type of insurance coverage to warrant continued applicability of the requirements of this Act.

(F) An analysis of whether the group of designated MSA's in effect at the time of the report are appropriate for purposes of this Act.

(G) Specific recommendations, for use by the Secretary in designating MSA's for the 5-year period for which the report is made, with regard to—

(i) the characteristics of MSA's that should be included in the group of designated MSA's;

(ii) the number of MSA's that should be included in the group;

(iii) the number of MSA's having each particular characteristic that should be included in the group; and

(iv) the characteristics of MSA's, and number of MSA's having each such characteristic, that should be removed from the group of designated MSA's in effect at the time of the report.

(H) With respect only to the first report required under this subsection, recommendations of whether the study conducted under section 5 should be continued beyond the date in section 5(b)(8) and, if so, whether the requirements regarding the submission of information under the study should be expanded or changed with respect to insurers, MSA's, lines, sublines or coverage types of insurance, and types of small businesses, or whether the study should be allowed to terminate under law.

(I) An analysis of whether the group of designated rural areas in effect at the time of the report are appropriate for purposes of this Act.

(J) Specific recommendations, for use by the Secretary in designating rural areas for purposes of section 6 for the 5-year period for which the report is made, with regard to—

(i) the characteristics of rural areas that should be included in the group of designated rural areas under such section;

(ii) the number of rural areas having each particular characteristic that should be included in the group; and

(iii) the characteristics of rural areas, and number of rural areas having each such characteristic, that should be removed from the group of designated rural areas in effect at the time of the report.

(K) Any other information or recommendations relating to the requirements or implementation of this Act that the Comptroller General considers appropriate.

(4) CONSULTATION.—In preparing each report under this subsection, the Comptroller General shall consult with Federal agencies having appropriate expertise, the National Association of Insurance Commissioners, State insurance regulators, statistical agents, representatives of small businesses, representatives of insurance agents (including minority insurance agents) and property and casualty insurers, and community, consumer, and civil rights organizations.

SEC. 19. TASK FORCE ON AGENCY APPOINTMENTS.

(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this Act, the Secretary shall establish a task force on insurance agency appointments (hereafter in this section referred to as the ''Task Force''). The Task Force shall—

(1) consist of representatives of appropriate Federal agencies, property and casualty insurance agents, including specifically minority insurance agents, property and casualty insurers, State insurance regulators, and community, consumer, and civil rights organizations;

(2) have a significant representation from minority insurance agents; and

(3) be chaired by the Secretary or the Secretary's designee.

(b) FUNCTION.— The Task Force shall—

(1) review the problems inner-city and minority agents may have in receiving appointments to represent property and casualty insurers and consider the effects such problems have on the availability, affordability, and quality or type of insurance, especially in underserved areas;

(2) review the practices of insurers in terminating agents and consider the effects such practices have on the availability, affordability, and quality or type of insurance, especially in underserved areas; and

(3) recommend solutions to improve the ability of inner-city and minority insurance agents to market property and casualty insurance products, including steps property and casualty insurers should take to increase their appointments of such agents.

(c) REPORT AND TERMINATION.—The Task Force shall report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the appropriate committees of the Senate its findings under paragraphs (1) and (2) of subsection (b) and its recommendations under paragraph (3) of subsection (b) not later than 2 years after the date of enactment of this Act. The Task Force shall terminate on the date on which the report is submitted to the committees.

SEC. 20. STUDIES.

(a) STUDY OF INSURANCE PRESCREENING.—

(1) IN GENERAL.—The Secretary shall conduct a study to determine the feasibility and utility of requiring insurers to report information with respect to the characteristics of applicants for insurance and reasons for rejection of applicants. The study shall examine the extent to which—

(A) oral applications or representations are used by insurers and agents in making determinations regarding whether or not to insure a prospective insured;

(B) written applications are used by insurers and agents in making determinations regarding whether or not to insure a prospective insured;

(C) written applications are submitted after the insurer or agent has already made a determination to provide insurance to a prospective insured or has determined that the prospective insured is eligible for insurance; and

(D) prospective insured persons are discouraged from submitting applications for insurance based, in whole or in part, on—

(i) the location of the risk to be insured;

(ii) the racial characteristics of the prospective insured;

(iii) the racial composition of the neighborhood in which the risk to be insured is located; and

(iv) in the case of residential property insurance, the age and value of the risk to be insured.

(2) REPORT.—The Secretary shall report the results of the study under paragraph (1) to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the appropriate committees of the Senate, not later than 2 years after the date of enactment of this Act. The report shall include recommendations of the Secretary—

(A) with respect to requiring insurers to report on the disposition of oral and written applications for insurance; and

(B) for any legislation that the Secretary considers appropriate regarding the issues described in the report.

(b) STUDY OF INSURER ACTIONS TO MEET INSURANCE NEEDS OF CERTAIN NEIGHBORHOODS.—The Secretary shall conduct a study of various practices, actions, and methods undertaken by insurers to meet the property and casualty insurance needs of residents of low- and moderate-income neighborhoods, minority neighborhoods, and small businesses located in such neighborhoods. The Secretary shall report the results of the study, including any recommendations, to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the appropriate committees of the Senate, not later than 2 years after the date of enactment of this Act.

(c) STUDY OF DISPARATE CLAIMS TREATMENT.—

(1) IN GENERAL.—The Secretary shall conduct a study to determine whether, and the extent to which, insurers engage in disparate treatment in handling claims of policyholders under designated lines of insurance based on the race, gender, and income level of the policyholder, and on the racial characteristics and income levels of the area in which the insured risk is located. In conducting the study, the Secretary shall specifically consider whether residents of low-income neighborhoods or areas and minority neighborhoods or areas are more likely than residents of other areas to have their claims contested or their insurance coverage canceled.

(2) REPORT.—The Secretary shall submit a report on the results of the study to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the appropriate committees of the Senate, not later than 2 years after the date of enactment of this Act.

(d) STUDY OF RATING TERRITORIES.—The Secretary shall conduct a study to determine whether the practice in the insurance industry of basing insurance premium amounts on the territory in which the insured risk is located has a disparate impact on the availability, affordability, or quality of insurance by race, gender, or type of neighborhood. The Secretary shall submit a report on the results of the study to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the appropriate committees of the Senate, not later than 12 months after the date of enactment of this Act.

(e) STUDY OF INSURER REINVESTMENT REQUIREMENTS.—

(1) IN GENERAL.—The Secretary shall conduct a study to determine the feasibility of requiring insurers to reinvest in communities and neighborhoods from which they collect premiums for insurance and whether, and the extent to which, community reinvestment requirements for insurers should be established that are comparable to the community reinvestment requirements applicable to depository institutions. The Secretary shall consult with representatives of insurers and consumer, community, and civil rights organizations regarding the results of the study and any recommendations to be made based on the results of the study.

(2) REPORT.—The Secretary shall report the results of the study, including any such recommendations, to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the appropriate committees of the Senate, not later than 6 months after the conclusion of the first annual reporting period to which the reporting requirements under this Act apply (pursuant to section 26).

SEC. 21. EXEMPTION AND RELATION TO STATE LAWS.

(a) EXEMPTION FOR UNITED STATES PROGRAMS.—Reporting shall not be required under this Act with respect to insurance provided by any program underwritten or administered by the United States.

(b) RELATION TO STATE LAWS.—This Act does not annul, alter, or affect, or exempt the obligation of any insurer subject to this Act to comply with the laws of any State or subdivision thereof with respect to public disclosure, submission of information, and recordkeeping.

SEC. 22. REGULATIONS.

(a) IN GENERAL.—The Secretary shall issue any regulations required under this Act and any other regulations that may be necessary to carry out this Act. The regulations shall be issued through rulemaking in accordance with the procedures under section 553 of title 5, United States Code, for substantive rules. Except as otherwise provided in this Act, such final regulations shall be issued not later than the expiration of the 18-month period beginning on the date of enactment of this Act.

(b) BURDENS.—In prescribing such regulations, the Secretary shall take into consideration the administrative, paperwork, and other burdens on insurance agents, including independent insurance agents, involved in complying with the requirements of this Act and shall minimize the burdens imposed by such requirements with respect to such agents.

SEC. 23. DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

(1) AGENT.—The term ''agent'' means, with respect to an insurer, an agent licensed by a State who sells property and casualty insurance. The term includes agents who are employees of the insurer, agents who are independent contractors working exclusively for the insurer, and agents who are independent contractors appointed to represent the insurer on a nonexclusive basis.

(2) APPLICABLE REGION.—The term ''applicable region'' means, with respect to a designated MSA—

(A) for any county located within the MSA that has a population of more than 30,000, the applicable census tract within the county; or

(B) for any county located within the MSA that has a population of 30,000 or less, the applicable county.

(3) COMMERCIAL INSURANCE.—The term ''commercial insurance'' means any line of property and casualty insurance, except homeowner's, dwelling fire, allied lines, and other personal lines of insurance.

(4) DESIGNATED INSURER.—The term ''designated insurer'' means, with respect to a designated line, an insurer designated for a State by the Secretary under section 13(b) as a designated insurer for such line or any insurer that is part of an insurer group selected under such section.

(5) DESIGNATED INVESTMENT.—The term ''designated investment'' means making or purchasing a loan for the purchase of commercial real estate, making or purchasing a mortgage loan for the purchase of a 1- to 4-family dwelling, making or purchasing a commercial or industrial loan.

(6) DESIGNATED LINE.—The term ''designated line'' means a line of insurance or bid, performance, and payment bonds designated by the Secretary under section 13(c).

(7) EXPOSURES.—The term ''exposures'' means, with respect to an insurance policy, an expression of an exposure unit covered under the policy compared to the duration of the policy (pursuant to standards established by the Secretary for uniform reporting of exposures).

(8) EXPOSURE UNITS.—The term ''exposure units'' means a dwelling covered under an insurance policy for homeowners, dwelling fire, or allied lines coverage.

(9) INSURANCE.—The term ''insurance'' means property and casualty insurance. Such term includes primary insurance, surplus lines insurance, and any other arrangement for the shifting and distributing of risks that is determined to be insurance under the law of any State in which the insurer or insurer group engages in an insurance business.

(10) INSURER.—Except with respect to section 8, the term ''insurer'' means any corporation, association, society, order, firm, company, mutual, partnership, individual, aggregation of individuals, or any other legal entity that is authorized to transact the business of property or casualty insurance in any State or that is engaged in a property or casualty insurance business. The term includes any certified foreign direct insurer, but does not include an individual or entity which represents an insurer as agent solely for the purpose of selling or which represents a consumer as a broker solely for the purpose of buying insurance.

(11) ISSUED.—The term ''issued'' means, with respect to an insurance policy, newly issued or renewed.

(12) JOINT UNDERWRITING ASSOCIATION.—The term ''joint underwriting association'' means an unincorporated association of insurers established to provide a particular form of insurance to the public.

(13) MORTGAGE INSURANCE.—The term ''mortgage insurance'' means insurance against the nonpayment of, or default on, a mortgage or loan for residential or commercial property.

(14) MSA.—The term ''MSA'' means a Metropolitan Statistical Area or a Primary Metropolitan Statistical Area.

(15) PRIVATE MORTGAGE INSURANCE.—The term ''private mortgage insurance'' means mortgage insurance other than mortgage insurance made available under the National Housing Act, title 38 of the United States Code, or title V of the Housing Act of 1949.

(16) PROPERTY AND CASUALTY INSURANCE.—The term ''property and casualty insurance'' means insurance against loss of or damage to property, insurance against loss of income or extra expense incurred because of loss of, or damage to, property, and insurance against third party liability claims caused by negligence or imposed by statute or contract. Such term does not include workers' compensation, professional liability, or title insurance.

(17) RESIDUAL MARKET.—The term ''residual market'' means an assigned risk plan, joint underwriting association, or any similar mechanism designed to make insurance available to those unable to obtain it in the voluntary market. The term includes each statewide plan under part A of title XII of the National Housing Act to assure fair access to insurance requirements.

(18) RURAL AREA.—The term ''rural area'' means any area that—

(A) has a population of 10,000 or more;

(B) has a continuous boundary; and

(C) contains only areas that are rural areas, as such term is defined in section 520 of the Housing Act of 1949 (except that clause (3)(B) of such section 520 shall not apply for purposes of this Act).

(19) SECRETARY.—The term ''Secretary'' means the Secretary of Housing and Urban Development.

(20) STATE.—The term ''State'' means 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.

SEC. 24. EFFECTIVE DATE.

The requirements of this Act relating to reporting of information by insurers shall take effect with respect to the first annual reporting period that begins not less than 3 years after the date of enactment of this Act.

CONGRESS OF THE UNITED STATES,
Washington, DC, October 28, 1994.

Assistant Secretary ROBERTA ACHTENBERG,
Division of Fair Housing and Equal Opportunity, Department of Housing and Urban Development,
Washington, DC.

DEAR SECRETARY ACHTENBERG: We understand you have recently received a letter from the ranking Republican member of the House Subcommittee on Commerce, Consumer Protection and Competitiveness, regarding the Department of Housing and Urban Development's (HUD) advance notice of proposed rulemaking (ANPR) on discrimination in property insurance. We are writing to inform you that we take a different view from this letter and we would like to encourage you to proceed as scheduled with the ANPR.

We are concerned with several of the letter's assertions, particularly the contentions that insurance underwriting is unrelated to the Fair Housing Act and that HUD is not the proper agency to oversee a federal data collection effort. We respectfully disagree with these notions, as do the federal courts.

Insurance redlining abuses are widespread and well documented. In addition to the countless studies and reports that have verified discriminatory underwriting practices, field hearings such as the recent Chicago hearing sponsored by HUD's Fair Housing and Equal Opportunity Division and the hearings in House and Senate committees have clearly demonstrated that property and other lines of insurance have become unaffordable or unavailable in many minority and low-income communities. Such discriminatory practices are not confined to one insurance company, one community or one state—redlining is a national phenomena that requires an appropriate federal response.

Redlining practices are illegal. This was established in NAACP v. American Family Insurance when the Seventh Circuit Court of Appeals ruled unanimously that the underwriting of homeowners insurance falls under the umbrella of the Fair Housing Act. Judge Frank Easterbrook, speaking for a unanimous Court, stated that ''lenders require their borrowers to secure property insurance. No insurance, no loan; no loan, no house; lack of insurance thus makes housing unavailable.'' As you know, HUD has also been identified by a federal court in Ohio as legally authorized to enforce the Fair Housing Act as it relates to homeowners insurance. This was affirmed in Nationwide Mutual Insurance Company v. Cisneros, when the U.S. District Court upheld HUD's regulatory authority, noting that HUD's contention that it had been delegated authority under the Fair Housing Act was ''reasonable and entitled to substantial deference''.

It is also clear that greater disclosure is a key element in combating redlining. The Home Mortgage Disclosure Act (HMDA) has provided federal and state regulators in the mortgage financing field with detailed information to identify mortgage redlining. As you know, this legislation has been effective and has had little, if any, adverse impact on the vitality and prosperity of the banking industry. This critical piece of legislation was passed for precisely the reason of enhancing the power of state and federal authorities to determine if banks and other lending institutions were discriminating in their lending practices. As needed and effective as that legislation is, we know that it is difficult, if not impossible as noted by the Seventh Circuit Court of Appeals, to obtain a home loan without the necessary insurance. Thus, seeking this sort of disclosure only from the lending industry is like throwing out a life preserver with a rope that is several feet short. We must go further.

In the insurance industry, enforcement by state officials of existing anti-discrimination statutes has proven to be difficult for one principal reason; though many state insurance commissioners have been forceful and aggressive in exposing and sanctioning appropriate parties, other state insurance commissioner offices lack the necessary resources to collect and compile data information adequately. In many markets this data is simply unavailable. And critical to this effort is the need to collect claims and other loss data which is central to determining if the unavailability of adequate insurance is due to sound economic underwriting principles, or to reprehensible factors such as the race and income status of the applicant.

In powerful testimony before several Congressional committees, it has been stated over and over that to enforce the law greater disclosure of crucial information is needed from the insurance industry. This was included in your testimony, Secretary Achtenberg, as well as the testimony of Deval Patrick, Assistant Attorney General for Civil Rights. It was also expressed by a number of state insurance commissioners from across the country.

The letter you received also expressed concerns about the possibility that HUD may promulgate data reporting requirements stronger than those contained in H.R. 1188, the Anti-Redlining in Insurance Disclosure Act. These reporting requirements, such as the collection of claims and loss data, including a large number of Metropolitan Statistical Areas (MSAs), and collecting this data by census tract as opposed to zip codes, have all been recommended by the General Accounting Office, numerous consumer and civil rights groups and various state insurance commissioners. We join these voices in urging you to adopt these strong reporting requirements.

Finally, we would like to commend you, Secretary Achtenberg, as well as Secretary Cisneros and other officials in the Clinton Administration for your forceful stand against discriminatory redlining practices. Although it is disappointing that Congress was unable to pass anti-redlining legislation this year, we are heartened by the Administration's willingness to initiate efforts to curtail and root out discrimination in the insurance marketplace. We look forward to following your progress and invite you to contact us if we can be of any future assistance.

Sincerely,

RUSSELL FEINGOLD,
PAUL SIMON,
Senators.
JOSEPH P. KENNEDY II,
THOMAS BARRETT,
CLEO FIELDS,
HENRY B. GONZALEZ,
LUCILLE ROYBAL-ALLARD,
ESTEBAN EDWARD TORRES,
Representatives.

U.S. DEPARTMENT OF HOUSING
AND URBAN DEVELOPMENT,
Washington, DC, December 20, 1994.

Hon. RUSSELL D. FEINGOLD
U.S. Senate, Washington, DC.

DEAR SENATOR FEINGOLD: Thank you for your letter of October 28, 1994, expressing your concerns and constructive recommendations on the issues of insurance redlining and discrimination. Let me assure you that the Department of Housing and Urban Development (HUD or the Department) is proceeding as scheduled with the promulgation of a regulation applying the Fair Housing Act (the Act) to property insurance. A similar letter has been sent to Senator Paul Simon, Congressman Joseph P. Kennedy II, Congressman Henry B. Gonzalez, Congressman Thomas Barrett, Congressman Cleo Fields, Congresswoman Lucille Roybal-Allard and Congressman Esteban Edward Torres.

Clearly, the Department shares your view that HUD has authority, and indeed the responsibility, to enforce the Act (Title VIII of the Civil Rights Act of 1968, as amended) in the area of property insurance. Several Administrations, beginning with a HUD General Counsel opinion in 1978, have concluded that the Act prohibits discrimination in the provision of property or hazard insurance. All the court decisions that have addressed this issue, with one exception which was decided prior to the Fair Housing Amendments Act of 1988, have drawn this same conclusion. Because HUD is the primary Title VIII law enforcement agency, and the only agency with authority to promulgate regulations under that Act, the Department will fulfill its obligation to issue rules applying the Act to property insurance.

As you know, in 1989 HUD issued regulations implementing the Fair Housing Amendments Act of 1988. In these regulations, the Department determined that the Act prohibits ''refusing to provide . . . property or hazard insurance . . . or providing such . . . insurance differently because of race, color, religion, sex, handicap, familial status, or national origin'' (24 C.F.R. Section 100.70(a)(4). HUD intends to go beyond this general prohibition and provide more detailed guidance regarding the types of practices and circumstances under which violations of the Act occur.

The Department also shares your viewpoint on the value of greater disclosure of crucial information. The Department was also disappointed that Congress was unable to pass anti-redlining legislation this year. HUD looks forward to working with you to achieve this objective in the next session of Congress.

Your contributions to the public meetings that HUD held during the past few months were most helpful in shaping the Department's thoughts on how HUD should approach the regulation. The hearings you have held on insurance discrimination generated substantial information that will be tremendously beneficial to HUD's rulemaking process. Your specific recommendations on the rule and the public attention that you have stimulated have assisted HUD and many others in cities throughout the country who are attempting to resolve these serious problems.

Any further detailed recommendations or general observations you could share with the Department would be greatly appreciated.

Thank you for your interest in the Department's programs and for the guidance you have provided HUD and your concerted efforts to combat the national problems of insurance redlining and discrimination.

Sincerely,

WILLIAM J. GILMARTIN,
Assistant Secretary.

February 8, 1995.

Hon. RUSS FEINGOLD,
U.S. Senate,
Washington, DC.

DEAR SENATOR FEINGOLD: We write to offer our endorsement of the ''Anti-Redlining in Insurance Disclosure Act of 1995.'' This legislation represents a critical first step towards

addressing the serious problem of unfair discrimination and redlining in the provision of homeowners insurance in a simple yet effective way—through the power of sunshine.

Hearings in both the House of Representatives and the Senate last year as well as numerous studies and lawsuits have shown that residents of low-income, predominantly minority areas have a harder time obtaining insurance coverage for their homes. Most recently, the National Association of Insurance Commissioners (NAIC) released the results of its study of homeowners insurance in more than 40 urban areas in 20 states. In its report, the NAIC concluded that ''[t]here is considerable evidence that residents of urban communities, particularly residents of low-income and minority neighborhoods, face greater difficulty in obtaining high-quality homeowners insurance through the voluntary market than residents of other areas.''

Availability and affordability problems for these communities contributes to and furthers urban decay and disinvestment. The lack of affordable insurance is a material deterrent to homeownership and economic development in low income and minority communities. Without insurance, people simply cannot buy homes. And without high-quality insurance, homeowners in these areas are forced to cover much of their loss out of their own pockets—losses they had hoped insurance would cover.

The legislation provides the tools to better understand the extent of the problem and help develop solutions by simply requiring insurers to begin to make public information as to where and at what price they write insurance. It also would collect data on insurer losses which is extremely important data in assessing the underlying causes for these problems. The data collected by this legislation will go a long way to shedding light on the debate over insurance redlining and will be a valuable tool for enforcement of civil rights laws at the state and federal level.

Your legislation incorporates 4 key elements that are essential to advancing fair and equal access to insurance:

First, the bill calls for the collection of data on the cost and type of insurance policies written by the census tract (or zip + 4's) where the policy is issued. Only census tracts provide the kind of relevant demographic data needed to gauge the extent of disparities created by insurance redlining on minority and low-income neighborhoods. The Home Mortgage Disclosure Act requires banks to report loan information on a census tract basis, and this standard should apply to the insurance industry as well.

Second, the bill includes the collection of data on insurance losses and claims. While insurers claim disparities in prices between different neighborhoods are solely based on loss experience, evidence suggests the opposite. Data analyzed by the Missouri Department of Insurance, for example, indicated that residents of minority neighborhoods pay more in premiums, but incur fewer losses, than residents of comparable white neighborhoods. Only through the collection of loss data can we conclusively resolve the debate about whether these disparities are due to risk or prejudice.

Third, the bill would collect this data in 150 Metropolitan Statistical Areas (MSA's). The NAIC data suggest that availability and affordability problems are widespread across the nation. In order to obtain information on all of those areas that may be experiencing such problems, data needs to be collected from as many MSAs as possible. Furthermore, the data will be invaluable as a civil rights enforcement tool, and that tool should be available to the greatest number of communities and citizens.

Fourth, the bill provides for the reporting of the race and gender by policyholders on a voluntary basis. Such data has been collected under HMDA and other federal, state and private entities for years and is essential to assist efforts to enforce state and federal laws prohibiting discrimination in the provision of insurance.

We are eager to work with you to obtain passage of the ''Anti-Redlining in Insurance Disclosure Act of 1995,'' and commend you for your leadership on this important issue.

Sincerely,

Alliance to End Childhood Lead Poisoning.
American Civil Liberties Union (ACLU).
American Planning Association.
Association of Community Organizations for Reform Now (ACORN).
Center for Community Change.
Consumer Federation of America's Insurance Group.
Consumers Union.
Jesuit Conference, USA, Office of Social Ministries.
National Council of La Raza.
National Fair Housing Alliance.
National Neighborhood Coalition.
NETWORK: A National Catholic Social Justice Lobby.
United Methodist Church, General Board of Church and Society.
United States Public Interest Research Group (US PIRG).

[From the Dallas Morning News, Jan. 9, 1995]

INSURANCE REFORM; THE IMPORTANT THING IS TO GET IT DONE

Call it redlining. Call it lack of availability. Call it what you want to call it. The fact remains that too many risk-worthy Texans are unable to obtain automobile and homeowners insurance at the best rates.

The problem is real, and it is serious. Not even the insurance industry denies that a problem exists, though it vehemently disputes accusations that it denies insurance to consumers because of where they live, their skin color or other factors unrelated to risk.

Nonetheless, compelling evidence compiled by the Texas Insurance Department indicates that a disproportionate number of the Texans unable to obtain affordable insurance are racial or ethnic minorities living in lower-income neighborhoods.

The insurance industry may resent the charges of unfair discrimination being hurled by consumer groups, state regulators and some state legislators. However, it is impossible to ignore that most victims of what may be charitably called flaws in the marketplace are neither white nor wealthy.

The issue has come to a head because Texas Insurance Commissioner Rebecca Lightsey, an appointee of Democratic Gov. Ann Richards, must decide whether to enact new anti-discrimination rules before her term expires Feb. 1. Republican Gov.-elect George W. Bush wants her to wait so that the issue may be addressed by his nominee to the post, Elton Bomer.

Mr. Bush's request is reasonable. It would be decent of Ms. Lightsey to comply.

But more important than protocol or deference to an incoming governor is attention to the issue. Denying insurance abets poverty. It is immoral. It is unfair. It makes no economic sense.

In such areas as Oak Cliff and South Dallas, there are many automobiles and homes worth insuring. No insurer should have to provide preferred or standard-rate insurance to a consumer who constitutes a bad risk. But neither should he deny it because of inappropriate or prejudicial notions of insurability.

There are two acceptable courses. Ms. Lightsey can enact the rules, in which case Mr. Bush could refine them later as he sees fit. Or she can let Mr. Bush handle it.

If Ms. Lightsey acts, she should do so because the problem should not fester a moment longer. There should be no implication that Mr. Bush would not act; his good record of support for civil and equal rights indicates quite the contrary.

[From the Houston Post, Jan. 19, 1995]

OUTGOING TEXAS INSURANCE REGULATOR UNINTIMIDATED

Despite criticism, outgoing Texas Insurance Commissioner Rebecca Lightsey has courageously promulgated rules to stop neighborhood ''redlining'' and other discrimination against automobile and property insurance buyers.

The decision was ripe for making on her watch and she made it, undaunted by sniping from the insurance industry and new Republican Gov. George Bush's camp that she was inappropriately acting on her way out.

The insurance industry has been fighting to block antidiscrimination rules for two years or more. And Bush, who had campaign backing from insurance industry leaders, urged Lightsey to let Bush's new commissioner, former state Rep. Elton Bomer, decide whether such rules should be adopted. There appeared a strong likelihood that if Lightsey had acquiesced, we'd have no rules.

Lightsey, an interim appointee of Democratic Gov. Ann Richards, succeeded J. Robert Hunter, another Richards appointee. Hunter resigned after Bush defeated Richards. Lightsey's term ends Feb. 1.

An attorney, former Texas Consumer Association executive director and an aide to Gov. Richards, Lightsey has more insurance regulatory experience than Bomer.

As a Richards staff attorney, she worked on insurance matters, including development of a comprehensive insurance regulation reform law in 1991. She earlier dealt with insurance matters for the consumer association.

Before succeeding Hunter, Lightsey also was executive director of the Texas Insurance Purchasing Alliance. It was created by the Legislature to make health insurance more obtainable for small employers.

The non-discrimination rules she adopted—after holding a Jan. 4 public hearing that Bush wanted canceled—were not hastily written. They were developed by the Texas Department of Insurance after about 18 months of studies and earlier hearings under Hunter and the three-member State Board of Insurance that preceded him. The rules are modified replacements for similar 1993 rules the board adopted, which the insurance industry got a court to throw out.

Although the insurance industry claims the rules are not needed because discrimination is already against state and federal laws, studies by the insurance department and the Office of Public Insurance Counsel indicate discrimination is occurring. It is keeping poor people, particularly in minority neighborhoods, from obtaining house and car insurance or forcing them to pay higher rates. This should not be allowed.

The new rules will prohibit:

Consideration of insurance customers' race, color, religion or national origin. Discrimination based on geographic location, disability, sex or age also will be banned unless companies show they cause extra risk.

Use of underwriting guidelines (secret policies as to who will be insured) not directly related to the risk of extra losses and claims.

Charging of higher rates or denial of coverage to those wanting only the minimum amount of car insurance to satisfy state law.

Consumers can sue for triple damages if the rules are broken.

None of these rules is unreasonable. If the industry is not violating them, it should have no cause for alarm. If it is, such practices should be stopped.

There was no good reason to put off the rules' adoption so the Bush administration could go over the same ground and give the industry more time to fight them.

Lightsey has ordered the rules to go into effect June 1. This gives the Legislature—or Bomer and Bush, who have indicated they don't even know much about the rules—time to review and possibly cancel them.

If the rules are killed, however, those responsible had better be able to show good cause.

By Mr. HELMS (for himself, Mr. DOLE, Mr. MACK, Mr. COVERDELL, Mr. GRAHAM, Mr. D'AMATO, Mr. HATCH, Mr. GRAMM, Mr. THURMOND, Mr. FAIRCLOTH, Mr. GREGG, Mr. INHOFE, Mr. HOLLINGS, and Ms. SNOWE):

S. 381. A bill to strengthen international sanctions against the Castro government in Cuba, to develop a plan to support a transition government leading to a democratically elected government in Cuba, and for other purposes; ordered held at the desk.

THE CUBAN LIBERTY AND DEMOCRATIC SOLIDARITY ACT

Mr. HELMS. Mr. President, the day following the 1994 elections, I met with reporters in Raleigh to discuss in some detail the priorities I intended to pursue as chairman of the Senate Foreign Relations Committee. High on my list of priorities was to do everything possible as chairman to help bring freedom and democracy to Cuba.

Fidel Castro's brutal and cruel Communist dictatorship has persecuted the Cuban people for 36 years. He is the world's longest-reigning tyrant.

That is why I am introducing today a bill titled the ''Cuban Liberty and Democratic Solidarity (LIBERTAD) Act'' as my first piece of legislation as chairman of the Foreign Relations Committee.

Let me be clear: Whether Castro leaves Cuba in a vertical position or a horizontal position is up to him and the Cuban people. But he must—and will—leave Cuba.

There are some voices murmuring that the United States should lift the embargo and begin doing business with Castro. I categorically reject such suggestions, because for 36 years, both Republican and Democratic Presidents have maintained a consistent, bipartisan policy of isolating Castro's dictatorship.

There must be no retreat in that policy today. If anything, with the collapse of the U.S.S.R.—and the end of Soviet subsidies to Cuba—the embargo is finally having the effect on Castro that has been intended all along. Why should the United States let up the pressure now? It's time to tighten the screws—not loosen them. We have an obligation—to our principles and to the Cuban people—to elevate the pressure on Castro until the Cuban people are free.

The bi-partisan Cuba policy has led the American people to stand together in support of restoring freedom to Cuba. As for the legislation I am offering today, it incorporates and builds upon the significant work of the two distinguished Senators from Florida, CONNIE MACK and BOB GRAHAM, and of three distinguished Members of the House of Representatives: LINCOLN DIAZ-BALART, BOB MENENDEZ, and ILEANA ROS-LEHTINEN.

The Cuban Liberty and Democratic Solidarity Act:

Strengthens international sanctions against the Castro regime by prohibiting sugar imports from countries that purchase sugar from Cuba and then sell that sugar in the United States by instructing our representatives to the international financial institutions to vote against loans to Cuba and to require the United States to withhold our contribution to those same institutions if they ignore our objections and aid the Castro regime, by urging the President to seek an international embargo against Cuba at the United Nations, and by prohibiting loans or other financing by a United States person to a foreign person or entity who purchases an American property confiscated by the Cuban Government.

Reaffirms the 1992 Cuban Democracy Act;

Revitalizes our broadcasting programs to Cuba by mandating the conversion of television Marti to ultra-high frequency [UHF] broadcasting.

Cuts off foreign aid to any independent State of the Former Soviet Union that aids Castro, especially if that aid goes for the operation of military and intelligence facilities in Cuba which threaten the United States;

Encourages free and fair elections in Cuba after Castro is gone, and authorizes programs to promote free market and private enterprise development; and

Help U.S. citizens and U.S. companies whose property was confiscated by Castro. The bill denies entry into the United States of anyone who confiscates or benefits from confiscated American property; and it allows a U.S. citizen with a confiscated property claim to go into a U.S. court to seek compensation from a person or entity which is being unjustly enriched by the use of that confiscated property.

The Cuban people are industrious and innovative. Where they live and work in freedom, they have prospered. My hope is that this bill will hasten an end to the brutal Castro dictatorship and make Cuba free and prosperous. Libertad Para Cuba.

Mr. President, I ask unanimous consent that the text of the bill and additional material be printed in the RECORD.

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

S. 381

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 ''Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1995''.

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

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) The economy of Cuba has experienced a decline of approximately 60 percent in the last 5 years as a result of—

(A) the reduction in its subsidization by the former Soviet Union;

(B) 36 years of Communist tyranny and economic mismanagement by the Castro government;

(C) the precipitous decline in trade between Cuba and the countries of the former Soviet bloc; and

(D) the policy of the Russian Government and the countries of the former Soviet bloc to conduct economic relations with Cuba predominantly on commercial terms.

(2) At the same time, the welfare and health of the Cuban people have substantially deteriorated as a result of Cuba's economic decline and the refusal of the Castro

regime to permit free and fair democratic elections in Cuba or to adopt any economic or political reforms that would lead to democracy, a market economy, or an economic recovery.

(3) The repression of the Cuban people, including a ban on free and fair democratic elections and the continuing violation of fundamental human rights, has isolated the Cuban regime as the only nondemocratic government in the Western Hemisphere.

(4) As long as no such economic or political reforms are adopted by the Cuban government, the economic condition of the country and the welfare of the Cuban people will not improve in any significant way.

(5) Fidel Castro has defined democratic pluralism as ''pluralistic garbage'' and has made clear that he has no intention of permitting free and fair democratic elections in Cuba or otherwise tolerating the democratization of Cuban society.

(6) The Castro government, in an attempt to retain absolute political power, continues to utilize, as it has from its inception, torture in various forms (including psychiatric abuse), execution, exile, confiscation, political imprisonment, and other forms of terror and repression as most recently demonstrated by the massacre of more than 70 Cuban men, women, and children attempting to flee Cuba.

(7) The Castro government holds hostage in Cuba innocent Cubans whose relatives have escaped the country.

(8) The Castro government has threatened international peace and security by engaging in acts of armed subversion and terrorism, such as the training and arming of groups dedicated to international violence.

(9) The Government of Cuba engages in illegal international narcotics trade and harbors fugitives from justice in the United States.

(10) The totalitarian nature of the Castro regime has deprived the Cuban people of any peaceful means to improve their condition and has led thousands of Cuban citizens to risk or lose their lives in dangerous attempts to escape from Cuba to freedom.

(11) Attempts to escape from Cuba and courageous acts of defiance of the Castro regime by Cuban pro-democracy and human rights groups have ensured the international community's continued awareness of, and concern for, the plight of Cuba.

(12) The Cuban people deserve to be assisted in a decisive manner in order to end the tyranny that has oppressed them for 36 years.

(13) Radio Marti and Television Marti have both been effective vehicles for providing the people of Cuba with news and information and have helped to bolster the morale of the Cubans living under tyranny.

(14) The consistent policy of the United States towards Cuba since the beginning of the Castro regime, carried out by both Democratic and Republican administrations, has sought to keep faith with the people of Cuba, and has been effective in isolating the totalitarian Castro regime.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to strengthen international sanctions against the Castro government;

(2) to encourage the holding of free and fair democratic elections in Cuba, conducted under the supervision of internationally recognized observers;

(3) to provide a policy framework for United States support to the Cuban people in response to the formation of a transition government or a democratically elected government in Cuba; and

(4) to protect the rights of United States persons who own claims to confiscated property abroad.

SEC. 4. DEFINITIONS.

As used in this Act—

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means the Committee on International Relations and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

(2) CONFISCATED.—The term ''confiscated'' refers to the nationalization, expropriation, or other seizure of ownership or control of property by governmental authority—

(A) without adequate and effective compensation or in violation of the law of the place where the property was situated when the confiscation occurred; and

(B) without the claim to the property having been settled pursuant to an international claims settlement agreement.

(3) CUBAN GOVERNMENT.—The term ''Cuban government'' includes the government of any political subdivision, agency, or instrumentality of the Government of Cuba.

(4) DEMOCRATICALLY ELECTED GOVERNMENT IN CUBA.—The term ''democratically elected government in Cuba'' means a government described in section 206.

(5) ECONOMIC EMBARGO OF CUBA.—The term ''economic embargo of Cuba'' refers to the economic embargo imposed against Cuba pursuant to section 620(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(a)), section 5(b) of the Trading With the Enemy Act (50 U.S.C. App. 5(b)), the International Emergency Economic Powers Act, and the Export Administration Act of 1979.

(6) PROPERTY.—The term ''property'' means—

(A) any property, right, or interest, including any leasehold interest,

(B) debts owed by a foreign government or by any enterprise which has been confiscated by a foreign government; and

(C) debts which are a charge on property confiscated by a foreign government.

(7) TRAFFICS.—The term ''traffics'' means selling, transfering, distributing, dispensing, or otherwise disposing of property, or purchasing, receiving, possessing, obtaining control of, managing, or using property.

(8) TRANSITION GOVERNMENT IN CUBA.—The term ''transition government in Cuba'' means a government described in section 205.

(9) UNITED STATES PERSON.—The term ''United States person'' means

(A) any United States citizen, including, in the context of claims to confiscated property, any person who becomes a United States citizen after the property was confiscated but before final resolution of the claim to that property; and

(B) any corporation, trust, partnership, or other juridical entity 50 percent or more beneficially owned by United States citizens.

TITLE I—STRENGTHENING INTERNATIONAL SANCTIONS AGAINST THE CASTRO GOVERNMENT

SEC. 101. STATEMENT OF POLICY.

It is the sense of the Congress that—

(1) the acts of the Castro government, including its massive, systematic, and extraordinary violations of human rights, are a threat to international peace;

(2) the President should advocate, and should instruct the United States Permanent Representative to the United Nations to propose and seek within the Security Council a mandatory international embargo against the totalitarian government of Cuba pursuant to chapter VII of the Charter of the United Nations, which is similar to consultations conducted by United States representatives with respect to Haiti; and

(3) any resumption of efforts by any independent state of the former Soviet Union to make operational the nuclear facility at Cienfuegos, Cuba, will have a detrimental impact on United States assistance to such state.

SEC. 102. ENFORCEMENT OF THE ECONOMIC EMBARGO OF CUBA.

(a) POLICY.—(1) The Congress hereby reaffirms section 1704(a) of the Cuban Democracy Act of 1992, which states the President should encourage foreign countries to restrict trade and credit relations with Cuba.

(2) The Congress further urges the President to take immediate steps to apply the sanctions described in section 1704(b)(1) of such Act against countries assisting Cuba.

(b) DIPLOMATIC EFFORTS.—The Secretary of State should ensure that United States diplomatic personnel abroad understand and, in their contacts with foreign officials are—

(1) communicating the reasons for the United States economic embargo of Cuba; and

(2) urging foreign governments to cooperate more effectively with the embargo.

(c) EXISTING REGULATIONS.—The President shall instruct the Secretary of the Treasury and the Attorney General to enforce fully the Cuban Assets Control Regulations in part 515 of title 31, Code of Federal Regulations.

(d) VIOLATIONS OF RESTRICTIONS ON TRAVEL TO CUBA.—The penalties provided for in section 16 of the Trading with the Enemy Act (50 U.S.C. App. 16) shall apply to all violations of the Cuban Assets Control Regulations (part 515 of title 31, Code of Federal Regulations) involving transactions incident to travel to and within Cuba, notwithstanding section 16(b)(2) (the first place it appears) and section 16(b)(3) and (4) of such Act.

SEC. 103. PROHIBITION AGAINST INDIRECT FINANCING OF CUBA.

(a) PROHIBITION.—Effective upon the date of enactment of this Act, it is unlawful for any United States person, including any officer, director, or agent thereof and including any officer or employee of a United States agency, knowingly to extend any loan, credit, or other financing to a foreign person that traffics in any property confiscated by the Cuban government the claim to which is owned by a United States person.

(b) TERMINATION OF PROHIBITION.—The prohibition of subsection (a) shall cease to apply on the date of termination of the economic embargo of Cuba.

(c) PENALTIES.—Violations of subsection (a) shall be punishable by the same penalties as are applicable to similar violations of the Cuban Assets Control Regulations in part 515 of title 31, Code of Federal Regulations.

(d) DEFINITIONS.—As used in this section—

(1) the term ''foreign person'' means (A) an alien, and (B) any corporation, trust, partnership, or other juridical entity that is not 50 percent or more beneficially owned by United States citizens; and

(2) the term ''United States agency'' has the same meaning given to the term ''agency'' in section 551(1) of title 5, United States Code.

SEC. 104. UNITED STATES OPPOSITION TO CUBAN MEMBERSHIP IN INTERNATIONAL FINANCIAL INSTITUTIONS.

(a) CONTINUED OPPOSITION TO CUBAN MEMBERSHIP IN INTERNATIONAL FINANCIAL INSTITUTIONS.—(1) Except as provided in paragraph (2), the Secretary of the Treasury shall instruct the United States executive director of each international financial institution to vote against the admission of Cuba as a member of such institution until Cuba holds free and fair, democratic elections, conducted under the supervision of internationally recognized observers.

(2) During the period that a transition government in Cuba is in power, the President

shall take steps to support the processing of Cuba's application for membership in any international financial institution, subject to the membership taking effect after a democratically elected government in Cuba is in power.

(b) REDUCTION IN UNITED STATES PAYMENTS TO INTERNATIONAL FINANCIAL INSTITUTIONS.—If any international financial institution approves a loan or other assistance to Cuba over the opposition of the United States, then the Secretary of the Treasury shall withhold from payment to such institution an amount equal to the amount of the loan or other assistance, with respect to each of the following types of payment:

(1) The paid-in portion of the increase in capital stock of the institution.

(2) The callable portion of the increase in capital stock of the institution.

(c) DEFINITION.—For purposes of this section, the term ''international financial institution'' means the International Monetary Fund, the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Multilateral Investment Guaranty Agency, and the Inter-American Development Bank.

SEC. 105. UNITED STATES OPPOSITION TO READMISSION OF THE GOVERNMENT OF CUBA TO THE ORGANIZATION OF AMERICAN STATES.

The President should instruct the United States Permanent Representative to the Organization of American States to vote against the readmission of the Government of Cuba to membership in the Organization until the President determines under section 203(c) that a democratically elected government in Cuba is in power.

SEC. 106. ASSISTANCE BY THE INDEPENDENT STATES OF THE FORMER SOVIET UNION OF THE GOVERNMENT OF CUBA.

(a) REPORTING REQUIREMENT.—Not later than 90 days after the date of enactment of this Act, the President shall submit to the appropriate congressional committees a report detailing progress towards the withdrawal of personnel of any independent state of the former Soviet Union (within the meaning of section 3 of the FREEDOM Support Act (22 U.S.C. 5801)), including advisers, technicians, and military personnel, from the Cienfuegos nuclear facility in Cuba.

(b) CRITERIA FOR ASSISTANCE.—Section 498A(a)(11) of the Foreign Assistance Act of 1961 (22 U.S.C. 2295a(a)(1)) is amended by striking ''of military facilities'' and inserting ''military and intelligence facilities, including the military and intelligence facilities at Lourdes and Cienfuegos,''.

(c) INELIGIBILITY FOR ASSISTANCE.—(1) Section 498A(b) of that Act (22 U.S.C. 2295a(b)) is amended—

(A) by striking ''or'' at the end of paragraph (4);

(B) by redesignating paragraph (5) as paragraph (6); and

(C) by inserting after paragraph (4) the following:

''(5) for the government of any independent state effective 30 days after the President has determined and certified to the appropriate congressional committees (and Congress has not enacted legislation disapproving the determination within the 30-day period) that such government is providing assistance for, or engaging in nonmarket based trade (as defined in section 498B(k)(3)) with, the Government of Cuba; or''.

(2) Subsection (k) of section 498B of that Act (22 U.S.C. 2295b(k)), is amended by adding at the end the following:

''(3) NONMARKET BASED TRADE.—As used in section 498A(b)(5), the term 'nonmarket based trade' includes exports, imports, exchanges, or other arrangements that are provided for goods and services (including oil and other petroleum products) on terms more favorable than those generally available in applicable markets or for comparable commodities, including—

''(A) exports to the Government of Cuba on terms that involve a grant, concessional price, guarantee, insurance, or subsidy;

''(B) imports from the Government of Cuba at preferential tariff rates; and

''(C) exchange arrangements that include advance delivery of commodities, arrangements in which the Government of Cuba is not held accountable for unfulfilled exchange contracts, and arrangements under which Cuba does not pay appropriate transportation, insurance, or finance costs.''.

(d) FACILITIES AT LOURDES, CUBA.—(1) The Congress expresses its strong disapproval of the extension by Russia of credits equivalent to $200,000,000 in support of the intelligence facility at Lourdes, Cuba, in November 1994.

(2) Section 498A of the Foreign Assistance Act of 1961 (22 U.S.C. 2295a) is amended by adding at the end the following new subsection:

''(d) REDUCTION IN ASSISTANCE FOR SUPPORT OF MILITARY AND INTELLIGENCE FACILITIES IN CUBA.—(1) Notwithstanding any other provision of law, the President shall withhold from assistance allocated for an independent state of the former Soviet Union under this chapter an amount equal to the sum of assistance and credits, if any, provided by such state in support of military and intelligence facilities in Cuba, such as the intelligence facility at Lourdes, Cuba.

''(2) Nothing in this subsection may be construed to apply to—

''(A) assistance provided under the Soviet Nuclear Threat Reduction Act of 1991 (title II of Public Law 102-228) or the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103-160); or

''(B) assistance to meet urgent humanitarian needs under section 498(1), including disaster assistance described in subsection (c)(3) of this section.''.

SEC. 107. TELEVISION BROADCASTING TO CUBA.

(a) CONVERSION TO UHF.—The Director of the United States Information Agency shall implement a conversion of television broadcasting to Cuba under the Television Marti Service to ultra high frequency (UHF) broadcasting.

(b) PERIODIC REPORTS.—Not later than 45 days after the date of enactment of this Act, and every three months thereafter until the conversion described in subsection (a) is fully implemented, the Director shall submit a report to the appropriate congressional committees on the progress made in carrying out subsection (a).

SEC. 108. REPORTS ON COMMERCE WITH, AND ASSISTANCE TO, CUBA FROM OTHER FOREIGN COUNTRIES.

(a) REPORTS REQUIRED.—Not later than 90 days after the date of enactment of this Act, and every year thereafter, the President shall submit a report to the appropriate congressional committees on commerce with, and assistance to, Cuba from other foreign countries during the preceding 12-month period.

(b) CONTENTS OF REPORTS.—Each report required by subsection (a) shall, for the period covered by the report, contain—

(1) a description of all bilateral assistance provided to Cuba by other foreign countries, including humanitarian assistance;

(2) a description of Cuba's commerce with foreign countries, including an identification of Cuba's trading partners and the extent of such trade;

(3) a description of the joint ventures completed, or under consideration, by foreign nationals and business firms involving facilities in Cuba, including an identification of the location of the facilities involved and a description of the terms of agreement of the joint ventures and the names of the parties that are involved;

(4) a determination as to whether or not any of the facilities described in paragraph (3) is the subject of a claim against Cuba by a United States person;

(5) a determination of the amount of Cuban debt owed to each foreign country, including the amount of debt exchanged, forgiven, or reduced under the terms of each investment or operation in Cuba involving foreign nationals or businesses; and

(6) a description of the steps taken to assure that raw materials and semifinished or finished goods produced by facilities in Cuba involving foreign nationals or businesses do not enter the United States market, either directly or through third countries or parties.

SEC. 109. IMPORTATION SANCTION AGAINST CERTAIN CUBAN TRADING PARTNERS.

(a) SANCTION.—Notwithstanding any other provision of law, sugars, syrups, and molasses, that are the product of a country that the President determines has imported sugar, syrup, or molasses that is the product of Cuba, shall not be entered, or withdrawn from warehouse for consumption, into the customs territory of the United States, unless the condition set forth in subsection (b) is met.

(b) CONDITION FOR REMOVAL OF SANCTION.—The sanction set forth in subsection (a) shall cease to apply to a country if the country certifies to the President that the country will not import sugar, syrup, or molasses that is the product of Cuba until free and fair elections, conducted under the supervision of internationally recognized observers, are held in Cuba. Such certification shall cease to be effective if the President makes a subsequent determination under subsection (a) with respect to that country.

(c) REPORTS TO CONGRESS.—The President shall report to the appropriate congressional committees all determinations made under subsection (a) and all certifications made under subsection (b).

(d) REALLOCATION OF SUGAR QUOTAS.—During any period in which a sanction under subsection (a) is in effect with respect to a country, the President may reallocate to other countries the quota of sugars, syrups, and molasses allocated to that country, before the prohibition went into effect, under chapter 17 of the Harmonized Tariff Schedule of the United States.

TITLE II—SUPPORT FOR A FREE AND INDEPENDENT CUBA

SEC. 201. POLICY TOWARD A TRANSITION GOVERNMENT AND A DEMOCRATICALLY ELECTED GOVERNMENT IN CUBA.

It is the policy of the United States—

(1) to support the self-determination of the Cuban people;

(2) to facilitate a peaceful transition to representative democracy and a free market economy in Cuba;

(3) to be impartial toward any individual or entity in the selection by the Cuban people of their future government;

(4) to enter into negotiations with a democratically elected government in Cuba regarding the status of the United States Naval Base at Guantanamo Bay;

(5) to restore diplomatic relations with Cuba, and support the reintegration of Cuba into entities of the Inter-American System, when the President determines that there exists a democratically elected government in Cuba;

(6) to remove the economic embargo of Cuba when the President determines that

there exists a democratically elected government in Cuba; and

(7) to pursue a mutually beneficial trading relationship with a democratic Cuba.

SEC. 202. AUTHORIZATION OF ASSISTANCE FOR THE CUBAN PEOPLE.

(a) AUTHORIZATION.—

(1) IN GENERAL.—The President may provide assistance under this section for the Cuban people after a transition government, or a democratically elected government, is in power in Cuba, as determined under section 203 (a) and (c).

(2) EFFECT ON OTHER LAWS.—

(A) SUPERSEDING OTHER LAWS.—Subject to subparagraph (B), assistance may be provided under this section notwithstanding any other provision of law.

(B) DETERMINATION REQUIRED REGARDING PROPERTY TAKEN FROM UNITED STATES PERSONS.—Subparagraph (A) shall not apply to section 620(a)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(a)(2)).

(b) RESPONSE PLAN.—

(1) DEVELOPMENT OF PLAN.—The President shall develop a plan detailing the manner in which the United States would provide and implement support for the Cuban people in response to the formation of—

(A) a transition government in Cuba; and

(B) a democratically elected government in Cuba.

(2) TYPES OF ASSISTANCE.—Support for the Cuban people under the plan described in paragraph (1) shall include the following types of assistance:

(A) TRANSITION GOVERNMENT.—Assistance under the plan to a transition government in Cuba shall be limited to such food, medicine, medical supplies and equipment, and other assistance as may be necessary to meet emergency humanitarian needs of the Cuban people.

(B) DEMOCRATICALLY ELECTED GOVERNMENT.—Assistance under the plan for a democratically elected government in Cuba shall consist of assistance to promote free market development, private enterprise, and a mutually beneficial trade relationship between the United States and Cuba. Such assistance should include—

(i) financing, guarantees, and other assistance provided by the Export-Import Bank of the United States;

(ii) insurance, guarantees, and other assistance provided by the Overseas Private Investment Corporation for investment projects in Cuba;

(iii) assistance provided by the Trade and Development Agency;

(iv) international narcotics control assistance provided under chapter 8 of part I of the Foreign Assistance Act of 1961; and

(v) Peace Corps activities.

(c) CARIBBEAN BASIN INITIATIVE.—(1) The President shall determine, as part of the plan developed under subsection (b), whether or not to designate Cuba as a beneficiary country under section 212 of the Caribbean Basin Economic Recovery Act.

(2) Any designation of Cuba as a beneficiary country under section 212 of such Act may only be made after a democratically elected government in Cuba is in power. Such designation may be made notwithstanding any other provision of law.

(3) The table contained in section 212(b) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(b)) is amended by inserting ''Cuba'' between ''Costa Rica'' and ''Dominica''.

(d) TRADE AGREEMENTS.—Notwithstanding any other provision of law, the President, upon transmittal to Congress of a determination under section 203(c) that a democratically elected government in Cuba is in power, should—

(1) take the steps necessary to extend nondiscriminatory trade treatment (most-favored-nation status) to the products of Cuba; and

(2) take such other steps as will encourage renewed investment in Cuba.

(e) COMMUNICATION WITH THE CUBAN PEOPLE.—The President should take the necessary steps to communicate to the Cuban people the plan developed under this section.

(f) REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the President shall transmit to the appropriate congressional committees a report describing in detail the plan developed under this section.

SEC. 203. IMPLEMENTATION; REPORTS TO CONGRESS.

(a) IMPLEMENTATION WITH RESPECT TO TRANSITION GOVERNMENT.—Upon making a determination that a transition government in Cuba is in power, the President shall transmit that determination to the appropriate congressional committees and should, subject to the availability of appropriations, commence the provision of assistance to such transition government under the plan developed under section 202(b).

(b) REPORTS TO CONGRESS.—(1) The President shall transmit to the appropriate congressional committees a report setting forth the strategy for providing assistance described in section 202(b)(2)(A) to the transition government in Cuba under the plan of assistance developed under section 202(b), the types of such assistance, and the extent to which such assistance has been distributed in accordance with the plan.

(2) The President shall transmit the report not later than 90 days after making the determination referred to in paragraph (1), except that the President shall transmit the report in preliminary form not later than 15 days after making that determination.

(c) IMPLEMENTATION WITH RESPECT TO DEMOCRATICALLY ELECTED GOVERNMENT.—The President shall, upon determining that a democratically elected government in Cuba is in power, transmit that determination to the appropriate congressional committees and should, subject to the availability of appropriations, commence the provision of assistance to such democratically elected government under the plan developed under section 202(b)(2)(B).

(d) ANNUAL REPORTS TO CONGRESS.—Not later than 60 days after the end of each fiscal year, the President shall transmit to the appropriate congressional committees a report on the assistance provided under the plan developed under section 202(b), including a description of each type of assistance, the amounts expended for such assistance, and a description of the assistance to be provided under the plan in the current fiscal year.

SEC. 204. TERMINATION OF THE ECONOMIC EMBARGO OF CUBA.

(a) TERMINATION.—Upon the effective date of this section—

(1) section 620(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(a)) is repealed;

(2) section 620(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(f)) is amended by striking ''Republic of Cuba'';

(3) the prohibitions on transactions described in part 515 of title 31, Code of Federal Regulations, shall cease to apply; and

(4) the President shall take such other steps as may be necessary to rescind any other regulations in effect under the economic embargo of Cuba.

(b) EFFECTIVE DATE.—This section shall take effect upon transmittal to Congress of a determination under section 203(c) that a democratically elected government in Cuba is in power.

SEC. 205. REQUIREMENTS FOR A TRANSITION GOVERNMENT.

For purposes of this Act, a transition government in Cuba is a government in Cuba that—

(1) is demonstrably in transition from communist totalitarian dictatorship to representative democracy;

(2) has released all political prisoners and allowed for investigations of Cuban prisons by appropriate international human rights organizations;

(3) has dissolved the present Department of State Security in the Cuban Ministry of the Interior, including the Committees for the Defense of the Revolution and the Rapid Response Brigades;

(4) has publicly committed itself to, and is making demonstrable progress in—

(A) establishing an independent judiciary;

(B) respecting internationally recognized human rights and basic freedoms as set forth in the Universal Declaration of Human Rights, to which Cuba is a signatory nation;

(C) effectively guaranteeing the rights of free speech and freedom of the press;

(D) permitting the reinstatement of citizenship to Cuban-born nationals returning to Cuba;

(E) organizing free and fair elections for a new government—

(i) to be held within 1 year after the transition government assumes power;

(ii) with the participation of multiple independent political parties that have full access to the media on an equal basis, including (in the case of radio, television, or other telecommunications media) in terms of allotments of time for such access and the times of day such allotments are given; and

(iii) to be conducted under the supervision of internationally recognized observers, such as the Organization of American States, the United Nations, and other elections monitors;

(F) assuring the right to private property;

(G) taking appropriate steps to return to United States citizens and entities property taken by the Government of Cuba from such citizens and entities on or after January 1, 1959, or to provide equitable compensation to such citizens and entities for such property;

(H) having a currency that is fully convertible domestically and internationally;

(I) granting permits to privately owned telecommunications and media companies to operate in Cuba; and

(J) allowing the establishment of an independent labor movement and of independent social, economic, and political associations;

(5) does not include Fidel Castro or Raul Castro;

(6) has given adequate assurances that it will allow the speedy and efficient distribution of assistance to the Cuban people; and

(7) permits the deployment throughout Cuba of independent and unfettered international human rights monitors.

SEC. 206. REQUIREMENTS FOR A DEMOCRATICALLY ELECTED GOVERNMENT.

For purposes of this Act, a democratically elected government in Cuba, in addition to continuing to comply with the requirements of section 205, is a government in Cuba which—

(1) results from free and fair elections—

(A) conducted under the supervision of internationally recognized observers;

(B) in which opposition parties were permitted ample time to organize and campaign for such elections, and in which all candidates in the elections were permitted full access to the media;

(2) is showing respect for the basic civil liberties and human rights of the citizens of Cuba;

(3) has established an independent judiciary;

(4) is substantially moving toward a market-oriented economic system based on the right to own and enjoy property;

(5) is committed to making constitutional changes that would ensure regular free and fair elections that meet the requirements of paragraph (2); and

(6) has returned to United States citizens, and entities which are 50 percent or more beneficially owned by United States citizens, property taken by the Government of Cuba from such citizens and entities on or after January 1, 1959, or provided full compensation in accordance with international law standards and practice to such citizens and entities for such property.

TITLE III—PROTECTION OF AMERICAN PROPERTY RIGHTS ABROAD

SEC. 301. EXCLUSION FROM THE UNITED STATES OF ALIENS WHO HAVE CONFISCATED PROPERTY CLAIMED BY UNITED STATES PERSONS.

(a) ADDITIONAL GROUNDS FOR EXCLUSION.—Section 212(a)(9) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) is amended by adding at the end the following:

''(D) ALIENS WHO HAVE CONFISCATED AMERICAN PROPERTY ABROAD AND RELATED PERSONS.—(i) Any alien who—

''(I) has confiscated, or has directed or overseen the confiscation of, property the claim to which is owned by a United States person, or converts or has converted for personal gain confiscated property, the claim to which is owned by a United States person;

''(II) traffics in confiscated property, the claim to which is owned by a United States person;

''(III) is a corporate officer, principal, or shareholder of an entity which the Secretary of State determines or is informed by competent authority has been involved in the confiscation, trafficking in, or subsequent unauthorized use or benefit from confiscated property, the claim to which is owned by a United States person, or

''(IV) is a spouse or dependent of a person described in subclause (I),

is excludable.

''(ii) The validity of claims under this subparagraph shall be established in accordance with section 303 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1995.

''(iii) For purposes of this subparagraph, the terms 'confiscated', 'traffics', and 'United States person' have the same meanings given to such terms under section 4 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1995.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to individuals seeking to enter the United States on or after the date of enactment of this Act.

SEC. 302. LIABILITY FOR TRAFFICKING IN CONFISCATED PROPERTY CLAIMED BY UNITED STATES PERSONS.

(a) CIVIL REMEDY.—(1) Except as provided in paragraphs (2) and (3), any person or government that traffics in property confiscated by a foreign government shall be liable to the United States person who owns the claim to the confiscated property for money damages in an amount which is the greater of—

(A) the amount certified by the Foreign Claims Settlement Commission under title V of the International Claims Settlement Act of 1949, plus interest at the commercially recognized normal rate;

(B) the amount determined under section 303(a)(2); or

(C) the fair market value of that property, calculated as being the then current value of the property, or the value of the property when confiscated plus interest at the commercially recognized normal rate, whichever is greater.

(2) Except as provided in paragraph (3), any person or government that traffics in confiscated property after having received (A) notice of a claim to ownership of the property by the United States person who owns the claim to the confiscated property, and (B) a copy of this section, shall be liable to such United States person for money damages in an amount which is treble the amount specified in paragraph (1).

(3)(A) Actions may be brought under paragraph (1) with respect to property confiscated before, on, or after the date of enactment of this Act.

(B) In the case of property confiscated before the date of enactment of this Act, no United States person may bring an action under this section unless such person acquired ownership of the claim to the confiscated property before such date.

(C) In the case of property confiscated on or after the date of enactment of this Act, in order to maintain the action, the United States person who is the plaintiff must demonstrate to the court that the plaintiff has taken reasonable steps to exhaust all available local remedies.

(b) JURISDICTION.—Chapter 85 of title 28, United States Code, is amended by inserting after section 1331 the following new section:

''§ 1331a. Civil actions involving confiscated property

''The district courts shall have exclusive jurisdiction, without regard to the amount in controversy, of any action brought under section 302 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1995.''.

(c) WAIVER OF SOVEREIGN IMMUNITY.—Section 1605 of title 28, United States Code, is amended—

(1) by striking ''or'' at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting ''; or''; and

(3) by adding at the end the following:

''(7) in which the action is brought with respect to confiscated property under section 302 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1995.''.

SEC. 303. DETERMINATION OF CLAIMS TO CONFISCATED PROPERTY.

(a) EVIDENCE OF OWNERSHIP.—For purposes of this Act, conclusive evidence of ownership by the United States person of a claim to confiscated property is established—

(1) when the Foreign Claims Settlement Commission certifies the claim under title V of the International Claims Settlement Act of 1949, as amended by subsection (b); or

(2) when the claim has been determined to be valid by a court or administrative agency of the country in which the property was confiscated.

(b) AMENDMENT OF THE INTERNATIONAL CLAIMS SETTLEMENT ACT OF 1949.—Title V of the International Claims Settlement Act of 1949 is amended by adding at the end the following new section:

''ADDITIONAL CLAIMS

''SEC. 514. Notwithstanding any other provision of this title, a United States national may bring a claim to the Commission for determination and certification under this title of the amount and validity of a claim resulting from actions taken by the Government of Cuba described in section 503(a), whether or not the United States national qualified as a United States national at the time of the Cuban government action, except that, in the case of property confiscated after the date of enactment of this section, the claimant must be a United States national at the time of the confiscation.''.

(c) CONFORMING REPEAL.—Section 510 of the International Claims Settlement Act of 1949 (22 U.S.C. 1643i) is repealed.

SECTION-BY-SECTION ANALYSIS

Section 1. Short Title and Table of Contents

Section 2. Findings

Details findings regarding Cuba, including the decline of the Cuban economy, the substantial deterioration of the health and welfare of the Cuban people, Castro's refusal to adopt any economic or political reforms, and the continuing repression of the Cuban people.

Section 3. Purposes

States general purposes of the Act, including strengthening international sanctions against the Castro government, encouraging the holding of free and fair elections, providing a policy framework for U.S. support to a transition government and a democratically-elected government in Cuba, and protecting the rights of U.S. persons who own claims to confiscated property abroad.

Section 4. Definitions

Defines terms used in this Act.

TITLE I: STRENGTHENING INTERNATIONAL SANCTIONS AGAINST THE CASTRO GOVERNMENT

Section 101. Statement of Policy

Expresses the sense of Congress that (1) the acts of the Castro government, including human rights violations, are a threat to international peace, (2) the President should instruct the U.S. Permanent Representative to the United Nations to seek, in the Security Council, an international embargo against the Castro dictatorship (similar to consultations conducted with respect to Haiti), and (3) there will be a detrimental impact on United States assistance to any independent state of the former Soviet Union which resumes efforts to make operational the nuclear facility at Cienfuegos, Cuba.

Section 102. Enforcement of the Economic Embargo of Cuba

(a) Reaffirms the Cuban Democracy Act of 1992 [section 1704(a)], which states that the President should encourage foreign countries to restrict trade and credit relations with Cuba, and urges the President to take immediate steps to apply sanctions described in section 1704(b)(1) of such Act against countries assisting Cuba.

(b) Calls on the Secretary of State to direct U.S. diplomatic personnel to communicate to foreign officials the reasons for the U.S. economic embargo on Cuba and to urge foreign governments to cooperate more effectively with the embargo.

(c) Requires the President to instruct the Secretary of the Treasury and Attorney General to fully enforce the Cuban Assets Control Regulations.

(d) Subjects to criminal penalties under the Trading with the Enemy Act persons violating travel restrictions imposed by the Cuban Assets Control Regulations (part 515 of title 31, Code of Federal Regulations). Penalties include fines and/or imprisonment of a person or official of a corporation.

Section 103. Prohibition Against Indirect Financing of Cuba

(a) Prohibits any loans, credits, or other financing from a U.S. person or agency to a foreign person who knowingly purchases a U.S. property confiscated by the Cuban government.

(b) Terminates this prohibition on the date of termination of the economic embargo of Cuba.

(c) Makes violations of this provision punishable by the same penalties that are applicable to similar violations of the Cuban Assets Control Regulations.

Section 104. United States Opposition to Cuban Membership in International Financial Institutions

(a) Requires the Secretary of the Treasury to instruct the U.S. executive director of

each international financial institution to vote against the admission of Cuba as a member until Cuba has held free and fair internationally supervised elections.

(b) Directs the President to take steps during the period that a transition government is in power in Cuba to support the processing of Cuba's application for membership in any international financial institution, to take effect after a democratically-elected government is in power in Cuba.

(c) Requires the United States to withhold payment to any international financial institution that approves a loan or other assistance to Cuba in an amount equal to the amount of the loan or assistance provided to Cuba.

Section 105. United States Opposition to Readmission of Cuba to the Organization of American States (OAS)

States that the President should instruct the U.S. Permanent Representative to the OAS to vote against the readmission of Cuba to membership in the OAS until a democratically-elected government exits in Cuba.

Section 106. Assistance by the Independent States of the Former Soviet Union for the Government of Cuba

(a) Requires the President to submit to Congress a report detailing progress towards the withdrawal of personnel of any independent state of the former Soviet Union [including advisers, technicians, and military personnel] from the Cienfuegos nuclear facility in Cuba.

(b) Amends the criteria for providing U.S. assistance to the independent states of the former Soviet Union to specify that the President shall take into account the extent to which a state is acting to close military and intelligence facilities in Cuba, including the military and intelligence facilities at Lourdes and Cienfuegos. [Section 498(a)(11) of the Foreign Assistance Act currently does not mention intelligence facilities or specify the facilities at Lourdes and Cienfuegos].

(c) Prohibits the President from providing assistance for the government of any independent state that the President has determined and certified to Congress is providing assistance for, or engaging in nonmarket based trade with, the Government of Cuba. Nonmarket based trade includes exports, imports, exchanges, or other arrangements that are provided for goods and services on terms more favorable than those generally available in applicable markets or for comparable commodities.

(d) Express strong disapproval by Congress for $200,000,000 in credits from Russia to Cuba in support of the intelligence facility at Lourdes, Cuba, and requires the President to withhold assistance to any state of the former Soviet Union in an amount equal to the sum of such state's assistance and credits for military and intelligence facilities in Cuba. Funding for Nunn-Lugar denuclearization programs and humanitarian assistance is exempt.

Section 107. Television Broadcasting to Cuba.

Instructs the Director of USIA to implement the conversion of Television Marti to Ultra-High Frequency (UHF) broadcasting, and to submit quarterly reports to Congress on progress made in carrying out the conversion until it is fully implemented.

Section 108. Reports on Commerce with and Assistance to Cuba from Foreign Countries

Directs the President to submit an annual report to Congress on assistance to and commerce with Cuba from foreign countries. Each report shall contain: (1) a description of all bilateral assistance, including humanitarian assistance; (2) identification of Cuba's trading partners and the extent of such trade; (3) a description of joint ventures completed or under consideration by foreign nationals and business firms involving facilities in Cuba; (4) a determination as to whether any facilities are claimed by a U.S. person; (5) a determination of the amount of Cuban debt owed to each foreign country and business, including the amount of debt exchanged, forgiven, or reduced; and (6) steps taken to assure that raw materials and semi-finished or finished goods produced by facilities in Cuba involving foreign nationals or businesses are not entering the U.S. market.

Section 109. Importation Sanction Against Certain Cuban Trading Partners

(a) Prohibits importation into the United States of any sugars, syrups, or molasses that are the product of a country that the President determines has imported sugar, syrup, or molasses from Cuba. The intent of this section is to prevent indirect support of the Cuban sugar industry through countries that buy Cuban sugar for either domestic consumption or reprocessing for export and sell their own or the reprocessed sugar to the United States.

(b) Provides for the removal of the sanction in subsection (a) if the country certifies to the President that the country will not import sugar, syrup, or molasses that is the product of Cuba until free and fair elections are held in Cuba. Such a certification would cease to apply if the President makes a subsequent certification under subsection (a).

(c) Instructs the President to report to Congress all determinations in subsections (a) and (b).

(d) Allows the President to reallocate to other countries the quota of sugars, syrups, and molasses allocated to a country subject to sanction under subsection (a).

TITLE II: SUPPORT FOR A FREE AND INDEPENDENT CUBA

Section 201. Policy Toward a Transition Government and a Democratically-Elected Government

States that U.S. policy is to: (1) support the self-determination of the Cuban people; (2) facilitate a peaceful transition to representative democracy and a free market economy in Cuba; and (3) be impartial toward any individual or entity in the selection by the Cuban people of their future government. Once the President has determined that a democratically-elected government exists in Cuba, the U.S. policy shall be to: (4) enter into negotiations regarding the status of the U.S. Naval Base at Guantanamo; (5) restore diplomatic recognition and support the reintegration of Cuba into entities of the Inter-American System; (6) remove the economic embargo; and (7) pursue a mutually beneficial trading relationship.

Section 202. Authorization of Assistance for the Cuban People

(a) Authorizes the President to provide assistance for the Cuban people after a transition government or a democratically-elected government is in power in Cuba, as determined under section 203. Assistance may be provided under this section notwithstanding any other provision of law, except that no assistance may be given until the President determines that a transition or democratically elected Cuban government has ''taken appropriate steps according to international law standards'' to return or compensate for property taken from US citizens and entities on or after January 1, 1959 [section 620(a)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2379(a)(2))].

(b)(1) Directs the President to develop a plan detailing the manner in which the United States would provide assistance to the Cuban people in response to the formation of a transition and a democratically-elected government in Cuba.

(2) Limits assistance to a transition government to such food, medicine, medical supplies and equipment, and other assistance as may be necessary to meet the humanitarian needs of the Cuban people.

(3) Specifies that assistance under the plan for a democratically-elected government shall consist of assistance to promote free market development, private enterprise, and mutually beneficial trade; such assistance should include assistance provided by the Export-Import Bank, the Overseas Private Investment Corporation, and the Trade and Development Agency, international narcotics control assistance, and Peace Corps activities.

(c) Requires the President to determine as part of the assistance plan whether to designate Cuba as a beneficiary country under section 212 of the Caribbean Basic Economic Recovery Act once a democratically-elected government is in power in Cuba.

(d) Authorizes the President, upon determining that a democratically-elected government is in power in Cuba, to extend most-favored-nation (MFN) status to Cuba and to otherwise encourage renewed investment in Cuba, notwithstanding any other provision of law.

(e) Directs the President to take the necessary steps to communicate this plan to the Cuban people.

(f) Requires the President to transmit to Congress, not later than 180 days after the enactment of this Act, a detailed report on the plan developed under this section.

Section 203. Implementation; Reports to Congress

(a) Authorizes the President to begin assistance to Cuba upon transmittal to Congress of a determination that a transition government is in power in Cuba.

(b) Requires the President to transmit to Congress a preliminary report, within 15 days of such a determination, setting forth the strategy and implementation of assistance, followed by a full report not later than 90 days after making the determination.

(c) Authorizes the President to begin assistance to Cuba upon transmittal to Congress of a determination that a democratically-elected government is in power in Cuba.

(d) Requires an annual report, within 60 days of the end of each fiscal year, on the assistance to be provided under the plan developed under section 202(b) and the assistance to be provided in the current fiscal year.

Section 204. Termination of the Economic Embargo on Cuba

Terminates the economic embargo on Cuba upon transmittal to Congress of a presidential determination that a democratically-elected government is in power in Cuba.

Section 205. Requirements for a Transition Government

Defines a transition government in Cuba as one which (1) is demonstrably in transition from communist totalitarian dictatorship to democracy; (2) has released all political prisoners; (3) has dissolved the present Department of State Security in the Cuban Ministry of the Interior; and (4) also ''makes public commitments'' to (A) establishing an independent judiciary, (B) respecting internationally recognized human rights and basic freedoms, (C) guaranteeing the rights of free speech and freedom of the press, (D) permitting the reinstatement of citizenship to Cuban-born nationals returning to Cuba, (E) organizing free and fair elections for a new government, (F) assuring the right to private property, (G) taking appropriate steps either to return to U.S. citizens property taken by the government of Cuba on or after January 1, 1959 or to provide equitable

compensation to U.S. citizens for such property, (H) having a currency that is fully convertible domestically and internationally, (I) granting permits to privately-owned telecommunications and media companies to operate in Cuba, and (J) allowing the establishment of an independent labor movement and of independent social, economic, and political associations. Other provisions include that the transition government: (5) does not include Fidel Castro or Raul Castro; (6) has given adequate assurances that it will allow the speedy and efficient distribution of assistance to the Cuban people; and (7) permits the deployment throughout Cuba of independent and unfettered international human rights monitors.

Section 206. Requirements for a Democratically-Elected Government

Defines a democratic government in Cuba as one which, in addition to the requirements in section 205, (1) is the product of free and fair elections in which opposition parties had sufficient time to organize and were permitted full access to media; (2) is showing respect for basic civil liberties and human rights; (3) has established an independent judiciary; (4) is moving toward a market-oriented economic system based on the right to own and enjoy property; (5) is committed to making constitutional changes that would ensure regular free and fair elections; and (6) has returned to U.S. citizens, and entities which are 50 percent or more beneficially-owned by U.S. citizens, property taken by the Government of Cuba from such citizens and entities on or after January 1, 1959, or provides full compensation in accordance with international law standards.

TITLE III: PROTECTION OF AMERICAN PROPERTY RIGHTS ABROAD

Section 301. Exclusion from the United States of Aliens Who Have Confiscated Property Claimed by United States Persons

Denies entry into the United States to any alien (including a spouse or dependent of that person) who has confiscated, has directed, or has overseen the confiscation, of U.S. property abroad. This provision is applicable to corporate officers, principals, or shareholders of an entity that has been involved in the confiscation, purchase, or receipt of a confiscated property.

Section 302. Liability for Trafficking in Confiscated Property Claimed by United States Persons

(a) Holds any person or government which traffics in property confiscated by a foreign government liable for money damages to the U.S. claimant of the confiscated property. Treble damages are authorized in cases where the person or government trafficking in confiscated property has received notice of a U.S. person's claim of ownership. If property was confiscated before the date of enactment of this Act, no U.S. person may bring an action unless such person acquired ownership of the claim to the confiscated property before such date. If a property is confiscated on or after the date of enactment of this Act, the U.S. person who is the plaintiff must demonstrate to the court that the plaintiff has taken reasonable steps to exhaust all available local remedies.

(b) Gives Federal district courts exclusive jurisdiction over any actions brought under this section.

(c) Waives sovereign immunity for any actions brought under this section.

Section 303. Determination of Claims to Confiscated Property

(a) Provides that conclusive evidence of ownership by a U.S. person to confiscated property is established when the Foreign Claims Settlement Commission certifies the claim or when the claim has been determined valid by a court or administrative agency in the country in which the property was confiscated.

(b) Amends the International Claims Settlement Act to allow a U.S. national to bring a claim to the Commission for determination and certification of the amount and validity of a claim against the Cuban government of confiscation of property.

By Mr. DASCHLE (for himself, Mr. PRESSLER, Mr. CAMPBELL, Mr. SIMON, Mr. PELL, and Mr. DORGAN):

S. 382. A bill to establish a Wounded Knee National Tribal Park, and for other purposes; to the Committee on Indian Affairs.

THE WOUNDED KNEE NATIONAL TRIBAL PARK ESTABLISHMENT ACT OF 1995

Mr. DASCHLE. Mr. President, today I am joining with my colleague from South Dakota, Senator PRESSLER, and Senators CAMPBELL, SIMON, PELL, and DORGAN to introduce legislation that would establish the Wounded Knee National Tribal Park in the State of South Dakota. The purpose of this effort is to acknowledge the armed struggle between the Plains Indians and the U.S. Army that culminated in the death of over 300 Lakota Sioux men, women, and children at Wounded Knee, SD, on December 29, 1890.

There is no question about the historical significance of the Wounded Knee tragedy. Wounded Knee not only signaled an end to a chapter in American history often referred to as the ''Indian Wars'' but it also marked a change in national policy that once forced Indian tribes to locate on smaller and smaller reservations.

History books show that on December 15, 1890, Federal agents, concerned about the potential ramifications of a spiritual movement among the Sioux Indians, attempted to arrest Chief Sitting Bull. When one of his followers shot at the agents, they returned gunfire, mortally wounding Sitting Bull.

Sitting Bull's half-brother, Chief Big Foot, took in Sitting Bull's followers. The band fled from the Bad Lands toward the Pine Ridge Indian Reservation. The U.S. Army intercepted the party and accepted an unconditional surrender from Chief Big Foot. The entire band was escorted to a military camp at Wounded Knee Creek.

At Wounded Knee, a single gunshot was fired. It is not known to this day whether the shot was fired by a member of the Sioux Tribe or the U.S. Army. What is known is that the gunshot led to a largely one-side volley of bullets leaving approximately 350 to 370 Sioux men, women, and children dead or wounded. The U.S. Army suffered 60 casualties, many of whom reportedly were hit by bullets fired by their comrades.

These are the tragic facts of what is known as the Wounded Knee Massacre. One hundred years later, in 1990, the 101st Congress passed Senate Concurrent Resolution 153, which acknowledged the carnage at Wounded Knee and expressed ''congressional support for the establishment of a suitable and appropriate memorial to those who were tragically slain at Wounded Knee.''

The bill we are introducing today gives substance to the sentiment expressed by the resolution.

Mr. President, considerable time and thought has been given to the Wounded Knee memorial project by descendants of the victims and survivors of the Wounded Knee tragedy, by the Oglala Sioux and the Cheyenne River Sioux tribal governments, and by Members of Congress, the State of South Dakota, and the Department of the Interior.

The effort to establish a memorial goes back even further than 1990. Since 1950, Wounded Knee has been studied six times by the National Park Service and has been identified as a prime candidate for addition to the National Park System. Since 1987, the Lakota Tribes of South Dakota have been working with the National Park Service to plan for the preservation of Wounded Knee.

In Congress, the Senate Indian Affairs Committee held hearings on proposals to establish a Wounded Knee Memorial and Historic Site on September 25, 1990 in Washington, and on April 30, 1991 at the Pine Ridge Indian Reservation in South Dakota.

In May 1991, at the request of the Lakota Sioux and with the support of the Secretary of the Interior, the National Park Service began to explore management alternatives for the Wounded Knee site. The process included strong public participation from the Oglala Sioux Tribe, the Cheyenne River Sioux Tribe, and the Wounded Knee Survivors Association.

Those hearings enabled all the parties involved to discover much common ground and strengthened our shared resolve to move forward with the establishment of the Wounded Knee National Tribal Park.

The step we are taking today is not an end, but a beginning.

Many issues remain to be addressed, including land acquisition for the Wounded Knee National Park, design of the memorial, and management of the National Tribal Park. I welcome debate on these and other matters, and look forward to participation in the debate.

By passing this legislation, we will clear the way for resolution of those issues. More important, we will preserve for future generations an important chapter from the text of America's past.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 382

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 ''Wounded Knee National Tribal Park Establishment Act of 1995''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) in December of 1890, approximately 350 to 375 Sioux men, women, and children under the leadership of Chief Big Foot journeyed from the Cheyenne River Indian Reservation to the Pine Ridge Indian Reservation at the invitation of Chief Red Cloud to help make peace between the non-Indians and Indians;

(2) the journey of Chief Big Foot and his band of Minneconjou Sioux occurred during the Ghost Dance Religion period when extreme hostility existed between Sioux Indians and non-Indians residing near the Sioux reservations, and the United States Army assumed control of the Sioux reservations;

(3) Chief Big Foot and his band were intercepted on the Pine Ridge Indian Reservation at Porcupine Butte by Major Whitside, surrendered unconditionally under a white flag of truce, and were escorted to Wounded Knee Creek, where Colonel Forsyth assumed command;

(4) on December 29, 1890, an incident occurred in which soldiers under the command of General Forsyth killed and wounded over 300 members of the band of Chief Big Foot, most all of whom were unarmed and entitled to protection of their rights to property, person, and life under Federal law;

(5) the 1890 Wounded Knee Massacre is a historically significant event because the event marks the last military encounter of the Indian wars period of the 19th century;

(6) in S. Con. Res. 153 (101st Cong., 2d Sess.), Congress apologized to the Sioux people for the 1890 Massacre;

(7)(A) paragraph (2) of such concurrent resolution provides that Congress ''expresses its support for the establishment of a suitable and appropriate Memorial to those who were so tragically slain at Wounded Knee which could inform the American public of the historic significance of the events at Wounded Knee and accurately portray the heroic and courageous campaign waged by the Sioux people to preserve and protect their lands and their way of life during this period''; and

(B) paragraph (3) of such concurrent resolution provides that Congress ''expresses its commitment to acknowledge and learn from our history, including the Wounded Knee Massacre, in order to provide a proper foundation for building an ever more humane, enlightened, and just society for the future'';

(8) the Wounded Knee Massacre site, and sites relating to the 1890 Wounded Knee Massacre and Ghost Dance Religion on the Cheyenne River Indian Reservation and Pine Ridge Indian Reservation, are nationally significant cultural and historic sites that must be protected through the designation of the sites as a national tribal park; and

(9) the Wounded Knee Massacre is a nationally significant event that must be memorialized by establishing suitable and appropriate memorials to the Indian victims of the Massacre, located on the Cheyenne River Indian Reservation and Pine Ridge Indian Reservation.

(b) PURPOSES.—The purposes of this Act are to—

(1) establish the Wounded Knee National Tribal Park consisting of—

(A) sites relating to the 1890 Wounded Knee Massacre and Ghost Dance Religion located on the Cheyenne River Indian Reservation; and

(B) the 1890 Wounded Knee Massacre Site and sites relating to the Massacre and Ghost Dance Religion located on the Pine Ridge Indian Reservation;

(2) establish suitable and appropriate national monuments within both units of the Wounded Knee National Tribal Park to memorialize the Indian victims of the 1890 Wounded Knee Massacre; and

(3) authorize feasibility studies to—

(A) establish the route of Chief Big Foot from the Cheyenne River Indian Reservation to Wounded Knee as a national historic trail; and

(B) establish a visitor information and orientation center on the Cheyenne River Indian Reservation.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) COMMISSION.—The term ''Commission'' means the Wounded Knee National Tribal Park Advisory Commission established under section 8(a).

(2) NORTH UNIT.—The term ''North Unit'' means the area of the Park comprised of the sites referred to in section 2(b)(1)(A).

(3) PARK.—The term ''Park'' means the Wounded Knee National Tribal Park established under section 4.

(4) REAL PROPERTY.—For the purposes of this Act, the term ''real property'' includes lands, and all mineral rights, water rights, easements, permanent structures, and fixtures on such lands.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(6) SOUTH UNIT.—The term ''South Unit'' means the area of the Park comprised of the sites referred to in section 2(b)(1)(B).

SEC. 4. ESTABLISHMENT OF WOUNDED KNEE NATIONAL TRIBAL PARK.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary shall establish a national tribal park to be known as the ''Wounded Knee National Tribal Park'', as generally described in the third alternative of the report completed by the National Park Service entitled ''Draft Study of Alternatives, Environmental Assessment, Wounded Knee, South Dakota,'' and dated January 1993, and as more particularly described in this Act.

(2) AREA INCLUDED IN PARK.—The Wounded Knee National Tribal Park shall consist of—

(A) a North Unit that may include—

(i) such sites relating to the 1890 Wounded Knee Massacre and Ghost Dance Religion, including the campsite of Chief Big Foot at Deep Creek, as the Cheyenne River Sioux Tribe, in consultation with the Director of the National Park Service, considers necessary to include in such unit;

(ii) a cultural center and museum complex;

(iii) projects described in section 9(b)(2); and

(iv) a suitable and appropriate national monument to memorialize Chief Big Foot and his band of Minneconjou Sioux; and

(B) a South Unit that may include—

(i) the 1890 Wounded Knee Massacre site, as generally described in the 1990 boundaries studies authorized by the National Park Service, and such other sites relating to the 1890 Wounded Knee Massacre and Ghost Dance Religion as the Oglala Sioux Tribe, in consultation with the Director of the National Park Service, considers necessary to include in such Unit;

(ii) a cultural center and museum complex at or near the Wounded Knee Massacre site;

(iii) projects described in section 9(b)(2); and

(iv) a suitable and appropriate national monument to memorialize the Sioux Indians involved in the 1890 Wounded Knee Massacre.

(b) COOPERATIVE AGREEMENTS.—

(1) IN GENERAL.—The Secretary shall enter into a cooperative agreement with each of the Cheyenne River Sioux Tribe with respect to the North Unity, and Oglala Sioux Tribe with respect to the South Unit to carry out planning, design, construction, operation, maintenance, and replacement activities, as appropriate, for the units.

(2) REQUIREMENTS FOR COOPERATIVE AGREEMENTS.—A cooperative agreement entered into under paragraph (1) shall set forth, in a manner acceptable to the Secretary—

(A)(i) the responsibilities of the parties referred to in paragraph (1) with respect to the North Unit and the South Unit; and

(ii) the manner in which contracts to carry out such activities will be administered;

(B) the procedures and requirements for the approval and acceptance of the design of, and construction of the North Unit and South Unit;

(C) such Federal management policies described in the publication entitled ''Management Policies, U.S. Department of the Interior, National Park Service, 1988'' as the Secretary considers necessary to qualify both units of the Park for affiliation;

(D) a general management plan for each unit of the Park that shall include plans—

(i) to protect and preserve the religious sanctity of the Wounded Knee Massacre site and other religious sites located within each unit;

(ii) to restore the Wounded Knee Massacre site, and other important historic sites located within the units, to the original condition of the sites at the time of the Massacre, including the removal of all buildings and structures that have no historical significance;

(iii) for the enactment of tribal zoning ordinances to protect areas surrounding each unit from commercial development and exploitation;

(iv) for the implementation of a continuing program of public involvement, interpretation, and visitor education concerning Lakota Sioux history and culture within each unit;

(v) to protect, interpret, and preserve important archaeological and paleontological sites within each unit;

(vi) for visitor use facilities, and the training and employing of tribal members within each unit, as provided in subsection (e); and

(vii) to waive or require entrance fees at the Wounded Knee Massacre site; and

(E) the role and responsibilities of the Advisory Commission established under section 8(a) in relation to both units.

(c) TITLE.—

(1) PROPERTY ACQUIRED FOR THE NORTH UNIT.—Title to all real property acquired for the North Unit of the Wounded Knee National Tribal Park shall be held in trust by the United States for the Cheyenne River Sioux Tribe.

(2) PROPERTY ACQUIRED FOR THE SOUTH UNIT.—Title to all real property acquired in the South Unit of the Wounded Knee National Tribal Park shall be held in trust by the United States for the Oglala Sioux Tribe.

(d) TECHNICAL ASSISTANCE.—

(1) IN GENERAL.—The Secretary may provide technical assistance to the Cheyenne River Sioux Tribe and Oglala Sioux Tribe for carrying out the activities described in subsection (b)(1).

(2) TRAINING.—In addition to providing the assistance described in paragraph (1), the Secretary may train and employ members of the tribes concerning the operation and maintenance of both units, including training in—

(A) the provision of public services, management of visitor use facilities, interpretation and visitor education on Sioux history and culture, and artifact curation at both units; and

(B) the interpretation, management, protection, and preservation of other historical and natural properties at both units.

(e) APPLICATION OF THE INDIAN SELF-DETERMINATION ACT.—Except as otherwise provided in this Act, the activities described in subsection (b)(1) shall be subject to the Indian

Self-Determination Act (25 U.S.C. 450f et seq.).

SEC. 5. ACQUISITION OF LANDS FOR WOUNDED KNEE NATIONAL TRIBAL PARK.

(a) IN GENERAL.—The Cheyenne River Sioux Tribe and Oglala Sioux Tribe may acquire by purchase from a willing seller, by gift or devise, by exchange, or in other manner—

(1) surface and subsurface rights to any tract of fee-patented or trust land; or

(2) easements that cover such lands,

that those tribes, in consultation with the Secretary, consider necessary for inclusion in the North Unit or the South Unit of the Wounded Knee National Tribal Park.

(b) FINANCIAL ASSISTANCE.—The Secretary may provide financial assistance to the Cheyenne River Sioux Tribe and the Oglala Sioux Tribe to acquire land and any interest in land or other real property that is necessary for a unit of the Park.

SEC. 6. MANAGEMENT.

(a) MANAGEMENT OF NORTH UNIT.—

(1) IN GENERAL.—The Cheyenne River Sioux Tribe, or a designated agency or authority of that tribe, shall operate, maintain, and manage the North Unit pursuant to the terms and conditions contained in a cooperative agreement between the Secretary and the Cheyenne River Sioux Tribe entered into by the Secretary and the tribe pursuant to section 4(b).

(2) EXCLUSION.—The Cheyenne River Sioux Tribe shall have no jurisdiction or authority over the South Unit.

(b) MANAGEMENT OF SOUTH UNIT.—

(1) IN GENERAL.—The Oglala Sioux Tribe, or a designated agency or authority of such tribe, shall operate, maintain, and manage the South Unit pursuant to the terms and conditions contained in a cooperative agreement between the Secretary and the Oglala Sioux Tribe entered into by the Secretary and the tribe pursuant to section 4(b).

(2) EXCLUSION.—The Oglala Sioux Tribe shall have no jurisdiction or authority over the North Unit.

SEC. 7. PLANNING AND DESIGN OF NATIONAL MONUMENTS; FEASIBILITY STUDIES.

(a) MONUMENTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the national monuments on the North Unit and South Unit authorized by subparagraphs (A)(iv) and (B)(iv) of section 4(a)(2) shall be planned, designed, and constructed by the Secretary, after consultation with an advisory committee that the Secretary shall appoint in consultation with—

(A) the Wounded Knee Survivors Association of the Cheyenne River Indian Reservation;

(B) the Wounded Knee Survivors Association of the Pine Ridge Indian Reservation; and

(C) direct descendants of the band of Minneconjou Sioux of Chief Big Foot.

(2) AUTHORITY OF THE CHEYENNE RIVER SIOUX TRIBAL COUNCIL AND THE OGLALA SIOUX TRIBAL COUNCIL.—(A) The Cheyenne River Sioux Tribal Council and the Oglala Sioux Tribal Council shall have no authority to plan and design the monuments referred to in paragraph (1).

(B) The Cheyenne River Sioux Tribal Council and the Oglala Sioux Tribal Council shall have the authority to enter into contracts for the construction, operation, maintenance, and replacement of the monuments under the Indian Self-Determination Act (25 U.S.C. 450f et seq.).

(b) FEASIBILITY STUDIES.—

(1) IN GENERAL.—The Secretary shall complete feasibility studies to—

(A) establish and mark the route taken by Chief Big Foot and his band from the Cheyenne River Indian Reservation to Wounded Knee as a national historic trail; and

(B) establish a visitor information and orientation center on the Cheyenne River Indian Reservation.

(2) REPORT.—Not later than 1 year after funds are initially made available to the Secretary for a feasibility study conducted under this subsection, the Secretary shall complete the study and submit a report that contains the findings of the study to Congress.

SEC. 8. WOUNDED KNEE NATIONAL TRIBAL PARK ADVISORY COMMISSION.

(a) IN GENERAL.—There is established within the Department of the Interior the Wounded Knee National Tribal Park Advisory Commission. The Commission shall advise regularly the Cheyenne River Sioux Tribe and Oglala Sioux Tribe, or any designated agency or authority of either tribe, concerning the management and administration of the North Unit and South Unit.

(b) ROLE AND RESPONSIBILITIES.—The role and responsibilities of the Commission shall be defined in the cooperative agreements that the Secretary shall enter into with the Cheyenne Sioux Tribe and Oglala Sioux Tribe under section 4(b). The Cheyenne River Sioux Tribe and Oglala Sioux Tribe, or any designated agency or authority of either such tribe, shall consult with the Commission not less frequently than 4 times each year.

(c) PERIOD OF OPERATION.—The Commission shall exist for such time as either the North Unit or the South Unit is in existence.

(d) MEMBERSHIP.—The Secretary shall appoint 17 members of the Commission. In addition, the Director of the National Park Service or a designee of the Director shall serve as an ex-officio member of the Commission. The Secretary shall appoint the members of the Commission after consulting with, and soliciting a recommendation from each of the following:

(1) The Chairman of the Cheyenne River Sioux Tribe.

(2) The President of the Oglala Sioux Tribe.

(3) The Chairman of the Wounded Knee Community Council on the Pine Ridge Indian Reservation.

(4) The Chairman of the Wounded Knee Subcommunity Council on the Pine Ridge Indian Reservation.

(5) The Chairman of the White Clay Community Council on the Pine Ridge Indian Reservation.

(6) The Chairman of District No. 3 on the Cheyenne River Indian Reservation.

(7) The Chairman of Red Scaffold Community on the Cheyenne River Indian Reservation.

(8) The Chairman of Cherry Creek Community on the Cheyenne River Reservation.

(9) The Chairman of Bridger Community on the Cheyenne River Reservation.

(10) The Chairman of the Board of Directors of the Oglala Sioux Parks and Recreation Authority.

(11) The President of the Wounded Knee Survivors Association of the Cheyenne River Indian Reservation.

(12) The President of the Wounded Knee Survivors Association of the Pine Ridge Indian Reservation.

(13) The Secretary of the Smithsonian Institution.

(14)(i) The Governor of the State of South Dakota and the historic preservation officer of such State.

(ii) The Governor of the State of Nebraska and the historic preservation officer of such State.

(e) CHAIR.—The offices of Chairman and Vice Chairman of the Commission shall be rotated between the Chairman of the Cheyenne River Sioux Tribe (or a designated representative of the Chairman) and the President of the Oglala Sioux Tribe (or a designated representative of the President) on a year-to-year basis. If both the Chairman and Vice Chairman are absent from any meeting, the members of the Commission who are present at the meeting shall select a member who is present to serve in the place of the Chairman for the meeting.

(f) MEETINGS.—The Commission shall meet at the call of the Chairman or a majority of its members. In a manner consistent with the public meeting requirements of the Federal Advisory Committee Act (5 U.S.C. App.), the Commission shall from time to time meet with persons concerned with Park issues relating to the North Unit or South Unit. The Commission shall record all minutes and resolutions of the Commission and make such records available to the public upon request.

(g) ADMINISTRATIVE DIRECTOR.—

(1) IN GENERAL.—The Secretary, in consultation with the Commission, shall employ an Administrative Director for the Commission and define the duties of the Administrative Director. The Administrative Director shall be paid at a rate not to exceed the annual rate of basic pay payable for grade GS–12 of the General Schedule under subchapter IV of chapter 53 of title 5, United States Code, without regard to—

(A) the provisions of title 5, United States Code, governing appointments in the competitive service; and

(B) the provisions of chapter 51, and subchapter III of chapter 52 of that title relating to classification and General Schedule pay rates.

(2) OFFICE.—The office and staff of the Administrative Director shall be located at such location as the Secretary considers appropriate.

(h) SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission, on a nonreimbursable basis, such administrative support services as the Commission, in consultation with the Secretary, may request.

(i) EXPENSES.—Members of the Commission who are not otherwise employed by the Federal Government, while away from their homes or regular places of business in the performance of services for the Commission, shall be allowed travel and all other related expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5, United States Code.

(j) APPLICABILITY OF FEDERAL ADVISORY ACT.—Except with respect to any requirement for reissuance of a charter, and except as otherwise provided in this Act, the provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the Commission established under this Act.

SEC. 9. FUNDRAISER AGREEMENTS WITH NONPROFIT CORPORATIONS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Cheyenne River Sioux Tribe and the Oglala Sioux Tribe, or a designated agency or authority of either tribe, may, with the approval of the Secretary, enter into an agreement with a nonprofit corporation to raise funds from private sources to be used in lieu of, or supplement, any Federal funds made available by appropriations pursuant to the authorization under section 11.

(b) NEW PROJECTS.—The Cheyenne River Sioux Tribe and the Oglala Sioux Tribe, or a designated agency or authority of either tribe, shall have the power and authority to enter into a separate agreement with a nonprofit corporation to—

(1) raise funds from private sources to pay for all obligations, costs, and fees for professional services contracted, incurred, or assumed by the tribe, or a designated agency or authority of the tribe, that are related, directly or indirectly, to the development or establishment of the Park; and

(2) raise funds from private sources to plan, design, construct, operate, maintain, and replace—

(A) an international amphitheater dedicated to the Indigenous Peoples of the Americas to be located at or near the Wounded Knee Massacre site, which, if constructed, shall become the permanent home of the Francis Jansen sculpture; and

(B) any other project that the Cheyenne River Sioux Tribe or the Oglala Sioux Tribe may, in consultation with the Secretary, choose to include within the North Unit or South Unit.

SEC. 10. DUTIES OF OTHER FEDERAL ENTITIES.

The appropriate official of any Federal entity that conducts or supports activities that directly affect the Park shall consult with the Secretary and the Cheyenne River Sioux Tribe and the Oglala Sioux Tribe with respect to such activities to minimize any adverse effects on the Park.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

SEC. 12. RULE OF STATUTORY CONSTRUCTION.

Nothing contained in this Act is intended to abrogate, modify, or impair any rights or claims of the Cheyenne River Sioux Tribe or Oglala Sioux Tribe, that are based on any treaty, Executive order, agreement, Act of Congress, or other legal basis.

Mr. PRESSLER. Mr. President, I am pleased to join my colleague from South Dakota, Senator DASCHLE, as well as Senators CAMPBELL, SIMON, PELL, and DORGAN in introducing legislation to establish the Wounded Knee National Tribal Park in the State of South Dakota. The purpose of our legislation is to acknowledge, preserve and protect the historically significant sites of the Wounded Knee tragedy of 1890. National recognition of this area is long overdue.

The legislation we are introducing today is the product of our cumulative efforts over the past several sessions of Congress to properly recognize the Wounded Knee tragedy. Indeed, Wounded Knee has been the subject of Senate consideration for a number of years. Let me highlight some of this activity:

During the 101st Congress, the Senate Select Committee on Indian Affairs held hearings to discuss the historical significance of Wounded Knee. Also during the 101st Congress, the Senate adopted Senate Concurrent Resolution 153, recognizing the 100th anniversary of the Wounded Knee Massacre. This resolution, which I cosponsored, also expressed support for the establishment of a suitable and appropriate memorial to those who were slain at Wounded Knee in 1890.

Late in the 102d Congress and again in the 103d Congress, Senator DASCHLE and I introduced legislation (S. 3213 and S. 278) to establish the Chief Big Foot National Memorial Park and the Wounded Knee National Memorial.

During the 103d Congress, the Senate Energy Committee's Subcommittee on Public Lands, National Parks and Forests held a hearing on S. 278 (July 29, 1993).

In addition to this congressional activity, the National Park Service has studied the historical significance of Wounded Knee six times since 1950. The Park Service consistently has reaffirmed it as a nationally significant area. In fact, our bill is in part based on one of the proposed alternatives mentioned in a January 1993 NPS report on Wounded Knee.

Mr. President, I hope the Senate will agree during this 104th Congress to ensure the protection and preservation of the historical sites at the Wounded Knee tragedy. I look forward to working with my colleagues, members of the Cheyenne River and Oglala Sioux Tribes, the Governor of South Dakota, the National Park Service, and other organizations to move this legislation forward. Above all, we must ensure this legislation is implemented with proper consultation with the Indian communities. It is imperative that Indian perspectives be included in developing the memorials' interpretive sites.

Enactment of our legislation will promote a greater understanding of the events associated with the Wounded Knee tragedy. In addition, appreciation of Indian culture, heritage, and history will be enhanced through establishment of these memorials.

ADDITIONAL COSPONSORS

S. 50

At the request of Mr. LOTT, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 50, a bill to repeal the increase in tax on social security benefits.

S. 104

At the request of Mr. D'AMATO, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 104, a bill to establish the position of Coordinator for Counter-Terrorism within the office of the Secretary of State.

S. 191

At the request of Mrs. HUTCHISON, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 191, a bill to amend the Endangered Species Act of 1973 to ensure that constitutionally protected private property rights are not infringed until adequate protection is afforded by reauthorization of the Act, to protect against economic losses from critical habitat designation, and for other purposes.

S. 219

At the request of Mr. NICKLES, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 219, a bill to ensure economy and efficiency of Federal Government operations by establishing a moratorium on regulatory rulemaking actions, and for other purposes.

S. 307

At the request of Mr. LEAHY, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 307, a bill to require the Secretary of the Treasury to design and issue new counterfeit-resistant $100 currency.

S. 324

At the request of Mr. WARNER, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of S. 324, a bill to amend the Fair Labor Standards Act of 1938 to exclude from the definition of employee firefighters and rescue squad workers who perform volunteer services and to prevent employers from requiring employees who are firefighters or rescue squad workers to perform volunteer services, and to allow an employer not to pay overtime compensation to a firefighter or rescue squad worker who performs volunteer services for the employer, and for other purposes.

S. 327

At the request of Mr. HATCH, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 327, a bill to amend the Internal Revenue Code of 1986 to provide clarification for the deductibility of expenses incurred by a taxpayer in connection with the business use of the home.

S. 348

At the request of Mr. NICKLES, the name of the Senator from Utah [Mr. BENNETT] was added as a cosponsor of S. 348, a bill to provide for a review by the Congress of rules promulgated by agencies, and for other purposes.

SENATE JOINT RESOLUTION 17

At the request of Mr. KEMPTHORNE, the name of the Senator from Missouri [Mr. ASHCROFT] was added as a cosponsor of Senate Joint Resolution 17, A joint resolution naming the CVN-76 aircraft carrier as the U.S.S. *Ronald Reagan*.

SENATE CONCURRENT RESOLUTION 3

At the request of Mr. SIMON, the names of the Senator from Minnesota [Mr. GRAMS], the Senator from Texas [Mr. GRAMM], the Senator from Ohio [Mr. DEWINE], the Senator from Virginia [Mr. ROBB], the Senator from Illinois [Ms. MOSELEY-BRAUN], the Senator from Indiana [Mr. COATS], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Idaho [Mr. KEMPTHORNE], and the Senator from Wyoming [Mr. THOMAS] were added as cosponsors of Senate Concurrent Resolution 3, A concurrent resolution relative to Taiwan and the United Nations.

AMENDMENT NO. 236

At the request of Mr. BRYAN his name was added as a cosponsor of Amendment No. 236 proposed to House Joint Resolution 1, a joint resolution proposing a balanced budget amendment to the Constitution of the United States.